

50 CFR Part 648**[Docket No. 961125328-7032-02; I.D. 103196B]****RIN 0648-AJ06****Fisheries of the Northeastern United States; Amendment 6 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Final rule.

SUMMARY: NMFS issues this rule to implement measures contained in Amendment 6 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Amendment 6 establishes measures to prevent overfishing of the Atlantic squids and butterfish, allow for seasonal restrictions in the *Illex* squid fishery to improve yield per recruit, change the closure trigger for these species from 80 percent to 95 percent of the domestic annual harvest (DAH), and revise bycatch trip limits after closure.

EFFECTIVE DATE: March 28, 1997.

ADDRESSES: Copies of Amendment 6, the environmental assessment, regulatory impact review, and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Management Specialist, 508-281-9280.

SUPPLEMENTARY INFORMATION:**Background**

This final rule implements measures in Amendment 6 to the FMP to prevent overfishing of the Atlantic squids and butterfish, allow for seasonal restrictions in the *Illex* squid fishery to improve yield per recruit, and change the closure trigger for these species from 80 percent to 95 percent of the DAH. Amendment 6 also revises the trip limits on bycatch of these species when a fishery is closed. Background concerning the development of Amendment 6 was provided in the notice of proposed rulemaking (December 9, 1996, 61 FR 64852), and is not repeated here. That notice provided a public comment period that concluded on January 21, 1997. No comments were received on the proposed rule.

Overfishing Definitions*Illex illecebrosus*

Overfishing for *Illex* is defined to occur when the catch associated with a threshold fishing mortality rate (F) of F_{20} is exceeded. F_{20} is defined as the F that results in 20 percent of the maximum spawning potential (MSP) of the stock. This means that 20 percent of the maximum spawning biomass would remain in the population compared to an unfished population. For *Illex*, this overfishing definition would equate roughly to $F=0.28$, or an annual rate of removal of about 22 percent from the population due to fishing.

Maximum optimum yield (max OY) will also be specified as the catch that would result from F_{20} . To ensure that the overfishing F level is not closely approached, the annual quota would be specified to correspond to a target F of F_{50} . F_{50} is defined as the F that results in 50 percent of the MSP of the stock. This means that 50 percent of the spawning biomass would remain in the population compared to an unfished population. For *Illex*, this would equate roughly to $F=0.11$, and to an annual rate of removal of about 8 or 9 percent from the population due to fishing. Approval of Amendment 6 means that the annual specification of max OY is revised to 24,000 mt.

Loligo pealei

Overfishing for *Loligo* is defined to occur when the catch associated with a threshold F of F_{\max} is exceeded. F_{\max} is the F that results in the maximum yield per recruit. For *Loligo*, this overfishing threshold would equate roughly to $F=0.36$, and to an annual rate of removal of about 27 percent from the population due to fishing. Max OY will also be specified as the catch that would result from fishing at F_{\max} . To ensure that the overfishing threshold is not closely approached, the annual quota would be specified to correspond to a target F of F_{50} . For *Loligo*, this would equate roughly to $F=0.13$, and to an annual rate of removal of about 1 percent from the population due to fishing. Approval of Amendment 6 means the annual specification of max OY is revised to 26,000 mt.

Atlantic Butterfish

Because current estimates of F are unreliable, Stock Assessment Workshop (SAW) 21 recommended amending the existing overfishing definition to take a more conservative (lower risk) approach. Overfishing is now defined as occurring when the 3-year moving average of pre-recruits from the Northeast Fisheries Science Center's

autumn bottom trawl survey (mid-Atlantic to Georges Bank) falls within the lowest quartile of the time series, or when landings exceed a level that would result from a threshold F of F_{MSY} . Max OY is specified as the catch level that would result from fishing at F_{MSY} . Thus, when an estimate of F is available, it will be incorporated as a management tool. F_{MSY} is the F that results in the maximum sustainable yield.

Other Measures

In addition to defining overfishing, Amendment 6 specifies that, in order to prevent the DAH from being exceeded, the directed fisheries for these species will be closed when 95 percent of the DAH is projected to be taken. During the closure, any vessel of the United States can retain up to 2,500 lb (1.13 mt) of *Loligo* or butterfish and up to 5,000 lb (2.27 mt) of *Illex*.

Amendment 6 also contains a provision that will allow seasonal quotas to be specified annually for *Illex*. The FMP currently provides that seasonal quotas can be specified for *Loligo* only. This measure will provide a mechanism that could be used to delay the opening of the *Illex* season and increase yield, since the animals will be given more time to grow before they are harvested. The seasonal closure will be implemented on an annual basis through the Monitoring Committee process specified in the FMP.

Classification

NMFS has determined that this rule is consistent with the national standards, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The reasons were discussed in the proposed rule published in the Federal Register on December 9, 1996 (61 FR 64852) and are not repeated here. No comments were received regarding certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 20, 1997.

Rolland A. Schmitt, Jr.,

Assistant Administrator for Fisheries,
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
[AMENDED]**

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.20, paragraphs (b) through (d) are revised to read as follows:

§ 648.20 Maximum optimum yield (OYs).

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(b) *Loligo*—the catch associated with a fishing mortality rate of F_{max} .

(c) *Illex*—the catch associated with a fishing mortality rate of F_{20} .

(d) Butterfish—the catch associated with a fishing mortality rate of F_{MSY} .

3. In § 648.21, paragraph (c)(5) is revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(c) * * *

(5) Commercial seasonal quotas/closures for *Loligo* and *Illex*.

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4. In § 648.22, paragraphs (a) and (c) are revised to read as follows:

§ 648.22 Closure of the fishery.

(a) *General*. The Assistant Administrator shall close the directed mackerel fishery in the EEZ when U.S. fishermen have harvested 80 percent of the DAH of that fishery if such closure is necessary to prevent the DAH from being exceeded. The closure shall remain in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Director projects that DAH will be attained for mackerel, the Assistant Administrator shall close the mackerel fishery in the EEZ, and the incidental catches specified for mackerel in paragraph (c) of this section will be prohibited. The Assistant Administrator shall close the directed fishery in the EEZ for *Loligo*, *Illex*, or butterfish when 95 percent of DAH has been harvested. The closure of the directed fishery shall be in effect for the remainder of the fishing year with incidental catches allowed as specified in paragraph (c) of this section.

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(c) *Incidental catches*. During the closure of the directed fishery for

mackerel, the trip limit for mackerel is 10 percent by weight of the total amount of fish on board. During a period of closure of the directed fishery for *Loligo*, *Illex*, or butterfish, the trip limit for *Loligo* and butterfish is 2,500 lb (1.13 mt) each, and the trip limit for *Illex* is 5,000 lb (2.27 mt).

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50 CFR Part 660

[Docket No. 961121322-7033-02; I.D. 110696B]

RIN 0648-AJ02

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fishery; Mau Zone Moratorium

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to impose a 2-year moratorium on issuing new permits for harvesting bottomfish in the Mau Zone of the Northwestern Hawaiian Islands so that effort in the fishery will be stabilized while the Western Pacific Fishery Management Council (Council) develops a limited access program for the area. This will stabilize effort in the fishery while the Council develops a management system for the Mau Zone that may limit access to the fishery.

EFFECTIVE DATE: March 27, 1997.

ADDRESSES: Send comments to Ms. Hilda Diaz-Soltero, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Copies of the Environmental Assessment can be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973-2985; Mr. Svein Fougner, NMFS, (562) 980-4034; or Ms. Kitty Simonds, Council, (808) 522-8220.

SUPPLEMENTARY INFORMATION: Following extensive review by the Council's advisory bodies, the details of which were summarized in the proposed rule (61 FR 60255, November 27, 1996) and will not be repeated here, the Council, at its 90th meeting, August 7-9, 1996, recommended that a moratorium be implemented for 2 years to allow sufficient time to complete an access limitation program for the Mau Zone bottomfish fishery. The Council recommended this action in accordance

with the framework procedures of 50 CFR 660.67(d), which specifically addresses the access limitation process. During the moratorium, the Council will develop a program for the Mau Zone that aims to reduce the potential increase in fishing pressure in the Mau Zone and increase the economic efficiency of the fishery.

Discussions among the members of the Council's Bottomfish Plan Team, Task Force, Advisory Panel, and Review Board have pointed out the necessity of three elements in any limited access plan: Simplicity, equity, and the importance of restricting the number of potential participants. Approximately 80 vessels have had permits for the Mau Zone at some time in the past; however, some owners of vessels have died, and some vessels have permanently left the fishery, leaving a core of perhaps 30 vessels, whose owners could renew their permits and participate in the fishery. Any plan that the Council adopts is likely to contain some kind of qualifying criteria. A permit obtained by a former permittee during the moratorium may not guarantee a permit under the permanent limited access system. The Council is considering using qualification criteria based on historical landings data and current landings data, coupled with non-transferable permits for reducing the number of bottomfish vessels in the fishery and maintaining an active fleet at an optimal level.

Upon the effective date of this rule, only those vessel owners who have held Mau Zone permits will be eligible to renew or obtain permits for the length of the moratorium.

Classification

The Administrator, Southwest Region, NMFS, determined that the regulatory amendment is necessary for the conservation and management of the bottomfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published on November 27, 1996 (61 FR 60255). No public comments were received on the certification. As a result, no final regulatory flexibility analysis has been prepared.