

Fishery Conservation and Management

§ 648.15

§ 648.4 are deemed to have been harvested in or from the Tilefish Management Unit, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in State waters.

(v) *Skates*—(1) *All persons*. It is unlawful for any person to fish for, possess, transport, sell or land skates in or from the EEZ portion of the skate management unit, unless:

(i) Onboard a vessel that possesses a valid skate vessel permit.

(ii) Onboard a federally permitted lobster vessel (i.e., transfer at sea recipient) while in possession of only whole skates as bait that are less than the maximum size specified at § 648.322(c).

(2) *All Federal permit holders*. It is unlawful for any owner or operator of a vessel holding a valid Federal permit to do any of the following:

(i) Retain, possess, or land barndoor or thorny skates taken in or from the EEZ portion of the skate management unit specified at § 648.2.

(ii) Retain, possess, or land smooth skates taken in or from the GOM RMA described at § 648.80(a)(1)(i).

(3) *Skate permitted vessel requirements*. It is unlawful for any owner or operator of a vessel holding a valid Federal skate permit to do any of the following:

(i) *Skate wings*. Fail to comply with the conditions of the skate wing possession and landing limits specified at § 648.322(b), unless holding a valid letter of authorization to fish for and land skates as bait at § 648.322(c).

(ii) *Possession and transfer*. (A) Transfer at sea, or attempt to transfer at sea, to any vessel, any skates unless in compliance with the provisions of §§ 648.13(h) and 648.322(c).

(B) Purchase, possess, trade, barter, or receive; or attempt to purchase, possess, trade, barter, or receive; skates caught in the EEZ portion of the skate management unit by a vessel that has not been issued a valid Federal skate permit under this part.

(C) Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to fish for, catch, possess, transport, land, sell, trade, or barter; whole

skates and skate wings in excess of the possession limits specified at § 648.322.

(iii) *DAS notification and skate wing possession*. Fail to comply with the provisions of the DAS notification program specified in §§ 648.53, 648.82, and 648.92; for the Atlantic sea scallop, NE multispecies, and monkfish fisheries, respectively; when issued a valid skate permit and fishing under the skate wing possession limits at § 648.322.

(iv) *SNE Trawl and Gillnet Exemption areas restrictions*. Fail to comply with the restrictions under the SNE Trawl and Gillnet Exemption areas for the NE skate fisheries at §§ 648.80(b)(5)(i)(B) and 648.80(b)(6)(i)(B).

(4) *Presumption*. For purposes of this part, the following presumption applies: All skates retained or possessed on a vessel are deemed to have been harvested in or from the Skate Management Unit, unless the preponderance of evidence demonstrates that such skates were harvested by a vessel, that has not been issued a Federal skate permit, fishing exclusively outside of the EEZ portion of the skate management unit or only in state waters.

[74 FR 20535, May 4, 2009, as amended at 74 FR 42598, Aug. 24, 2009; 74 FR 56567, Nov. 2, 2009; 74 FR 58568, Nov. 13, 2009; 75 FR 11450; Mar. 11, 2010; 75 FR 18312, 18370, Apr. 9, 2010; 75 FR 36569, June 28, 2010; 75 FR 34058, June 16, 2010; 75 FR 48879, Aug. 12, 2010]

EFFECTIVE DATE NOTE: At 74 FR 58568, Nov. 13, 2009, in § 648.14, paragraphs (a)(10)(iii) and (a)(10)(iv) were added, effective Jan. 1, 2010 through Dec. 31, 2010.

§ 648.15 Facilitation of enforcement.

(a) *General*. See § 600.504 of this chapter.

(b) *Special notification requirements applicable to surfclam and ocean quahog vessel owners and operators*. (1) *Surfclam and ocean quahog open access permitted vessels*. Vessel owners or operators issued an open access surfclam or ocean quahog open access permit for fishing in the ITQ Program, as specified at § 648.70, are required to declare their intended fishing activity via VMS prior to leaving port.

(2) *Maine mahogany quahog limited access permitted vessels*. Beginning January 1, 2009, vessel owners or operators

issued a limited access Maine mahogany quahog permit for fishing for Maine mahogany quahogs in the Maine mahogany quahog zone, as specified at § 648.76, are required to declare via VMS, prior to leaving port, and entering the Maine mahogany quahog zone, their intended fishing activity, unless otherwise exempted under paragraph § 648.4(a)(4)(ii)(B)(1).

(3) *Declaration out of surfclam and ocean quahog fisheries.* Owners or operators that are transiting between ports or fishing in a fishery other than surfclams and ocean quahogs must either declare out of fisheries or declare the appropriate fishery, if required, via the VMS unit, before leaving port. The owner or operator discontinuing a fishing trip in the EEZ or Maine mahogany quahog zone must return to port and offload any surfclams or ocean quahogs prior to commencing fishing operations in the waters under the jurisdiction of any state.

(4) *Inspection by authorized officer.* The vessel permits, the vessel, its gear, and catch shall be subject to inspection upon request by an authorized officer.

(5) *Authorization for use of fishing trip notification via telephone.* The Regional Administrator may authorize or require the notification of surfclam or ocean quahog fishing trip information via a telephone call to the NMFS Office of Law Enforcement nearest to the point of offloading, instead of the use of VMS. If authorized, the vessel owner or operator must accurately provide the following information prior to departure of his/her vessel from the dock to fish for surfclams or ocean quahogs in the EEZ: Name of the vessel; NMFS permit number assigned to the vessel; expected date and time of departure from port; whether the trip will be directed on surfclams or ocean quahogs; expected date, time, and location of landing; and name of individual providing notice. If use of a telephone call in notification is authorized or required, the Regional Administrator shall notify affected permit holders through a letter, notification in the FEDERAL REGISTER, e-mail, or other appropriate means.

(c) *Radio hails.* Permit holders, while underway, must be alert for communication conveying enforcement in-

structions and immediately answer via VHF-FM radio, channel 16 when hailed by an authorized officer. Vessels not required to have VHF-FM radios by the Coast Guard are exempt from this requirement.

(d) *Retention of haddock by herring dealers and processors.* (1) Federally permitted herring dealers and processors, including at-sea processors, that cull or separate out from the herring catch all fish other than herring in the course of normal operations, must separate out and retain all haddock offloaded from vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit. Such haddock may not be sold, purchased, received, traded, bartered, or transferred, and must be retained, after they have been separated, for at least 12 hr for dealers and processors on land, and for 12 hr after landing by at-sea processors. The dealer or processor, including at-sea processors, must clearly indicate the vessel that landed the retained haddock or transferred the retained haddock to an at-sea processor. Law enforcement officials must be given access to inspect the haddock.

(2) All haddock separated out and retained is subject to reporting requirements specified at § 648.7.

(e) *Retention of haddock by limited access herring vessels.* Vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit may not discard any haddock that has been brought on the deck or pumped into the hold.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14648, Mar. 27, 1997; 63 FR 27485, May 19, 1998; 71 FR 46875, Aug. 15, 2006; 72 FR 11276, Mar. 12, 2007; 72 FR 51703, Sept. 11, 2007]

§ 648.16 Penalties.

See § 600.735.

§ 648.17 Exemptions for vessels fishing in the NAFO Regulatory Area.

(a) *Fisheries included under exemption—(1) NE multispecies.* A vessel issued a valid High Seas Fishing Compliance Permit under part 300 of this title and that complies with the requirements specified in paragraph (b) of this section, is exempt from NE multispecies permit, mesh size, effort-control, and