

(2) *Escape vents.* (i) All scup pots or traps that have a circular escape vent with a minimum of 3.1 inches (7.9 cm) in diameter, or a square escape vent with a minimum of 2.25 inches (5.7 cm) for each side, or an equivalent rectangular escape vent.

(ii) The minimum escape vent size set forth in paragraph (b)(2)(i) of this section may be revised following the procedures in § 648.120.

(3) *Pot and trap identification.* Pots or traps used in fishing for scup must be marked with a code of identification that may be the number assigned by the Regional Administrator and/or the identification marking as required by the vessel's home port state.

[61 FR 43426, Aug. 23, 1996, as amended at 61 FR 56126, Oct. 31, 1996; 62 FR 12107, Mar. 14, 1997]

**§ 648.124 Minimum fish sizes.**

(a) The minimum size for scup is 9 inches (22.9 cm) TL for all vessels issued a moratorium permit under § 648.4(a)(6). If such a vessel is also issued a charter and party boat permit and is carrying passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat, then the minimum size specified in paragraph (b) of this section applies.

(b) The minimum size for scup is 7 inches (17.8 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

(c) The minimum size applies to whole fish or any part of a fish found in possession, e.g., fillets. These minimum sizes may be adjusted pursuant to the procedures in § 648.120.

**§ 648.125 Possession limit.**

(a) Pursuant to the procedures in § 648.120, the Regional Administrator may limit the number of scup that may be possessed in or harvested from the EEZ north of 35°15.3' N. lat. by persons aboard vessels that have not been issued a valid moratorium permit.

(b) If whole scup are processed into fillets, an authorized officer will con-

vert the number of fillets to whole scup at the place of landing by dividing fillet number by 2. If scup are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole scup.

(c) Scup 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 scup on board by the number of persons aboard other than the captain and 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) Scup and scup parts harvested by a vessel with a moratorium or charter or party boat scup permit, or in or from the EEZ north of 35°15.3' N. lat., may not be landed with the skin removed.

**§ 648.126 Protection of threatened and endangered sea turtles.**

This section supplements existing regulations issued to regulate incidental take of sea turtles under authority of the Endangered Species Act under 50 CFR parts 217 and 227. In addition to the measures required under those parts, NMFS will investigate the extent of take in flynet gear and if deemed appropriate, may develop and certify a Turtle Excluder Device for that gear.

**Subpart I—Management Measures for the Black Sea Bass Fishery**

SOURCE: 61 FR 58467, Nov. 15, 1996, unless otherwise noted.

**§ 648.140 Catch quotas and other restrictions.**

(a) *Annual review.* The Black Sea Bass Monitoring Committee will review the following data, subject to availability, on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to result in a target exploitation rate of 48 percent for black sea bass in 1998, 1999, and 2000; a target exploitation rate of 37 percent in 2001 and

2002; and a target exploitation rate of 23 percent (based on  $F_{max}$ ) in 2003 and subsequent years: Commercial and recreational 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 and winter trawl survey data, or if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls, pots and traps on the mortality of black sea bass; and any other relevant information.

(b) *Recommended measures.* Based on this review, the Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the Council and the Commission the following measures to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded:

(1) A commercial quota allocated to quarterly periods set from a range of (0) to the maximum allowed to achieve the specified target exploitation rate specified in paragraph (a) of this section. Implementation of this measure will begin in 1998.

(2) A commercial trip limit for all moratorium vessels set from a range of (0) to the maximum allowed to assure that the quarterly quota is not exceeded.

(3) Commercial minimum fish size.

(4) Minimum mesh size in the codend or throughout the net and the catch threshold that will require compliance with the minimum mesh requirement.

(5) Escape vent size.

(6) A recreational possession limit set from a range of (0) to the maximum allowed to achieve the target exploitation rate specified in paragraph (a) of this section. Implementation of this measure will begin in 1998.

(7) Recreational minimum fish size.

(8) Recreational season. This measure may be adjusted beginning in 1998.

(9) Restrictions on gear other than otter trawls and pots or traps.

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the

Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the FEDERAL REGISTER by October 15 to implement a commercial quota and a recreational harvest limit, and additional management measures for the commercial fishery, and will publish a proposed rule in the FEDERAL REGISTER by February 15 to implement additional management measures for the recreational fishery, if he or she determines that such measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. After considering public comment, the Regional Administrator will publish a final rule in the FEDERAL REGISTER to implement the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) *Distribution of annual quota.* (1) Beginning January 1, 1998, a commercial quota will be allocated by quarterly periods based upon the following percentages:

QUARTERLY COMMERCIAL QUOTA SHARES

Quarter	Share (percent)
January–March .....	38.64
April–June .....	29.26
July–September .....	12.33

**Fishery Conservation and Management**

**§ 648.144**

QUARTERLY COMMERCIAL QUOTA SHARES—  
Continued

Quarter	Share (percent)
October–December .....	19.77

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against that quarter's commercial quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters will be counted against the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. The Regional Administrator will determine the date on which the quarterly quota will be harvested and the EEZ north of 35°15.3' N. lat. closed. The Regional Administrator will publish a notice in the FEDERAL REGISTER advising that, upon that date, no vessel may possess black sea bass in the EEZ north of 35°15.3' N. lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to landings of black sea bass during a closure pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. Any overages of the commercial quarterly quota landed will be deducted from that quarter's quota for the following year.

**§ 648.141 Closure.**

*EEZ closure.* The Regional Administrator shall close the EEZ to fishing for black sea bass by commercial vessels issued a moratorium permit for the remainder of the calendar year by publishing notification in the FEDERAL REGISTER if he or she determines that the action or inaction of one or more states will cause the applicable target exploitation rate specified in § 648.140(a) to be exceeded. The Regional Administrator may reopen the EEZ if

earlier action or inaction by a state has been remedied by that state without causing the applicable specified target exploitation rate to be exceeded.

**§ 648.142 Time restrictions.**

Vessels that are not eligible for a moratorium permit under § 648.4(a)(6) and fishermen subject to the possession limit may not fish for black sea bass from August 1 through August 15. This time period may be adjusted pursuant to the procedures in § 648.140.

[63 FR 27868, May 21, 1998]

**§ 648.143 Minimum sizes.**

(a) The minimum size for black sea bass is 10 inches (25.4 cm) total length for all vessels issued a moratorium permit under § 648.4(a)(7) that fish for or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35°15.3' N. Lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canada border. The minimum size may be adjusted for commercial vessels pursuant to the procedures in § 648.140.

(b) The minimum size for black sea bass is 10 inches (25.4 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or charter boats, holding a moratorium permit if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

(c) The minimum size in this section applies to the whole fish or any part of a fish found in possession (e.g., fillets), except that party or charter vessels possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin remains on the fillet and all other state requirements are met.

[61 FR 58467, Nov. 15, 1996, as amended at 63 FR 27868, May 21, 1998]

**§ 648.144 Gear restrictions.**

(a) *Trawl gear restrictions*—(1) *General.*  
(i) Otter trawlers whose owners are issued a black sea bass moratorium permit and that land or possess 1,000 lb or more (453.6 kg or more) of black sea