

does not expect that squid/butterfish incidental catch permit holders will target *Illex* squid as result of the increase in the bycatch allowance. Rather, this measure will provide some positive economic benefit by allowing these incidental catch permit holders to retain more of the *Illex* squid taken as bycatch in other directed fisheries.

Butterfish

The FMP set OY for butterfish at 16,000 mt. Based on the most current stock assessment, the Council recommends, and NMFS proposes, an ABC of 7,200 mt for the 2004 fishery. This represents no change in the specifications since 1996. Commercial landings of butterfish have been low, at 1,964 mt, 2,116 mt, 1,432 mt, 4,373 mt and 841 mt for the 1998 through 2002 fisheries, respectively. Lack of market demand and the difficulty in locating schools of market-sized fish have constrained this fishery.

For the 2004 fishing year, the Council recommended, and NMFS proposes, an IOY for butterfish of 5,900 mt. The IOY is composed of a DAH of 5,900 mt and a bycatch TALFF that is equal to zero. The regulations found in § 648.20 authorize the specification of JVP or TALFF specifications for butterfish only for a bycatch TALFF specification if TALFF is specified for Atlantic mackerel. Because the Council did not recommend TALFF for Atlantic mackerel, TALFF for butterfish is set at zero.

Correcting Amendment

On December 11, 2000, NMFS published a final rule at 65 FR 77450 to implement management measures contained in the Atlantic Herring FMP. However, the final rule removed § 648.6 (a)(2), because the measures were thought to also pertain to Atlantic herring vessels and, therefore, were thought to be redundant with the Atlantic herring processing permit provisions specified at § 648.4(a)(10)(ii). The text previously codified at § 648.6 (a)(2) allowed any Atlantic mackerel vessel that exceeded the size or horsepower restrictions specified at § 648.4 (a)(5)(iii), to be issued an at-sea processor permit to receive over the side, possess and process Atlantic mackerel harvested in or from the Exclusive Economic Zone. However, this measure does not pertain to Atlantic herring vessels and is not redundant with the provision that was established under § 648.4(a)(10)(ii). Therefore, this rule would reinsert § 648.6 (a)(2), which was incorrectly removed on December 11, 2000.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, in section 3.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in the Preferred Alternatives or any of the alternatives considered for this action. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at <http://www.nero.noaa.gov>. A summary of the analysis follows:

The number of potential fishing vessels in the 2003 fisheries are 381 for *Loligo* squid/butterfish, 72 for *Illex* squid, 2,407 for Atlantic mackerel, and 2,119 vessels with incidental catch permits for squid/butterfish. All of the vessels are considered small entities. Many vessels participate in more than one of these fisheries; therefore, the numbers are not additive. The proposed DAH specifications of 170,000 mt for Atlantic mackerel, 24,000 mt for *Illex* squid, and 5,900 mt for butterfish represent no constraint on vessels in these fisheries. The level of landings in the proposed specifications for 2004 have not been achieved by vessels in these fisheries in recent years. Absent such a constraint, no impacts on revenues are expected as a result of the proposed action.

From 1998–2002, *Loligo* squid landings averaged 16,631 mt. If the 2004 proposed DAH specification of 17,000 mt for *Loligo* squid is achieved, there would be an increase in catch and revenue in the *Loligo* squid fishery relative to the average landings from 1998–2002. NMFS also proposes to increase the *Illex* squid catch limit for squid/butterfish incidental catch permit holders from 5,000 lb (2.27 mt) per trip to 10,000 lb (4.54 mt) per trip. This measure would provide some positive economic benefit by allowing these incidental catch permit holders to retain more of the *Illex* squid taken as bycatch in other directed fisheries. *Illex* squid is a high volume, low value species, which is taken offshore near the edge of the continental shelf during the summer. The species spoils rapidly, so either

freezing or refrigerated seawater equipment is necessary to hold the catch and deliver it shoreside in a marketable condition. Therefore, given the substantial capital investment required to prosecute this fishery, the Council does not expect that squid/butterfish incidental catch permit holders will target *Illex* squid as a result of the increase in the bycatch allowance. Since this measure is not expected to increase fishing effort in the *Illex* squid fishery, no overall change in revenue is expected.

One alternative considered for the Atlantic mackerel fishery was to specify the 2004 specifications at the same level as 2003. This option would set JVP at 10,000 mt. The Council rejected this option because of concerns it could negatively impact the potential for expansion of the shore-side processing sector of this industry in 2003. Preliminary 2003 commercial landings through June 2003, (30,347 mt) have exceeded the total landing for 2002 (26,192 mt) and are almost three times the average commercial landings for 1997–2001 (11,583 mt). The Council felt that specifying JVP at 10,000 mt was unnecessary and could result in negative economic and/or social impacts to the U.S. mackerel industry. Some or all of the vessel owners, crews, dealers, processors or fishing communities associated with the Atlantic mackerel fishery could be adversely affected by maintaining the 2003 annual specifications for Atlantic mackerel in 2004. Maintaining a JVP allocation of 5,000 mt allows JVP operations to continue at recent levels, as JVP landings in recent years have been less than 5,000 mt. A second alternative considered for Atlantic mackerel was to set ABC at the long-term potential catch (LTPC), or 134,000 mt. This alternative was found inconsistent with the status of the stock. The current adult stock was recently estimated to exceed 2.1 million mt. The specification of ABC at LTPC would effectively result in an exploitation rate of only about 6 percent, well below the optimal level of exploitation. The Council considered the level of foregone yield under this alternative unacceptable because population modeling of the Atlantic mackerel stock dynamics indicate that the safe level of removals from the current mackerel stock size is considerably higher than the level proposed under this alternative.

For *Loligo* squid, one alternative that was considered was to set the ABC, DAH, DAP, and IOY at 13,000 mt, or a 20.1-percent reduction from the 2002 level. If the 13,000-mt alternative was