



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210716-0148]

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: Final rule.

SUMMARY: NMFS sets new 2021 and projected specifications for fishing year 2022 butterfish and *Illex* squid, while maintaining the current longfin squid and Atlantic mackerel specifications for 2021 and projected for 2022-2023. This action also adjusts the dealer reporting requirement and adjusts the closure threshold for the *Illex* squid fishery to avoid overages. This action is required to ensure that specifications for these fisheries is based on the best scientific information available. These 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: Effective [insert date of publication with the *FEDERAL REGISTER*].

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis are available on the Mid-Atlantic Fishery Management Council's website, or 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.

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

SUPPLEMENTARY INFORMATION:

Background

The regulations implementing the Mackerel, Squid, and Butterfish Fishery Management Plan (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 acceptable biological catch (ABC) advice of the Council's Scientific and Statistical Committee (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. The regulations for squid 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 May 26, 2021 (86 FR 28323), we published a proposed rule in the **Federal Register** seeking public comment on setting new 2021 and projected specifications for fishing year 2022 butterfish and *Illex* squid, while maintaining the current longfin squid and Atlantic mackerel specifications for 2021 and projected for 2022-2023. , in addition to adjusting the dealer reporting requirement and adjusts the closure threshold for the *Illex* squid fishery to avoid overages. The proposed rule for this action included additional background on specifications and the details of how the Council derived its recommended specifications for Atlantic mackerel, *Illex* squid, longfin squid, and butterfish. Those details are not repeated here. For additional information, please refer to the proposed rule for this action.

Following the publication of the proposed rule, the Council requested that we increase the *Illex* squid 2021-2022 ABC from 30,000 mt ABC to 33,000 mt, as recommended by the SSC. At its May 2021 meeting, the SSC recommended this revised ABC based on updated information, including patterns that suggest an increase in abundance, low levels of exploitation, and catches that have been constrained by existing ABCs for the last 4 years. The SSC is confident that the *Illex* stock is at a high level of abundance and experiencing a low exploitation rate. This increase was within the range of alternatives considered and analyzed in the EA for this action, and the public had the opportunity to comment on this increase at the May 2021 Monitoring Committee meeting, the May 2021 SSC meeting, and the June 2021 Council meeting.

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 July 2020 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. This action maintains the 2020 mackerel specifications outlined in Table 1 for 2021. These specifications also maintain the 129-mt river herring and shad catch cap. There was an Atlantic mackerel management track assessment June 2021 that will inform future ABC specifications once the final report and results are available.

Table 1—Atlantic Mackerel Final 2021 and Projected 2022 Specifications

Specification	2021-2022
Overfishing Limit (OFL)	NA
ABC	29,184
Canadian Deduction	10,000
U.S. ABC	19,184
Recreational Allocation	1,270
Commerical Allocation	17,914

Management Uncertainty Buffer (3 percent)	537
Commercial Annual Catch Target	17,377
DAH	17,312

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 (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 – Longfin Squid Final 2021 and Projected 2022 Specifications

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

Table 3 – Longfin Quota Trimester Allocations Final 2021 and Projected 2022 Specifications

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

2021-2022 Butterfish Specifications

This action sets the 2021-2022 butterfish specifications as outlined in Table 4, which are a 72-percent reduction from 2020. The 2020 butterfish management track assessment found butterfish to be not overfished with no overfishing occurring in 2019, but if the full ABC had been 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 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 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 –Butterfish Final 2021 and Projected 2022 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 fishery	3,884	3,884
DAH	6,350	11,495

Table 5 – 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

2021-2022 Illex Squid Specifications

Consistent with the Council’s June 2021 recommendation, NMFS adjusts the 2021 *Illex* squid ABC from 30,000 mt to 33,000 mt. Based on the SSC’s recommendation, the Council recommended that the ABC be reduced by the discard rate of 4.61 percent, a change from the status quo discard rate of 4.52 percent, due to updated data that will be used in the 2022 *Illex* Squid Research Track Assessment. Using the updated discard rate results in a 2021-2022 IOY, DAH, and DAP of 31,478 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 –*Illex* Squid Final 2021 and Projected 2022 Specifications in Metric Ton

OFL	Unknown
ABC	33,000
IOY	31,478
DAH/DAP	31,478

Illex Squid In-Season Management Measures

This action modifies 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 modifies 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 Atlantic Chub Mackerel Final 2021 and Projected 2022 Specifications 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

Comments

We received four comments on the proposed rule; one comment from the MAFMC, one from a commercial fishing industry member, and two from environmental organizations. The MAFMC and commercial fishing industry member recommended we

increase the *Illex* squid ABC. We are increasing the *Illex* squid ABC from 30,000 mt to 33,000 mt in this action based on updated information considered by the Council. The two environmental organizations mentioned the poor stock status of Atlantic mackerel in Canada and the actions Fisheries and Oceans Canada has taken to manage mackerel. The Council will be addressing Atlantic mackerel management at its meeting in August 2021, following the updated management track assessment and the July SSC meeting.

Classification

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

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. The start of the fishing year began on January 1, 2021. This rule increases the *Illex* squid ABC and adjusts the reporting requirements and in-season closure trigger to avoid another overage. A delay in implementing final measures would prevent the economic benefits from this rule from being realized and prevent achieving optimal yield in the summer fishing season. In addition, this rule reduces the butterfish ABC below the current specifications based on a recent butterfish stock assessment. Past performance suggests that this will not limit the fishery as recent landings have been lower than the reduced ABC, but there remains a risk of overages with the fishery operating under the current higher specifications. Therefore, it is in the public interest to implement this final action as soon as possible.

This final 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 during the proposed

rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and no other information has been obtained that suggests any other conclusion. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final 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.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements

Dated: July 16, 2021.

Carrie Robinson,
Acting Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is 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 (4.5 mt) 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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[FR Doc. 2021-15538 Filed: 7/21/2021 8:45 am; Publication Date: 7/22/2021]