

2338, January 11, 2001, and amended at the 2001 annual specifications and management measures at 66 FR 2338, January 11, 2001, as amended at 66 FR 10211 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), and at 66 FR 38162 (July 23, 2001). This action further amends the specifications and management measures to read as follows:

(1) In Section IV, under B. *Limited Entry Fishery*, a new paragraph (2)(b)(i)(A) is added.

**IV. NMFS Actions**

**B. Limited Entry Fishery**

\* \* \* \* \*

(2) Sablefish. \* \* \*

(b) Nontrawl trip and size limits. \* \*

\*

(i) Primary season. \* \* \*

(A) *Incidental halibut retention north of Pt. Chehalis, WA (46°53'18" N. lat.)* Vessels authorized to participate in the primary sablefish fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53'18" N. lat.) may land up to the following cumulative limits: 80 lb (36 kg) of halibut per 1,000 lb (454 kg) of sablefish, plus up to two additional halibut per fishing trip. In addition, the following per vessel, primary season cumulative limits apply: 2,850 lb (1,293 kg) of halibut for Tier 1 vessels, 1,300 lb (590 kg) of halibut for Tier 2 vessels, and 750 lb (340 kg) of halibut for Tier 3 vessels. If a vessel is registered for use with more than one sablefish endorsed limited entry permit, the cumulative halibut limit of the tier associated with the vessel's base permit (indicated on the permit) applies. Halibut limits are in net weight (head-off, gutted); sablefish limits are in round weight.

(B) [Reserved]

\* \* \* \* \*

**Classification**

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 when this rule was proposed, that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities.

Under 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30-day delay in effectiveness for this final rule. This rule

implements the GSP by allowing longline vessels fishing north of Pt. Chehalis, WA to retain halibut caught incidentally in the primary fixed gear sablefish fishery. The primary sablefish fishery is expected to start on August 15. If this rule is not effective before the start of the primary season, longliners who catch halibut incidental to their sablefish fishing operations will have to discard that halibut.

Halibut and sablefish are frequently found in the same fishing grounds. The primary sablefish fishery is an intensely concentrated period of sablefish fishing and the sheer volume of sablefish targeting during this period increases a vessel's chance of also catching halibut. Halibut caught by longline often survive the capture-and-release process if they are released carefully. However, not all halibut survive capture and discard, which means that delaying effectiveness of this final rule could result in unnecessary halibut discard mortality.

A delay in effectiveness of this rule could unnecessarily prevent sablefish longliners from retaining incidentally caught halibut that might die from the capture-and-release process. This rule would also relieve a regulatory restriction in that it would allow vessels to retain halibut that they could not otherwise access. For these reasons, delaying the effectiveness of this final rule would be contrary to public interest.

**List of Subjects in 50 CFR Part 300**

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: August 6, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 300 is amended as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

**Authority:** 16 U.S.C. 773-773k.

2. In § 300.63, paragraphs (a)(3) and (a)(4) are re-designated as paragraphs (a)(4) and (a)(5), respectively, and a new paragraph (a)(3) is added to read as follows:

**§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.**

\* \* \* \* \*

(a) \* \* \*

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the

primary directed longline sablefish fishery north of 46°53'18" N. lat. (Pt. Chehalis, WA), which is regulated under 50 CFR 660.323(a)(2). This fishing opportunity is only available in years in which the Area 2A TAC is greater than 900,000 lb (408.2 mt,) provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the **Federal Register**. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

(i) In years when this incidental harvest of halibut in the directed sablefish fishery north of 46°53'18" N. lat. is allowed, it is allowed only for vessels using longline gear that are registered to groundfish limited entry permits with sablefish endorsements and that possess the appropriate incidental halibut harvest license issued by the Commission.

(ii) It is unlawful for any person to possess or land halibut south of 46°53'18" N. lat. that were taken and retained north of 46°53'18" N. lat. as incidental catch authorized by this section in the directed longline sablefish fishery.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 010710173-1183-02; I.D. 070901C]

**RIN 0648-AO91**

**Fisheries of the Northeastern United States; Summer Flounder, Scup, Black Sea Bass, Loligo Squid, Illex Squid, Atlantic Mackerel, Butterfish, and Bluefish Fisheries; Framework Adjustment 1**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 1 to the Atlantic Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; and Bluefish Fishery Management Plans (FMPs). This final rule modifies the quota-setting process to allow the Mid-Atlantic Fishery Management Council (Council) to set aside up to 3 percent of total allowable landings (TAL) specified for these species to be used for research purposes. This rule also announces that NMFS is deferring action on the tilefish portion of this rule until the regulations implementing the Tilefish FMP are effective. The intent of this action is to foster cooperative research efforts by fishermen and scientists, and to encourage the collection of information to improve management of these fisheries.

**DATES:** August 10, 2001.

**ADDRESSES:** Copies of Framework Adjustment 1 to the Atlantic Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; and Bluefish FMPs, its Environmental Assessment (EA), and Regulatory Impact Review (RIR) are available on request from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904-6790.

**FOR FURTHER INFORMATION CONTACT:** David M. Gouveia, Fishery Policy Analyst; (978) 281-9280; fax (978) 281-9135; e-mail david.gouveia@noaa.gov.

**SUPPLEMENTARY INFORMATION:** Each of the FMPs includes an annual specification process, which provides that TAL and other measures be established to achieve the biological targets specified in the FMPs for each fishery. The annual harvest limits are determined by the Council, based on Technical Monitoring Committee recommendations. The Monitoring Committees generally meet in the summer to develop TAL recommendations and management measures for the upcoming fishing year that are necessary to achieve biological targets. The Council reviews the Monitoring Committees' recommendations and any public comments prior to submitting its recommendations to NMFS. NMFS then is responsible for reviewing the Council's recommendations and ensuring the management measures will have at least a 50-percent likelihood of achieving the biological targets for each of the respective fisheries.

This action modifies the quota-setting process for the aforementioned fisheries by allowing the Council to expand its resource allocation scheme to include a quota allocation dedicated to research endeavors. This action will allow the Council to set aside up to 3 percent of TAL in each of these fisheries to be used for research purposes, with the remaining portion of the TAL allocated as currently specified in the FMPs.

Framework 1 provides a mechanism to fund research and compensate vessels through the sale of fish harvested under the research quota. This establishes an incentive for vessels to participate in research activities. In addition, this action provides researchers with a variety of options for conducting research. This action will allow: (1) Both recreational and commercial vessels to sell fish harvested under research quota (recreational vessels cannot otherwise sell fish); (2) research and commercial activities to be conducted separately, rather than on the same trip; and (3) researchers the option of harvesting up to 25 percent of the research quota allocated to species, even if the research did not directly involve that species. Funds generated through the sale of the research quota will help defray some of the costs associated with conducting research, such as decreased vessel efficiency, additional labor costs, and additional fuel and supplies.

On an annual basis, the Council will request that NMFS solicit proposals from industry for the upcoming fishing year, based on research priorities identified by the Council. Each year, NMFS will publish a Request for Proposals (RFP) in the **Federal Register**, consistent with procedures and requirements established by the NOAA Grants Office. Prior to the Council's quota-setting meetings, which are conducted in the summer, NMFS will convene a review panel, including the Council's Comprehensive Management Committee (Committee) and technical experts, to review proposals submitted in response to the RFP. The Council has authorized the Committee members to act in their individual capacity on behalf of the Council to recommend which research proposals should be authorized to utilize the research quotas.

It is anticipated that most proposals will request that vessels conducting research be exempt from certain management measures. To ease the burden on researchers, the analysis of the impacts associated with the anticipated exemptions will be included as part of the annual quota specification packages submitted by the Council. This process is intended to satisfy the

analytical and public notice provisions of the Exempted Fishing Permit (EFP) regulations at 50 CFR 600.745. However, those individuals submitting proposals that include vessel activities that extend beyond the scope of the analysis provided by the Council may be required to provide additional analyses before issuance of an EFP will be considered. The final decision concerning the grant proposal will not be made by the NOAA Grants Office until NMFS' approval of the applicant's EFP request, if applicable.

NMFS and the NOAA Grants Office will then consider the Committee's recommendations, provide final approval of the projects, and exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent. Research projects will be conducted in accordance with provisions approved by the NOAA Grants Office and provided in an EFP issued by NMFS. The grant awards approved under the RFPs will be for the upcoming fishing year, January 1 through December 31, annually. Proposals to fund research that would start prior to, or that would end after the fishing year, would not be eligible for consideration. All research and/or compensation trips must be completed within the fishing year for which the research grant was awarded. The review of proposals by NMFS and the NOAA Grants Office will be completed during the proposed rule comment period for the annual specifications. If any proposals are disapproved by NMFS and/or the NOAA Grants Office, NMFS will reallocate the disapproved research quota to the respective commercial and recreational fisheries.

Framework 1, as submitted by the Council, also included the same modifications to the quota-setting process for the tilefish fishery. On May 11, 2001, NMFS approved the Tilefish FMP. However, the regulations implementing the Tilefish FMP have not yet been approved by NMFS. Therefore, NMFS is deferring action on the tilefish portion of Framework 1 until NMFS publishes the final regulations implementing the Tilefish FMP. The final rule implementing the Tilefish FMP will include, as part of its quota-setting process, a set-aside of up to 3 percent of the tilefish TAL for research.

The EA and RIR prepared for this action considered the potential impacts of this framework, although Framework 1 does not implement management measures. This action establishes a management system that will allow research set-aside quotas to be set annually as part of the Council's quota-

setting process. The amount of research set-aside quota available will range between 0 and 3 percent of each species' TAL, depending on the research proposals submitted in response to a solicitation for research proposals that will be published in the **Federal Register**, and the recommendation of the Council in the specification-setting process. Should proposals be disapproved by NMFS or the NOAA Grants Office, the research quota will be reallocated (i.e., added back into) the TAL. This action is not expected to result in negative short-term impacts to a significant number of vessels participating in the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, and bluefish fisheries. Projects funded under the research set-aside will enhance the understanding of the resource and contribute to the body of information on which management decisions are made. Therefore, this action will yield positive long-term impacts as a result of the anticipated improvements to management provided by this action.

#### Abbreviated Rulemaking

NMFS is revising the regulations under the framework abbreviated rulemaking procedures codified at 50 CFR part 648, subparts B, G, H, I and J. These procedures require the Council, when making specifically allowed adjustments to the regulations, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and with an opportunity to comment on them at the first meeting and before and at the second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Administrator, Northeast Region, NMFS, that the measures be published as a final rule if certain conditions are met. NMFS may publish the measures as a final rule, or as a proposed rule if additional public comment is necessary.

The public was provided the opportunity to comment on the management measures contained in Framework 1 at the Council's October 10-12, 2000; December 12-14, 2000; and February 6-8, 2001, meetings. Documents summarizing the Council's proposed action and the analysis of biological and economic impacts of this action and of alternative actions were available for public review at the December 12-14, 2000, meeting and prior to the final February 8, 2001, meeting, as is required under the framework adjustment procedures. Written comments could have been

submitted by the public up to and during the final meeting. No comments were received.

#### Classification

The Regional Administrator determined that this framework adjustment to the FMP is necessary for the conservation and management of the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, and bluefish fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The submission requirements for research proposals are cleared under OMB Control Numbers 0348-0043, 0348-0044, and 0648-0309.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 *et seq.* or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Nevertheless, the impacts of this action on affected small entities were considered in the RIR contained in the supporting analyses for Framework 1. The impacts are described in the **SUPPLEMENTARY INFORMATION** section of the preamble to this final rule.

This final rule modifies the quota-setting process to allow the Council to recommend, and for NMFS to set aside, up to 3 percent of TAL of the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, and bluefish fisheries to be used for research purposes. This action is merely an authorization to allow for a research set-aside rather than an action to set aside TAL and does not, in itself, impose any new management measures. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that notice and opportunity to comment on this final rule is unnecessary and contrary to the public interest for several reasons. First, public meetings held by the Council to discuss the management system implemented by this final rule provided prior notice and opportunity for public comment. Additionally, the opportunity for public comment on fishery-specific research

set-asides will be provided through the specifications process before any research set-aside becomes final. Thus, given the past and future opportunities to comment on this rule, an opportunity to provide comments at this time is unnecessary. Proposals for research under this framework must be submitted, considered and awarded before 2002, and the 2002 specifications for the applicable fisheries must be in place with a research set-aside before any research can proceed. Accordingly, delaying the process to allow the public to comment at this time would be contrary to the public interest because it would delay the submission and review of research proposals associated with the research set-asides allowed by this action. For the same reasons, the AA has also determined that it is unnecessary and contrary to the public interest to delay for 30 days implementation of modifications to the quota-setting process associated with this final rule. Furthermore, because the regulation does not impose requirements on the public nor require the public to come into compliance with any regulation, a 30 day delay will neither burden nor harm any member of the public and is therefore unnecessary.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 3, 2001.

**John Oliver,**

*Acting 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**

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

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

2. In § 648.14, the introductory text to paragraphs (j), (k), (l), (m), (p), (q), (u), (v), and (w) is revised to read as follows:

#### **§ 648.14 Prohibitions.**

\* \* \* \* \*

(j) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.100(f), it is unlawful for any person owning or operating a vessel issued a summer flounder permit (including a

moratorium permit) to do any of the following:

\* \* \* \* \*

(k) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.120(e), it is unlawful for any person owning or operating a vessel issued a scup permit (including a moratorium permit) to do any of the following:

\* \* \* \* \*

(l) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.120(e), it is unlawful for the owner or operator of a party or charter boat issued a scup permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat to:

\* \* \* \* \*

(m) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.100(f), it is unlawful for the owner and operator of a party or charter boat issued a summer flounder permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

\* \* \* \* \*

(p) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.21(g), it is unlawful for any person owning or operating a vessel issued a valid mackerel, squid, and butterfish fishery permit, or issued an operator's permit, to do any of the following:

\* \* \* \* \*

(q) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.21(g), it is unlawful for the owner and operator of a party or charter boat issued a mackerel, squid, and butterfish fishery permit (including a moratorium permit), when the boat is carrying passengers for hire, to do any of the following:

\* \* \* \* \*

(u) In addition to the general prohibitions specified in § 600.725 of

this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.140(e), it is unlawful for any person owning or operating a vessel issued a black sea bass permit (including a moratorium permit) to do any of the following:

\* \* \* \* \*

(v) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.140(e), it is unlawful for the owner and operator of a party or charter boat issued a black sea bass permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

\* \* \* \* \*

(w) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, unless participating in a research activity as described in § 648.160(h), it is unlawful for any person to do any of the following:

\* \* \* \* \*

3. In § 648.21, paragraphs (a), (b), and (c) are revised, and paragraph (g) is added to read as follows:

**§ 648.21 Procedures for determining initial annual amounts.**

(a) *Initial recommended annual specifications.* The Atlantic Mackerel, Squid, and Butterfish Monitoring Committee (Monitoring Committee) shall meet annually to develop and recommend the following specifications for consideration by the Mackerel, Squid, and Butterfish Committee of the MAFMC:

(1) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for the squids;

(2) IOY, including RQ, DAH, DAP, and bycatch level of the total allowable level of foreign fishing (TALFF), if any, for butterfish; and

(3) IOY, including RQ, DAH, DAP, joint venture processing (JVP), if any, and TALFF, if any, for mackerel. The Monitoring Committee may also recommend that certain ratios of TALFF, if any, for mackerel to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

(b) *Guidelines.* As the basis for its recommendations under paragraph (a) of this section, the Monitoring Committee shall review available data

pertaining to: Commercial, recreational, and research project landings; discards; current estimates of fishing mortality; stock status; the most recent estimates of recruitment; virtual population analysis results; levels of noncompliance by harvesters or individual states; impact of size/mesh regulations; results of a survey of domestic processors and joint venture operators of estimated mackerel processing capacity and intent to use that capacity; results of a survey of fishermen's trade associations of estimated mackerel harvesting capacity and intent to use that capacity; and any other relevant information. The specifications recommended pursuant to paragraph (a) of this section must be consistent with the following:

(1) *Squid.* (i) The ABC for any fishing year must be either the maximum OY specified in § 648.20, or a lower amount, if stock assessments indicate that the potential yield is less than the maximum OY.

(ii) IOY is a modification of ABC based on social and economic factors. The IOY is composed of a RQ and DAH. RQ will be based on requests for research quota as described in paragraph (g) of this section. DAH will be set after deduction for RQ, if applicable.

(2) *Mackerel.* (i) Mackerel ABC must be calculated using the formula  $ABC = T - C$ , where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year and T is the catch associated with a fishing mortality rate that is equal to  $F_{target}$  ( $F = 0.25$ ) at an 890,000 mt spawning stock biomass (or greater) and decreases linearly to zero at a 450,000 mt spawning stock biomass ( $\frac{1}{2} B_{MSY}$ ) or below.

(ii) IOY is a modification of ABC, based on social and economic factors, and must be less than or equal to ABC.

(iii) IOY is composed of RQ, DAH and TALFF. RQ will be based on requests for research quota as described in paragraph (g) of this section. DAH, DAP, and JVP will be set after deduction for RQ, if applicable, and must be projected by reviewing data from sources specified in paragraph (a) of this section and other relevant data, including past domestic landings, projected amounts of mackerel necessary for domestic processing and for joint ventures during the fishing year, projected recreational landings, and other data pertinent for such a projection. The JVP component of DAH is the portion of DAH that domestic processors either cannot or will not use. In addition, IOY is based on the criteria set forth in the Magnuson-Stevens Act, specifically section 201(e), and on the following economic factors:

(A) Total world export potential of mackerel producing countries.

(B) Total world import demand of mackerel consuming countries.

(C) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers.

(D) Increased/decreased revenues to the United States from foreign fees.

(E) Increased/decreased revenues to U.S. harvesters (with/without joint ventures).

(F) Increased/decreased revenues to U.S. processors and exporters.

(G) Increases/decreases in U.S. harvesting productivity due to decreases/increases in foreign harvest.

(H) Increases/decreases in U.S. processing productivity.

(I) Potential impact of increased/decreased TALFF on foreign purchases of U.S. products and services and U.S.-caught fish, changes in trade barriers, technology transfer, and other considerations.

(3) *Butterfish*. (i) If the Monitoring Committee's review indicates that the stock cannot support a level of harvest equal to the maximum OY, the Monitoring Committee shall recommend establishing an ABC less than the maximum OY for the fishing year. This level represents the modification of maximum OY to reflect biological and ecological factors. If the stock is able to support a harvest level equivalent to the maximum OY, the ABC must be set at that level.

(ii) IOY is a modification of ABC based on social and economic factors. The IOY is composed of a RQ, DAH, and bycatch TALFF that is equal to 0.08 percent of the allocated portion of the mackerel TALFF. RQ will be based on requests for research quota as described in paragraph (g) of this section. DAH and bycatch TALFF will be set after deduction for RQ, if applicable.

(c) *Recommended measures*. Based on the review of the data described in paragraph (a) of this section and requests for research quota as described in paragraph (g) of this section, the Monitoring Committee will recommend to the Squid, Mackerel, and Butterfish Committee the measures from the following list that it determines are necessary to ensure that the specifications are not exceeded:

(1) Research quotas set from a range of 0 to 3 percent of IOY.

(2) Commercial quotas, set after reductions for research quotas.

(3) The amount of *Loligo* and butterfish that may be retained, possessed and landed by vessels issued the incidental catch permit specified in § 648.4(a)(5).

(4) Commercial minimum fish sizes.

(5) Commercial trip limits.

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

(7) Minimum mesh sizes.

(8) Commercial gear restrictions.

(9) Recreational harvest limit, set after reductions for research quotas.

(10) Recreational minimum fish size.

(11) Recreational possession limits.

(12) Recreational season.

\* \* \* \* \*

(g) *Research quota*. Prior to the Council's quota-setting meetings:

(1) NMFS will publish a Request for Proposals (RFP) in the **Federal Register**, consistent with procedures and requirements established by the NOAA Grants Office, to solicit proposals from industry for the upcoming fishing year, based on research priorities identified by the Council.

(2) NMFS will convene a review panel including the Council's Comprehensive Management Committee, as well as technical experts, to review proposals submitted in response to the RFP.

(i) Each panel member will recommend which research proposals should be authorized to utilize research quota, based on the selection criteria described in the RFP.

(ii) The Regional Administrator and the NOAA Grants Office will consider each panel member's recommendation, provide final approval of the projects and exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent.

(3) The grant awards approved under the RFPs will be for the upcoming fishing year. Proposals to fund research that would start prior to, or that would end after the fishing year, will not be eligible for consideration. All research and/or compensation trips will have to be completed within the fishing year for which the research grant was awarded.

(4) Research projects will be conducted in accordance with provisions approved and provided in an Exempted Fishing Permit (EFP) issued by the Regional Administrator.

(5) If a proposal is disapproved by the Regional Administrator or the NOAA Grants Office, the Regional Administrator will reallocate the disapproved research quota to the respective commercial and recreational fisheries during the proposed rule comment period for the annual specifications.

(6) Vessels participating in approved research projects may be exempted from certain management measures by the Regional Administrator, provided that one of the following analyses of the

impacts associated with the exemptions is provided:

(i) The analysis of the impacts of the requested exemptions is included as part of the annual quota specification packages submitted by the Council; or

(ii) For proposals that require exemptions that extend beyond the scope of the analysis provided by the Council, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered, as specified in the EFP regulations at § 648.745(b).

4. In § 648.100, paragraphs (a), (b), and (d) are revised, and paragraph (f) is added to read as follows:

**§ 648.100 Catch quotas and other restrictions.**

(a) *Annual review*. The Summer Flounder Monitoring Committee shall review the following data on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to achieve, with at least a 50-percent probability of success, a fishing mortality rate (F) that produces the maximum yield per recruit (F<sub>max</sub>): Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls on the mortality of summer flounder; and any other relevant information.

(b) *Recommended measures*. Based on this review and requests for research quota as described in paragraph (f) of this section, the Summer Flounder Monitoring Committee shall recommend to the Demersal Species Committee of the MAFMC and the Commission the following measures to ensure, with at least a 50-percent probability of success, that the F specified in paragraph (a) of this section will not be exceeded:

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified F.

(2) Commercial quota set from a range of 0 to the maximum allowed to achieve the specified F, set after reductions for research quota.

(3) Commercial minimum fish size.

(4) Minimum mesh size.

(5) Recreational possession limit set from a range of 0 to 15 summer flounder to achieve the specified F, set after reductions for research quota.

(6) Recreational minimum fish size.

(7) Recreational season.

(8) Recreational state conservation equivalent and precautionary default measures utilizing possession limits, minimum fish sizes, and/or seasons set after reductions for research quota.

(9) Restrictions on gear other than otter trawls.

(10) Adjustments to the exempted area boundary and season specified in § 648.104(b)(1) by 30-minute intervals of latitude and longitude and 2-week intervals, respectively, based on data specified in paragraph (a) of this section, to prevent discarding of sublegal sized summer flounder in excess of 10 percent, by weight.

\* \* \* \* \*

(d) *Commercial measures.* After such review, NMFS will publish a proposed rule in the **Federal Register** on or about October 15 to implement a research quota, coastwide commercial quota, additional management measures for the commercial fishery, and recreational harvest limit. After considering public comment, NMFS will publish a final rule in the **Federal Register** to implement the measures necessary to ensure, with at least a 50-percent probability of success, that the applicable specified F will not be exceeded.

\* \* \* \* \*

(f) *Research quota.* See § 648.21(g).

5. In § 648.120, paragraphs (a), (b) introductory text, (b)(1), (b)(4), and (c) are revised, and paragraph (e) is added to read as follows:

**§ 648.120 Catch quotas and other restrictions.**

(a) *Annual review.* The Scup Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year. This review will be conducted to determine the allowable levels of fishing and other restrictions necessary to achieve an exploitation rate of 33 percent in 2001 and 19 percent in 2002 and thereafter: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; impact of gear on the mortality of scup; and any other relevant information.

(b) *Recommended measures.* Based on this review and requests for research quota as described in paragraph (e) of this section, the Scup Monitoring Committee shall recommend the following measures to the Demersal Species Committee of the MAFMC and

the Commission to ensure that the exploitation rate specified in paragraph (a) of this section will not be exceeded:

(1) The commercial quota for each of the three periods specified in paragraph (d)(1) of this section, to be set from a range of 0 to the maximum allowed to achieve the specified exploitation rate, set after the deduction for research quota. The commercial quota will be established by estimating the annual total allowable catch (TAC), allocating it into the three periods, and deducting the discard estimates for each period.

\* \* \* \* \*

(4) Recreational possession limit set from a range of 0 to 50 scup to achieve the specified exploitation rate, set after the reduction for research quota.

\* \* \* \* \*

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to ensure that the specified exploitation rate will not be exceeded. The MAFMC shall review these recommendations and, based on these recommendations and any public comment, recommend to the Regional Administrator measures necessary to ensure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule in the **Federal Register** by October 15 to implement: A research quota, a commercial quota, the amount of quota that would be allocated to each of the three periods, landing limits for the Winter I and Winter II periods, the percentage of landings attained during the Winter I fishery at which the landing limits would be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. NMFS will publish a proposed rule in the **Federal Register** on or about March 1 to implement additional management measures for the recreational fishery, if the Regional Administrator determines that such measures are necessary to ensure that the specified exploitation rate will not be exceeded. After considering public comment, NMFS will publish a final

rule in the **Federal Register** to implement the annual measures.

\* \* \* \* \*

(e) *Research quota.* See § 648.21(g).

\* \* \* \* \*

6. In § 648.140, paragraphs (a), (b) introductory text, (b)(1), (b)(6), and (c) are revised, and paragraph (e) is added to read as follows:

**§ 648.140 Catch quotas and other restrictions.**

(a) *Annual review.* The Black Sea Bass Monitoring Committee will review the following data, subject to availability, on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to result in a target exploitation rate of 37 percent in 2001 and 2002; and 23 percent (based on Fmax) in 2003 and subsequent years: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data, or if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls, pots and traps on the mortality of black sea bass; and any other relevant information.

(b) *Recommended measures.* Based on this review and requests for research quota as described in paragraph (e) of this section, the Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the Council and the Commission the following measures to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded:

(1) A commercial quota allocated to quarterly periods set from a range of 0 to the maximum allowed to achieve the specified target exploitation rate, set after the deduction for research quota.

\* \* \* \* \*

(6) A recreational possession limit set from a range of 0 to the maximum allowed to achieve the target exploitation rate, set after the reduction for research quota.

\* \* \* \* \*

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with

respect to the measures necessary to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule in the **Federal Register** by October 15 to implement a research quota, a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. NMFS will publish a proposed rule in the **Federal Register** by on or about March 1 to implement additional management measures for the recreational fishery, if the Regional Administrator determines that such measures are necessary to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. After considering public comment, NMFS will publish a final rule in the **Federal Register** to implement the measures necessary to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

\* \* \* \* \*

(e) *Research quota.* See § 648.21(g).

7. In § 648.160, paragraphs (a), (b), (c), and (d) are revised, and paragraph (h) is added to read as follows:

**§ 648.160 Catch quotas and other restrictions.**

\* \* \* \* \*

(a) *Annual review.* On or before August 15 of each year, the Bluefish Monitoring Committee will meet to determine the total allowable level of landings (TAL) and other restrictions necessary to achieve the target fishing

mortality rate (F) specified in the Fishery Management Plan for Atlantic Bluefish for the upcoming fishing year or the estimated F for the fishing year preceding the Council submission of the recommended specifications, whichever F is lower. In determining the TAL and other restrictions necessary to achieve the specified F, the Bluefish Monitoring Committee will review the following data, subject to availability: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of bluefish; and any other relevant information.

(b) *Recommended measures.* Based on the annual review and requests for research quota as described in paragraph (h) of this section, the Bluefish Monitoring Committee shall recommend to the Coastal Migratory Committee of the Council and the Commission the following measures to ensure that the F specified in paragraph (a) of this section will not be exceeded:

- (1) A TAL set from a range of 0 to the maximum allowed to achieve the specified F.
- (2) Research quota set from a range of 0 to 3 percent of TAL.
- (3) Commercial minimum fish size.
- (4) Minimum mesh size.
- (5) Recreational possession limit set from a range of 0 to 20 bluefish to achieve the specified F.
- (6) Recreational minimum fish size.
- (7) Recreational season.
- (8) Restrictions on gear other than otter trawls and gill nets.

(c) *Allocation of TAL—*(1) *Recreational harvest limit.* A total of 83 percent of the TAL will be allocated to the recreational fishery as a harvest limit. If research quota is specified as described in paragraph (h) of this section, the recreational harvest limit will be based on the TAL remaining after the deduction of the research quota.

(2) *Commercial quota.* A total of 17 percent of the TAL will be allocated to

the commercial fishery as a quota. If 17 percent of the TAL is less than 10.5 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL. If research quota is specified as described in paragraph (h) of this section, the commercial quota will be based on the TAL remaining after the deduction of the research quota.

(d) *Annual fishing measures.* The Council's Coastal Migratory Committee shall review the recommendations of the Bluefish Monitoring Committee. Based on these recommendations and any public comment, the Coastal Migratory Committee shall recommend to the Council measures necessary to ensure that the applicable specified F will not be exceeded. The Council shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator by September 1 measures necessary to ensure that the applicable specified F will not be exceeded. The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule in the **Federal Register** on or about October 15, to implement a research quota, a coastwide commercial quota, a recreational harvest limit, and additional management measures for the commercial and recreational fisheries to ensure that the applicable specified F will not be exceeded. After considering public comment, NMFS will publish a final rule in the **Federal Register**.

\* \* \* \* \*

(h) *Research quota.* See § 648.21(g).  
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