

(i) Untreated hemp, jute, or cotton string of 3/16 inches (4.8 mm) diameter or smaller; or

(ii) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(iii) Ungalvanized or uncoated iron wire of 0.094 inches (2.4 mm) diameter or smaller.

[61 FR 58467, Nov. 15, 1996, as amended at 62 FR 25138, May 8, 1997; 62 FR 66310, Dec. 18, 1997]

#### § 648.145 Possession limit.

A possession limit will be established pursuant to the procedures in § 648.140 to assure that the recreational harvest limit is not exceeded.

(a) 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.

(b) 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.

(c) Owners or operators of otter trawl vessels issued a moratorium permit under § 648.4(a)(6) and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh requirements and that are not stowed in accordance with § 648.144(a)(4), may not retain 1,000 lb (453.6 kg) or more of black sea bass. 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]

#### § 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' 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 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.

### Subpart J—Management Measures for the Atlantic Bluefish Fishery

SOURCE: 62 FR 13300, Mar. 20, 1997, unless otherwise noted.

#### § 648.160 Fishing year.

The fishing year is from January 1 through December 31.

#### § 648.161 Possession limit.

(a) *Possession limit.* (1) No person shall possess more than ten bluefish unless he/she has a permit meeting the requirements of § 648.4(a)(8).

(2) Bluefish caught while in possession of a permit meeting the requirements of § 648.4(a)(8) must be kept separate from the pooled catch and in the possession of the permit holder at all times.

(3) If Atlantic bluefish are filleted into two or more sections, such fillets shall be deemed to be whole Atlantic bluefish using a ratio of 1:2 (two fillets to one whole fish). If Atlantic bluefish are filleted into single (butterfly) fillets, such fillets shall be deemed to be whole Atlantic bluefish.

(4) Atlantic bluefish harvested from party and charter boats or other vessels carrying more than one person may be commingled. Compliance with the daily possession limit will be determined by dividing the number of Atlantic bluefish on board by the number of persons aboard, provided, however, that if a person or persons aboard are

fishing under a permit meeting the requirements of § 648.4(a)(8), his/her catch shall not be counted for determining compliance with the possession limit, if it is maintained in the possession of such person(s). 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/or operator.

(b) *Adjustment of the possession limit.* After notice and 15 days opportunity for public comment, NMFS may adjust the possession limit within a range of 0 to 15 Atlantic bluefish based on a recommendation of the MAFMC and Commission. NMFS will publish a notice of any proposed adjustment, together with the basis for such adjustment, in the FEDERAL REGISTER. After consideration of any public comments, NMFS may adjust the possession limit by publishing a notice of adjustment in the FEDERAL REGISTER.

#### § 648.162 Catch monitoring, commercial controls, and gear restrictions.

(a) The Bluefish Committee will review bluefish catch statistics, a projection of the commercial share for the next fishing year, and the most recent stock assessment prior to August 15th of each year. The Bluefish Committee will report to the MAFMC and the Commission.

(b) The MAFMC and the Commission will review the report of the Bluefish Committee. If the report indicates that the commercial catch for the next fishing year will equal or exceed 20 percent of the total catch (recreational catch plus commercial landings) of Atlantic bluefish, the MAFMC and Commission will propose the commercial controls to be implemented at the start of the upcoming year. If the report indicates that the commercial catch will be greater than 17 percent but less than 20 percent of the total catch of Atlantic bluefish, or that the commercial share for the last full year is 50 percent greater than the previous year's commercial share, the MAFMC and Commission will determine whether commercial controls are necessary. In making such a determination the MAFMC and Commission will consider:

(1) The most recent catch data.