

addition, copies of the final SEIS, a revised RIR, and a revised IRFA, prepared by NMFS are also available from the Council at the address above. Copies of all of these documents may also be downloaded from the Council's Web site at [www.gulfcouncil.org](http://www.gulfcouncil.org).

The final supplemental environmental impact statement (FSEIS) for this amendment includes discussion and analyses NMFS added to the environmental impact statement contained in the amendment the Council approved and submitted for Secretarial review. In the FSEIS, NMFS also included a revision of the IFRA originally integrated in the Council amendment. Additional text and analyses clarify the distinction between IFQ shareholders and IFQ allocation holders, and more clearly distinguish the roles and responsibilities of these two participant types.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, 727 824 5305; fax 727-824-5308; e-mail: [phil.steele@noaa.gov](mailto:phil.steele@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Council addressed overcapacity in the red snapper fishery in 1995 through Amendment 8 to the FMP. In this amendment, the Council examined several management alternatives including license limitation, IFQs, and more traditional management measures (i.e., open access), and determined an IFQ program had the most potential to address the immediate overcapitalization problems and achieve OY from the fishery. However, Amendment 8 was never implemented because of congressional action. Following the expiration of the congressional IFQ moratorium, NMFS conducted a referendum required by Section 407(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to determine whether commercial red snapper fishermen supported further consideration of an IFQ program. The Council began developing this amendment following a majority "yes" vote on the referendum. NMFS conducted the second referendum required by the Magnuson-Stevens Act to determine whether fishermen approved the IFQ amendment developed by the Council for submission to the Secretary of Commerce (Secretary). Following a majority "yes" vote in the second referendum, the Council at its March 2006 meeting voted to submit the IFQ amendment to the Secretary for review.

The main action in this amendment (Action 1) is to establish an IFQ program. The following actions (Actions 2-11) determine the structure of the

program. These actions are: IFQ program duration; ownership caps and restrictions on IFQ share certificates; eligibility for initial IFQ allocation; initial apportionment of IFQ shares; establishment and structure of an appeals process; transfer eligibility requirements; use it or lose it clause for IFQ shares or allocations; adjustments in commercial quota; use of a vessel monitoring system; and a cost recovery plan.

A proposed rule that would implement the measures outlined in Amendment 26 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by October 2, 2006, whether specifically directed to Amendment 26 or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: July 28, 2006.

**James P. Burgess,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 06-6645 Filed 7-28-06; 2:19 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 060719196-6196-01.; I.D. 071106F]

RIN 0648-AU54

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

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** The final rule implementing the specifications for the 2005 fishing year for Atlantic mackerel, squid, and butterfish (MSB) clarified the expiration date of the limited entry program for *Illex* squid, established a minimum mesh requirement for the butterfish fishery, and removed a regulatory requirement for annual specifications to be published by a specific date. These regulatory measures were intended to be of a permanent nature, unlike the specifications themselves, which expired January 1, 2006. An error in the final rule caused these three measures to expire; this proposed rule would restore the regulatory requirements. This action is being taken by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Public comments must be received no later than 5 p.m., Eastern Daylight Time, on August 17, 2006.

**ADDRESSES:** Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), for the 2005 specifications 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 EA/RIR/IRFA is accessible via the Internet at <http://www.nero.noaa.gov>.

Comments on the proposed rule should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope, "Comments-2005 MSB Specifications Corrections." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments on the specifications may be submitted by e-mail. The mailbox address for providing e-mail comments is [MSB2005corrections@noaa.gov](mailto:MSB2005corrections@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: "Comments-2005 MSB Corrections." Comments may also be submitted via Webform at the Federal eRulemaking Portal [www.regulations.com](http://www.regulations.com) by following the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fishery Management Specialist, 978-281-9221, fax 978-281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

NMFS published final specifications for the 2005 fishing year for MSB in the

**Federal Register** on March 21, 2005 (70 FR 13406), and the measures became effective on April 20, 2005. The final rule included regulatory changes that were meant to be permanent, as well as the MSB specifications which were intended to expire on January 1, 2006. However, in the effective dates section of the final rule, the distinction between the annual specifications and the permanent regulations was not defined and, as a result, all of the measures of the final rule expired on January 1, 2006. This proposed action permanently reestablishes the regulatory measures as intended.

### Proposed Measures

#### *Illex Moratorium Permits*

Framework 4 to the MSB Fishery Management Plan (FMP) became effective July 1, 2004 (69 FR 30839, June 1, 2004), and extended the limited entry program for the *Illex* squid fishery through July 1, 2009. In a subsequent regulatory action, the text reflecting the extension was, as mentioned above, not identified as a permanent regulation and therefore expired on January 1, 2006. This proposed rule would specify the July 1, 2009, expiration date in the regulatory text.

#### *Gear Specifications For Otter Trawl Butterfish Trips*

The final rule implementing the 2005 MSB specifications included a 3.0-inch (7.62-cm) minimum codend mesh size requirement for butterfish otter trawl trips of greater than 5,000 lb (2,268 kg). The measure was described in detail in the proposed rule for the 2005 MSB specifications (70 FR 1686, January 10, 2005) and is only summarized here. The purpose of this minimum mesh size requirement is to allow for escapement of unmarketable butterfish and butterfish below the size at which 50 percent are sexually mature. This minimum mesh size requirement reduces discards in the directed fishery, especially of small, sexually immature butterfish, which will increase the chance of successful recruitment and aid in stock rebuilding. This proposed rule would re-establish the minimum mesh size requirements in the regulations.

#### *Annual Specifications*

The final rule for implementing the 2005 MSB specifications included a clarification to the regulations in § 648.21, removing references to the dates on which the proposed and final rules for the annual specifications must be published by the Administrator, Northeast Region, NMFS (Regional

Administrator), because it is not necessary to specify those dates in regulatory text. This proposed rule would re-instate that clarification by removing the unnecessary dates.

### Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866. The Council prepared an IRFA for the 2005 MSB specifications, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impacts this proposed rule, if adopted, would have on small entities. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at <http://www.nero.noaa.gov>. A summary of the analysis follows:

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and the proposed rule for the 2005 MSB specifications and is not repeated here.

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

The number of potential fishing vessels in the 2005 fisheries were 72 for *Illex* squid, and 2,119 vessels with incidental catch permits for squid/butterfish, based on vessel permit issuance. There are no large entities participating in this fishery, as defined in section 601 of the RFA. Therefore, there are no disproportionate economic impacts. Many vessels participate in more than one of these fisheries; therefore, the numbers are not additive.

### Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

### Minimizing Significant Economic Impacts on Small Entities

The proposed action would implement a 3.0-inch (7.62-cm) minimum codend mesh size requirement for otter trawl trips landing more than 5,000 lb (2,278 kg) of butterfish. During the period 2001–2003, 16,854 trips landed butterfish, based on unpublished NMFS Vessel Trip Report (VTR) data. More than half (57 percent) of the landings of butterfish during 2001–2003 were taken with mesh sizes less than 3.0 inches (7.62-cm). Within this mesh size range, most

were taken with mesh sizes between 2.5 inches (6.35-cm) and 3.0 inches (7.62-cm). The trips using this mesh size range (i.e., less than 3.0 inches (7.62-cm)) could potentially be affected by the proposed mesh size. However, the proposed 3.0-inch (7.62-cm) mesh requirement would only apply to otter trawl trips landing 5,000 lb (2,278 kg) or more of butterfish. In terms of numerical frequency of trips, the vast majority of trips during 2001–2003 landed less than 5,000 lb (2,278 kg) of butterfish, based on NMFS VTR data. While 57 percent of the landings by weight were taken on trips of greater than 5,000 lb (2,278 kg) during the period, fewer than 1 percent of the trips landing butterfish landed more than 5,000 lb (2,278 kg). Only 26 vessels had trips that included landings of butterfish of 5,000 lb (2,278 kg) or more, and also reported using mesh sizes less than 3.0 inches (7.62 cm) on those trips. Therefore, it is expected that the economic impact of this proposed measure would be negligible, because the vast majority of trips and vessels would not be affected. The costs for those vessels that do land butterfish on trips of more than 5,000 lb (2,278 kg) of butterfish should also be negligible because virtually all of those vessels already possess codends with 3.0-inch (7.62-cm) mesh or greater (because they are fishing for butterfish or in another fishery that uses nets of that size, e.g., whiting). Therefore, they should not incur any additional costs due to the proposed minimum mesh size requirement. When the Council considered implementing a mesh size requirement for butterfish landings, the only alternative to the proposed action considered was not implementing any mesh size requirement.

### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 27, 2006.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons stated 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 § 648.4, the introductory text of paragraph (a)(5)(i) is added to read as follows:

#### **§ 684.4 Vessel permits.**

(a) \* \* \*

(5) \* \* \*

(i) *Loligo squid/butterfish and Illex squid moratorium permits (Illex squid moratorium is in effect until July 1, 2009).*

\* \* \* \* \*

3. In § 648.14, paragraphs (a)(74) and (p)(5) are added and paragraph (p)(11) is added to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(74) Possess nets or netting with mesh not meeting the minimum size requirements of § 648.23, and not stowed in accordance with the requirements of § 648.23, if in possession of *Loligo* or *butterfish* harvested in or from the EEZ.

\* \* \* \* \*

(p) \* \* \*

(5) Fish with or possess nets or netting that do not meet the minimum mesh requirements for *Loligo* 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 in accordance with § 648.23(b) or the vessel is fishing under an exemption specified in § 648.23(a).

\* \* \* \* \*

(11) Possess 5,000 lb (2.27 mt) or more of *butterfish*, unless the vessel meets the minimum mesh size requirement specified in § 648.23(a)(2).

\* \* \* \* \*

4. In § 648.21, paragraph (d) is added to read as follows:

**§ 648.21 Procedures for determining initial annual amounts.**

\* \* \* \* \*

(d) *Annual fishing measures.* (1) The Squid, Mackerel, and Butterfish Committee will review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Squid, Mackerel, and Butterfish Committee must recommend to the MAFMC appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC will review these recommendations and, based on the recommendations and any public comment received thereon, must recommend to the Regional Administrator appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social

impacts of the recommendations. The Regional Administrator will review the recommendations and will publish notification in the **Federal Register** proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30-day public comment period. If the proposed specifications differ from those recommended by the MAFMC, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations will be available for inspection at the office of the Regional Administrator during the public comment period. If the annual specifications for squid, mackerel, and *butterfish* are not published in the **Federal Register** prior to the start of the fishing year, the previous year's annual specifications, excluding specifications of TALFF, will remain in effect. The previous year's specifications will be superceded as of the effective date of the final rule implementing the current year's annual specifications.

(2) The Assistant Administrator will make a final determination concerning the specifications for each species and any measures necessary to assure that the specifications contained in the **Federal Register** notification will not be exceeded. After the Assistant Administrator considers all relevant data and any public comments, notification of the final specifications and any measures necessary to assure that the specifications will not be exceeded and responses to the public comments will be published in the **Federal Register**. If the final specification amounts differ from those recommended by the MAFMC, the reason(s) for the difference(s) must be clearly stated and the revised specifications must be consistent with the criteria set forth in paragraph (b) of this section.

\* \* \* \* \*

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

**§ 648.23 Gear restrictions.**

(a) Mesh restrictions and exemptions. (1) Vessels subject to the mesh restrictions outlined in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that required.

(2) Owners or operators of otter trawl vessels possessing 5,000 lb (2.27 mt) or more of *butterfish* harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, 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.

(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 1 7/8 inches (48 mm) 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 during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request):

Point	N. Lat.	W. Long.
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'
M10	41 ° 18.6'	66 ° 24.8'
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'	4 ° 46.0'
M22	36 ° 00.0'	74 ° 52.0'
M23	35 ° 45.0'	74 ° 53.0'
M24	35 ° 28.0'	74 ° 52.0'

(4) Vessels fishing under this exemption may not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1 7/8 inches (48 mm) diamond mesh or any net, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraph (c) and (d) of this section, when the vessel is landward of the specified coordinates.

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