

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

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AUTHORITY: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

SOURCE: 62 FR 49455, Sept. 22, 1997, unless otherwise noted.

EFFECTIVE DATE NOTE: At 62 FR 49455, Sept. 22, 1997, part 697 was revised, effective Oct. 22, 1997. For the convenience of the user, the superseded text follows.

§ 697.1 Purpose and scope.

The regulations in this part implement section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

§ 697.2 Definitions.

In addition to the definitions in § 600.10 of this chapter, the terms in this part have the following meanings:

Approved TED means any approved Ted as defined at 50 CFR 217.12.

Atlantic striped bass means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

Block Island Southeast Light means the aid to navigation light located at Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2'N. lat., 71°33.1'W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

BRD means bycatch reduction device.

Certified BRDs means any BRD, as defined in 50 CFR part 622 Appendix D: Specifications for Certified BRDs.

Commercial purposes - means for the purpose of selling or bartering all or part of the fish harvested.

Commission means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by Congress in Public Laws 77-539 and 81-721.

Continuous transit means that a vessel does not have fishing gear in the water and remains continuously underway while in the EEZ.

Crab trawl means any trawl net that is rigged for fishing and has a mesh size of 3.0 inches (7.62 cm), as measured between the centers of opposite knots when pulled taut.

De minimis state means any state where the landings are so low that the Commission's Fisheries Management Board has exempted that state from some of its regulatory responsibilities under an Interstate Fishery Management Plan.

Directed fishery means any vessel/person fishing for a stock using gear or strategies intended to catch a given target species, group of species, or size class. For the purpose of this regulation, any vessel/person targeting weakfish.

Flynets, for the purpose of this part, means any trawl net, except shrimp trawl nets containing certified BRDs and approved TEDs, when required under 50 CFR 227.72(e)(2), and except trawl nets that comply with the gear restrictions specified at § 648.104 of this chapter for the summer flounder fishery and contain an approved TED, when required under 50 CFR 227.72(e)(2).

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Montauk Light means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3'N. lat., 71°51.5'W. long.; is shown from an octagonal, pyramidal tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

Point Judith Light means the aid to navigation light located at Point Judith, RI, and defined as follows: Located at 41°21.7'N. lat., 71°28.9'W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

Retain means to fail to return Atlantic striped bass or weakfish to the sea immediately after the hook has been removed or the fish has otherwise been released from the capture gear.

Shrimp trawl net means any trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each trawl net, as defined at § 622.2 of this chapter, that is rigged for fishing and has a headline length longer than 16.0 ft (4.9 m).

TED (turtle excluder device) means a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

Weakfish means members of the stock or population of the species *Cynoscion regalis*, found along the Atlantic Coast from southern Florida to Massachusetts Bay.

§ 697.3 Relation to the Magnuson-Stevens Act.

The provisions of sections 307 through 311 of the Magnuson-Stevens Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson-Stevens Act.

§ 697.4 Relation to state law.

The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to weakfish fishing.

§ 697.5 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Act and the Atlantic Coastal Fisheries Cooperative Management Act, and the regulations in this part.

§ 697.6 Specifically authorized activities.

NMFS may authorize, for the acquisition of information and data, activities that are otherwise prohibited by the regulations in this part.

§ 697.7 Prohibitions.

(a) *Atlantic Coast weakfish fishery*. In addition to the prohibitions set forth in § 600.725 of this chapter, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for, harvest, or possess any weakfish less than 12 inches (30.5 cm) in total length (measured as a straight line along the bottom of the fish from the tip of the lower jaw with the mouth closed to the end of the lower tip of the tail) from the EEZ.

(2) Retain any weakfish less than 12 inches (30.5 cm) in total length taken in or from the EEZ.

(3) Fish for weakfish in the EEZ with a minimum mesh size less than 3 1/4-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3 3/4-inch (9.5-cm) diamond stretch mesh for trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets.

(4) To possess more than 150 lb (67 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3 1/4-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3 3/4-inch (9.5 cm) diamond stretch mesh for finfish trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets.

(5) To fish using a flynet in the EEZ off North Carolina in the area bounded as follows:

(i) On the north by a straight line connecting points 35°10.8'N. lat., 75°29.2'W. long. (3 nm off Cape Hatteras) and 35°03.5'N. lat., 75°11.8'W. long. (20 nm off Cape Hatteras).

(ii) The east by a straight line connecting points 35°03.5'N. lat., 75°11.8'W. long. (20 nm off Cape Hatteras) and 33°21.1'N. lat., 77°57.5'W. long., (about 30 nm off Cape Fear on the extension of the North Carolina/South Carolina state line into the EEZ).

(iii) On the south by a straight line connecting points 33°21.1'N. lat., 77°57.5'W. long., and 33°48.8'N. lat., 78°29.7'W. long. (3 nm off Little River Inlet on the North Carolina/South Carolina state line).

(iv) On the west by state waters.

(6) To possess any weakfish in the closed area of the EEZ, described in

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Paragraph (a)(5) of this section, when fishing with shrimp trawls or crab trawls.

(7) To land weakfish for commercial purposes caught in the EEZ in any state other than Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

(b) *Atlantic striped bass fishery*. In addition to the prohibitions set forth in § 600.725, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except for the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Retain any Atlantic striped bass taken in or from the EEZ.

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AUTHORITY: 16 U.S.C. 1851 note, 5101 *et seq.*

SOURCE: 61 FR 29321, June 10, 1996, unless otherwise noted.

§ 697.1 Purpose and scope.

The regulations in this part implement section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern

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Continuous transit means that a vessel remains continuously underway while in the EEZ.

Fish, when used as a verb, for the purposes of this part, means any activity that involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support or, or in preparation for, any activity described in paragraph (1), (2), or (3) of this definition.

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