

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[RTID 0648–BL75]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 23 to the Mackerel, Squid, and Butterfish Fishery Management Plan

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

ACTION: Announcement of the availability of a proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council submitted Amendment 23 to the Mackerel, Squid, and Butterfish Fishery Management Plan to the Secretary of Commerce for review and approval. We are requesting comments from the public on this amendment in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. This amendment would implement a revised Atlantic mackerel rebuilding plan and the 2023 Atlantic mackerel specifications, including a 20-fish per person recreational possession limit. The purpose of this action is to rebuild the mackerel stock with appropriate measures so that optimum yield can be achieved on an ongoing basis.

DATES: Comments must be received on or before December 27, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0098, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA–NMFS–2022–0098 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.),

confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The Mid-Atlantic Council prepared an environmental assessment (EA) for Amendment 23 that describes the proposed action and provides an analysis of the impacts of the proposed measures and other alternatives considered. Copies of Amendment 23, including the EA, the Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA and associated analysis is accessible via the internet <http://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, 978–281–9150.

SUPPLEMENTARY INFORMATION:**Background**

Atlantic mackerel recruitment has been declining since 1999 and has been below the long-term average since 2009. On November 29, 2019 (84 FR 58053), NMFS implemented a 5-year Atlantic mackerel rebuilding plan. At its July 2021 meeting, the Mid-Atlantic Fishery Management Council’s Scientific and Statistical Committee (SSC) reviewed the 2021 Atlantic mackerel management track assessment results, which concluded that Atlantic mackerel remains overfished and overfishing is occurring. This management track assessment also determined that due to previous assumptions about potential recruitment that did not come to fruition, the original rebuilding plan no longer provides a realistic rebuilding approach. Stock biomass is estimated to have nearly tripled in size from 2014 to 2019 (from approximately 8 percent to 24 percent of a fully rebuilt Atlantic mackerel stock), but full rebuilding on the original schedule by 2023 now appears impossible; the stock is expected to be less than half rebuilt by 2023.

Amendment 23 is intended to implement a revised Atlantic mackerel rebuilding plan to fully rebuild the stock within 10 years (*i.e.*, 2032) and prevent overfishing by incorporating the findings from the 2021 Atlantic mackerel management track assessment. The proposed rebuilding plan assumes that recruitment starts low (similar to recruitment from 2009 to present) and

then increases toward long-term typical recruitment as the stock rebuilds. This plan also assumes a fishing mortality rate of 0.12, which is predicted to have a 61 percent probability of rebuilding the Atlantic mackerel stock in 10 years. This action would set the overall rebuilding plan and the acceptable biological catch (ABC) for 2023 of 8,094 mt (metric tons). This rebuilding plan would also project the ABCs for the following years, but the ABC will be revisited each year during future specification setting.

Additionally, Amendment 23 proposes the 2023 Atlantic mackerel specifications and following measures, which are outlined in further detail in the EA prepared for this action (see **ADDRESSES**):

- An ABC deduction of 2,197 mt to account for Canadian catch of the Atlantic mackerel stock;
- An ABC deduction of 2,143 mt to account for recreational catch;
- An estimated ABC deduction of 115 mt to account for commercial discards;
- A revised commercial fishery closure approach where before May 1, the directed commercial fishery would close with 886 mt of the quota remaining, and after May 1, the directed commercial fishery would close with 443 mt of the quota remaining which would result in reduced trip limits of 40,000 lb (18.14 mt) for Tier 1, 2, and 3 moratorium permits and 5,000 lb (2.27 mt) for open access permits;
- A final directed commercial fishery closure when 100 mt of the quota remains which would result in a reduced possession limit of 5,000 lb (2.27 mt) for all permits;
- A 20-fish per person recreational possession limit; and
- A status quo river herring and shad catch cap of 129 mt.

In accordance with section 304(a)(1) of the Magnuson-Stevens Act, we are soliciting public comments on Amendment 23 to the Mackerel, Squid, and Butterfish FMP and its incorporated documents through the end of the comment period specified in the **DATES** section of this notice of availability (NOA). Under this provision of the Magnuson-Stevens Act (section 304(a)(3)), the Secretary may approve, partially approve, or disapprove the amendment as submitted by the Council based on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. As such, we are seeking comment on whether measures in Amendment 23 to the Mackerel, Squid, and Butterfish FMP are consistent with the Mackerel, Squid,

and Butterfish FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. All comments received by the end of the comment period of the NOA will be considered in the approval/disapproval decision on the amendment. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision.

A proposed rule to implement the amendment, including draft regulatory text, will also be published in the **Federal Register** for public comment.

Public comments on the proposed rule received before the end of the comment period provided in this NOA will be considered in the approval/disapproval decision on the amendment. All comments received by December 27, 2022, whether specifically directed to Amendment 23 to the Mackerel, Squid, and Butterfish FMP or the proposed rule for this amendment, will 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 the amendment. To be considered, comments must be received by close of business on the last day of the comment period.

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

Dated: October 19, 2022.

Jennifer M. Wallace,

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

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