

modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§ 216.106 and 218.36 of this chapter and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.37, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.30(b), a Letter of Authorization issued pursuant to §§ 216.106 and 218.36 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-AY00

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 10

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

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) (Amendment 10), incorporating the public hearing document and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce and is requesting comments from the public.

DATES: Comments must be received on or before September 14, 2009.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 10 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 10, including the FSEIS, the Regulatory Impact Review (RIR), and the 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 FSEIS/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov>.

You may submit comments on this notice of availability, identified by “0648-AY00”, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>;
- Fax: (978) 281-9135, Attn: Carrie Nordeen;
- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on MSB Amendment 10.”

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, NMFS notified the Council that the butterfish stock was overfished, which triggered MSA requirements to implement rebuilding measures for the stock. In response, Amendment 10 to the MSB FMP was initiated by the Council in October 2005. Management measures for rebuilding butterfish are designed to reduce the fishing mortality on butterfish that occurs through discarding, which is the primary source of fishing mortality. Measures that reduce butterfish discards are expected to also reduce the bycatch of other finfish species in MSB fisheries.

The purpose of Amendment 10 is to bring the MSB FMP into compliance with Magnuson-Stevens Fishery Conservation and Management Act (MSA) requirements by: 1) Establishing a rebuilding program that allows the butterfish stock to rebuild and permanently protects the long-term health and stability of the stock; and 2) minimizing bycatch and the fishing mortality of unavoidable bycatch, to the extent practicable, in the MSB fisheries. Amendment 10 would increase the minimum codend mesh requirement for the *Loligo* squid (*Loligo*) fishery; establish a butterfish rebuilding program with a butterfish mortality cap program for the *Loligo* fishery; establish a 72-hr trip notification requirement for the *Loligo* fishery; and require an annual assessment of the butterfish rebuilding program by the Council’s Scientific and Statistical Committee (SSC).

Initially, Amendment 9 to the MSB FMP (Amendment 9) was intended to bring the MSB FMP into compliance with MSA bycatch requirements, and contained several management measures intended to address deficiencies in the FMP that relate to discarding, especially as they affect butterfish. Specifically, those management measures would have attempted to reduce finfish discards by MSB small-mesh fisheries through mesh size increases in the directed *Loligo* fishery, removal of mesh size exemptions for the directed Illex squid fishery, and establishment of seasonal Gear Restricted Areas (GRAs). However, those specific management alternatives were developed in 2004, prior to the butterfish stock being declared overfished. On June 13, 2007, the Council recommended that all management measures developed as part of Amendment 9 to correct deficiencies in the FMP related to bycatch of finfish, especially butterfish, be considered in Amendment 10. Accordingly, no action was taken in Amendment 9 (73 FR 37382, July 1, 2008) to address bycatch.

The Council held three public meetings on Amendment 10 during June 2008. Following the public comment period that ended on June 23, 2008, the Council adopted Amendment 10 on October 16, 2008. In Amendment 10, measures recommended by the Council would:

- Establish a minimum mesh increase to 2-1/8 inches (54 mm) (from 1-7/8 inches (48 mm)) for the *Loligo* fishery during Trimesters I (Jan–Apr) and III (Sep–Dec), starting in 2010;
- Establish a butterfish mortality cap program for the *Loligo* fishery, starting in 2011;

- Establish a 72-hr trip notification requirement for the *Loligo* fishery, to facilitate the placement of NMFS observers on *Loligo* trips, starting in 2011; and

- Require an annual assessment of the butterfish mortality cap program by the Council's SSC and, if necessary, implementation of additional butterfish rebuilding measures through the annual specifications process.

Public comments are solicited on Amendment 10 and its incorporated documents through the end of the

comment period stated in this notice of availability (NOA). A proposed rule that would implement Amendment 10 may be published in the **Federal Register** for public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments must be received by the end of the comment period provided in this NOA of Amendment 10 to be considered in the approval/disapproval decision on the amendment. Comments received after that date will not be considered in the

decision to approve or disapprove Amendment 10. To be considered, comments must be received by close of business on the last day of the comment period provided in this NOA.

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

Dated: July 8, 2009

Kristen C. Koch,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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