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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151110999-6315-02]

RIN 0648-BF53

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish

Fisheries; Specifications and Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing 2016-2018 specifications for Atlantic mackerel and the river herring and shad catch cap for Atlantic mackerel. This action also adjusts the butterfish mesh requirement, clarifies the use of net strengtheners in the butterfish fishery, and suspends indefinitely the pre-trip notification system requirement in the longfin squid fishery. These specifications set catch levels to prevent overfishing and allocate catch to commercial and recreational fisheries. Additionally, the adjustments to gear and reporting requirements in the squid and butterfish fisheries will make operation of the fisheries more efficient and less burdensome. These specifications and management measures are consistent with the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan and the recommendations of the Mid-Atlantic Fishery Management Council.

DATES: Effective *[insert date 30 days after date of publication in the FEDERAL REGISTER]*,

except for the amendment to § 648.11(n)(1), which is effective [*insert date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674-2331. The framework document is also accessible via the Internet at:

<http://www.greateratlantic.fisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281-9224.

SUPPLEMENTARY INFORMATION:

Background

Specifications, as referred to in this rule, are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specifications process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Council's process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established

by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL).

The Council's SSC met on May 13 and 14, 2015, to recommend an ABC for the 2016-2018 Atlantic mackerel specifications. On January 22, 2016, NMFS published a proposed rule for the 2016-2018 Atlantic mackerel, squid, and butterfish fishery specifications and management measures (81 FR 3768); the public comment period for the proposed rule ended February 22, 2016. NMFS previously set specifications for butterfish, longfin squid, and *Illex* squid for 3 years in 2015 (2015-2017) (80 FR 14870, March 20, 2015) and, therefore, new specifications for these species are not included in this final rule.

The Atlantic Mackerel, Squid, and Butterfish FMP regulations require the specification of annual catch limits (ACL) and accountability measures (AM) for Atlantic mackerel and butterfish. (Both squid species are exempt from the ACL/AM requirements because they have life cycles of less than 1 year.) In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), and total allowable level of foreign fishing (TALFF), along with joint venture processing (JVP) for commercial and recreational annual catch totals (ACT) for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species. Details concerning the Council's

development of the measures were presented in the preamble of the proposed rule and are not repeated here.

In addition to the specifications, this action adjusts the butterfish mesh requirement, clarifies the use of net strengtheners in the butterfish fishery, and suspends indefinitely the pre-trip notification system (PTNS) requirements in the longfin squid fishery.

Final 2016-2018 Specifications for Atlantic Mackerel

Table 1. 2016-2018 Specifications in metric tons (mt) for Atlantic Mackerel

Overfishing limit (OFL)	Unknown
ABC	19,898
ACL	11,009
Commercial ACT	9,294
Recreational ACT/ Recreational Harvest Limit (RHL)	614
DAH/DAP	9,177
JVP	0
TALFF	0

The proposed rule for this action included the details of how the Council derived its recommended Atlantic mackerel specifications, and NMFS is not including these details in this final rule. This action establishes the Atlantic mackerel stock-wide ABC of 19,898 mt and the U.S. ABC of 11,009 mt, based on the formula $U.S. ABC = Stock\text{-}wide\ ABC - C$, where C is the estimated catch of Atlantic mackerel in Canadian waters (8,889 mt) for the upcoming fishing

year. The ACL is set equal to the U.S. ABC at 11,009 mt, the commercial ACT is set at 9,294 mt, the DAH and DAP are both set at 9,177 mt, and the recreational ACT is set at 614 mt.

The recreational fishery allocation for Atlantic mackerel is 683 mt (6.2 percent of the U.S. ABC). The recreational ACT of 614 mt (90 percent of 683 mt) accounts for uncertainty in recreational catch and discard estimates. The recreational ACT is equal to the Recreational Harvest Limit (RHL), which is the effective cap on recreational catch.

The commercial fishery allocation for Atlantic mackerel is 10,327 mt (93.8 percent of the U.S. ABC, the portion of the ACL that was not allocated to the recreational fishery). The commercial ACT of 9,294 mt (90 percent of 10,327 mt) compensates for management uncertainty in estimated Canadian landings, uncertainty in discard estimates, and possible misreporting of Atlantic mackerel catch. The commercial ACT is further reduced by a discard rate of 1.26 percent to arrive at the DAH of 9,177 mt. The DAH is the effective cap on commercial catch.

Additionally, this action maintains JVP at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, JVP was set greater than zero because U.S. processors lacked the ability to process the total amount of Atlantic mackerel that U.S. harvesters could land. However, for the past 10 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for Atlantic mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of Atlantic mackerel.

The Magnuson-Stevens Act provides that the specification of TALFF, if any, shall be the portion of the optimum yield (OY) of a fishery that will not be harvested by U.S. vessels. TALFF would allow foreign vessels to harvest U.S. fish and sell their product on the world

market, in direct competition with U.S. industry efforts to expand exports. While a surplus existed between ABC and the Atlantic mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustment of the specifications in recent years. Based on analysis of the global mackerel market and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP that would result in zero TALFF would yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, consistent with the Council's recommendation, the DAH is set at a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, in order to support the U.S. mackerel industry. NMFS concurs that it is reasonable to assume that in 2016 through 2018 the commercial fishery has the ability to harvest 9,177 mt of Atlantic mackerel.

2016-2018 Final River Herring and Shad Catch Cap in the Atlantic Mackerel Fishery

In order to limit river herring and shad catch, Amendment 14 to the FMP (February 24, 2014; 79 FR 10029) allows the Council to set a river herring and shad cap through annual specifications. For 2015, we implemented a cap that was set at 89 mt initially, but if Atlantic mackerel landings surpassed 10,000 mt before closure of the directed fishery, then the cap would increase to 155 mt. The 89-mt cap represents the median annual river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of Atlantic mackerel per trip from 2005-2012. These were the years when the fishery caught about 13,000 mt of Atlantic mackerel. The 155-mt cap was based on the median river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of Atlantic mackerel per trip from 2005-2012, adjusted to the 2015 DAH (20,872 mt). This two-tier system was implemented to encourage the fishery to avoid river herring and shad

regardless of the rate of Atlantic mackerel catches.

For 2016-2018, the cap is set at 82 mt. For 2016-2018, the Atlantic mackerel DAH is 9,177 mt, which is 8.23 percent less than the river herring and shad catch cap increase trigger set in 2015 (10,000 mt). The river herring and shad cap was reduced by the same proportion as the catch cap increase trigger, resulting in a cap of 82 mt (8.23 percent less than 89 mt). Once the Atlantic mackerel fishery catches 95 percent of the river herring and shad cap, we will close the directed Atlantic mackerel fishery and implement a 20,000-lb (9.08-mt) Atlantic mackerel incidental catch trip limit for the remainder of the year.

Butterfish Mesh Requirement Adjustment and Clarification

This action will increase the possession limit for vessels fishing with mesh smaller than 3 inches (7.62 cm) from 2,500 lb (1.13 mt) to 5,000 lb (2.27 mt). The 3-inch (7.62-cm) mesh requirement is designed to allow escapement of juvenile butterfish during directed butterfish fishing. Vessels holding a longfin squid and butterfish moratorium permit and fishing with nets that have a mesh size smaller than 3 inches (7.62 cm) will now be allowed to retain up to 5,000 lb (2.27 mt) of butterfish.

This action also amends the regulations to clearly state that 5-inch (12.7-cm) square or diamond, or greater, mesh net strengtheners may be used outside the 3-inch (7.62-cm) mesh to avoid breaking nets during large hauls.

Suspension of the Longfin Squid Pre-Trip Notification System Requirement

This action will indefinitely suspend the longfin squid PTNS requirement for vessels with longfin squid and butterfish moratorium permits that want to retain more than 2,500 lb (1.13 mt) of longfin squid. This requirement was implemented via Amendment 10 to the FMP (75 FR

11441; March 11, 2010) to improve the selection process of vessels being observed for purposes of monitoring the longfin squid fishery's butterfish cap. However, the new Standardized Bycatch Reporting Methodology (SBRM) requires observers to adhere to a detailed and rigorous selection procedure that takes into account a variety of criteria (for example region fished and gear used) to select vessels for observer coverage, and that conflicts with the use of the PTNS for assigning observers. This action will resolve the resulting logistical problems by relying on observer coverage through the new SBRM, and eliminating the PTNS requirement.

Comments and Responses

NMFS received five comments in response to the proposed rule for this action. Two were from industry groups, the Garden State Seafood Association (GSSA), a New Jersey fishing industry advocacy group, and Seafreeze, a Rhode Island fishing company and seafood dealer. One comment was from the Herring Alliance, an environmental group. Two comments were from individuals.

Comment 1: GSSA, Seafreeze, and two individuals commented in support of removing the longfin squid PTNS requirement. GSSA, Seafreeze, and one individual commented in support of the increased butterfish incidental possession limit to 5,000 lb (2.27 mt) using less than 3-inch (7.62-cm) mesh. GSSA and Seafreeze also commented in support of allowing 5-inch (12.7-cm) mesh net strengtheners to avoid breaking nets during large hauls.

Response: NMFS will be implementing these management measures as proposed.

Comment 2: GSSA commented in opposition to the river herring and shad catch cap of 82 mt while the Herring Alliance commented in support of the catch cap.

Response: There was no rationale provided for the opposition to the proposed river

herring and shad catch cap of 82 mt. NMFS used the best scientific information available and is approving the river herring and shad catch cap that is consistent with the FMP and recommendations of the Council.

Comment 3: The Herring Alliance commented in support of the Atlantic mackerel DAH of 9,177 mt.

Response: NMFS used the best scientific information available and is approving the specifications that are consistent with the FMP and recommendations of the Council.

Comment 4: One individual suggested that the daily vessel monitoring system (VMS) reporting requirement for longfin squid vessels be removed or reduced. The Herring Alliance suggested that an amendment be initiated to develop a long-term control rule for Atlantic mackerel that will be consistent with the Council's policies for forage fish. The Herring Alliance also suggested that all four river herring and shad species be added to the Atlantic Mackerel, Squid, and Butterfish FMP as stocks in the fishery in October 2016.

Response: These issues are outside the scope of this action, but may be addressed by the Council in the future.

Changes from the Proposed Rule

This final rule contains a change that will clarify that only vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid are required to declare into the fishery via VMS at 50 CFR§ 648.10. The fishery is already operating this way; this rule is simply clarifying the existing regulatory text.

This final rule also contains changes to the wording and format of the regulatory text of the proposed rule for the measures included in this action to reorganize paragraphs (3) through

(6) in 50 CFR § 648.23, and to make conforming and clarifying edits and format changes to 50 CFR § 648.23. These changes are intended to clarify the purpose of these measures and promote compliance, and do not change the effect of the regulatory text as included in the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council prepared an EA for the 2016-2018 specifications and management measures, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

This final rule is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The AA finds good cause under 5 U.S.C 553(d)(3) to waive the 30-day delay of effectiveness period for part of this rule (revising 50 CFR § 648.11(n)(1) on pre-trip notification for observer coverage), to alleviate unnecessary burden to the public. This aspect of the final rule indefinitely suspends the requirement that longfin squid and butterfish moratorium permit-holders must use the PTNS before making trips that can land more than 2,500 lb of longfin squid. New observer selection protocols through the SBRM have made the PTNS unnecessary and potentially counterproductive. If a 30-day delay in effectiveness is not waived in order to make the suspension of the PTNS requirement effective as soon as possible, the public will be further burdened by this unnecessary requirement. For these reasons, the AA is waiving the 30-

day delay in effectiveness under 5 U.S.C. 553(d)(3).

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the submission of the EA/IRFA in support of the specifications and management measures developed by the Council. NMFS received a complete document in December 2015. Documentation in support of the Council's recommended specifications and management measures are required for NMFS to provide the public with information from the environmental and economic analyses as required by the National Environmental Protection Act and the Regulatory Flexibility Act. The proposed rule was published on January 22, 2016, with a comment period ending on February 22, 2016.

This action contains collection-of-information requirements subject to the paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0679. This action indefinitely suspends the PTNS requirement for limited access longfin squid vessels. The removal of this information collection is intended to resolve logistical problems and conflicts with the SBRM observer selection protocols. The burden estimates for these new requirements apply to all limited access longfin squid vessels. Time and cost burdens that were previously approved through Amendment 10 and OMB Control Number 0648-0679, include an estimated total time burden of 256 hours, no additional cost to the public, and total cost to the government of \$25,943. In a given fishing year, NMFS estimates that the removed reporting requirement included in this action will reduced time burden by 256 hours, negligibly reduce cost to the public, and reduce cost to the government by \$25,943. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-7285.

Notwithstanding any other provisions of the law, no person is required to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

Pursuant to section 604 of the Regulatory Flexibility Act, NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA), summarized in the preamble of this final rule, in support of the management measures in this action. The FRFA describes the economic impact that this final rule will have on small entities, as well as the economic impacts that other, non-preferred alternatives could have on small entities.

The FRFA incorporates the economic impacts and analysis summaries from the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the RFA, RIR, and the EA are available upon request (see **ADDRESSES**).

A Summary of the Significant Issues Raised by the Public comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

None of the public comments raised issues related to the IRFA or the economic impact of the rule on affected entities.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2014, 370 separate vessels hold Atlantic mackerel, squid, and butterfish limited access permits, 271 entities own those vessels, and, based on current Small Business Administration (SBA) definitions, 259 of these are small entities. Of the 259 small

entities, 25 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. All of the entities that had revenue fell into the finfish or shellfish categories, and the SBA definitions for those categories that applied in 2014 state that small entities engaged in finfish fishing have combined annual receipts not exceeding \$20.5 million, and small entities engaged in shellfish fishing have combined annual receipts not exceeding \$5.5 million.

The only action in this rule that involved increased restrictions applies to Atlantic mackerel limited access permits so those numbers are listed separately (they are a subset of the above entities). Based on permit data for 2014, 139 separate vessels hold Atlantic mackerel limited access permits, 105 entities own those vessels, and based on current SBA definitions, 97 were small entities. Of the 97 small entities, 3 had no revenue in 2014, and those entities with no revenue were considered small entities for the purpose of this analysis. Of the entities with revenues, their average revenues in 2014 were \$1,212,230. Sixty entities had primary revenues from finfish fishing and 34 had their primary revenues from shellfish fishing.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This final rule contains collection-of-information requirements subject to the PRA that have been approved by the OMB under Control Number 0648-0679.

Under this action, all limited access longfin squid vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid will no longer be required to call PTNS to request an observer. This would remove the information collection requirement, reduce logistical issues for the Northeast Fishery Observer Program, and reduce burden for industry participants. The reduction in burden estimates for these new requirements apply to all limited access longfin squid vessels. In a given fishing year, NMFS estimates that removal of this reporting

requirement will reduce time burden by 256 hours, negligibly reduce cost to the public, and reduce cost to the government by \$25,943 from that which was previously approved under OMB Control Number 0648-0679.

Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The Atlantic mackerel commercial DAH (9,177 mt) represents a reduction from status quo (2015 DAH = 20,872 mt). Despite the reduction, the proposed DAH is above recent U.S. landings; mackerel landings for 2012-2014 averaged 5,136 mt. Thus, the reduction should not have more than a minimal impact on the affected small entities compared to recent operation of the fishery (2012-2015). Even though the 2016-2018 quota is lower than 2015, it will still allow more catch compared to the catch in any year from 2012-2015.

The river herring and shad catch cap in the Atlantic mackerel fishery has the potential to prevent the fishery from achieving its full mackerel quota if the river herring and shad encounter rates are high, but it is very unlikely that this fishery would close before exceeding the levels of landings experienced since 2010, when annual landings have been less than 11,000 mt. Based on the operation of the cap in 2014 and 2015 (the first years of the cap), as long as the fishery can maintain relatively low river herring and shad catch rates, the lower cap should not negatively impact fishery participants. However, a few large river herring and shad bycatch events could potentially shut down the Atlantic mackerel fishery early. At 2014 prices (\$491/mt), the Atlantic mackerel quota (9,177 mt) could potentially generate about \$4.5 million. While the performance of the cap in 2014-2015 suggests that the fishery can operate with very low river herring and shad catch rates, if river herring and shad catch rates happen to be relatively high, then most of the Atlantic mackerel catch (and associated revenues) could be forgone.

The butterfish mesh requirement adjustment would allow more butterfish to be retained with small mesh gear; therefore, there should be no negative impacts on the relevant entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 21, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.10, paragraph (o) is revised to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(o) *Longfin squid/butterfish VMS notification requirement.* A vessel issued a longfin squid/butterfish moratorium permit intending to declare into the longfin squid fishery must notify

NMFS by declaring a longfin squid trip prior to leaving port at the start of each trip in order to harvest, possess, or land more than 2,500 lb (1.13 mt) of longfin squid on that trip.

3. In § 648.11, paragraph (n)(1) is revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) Atlantic mackerel, squid, and butterfish observer coverage—(1) Pre-trip notification.

(i) A vessel issued a limited access Atlantic mackerel permit, as specified at § 648.4(a)(5)(iii), must, for the purposes of observer deployment, have a representative provide notice to 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, gear type, 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 (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on a mackerel 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 specific mackerel trip, within 24 hr of the vessel representative's notification of the prospective mackerel trip, as specified in paragraph (n)(1)(i) 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 mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel except as specified in paragraph (n)(1)(iii) of this section.

Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) Trip limits: A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry 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.

* * * * *

4. In § 648.14, paragraphs (g)(2)(ii)(E), (g)(2)(iii)(A) and (C), and (g)(2)(iv) are revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(E) Possess more than 5,000 lb (2.27 mt) of butterfish, unless the vessel meets the minimum mesh requirements specified in § 648.23(a).

* * * * *

(iii) * * *

(A) Fish with or possess nets or netting that do not meet the gear requirements for Atlantic mackerel, longfin squid, *Illex*, or butterfish specified in § 648.23(a); or that are modified, obstructed, or constricted, if subject to the minimum mesh requirements, unless the nets or netting are stowed and not available for immediate use as defined in § 648.2 or the vessel is fishing under an exemption specified in § 648.23(a)(5).

* * * * *

(C) Enter or fish in the mackerel, squid, and butterfish bottom trawling restricted areas, as described in § 648.23(a)(6).

* * * * *

(iv) *Observer requirements for longfin squid fishery.* Fail to comply with any of the provisions specified in § 648.11.

* * * * *

5. In § 648.23, paragraph (a) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* Vessels subject to the mesh restrictions in this paragraph (a) must render any net, or any piece of net, with a mesh size smaller than that specified in paragraphs (a)(1), (2), and (3) of this section not available for immediate use as

defined in § 648.2.

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing more than 5,000 lb (2.27 mt) of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (7.62 cm) diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(2) *Longfin squid fishery.* (i) Owners or operators of otter trawl vessels possessing longfin squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of $2\frac{1}{8}$ inches (54 mm) during Trimesters I (Jan-Apr) and III (Sept-Dec), or $1\frac{7}{8}$ inches (48 mm) during Trimester II (May-Aug), diamond or square mesh, as measured by methods specified in § 648.80(f), applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope.

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish mortality cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed and not available for immediate use as defined in § 648.2.

(3) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing butterfish or longfin squid shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of

the regulated portion of a trawl net except any of the following materials may be used as specified:

(i) Splitting straps, and/or bull ropes or wire around the entire circumference of the codend provided these materials do not obstruct or constrict the top or the trawl net while it is being towed;

(ii) Net strengtheners (covers) that do not have a mesh opening of less than 5 inches (12.7 cm) diamond or square mesh, as measured by methods specified in § 648.80(f); and

(iii) A liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net, the inside webbing of the codend shall be the same circumference or less than any strengthener and the liner is no more than 2 ft (61 cm) longer than any net strengthener.

(4) *Top of the regulated portion of the net* means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor.

(5) *Illex fishery*. Seaward of the following coordinates, connected in the order listed by straight lines except otherwise noted, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in § 648.2, any net, or any piece of net, with a mesh size less than $1\frac{7}{8}$ inches (48 mm) diamond mesh in Trimester II, and $2\frac{1}{8}$ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraphs (a)(2) and (a)(3)(ii) of this section.

Point	N. lat.	W. long.
M0	43°58.0'	[¹]
M1	43°58.0'	67°22.0'
M2	43°50.0'	68°35.0'
M3	43°30.0'	69°40.0'
M4	43°20.0'	70°00.0'
M5	42°45.0'	70°10.0'
M6	42°13.0'	69°55.0'
M7	41°00.0'	69°00.0'
M8	41°45.0'	68°15.0'
M9	42°10.0'	67°10.0' [²]
M10	41°18.6'	66°24.8' [²]
M11	40°55.5'	66°38.0'
M12	40°45.5'	68°00.0'
M13	40°37.0'	68°00.0'
M14	40°30.0'	69°00.0'
M15	40°22.7'	69°00.0'
M16	40°18.7'	69°40.0'

M17	40°21.0'	71°03.0'
M18	39°41.0'	72°32.0'
M19	38°47.0'	73°11.0'
M20	38°04.0'	74°06.0'
M21	37°08.0'	74°46.0'
M22	36°00.0'	74°52.0'
M23	35°45.0'	74°53.0'
M24	35°28.0'	74°52.0'
M25	35°28.0'	[³]

[¹] The intersection of 43°58.0' N. latitude and the US-Canada Maritime Boundary.

[²] Points M9 and M10 are intended to fall along and are connected by the US-Canada Maritime Boundary.

[³] The intersection of 35°28.0' N. latitude and the outward limit of the U.S. EEZ.

(6) *Mackerel, squid, and butterfish bottom trawling restricted areas—(i) Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. lat.	W. long.
OC1	40°10.0'	68°12.0'
OC2	40°24.0'	68°09.0'
OC3	40°24.0'	68°08.0'
OC4	40°10.0'	67°59.0'
OC1	40°10.0'	68°12.0'

(ii) *Lydonia Canyon*. No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON

Point	N. lat.	W. long.
LC1	40°16.0'	67°34.0'
LC2	40°16.0'	67°42.0'
LC3	40°20.0'	67°43.0'
LC4	40°27.0'	67°40.0'
LC5	40°27.0'	67°38.0'

LC1	40°16.0'	67°34.0'
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* * * * *

6. In § 648.26, paragraphs (b)(2) and (d)(2) are revised to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(b) * * *

(2) During a closure of the directed fishery for longfin squid for Trimester II, a vessel with a longfin squid/butterfish moratorium permit that is on a directed *Illex* squid fishing trip (i.e., possess over 10,000 lb (4.54 mt) of *Illex*) and is seaward of the coordinates specified at § 648.23(a)(5), may possess up to 15,000 lb (6.80 mt) of longfin squid. Once landward of the coordinates specified at § 648.23(a)(5), such vessels must stow all fishing gear, and render it not available for immediate use as defined in § 648.2, in order to possess more than 2,500 lb (1.13 mt) of longfin squid per trip.

* * * * *

(d) * * *

(2) A vessel issued longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) may not fish for, possess, or land more than 5,000 lb (2,27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, provided that butterfish harvest has not reached the DAH limit and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once

on any calendar day.

* * * * *

7. In § 648.80, paragraphs (a)(4)(iv)(B)(2) and (g)(5)(i) are revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(2) *Net size requirements.* Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets. Such vessels, may stow additional nets not to exceed 150, counting the deployed net. Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(g) * * *

(5) * * *

(i) *Nets of mesh size less than 2.5 inches (6.4 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4 cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(a)(3)), provided that the net strengthener for nets of mesh size

smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(a)(3)(iii).

* * * * *

8. In § 648.90, paragraphs (a)(5)(i)(D)(2) and (3) are revised to read as follows:

§ 648.90 NE Multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(D) * * *

(2) *Atlantic halibut*. If NMFS determines the overall ACL for Atlantic halibut is exceeded, as described in this paragraph (a)(5)(i)(D)(2), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented and any vessel issued a NE multispecies permit or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Halibut Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator

trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Halibut Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic halibut is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC HALIBUT TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°00'	69°20'
2	42°00'	68°20'
3	41°30'	68°20'
4	41°30'	69°20'

ATLANTIC HALIBUT FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	42°30'	70°20'
2	42°30'	70°15'
3	42°20'	70°15'

4	42°20'	70°20'
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ATLANTIC HALIBUT FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	43°10'	69°40'
2	43°10'	69°30'
3	43°00'	69°30'
4	43°00'	69°40'

(3) *Atlantic wolffish*. If NMFS determines the overall ACL for Atlantic wolffish is exceeded, as described in this paragraph (a)(5)(i)(D)(3), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Wolffish Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Wolffish Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process

defined in § 648.85(b)(6). If a sub-ACL for Atlantic wolffish is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and AMs are developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC WOLFFISH TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°30'	70°30'
2	42°30'	70°15'
3	42°15'	70°15'
4	42°15'	70°10'
5	42°10'	70°10'
6	42°10'	70°20'
7	42°20'	70°20'
8	42°20'	70°30'

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	41°40'	69°40'
2	41°40'	69°30'
3	41°30'	69°30'

4	41°30'	69°40'
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ATLANTIC WOLFFISH FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	42°30'	70°20'
2	42°30'	70°15'
3	42°20'	70°15'
4	42°20'	70°20'

* * * * *

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