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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 191211-0108]

RTID 0648- XX019

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

Fisheries; 2020 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to maintain *Illex* squid, longfin squid, and butterfish specifications for the 2020 fishing year and maintain the 2019 Atlantic mackerel ABC for 2020 and adjust the recreational deduction based on updated scientific advice. This action is required to promote the sustainable utilization and conservation of the Atlantic mackerel, squid, and butterfish resources.

DATES: Public comments must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessments (EA), the Supplemental Information Report (SIR), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis 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 analysis is also accessible via the Internet at www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0122.

You may submit comments, identified by NOAA-NMFS-2019-0122, 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-2019-0122, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on 2020 MSB Specifications.”

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).

FOR FURTHER INFORMATION CONTACT: Alyson Pitts, Fishery Management Specialist, (978) 281-9352.

SUPPLEMENTARY INFORMATION:

Background

This rule proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years, for Atlantic mackerel, *Illex* squid, longfin squid, and butterfish. Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management 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, ensuring 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 regulations implementing the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) require the Mid-Atlantic Fishery Management Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee to develop specification recommendations for each species based upon the ABC advice of the Council's SSC. The FMP regulations also require the specification of annual catch limits (ACL) and accountability measure (AM) provisions for butterfish and Atlantic mackerel. Both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than one year. In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

On August 1, 2019 (84 FR 37778), we published a final rule in the *Federal Register* implementing *Illex* squid, longfin squid, and butterfish specifications for 2019. On October 29,

2019 (84 FR 58053), we published a final rule in the *Federal Register* implementing the Atlantic mackerel specifications for 2019-2021. The Council's SSC met in May 2019, to reevaluate the 2020 specifications based upon the latest information. At that meeting, the SSC concluded that no adjustments to the *Illex* squid, longfin squid, and butterfish specifications were warranted. However, the the SSC recommended a change to the Atlantic mackerel ABC, an update of the recreational catch, and a modification of the river herring and shad catch cap.

The Council did not recommend changes to any other regulations in place for the Atlantic mackerel, squid, and butterfish fisheries. Therefore, any other fishery management measures in place would remain unchanged for the 2020 fishing year. The Council submitted its recommendations, as summarized below, along with the required analyses, for initial agency review on September 30, 2019. NMFS must review the Council's recommendations for compliance with the FMP and applicable law, and conduct notice-and-comment rulemaking to propose and implement the final specifications.

Until new specifications are implemented, the existing Atlantic mackerel, *Illex* squid, longfin squid, and butterfish specifications, as described below, will continue to remain in place.

2020 Atlantic Mackerel Specifications

The Atlantic mackerel specifications for 2019-2021 were developed in May 2018 as part of Framework 13 to the Atlantic Mackerel Squid, and Butterfish FMP, by which the 2020 ABC for Atlantic mackerel was set to increase from the 2019 level (29,184 mt) (Table 1). The 2020 ABC recommended by the SSC for Framework 13 was based on projections that recognized a strong 2015 year class from the 2016 assessment results, which was the most recent data available for the assessment. However, at its May 2019 meeting, the SSC considered

preliminary results from the 2019 Canadian Atlantic mackerel assessment, which indicated lower than expected recruitment. The SSC determined that it would not be prudent to implement the original higher 2020 ABC level based on the preliminary information from the Canadian assessment and instead, recommended maintaining the 2019 ABC for 2020 (29,184 mt). There is an Atlantic mackerel stock assessment update scheduled for 2020 that will inform future ABC specifications, so only a 1-year ABC for 2020 was recommended.

The Atlantic Mackerel, Squid, and Butterfish Monitoring Committee met in May 2019 and recommended changing the deduction for recreational catch based on an updated recreational catch accounting methodology. The monitoring committee recommended a new recreational deduction of 1,270 mt versus the previous 1,209 mt established in Framework 13. Using this updated value affects the other Atlantic mackerel specifications compared to 2019, as described in Table 1 below, which compares the implemented 2019 measures with the 2020 measures that are proposed in this action.

Table 1- 2019 Atlantic Mackerel Specifications Compared to Proposed 2020 Specifications (mt)

| Specification | 2019 | 2020 |
|---|--------|--------|
| OFL | 31,764 | NA |
| ABC | 29,184 | 29,184 |
| Canadian Deduction | 10,000 | 10,000 |
| U.S. ABC | 19,184 | 19,184 |
| Recreational Allocation | 1,209 | 1,270 |
| Commercial Allocation | 17,975 | 17,914 |
| Management Uncertainty Buffer (3 percent) | 539 | 537 |
| Commercial Annual Catch Target | 17,436 | 17,377 |
| DAH | 17,371 | 17,312 |

River herring and Shad Catch Cap in the Atlantic Mackerel Fishery

Consistent with maintaining the Atlantic mackerel ABC in 2020 as in 2019, this action

proposes to maintain the 2019 river herring and shad catch cap (129 mt) for 2020. The Council had previously adopted an increase in the river herring and shad catch cap to 152 mt for 2020. This action proposes to eliminate the 89-mt trigger provision that was implemented in Framework 13. If the 89 mt trigger was met, a 20,000 lb (9071.84 kg) possession limit for limited access permit holders would be effective. Eliminating the initial 89 mt trigger would allow for additional landings by the Atlantic mackerel fishery, without compromising the 129-mt catch cap, which serves as an incentive to avoid river herring and shad.

Longfin Squid Specifications

This action maintains the existing projected longfin squid ABC of 23,400 mt for 2020, as implemented on March 1, 2018 (83 FR 8764). The background for this ABC is discussed in the proposed rule to implement the 2018-2020 squid and butterfish specifications (December 13, 2017; 82 FR 58583) and is not repeated here. The IOY, DAH, and DAP are calculated by deducting an estimated discard rate (2 percent) from the ABC (Table 2). This action also maintains the existing allocation of longfin squid DAH among trimesters according to percentages specified in the FMP (Table 3). The Council will make recommendations for 2021 and beyond in 2020..

Table 2 – 2020 Longfin Squid Specifications in metric tons (mt)

| | |
|---------|---------|
| OFL | Unknown |
| ABC | 23,400 |
| IOY | 22,932 |
| DAH/DAP | 22,932 |

Table 3 – 2020 Longfin Quota Trimester Allocations

| Trimester | Percent | Metric Tons |
|---------------|---------|-------------|
| I (Jan-Apr) | 43 | 9,861 |
| II (May-Aug) | 17 | 3,898 |
| III (Sep-Dec) | 40 | 9,173 |

2020 Butterfish Specifications

This action also maintains the previously approved projected 2020 butterfish specifications outlined in Table 4, as initially implemented on March 1, 2018 (83 FR 8764). The background for these specifications is discussed in the proposed rule to implement 2019 squid and butterfish specifications (December 13, 2017; 82 FR 58583) and is not repeated here. In summary, the 2020 butterfish specifications are based on long-term recruitment estimates and include a 7.5 percent management uncertainty buffer and an estimated discard rate of 2.4 percent. These specifications maintain the existing butterfish mortality cap in the longfin squid fishery (3,884 mt) and the existing allocation of the butterfish mortality cap among longfin squid trimesters (Table 5).

Table 4 – 2020 Butterfish Specifications in Metric Tons (mt)

| | |
|--|--------|
| OFL | 39,592 |
| ACL = ABC | 32,063 |
| Commercial ACT (ABC - management uncertainty buffers for each year) | 28,857 |
| DAH (ACT minus butterfish cap and discards) | 23,752 |
| Directed Fishery closure limit (DAH - 1,000 mt incidental landings buffer) | 22,752 |
| Butterfish Cap (in the longfin squid fishery) | 3,884 |

Table 5 – Trimester Allocation of Butterfish Mortality Cap on the Longfin Squid Fishery for 2020

| Trimester | Percent | Metric Tons |
|---------------|---------|-------------|
| I (Jan-Apr) | 43 | 1,670 |
| II (May-Aug) | 17 | 660 |
| III (Sep-Dec) | 40 | 1,554 |
| Total | 100 | 3,844 |

2020 Illex Squid Specifications

This action also maintains the previously approved 2019 *Illex* squid specifications for 2020, outlined in Table 6, as implemented on August 2, 2019 (84 FR 37778). The background

for these specifications is discussed in the proposed rule to implement the 2019 *Illex* squid, longfin squid, and butterfish specifications (May 1, 2019, 84 FR 18471). The Council will set specifications for 2021 and beyond in 2020.

Table 6 – Proposed 2020 *Illex* Squid Specifications in metric tons (mt)

| | |
|---------|---------|
| OFL | Unknown |
| ABC | 26,000 |
| IOY | 24,825 |
| DAH/DAP | 24,825 |

Classification

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

This action is exempt from review under Executive Order 12866. This proposed rule is not subject to Executive Order 13771 because this proposed rule is exempt from Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The purpose, context, and statutory basis for this action is described above and not repeated here. Business entities affected by this action include vessels that are issued limited access Atlantic mackerel, longfin squid, *Illex* squid, and butterfish permits. Although vessels issued open access incidental catch permits for these species are also potentially affected by this action, because these vessels land only small amounts of squid and butterfish and this action would not revise the

amount of squid and butterfish that these vessels can land, these entities would not be affected by this proposed rule.

For purposes of complying with the Regulatory Flexibility Act, commercial fishing entities with combined annual fishery landing receipts less than \$11 million are considered to be small entities (80 FR 81194, December 29, 2015). The changes to existing mackerel specifications proposed in this action apply to the vessels that hold limited access permits for Atlantic mackerel. There were 126 separate vessels that held limited access Atlantic mackerel permits in 2018, owned by 100 entities. Ninety-three of those are small business entities, four of which had no revenues. For the remainder, the average revenue was \$1.6 million in 2018.

Based on recent squid and butterfish landings, the proposed measures would not reduce fishing opportunities, change any entity's access to these resources, or impose any costs to affected entities. Therefore, this action would not reduce revenues or profit for affected entities compared to recent levels. Based on the above justification, the proposed action is not expected to have a significant economic impact on a substantial number of small entities.

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

Dated: December 12, 2019.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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