

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 971107264-8001-02; I.D. 102297A]

RIN 0648-AK47

**Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 1998 Specifications**

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

**ACTION:** Final 1998 initial specifications.

**SUMMARY:** NMFS issues final initial specifications for the 1998 fishing year for Atlantic mackerel, squid, and butterfish. Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment.

**DATES:** The final initial specifications for 1998 are effective January 1, 1998, through December 31, 1998. Revised § 648.23(a) is effective January 12, 1998.

**ADDRESSES:** Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations, the Environmental Assessment, and Regulatory Impact Review, including analysis of impacts under the Regulatory Flexibility Act, are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, 508-281-9104.

**SUPPLEMENTARY INFORMATION:** Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648. These regulations require NMFS to publish specifications for initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted

under the FMP for any of these species. In addition to commercial quotas, the Council, in consultation with its Squid, Mackerel, and Butterfish Technical Monitoring Committee, may recommend: Revisions to the amount of squid and butterfish that may be retained, possessed, and landed by vessels issued the incidental catch permit, commercial minimum fish sizes, commercial trip limits, commercial seasonal quotas/closures for *Loligo* or *Illex* squid, minimum mesh sizes, commercial gear restrictions, recreational harvest limits, recreational minimum fish sizes, and recreational possession limits.

The proposed rule whose preamble contained proposed 1998 initial specifications was published on November 26, 1997 (62 FR 63064). The final initial specifications are unchanged from those that were proposed. A complete discussion of the specifications was published in the preamble to the proposed rule and is not repeated here.

The following table contains the final initial specifications for the 1998 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries as recommended by the Council.

FINAL INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1998. (MT)

Specifications	Squid		Atlantic mackerel	Butterfish
	Loligo	Illex		
Max OY .....	26,000	24,000	<sup>1</sup> N/A	16,000
ABC .....	21,000	19,000	382,000	7,200
IOY .....	21,000	19,000	<sup>2</sup> 80,000	5,900
DAH .....	21,000	19,000	<sup>3</sup> 80,000	5,900
DAP .....	21,000	19,000	50,000	5,900
JVP .....	0	0	15,000	0
TALFF .....	0	0	0	0

<sup>1</sup> Not applicable.

<sup>2</sup> OY may be increased during the year, but the total cannot exceed 382,000 mt.

<sup>3</sup> Includes 15,000 mt of Atlantic mackerel recreational allocation.

Four special conditions imposed in previous years continue to be imposed on the 1998 Atlantic mackerel fishery as follows: (1) Joint ventures are allowed south of 37°30' N. lat., but river herring bycatch may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Administrator, Northeast Region, NMFS (Regional Administrator), must ensure that impacts on marine mammals are reduced in the prosecution of the Atlantic mackerel fishery; (3) the mackerel OY may be increased during the year, but the total must not exceed the ABC; and (4) applications from a nation for a joint venture for 1998

cannot be acted upon until the Regional Administrator determines, based on an evaluation of performance, that the nation's purchase obligations from previous years have been fulfilled.

**Framework Measure for Loligo Squid Nets**

Amendment 5 to the FMP established a minimum mesh requirement of 1 7/8 inches (48-mm) throughout the entire net for vessels possessing *Loligo* squid. Amendment 5 also established a framework procedure whereby the minimum mesh provision for *Loligo* squid could be reconsidered by the Council on an annual basis.

Numerous members of the commercial fishing industry testified before the Council that the minimum mesh size requirement, because it applied throughout the entire net, was creating a compliance problem for the squid industry. Testimony was given that after continuous use, meshes forward of the codend become distorted and shrink. Because the body of the net forward of the codend lasts significantly longer than the codend, this problem becomes more acute with time. Industry is concerned that nets, which were legal when new, could violate the minimum mesh size requirement after extended use. Since selection occurs in the

codend of the net, industry argues that the requirement for a minimum mesh size throughout the entire net is creating an unnecessary burden on it.

In response to these concerns the Council decided to change the minimum mesh size requirement for *Loligo* squid nets to make it applicable to the codend of the net only. The minimum mesh size of 1 $\frac{7}{8}$  inches (48 mm) remains unchanged. Accordingly, this final rule requires that *Loligo* squid nets for 1998 have a minimum mesh size of 1 $\frac{7}{8}$  inches (48 mm) diamond, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or if the net is not long enough for such a measurement, the terminal one-third of the net, measured from the terminus of the net to the head rope. This should relieve the industry of the costs associated with replacing the body of the net before its useful service life has been realized. The effects on the fishery should be minimal since the selection process, which occurs in the codend, will be unchanged. The Council concluded that the benefits to the industry in terms of cost savings far outweighed any negative effects of applying the mesh requirement to the codend only. Additional savings in terms of enforcement of the mesh regulations should be realized since enforcement officers will only be required to check mesh sizes in the codend instead of the entire net, which in most cases is quite large and can consume a significant amount of time during the boarding process.

#### Comments and Responses

One comment from a U.S. Congressman was received opposing the proposed 1998 JVP Atlantic mackerel specification of 15,000 mt. No comments were received on the other annual specifications or on the *Loligo* squid net minimum mesh size requirement.

*Comment:* The commenter stated that competition from foreign processors engaged in joint ventures with American fishermen is now reducing

the markets available to shore-based American processors. This commenter recommends that the JVP specification for 1998 be reduced to zero.

*Response:* The 1998 JVP specification of 15,000 mt is 10,000 mt less than the 1997 JVP specification to reflect the Council's concern that JVPs could have a negative effect on the further development of the U.S. export market. The potential for future North Sea mackerel TAC reductions may provide an opportunity for U.S. producers to sell additional mackerel in the international market. The reduction is consistent with the Council's stated policy to proceed on a course that recognizes the need for JVP in the short term to allow U.S. harvesters to take mackerel at levels in excess of current U.S. processing capacity. However, in the longer term the Council intends to reduce the JVP specification to zero as U.S. processing and export capacity increases.

#### Classification

These final specifications are authorized by 50 CFR part 648, comply with the National Environmental Policy Act, and are exempt from review under E.O. 12866. The revision to § 648.23(a) has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date of the final initial specifications for the 1998 fishing year for Atlantic mackerel, squid, and butterfish is unnecessary because they do not establish any requirement for which a regulated entity must come into compliance. The specifications are year-long quotas and are used for the sole

purpose of closing the fishery when the amounts specified have been taken. The change in the minimum mesh size requirement for *Loligo* squid nets relieves a restriction on the industry. Accordingly, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effectiveness.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 6, 1998.

**David L. Evans,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648, Subpart B, is amended as follows:

#### PART 648—FISHERIES OF 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 § 648.23, paragraph (a) introductory text is revised to read as follows:

#### § 648.23 Gear restrictions.

(a) *Mesh restrictions and exemptions.* Owners or operators of other trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 1 $\frac{7}{8}$  inches (48 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the head rope, unless they are fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request):

\* \* \* \* \*

[FR Doc. 98-701 Filed 1-9-98; 8:45 am]

BILLING CODE 3510-22-P