



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210517-0107]

RIN 0648-BK59

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

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes new 2021-2022 butterfish specifications, while maintaining the current longfin squid, *Illex* squid, and Atlantic mackerel specifications for 2021-2023. This action also adjusts the dealer reporting requirement and adjusts the closure threshold for the *Illex* squid fishery to avoid overages. These proposed specifications are intended to promote the sustainable utilization and conservation of the mackerel, squid, and butterfish resources. Additionally, this action reaffirms previously approved Atlantic chub mackerel specifications for 2021-2022.

DATES: Public comments must be received by [INSERT DATE 15 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 Assessment (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.

You may submit comments, identified by NOAA-NMFS-2021-0048, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA-NMFS-2021-0048 in the Search box. Click the “Comment” icon, complete the required fields, and Enter or attach your comments.

Instructions: Comments sent by any other method 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: Aly Pitts, Fishery Management Specialist, (978) 281-9352.

SUPPLEMENTARY INFORMATION:

Background

This rulemaking proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years, for Atlantic mackerel, longfin squid, *Illex* squid, and butterfish, and reaffirms 2021-2022 chub mackerel specifications implemented through Amendment 21 (85 FR 47103; August 4, 2020) to the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that the Scientific and Statistical Committee (SSC) for each regional fishery management council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable

biological catch (ABC), preventing overfishing, 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 FMP require the Mid-Atlantic Fishery Management Council's 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. 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), the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

On February 27, 2020 (85 FR 11309), we published a final rule in the *Federal Register* implementing the previously approved 2020 Atlantic mackerel specifications to maintain the 2019 specifications with a modification to the recreational catch deduction and change the river herring and shad catch cap in the Atlantic mackerel fishery. This rule also maintained the previously approved *Illex* squid, longfin squid, and butterfish specifications.

The Council's SSC met in July 2020 to reevaluate the Atlantic mackerel, squid, and butterfish 2021 specifications based upon the latest information. At that meeting, the SSC concluded that no adjustments to the *Illex* squid, longfin squid, and Atlantic mackerel specifications were warranted. However, the SSC recommended to reduce the butterfish DAH by 72 percent from 2020 based on a recent assessment update that incorporates new data including lower recruitment. Until new specifications are implemented, the existing Atlantic mackerel, longfin squid, *Illex* squid, and butterfish specifications, as described below, will continue pursuant to 50 CFR 648.22(d)(1).

Proposed 2021-2022 Atlantic Mackerel Specifications

The original 2021 Atlantic mackerel ABC recommended by the SSC for Framework 13 (84 FR 58053; October 30, 2019) was based on projections that recognized a strong 2015 year class in the assessment results. At its May 2019 meeting, the SSC considered preliminary results from the 2019 Canadian Atlantic mackerel assessment, which indicated lower than expected recruitment. As a result, the SSC recommended maintaining the more conservative 2020 ABC for 2021. Based on the recommendations of the SSC and the Monitoring Committee, the Council recommended, and this action proposes, maintaining the 2020 mackerel specifications outlined in Table 1. These specifications also maintain the 129 mt river herring and shad catch cap. There is an Atlantic mackerel stock assessment update scheduled for 2022 that will inform future ABC specifications.

Table 1—Proposed Atlantic Mackerel 2021-2022 Specifications

Specification	2021-2022
OFL	NA
ABC	29,184
Canadian Deduction	10,000
U.S. ABC	19,184
Recreational Allocation	1,270
Commercial Allocation	17,914
Management Uncertainty Buffer (3 percent)	537
Commercial Annual Catch Target	17,377
DAH	17,312

Proposed 2021-2022 Longfin Squid Specifications

This action maintains the 2020 longfin squid ABC of 23,400 mt for 2021-2022. The background for this ABC is discussed in the proposed rule to implement the 2018-2020 squid and butterfish specifications (82 FR 58583; December 13, 2017) and is not repeated here. The IOY, DAH, and domestic annual processing (DAP) are calculated by deducting an estimated discard rate (2.0 percent) from the ABC. This results in a 2021 IOY, DAH, and DAP of 22,932 mt (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 review these specifications during its annual specifications process following annual data updates each spring, and may change its recommendation for 2022 if new information is available.

Table 2 – 2021-2022 Longfin Squid

Specification	Metric Tons
OFL	Unknown
ABC	23,400
IOY	22,932
DAH/DAP	22,932

Table 3 – 2021-2022 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

Proposed 2021-2022 Butterfish Specifications

This action proposes to set the 2021-2022 butterfish specifications as outlined in Table 4. The 2020 butterfish management track assessment found butterfish to be not overfished with no overfishing occurring in 2019, but if the full ABC was caught, projections suggest overfishing would have occurred and the stock would have become overfished. While butterfish recruitment is variable, it has been declining since 1999 with historically low recruitment in recent years. The proposed 2021-2022 butterfish specifications use the Council’s risk policy at the time and the SSC’s assignment of a 100 percent coefficient of variation to the projected OFL. These specifications propose to maintain the existing butterfish mortality cap in the longfin squid fishery of 3,884 mt and the existing allocation of the butterfish mortality cap among longfin squid trimesters (Table 5).

Table 4 – 2021-2022 Butterfish Specifications in Metric Tons

Specification	2021	2022
OFL	22,053	24,341

ABC	11,993	17,854
ACT	11,393	16,961
Assumed discards	637	637
Total discards	5,043	5,466
Butterfish cap in longfin	3,884	3,884
DAH	6,350	11,495

Table 5 – Proposed 2021 Trimester Allocation of Butterfish Mortality Cap on the Longfin Squid Fishery

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

Proposed 2021-2022 Illex Squid Specifications

Consistent with the Council’s recommendation, NMFS proposes to maintain the 2021 *Illex* squid ABC of 30,000 mt. The Council recommended that the ABC be reduced by the status quo discard rate of 4.52 percent, which results in a 2021 IOY, DAH, and DAP of 24,825 mt (Table 6). The Council will review this decision during its annual specifications process following annual data updates each spring, and may change its recommendations for 2022 if new information is available.

Table 6 – Proposed 2021-2022 *Illex* Squid Specifications in Metric Ton

OFL	Unknown
ABC	30,000
IOY	28,644
DAH/DAP	28,644

Proposed Illex Squid In-Season Management Measures

This action proposes to modify the current weekly reporting for commercial dealers after July 15 to a 48-hour reporting requirement for accurate landings monitoring during the fishing season. This action also proposes to modify the closure threshold from 95 percent to 94 percent. Both measures are designed to help avoid quota overages, which occurred in 2018 and 2019.

Reaffirmation of 2021-2022 Atlantic Chub Mackerel Specifications

Amendment 21 to the FMP previously implemented chub mackerel specifications for the 2020-2022 fishing years. The Council reevaluated these specifications at its October 2020 meeting and decided to make no adjustments for the 2021-2022 fishing years. This action reaffirms the previously implemented specifications.

Table 7 -- Reaffirmed 2021-2022 Atlantic Chub Mackerel Specifications in Metric Tons

Specification	2021-2022
ABC	2,300
Annual Catch Limit (ACL)	2,262
Annual Catch Target	2,171
Total Allowable Landings	2,041

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 Mackerel, Squid, and Butterfish 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 Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) 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 Atlantic mackerel, 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.

Any entity with combined annual fishery landing receipts less than \$11 million is considered a small entity based on standards published in the *Federal Register* (80 FR 81194, December 29, 2015). In 2018, 350 separate vessels held limited access Mackerel, Squid, and Butterfish permits. Approximately 254 entities owned those vessels, and based on current SBA definitions (under \$11 million to be a commercial fishing small business entity), 245 were small business entities. All of the entities that had revenue (223) fell into the commercial fishing category. For those 223 with revenues, their average revenue was \$1.34 million in 2019. The previously approved Atlantic mackerel, *Illex* squid, and longfin squid commercial landing limits would not be changed by this proposed action. Fishing revenue and, therefore, economic impacts of yearly Mackerel, Squid, and Butterfish specifications depend upon species availability, which may change yearly. This action should not have negative impacts on any participating entities. Mackerel and longfin quotas would be maintained at status quo. *Illex* squid specifications would be maintained at status quo, although the closure threshold would be lowered from 95 percent to 94 percent to avoid quota overages, which have occurred in recent years. The landings that can occur up to the 94 percent closure threshold would still be higher than the 2017-2019 quotas. 2019 landings were only slightly above the landings at the 94 percent threshold even with the 2019 overage. Avoiding quota overages also has the long term benefit of avoiding overfishing. Butterfish quotas would be reduced, but would still allow for increases from how the fishery has operated from 2017-2019.

In determining the significance of the economic impacts of the proposed action, we considered the following two criteria outlined in applicable National Marine Fisheries Service guidance: Disproportionality and profitability. The proposed measures would

not place a substantial number of small entities at a significant competitive disadvantage to large entities; all entities affected by this action would be equally affected.

Accordingly, there are no distributional economic effects from this action between small and large entities. Proposed measures would not reduce fishing opportunities based on recent squid and butterfish landings, 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.

This proposed rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number: 0648-0229, Greater Atlantic Region Dealer Purchase Reports.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements

Dated: May 17, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is 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 § 648.7, add paragraph (f)(1)(ii) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(f) * * *

(1) * * *

(ii) From July 15 through December 31, dealer or processor reports documenting *Illex* squid landings greater than 10,000 pounds must be received with 48 hours of landing.

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3. In § 648.24, revise paragraph (a)(2) to read as follows:

§ 648.24 Fishery closures and accountability measures.

(a) * * *

(2) *Illex*. NMFS shall close the directed *Illex* fishery in the EEZ when the Regional Administrator projects that 94 percent of the *Illex* DAH is harvested. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.26.

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