Subpart A—[Removed and Reserved]

2. Remove and reserve subpart A, consisting of §§ 367.1 through 367.7 and Appendix A to subpart A.

Subpart B—Fees Under the Unified Carrier Registration Plan and Agreement

3. Amend subpart B by revising the heading of § 367.20 to read as follows:

§ 367.20 Fees Under the Unified Carrier Registration Plan and Agreement for Registration Years 2007, 2008 and 2009.

* * * * *

4. Add § 367.30 to subpart B to read as follows:

§ 367.30 Fees under the Unified Carrier Registration Plan and Agreement for Registration Years Beginning in 2010.

FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR EACH REGISTRATION YEAR

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$87	$87
B2	3–5	258	.....
B3	6–20	514	.....
B4	21–100	1,793	.....
B5	101–1,000	8,541	.....
B6	1,001 and above	83,412	.....

Issued on: August 28, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–21232 Filed 9–2–09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907021105–91234–02]

RIN 0648–AY00

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 10

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Amendment 10 was developed by the Mid-Atlantic Fishery Management Council (Council) to bring the FMP into compliance with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements by establishing a rebuilding program that allows the butterfish stock to rebuild and permanently protects the long-term health and stability of the stock; and by minimizing bycatch and the fishing mortality of unavoidable bycatch, to the extent practicable, in the MSB fisheries. Amendment 10 would increase the minimum codend mesh size requirement for the *Loligo* squid (*Loligo*) fishery; establish a butterfish rebuilding program with a butterfish mortality cap for the *Loligo* fishery; establish a 72–hr trip notification requirement for the *Loligo* fishery; and require an annual assessment of the butterfish rebuilding program by the Council's Scientific and Statistical Committee (SSC). This proposed rule would also make minor, technical corrections to existing regulations.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on October 19, 2009.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 10 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 10, including the FSEIS, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The FSEIS/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov*.

You may submit comments on this proposed rule, identified by RIN 0648–AY00, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal *http://www.regulations.gov*;
- Fax: (978) 281–9135, Attn: Carrie Nordeen;
- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on MSB Amendment 10.''

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS, Northeast Regional Office and to David Rostker by e-mail *David_Rostker@omb.eop.gov* or fax (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

This amendment is needed to bring the MSB FMP into compliance with

Magnuson-Stevens Act requirements by: (1) Implementing a rebuilding program that allows the butterfish stock to rebuild, and permanently protects the long-term health and stability of the stock; and (2) minimizing bycatch, and the fishing mortality of unavoidable bycatch, to the extent practicable, in the MSB fisheries.

In February 2005, NMFS notified the Council that the butterfish stock was overfished, which triggered Magnuson-Stevens Act requirements to implement rebuilding measures for the stock. In response, an amendment to the MSB FMP was initiated by the Council in October 2005. Management measures for rebuilding butterfish are designed to reduce the fishing mortality on butterfish that occurs through discarding of butterfish caught in other directed fisheries, which is the primary source of butterfish fishing mortality. Measures that reduce the discarding of butterfish are expected to also reduce the bycatch of other finfish species in MSB fisheries.

Initially, Amendment 9 to the MSB FMP was intended to bring the MSB FMP into compliance with Magnuson-Stevens Act bycatch requirements, and contained several management alternatives to address deficiencies in the FMP that related to discarding, especially as they affected butterfish. Amendment 9 considered management measures to reduce finfish discards by MSB fisheries by implementing mesh size increases in the directed *Loligo* fishery, removing mesh size exemptions for the directed *Illex* squid (*Illex*) fishery, and establishing seasonal gear restricted areas (GRAs). However, those specific management alternatives were developed in 2004, prior to the butterfish stock being declared overfished. On June 13, 2007, the Council recommended that all management measures developed as part of Amendment 9 to correct deficiencies in the FMP related to bycatch of finfish, especially butterfish, be considered in Amendment 10. Accordingly, no action was taken in Amendment 9 to address bycatch, and these alternatives were evaluated in Amendment 10.

The Council held three public meetings on Amendment 10 during June 2008. Following the public comment period that ended on June 23, 2008, the Council adopted Amendment 10 on October 16, 2008.

This action proposes management measures that were recommended by the Council as part of Amendment 10. If implemented, these management measures would:

- Establish a minimum mesh size increase to 2–1/8 inches (54 mm) (from 1–7/8 inches (48 mm)) for the *Loligo* fishery during Trimesters I (Jan - Apr) and III (Sep - Dec), starting in 2010;
- Establish a butterfish mortality cap program for the *Loligo* fishery, starting in 2011;
- Establish a 72–hr trip notification requirement for the *Loligo* fishery, to facilitate the placement of NMFS observers on *Loligo* trips, starting in 2011; and
- Require an annual assessment of the butterfish mortality cap program by the Council's SSC and, if necessary, implementation of additional butterfish rebuilding measures through the annual specifications process.

A Notice of Availability (NOA) for Amendment 10 was published on July 14, 2009. The comment period on Amendment 10 ends on September 14, 2009.

Proposed Measures

Minimum Codend Mesh Size Increase for the Loligo Fishery

The Magnuson-Stevens Act requires that conservation and management measures, to the extent practicable, minimize bycatch, and to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch. Of the three active MSB fisheries (i.e., *Loligo*, *Illex*, and Atlantic mackerel), the discarding of non-target species, especially butterfish, is highest in the *Loligo* fishery. During 2001–2006, the *Loligo* fishery was responsible for the following percentages of observed discards: 68 percent of butterfish, 8 percent of scup, 56 percent of silver hake, 31 percent of red hake, 10 percent of spiny dogfish, 8 percent of striped bass, and 7 percent of summer flounder. To bring the MSB FMP into compliance with Magnuson-Stevens Act bycatch requirements, Amendment 10 considered minimum codend mesh size increases for the *Loligo* fishery from 1–7/8 inches (48 mm) to a range from 2–1/8 inches (54 mm) to 3 inches (76 mm).

Amendment 10 indicates that increases to *Loligo* codend mesh size would increase escapement of most non-target species in proportion to the size of the mesh increase. Increases in escapement of non-target species ultimately reduces discarding of non-target species. The largest reduction in bycatch would come from increasing the minimum mesh size to 3 inches (76 mm); less bycatch reduction would result from smaller mesh size increases (either 2–1/8 inches (54 mm) or 2–1/2 inches (64 mm)), or an increase that is only in effect for part of the year. Increased harvest effort to compensate for increased escapement of *Loligo* through the larger mesh is a potential effect of increasing mesh size, and has the potential to increase with mesh size.

Certain characteristics of the trawl gear used in the *Loligo* fishery result in an effective mesh size that is actually smaller than the specified codend mesh size. The codend's diamond-shaped mesh becomes constricted when towed under load stress and reduces the effective mesh size of the gear. Additionally, the cover (minium mesh size of 4–1/2 inches (11.43 cm)) used to strengthen the codend in this volume fishery creates a masking effect and may further reduce the effective mesh size. While the *Loligo* codend mesh size increase was originally proposed for general bycatch reduction in the MSB fisheries, a minimum codend mesh size increase could also aid in rebuilding the butterfish stock.

There are no published gear studies of *Loligo* selectivity; therefore, quantifying the *Loligo* retention effects associated with the different mesh sizes is difficult. Studies of other squid species suggest that squid, like fish, are size-selected by gear. However, *Loligo* growth studies suggest that *Loligo* retention has the potential to increase during the year, due to the rapid growth rate of squid. If *Loligo* escapement occurs, survival rates are unknown. As long as significant escapement mortality does not occur, increasing codend mesh size in the *Loligo* fishery is not anticipated to increase the harvest mortality on the *Loligo* stock, because harvesting would continue to be controlled by trimester quotas. Amendment 10 proposes a minimum codend mesh size increase for the *Loligo* fishery from 1–7/8 inches (48 mm) to 2–1/8 inches (54 mm). Of the mesh sizes considered in the amendment, a minimum mesh size increase to 2–1/8 inches (54 mm) is anticipated to result in the least additional escapement of bycatch and *Loligo*. However, larger mesh size increases were deemed impracticable by the Council.

When evaluating the effect of a *Loligo* minimum codend mesh size increase on butterfish rebuilding, the amendment concludes that only a codend mesh size increase to 3 inches (76 mm) would provide for escapement of juvenile butterfish and a portion of the spawning stock. Codend mesh size increases to less than 3 inches (76 mm) would facilitate escapement of some juvenile butterfish, but not many of the spawning stock. Therefore, as a stand-alone measure, a minimum codend mesh size increase to 2–1/8 inches (54 mm) for the *Loligo* fishery would be less

likely to both enable butterfish rebuilding and ensure the long-term sustainability of the butterfish resource, as compared to a minimum mesh size increase to 3 inches (76 mm).

Originally, the amendment considered a year-round minimum codend mesh size increase for the *Loligo* fishery. During public comment on the amendment, industry members expressed concern that economic effects associated with additional harvest effort due to a minimum codend mesh size increase during Trimester II (May-August) could be high because of *Loligo*'s reduced body size during that period, following summer spawning. Additionally, industry members commented that discarding was generally low during Trimester II. Analyses in the amendment support the industry's beliefs that discarding of butterfish and other finfish is low during Trimester II. For these reasons, Amendment 10 proposes that the minimum mesh size increase for the *Loligo* fishery only be in effect for Trimesters I and III. The *Loligo* quota allocated to Trimester II is only 17 percent of the annual quota, so even if the mesh size increase would not be in effect for Trimester II, it would still be in effect during the harvesting of over 80 percent of the quota.

Given the lack of gear selectivity information on *Loligo*, Amendment 10 proposes that the best way to comply with the Magnuson-Stevens Act requirement to minimize bycatch in MSB fisheries, to the extent practicable, is to proceed with a modest codend mesh size increase and then re-evaluate the effects of the minimum codend mesh size increase after the measure has been effective for 2 years. The evaluation would examine Northeast Fisheries Observer Program (NEFOP) catch rate data, before and after the mesh size increase, for both *Loligo* and non-target species, as well as any other new scientific information (e.g., gear selectivity information). The results of the evaluation would be used to maintain or revise minimum codend mesh size requirements for the *Loligo* fishery through the MSB specifications process.

Butterfish Rebuilding Program

Status of the Butterfish Stock

In 2004, the 38th Northeast Regional Stock Assessment Workshop (SAW–38) provided estimates of butterfish fishing mortality and stock biomass estimates through 2002, and determined that butterfish was overfished. Although the butterfish assessment stock size estimate was highly imprecise (80 percent confidence interval ranged from 2,600 mt to 10,900 mt), the overfished determination was based on the fact that the 2002 biomass estimate for butterfish (7,800 mt) was below the threshold level defining the stock as overfished (½ B_{MSY} =11,400 mt). The next butterfish stock assessment is scheduled for November 2009.

SAW–38 advised that rebuilding of the butterfish stock will be dependent upon increases in recruitment, which recently has been low to intermediate. Rebuilding is further complicated because the natural mortality rate of butterfish is high, butterfish have a short lifespan, and fishing mortality is primarily attributed to discards (discards have been estimated to equal twice the annual landings). Analyses have shown that the primary source of butterfish discards is the *Loligo* fishery because of the use of small-mesh, diamond codends (1–7/8–inches (48–mm) minimum codend mesh size) and the year-round, co-occurrence of butterfish and *Loligo*. Likely due to the lack of a market for butterfish and sporadic butterfish availability, there has not been a significant butterfish fishery since 2002 (recent annual landings have been 437–544 mt), resulting in the discard of both butterfish juveniles and spawning stock. In order to rebuild the butterfish stock, a reduction of the amount of butterfish discards and an increase in butterfish recruitment are both necessary.

Butterfish Rebuilding Projections

The Amendment 10 Fishery Management Action Team (FMAT) attempted to update the model used in the SAW–38 stock assessment to estimate recruitment and stock rebuilding for butterfish. However, because of limited data on the age composition of butterfish catch from 2002 to present, due to the absence of a directed fishery, it was not possible to update the model. Therefore, in consultation with the Council's SSC, the FMAT used an auto-regressive (AR) time-series model to forecast recruitment biomass for stock recovery. The AR model was used to forecast recruit biomass during 2007–2016; these forecasted recruitment data were used in a projection to determine if and when the butterfish stock would rebuild. To simulate a bycatch-only fishery (i.e., minimal directed fishing, discards as the primary source of fishing mortality), a fishing mortality rate (F) of 0.1 was found appropriate to project the biomass of butterfish during 2005–2016. Using an F of 0.1, and an estimate of long-term average recruitment, results from the AR model indicated that the butterfish stock could rebuild to above BMSY (22,800 mt) in 2007, and remain above the target level of BMSY during 2007–2016. While these projections suggest that the butterfish stock can rebuild quickly, they do not represent stock status and, like the SAW–38 butterfish stock biomass estimate, the projection estimates are likely highly imprecise.

Determination of Butterfish Quotas

The rebuilding program proposed in Amendment 10 specifies that, during the rebuilding period, quotas would be set through the specifications process and would conform to the following control rule: Allowable Biological Catch (ABC) would equal the yield associated with applying an F of 0.1 to the most current estimate of stock biomass. Butterfish stock status determinations and reference points status would be determined periodically through the SAW process. During years without updated SAW assessments, butterfish stock biomass would be annually estimated during the specifications process by updating the stock assessment model with current year data, including Northeast Fisheries Science Center survey data, NEFOP data, and landings data. The process for annually estimating the butterfish stock biomass would be documented in a technical summary report. Once the stock is determined to be rebuilt, ABC would be specified according to the fishing mortality control rule currently specified in the FMP (i.e., the yield associated with 75 percent FMSY). Initial Optimum Yield (IOY), Domestic Annual Harvesting (DAH) and Domestic Annual Processing (DAP) would continue to be specified as they are currently, with DAH equaling the amount available for landings after the deduction of estimated discards from ABC. This process may be modified to more explicitly account for scientific and management uncertainty in the Council's Omnibus Annual Catch Limit and Accountability Measure Amendment, expected to be implemented in 2011.

Butterfish Mortality Cap

As described previously, there has been no significant butterfish fishery since 2002. In the absence of a directed fishery, butterfish fishing mortality is primarily the result of discarding in other fisheries. The year-round co-occurrence of *Loligo* and butterfish results in over half of all observed butterfish discards occurring in the *Loligo* fishery. For this reason, Amendment 10 proposes that a mortality cap be set to control the amount of butterfish fishing mortality in

the *Loligo* fishery. Because the butterfish mortality cap would account for all butterfish caught by the *Loligo* fishery (discards as well as landings), the mortality cap is specified to equal 75 percent of the butterfish ABC. The remaining 25 percent of the butterfish ABC would be allocated for butterfish catch in other fisheries, including trips landing less than 2,500 lb (1.13 mt) of *Loligo*.

Harvesting in the *Loligo* squid fishery is currently regulated under a commercial quota, which is allocated by trimester (Jan-Apr; May-Aug; Sept-Dec). During each trimester, if *Loligo* landings are projected to reach a specified level, the directed *Loligo* fishery is closed, and vessels with *Loligo* permits are prohibited from landing more than 2,500 lb (1.13 mt) of *Loligo*. The butterfish mortality cap proposed in Amendment 10 would also require the closure of the directed *Loligo* fishery if the butterfish mortality cap is attained.

Amendment 10 indicates that the butterfish mortality cap would limit the fishing mortality on butterfish spawning stock and juveniles, thereby improving the likelihood of increasing recruitment and rebuilding and maintaining the butterfish stock. The amendment also concludes that the butterfish mortality cap for the *Loligo* fishery is the most effective measure to rebuild the butterfish stock, as it is currently the only way to directly control butterfish fishing mortality and allow for the reduction in butterfish bycatch that will promote rebuilding of the stock.

In addition to being an effective rebuilding measure for the butterfish stock, the butterfish mortality cap would provide the *Loligo* industry with incentives to reduce interactions with butterfish. During the development of Amendment 10, industry advisors indicated that they are able to prosecute the *Loligo* fishery with minimal associated bycatch of butterfish. Should modified fishing practices reduce interactions between the *Loligo* fishery and butterfish, then *Loligo* harvest may only be minimally affected by the butterfish mortality cap.

Since the *Loligo* quota is allocated by trimester, Amendment 10 proposes that the butterfish mortality cap for the *Loligo* fishery also be allocated by trimester. Observer data would be used to allocate the butterfish mortality cap to the trimesters based on butterfish bycatch rates in the *Loligo* fishery. Therefore, the butterfish mortality cap would be allocated to the *Loligo* fishery as follows: Trimester I - 65 percent; Trimester II - 3.3 percent; Trimester III - 31.7 percent.

Originally, Amendment 10 proposed that butterfish mortality caps would be monitored during all three *Loligo* trimesters, with closures of the *Loligo* fishery if the mortality cap was projected to be attained. However, based on input during public hearings, the Council modified this provision in Amendment 10. Amendment 10 would close the directed *Loligo* fishery during Trimesters I and III, if the butterfish mortality cap was harvested, but would not close during Trimester II. Because the butterfish mortality cap allocated to Trimester II is relatively small (3.3 percent of the total butterfish mortality cap) and butterfish bycatch during Trimester II has historically been low, closure predictions would be based on limited data and would be variable. To minimize uncertainty associated with closing the directed *Loligo* fishery during Trimester II, Amendment 10 proposes that the butterfish mortality cap be tracked during Trimester II, but that butterfish catch and the mortality cap for Trimester II be applied to Trimester III. Therefore, operationally, the butterfish mortality caps from Trimesters II and III would be combined, such that 35 percent of the total butterfish morality cap would be tracked during Trimester III. Additionally, any overages/underages from the butterfish mortality cap during Trimester I would be applied to Trimester III. As a precaution against exceeding the butterfish quota, Amendment 10 also proposes that closure thresholds be established for the butterfish mortality cap by trimester. Therefore, closures of the directed *Loligo* fishery would occur if 80 percent of the butterfish mortality cap for Trimester I was projected to be harvested, and/or if 90 percent of the cap for Trimester III was projected to be harvested. If Trimester II bycatch levels are high, reducing the butterfish mortality cap for Trimester III, the Council could recommend the in-season closure mechanism for Trimester II in future specifications. Exempting the *Loligo* fishery from a closure in response to butterfish bycatch during Trimester II is not expected to undermine the butterfish rebuilding program's ability to control the fishing mortality of butterfish, because all bycatch is tracked and applied to the butterfish mortality cap for Trimester III. As such, there should be no negative biological impacts related to the modification of this measure.

The butterfish mortality cap will be monitored by NMFS's Fishery Statistics Office (FSO). Butterfish catch data from observed trips with 2,500 lb (1.13 mt) or more of *Loligo* onboard will be applied to *Loligo* landings (2,500 lb (1,134 kg) or more) in the dealer database to calculate total butterfish catch in the *Loligo* fishery. When butterfish catch in the *Loligo* fishery is projected to reach the specified trimester closure thresholds, the directed *Loligo* fishery would close. The exact projection methodology will be developed by FSO, reviewed annually during the MSB specifications process, and be revised as appropriate.

While an industry-funded observer program was considered by the Council, analyses in Amendment 10 demonstrate that status quo levels of observer coverage would be sufficient for the purpose of administering the butterfish mortality cap. To facilitate the placement of observers on *Loligo* trips, Amendment 10 proposes a trip notification requirement. In order for a vessel to possess 2,500 lb (1.13 mt) or more of *Loligo*, a vessel representative would be required to phone NMFS to request an observer at least 72 hrs prior to embarking on a fishing trip. If the vessel representative does not make this required trip notification to NMFS, the vessel would be prohibited from possessing or landing more than 2,500 lb (1,134 kg) of *Loligo*. If a vessel is selected by NMFS to carry an observer, the vessel would be required to carry an observer (provided an observer is available) or the vessel would be prohibited from possessing or landing more than 2,500 lb (1,134 kg) of *Loligo*. If a trip is cancelled, a vessel representative would be required to notify NMFS of the cancelled trip (even if the vessel was not selected to carry an observer). If a vessel representative cancels a trip after its vessel was selected to carry an observer, that vessel would be assigned an observer on its next trip.

The SSC would annually review the performance of the butterfish mortality cap program during the specification process. The items considered by the SSC would include, but arenot limited to the: Coefficient of variation (CV) of the butterfish bycatch estimate; estimate of butterfish mortality; and status and trend of the butterfish stock. If the CV of the butterfish mortality estimate or another butterfish mortality cap performance parameter is found to be unacceptable by the SSC, NEFOP will be consulted to evaluate if observer coverage could be increased to acceptable levels. If increasing NEFOP coverage is not possible, the Council would next consider implementation of an industry funded observer program in a subsequent action. If increased observer coverage proves impractical or ineffective, the SSC could recommend

one or more of following for the upcoming fishing year:

(1) Modification to the *Loligo* quota;

(2) Modification to the butterfish quota;

(3) Increases to minimum codend mesh size for the *Loligo* fishery;

(4) Establishing GRAs; or

(5) Establishing any measure that could be implemented via the MSB specification process.

If the Council does not adopt the SSC recommendations, then NMFS would implement measures through the MSB annual specifications process to assure the rebuilding of the butterfish stock, consistent with existing MSB regulations at § 648.2(d)(2).

As previously described, in conjunction with the butterfish mortality cap, 25 percent of the butterfish ABC would be allocated for direct harvest and discard mortality in other fisheries. Butterfish landings and observed discards in other fisheries would be monitored by FSO, but would not result in fisheries closures. These data would be reviewed as part of the annual assessment of the performance of the butterfish mortality cap program during the specification process. If butterfish landings and observed discards in other fisheries are found to exceed the 25 percent of the butterfish ABC, then the allocation of the butterfish quota between the *Loligo* fishery and other fisheries would be revised, or other measures (e.g., reduced trip limits) would be implemented to constrain the other fisheries to 25 percent of the butterfish ABC.

The process for closing the directed butterfish fishing would be status quo (fishery closure at 80 percent of IOY). All butterfish landings would count against the butterfish quota to determine when the directed butterfish fishery is closed. Projected landings would be based on dealer data and would be monitored weekly. If the directed butterfish fishery is closed, vessels with *Loligo*/butterfish moratorium permits would be subject to the closure-related incidental trip limits set in the specifications.

Butterfish Rebuilding Program Timeline

Amendment 10 proposes a 5-year butterfish rebuilding program; the rebuilding program would extend from 2010 to 2014. Section 304(e) of the Magnuson-Steven Act specifies that rebuilding periods for overfished species be as short as possible, taking into account the biology of the stock and the needs of fishing communities. Butterfish rebuilding periods of 7 and 10 years were considered by the Council, but rejected because the biology of the stock allows for rapid rebuilding. Rebuilding periods of less than 5 years were rejected by the Council due to the potential for negative economic effects associated with a compressed rebuilding schedule. A 5-year rebuilding program is proposed to balance Magnuson-Stevens Act requirements while considering the biology of the stock and the needs of fishing communities. Even though the proposed butterfish rebuilding plan is a 5-year plan, the primary measures of the rebuilding plan, such as the butterfish mortality cap and minimum codend mesh size increase for the *Loligo* fishery, would need to be permanent to ensure long-term sustainability of the butterfish stock.

During Year 1 (2010) of the rebuilding program, the 2009 quotas would be maintained (ABC specification for butterfish at 1,500 mt; landings limited to 500 mt). Butterfish landings would be monitored and the butterfish fishery would be closed when landings are projected to reach 80 percent of the butterfish quota. Additionally, as described previously, the minimum codend mesh size requirement for the *Loligo* fishery would be increased from 1–7/8 inches (48 mm) to 2–1/8 inches (54 mm) during Trimesters I and III. The goal of the rebuilding plan during Year 1 would be to further butterfish rebuilding by keeping landings levels low, thereby discouraging a directed fishery, and by increasing some escapement of juvenile butterfish with a minimum codend mesh size increase up to 2–1/8 inches (54 mm). During Year 2 (2011) of the rebuilding program, in addition to management measures effective during Year 1 of the rebuilding plan, the butterfish mortality cap for the *Loligo* fishery would be implemented. The butterfish mortality cap for the *Loligo* fishery would directly control the butterfish landings and discards (of all ages) in the *Loligo* fishery, the primary source of butterfish fishing mortality, and facilitate rebuilding of the stock and protection of the rebuilt stock.

The rebuilding program in Amendment 10 is expected to rebuild the butterfish stock within the 5-year rebuilding period. This conclusion is supported by the SSC-reviewed AR model, which suggests that the butterfish stock is able to rebuild within 1 year, provided long-term average recruitment occurs and F is kept at 0.1. Assuming future butterfish recruitment is similar to butterfish recruitment seen during 1968–2002, implementing the butterfish mortality cap in 2011 achieves an 88–percent probability of at least one large recruitment event occurring during years 2–5 of the butterfish rebuilding period. If the butterfish mortality cap is implemented in 2010, then the probability of at least one large recruitment event occurring during years 1–5 of the rebuilding period rises to 94 percent. In other words, implementing the butterfish mortality cap in 2011, rather than 2010, increases the risk of failing to take advantage of a good recruitment event (from 6 percent to 12 percent).

The Council recommended the 5-year rebuilding timeline, in part, due to concerns that the SAW–38 stock estimate for 2002 would have to be used to set the butterfish mortality cap for 2010. Best available science suggests that the butterfish stock size has been highly variable during 1968–2002. Using the SAW–38 assessment data, the butterfish mortality cap for the *Loligo* fishery would be fairly low (approximately 580 mt for Trimester I, and 320 mt for Trimester III) and could result in closures of the *Loligo* fishery. If the butterfish mortality cap is set too low, given the current butterfish stock conditions, the measure could have unnecessarily severe economic effects on the *Loligo* fishery. Because a butterfish stock assessment is scheduled for November 2009, Amendment 10 proposes using the updated stock information when specifying a butterfish mortality cap for the *Loligo* fishery. A 2011 implementation of the butterfish mortality cap would allow the updated butterfish stock estimate to be used when setting the butterfish mortality cap, but the updated stock estimate would not yet be available when setting a butterfish mortality cap for 2010.

In addition, the rebuilding program specifies that the minimum codend mesh size increase for the *Loligo* fishery would be implemented prior to the butterfish mortality cap. Amendment 10 proposes using a weighted average of the current and the previous year's data for to track the butterfish mortality cap for the *Loligo* fishery. If the butterfish mortality cap were to be implemented in 2010, then 2009 data (i.e., data prior to the implementation of the mesh size increase) would be used to calculate the butterfish mortality cap. Because the mesh size increase is expected to increase the escapement of juvenile butterfish, the Council thought it inappropriate to use data from 2009, when much of the industry used a smaller minimum codend mesh size, to calculate/track the butterfish mortality cap harvested by a fishery required to use gear with a larger mesh size. By implementing the butterfish mortality cap in 2011, the data used to monitor the butterfish mortality cap would better

reflect the new 2–1/8–inch (54–mm) codend mesh size requirement.

Corrections

This proposed rule also contains minor corrections to existing regulations. These corrections would not revise the intent of any regulations; they would only clarify the intent of existing regulations by correcting technical errors. In § 648.48.13(a), transfer-at-sea requirements for squid and butterfish would be revised to omit references to a mackerel permit. In § 648.14(g)(2)(ii)(C), the reference to possession allowances would be corrected. In § 648.21(f)(1), the description of *Loligo* trimesters would be corrected. Lastly, in § 648.25(a), possession restrictions for mackerel would be revised to omit references to the butterfish fishery.

Public comments are being solicited on Amendment 10 and its incorporated documents through the end of the comment period, September 14, 2009, stated in the NOA for Amendment 10 (74 FR 33986). All comments received by September 14, 2009, whether specifically directed to Amendment 10 or this proposed rule, will be considered in the approval/disapproval decision on Amendment 10. Public comments must be received by September 14, 2009, to be considered in the approval/disapproval decision on the amendment. Comments received after 5 pm, eastern standard time, will not be considered in the decision to approve or disapprove Amendment 10. Public comments on this proposed rule must be received no later than 5 p.m., eastern standard time, on October 19, 2009.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, NMFS has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an FSEIS for Amendment 10; a notice of availability was published on July 2, 2009 (74 FR 31733). The FSEIS describes the impacts of the proposed Amendment 10 measures on the environment. The proposed measure to increase minimum codend mesh size from 1–7/8 inches (48 mm) to 2–1/8 inches (54 mm) for the *Loligo* fishery during Trimesters I (Jan-Apr) and III (Sep-Dec) would minimize bycatch and discards of non-target species to the extent practicable, including butterfish, an overfished species. Loss of revenue due to increased *Loligo* escapement associated with the mesh size increase would depend on the actual amount of *Loligo* escapement, but revenue loss would be mitigated because the mesh size increase would not be effective during Trimester II. The proposed measure to establish a butterfish mortality cap for the *Loligo* fishery would aid in the rebuilding of the butterfish stocks by directly controlling butterfish fishing mortality. If the butterfish mortality cap is attained and the *Loligo* fishery closes, bycatch of butterfish and other non-target species would be reduced. Loss of revenue is possible if the *Loligo* quota could not be harvested because the fishery was closed in response to butterfish bycatch. As the butterfish stock rebuilds and the butterfish mortality cap increases as the stock size increases, the likelihood of lost *Loligo* revenue associated with the butterfish mortality cap is expected to decrease. The requirement that vessels notify NMFS 72 hrs prior to embarking on a *Loligo* fishing trip is an administrative measure, but it is anticipated to have biological benefits by enhancing observer coverage of the *Loligo* fishery. The annual review of the butterfish mortality cap program is expected to have both biological and economic benefits by allowing new information (e.g., changes in stock estimates or bycatch rates) to be quickly incorporated into the management process for butterfish.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

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

The majority of participants in this fishery are small entities, as only 2 grossed more than $4 million annually; therefore, there are no disproportionate economic impacts on small entities. The proposed measures in Amendment 10 would primarily affect vessels that participate in the *Loligo* fishery. In 2009, there were 426 vessels issued *Loligo*/butterfish moratorium permits. Section 10.10.14 in Amendment 10 describes the vessels, key ports, and revenue information for the *Loligo* fishery; therefore, that information is not repeated here.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action proposes a trip notification requirement for the *Loligo* fishery. The rationale for and description of the measure is included in the preamble of this rule; therefore, that information is not repeated here. The phone call to NMFS to declare a *Loligo* fishing trip is expected to be less than 2 min in duration. If a vessel representative cancels a declared fishing trip, then a trip cancellation call to NMFS would also be required. The 426 vessels issued *Loligo* permits in 2009 averaged 12 *Loligo* trips per year; therefore, each of these permit holders could average about 12 calls per year. Assuming each trip could be cancelled, permit holders could also place an average of 12 additional calls per year. The estimated duration of the cancellation call is expected to be less than 1 min. The cost of these calls would vary, based on where the calls originated, but cost is expected to be minimal. This trip notification requirement does not duplicate, overlap, or conflict with any other Federal rules.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

Some of the proposed measures (e.g., trip notification, minimum mesh size increase, annual assessment of butterfish mortality cap program) in Amendment 10 are expected to have economic impacts. A detailed economic analysis of the proposed measures, as well as the non-selected alternatives, is in Section 7.5.1 of Amendment 10.

Two of the proposed measures in Amendment 10 are not anticipated to have more than minimal economic effects on MSB fishery participants. The requirement that vessels notify NMFS 72 hrs prior to embarking on a *Loligo* fishing trip is an administrative measure to facilitate the placement of observers aboard the *Loligo* fleet. As described previously, the economic burden on fishery participants associated with this measure is expected to be minimal. This rule also proposes that the butterfish mortality cap be reviewed by the Council's SSC on an annual basis, and that modifications to the butterfish mortality cap be implemented through the MSB specifications process. This measure is also administrative and would have only minimal economic effects on fishery participants.

Implementing a 2–1/8–inches (54–mm) minimum codend mesh size requirement for the *Loligo* fishery is expected to have a larger economic effect on fishery participants than the no action alternative (maintaining the 1–7/8–inches (48–mm) minimum mesh size requirement), but less of an economic effect than implementing any of the other action alternatives (minimum mesh size requirements of 2–3/8 inches (60 mm), 2–1/2 inches (64 mm), or 3 inches (76 mm)). The factors considered in evaluating economic effects of the action alternatives are the cost of replacing a codend and the loss in revenue that may result from increased harvest effort due to *Loligo* escapement through the larger mesh. While the cost of replacing a codend may be substantial, fishery participants routinely replace codends and, as such, the cost of a codend with a larger minimum mesh size may not be a significant additional cost. Replacing a codend can cost approximately between $200 and $700, depending on the size of the net. Notifying fishery participants well in advance of regulatory changes may allow participants to plan purchases, thereby minimizing costs associated with a replacement codend. The cost of replacement codends is not anticipated to vary by mesh size among the action alternatives.

The loss of revenue associated with increased harvest effort due to *Loligo* escapement is difficult to quantify. There are no published gear studies of *Loligo* selectivity; therefore, quantifying the *Loligo* retention associated with the different mesh sizes is difficult. Studies of other squid species suggest that squid, like fish, are size-selected by gear. Given this, it could be expected that economic effects associated with the action alternatives increase with mesh size. Economic effects associated with an increased minimum mesh size for the *Loligo* fishery are mitigated because the mesh size increase would not be in effect during Trimester II (May-Aug). The rapid growth of *Loligo* may allow fishery participants to minimize *Loligo* escapement by shifting fishing effort to later in the year, when larger squid would have an increased retention rate.

Implementing a butterfish mortality cap for the *Loligo* fishery has the potential for greater economic effects on fishery participants than the no action alternative (no butterfish mortality cap). Under the action alternatives, the *Loligo* fishery would close when the butterfish mortality cap was harvested. If the *Loligo* fishery is closed in response to butterfish bycatch before the entire *Loligo* fishery is harvested, then a loss of revenue is possible. If the *Loligo* fishery can be prosecuted with minimal butterfish bycatch and without triggering the butterfish mortality cap, then there would be no economic differences between the no action and action alternatives. However, there may be additional costs associated with butterfish avoidance strategies. The potential for *Loligo* revenue loss would be dependent upon the size of the butterfish mortality cap. As described previously, the butterfish mortality cap is determined based on the level of butterfish abundance. As the butterfish stock rebuilds, the mortality cap would increase and the potential for lost *Loligo* revenue should decrease. When the butterfish stock rebuilds, a directed butterfish fishery could resume, provided discards were kept low, and would have economic benefits for fishery participants.

The economic effects on fishery participants between the action alternatives (butterfish mortality cap allocated by trimester in the same proportions as the *Loligo* quota, *Loligo* landings, or butterfish bycatch rates) is anticipated to be minimal. However, because the proposed action (butterfish morality cap based on butterfish bycatch rates) best approximates existing fishery conditions, by considering the ratio of butterfish caught to *Loligo* landed, it is anticipated that the proposed action would be less constraining on the *Loligo* fishery than the non-selected action alternatives, butterfish mortality caps based on only *Loligo* information. As described in Section 7.5.1. of the amendment, if the butterfish mortality cap is based on accurate assumptions about the size of the butterfish stock and butterfish bycatch rates by trimester, then potential *Loligo* revenue loss may be relatively small ($1.0 million), with maximum losses per vessel averaging 0.6 percent and ranging up to 4.1 percent. If assumptions about butterfish stock size and bycatch rates are incorrect, then potential *Loligo* revenue loss may be relatively large ($15.8 million), with maximum losses per vessel averaging 9.1 percent and ranging up to 65 percent. These ranges assume equal distribution of losses based on distributions of landings, but vessels with access to other fisheries may target those fisheries to mitigate lost *Loligo* revenue.

As a tool to minimize bycatch, Amendment 10 considered eliminating current exemptions from *Loligo* minimum mesh size requirements for the *Illex* fishery. There is no minimum codend mesh size requirement for vessels retaining *Illex*, but there is a 1–7/8–inch (48–mm) minimum mesh size requirement for vessels retaining *Loligo*. Because squid species can seasonally co-occur, during the months of June-September, the *Illex* fishery is exempt from the *Loligo* minimum mesh size requirement on the *Illex* fishing grounds (i.e., the area seaward of 50–fm (91.45–m) depth contour) where *Loligo* is less often present. Because the *Loligo* fishery accounts for more bycatch than the *Illex* fishery, the Council recommended maintaining the current exemption to the *Loligo* minimum mesh size requirement for the *Illex* fishery. The economic effects on fishery participants of maintaining the no action alternative are expected to be less than the economic effects associated with any of the action alternatives (*Illex* exemption during June-August, *Illex* exemption during June-July, discontinuation of *Illex* exemption). Similar to the economic effects associated with the proposed increase to the minimum mesh size for *Loligo*, costs to *Illex* fishery participants associated with any of the action alternatives would include replacement codends and increased harvesting effort due to *Illex* escapement. While the cost of replacing a codend may be substantial, fishery participants routinely replace codends and, as such, the cost of a codend with a larger minimum mesh size may not be a significant additional cost. Additionally, the rapid growth of *Illex* could allow fishery participants to minimize *Illex* escapement by shifting effort to later in the year, when larger squid would have an increased retention rate.

Lastly, Amendment 10 considered establishing GRAs to reduce butterfish discards in MSB fisheries. The action alternatives included four GRAs, to be effective during January-April, that varied by minimum codend mesh size requirements (i.e., 3 inches (76 mm) or 3–3/4 inches (96 mm)) and effective area (i.e., area accounting for 50 percent or 90 percent of MSB discards). Because the GRAs are limited in temporal and geographic scope, the Council concluded they were not a viable solution to butterfish discarding in MSB fisheries and did not recommend establishing butterfish GRAs (no action alternative). Establishing GRAs would likely have resulted in shifts in the distribution of fishing effort with biological effects that would be difficult to predict. Based on average annual revenue from trips that would be affected by GRAs, potential economic effects associated with the action alternatives per vessel ranged from revenue losses of $498,000-$559,000. However, given that fishing vessels are

flexible in their fishing practices, these losses would most likely not be fully realized.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for a trip notification requirement for the *Loligo* fishery is estimated to average 3 min per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS, Northeast Regional Office at the **ADDRESSES** above, and to David Rostker by e-mail *David__Rostker@omb.eop.gov* or fax (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 28, 2009

James W. Balsiger,

Acting Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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 § 648.13, paragraph (a) is revised to read as follows:

§ 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 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.

* * * * *

3. In § 648.14, paragraph (g)(1)(iii) is added and paragraph (g)(2)(ii)(C) is revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) ***

(1) ***

(iii) *Observer requirements for Loligo fishery.* Fail to comply with any of the provisions specified in § 648.26.

* * * * *

(2) ***

(ii) ***

(C) Take, retain, possess or land mackerel, squid, or butterfish in excess of a possession allowance specified in § 648.25.

* * * * *

4. In § 648.21, paragraphs (a)(2) and (f)(1) are revised, and paragraphs (b)(3)(iii) and (b)(3)(iv) are added to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

(a) * * *

(2) IOY, including RQ, DAH, DAP, butterfish mortality cap for the *Loligo* fishery, and bycatch level of the total allowable level of foreign fishing (TALFF), if any, for butterfish, which, subject to annual review, may be specified for a period of up to 3 years;

* * * * *

(b)* * *

(3) * * *

(iii) The butterfish mortality cap will be allocated to the *Loligo* fishery as follows: Trimester I - 65 percent; Trimester II - 3.3 percent; and Trimester III - 31.7 percent.

(iv) Any underages of the butterfish mortality cap for Trimesters I or II will be applied to Trimester III of the same year, and any overages of the butterfish mortality cap for Trimesters I and II will be applied to Trimester III of the same year.

* * * * *

(f) * * *

(1) A commercial quota will be allocated annually for *Loligo* squid into trimester periods based on the following percentages: Trimester I (January-April) - 43.0 percent; Trimester II (May-August) - 17.0 percent; and Trimester III (September-December) - 40.0 percent.

* * * * *

5. In § 648.22, paragraph (a)(5) is added to read as follows:

§ 648.22 Closure of the fishery.

(a)* * *

(5) NMFS shall close the directed fishery in the EEZ for *Loligo* when the Regional Administrator projects that 80 percent of the butterfish mortality cap is harvested in Trimester I and/or 90 percent of the butterfish mortality cap is harvested in Trimester III.

* * * * *

6. In § 648.23, paragraphs (a)(3) introductory text and (a)(3)(i) are revised to read as follows:

§ 648.23 Gear restrictions.

(a) * * *

(3) Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2–1/8 inches (54 mm), during Trimesters I (Jan-Apr) and III (Sept-Dec), or 1–7/8 inches (48 mm), during Trimester II (May-Aug), diamond mesh, inside stretch measure, 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, unless they are fishing consistent with exceptions specified in paragraph (b) of this section.

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* 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 that results in an effective mesh opening of less than 2–1/8 inches (54 mm), during Trimesters I (Jan-Apr) and III (Sept-Dec), or 1–7/8 inches (48 mm), during Trimester II (May-Aug), diamond mesh, inside stretch measure. ''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. However, owners or operators of otter trawl vessels fishing for and/or possessing *Loligo* may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 4–1/2 inches (11.43

cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

* * * * *

7. In § 648.25, paragraph (a) is revised to read as follows:

§ 648.25 Possession restrictions.

(a) *Atlantic mackerel*. During a closure of the directed Atlantic mackerel fishery that occurs prior to June 1, vessels may not fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24 hr period beginning at 0001 hours and ending at 2400 hours. During a closure of the directed fishery for mackerel that occurs on or after June 1, vessels may not fish for, possess, or land more than 50,000 lb (22.7 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day.

* * * * *

8. Section 648.26 is added to read as follows:

§ 648.26 Observer requirements for the Loligo fishery.

(a) A vessel issued a *Loligo* and butterfish moratorium permit, as specified at § 648.4(a)(5)(i), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact; and the date, time, and port of departure, at least 72 hrs prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (c) of this section.

(b) If the vessel representative notifies NMFS of an upcoming trip, and then that trip is cancelled, the representative is required to provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, and telephone number for contact, and the intended date, time, and port of departure for the cancelled trip within 72 hrs of the initial notification.

(c) A vessel issued a *Loligo* and butterfish moratorium permit, as specified at § 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 2,500 lb (1.13 mt) or more of *Loligo* per trip at any time, and may only land *Loligo* 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 *Loligo* and butterfish moratorium permit, as specified at § 648.4(a)(5)(i), possesses, harvests, or lands 2,500 lb (1.13 mt) or more of *Loligo* per trip or per calendar day and is selected by NMFS to carry an observer, but the 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.

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