

§ 648.40

NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (c) of this section.

(b) A vessel that has a representative provide notification to NMFS as described in paragraph (a) of this section may only embark on a longfin squid trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specified longfin squid trip, within 24 hr of the vessel representative's notification of the prospective longfin squid trip, as specified in paragraph (a) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the longfin squid trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing longfin squid except as specified in paragraph (c) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(c) A vessel issued a longfin squid and butterfish moratorium permit, as specified in §648.4(a)(5)(i), that does not have a representative provide the trip notification required in paragraph (a) of this section is prohibited from fishing for, possessing, harvesting, or landing greater than 2,500 lb (1.13 mt) of longfin squid per trip at any time, and may only land longfin squid once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(d) If a vessel issued a longfin squid and butterfish moratorium permit, as specified in §648.4(a)(5)(i), intends to possess, harvest, or land more than 2,500 lb (1.13 mt) of longfin squid per trip or per calendar day, has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry

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an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

[76 FR 60621, Sept. 29, 2011, as amended at 77 FR 16480, Mar. 21, 2012; 78 FR 3355, Jan. 16, 2013]

Subpart C—Management Measures for Atlantic Salmon

§ 648.40 Prohibition on possession.

(a) *Incidental catch.* All Atlantic salmon caught incidental to a directed fishery for other species in the EEZ must be released in such a manner as to insure maximum probability of survival.

(b) *Presumption.* The possession of Atlantic salmon is prima facie evidence that such Atlantic salmon were taken in violation of this regulation. Evidence that such fish were harvested in state waters, or from foreign waters, or from aquaculture enterprises, will be sufficient to rebut the presumption. This presumption does not apply to fish being sorted on deck.

§ 648.41 Framework specifications.

(a) *Within season management action.* The New England Fishery Management Council (NEFMC) may, at any time, initiate action to implement, add to or adjust Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the EEZ, provided such an action is consistent with the goals and objectives of the Atlantic Salmon FMP.

(b) *Framework process.* After initiation of an action to implement, add to or adjust an Atlantic salmon management measure to allow for an Atlantic salmon aquaculture project in the EEZ, the NEFMC shall develop and analyze

Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the EEZ over the span of at least two NEFMC meetings. The NEFMC shall provide the public with advance notice of the availability of both the proposals and the analysis and opportunity to comment on them prior to and at the second NEFMC meeting. The NEFMC's recommendation on aquaculture management measures must come from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones and any other management measures currently included in the FMP.

(c) *NEFMC recommendation.* After developing Atlantic salmon management measures and receiving public testimony, the NEFMC shall make a recommendation to NMFS. The NEFMC's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to NMFS on whether to issue the management measures as a final rule. If NMFS concurs with the NEFMC's recommendation to issue the management measures as a final rule, the NEFMC must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the NEFMC's recommended management measures.

(3) Whether there is an immediate need to protect the resource.

(4) Whether there will be a continuing evaluation of measures adopted following their implementation as a final rule.

(d) *NMFS action.* If the NEFMC's recommendation includes implementation of management measures and, after reviewing the NEFMC's recommendation and supporting information:

(1) NMFS concurs with the NEFMC's recommended management measures and determines that the recommended measures should be issued as a final rule based on the factors specified in paragraph (c)(1) through (4) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.

(2) NMFS concurs with the NEFMC's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the NEFMC recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.

(3) NMFS does not concur, the NEFMC will be notified in writing of the reasons for the non-concurrence.

(e) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[64 FR 40520, July 27, 1999]

Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

SOURCE: 69 FR 35215, June 23, 2004, unless otherwise noted.

§ 648.50 Shell-height standard.

(a) *Minimum shell height.* The minimum shell height for in-shell scallops that may be landed, or possessed at or after landing, is 3.5 inches (8.9 cm). Shell height is a straight line measurement from the hinge to the part of the shell that is farthest away from the hinge.

(b) *Compliance and sampling.* Any time at landing or after, including when the scallops are received or possessed by a dealer or person acting in the capacity of a dealer, compliance with the minimum shell-height standard shall be determined as follows: Samples of 40 scallops each shall be