

NMFS projects that catch will reach 92 percent of the annual sub-ACL allocated to a management area before the end of the fishing year, or 92 percent of the Area 1A or Area 1B sub-ACL allocated to a seasonal period as set forth in paragraph (d) of this section, NMFS shall prohibit vessels, beginning the date the catch is projected to reach 92 percent of the sub-ACL, from fishing for, possessing, catching, transferring, or landing more than 2,000 lb (907.2 kg) of Atlantic herring per trip in the applicable area, and from landing herring more than once per calendar day, except as provided in paragraphs (b) and (c) of this section. NMFS shall implement these restrictions in accordance with the APA.

(ii) *Herring fishery closure.* If NMFS projects that catch will reach 95 percent of the ACL before the end of the fishing year, NMFS shall prohibit vessels, beginning the date the catch is projected to reach 95 percent of the ACL, from fishing for, possessing, catching, transferring, or landing more than 2,000 lb (907.2 kg) of Atlantic herring per trip in all herring management areas, and from landing herring more than once per calendar day, except as provided in paragraphs (b) and (c) of this section. NMFS shall implement these restrictions in accordance with the APA.

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(d) *Seasonal sub-ACL periods.* The sub-ACL for each herring management area may be divided into seasonal periods by month. Seasonal sub-ACLs for herring management areas, including the specification of the seasonal periods, shall be set through the annual specification process described at § 648.200. The seasonal allocation of sub-ACLs are as follows:

(1) *Area 1A:* Zero percent available for harvest during January–May; 100 percent available for harvest during June–December.

(2) *Area 1B:* Zero percent available for harvest during January–April; 100 percent available for harvest during May–December.

(3) *Area 2:* 100 percent available for harvest during January–December.

(4) *Area 3:* 100 percent available for harvest during January–December.

\* \* \* \* \*

(f) *Carryover.* Subject to the conditions described in this paragraph (f), up to 10 percent of unharvested catch in a herring management area in a fishing year shall be carried over and added to the sub-ACL for that herring management area for the fishing year following total catch determination. For example, NMFS will determine total catch from 2013 during 2014, and will

add carryover to the applicable sub-ACL(s) in 2015. All such carryover shall be based on the herring management area's initial sub-ACL allocation for the fishing year, not the sub-ACL as increased by carryover or decreased by an overage deduction, as specified in paragraph (a)(3) of this section. All herring landed from a herring management area shall count against that area's sub-ACL, as increased by carryover. For example, if 500 mt of herring is added as carryover to a 5,000 mt sub-ACL, catch in that management area would be tracked against a total sub-ACL of 5,500 mt. NMFS shall add sub-ACL carryover only if the ACL, specified consistent with § 648.200(b)(3), for the fishing year in which there is unharvested herring, is not exceeded. The ACL, consistent with § 648.200(b)(3), shall not be increased by carryover specified this paragraph (f).

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[FR Doc. 2013-18655 Filed 8-1-13; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 130711609-3609-01]

RIN 0648-BD38

#### Control Date for Qualifying Landings History and to Limit Speculative Entry into the *Illex* Squid Fishery; Atlantic Mackerel, Squid and Butterfish Fishery Management Plan

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

**ACTION:** Advance notice of proposed rulemaking (ANPR); request for comments.

**SUMMARY:** At the request of the Mid-Atlantic Fishery Management Council, this notice announces a control date that may be applicable, but not limited to, qualifying landings history for continued access to the *Illex* squid moratorium limited access permit program. NMFS intends this notice to promote awareness of possible rulemaking, alert interested parties of potential eligibility criteria for future access, and discourage speculative entry into and/or investment in the *Illex* squid fishery while the Mid-Atlantic Fishery Management Council considers if and how access to the *Illex* squid fishery should be controlled.

**DATES:** August 2, 2013, shall be known as the “control date” for the *Illex* squid fishery, and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with the Council's objectives and applicable Federal laws. Written comments must be received on or before September 3, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2013-0107 by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2013-0107](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2013-0107), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on *Illex* Squid Qualification Control Date.”  
*Fax:* (978) 281-9135; Attn: Aja Szumylo.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. We may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). We accept attachments to electronic comments only in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, 978-675-9195, fax 978-281-9135.

**SUPPLEMENTARY INFORMATION:** The Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) is managed by the Mid-Atlantic Fishery Management Council (Council). *Illex* squid (*Illex illecebrosus*) supports important commercial fisheries along the Atlantic coast of the United States, primarily from New Jersey to

Massachusetts, generating ex-vessel revenues in the \$7.5 to \$12.5 million range annually in most years since 1989. Since April 2, 1996, the Council has managed *Illex* squid under a moratorium permit to prevent overcapitalization of the fleet (65 FR 14465). The Council has considered additional capacity controls since 2003. On May 20, 2003 (68 FR 27516), NMFS published, at the request of the Council, an ANPR indicating that the Council intended to consider alternatives to further control capacity in the longfin and *Illex* fisheries. (Longfin squid is not a subject of this notice, though a longfin squid control date ANPR was recently published on May 16, 2013; 78 FR 28794.) Accordingly, May 20, 2003, was termed a "control date," and notice was provided that the control date may be used for establishing eligibility criteria for determining levels of future access to the *Illex* squid, longfin squid, and butterfish fisheries, subject to Federal authority. On January 8, 2010 (75 FR 1024), NMFS published, at the request of the Council, a subsequent ANPR reaffirming the May 20, 2003, control date for both longfin and *Illex* squid fisheries.

In the case of the *Illex* squid fishery, the Council is currently concerned with excess and/or latent capacity. Since 2003, approximately 7 to 21 of the 76

*Illex* squid moratorium-permitted vessels have accounted for 95 percent of *Illex* squid landings. Activation of latent capacity, in conjunction with restrictions in other fisheries, may create a derby fishery during the period of *Illex* availability during the summer and early fall of each year. Therefore, the Council has expressed a need to examine excess capacity and/or latent capacity in the limited entry section of this fishery.

At its June 2013 meeting, the Council requested that NMFS also publish this control date to discourage speculative activation of previously unused effort or capacity in the *Illex* squid fishery while alternative management regimes to control capacity or latent effort are discussed, possibly developed, and implemented. The control date communicates to fishermen that performance or fishing effort after the date of publication may not be treated the same as performance or effort that was expended before the control date. The Council may choose to use different qualification criteria that do not incorporate the new control date. The Council could also choose to develop alternative qualification criteria based on the May 20, 2003, date and/or January 8, 2010, reaffirmation date. The Council may also choose to take no

further action to control entry or access to the *Illex* squid fishery.

This notification establishes August 2, 2013, as the new control date for potential use in determining historical or traditional participation in the *Illex* squid fishery. Consideration of a control date does not commit the Council to develop any particular management regime or criteria for participation in these fisheries. The Council may choose a different control date; or may choose a management program that does not make use of such a date. Any action by the Council will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the *Illex* squid fishery in Federal waters.

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

Dated: July 30, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2013-18675 Filed 8-1-13; 8:45 am]

**BILLING CODE 3510-22-P**