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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-BG42

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Mid-Atlantic Unmanaged Forage Fish Omnibus Amendment

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

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council has submitted its Unmanaged Forage Omnibus Amendment to the Secretary of Commerce for review and approval. We are requesting comments from the public on this amendment. This amendment would implement an annual landing limit, possession limits, and permitting and reporting requirements for certain previously unmanaged forage species and species groups within Mid-Atlantic Federal waters. The purpose of this action is to prevent the development of new, and the expansion of existing, commercial fisheries on certain forage species until the Council has adequate opportunity and information to evaluate the potential impacts of forage fish harvest on existing fisheries, fishing

communities, and the marine ecosystem.

DATES: Comments must be received on or before [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2017-0013, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0013, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Mid-Atlantic Forage NOA.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The Council prepared an environmental assessment (EA) for the Unmanaged

Forage Omnibus Amendment that describes the proposed action and other alternatives considered and provides a thorough analysis of the impacts of the proposed measures and alternatives considered. Copies of the Unmanaged Forage Omnibus Amendment, including the EA, the Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA and associated analysis is accessible via the Internet at

<http://www.greateratlantic.fisheries.noaa.gov/> or <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, 978-281-9141; fax 978-281-9135.

SUPPLEMENTARY INFORMATION:

Background

Mid-Atlantic Council stakeholders identified managing forage species as a key concern for future action during a 2011 strategic planning and visioning process. Forage species are generally considered small, mostly pelagic schooling species that serve as prey for larger species. In 2014, the Council's Scientific and Statistical Committee (SSC) developed a white paper on forage species. The paper indicated that forage species facilitate the transfer of energy from the lowest levels of the food chain to higher levels, highlighting the importance of forage species in maintaining the productivity of marine ecosystems. The Council recognized that although it already manages several forage species that are the target of directed commercial fisheries (Atlantic mackerel, longfin and *Illex* squid, and butterfish), there are other unmanaged species that serve as prey for

species important to commercial and recreational fisheries managed within the Mid-Atlantic. However, the Council was concerned that insufficient information existed to assess the amount of unmanaged forage species currently being harvested and associated impacts to other marine resources. Due to the importance of forage species to the marine ecosystem and the health of important commercial and recreational fisheries, the Council sought to prevent the further expansion of commercial fishing effort on forage species. Therefore, the Council wanted to maintain existing commercial fisheries at recent levels until it could collect more detailed information to evaluate the potential impacts of forage fish harvest on existing fisheries, fishing communities, and the marine ecosystem.

On December 8, 2014, the Council initiated an action to begin protecting previously unmanaged forage species in each fishery management plan (FMP) under its jurisdiction. The purpose of this action is to prevent the development of new, and the expansion of existing, commercial fisheries on certain forage species. Scoping meetings were held from Rhode Island through North Carolina in September and October 2015. These meetings sought public input on the type of action to undertake, which forage species to address, the geographic scope of the action, data needs, possible measures to prevent the expansion of commercial fisheries on forage species, and processes to evaluate the development of commercial fisheries in the future. After further developing proposed measures, the Council conducted public hearings in May and June 2016 to solicit additional input on the range of alternatives under consideration by the Council, with public comments accepted through June 17, 2016. At its August 2016 meeting, the Council adopted final measures under the Unmanaged Forage Omnibus Amendment. On November 23, 2016, the Council

submitted the amendment and draft EA to NMFS for preliminary review. The Council submitted the final forage amendment on March 20, 2017. The Council reviewed the proposed regulations to implement these measures, as drafted by NMFS, and deemed them to be necessary and appropriate, as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act on March 10, 2017.

This amendment would prevent the development of new, and the expansion of existing, commercial fisheries on certain Mid-Atlantic forage species until the Council can collect the information necessary to more fully evaluate the potential impacts of forage species harvests on existing fisheries, fishing communities, and the marine ecosystem. To do this, the Council would limit catch of certain forage species to recent levels and implement administrative measures necessary to more accurately record the catch of these species within Mid-Atlantic Federal waters. Specifically, this action proposes the following measures:

- Designate 15 species and species groups as ecosystem component species of FMPs under the Council's jurisdiction;
- Specify a 1,700-lb (771-kg) combined possession limit for ecosystem component species within Mid-Atlantic Federal waters;
- Set an annual catch limit of 2.86 million lb (1,297 mt) for Atlantic chub mackerel (*Scomber colias*);
- Specify a 40,000-lb (18,144-kg) chub mackerel possession limit within Mid-Atlantic Federal waters (i.e., from New York through Cape Hatteras, NC, an area referred

to as the “Mid-Atlantic Forage Species Management Unit”) once the chub mackerel annual landing limit is reached;

- Require that all vessels possessing ecosystem component species and chub mackerel in Mid-Atlantic Forage Species Management Unit be issued a Federal commercial fishing vessel permit from the Greater Atlantic Regional Fisheries Office and comply with existing reporting requirements;
- Allow vessels that catch ecosystem component species and chub mackerel outside of the Mid-Atlantic Forage Species Management Unit to transit through the area to land these species at other ports;
- Develop appropriate codes to record the catch of these species in vessel trip reports and dealer reports;
- Establish a Council policy requiring an exempted fishery permit and sufficient Council review before further development of any fishery for ecosystem component species; and
- Expand framework provisions in the all of the Council’s FMPs to allow future changes to annual landing limits and possession limits for Mid-Atlantic forage species.

As proposed, the proposed chub mackerel measures are temporary, and would expire in 3 years. This would allow the Council to develop long-term measures and the scientific information necessary to formally integrate this chub mackerel as a stock in the fishery under the Atlantic Mackerel, Squid, and Butterfish FMP. The Council initiated a separate action to develop these long-term measures at its February 2017 meeting for

implementation by 2020, if approved.

Public comments are being solicited on the Unmanaged Forage Omnibus Amendment and its incorporated documents through the end of the comment period specified in the **DATES** section of this notice of availability (NOA). Following NMFS's review of the amendment under the Magnuson-Stevens Act procedures, a rule proposing to implement measures outlined in this amendment may be published in the **Federal Register** for public comment. All comments received by the end of the comment period on the NOA, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of this action.

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

Dated: March 23, 2017.

Karen H. Abrams,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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