

§ 301–10.303 What am I reimbursed when use of a POV is determined by my agency to be advantageous to the Government?

For use of a	Your reimbursement is
*****	*****
Privately owned automobile	¹ \$0.485
*****	*****

¹ Per mile.

Attachment to Preamble—Report To Congress On The Costs Of Operating Privately Owned Vehicles

5 U.S.C. 5707(b)(1)(A) requires that the Administrator of General Services, in consultation with the Secretary of Defense, the Secretary of Transportation, and representatives of Government employee organizations, conduct periodic investigations of the cost of travel and operation of privately owned vehicles (POVs) (airplanes, automobiles, and motorcycles) to Government employees while on official travel, and report the results to the Congress at least once a year. 5 U.S.C. 5707(b)(2)(B) further requires that the Administrator of General Services determine the average, actual cost per mile for the use of each type of POV based on the results of the cost investigation. Such figures must be reported to the Congress within 5 working days after the cost determination has been made in accordance with 5 U.S.C. 5707(b)(2)(C).

Pursuant to the requirements of 5 U.S.C. 5707(b)(1)(A), the General Services Administration (GSA), in consultation with the Secretary of Defense, the Secretary of Transportation, and representatives of Government employee organizations, conducted an investigation of the cost of operating a privately owned automobile (POA). As provided in 5 U.S.C. 5704(a)(1), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS). The IRS has announced a new single standard mileage rate for POAs of \$0.485 effective January 1, 2007. As required, GSA is reporting the results of the investigation and the cost per mile determination. Based on cost studies conducted by GSA, I have determined the per-mile operating costs of a POA to be \$0.485 for POAs. Reimbursement for the use of a privately owned airplane and privately owned motorcycle remains unchanged.

This report to Congress on the cost of operating POAs will be published in the **Federal Register**.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061124307–7013–02; I.D. 112106A]

RIN 0648–AT65

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

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

ACTION: Final rule.

SUMMARY: This action implements 2007 specifications and management measures for Atlantic mackerel, squid, and butterfish (MSB) and modifies existing management measures. Specifically, it implements trimester quota allocations for the *Loligo* squid fishery and establishes the protocol for an inseason adjustment to increase the mackerel harvest, if landings approach harvest limits. Lastly, this final rule clarifies, updates, and corrects existing regulatory language that is misleading or incorrect. This action promotes the utilization and conservation of the MSB resource.

DATES: Effective March 1, 2007.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov>. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of the preamble of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from the Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298, and are also available via the internet at <http://www.nero.nmfs.gov>.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) appear at 50 CFR part 648, subpart B, and regulations governing foreign fishing appear at 50 CFR part 600, subpart F. This action fulfills NMFS regulatory requirements at §§ 648.21 and 600.516(c) to, based on the maximum optimum yield (Max OY) of each fishery as established by the regulations, annually specify the amounts of the initial optimum yield (IOY), allowable biological catch (ABC), domestic annual harvest (DAH), and domestic annual processing (DAP), as well as, where applicable, the amounts for total allowable level of foreign fishing (TALFF) and joint venture processing (JVP) for the affected species managed under the FMP. The Council adopted 2007 MSB specifications and management measures at its June 2006 and August 2006 meetings and submitted them to NMFS for review and approval. Initial submission was on September 1, 2006, and final submission was on October 31, 2006. A proposed rule for 2007 MSB specifications and management measures was published on December 5, 2006 (71 FR 70493). The public comment period for the proposed rule ended on January 4, 2007. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

Disapproval of Incidental *Loligo* Squid Possession Limit for the *Illex* Squid Vessels

In an effort to reduce regulatory discarding and allow for more accurate quantification of the removals of *Loligo* squid taken in the directed *Illex* squid fishery, the Council recommended increasing the incidental *Loligo* squid possession limit for vessels engaged in the directed *Illex* squid fishery. Specifically, during August closures of the *Loligo* squid fishery, *Illex* squid moratorium vessels fishing seaward of the small mesh exemption line (approximately the 50–fm (91–m) depth contour) would have been permitted to possess and land up to 10,000 lb (4.54 mt) of *Loligo* squid, provided they possess a minimum of 10,000 lb (4.54 mt) of *Illex* squid on board. This measure was recommended for 2007 only, and the Council intended to re-assess it for 2008.

NMFS explained at length in the proposed rule that, while it supports the Council's intent to reduce regulatory discarding of *Loligo* squid in the *Illex* squid fishery, it was concerned about its

ability to administer this measure effectively. NMFS presented its concerns and solicited public comment on the measure. After reviewing the public comment, NMFS determined its concerns were warranted, and the measure is not included in this rule.

The incidental *Loligo* squid possession limit for *Illex* squid moratorium vessels during closures of the directed *Loligo* squid fishery continues to be 2,500 lb (1.13 mt) per trip per calendar day.

Final MSB Specifications and Management Measures for the 2007 Fishing Year

This action implements the following MSB specifications and management measures for the 2007 fishing year, which are described in detail below.

TABLE 1. PROPOSED SPECIFICATIONS, IN METRIC TONS (MT), FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR 2007 FISHING YEAR.

Specifications	<i>Loligo</i>	<i>Illex</i>	Mackerel	Butterfish
Max OY	26,000	24,000	N/A	12,175
ABC	17,000	24,000	186,000	4,545
IOY	16,490 ¹	24,000	115,000 ²	1,681
DAH	16,490	24,000	115,000 ³	1,681
DAP	16,490	24,000	100,000	1,681
JVP	0	0	0	0
TALFF	0	0	0	0

¹ Excludes 510 mt for Research Quota (RQ)

² IOY may be increased during the year, but the total ABC will not exceed 186,000 mt.

³ Includes 15,000 mt of Atlantic mackerel recreational allocation.

Atlantic Mackerel

This action specifies the mackerel ABC at 186,000 mt, based on the formula ABC = T - C. T is the yield (238,000 mt) associated with a fishing mortality rate (F) that is equal to the target F (F=0.12); C is the estimated catch of mackerel in Canadian waters (i.e., 52,000 mt) for the upcoming fishing year. Thus, 238,000 mt minus 52,000 mt results in the 2007 mackerel ABC of 186,000 mt. This action also specifies the mackerel IOY at 115,000 mt, a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, while allowing the U.S. mackerel industry to expand. Given the trends in landings and the industry's testimony that the fishery is poised for significant growth, NMFS believes that it is reasonable to assume that, in 2007, the commercial fishery will harvest 100,000 mt of mackerel. Therefore, this action specifies the mackerel DAH at 115,000 mt, which is the commercial harvest plus the 15,000 mt anticipated to be harvested by the recreational fishery. Because IOY = DAH, this specification is consistent with the Council's recommendation that the level of IOY should not provide for a TALFF.

As recommended by the Council, this action specifies the mackerel DAP at 100,000 mt and the mackerel JVP at zero. In previous years, the Council recommended a JVP greater than zero because it believed U.S. processors lacked the capability to process the total amount of mackerel that U.S. harvesters could land. However, for the past 2 years, the Council has recommended zero JVP because the surplus between DAH and DAP has been declining as

U.S. shore-based processing capacity for mackerel has expanded. In addition, an at-sea processing vessel is expected to participate in the mackerel fishery in 2007. The Council also heard from the industry that the availability of mackerel to the fishery, rather than processing capacity, has curtailed catch in recent years. Based on this information, the Council concluded, and NMFS concurs, that processing capacity is no longer a limiting factor relative to domestic production of mackerel. Consequently, if U.S. harvesters land mackerel in excess of 100,000 mt, should the IOY be adjusted upward, U.S. processors have the capacity and intent to process it.

Inseason Adjustment of the Mackerel IOY

Regulations at § 648.21(e) specify that specifications may be adjusted inseason during the fishing year by the Regional Administrator, in consultation with the Council, by publishing a notice in the **Federal Register** and providing a 30-day public comment period. At the June 2006 Council meeting, in response to recent growth in the domestic harvesting and processing sectors of the mackerel fishery, both the mackerel industry and the Council voiced interest in increasing the 2007 mackerel IOY if landings approach 115,000 mt during the most active part of the fishing year (January-April). However, the mackerel fishing season is short. To facilitate a timely inseason adjustment to the mackerel IOY, if necessary, public comment was solicited as part of the 2007 MSB specifications and this action implements a protocol for an inseason adjustment in 2007. The protocol

specifies that, if using landings projections and all other available information the Regional Administrator determines that 70 percent of the Atlantic mackerel IOY will be landed during the 2007 fishing year, to ensure continued fishing opportunities during the 2007 fishing year the Regional Administrator will make available additional quota for a total IOY of 186,000 mt of Atlantic mackerel for harvest during 2007. The NMFS Northeast Fishery Statistic Office (FSO) will summarize mackerel landings from dealer reports on a weekly basis and post this information on the Northeast Regional Office website (<http://www.nero.noaa.gov/>). NMFS staff will closely monitor these landings and industry trends to determine if an inseason adjustment is necessary. Additionally, if an inseason adjustment of the IOY is warranted, the Regional Administrator will notify the Council and the inseason adjustment will be published in the **Federal Register**.

Atlantic Squids

Loligo squid

For 2007, this action specifies the *Loligo* squid Max OY at 26,000 mt; the ABC at 17,000 mt; and the research quota (RQ) for up to 3 percent (510 mt) of the ABC. Two scientific research project proposals requesting *Loligo* squid RQ were recommended for approval and were forwarded to the NOAA Grants Office for award. The *Loligo* squid IOY, DAH, and DAP were adjusted to reflect the RQ, and equal 16,490 mt. The FMP does not authorize the specification of JVP and TALFF for the *Loligo* squid fishery because of the domestic industry's capacity to harvest

and process the IOY for this fishery; therefore, JVP and TALFF are zero.

Distribution of the *Loligo* Squid DAH

For 2007, this action specifies that the *Loligo* squid DAH will be allocated by trimester. Managing the DAH by

trimesters, rather than quarters, results in allocations that are the same or higher than the quarterly allocations. Higher allocations may increase the length of time the fishery is open and allow closure projections to be based on more information and, perhaps, to be

more accurate. Additionally, managing by trimesters rather than quarters is administratively streamlined because only three, rather than four, closures of the directed fishery could occur during a fishing year. The 2007 trimester allocations are as follows:

TABLE 2. PROPOSED TRIMESTER ALLOCATION OF *Loligo* SQUID QUOTA IN 2007

Trimester	Percent	Metric Tons ¹	RQ (mt)
I (Jan-Apr)	43.0	7,090.7	NA
II (May-Aug)	17.0	2,803.3	NA
III (Sep-Dec)	40.0	6,596.0	NA
Total	100	16,490	510

¹ Trimester allocations after 510 mt RQ deduction.

Additionally, for 2007, this action specifies that the directed *Loligo* squid fishery will close when 90 percent of the DAH is harvested in Trimesters I and II, and when 95 percent of the DAH is harvested in Trimester III. It also specifies that any underages from Trimesters I and II will be applied to Trimester III, and any overages from Trimesters I and II will be subtracted from Trimester III.

As was described in the proposed rule, NMFS did not propose one of the Council's recommended measures, that if 45 percent of Trimester II's quota was projected to be landed prior to July 1, then the Regional Administrator would close the directed fishery until July 1, and the fishery would operate under incidental possession limits, because it could not be effectively administered. The quota for Trimester II is small, the fishing activity is likely to be intense during Trimester II, and sizable landings can be made per trip in the *Loligo* squid fishery, therefore, there is little likelihood that such a small quota could be effectively monitored in a time frame to prevent significant underages or overages.

Landing Frequency of Incidental *Loligo* Squid Possession Limit

At its June 2006 meeting, the Council discussed the fact that vessels issued incidental catch permits were making multiple landings per day when the directed *Loligo* squid fishery was open. Therefore, this action clarifies that vessels subject to the incidental *Loligo* squid possession limit may only land once per calendar day, whether the directed *Loligo* squid fishery is open or closed.

Illex squid

This action specifies the *Illex* squid Max OY, IOY, ABC, and DAH at 24,000 mt. The FMP does not authorize the

specification of JVP and TALFF for the *Illex* squid fishery because of the domestic fishing industry's capacity to harvest and to process the IOY from this fishery.

Butterfish

This action specifies the butterfish IOY, DAH, and DAP at 1,681 mt, and the ABC at 4,545 mt. Consistent with MSB regulations, this action specifies zero TALFF for butterfish in 2007 because zero TALFF is established for mackerel.

Modifications to Existing Regulatory Language

To clarify that it is appropriate to use the most recent information when developing annual specifications, this action specifies that regulatory language describing the procedure for calculating mackerel ABC (at § 648.21(b)(2)) will describe the reference points and formula, but will not include any values. This makes it clearer that the values from the most recent stock assessment are to be used when calculating mackerel ABC.

In § 648.21, there are two references to the guidelines used to determine annual initial amounts of harvest. The references cite paragraph (a), but the guidelines are actually located at paragraph (b) of that section. This action corrects those citations.

This action clarifies that the landing frequency for vessels subject to the incidental possession limits for *Loligo* squid, *Illex* squid, and butterfish, specified at § 648.22(c), is once per calendar day. For example, this applies to vessels during closures of the directed *Loligo* squid fishery, that participate in the directed fishery and to vessels issued *Loligo* squid incidental catch throughout the year.

The regulations defining how to obtain incidental catch permits for *Loligo* squid, *Illex* squid, and butterfish

are located at § 648.4(a)(5). However, regulations at § 648.21(c)(3) only reference *Loligo* squid and butterfish when describing incidental catch permits. Therefore, this action lists *Illex* squid along with *Loligo* squid and butterfish at § 648.21(c)(3).

Beginning in 2007, the Northeast Fisheries Science Center (NEFSC) Director, rather than the Regional Administrator, will provide final approval for research projects requesting RQ. Therefore, this action updates regulations at § 648.21(g) to reflect that change.

Lastly, this action clarifies the reporting requirements for at-sea processors. Regulations at § 648.7(f)(3) describe reporting requirements for at-sea purchases and processors. To clarify that at-sea processors in the Exclusive Economic Zone (EEZ) are bound by the same reporting requirements as shore-based processors, this action removes language suggesting that these reporting requirements only apply if the product is landed in a port in the United States.

Comments and Responses

NMFS received five comment letters on the proposed 2007 MSB specifications and management measures; one letter was from a state agency, three letters were from industry representatives, and one letter was from an individual. Comments on the FMP that were not specific to the 2007 specifications and management measures described in the proposed rule or that suggest NMFS should implement measures in addition to those described in the proposed rule are not responded to in this final rule. These comments were on such topics as observer coverage and participation of at-sea processors, a limited access program for mackerel, allowing *Loligo* squid quota underages to be applied to quota the next calendar year, and concerns that

the most recent mackerel stock assessment does not accurately reflect the abundance of the stock.

Comment 1: One commenter indicated general support for a reduction of commercial quotas, the use of accurate harvest information to develop quotas, and the need for protection of the public fishery resource.

Response: NMFS acknowledges the importance of the issues raised by the commenter, which relate generally to 2007 MSB specifications and management measures. As specified in the FMP, the Council developed the 2007 MSB specifications and management measures using the best available data regarding the resource and the fishery. Additionally, the 2007 MSB specifications and management measures are consistent with the rules specified in the FMP to promote utilization and conservation of the MSB resource.

Comment 2: Two industry representatives expressed support for the 2007 MSB specifications and management measures. Both commenters are concerned that a reduced mackerel quota does not reflect the abundance of this stock.

Response: While the mackerel ABC is reduced from 335,000 mt in 2006 to 186,000 mt in 2007, the 2007 mackerel IOY and DAH represent status quo. The FMP requires that mackerel ABC 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 yield associated with a fishing mortality rate that is equal to the target F. The status of the Atlantic mackerel stock was most recently assessed at the 42nd Stock Assessment Review Committee (SARC) in late 2005. SARC 42 provided new biological reference points (BRP) for Atlantic mackerel, including the target F to be used in establishing the annual quota. The yield associated with the updated target F (0.12) is 238,000 mt. Because Canadian catch of mackerel has been increasing in recent years, the estimate of Canadian catch for 2007 has been increased from the 2006 estimate of 34,000 mt to 52,000 mt. Therefore, the 2007 mackerel ABC of 186,000 mt was calculated by subtracting 52,000 mt from 238,000 mt, as required by the FMP. The Council and NMFS must use the most recent peer-reviewed stock assessment advice to establish ABC.

Comment 3: Another industry representative also expressed concern with the low mackerel quota, specifically a low DAH, and recommended that the DAH be increased to 160,000 mt. The

recommendation for increasing the DAH was based on the health of the mackerel stock, the capacity of the industry, the need for additional scientific information for the assessment model, and the need to maximize harvest to best position the U.S. for resource sharing negotiations with Canada.

Response: This action is implementing a protocol for an inseason adjustment of the mackerel IOY. If mackerel are available to the fishery in 2007 and projected landings indicate that 70 percent of the IOY will be landed during the fishing year, the mackerel IOY will be increased up to the ABC (186,000 mt). Therefore, with an inseason adjustment, the potential DAH could be 186,000 mt, higher than recommended by the commenter. In recommending DAH of 115,000 mt, the Council sought to balance its expectations of growth in the mackerel landings with a realistic view of landings in recent years. While growth has occurred, preliminary landings for 2006 were 68,298 mt, so a DAH of 115,000 mt provides great room for expansion.

Comment 4: Three industry representatives and one state agency expressed support for an inseason adjustment of the mackerel IOY, up to the ABC, if landings projections indicate that 70 percent of the IOY will be landed during the fishing year. Two of these industry representatives offered to work with NMFS to monitor landings closely and identify trends that would indicate an adjustment is necessary. Additionally, these industry representatives stressed the importance of speedy implementation of an inseason action, if warranted, to prevent any interruption of the fishery.

Response: NMFS appreciates industry's offer to provide information on landings trends and will work closely with industry to ensure that landings estimations are reliable. If information demonstrates an adjustment is necessary, NMFS will make the adjustment in a manner that will avoid interruption in the fishery as specified in this final rule.

Comment 5: One industry representative expressed support for the proposed measure to increase the incidental *Loligo* squid possession limit for *Illex* squid vessels, fishing seaward of the small mesh exemption line (which approximates the 50-fm (91-m) depth contour), during August closures of the directed *Loligo* squid fishery in 2007. The other comment received on this measure was from a state agency expressing concern with this measure. In particular, the state agency cautioned that this measure could create a

disparate benefit for *Illex* squid vessels by significantly reducing the *Loligo* squid quota available to the directed *Loligo* squid fishery during Trimester III. The state agency was also concerned that no mechanisms were recommended to NMFS to monitor *Illex* squid fishery effort or track where the incidentally harvested *Loligo* squid were caught. Furthermore, the state agency recommended that, should this measure be implemented in 2007, additional management mechanisms were needed, such as a declaration program, vessel monitoring systems, mandatory observer coverage, and/or limited access to the increased possession limit, based on past landing history. The state agency also questioned the rationale for this measure and disagreed that analyses presented in the 2007 MSB Specifications EA demonstrated a significant *Loligo* squid discard issue in the *Illex* squid fishery.

Response: NMFS is also concerned that no mechanisms were recommended by the Council to enable NMFS to effectively administer this measure. Without mechanisms to determine where *Illex* squid moratorium vessels fish for *Loligo* squid and to discourage targeting on *Loligo* squid, NMFS is not able to enforce this measure. Therefore, NMFS disapproved the proposal to increase the incidental *Loligo* squid possession limit for *Illex* squid vessels. Rather, the incidental *Loligo* squid possession limit for *Illex* squid vessels will remain at 2,500 lb (1.13 mt) per trip, with only one trip allowed to be landed per day.

NMFS acknowledges the state agency's comment that analyses presented in the 2007 MSB Specifications EA failed to demonstrate a significant *Loligo* squid discard issue in the *Illex* squid fishery. NMFS notes that additional analyses describing *Loligo* squid discarding in the *Illex* squid fishery have been prepared for consideration in Amendment 9 to the FMP, and these analyses provide addition information about these discards.

Comment 6: One state agency commented that the rationale for trimester allocation of *Loligo* squid quota in 2007 is to help NMFS better monitor *Loligo* squid allocations by creating larger allocations that will likely increase the time the fishery is open, allowing closure projections to be based on more information and, perhaps, be more accurate. The state agency stated that the *Loligo* squid fishery has a history of premature closures and unharvested quota, resulting in economic losses to industry, but that no mechanisms to address this

problem were proposed. Because the state agency believes that the current reporting system needs to be improved, it recommended that NMFS augment the current reporting system with regular dialogues between NMFS and squid dealers.

Response: NMFS is uncertain if the commenter supports or opposes the measure to allocate *Loligo* squid quota by trimester in 2007. NMFS suggests that recommendations for augmenting the current reporting system for the *Loligo* squid fishery should be presented to the Council. NMFS staff work with dealers routinely, in conjunction with their monitoring responsibilities, but timely and accurate submission of data remains the responsibility of the industry.

Comment 7: One industry representative expressed support for the measure to manage the 2007 *Loligo* squid quota by trimesters in 2007. The industry representative stressed that managing the *Loligo* squid quota by trimester is for 2007 only, and that future management of the *Loligo* squid fishery will be dependent upon the performance of the 2007 fishery.

Response: NMFS is implementing a trimester system for 2007.

Comment 8: One industry representative expressed support for the measure to clarify that the landing frequency of the incidental *Loligo* squid possession limit is only once per calendar day, whether the directed *Loligo* squid fishery is open or closed.

Response: NMFS believes this clarification is appropriate and necessary. Additionally, because regulations at § 648.22(c) specify the landing frequency of the incidental possession limits for *Loligo* squid, *Illex* squid, and butterfish, this action will make the same clarification for those species.

Changes From the Proposed Rule

In the proposed rule, regulations increasing the incidental *Loligo* squid possession limit for *Illex* squid vessels were proposed in § 648.22(d). Because NMFS decided that this measure cannot be effectively administered, this action will not add a paragraph (d) to § 648.22.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866 (E.O. 12866).

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA, included in this final rule, in support of the 2007 MSB specifications and management measures. The FRFA describes the economic impact that this

final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summarized in the IRFA, a summary of the significant issues raised by the public, and a summary of analyses prepared to support the action (i.e., the EA and the RIR). The contents of these documents are not repeated in detail here. A copy of the IRFA, the RIR, and the EA are available upon request (see ADDRESSES). A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed and final rules and is not repeated here.

Statement of Need for this Action

This action specifies 2007 specifications and management measures for Atlantic mackerel, squid, and butterfish, and modifies existing management measures to improve the monitoring and management of these fisheries.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

A summary of the comments received and NMFS' responses thereto is contained in the preamble and is not repeated here.

Description of Small Entities to Which this Action Will Apply

Based on permit data, the number of potential fishing vessels in the 2007 fisheries are as follows: 383 for *Loligo* squid/butterfish, 77 for *Illex* squid, 2,528 for mackerel, and 2,016 vessels with incidental catch permits for squid/butterfish. There are no large entities participating in this fishery, as defined in section 601 of the RFA. Therefore, there are no disproportionate economic impacts on small entities. Many vessels participate in more than one of these fisheries; therefore, the numbers are not additive.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Description of the Steps the Agency has taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities was Rejected

The mackerel IOY specified in this action (115,000 mt) represents no constraint on vessels in this fishery. This level of landings has not been achieved by vessels in this fishery in recent years. Mackerel landings for 2001–2003 averaged 23,079 mt. Landings in 2004 were 53,781 mt; landings in 2005 were 42,206 mt; and preliminary landings for 2006 were 68,298 mt. Additionally, this action specifies a protocol for an inseason adjustment to increase the IOY up to the ABC (186,000 mt), if landings approach 70 percent of the IOY during the fishing year. Therefore, no reductions in revenues for the mackerel fishery are expected as a result of this action; in fact, an increase in revenues as a result of this action is possible. Based on preliminary 2006 data, the mackerel fishery could increase its landings by 46,702 mt in 2007, if it harvests the entire IOY. In 2005, the last year for which NMFS has complete financial data for this fishery, the average value for mackerel was \$261 per mt. Using this value, the mackerel fishery could see an increase in revenues of \$12,189,222 as a result of the 2007 IOY (115,000 mt) and an additional increase in revenues of \$18,531,000 as a result of the inseason adjustment to increase the IOY up to the ABC (186,000 mt).

The Council analysis evaluated three alternatives for mackerel, and all of them would set IOY at 115,000 mt. This IOY does not represent a constraint on vessels in this fishery, so no impacts on revenues in this fishery are expected as a result of any of these alternatives. The preferred alternative would set the ABC at 186,000 mt. Alternative two (status quo) would set the ABC at 335,000 mt, and alternative three would set the ABC at 204,000 mt. Alternatives two and three were not adopted by the Council because that level of ABC is not consistent with the overfishing definition in the FMP, as updated by the most recent stock assessment. Furthermore, alternatives that would set a higher harvest were not adopted because they proposed harvest levels that were too high in light of social and

economic concerns relating to TALFF. The specification of TALFF would have limited the opportunities for the domestic fishery to expand and, therefore, would have resulted in negative social and economic impacts to both U.S. harvesters and processors. A full discussion of the TALFF issue is included in the preamble to the proposed rule and is not repeated here.

The *Loligo* squid IOY (17,000 mt) specified in this action represents status quo as compared to 2006. *Loligo* squid landings for 2001–2003 averaged 14,092 mt. Landings in 2004 were 13,322 and landings in 2005 were 16,765 mt. In 2005, the last year for which NMFS has complete financial data for this fishery, the average value for *Loligo* squid was \$1,703 per mt. Implementation of this action would not result in a reduction in revenue or a constraint on restraint on the fishery in 2007.

For *Loligo* squid, all alternatives would set Max OY at 26,000 mt and ABC, IOY, DAH, and DAP at 17,000 mt. While the annual quota under all alternatives represents status quo, alternatives differ in their allocation of the annual quota. Two alternatives allocate quotas by trimester. Of these, a closure/re-opening provision to ensure quota is available to the directed fishery in July is specified in one alternative but not the other. The third alternative allocates quota by quarters (status quo). This action implements allocation of quota by trimester, without the closure/re-opening provision. Differences in seasonal quota distribution may have distributive effects on seasonal participants in the fishery. Additionally, the proposed incidental *Loligo* squid possession limit for *Illex* squid moratorium vessels (up to 10,000 lb (4.54 mt)) during August could have, under certain conditions, resulted in a reduction in the amount of *Loligo* squid quota available during Trimester III. However, NMFS cannot effectively administer the closure/re-opening measure, therefore, this action does not increase the incidental *Loligo* squid possession limit for *Illex* squid vessels, but maintains it at 2,500 lb (1.13 mt) per trip, limited to one trip per calendar day. All alternatives would result in the same total landings for 2007.

The *Illex* squid IOY (24,000 mt) specified in this action represents status quo as compared to 2006. *Illex* squid landings for 2001–2003 averaged 4,350 mt. Landings in 2004 were 25,059, and landings in 2005 were 11,719 mt. In 2005, the last year for which NMFS has complete financial data for this fishery, the average value for *Illex* squid was \$715 per mt. Implementation of this action would not result in a reduction

in revenue or a constraint on restraint on the fishery in 2007.

For *Illex* squid, three alternatives were considered by the Council. One alternative would set Max OY, ABC, IOY, DAH, and DAP at 30,000 mt, the preferred alternative would set these at 24,000 mt, and the third alternative would set these at 19,000 mt. The alternative with an IOY of 30,000 mt would allow harvest far in excess of recent landings in this fishery. The Council considered this alternative unacceptable because an ABC specification of 30,000 mt may not prevent overfishing in years of moderate to low abundance of *Illex* squid. The alternative with an IOY of 19,000 mt is the most restrictive alternative. To provide for the same level of harvest as in 2006 and to prevent the possibility of negative economic impacts, this action specifies the 2007 *Illex* squid IOY at 24,000 mt.

The butterfish IOY (1,681 mt) specified in this action represents no constraint to vessels relative to the landings in recent years. During the period 2001–2004, butterfish landings averaged 1,535 mt. Compared to the most recent 2 years for which complete information is available, 2004 and 2005, when landings were 538 mt and 393 mt, respectively, this action is not expected to reduce revenues in this fishery, but may increase those revenues. Based on 2005 data, the value of butterfish was \$1,803 per mt.

For butterfish, one alternative considered would have set IOY at 5,900 mt, while another would have set it at 9,131 mt. These amounts exceed the landings of this species in recent years. Neither of these alternatives were selected by the Council because they would likely result in overfishing and the additional depletion of the spawning stock biomass of an overfished species. This action specifies a butterfish IOY of 1,681 mt because it is the most restrictive of the three alternatives.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. The

guide will be sent to all holders of permits issued for the MSB fisheries. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Regional Administrator and are also available from NMFS, Northeast Region (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 24, 2007.

William T. Hogarth,

*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 § 648.7, paragraph (f)(3) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(f) * * *

(3) *At-sea purchasers and processors.*

With the exception of the owner or operator of an Atlantic herring carrier vessel, the owner or operator of an at-sea purchaser or processor that purchases or processes any Atlantic herring, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea must submit information identical to that required by paragraph (a)(1) of this section and provide those reports to the Regional Administrator or designee by the same mechanism and on the same frequency basis.

* * * * *

- 3. Section 648.21 is amended as follows:

- a. Paragraphs (b)(1) introductory text, (b)(2)(i), and (b)(2)(iii) introductory text are revised;

- b. Paragraphs (c) introductory text and (c)(3) are revised;

- c. Paragraph (f)(3) is removed and paragraphs (f)(1) and (f)(2) are revised; and

- d. Paragraphs (g)(2)(ii) and (g)(5) introductory text are revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(b) * * *

(1) *Loligo and/or Illex Squid.*

* * * * *

(2) * * *

(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} at B_{MSY} or greater and decreases linearly to zero at B_{MSY} or below. Values for F_{target} and B_{MSY} are as calculated in the most recent stock assessment.

* * * * *

(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 (b) 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:

* * * * *

(c) *Recommended measures.* Based on the review of the data described in paragraph (b) 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:

* * * * *

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

* * * * *

(f) * * *

(1) A commercial quota will be allocated annually for *Loligo* squid into trimester periods, based on the following percentages:

Trimester	Percent
I. January-April	43.0
II. May-August	17.0
III. September-October	40.0

(2) Any underages of commercial period quota for Trimester I and II will

be applied to Trimester III of the same year, and any overages of commercial quota for Trimesters I and II will be subtracted from Trimester III of the same year.

* * * * *

(g) * * *

(2) * * *

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

* * * * *

(5) If a proposal is disapproved by the NEFSC Director or the NOAA Grants Office, or if the Regional Administrator determines that the allocated research quota cannot be utilized by a project, the Regional Administrator shall reallocate the unallocated or unused amount of research quota to the respective commercial and recreational fisheries by publication of a notice in the **Federal Register** in compliance with the Administrative Procedure Act, provided:

* * * * *

■ 4. In § 648.22, paragraphs (a) and (c) are revised and paragraph (d) is added to read as follows:

§ 648.22 Closure of the fishery.

(a) *Closing Procedures.* (1) NMFS shall close the directed mackerel fishery in the EEZ when the Regional Administrator projects that 80 percent of the mackerel DAH is landed, if such a closure is necessary to prevent the DAH from being executed. 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 Administrator projects that the DAH will be landed for mackerel, NMFS will close the mackerel fishery in the EEZ, and the incidental catches specified for mackerel in paragraph (c) of this section will be prohibited.

(2) NMFS shall close the directed fishery in the EEZ for *Loligo* when the Regional Administrator projects that 90 percent of the quota is harvested in Trimesters I and II, and when 95 percent of DAH has been harvested in Trimester III. The closure of the directed fishery shall be in effect for the remainder of the fishing period, with incidental catches allowed as specified in paragraph (c) of this section.

(3) NMFS shall close the directed *Illex* or butterfish fishery in the EEZ when the Regional Administrator projects that 95 percent of the *Illex* or butterfish DAH is landed. The closure of the directed fishery will be in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section.

* * * * *

(c) *Incidental catches.* During a closure of the directed mackerel fishery, the possession limit for mackerel is 10 percent, by weight, of the total amount of fish on board. For vessels that have been issued a *Loligo* or butterfish incidental catch permit (as specified at § 648.4(a)(5)(ii)) or during a closure of the directed fishery for *Illex* or butterfish, the possession limit for *Loligo* and butterfish is 2,500 lb (1.13 mt) each. For vessels that have been issued an *Illex* incidental catch permit (specified at § 648.4(a)(5)(ii)) or during a closure of the directed fishery for *Illex*, the possession limit for *Illex* is 10,000 lb (4.54 mt). Vessels may not land more than these limits and may only land once during any single calendar day, which is defined as the 24 hr period beginning at 0001 hours and ending at 2400 hours.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045-6045-01; I.D. 012507A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters) Length Overall and Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters (m)) length overall (LOA) and longer using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2007 Pacific cod allowable catch (TAC) specified for catcher vessels using pot gear in the BSAI.