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service providers approved under paragraph (h) of this section must meet NMFS National Minimum Eligibility Standards for observers. NMFS National Minimum Eligibility Standards are available at the National Observer Program website: <http://www.st.nmfs.gov/st4/nop/>.

(2) *Observer training.* In order to be deployed on any scallop vessel, a candidate observer must have passed a NMFS/NEFOP Sea Scallop Fisheries Observer Training course. If a candidate fails training, the candidate shall be notified in writing on or before the last day of training. The notification will indicate the reasons the candidate failed the training. Observer training shall include an observer training trip, paid for as part of the observer's training, aboard a scallop vessel with a trainer. A certified observer's first deployment shall be on a scallop closed area trip and the resulting data shall be immediately edited, and approved, by NMFS prior to any further deployments of that observer.

(3) *Observer requirements.* All observers must:

(i) Have a valid NMFS/NEFOP fisheries observer certification pursuant to paragraph (i)(1) of this section;

(ii) Be physically and mentally capable of carrying out the responsibilities of an observer on board scallop vessels, pursuant to standards established by NMFS. Such standards are available from NMFS website specified in paragraph (g)(4) of this section and shall be provided to each approved observer service provider; and

(iii) Have successfully completed all NMFS-required training and briefings for observers before deployment, pursuant to paragraph (i)(2) of this section.

(4) *Probation and decertification.* NMFS has the authority to review observer certifications and issue observer certification probation and/or decertification as described in NMFS policy found on the website at: <http://www.nefsc.noaa.gov/femad/fsb/>.

(5) *Issuance of decertification.* Upon determination that decertification is warranted under paragraph (i)(3) of this section, NMFS shall issue a written decision to decertify the observer to the observer and approved observer service providers via certified mail at the ob-

server's most current address provided to NMFS. The decision shall identify whether a certification is revoked and shall identify the specific reasons for the action taken. Decertification is effective immediately as of the date of issuance, unless the decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions. Decertification is the final decision of NMFS and the Department of Commerce and may not be appealed.

[61 FR 34968, July 3, 1996, as amended at 61 FR 43425, Aug. 23, 1996; 61 FR 58465, Nov. 15, 1996; 65 FR 1569, Jan. 11, 2000; 65 FR 45852, July 26, 2000; 65 FR 77466, Dec. 11, 2000; 66 FR 49144, Sept. 26, 2001; 68 FR 49700, Aug. 19, 2003; 71 FR 33225, June 8, 2006]

EFFECTIVE DATE NOTE: At 71 FR 34844, June 16, 2006, § 648.11 was amended by suspending paragraphs (a)(1) and (a)(2), and adding paragraphs (a)(3), (g), (h), and (i), effective June 16, 2006 through Dec. 13, 2006.

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General provisions), B (Atlantic mackerel, squid, and butterfish), D (Atlantic sea scallop), E (Atlantic surf clam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (Atlantic bluefish), K (Atlantic herring), L (spiny dogfish), M (Atlantic deep-sea red crab), N (tilefish), and O (skates) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC regarding such exemptions for the Atlantic mackerel, squid, butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries.

(a) The Regional Administrator may not grant such an exemption unless he/she determines that the purpose, design, and administration of the exemption is consistent with the management objectives of the respective FMP, the provisions of the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

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(1) Have a detrimental effect on the respective resources and fishery;

(2) Cause any quota to be exceeded; or

(3) Create significant enforcement problems.

(b) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of the respective FMP, except those necessarily relating to the purpose and nature of the exemption. The exemption will be 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 surf clams or ocean quahogs will not require an allocation permit.

[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]

§ 648.13 Transfers at sea.

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

(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);

(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.

(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(c), 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*. Except for a person who purchases and/or receives Atlantic herring at sea for his own personal use as bait and who does not have purse seine, mid-water trawl, pelagic gillnet, sink gillnet, or bottom trawl gear on board, any person or vessel is prohibited from transferring, receiving, or attempting to transfer or receive any Atlantic herring taken from the EEZ, and any vessel issued an Atlantic herring permit is prohibited from transferring, receiving, or attempting to transfer or receive, Atlantic herring, unless the person or vessel complies with the following:

(1) The transferring and receiving vessels have been issued valid Atlantic herring permits and/or other applicable authorization, such as a letter of authorization from the Regional Administrator, to transfer or receive herring.