

Dated: March 14, 2008.

Joel D. Holthrop,

Deputy Chief, National Forest System.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-AP60

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 9

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 9 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) (Amendment 9), 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. The goal of Amendment 9 is to remedy deficiencies in the FMP and to address other issues that have arisen since Amendment 8 to the FMP became effective in 1999. Amendment 9 would establish multi-year specifications for all four species managed under the FMP (mackerel, butterfish, *Illex* squid (*Illex*), and *Loligo* squid (*Loligo*)) for up to 3 years; extend the moratorium on entry into the *Illex* fishery, without a sunset provision; adopt biological reference points recommended by the Stock Assessment Review Committee (SARC) for *Loligo*; designate essential fish habitat (EFH) for *Loligo* eggs based on best available scientific information; and prohibit bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons.

DATES: Comments must be received on or before May 27, 2008.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 9 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 9, 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>.

Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>;

- Fax: (978) 281-9135, Attn: Carrie Noorden;
- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on MSB Amendment 9."

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

This amendment is needed to remedy deficiencies in the FMP and to address other issues that have arisen since Amendment 8 to the FMP (64 FR 57587, October 26, 1999) became effective in 1999. Although Amendment 8 was partially approved in 1999, NMFS noted that the amendment inadequately addressed some Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements for Federal FMPs. Specifically, the amendment was considered deficient with respect to: Consideration of fishing gear impacts on EFH as they relate to MSB fisheries; designation of EFH for *Loligo* eggs; and the reduction of bycatch and discarding of target and non-target species in the MSB fisheries.

An earlier draft of Amendment 9, adopted by the Council on February 15, 2007, contained several management measures intended to address deficiencies in the MSB FMP that relate to discarding, especially as they affect

butterfish. Specifically, these 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* fishery, and establishment of seasonal Gear Restricted Areas (GRAs). However, these specific management alternatives were developed in 2004, prior to the butterfish stock being declared overfished.

In February 2005, NMFS notified the Council that the butterfish stock was overfished and this triggered Magnuson-Stevens Act requirements to implement rebuilding measures for the stock. In response, Amendment 10 to the FMP was initiated by the Council in October 2005. Amendment 10 contains a rebuilding program for butterfish with management measures designed to reduce the fishing mortality on butterfish that occurs through discarding. Management measures that reduce the discarding of butterfish are expected to also reduce the bycatch of other finfish species in MSB fisheries. 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 is proposed in Amendment 9 to address these issues. Through the development and implementation of Amendment 10, each of the measures to reduce the bycatch of finfish will be given full consideration. Additionally, Amendment 10 will include updated analyses on the effects of the alternatives and, as Amendment 10 is expected to be implemented soon after Amendment 9, no meaningful delay in addressing the bycatch deficiencies in the FMP should occur.

The final version of Amendment 9 contains alternatives that consider allowing for multi-year specifications and management measures, extending or eliminating the moratorium on entry to the directed *Illex* fishery, revising the biological reference points for *Loligo*, designating EFH for *Loligo* eggs, implementing area closures to reduce gear impacts from MSB fisheries on EFH of other federally-managed species, increasing the incidental possession limit for *Illex* vessels during a closure of the *Loligo* fishery, and requiring real-time electronic reporting via vessel monitoring systems in the *Illex* fishery. The Council held four public meetings on Amendment 9 during May 2007. Following the public comment period that ended on May 21, 2007, the Council

adopted Amendment 9 on August 6, 2007.

In Amendment 9, measures recommended by the Council would: Allow for multi-year specifications for all four managed species (mackerel, butterfish, *Illex*, and *Loligo*) for up to 3 years; extend the moratorium on entry into the *Illex* fishery, without a sunset provision; adopt biological reference points for *Loligo* recommended by the SARC; designate EFH for *Loligo* eggs based on best available scientific information; and prohibit bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons.

Public comments are being solicited on Amendment 9 and its incorporated

documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 9 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 on the proposed rule must be received by the end of the comment period provided in this notice of availability of Amendment 9 to be considered in the approval/disapproval decision on the amendment. All comments received by May 27, 2008, whether specifically directed to Amendment 9 or the proposed rule, will be considered in the approval/

disapproval decision on Amendment 9. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 9. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: March 19, 2008.

Alan D. Risenhoover,

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

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