the cover, the mesh netting shall be tightly wrapped around the entire raft such that no loose netting hangs below the FAD when deployed.

(2) *Subsurface.* Any netting used in the subsurface structure of the FAD must be tightly tied into bundles (''sausages'').

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150309236–8327–02]

RIN 0648–BE65

Fisheries of the Northeastern United States; Mid-Atlantic Fishery Management Council; Omnibus Acceptable Biological Catch Framework Adjustment

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

ACTION: Final rule.

SUMMARY: This action implements an Omnibus Framework Adjustment to the Mid-Atlantic Fishery Management Council's acceptable biological catch setting process, allows for adoption of peer-reviewed scientific information more quickly, and clarifies language in the Council's catch control rules. This action is necessary to provide an additional approach in catch setting that will help bring stability to quotas, ensure the best available scientific information is more readily available, and clarify existing control rule language. The intended effect of this action is to inform the public of these changes to the Council's catch setting control rules and process.

DATES: This rule is effective May 11, 2018.

ADDRESSES: Copies of the Council's Omnibus Acceptable Biological Catch Framework Adjustment and the accompanying environmental assessment (EA) are available on request from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Erin Wilkinson, Fishery Management Specialist, (301) 427–8561.

SUPPLEMENTARY INFORMATION:

Background

The Council is required to set annual catch limits (ACLs) that do not exceed the acceptable biological catch (ABC) recommendation of its Scientific and Statistical Committee (SSC) to prevent overfishing. ABCs represent an upper limit for the Council to use when setting catch limits. The 2011 ACL Omnibus Amendment final rule (76 FR 60606; September 29, 2011), put in place the Council's risk policy that provides guidance to the SSC on the Council's tolerance for overfishing risk. The policy also outlines risk tolerance for ensuring stocks under rebuilding plans achieve fishing mortality objectives.

The Council's risk policy for setting ABCs states that for a typical species whose stock size is equal to or greater than a biomass target associated with maximum sustainable yield (B_{MSY}), the acceptable probability of overfishing is 40 percent, *i.e.,* if the fishery catches the ABC then there is a 60-percent probability of not overfishing. If the SSC determines that a species has an atypical life history, the Council requires at least a 65-percent chance of not overfishing to create a larger buffer when biomass is at or above B_{MSY}. The SSC determines whether a stock is typical or atypical each time an ABC is recommended.

For both typical and atypical species, the Council has specified that as stock size biomass (B) falls below the target B_{MSY}, the probability of overfishing decreases, until the probability of overfishing hits zero when the stock is at 10 percent of the target B_{MSY}. For a stock under a rebuilding plan, the probability of not exceeding the fishing mortality rate (F) within the specified timeframe must be at least 50 percent, unless this probability threshold is modified through a stock rebuilding plan.

The fishery management plans (FMPs) managed by the Council all have provisions for setting specifications for multiple years (five years for dogfish and three years for all other species).

Approved Measures

Overfishing Probability Averaging

When the SSC accepts assessment fishing mortality reference points, the average probability of overfishing (or achieving the target fishing mortality for rebuilding stocks) may be used consistent with the existing risk policy requirements. The constant, multi-year ABCs that would result must continue to meet the Council's risk policy goals, with the probability of overfishing not to exceed 50 percent in any given year. For stocks in a rebuilding plan, the probability of achieving the rebuilding fishery mortality must meet the risk policy objectives when constant, multi-year ABCs are recommended by the SSC.

Averaged ABCs could be set at a constant level for up to five years for spiny dogfish and up to three years for all other species managed by the Council. The SSC may provide both variable, year-to-year and constant multi-year recommendations based on the average overfishing probability approach for the Council to consider. The SSC will continue to review fishery performance each year during multi-year specifications, regardless of which multi-year approach is used to determine ABCs. The multi-year averaging of ABCs will not apply to stocks that do not have a quantitative assessment to derive ABCs, or to stocks with an assessment that lacks information on the risk of overfishing.

ABC Control Rule Assessment Level Designations

In conjunction with this action, the Council developed and we approved some clarifying language describing its ABC control rule assessment level designations. These revisions are minor and intended to clarify the various components of the assessment levels used in the ABC control rules.

Approved Biological Status Criteria

This action provides notice of the administrative process the Council will use for incorporating the best scientific information available in the development of ABCs for the Atlantic Bluefish, Tilefish, and Atlantic Mackerel, Squid, and Butterfish FMPs. All other Mid-Atlantic FMPs already use this process. The best available science requirements dictate that the SSC use the accepted assessment information to set quotas under National Standard 2. The Council's SSC will utilize peer-reviewed biological reference points (overfishing level, biomass thresholds, etc.) and periodic updates to stock status determination criteria (*i.e.,* biomass and fishing mortality reference points) to define ABCs, consistent with the Council's other FMPs and National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This change in Council operations improves management efficiency by automatically incorporating new peer-reviewed status determination criteria instead of requiring a separate management action to adopt them within these three FMPs.

Comments and Responses

We received one comment on the proposed rule from the public. The commenter suggested clarifying language in the preamble of the proposed rule notice, describing the measures. We clarified the description of the measures in the preamble of this final rule.

Changes From the Proposed Rule

There are no changes from the proposed to final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Council's FMPs, and consistent with the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 5, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, 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. Section 648.20 is revised to read as follows:

§ 648.20 Mid-Atlantic Fishery Management Council Acceptable Biological Catch (ABC) control rules.

The SSC shall review the following criteria, and any additional relevant information, to assign managed stocks to one of four types of control rules based on the species' assessments and its treatment of uncertainty when developing ABC recommendations. The SSC shall review the ABC control rule assignment for stocks each time an ABC is recommended. ABCs may be recommended for up to three years for all stocks, with the exception of five years for spiny dogfish. The SCC may specify constant, multi-year ABCs, derived from the average of ABCs (or average risk of overfishing) if the average probability of overfishing remains between zero and 40 percent, and does not exceed a 50-percent probability in any given year. The average ABCs may remain constant for up to three years for all stocks, with the exception of five years for spiny dogfish. The SSC may deviate from the control rule methods and recommend an ABC that differs from the result of the ABC control rule application; however, any such deviation must include the following: A description of why the deviation is warranted; description of the methods used to derive the alternative ABC; and an explanation of how the deviation is consistent with National Standard 2. The four types of ABC control rules are described below.

(a) *ABC control rule for a stock with an OFL probability distribution that is analytically-derived and accepted by the SSC.* (1) The SSC determines that the assessment OFL and the assessment's treatment of uncertainty are acceptable, based on the following:

(i) All important sources of scientific uncertainty are captured in the stock assessment model;

(ii) The probability distribution of the OFL is calculated within the stock assessment and adequately describes the OFL uncertainty;

(iii) The stock assessment model structure and treatment of the data prior to use in the model include relevant details of the biology of the stock, fisheries that exploit the stock, and data collection methods;

(iv) The stock assessment provides the following estimates: Fishing mortality rate (F) at MSY or an acceptable proxy maximum fishing mortality threshold (MFMT) to define OFL, biomass, biological reference points, stock status, OFL, and the respective uncertainties associated with each value; and

(v) No substantial retrospective patterns exist in the stock assessment estimates of fishing mortality, biomass, and recruitment.

(2) An ABC for stocks with an accepted OFL probability distribution that is analytically-derived will be determined by applying the acceptable probability of overfishing from the MAFMC's risk policy found in § 648.21(a) through (d) to the probability distribution of the OFL.

(b) *ABC control rule for a stock with an OFL probability distribution that is modified by the assessment team and accepted by the SSC.* (1) The SSC determines the assessment OFL is acceptable and the SSC accepts the assessment team's modifications to the analytically-derived OFL probability distribution, based on the following:

(i) Key features of the stock biology, the fisheries that exploit it, and/or the data collection methods for stock information are missing from, or poorly estimated in, the stock assessment;

(ii) The stock assessment provides reference points (which may be proxies), stock status, and uncertainties associated with each; however, the uncertainty is not fully promulgated through the stock assessment model and/or some important sources of uncertainty may be lacking;

(iii) The stock assessment provides estimates of the precision of biomass, fishing mortality, and reference points;

(iv) The accuracy of the minimum fishing mortality threshold and projected future biomass is estimated in the stock assessment using ad hoc methods; and

(v) The modified OFL probability distribution provided by the assessment team acceptably addresses the uncertainty of the assessment.

(2) An ABC for stocks with an OFL probability distribution that is modified by the assessment team and accepted by the SSC will be determined by applying the acceptable probability of overfishing from the MAFMC's risk policy found in § 648.21(a) through (d) to the probability distribution of the OFL as modified by the assessment team.

(c) *ABC control rule for a stock with an OFL probability distribution that is modified by the SSC.* (1) The SSC determines the assessment OFL is acceptable but the SSC derives the appropriate uncertainty for OFL based on meta-analysis and other considerations. This requires the SSC to determine that the stock assessment does not contain an estimated probability distribution of OFL or the OFL probability distribution in the stock assessment is judged by the SSC to not adequately reflect uncertainty in the OFL estimate.

(2) An ABC for stocks with an OFL probability distribution that is modified by the SSC will be determined by either:

(i) Applying the acceptable probability of overfishing from the MAFMC's risk policy found in § 648.21(a) through (d) to the SSC-adjusted OFL probability distribution. The SSC will use default assignments of uncertainty in the adjusted OFL probability distribution based on literature review and valuation of control rule performance; or,

(ii) If the SSC cannot develop an OFL probability distribution, a default control rule of 75 percent of the F_{MSY} value will be applied to derive ABC.

(d) *ABC control rule for when an OFL cannot be specified.* (1) The SSC determines that the OFL cannot be specified given the available information.

(2) An ABC for stocks with an OFL that cannot be specified will be determined by using control rules based on biomass and catch history and application of the MAFMC's risk policy found in § 648.21(a) through (d).

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