

## § 648.24

crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic)*. All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear*. All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage*. Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the FEDERAL REGISTER.

(c) *Mesh obstruction or constriction*. The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengtheners). In addition, the inside webbing shall not be more than 2 ft (61 cm) longer than the outside webbing.

(d) *Net obstruction or constriction*. The owner or operator of a fishing vessel shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 1 $\frac{7}{8}$  inches (48 mm) diamond mesh, inside stretch measure. Net strengtheners (covers), splitting straps and/or bull ropes or wire may be used, provided they do not constrict the top of the regulated portion of the net to less than an effective mesh opening of 1 $\frac{7}{8}$  inches (48 mm), diamond mesh, inside stretch measure. Net strengtheners (covers) may not have an effective mesh opening of less than 4.5 inches (11.43 cm), diamond mesh, inside stretch measure. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of

## 50 CFR Ch. VI (10–1–07 Edition)

the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph (d), head ropes are not to be considered part of the top of the regulated portion of a trawl net.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14648, Mar. 27, 1997; 63 FR 1774, Jan. 12, 1998; 64 FR 24073, May 5, 1999; 65 FR 16345, Mar. 28, 2000; 65 FR 37911, June 19, 2000; 68 FR 9586, Feb. 28, 2003; 69 FR 22951, Apr. 27, 2004; 71 FR 63270, Oct. 30, 2006]

### § 648.24 Framework adjustments to management measures.

(a) *Within season management action*. The Council, at any time, may initiate action to add or adjust management measures within the Atlantic Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process*. The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second Council meeting. The Council's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational seasons, closed areas, commercial seasons, commercial trip limits, commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch, recreational harvest limit, annual specification quota setting process, FMP Monitoring Committee composition and process, description and identification of essential fish habitat (and fishing gear management measures that impact EFH), description and identification of habitat areas of particular concern, overfishing definition

## Fishery Conservation and Management

## § 648.41

and related thresholds and targets, regional gear restrictions, regional season restrictions (including option to split seasons), restrictions on vessel size (LOA and GRT) or shaft horsepower, any other management measures currently included in the FMP, set aside quota for scientific research, regional management, and process for inseason adjustment to the annual specification.

(2) *Council recommendation.* After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures following their implementation as a final rule.

(3) *NMFS action.* If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If NMFS concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based

on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.

(ii) If NMFS concurs with the Council's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the Council recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.

(iii) If NMFS does not concur, the Council will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

[64 FR 57593, Oct. 26, 1999]

### Subpart C—Management Measures for Atlantic Salmon

#### § 648.40 Prohibition on possession.

(a) *Incidental catch.* All Atlantic salmon caught incidental to a directed fishery for other species in the EEZ must be released in such a manner as to insure maximum probability of survival.

(b) *Presumption.* The possession of Atlantic salmon is prima facie evidence that such Atlantic salmon were taken in violation of this regulation. Evidence that such fish were harvested in state waters, or from foreign waters, or from aquaculture enterprises, will be sufficient to rebut the presumption. This presumption does not apply to fish being sorted on deck.

#### § 648.41 Framework specifications.

(a) *Within season management action.* The New England Fishery Management Council (NEFMC) may, at any time, initiate action to implement, add to or adjust Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the EEZ, provided such an action is consistent with