

boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.140.

(b) If whole black sea bass are processed into fillets, an authorized officer will convert the number of fillets to whole black sea bass at the place of landing by dividing fillet number by two. If black sea bass are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole black sea bass.

(c) Black sea bass harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of black sea bass on board by the number of persons aboard, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

(d) Owners or operators of otter trawl vessels issued a moratorium permit under § 648.4 (a)(7) and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh requirements specified in § 648.144(a) and that are not stowed in accordance with § 648.144 (a)(4), may not retain more than 500 lb (226.8 kg) of black sea bass from January 1 through March 31, or more than 100 lb (45.4 kg) of black sea bass from April 1 through December 31. Black sea bass on board these vessels shall be stored so as to be readily available for inspection in a standard 100-lb (45.4 kg) tote.

[61 FR 58467, Nov. 15, 1996, as amended at 63 FR 11160, Mar. 6, 1998; 66 FR 39292, July 30, 2001; 66 FR 66358, Dec. 26, 2001]

§ 648.146 Special management zones.

The recipient of a Corps of Engineers permit for an artificial reef, fish attraction device, or other modification of habitat for purposes of fishing may request that an area surrounding and including the site be designated by the Council as a special management zone (SMZ). The SMZ will prohibit or restrain the use of specific types of fishing gear that are not compatible with the intent of the artificial reef or fish

attraction device or other habitat modification. The establishment of an SMZ will be effected by a regulatory amendment pursuant to the following procedure:

(a) A SMZ monitoring team comprised of members of staff from the Mid-Atlantic FMC, NMFS Northeast Region, and NMFS Northeast Fisheries Science Center will evaluate the request in the form of a written report considering the following criteria:

- (1) Fairness and equity.
- (2) Promotion of conservation.
- (3) Avoidance of excessive shares.
- (4) Consistency with the objectives of Amendment 9 to the Fishery Management Plan for the Summer Flounder, Scup and Black Sea Bass fisheries, the Magnuson-Stevens Act, and other applicable law.

(5) The natural bottom in and surrounding potential SMZs.

(6) Impacts on historical uses.

(b) The Council Chairman may schedule meetings of Industry Advisors and/or the Scientific and Statistical Committee to review the report and associated documents and to advise the Council. The Council Chairman may also schedule public hearings.

(c) The Council, following review of the SMZ monitoring teams's report, supporting data, public comments, and other relevant information, may recommend to the Regional Administrator that a SMZ be approved. Such a recommendation will be accompanied by all relevant background information.

(d) The Regional Administrator will review the Council's recommendation. If the Regional Administrator concurs in the recommendation, he or she will publish a proposed rule in the FEDERAL REGISTER in accordance with the recommendations. If the Regional Administrator rejects the Council's recommendation, he or she shall advise the Council in writing of the basis for the rejection.

(e) The proposed rule shall afford a reasonable period for public comment. Following a review of public comments and any information or data not previously available, the Regional Administrator will publish a final rule if he or she determines that the establishment

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of the SMZ is supported by the substantial weight of evidence in the administrative record and consistent with the Magnuson-Stevens Act and other applicable law.

§ 648.147 Framework adjustments to management measures.

(a) *Within season management action.* See § 648.108(a).

(1) *Adjustment process.* See § 648.108(a)(1).

(2) *Council recommendation.* See § 648.108(a)(2)(i) through (iv).

(3) *Regional Administrator action.* See § 648.108(a)(i) through (iii).

(4) *Emergency actions.* See § 648.108(a)(4).

(b) [Reserved]

[64 FR 57595, Oct. 26, 1999, as amended at 64 FR 66587, Nov. 29, 1999]

Subpart J—Management Measures for the Atlantic Bluefish Fishery

SOURCE: 65 FR 45852, July 26, 2000, unless otherwise noted.

§ 648.160 Catch quotas and other restrictions.

The fishing year is from January 1 through December 31.

(a) *Annual review.* On or before August 15 of each year, the Bluefish Monitoring Committee will meet to determine the total allowable level of landings (TAL) and other restrictions necessary to achieve the target fishing mortality rate (F) specified in the Fishery Management Plan for Atlantic Bluefish for the upcoming fishing year or the estimated F for the fishing year preceding the Council submission of the recommended specifications, whichever F is lower. In determining the TAL and other restrictions necessary to achieve the specified F, the Bluefish Monitoring Committee will review the following data, subject to availability: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact

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of gear other than otter trawls and gill nets on the mortality of bluefish; and any other relevant information.

(b) *Recommended measures.* Based on the annual review and requests for research quota as described in paragraph (h) of this section, the Bluefish Monitoring Committee shall recommend to the Coastal Migratory Committee of the Council and the Commission the following measures to ensure that the F specified in paragraph (a) of this section will not be exceeded:

(1) A TAL set from a range of 0 to the maximum allowed to achieve the specified F.

(2) Research quota set from a range of 0 to 3 percent of TAL.

(3) Commercial minimum fish size.

(4) Minimum mesh size.

(5) Recreational possession limit set from a range of 0 to 20 bluefish to achieve the specified F.

(6) Recreational minimum fish size.

(7) Recreational season.

(8) Restrictions on gear other than otter trawls and gill nets.

(c) *Allocation of TAL*—(1) *Recreational harvest limit.* A total of 83 percent of the TAL will be allocated to the recreational fishery as a harvest limit. If research quota is specified as described in paragraph (h) of this section, the recreational harvest limit will be based on the TAL remaining after the deduction of the research quota.

(2) *Commercial quota.* A total of 17 percent of the TAL will be allocated to the commercial fishery as a quota. If 17 percent of the TAL is less than 10.5 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL. If research quota is specified as described in paragraph (h) of this section, the commercial quota will be based on the TAL remaining after the deduction of the research quota.