

specified in a letter issued by the Regional Administrator to each vessel participating in the exempted activity. This letter must be carried on board the vessel seeking the benefit of such exemption.

(c) Experimental fishing for surfclams or ocean quahogs will not require an allocation permit.

(d) *Temporary possession letter of authorization (LOA)*: The Regional Administrator (RA), or the RA's designee, may issue an LOA to eligible researchers on board federally permitted fishing vessels on which species of fish that otherwise could not be legally retained would be possessed temporarily for the purpose of collecting catch data. Under this authorization, such species of fish could be retained temporarily for data collection purposes, but shall be discarded as soon as practicable following data collection.

(1) *Eligible activities*. An LOA may be issued by the RA, or the RA's designee, to temporarily exempt a vessel, on which a qualified fishery research technician is collecting catch data, from the following types of fishery regulations: Minimum fish size restrictions; fish possession limits; species quota closures; prohibited fish species, not including species protected under the Endangered Species Act; and gear-specific fish possession restrictions.

(2) *Eligibility criteria*. Only personnel from the following bodies are eligible for a temporary possession LOA: Foreign government agency; U.S. Government agency; U.S. state or territorial agency; university (or other educational institution accredited by a recognized national or international accreditation body); international treaty organization; or scientific institution.

(3) *Application requirements*. To obtain a temporary possession LOA, an eligible applicant, as defined under paragraph (d)(2) of this section, is required to submit a complete application, which must contain the following information: The date of the application; the applicant's name, mailing address, and telephone number; a statement of the purposes and goals for which the LOA is needed; the name(s) and affiliation of the fishery research technicians will collect the data; a statement

demonstrating the qualifications of the research technician that will collect the data; the species (target and incidental) expected to be harvested under the LOA; the proposed disposition of all regulated species harvested under the LOA; the approximate time(s) and place(s) fishing will take place; the type, size, and amount of gear to be used; and the signature of the applicant. In addition, for each vessel to be covered by the LOA, as soon as the information is available and before operations begin, the applicant is required to supply to NMFS the vessel operator name, the vessel's Federal fishing permit number, and the vessel registration or documentation number.

[61 FR 58466, Nov. 15, 1996, as amended at 62 FR 37156, July 11, 1997; 65 FR 45852, July 26, 2000; 65 FR 77466, Dec. 11, 2000; 66 FR 49144, Sept. 26, 2001; 68 FR 49700, Aug. 19, 2003; 75 FR 1022, Jan. 8, 2010; 76 FR 60649, Sept. 29, 2011]

§ 648.13 Transfers at sea.

(a) Only vessels issued a longfin squid and butterfish moratorium or *Illex* moratorium permit under § 648.4(a)(5) and vessels issued a squid/butterfish incidental catch permit and authorized in writing by the Regional Administrator to do so, may transfer or attempt to transfer or receive longfin squid, *Illex*, or butterfish.

(b)(1) Except as provided in paragraph (b)(2) of this section, vessels issued a multispecies permit under § 648.4(a)(1) or a scallop permit under § 648.4(a)(2) are prohibited from transferring or attempting to transfer any fish from one vessel to another vessel, except that vessels issued a Federal multispecies permit under § 648.4(a)(1) and specifically authorized in writing by the Regional Administrator to do so, may transfer species other than regulated species from one vessel to another vessel.

(2) Vessels issued a Federal multispecies permit under § 648.4(a)(1) may transfer from one vessel to another, for use as bait, up to 500 lb (226.8 kg) of silver hake and unlimited amounts of red hake, per trip, provided:

(i) The transferring vessel possesses a Federal multispecies permit as specified under § 648.4(a)(1);

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(ii) The transferring vessel has a letter of authorization issued by the Regional Administrator on board; and

(iii) The receiving vessel possesses a written receipt for any small-mesh multispecies purchased at sea.

(c) All persons are prohibited from transferring or attempting to transfer NE multispecies or scallops from one vessel to another vessel, except in accordance with paragraph (b) of this section.

(d) All persons are prohibited from transferring or attempting to transfer at sea summer flounder from one vessel to another vessel, except for vessels that have not been issued a Federal permit and fish exclusively in state waters.

(e) Vessels issued a letter of authorization from the Regional Administrator to transfer small-mesh multispecies at sea for use as bait will automatically have 500 lb (226.8 kg) deducted from the vessel's combined silver hake and offshore hake possession limit, as specified under § 648.86(d), for every trip during the participation period specified on the letter of authorization, regardless of whether a transfer of small-mesh multispecies at sea occurred or whether the actual amount that was transferred was less than 500 lb (226.8 kg). This deduction shall be noted on the transferring vessel's letter of authorization from the Regional Administrator.

(f) *Atlantic herring.* With the exception of transfers made to an at-sea processing vessel issued the required permit under § 648.6(a)(2)(i), any person or vessel, including any vessel issued an Atlantic herring permit, is prohibited from transferring, receiving, or attempting to transfer or receive any Atlantic herring taken from the EEZ, except as authorized in this paragraph (f), and in compliance with reporting requirements at § 648.7 (b)(2)(i)(D).

(1) *Personal use as bait.* (i) The operator of a vessel that is not issued an Atlantic herring permit may purchase and/or receive Atlantic herring at sea for personal use as bait, provided the vessel receiving the transfer does not have purse seine, midwater trawl, pelagic gillnet, sink gillnet, or bottom trawl gear on board;

(ii) A vessel issued an Atlantic herring permit may transfer herring at sea to another vessel for personal use as bait:

(A) Provided the transferring vessel is issued a letter of authorization to transfer fish. The operator of the transferring vessel must show the letter of authorization to a representative of the vessel receiving fish or any authorized officer upon request; and

(B) Provided that the transfer of herring at sea to another vessel for personal use as bait does not exceed the possession limit specified for the transferring vessel in § 648.204, except that no more than 2,000 lb (907.2 kg) of herring may be caught or transferred per trip or per calendar day if the vessel is in, or the fish were harvested from, a management area closed to fishing as specified in § 648.201.

(2) *Atlantic herring carrier vessels.* (i) A vessel issued an Atlantic herring permit may operate as a herring carrier vessel and receive herring provided it is issued a carrier vessel letter of authorization and complies with the terms of that authorization, as specified in § 648.4(a)(10)(i).

(ii) A vessel issued an Atlantic herring permit may transfer herring at sea to an Atlantic herring carrier up to the applicable possession limits specified in § 648.204, provided it is issued a letter of authorization for the transfer of herring and that no more than 2,000 lb (907.2 kg) of herring may be caught or transferred at sea per trip or per calendar day if the vessel is in, or the fish were harvested from, an area closed to directed fishing as specified in § 648.201.

(3) If a herring management area has been closed to fishing as specified in § 648.201, a vessel may not transfer Atlantic herring harvested from or in the area to an IWP or Joint Venture vessel.

(4) If the amount of herring transshipped to a Canadian transshipment vessel would cause the amount of the border transfer specified pursuant to § 648.200 to be exceeded, a vessel may not transfer Atlantic herring to a Canadian transshipment vessel permitted in accordance with Public Law 104–297.

(5) *Transfer to at-sea processors.* A vessel issued an Atlantic herring permit may transfer herring to a vessel issued an at-sea processing permit specified in

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§ 648.6(a)(2)(ii), up to the applicable possession limit specified in § 648.204, except that no more than 2,000 lb (907.2 kg) of herring may be caught or transferred at sea per trip or per calendar day if the vessel is in, or the fish were harvested from, a management area closed to directed fishing as specified in § 648.201.

(6) *Transfers between herring vessels.* A vessel issued a valid Atlantic herring permit may transfer and receive herring at sea, provided such vessel has been issued a letter of authorization from the Regional Administrator to transfer or receive herring at sea. Such vessel may not transfer, receive, or possess at sea, or land per trip herring in excess of the applicable possession limits specified in § 648.204, except that no more than 2,000 lb (907.2 kg) of herring may be caught, transferred, received, or possessed at sea, or landed per trip or per calendar day if the vessel is in, or the fish were harvested from, a management area closed to directed fishing as specified in § 648.201.

(g) All persons are prohibited from transferring at sea, either directly or indirectly, or attempting to transfer at sea to any vessel, any red crab or red crab parts, taken in or from the EEZ portion of the Red Crab Management Unit.

(h) *Skates.* (1) Except as provided in paragraph (h)(2) of this section, all persons or vessels issued a Federal skate permit are prohibited from transferring, or attempting to transfer, at sea to any vessel, and all persons or vessels not issued a Federal skate permit are prohibited from transferring, or attempting to transfer, at sea to any vessel any skates while in the EEZ, or skates taken in or from the EEZ portion of the Skate Management Unit.

(2) Vessels and vessel owners or operators issued Federal skate permits under § 648.4(a)(14) may transfer at sea skates taken in or from the EEZ portion of the Skate Management Unit, provided:

(i) The transferring vessel possesses on board a valid letter of authorization issued by the Regional Administrator as specified under § 648.322(c); and

(ii) The transferring vessel and vessel owner or operator comply with the requirements specified at § 648.322(c).

(i) *Scup.* (1) Except as provided in paragraph (i)(2) of this section, all persons or vessels issued a Federal scup permit are prohibited from transferring, or attempting to transfer, at sea any scup to any vessel, and all persons or vessels are prohibited from transferring, or attempting to transfer, at sea to any vessel any scup while in the EEZ, or any scup taken in or from the EEZ portion of the Scup Management Unit.

(2) The owner or operator of a vessel issued a Federal scup permit under § 648.4(a)(6)(i)(A) may transfer at sea scup taken in or from the EEZ portion of the Scup Management Unit, provided:

(i) The transfer occurs between two vessels with Federal scup permits;

(ii) The transfer occurs seaward of a boundary line that begins at 40°50' N. lat., 70°00' W. long., and runs south to connect points at 40°15' N. lat., 73°30' W. long.; 37°50' N. lat., 75°00' W. long.; and 35°30' N. lat., 75°00' W. long.;

(iii) The donating and receiving vessels possess gear that meets the requirements at § 648.125(a)(2), (3), and (4) for commercial scup fishing gear;

(iv) The transfer occurs in the Winter I or Winter II periods of the scup fishing year;

(v) There is only one transfer per fishing trip for the donor vessel;

(vi) The donor vessel removes only enough scup from the net to attain the scup possession limit;

(vii) After removal of scup from the net by the donor vessel, the entire codend, with all its contents, is transferred to the receiving vessel;

(viii) Only scup in an amount not to exceed the possession limit are retained by the receiving vessel;

(ix) While fishing for scup, all other nets are stored in accordance with § 648.23(b)(1); and

(x) The donating and receiving vessels report the transfer amount on the vessel trip report for each vessel.

[61 FR 34968, July 3, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 648.13, see the List of CFR Sections Affected, which appears in the

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Finding Aids section of the printed volume and on GPO Access.

§ 648.14 Prohibitions.

(a) *General prohibitions.* It is unlawful for any person to do any of the following:

(1) Violate any provision of this part, the Magnuson-Stevens Act, or any regulation, notice, or permit issued under the Magnuson-Stevens Act, or any other statute administered by NOAA.

(2) Assist, aid, or abet in the commission of any act prohibited by the Magnuson-Stevens Act; or any regulation, notice, or permit issued under the Magnuson-Stevens Act; or any other statute administered by NOAA.

(3) Fail to report to the Regional Administrator within 15 days any change in the information contained in any permit or permit application.

(4) Falsify or fail to affix and maintain vessel markings as required by § 648.8.

(5) Make any false statement or provide any false information on, or in connection with, an application, declaration, record or report under this part.

(6) Fail to comply in an accurate and timely fashion with the log report, reporting, record retention, inspection, or other requirements of § 648.7, or submit or maintain false information in records and reports required to be kept or filed under § 648.7.

(7) Possess, import, export, transfer, land, or have custody or control of any species of fish regulated pursuant to this part that do not meet the minimum size provisions in this part, unless such species were harvested exclusively within state waters by a vessel not issued a permit under this part or whose permit has been surrendered in accordance with applicable regulations.

(8) Fail to comply with any sea turtle conservation measure specified in 50 CFR parts 222 and 223, including any sea turtle conservation measure implemented by notification in the FEDERAL REGISTER.

(9) Violate any provision of an in-season action to adjust trip limits, gear usage, season, area access and/or closure, or any other measure authorized by this part.

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(10) *Food safety program.* (i) Purchase, receive for a commercial purpose other than transport to a testing facility, or process; or attempt to purchase, receive for commercial purpose other than transport to a testing facility; or process, outside Maine, ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

(ii) Land ocean quahogs outside Maine that are harvested in or from the EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

(iii) Fish for, harvest, catch, possess or attempt to fish for, harvest, catch, or possess any bivalve shellfish, including Atlantic surfclams, ocean quahogs, and mussels, with the exception of sea scallops harvested only for adductor muscles and shucked at sea, unless issued and possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing the collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the area of the U.S. Exclusive Economic Zone bound by the following coordinates in the order stated:

(A) 43°00' N. lat., 71°00' W. long.;

(B) 43°00' N. lat., 69°00' W. long.;

(C) 41°39' N. lat., 69°00' W. long.;

(D) 41°39' N. lat., 71°00' W. long.; and then ending at the first point.

(iv) Fish for, harvest, catch, possess, or attempt to fish for, harvest, catch, or possess any sea scallops, except for sea scallops harvested only for adductor muscles and shucked at sea, unless issued and possessing on board a Letter