issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BCD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must be recorded on any document accompanying the consignment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling.* The tag number of a BCD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by § 300.183, on any documents accompanying the consignment of Pacific bluefin tuna for domestic commercial use or export as indicated in § 300.185, and on any additional documents that accompany the consignment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse.* BCD tags issued under this section are separately numbered and may be used only once, one tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BCD tag and associated number may not be reused.

9. Section 300.188 is revised to read as follows:

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the consignment document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

10. In § 300.189, paragraphs (h) through (j), and (m) are revised and paragraph (n) is added to read as follows:

§ 300.189 Prohibitions.

* * * * *

(h) Validate consignment documents or re-export certificates without authorization as specified in § 300.187.

(i) Validate consignment documents or re-export certificates as provided for in § 300.187 with false information.

(j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BCD tag program before removal is allowed under § 300.187; fail to write the tag number on the shipping package or container as specified in § 300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BCD tag program, or any tag number previously written on a shipping package or container as prescribed by § 300.187.

(m) Fail to provide a validated consignment document for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to § 300.182 or whether the fish products are imported as an entry for consumption.

(n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, completed, approved, validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

CHAPTER VI

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

11. The authority citation for 50 CFR part 635, continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

§ 635.2 [Amended]

12. In § 635.2, the definition of ''Import'' is removed.

13. In § 635.5, paragraph (b)(2)(i)(B) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) *Bi-weekly reports.* Each dealer with a valid Atlantic tunas permit under § 635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

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[FR Doc. E8–7068 Filed 4–3–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071219865–7563–01]

RIN 0648–AP60

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 9 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Amendment 9 was developed by the Mid-Atlantic Fishery Management Council (Council) 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: Public comments must be received no later than 5 p.m., eastern standard time, on May 19, 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*.

You may submit comments, identified by RIN 0648–AP60, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal *http://www.regulations.gov;*
- Fax: (978) 281–9135, Attn: Carrie Nordeen;
- 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.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978- 281–9272, fax 978–281–9135.

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. Amendment 8 was only partially approved by NMFS because 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.

This rule proposes management measures that were recommended by the Council as part of Amendment 9. Specifically, this rule proposes measures that would: Allow for multi-year specifications for all four species managed under the FMP (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 science information; and prohibit bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons.

A Notice of Availability (NOA) for Amendment 9 was published on March 25, 2008. The comment period on the NOA ends on May 27, 2008.

Proposed Measures

The proposed regulations are based on the description of the measures in Amendment 9; NMFS seeks comments on all of the measures in Amendment 9.

Multi-Year Specifications and Management Measures for MSB

Regulations at § 648.21 specify that specifications for mackerel, *Illex*, and butterfish are recommended to the Council on an annual basis, and that specifications for *Loligo* may be specified for up to 3 years, subject to annual review. To streamline the administrative and regulatory process involved in setting specifications and management measures, Amendment 9 considered multi-year specifications for all four species: Mackerel, *Illex*, *Loligo*, and butterfish. Amendment 9 would not establish any specifications measures; rather it would affect the periodocity for specifying such regulatory measures through future Council actions. If the Council chose to propose multi-year specifications, Amendment 9 would require an annual review of updated information on the fishery by the MSB Monitoring Committee, as is the current practice, during the period of the multi-year specifications. The MSB Monitoring Committee would examine data collected from the fishery and resource surveys and would alert the Council of any changes, including those of stock status, that might require a revision to the specifications before the multi-year period elapses.

The proposed measure would allow for specifications and management measures for any or all of the four species in the FMP to be set for up to 3 years, subject to annual review. In the past, the specifications and management measures for MSB fisheries have remained fairly constant across years. This proposed measure would still enable the Council to respond to changes in stock status, in any given year, by modifying quotas or management measures. However, if changes were not necessary, the Council and NMFS would not have to recommend and implement annual specifications and management measures. Because this proposed measure is largely administrative, it is not anticipated that there will be effects on the environment. This proposed measure does have the potential to provide MSB fishery participants with an expanded planning horizon for harvesting and processing activities; therefore, it may have positive economic effects for MSB fishery participants.

Moratorium on Entry into the Illex Fishery

A fishery is considered overcapitalized when the harvest potential of the fishing fleet exceeds the harvest at optimum yield (OY). Amendment 9 considers the *Illex* fishery overcapitalized; therefore, this amendment considered alternatives that would limit the potential for increases in the harvest capacity of the large-scale, directed *Illex* fishery.

In order to prevent excess harvest capacity from developing in the large-scale, directed *Illex* fishery, a moratorium on new entry into this fishery was established in 1997. In the directed fishery, moratorium-permitted vessels are not subject to any daily *Illex* possession limit. As such, the maximum potential *Illex* landings for moratorium-permitted vessels are unlimited until 95 percent of the annual harvest quota has been achieved in any given year. Once 95 percent of the annual quota has been harvested, the possession limit for vessels with *Illex* moratorium permits becomes 10,000 lb (4.54 mt). The moratorium on new entry was initially scheduled to expire in 2002, but has been extended several times through framework actions. Currently, the moratorium is scheduled to expire in July 2009.

Throughout the year, a small-scale, incidental catch fishery for *Illex* is currently provided for through an open-access Federal permit that allows possession of up to 10,000 lb (4.54 mt) of *Illex* on a single trip. In addition to the 10,000–lb (4.54–mt) trip allowance for *Illex*, vessels in possession of this permit are also allowed to land 2,500 lb (1.13 mt) of *Loligo* squid and 2,500 lb (1.13 mt) of butterfish in a single trip. The Council has not proposed any modifications to this permit in Amendment 9.

Under the proposed *Illex* measure, the scheduled expiration of the moratorium would be eliminated. As such, new entry into the directed commercial fishery for *Illex* would be prohibited indefinitely. The transfer of moratorium permits from one participant to another would only be allowed through the transfer of ownership of a permitted vessel. Since its implementation in 1997, there has been a slight decline in the number of vessels issued an *Illex* moratorium permit in any given year, from a maximum of 77 in 1998, to 72 in 2003. Under the proposed action, the size of the directed *Illex* fleet could not expand beyond the number of permitted vessels in the year in which Amendment 9 is implemented, thereby preventing expansion in a fishery that is already overcapitalized and offering the greatest degree of protection to historic participants in the directed *Illex* fishery.

The proposed measure is anticipated to have economic benefits for historical participants already possessing *Illex* moratorium permits and the potential to negatively affect those wanting to become an *Illex* fishery participant in the future.

Biological Reference Points for Loligo

Regulations at § 600.315 state that conservation and management measures should be based upon the best scientific information available, and that FMPs should be amended on a timely basis, as new information indicates the necessity for change in objectives or management measures. Therefore, Amendment 9 considered revising the proxies for target and threshold fishing mortality rates, F_{Target} and $F_{Threshold}$, respectively, for *Loligo* to reflect the analytical advice provided by the most recent *Loligo* stock assessment review committee (SARC 34). While Amendment 9 considered revising the formulas and values for these reference points, the function of the reference points remains unchanged. F_{Target} is the basis for determining OY and $F_{Threshold}$ determines whether overfishing is occurring.

Because *Loligo* is a sub-annual species (i.e., has a lifespan of less than 1 year), the stock is solely dependent on sufficient recruitment year to year to prevent stock collapse. The status quo proxies for F_{Target} (75 percent of the fishing morality rate supporting maximum sustainable yield (F_{Max})) and $F_{Threshold}$ (F_{Max}) may be too liberal and subject the *Loligo* stock to overfishing. The revised proxies for F_{Target} and $F_{Threshold}$ proposed in this rule are fixed values based on average fishing mortality rates achieved during a time period when the stock biomass was fairly resilient (1987 - 2000). The revised proxies are calculated as follows: F_{Target} is the 75th percentile of fishing mortality rates during 1987 - 2000 and $F_{Threshold}$ is the average fishing mortality rates during the same period. The revised proxy for F_{Target} (0.32 or 0.24 for trimesters and quarters, respectively) would be used as the basis for establishing *Loligo* OY. However, it should be noted that it is currently not possible to accurately predict *Loligo* stock biomass because recruitment, which occurs throughout the year, is highly variable inter-annually and influenced by changing environmental conditions.

Biological reference points that ensure an adequate number of spawners produce adequate recruitment in the subsequent year are considered most appropriate for squid species. However, until such reference points can be reliably estimated for the *Loligo* stock, the revised reference points in Amendment 9 and proposed in this rule would serve as an intermediate step for calculating harvest levels that are more robust, with respect to stock sustainability, than status quo reference points.

Designation of EFH for Loligo Eggs

Amendment 9 considered designating EFH for *Loligo* eggs in order to bring the FMP into compliance with the Magnuson-Stevens Act requirement that FMPs describe and identify EFH for each life history stage of a managed species. The MSB FMP currently identifies and describes EFH for all life stages of MSB species for which information is available, with the exception of *Loligo* eggs. *Loligo* eggs are found attached to rocks and boulders on sand or mud bottom, as well as attached to aquatic vegetation in coastal and offshore bottom habitats from Georges Bank southward to Cape Hatteras. Generally, the following conditions exist where *Loligo* egg EFH is found: Bottom water temperatures between 10° C and 23° C; salinities of 30 to 32 ppt; and depths less than 50 m. Locations of fishery interactions with *Loligo* eggs are reported in Hatfield, E. M. C. and S. X. Cadrin. 2002. Geographic and temporal patterns in size and maturity of the longfin inshore squid (*Loligo pealeii*) off the northeastern United States. Fish. Bull. 100 (2): 200–213.

This action proposes to add the above description of EFH for *Loligo* eggs to the

FMP. Some Council members expressed concern that the proposed *Loligo* egg EFH areas are based on anecdotal information (i.e., interviews with fishermen). Also, they considered it likely that the proposed EFH areas are not constant, but instead shift from year to year. Nevertheless, the information on the locations of *Loligo* eggs provided in Hatfield and Cadrin (2002) is the best scientific information that is currently available. Additionally, EFH designations are meant to include habitat areas used in different years. Failure to designate EFH for *Loligo* eggs in Amendment 9 would be inconsistent with the EFH requirements of the Magnuson-Stevens Act.

To the degree that EFH is vulnerable to damage by fishing and/or non-fishing activities, management oversight of these activities in areas designated as EFH for a given life stage of any managed resource will allow for direct and indirect benefits for that resource. That oversight cannot occur, however, without first identifying the geographical locations of EFH. Amendment 9 identifies EFH for *Loligo* eggs based upon documented observations. By implementing this action, fishing and/or non-fishing activities would not be restricted. However, a requirement would be established whereby NMFS must be consulted to determine whether future Federal non-fishing activities would adversely impact *Loligo* egg EFH. Also, potential adverse impacts of MSB fisheries on *Loligo* egg EFH would have to be evaluated in a future management action. A range of habitat protection measures exist that could be implemented if protection of *Loligo* egg EFH is determined to be necessary. The common feature of these measures is that they conserve or enhance EFH. This could be accomplished by preventing or mitigating non-fishing activities in EFH areas or by reducing fishing effort, or restricting the use of certain gear types or configurations in those areas. Habitat protection provided by these actions would also be extended to other species and ecosystem functions that utilize or are affected by *Loligo* egg EFH.

Prohibition on Bottom Trawling to Reduce Gear Impacts on EFH by MSB Fisheries

Amendment 9 considered reducing gear impacts on EFH by MSB fisheries in order to bring the FMP into compliance with the Magnuson-Stevens Act requirements. The FMP currently lacks adequate analysis of the effects of MSB fisheries on EFH for federally managed species within the geographic scope of the MSB fisheries. Such an analysis has been conducted as part of Amendment 9, and the results indicate that actions could be taken that would reduce impacts to EFH for federally managed species related to the activities of the MSB fisheries by prohibiting bottom trawling by MSB-permitted vessels. The proposed action is not intended to minimize adverse impacts to EFH for *Loligo*, *Illex*, mackerel, or butterfish, since EFH for the pelagic life stages of these species was determined to be not vulnerable to the effects of fishing.

This action proposes to prohibit bottom trawling in Lydonia and Oceanographer Canyons by MSB-permitted vessels. MSB-permitted vessels transiting these canyons would need to stow all bottom trawl gear. While Lydonia and Oceanographer Canyons are only minimally used by vessels with bottom trawl gear, this action will prevent future expansion of MSB fisheries into these canyons. This prohibition was determined to be practicable by the Council and is similar to regulations associated with the New England Fishery Management Council's Monkfish FMP (i.e., vessels on a monkfish day-at-sea are prohibited from entering these canyons). Even though this action does not prohibit bottom trawling by other federally permitted vessels in Lydonia and Oceanographer Canyons, this prohibition would benefit habitat in these canyons by deceasing localized damage from bottom trawling. Decreased fishery interactions with the managed stocks, non-target species, and protected and endangered species in Lydonia and Oceanographer Canyons are also expected, and this would correspond to localized benefits to these resources. The areas affected by the proposed measure represent 3 percent of the total EFH for juvenile tilefish, but not more than 2 percent for any other species.

Short-term costs to fishery participants are related to the size of the area where bottom trawling would be prohibited and how frequently those areas are utilized by fishery participants (see IRFA for complete economic analysis). The prohibition of bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons is likely to have a minimal impact on revenues both for vessel owners and ports. Other restricted area alternatives considered by the Council would have provided greater habitat protection, but were not practicable because their potential economic impact would be higher.

Public comments are being solicited on Amendment 9 and its incorporated documents through the end of the comment period, May 27, 2008, stated in the NOA for Amendment 9 (73 FR 15716, March 25, 2008). Public comments on the proposed rule must be received by May 27, 2008, the end of the comment period specified in the NOA for 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 5 pm, eastern standard time, on the last day of the comment period.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, NMFS has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an FSEIS for Amendment 9; a notice of availability was published on March 28, 2008 (73 FR 16672). The FSEIS describes the impacts of the proposed Amendment 9 measures on the environment. The proposed measures that would allow for multi-year specifications and revised biological reference points for *Loligo* are largely administrative. However, they will provide for an expanded planning horizon for harvesting and processing activities and a fixed constant as a basis for the fishing target definition, respectively. The measure to designate EFH for *Loligo* eggs will not directly affect the environment, but it will allow future impacts to EFH for *Loligo* eggs to be identified and mitigated. Extending the moratorium on entry into the *Illex* fishery without a sunset provision and prohibiting bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons will have short-term, negative economic impacts, but are expected to have long-term benefits on the biological and physical environment.

The IRFA for this action is summarized below, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact 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 preamble of this rule. A summary of the IRFA follows:

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

There are no large entities participating in this fishery, as none grossed more than 4 million dollars annually, therefore, there are no disproportionate economic impacts on small entities. The proposed measures in Amendment 9 would affect all MSB-permitted vessels; however, many of the proposed measures (e.g., multi-year specifications, revised biological reference points for *Loligo*, designation of EFH for *Loligo* eggs) are not expected to have direct economic impacts. Section 6.5 (Human Communities) in Amendment 9 describes the number of vessels, key ports, and revenue information for each of the MSB fisheries; therefore, that information is not repeated here.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

As described previously, several of the proposed measures in Amendment 9 are not anticipated to have direct economic effects on MSB fisheries. Implementing multi-year specifications and management measures for all four managed species has the potential to provide MSB fishery participants with an expanded planning horizon for harvesting and processing activities. Therefore, it may have positive economic effects for MSB fishery participants when compared to the non-selected alternative of no action (annual specifications and management measures for mackerel, *Illex*, and butterfish; multi-year specifications and management measures for *Loligo*). This could lead to better business plans and ultimately greater economic benefits. Amendment 9 contained two alternatives that would have provided for multi-year specifications and management measures; the proposed action allows for multi-year specifications for up to 3 years, subject to annual review, and a non-selected alternative would have provided for multi-year specifications for up to 5 years, subject to annual review. The 3-year alternative was selected as the proposed action because management based on 3-year stock projections, rather than 5-year stock projections, is likely more appropriate for MSB species, given their relatively brief life spans, but it is difficult to assign a dollar value to this effect.

The proposed revisions to biological reference points (F_{Target} and $F_{Threshold}$) for *Loligo* are primiarily administrative and are not expected to have direct economic effects on fishery participants. Revising the reference points is consistent with Magnuson-Stevens Act requirements to use the best scientific information available, as compared to the non-selective alternative of no action (using status quo reference points for F_{Target} and FThreshold), but the economic impacts of the proposed action are difficult to predict. The revised reference points are not expected to result in an immediate change in the *Loligo* quota; the annual quota has been set at 17,000 mt each year since 2001. Consumer demand for *Loligo* will affect *Loligo* prices, which, in turn, will result in economic impacts on *Loligo* harvesters, processors, and consumers that are currently unquantifiable. To those consumers for whom *Loligo* is a desirable food item, increased availability of the resource, if it occurs, would be expected to provide a beneficial effect. If, on the other hand, the *Loligo* stock size decreases such that harvest costs increase, then *Loligo* prices would be expected to increase. Because the revised biological reference points are considered more robust, with respect to stock sustainability, than the status quo reference points, it is expected that there would be some long-term economic benefits associated with the revised reference points as compared to benefits associated with the status quo reference points.

Additionally, the proposed measure of designating EFH for *Loligo* eggs is not anticipated to have any direct economic effects on MSB participants, when compared to the non-selected alternative of not designating EFH for *Loligo* eggs. Designating EFH for *Loligo* eggs does not result in an immediate action that would restrict fishing or non-fishing activities. However, a requirement would be established whereby consultation with NMFS would be required for future Federal fishing and non-fishing activities that may adversely affect *Loligo* egg EFH. The proposed meaure has the potential to indirectly impact human communities if, at some point in the future, management actions are implemented in order to reduce fishing effort or decrease non-fishing impacts in those EFH areas. Because the specifics of any future actions are speculative at this point, it is unclear what the nature of the impacts on human communities, if any, would be. In the long term, however, protection of habitat needed by *Loligo* eggs is expected to improve the sustainability of the *Loligo* resource, and other managed resources that share those habitats, indirectly benefitting human communities dependent on those resources. An analysis of the likely impacts of specific future actions would be required prior to their implementation.

Amendment 9 contains two proposed measures that may have economic effects on MSB fisheries. The first of these proposed measures is extending the moratorium on entry into the *Illex* fishery, without a sunset provision. Because the present fleet is capable of harvesting in excess of the recent *Illex* quota of 24,000 mt, there is a clear need for a moratorium on entry into the fishery. International market reports suggesting that the world supplies of squid will be tight for several years and, therefore, prices are expected to be high, coupled with the fact that resource productivity is low to moderate, supports making the moratorium permanent. Unfortunately, the benefits and costs of the moratorium options cannot be easily analyzed. The available information suggests that, if the moratorium were terminated (a non-selected alternative) or were allowed to expire in 2009 (a non-selected alternative), and economic and resource conditions remain relatively unchanged from recent levels, there would not be any substantial increase in landings of *Illex* relative to the landings likely to occur, with or without a moratorium. If, however, economic conditions changed to promote increased activity on *Illex* as occurred in 2004, landings of *Illex* would increase. Moratorium alternatives offer protection against risk of an expanding fishery and risk of further depressing the resource. These options, however, do not appear to generate landings, revenue, or potential benefit streams any different that those levels most likely to occur with a removal of the moratorium (given current conditions). Moratorium alternatives (without a sunset provision (proposed action) or without a sunset provision, but allowing new entry through permit transfer (a non-selected alternative)) would impose some short-term costs in that they constrain expansion of the fishery, either until 2009 or permanently. That is, individuals desiring to enter the fishery would be

denied the potential revenues that might be realized if they could land more *Illex*, unless they purchased an *Illex* permitted vessel (proposed action) or an existing *Illex* permit (non-selected alternative). Failure to extend the moratorium could result in further overcapitalization of this sector of the fishing industry, which in turn could have negative economic consequences for the vessels and communities that depend upon the *Illex* resource. Extension of the *Illex* moratorium program would provide positive benefits to the communities that are dependent on the commercial *Illex* fishery. The primary ports and surrounding communities where *Illex* are landed would be the most affected by this action (see Section 6.5.1 of Amendment 9 for information on primary ports).

The second proposed measure in Amendment 9 that may have economic effects on MSB fisheries is prohibiting bottom trawling in Lydonia and Oceanographer Canyons by MSB-permitted vessels. The proposed action and non-selected alternatives prohibiting bottom trawling (either at the head of Hudson Canyon or in the tilefish habitat area of particular concern (HAPC)) would benefit habitat in the closed areas by decreasing localized damage from bottom trawling by MSB-permitted vessels as compared to the no action, non-selected alternative (no new areas closed to bottom trawling by MSB-permitted vessels). Decreased fishery interactions with the managed stocks, non-target species, and protected and endangered species are also expected to be associated with action alternatives, and this would correspond to localized benefits to these resources.

Short-term costs to fishery participants are related to the size of the closure area. Analyses of ex-vessel revenues from MSB-permitted bottom trawl vessels were conducted for 2001–2004. The results indicated that closing tilefish HAPC (non-selected alternative) to bottom otter trawling during that period would have reduced annual revenue from bottom otter trawling by 10 percent or more for about 162 MSB-permitted vessels. With regard to port impacts, ex-vessel revenues from MSB-permitted bottom trawling in the tilefish HAPC area represented large percentages of total revenues (30 - 50 percent) from Point Judith, RI; Point Pleasant, NJ; Montauk, NY; Point Lookout, NY; and Hampton Bays, NY. Closing the Head of Hudson Canyon (non-selected alternative) to bottom otter trawling in 2001–2004 would have reduced ex-vessel revenues by 10 percent or more for about 64 MSB-permitted bottom trawl vessels. Ports that would experience the greatest percentage of revenue loss consist of Belford, NJ (13.9 percent); Elizabeth, NJ (16.5 percent); Point Pleasant, NJ (33.6 percent); and Point Lookout, NY (46.6 percent). Geographical analysis of fishing effort reveals minimal use of bottom trawl gear in Lydonia and Oceanographer Canyons; therefore, the closure of Lydonia and Oceanographer Canyons (proposed action) would likely have minimal impacts on revenues both for vessel owners and ports.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 28, 2008.

James W. Balsiger,

Acting Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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. In § 648.4, paragraph (a)(5)(i) is revised to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(5) * * *

(i) *Loligo* squid/butterfish and *Illex* squid moratorium permits.

* * * * *

3. In § 648.14, paragraph (p)(12) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(p) * * *

(12) Enter or be in the areas described at § 648.23(a)(5).

* * * * *

4. In § 648.20, paragraph (b) is revised to read as follows:

§ 648.20 Maximum optimum yield.

* * * * *

(b) *Loligo* - the catch associated with a fishing mortality rate of $F_{Threshold}$.

* * * * *

5. In § 648.21, paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) are revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(a)* * *

(1) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Illex* squid, which, subject to annual review, may be specified for a period of up to 3 years;

(2) IOY, including RQ, DAH, DAP, and bycatch level of the total allowable level of foreign fishing (TALFF), if any, for butterfish, which, subject to annual review, may be specified for a period of up to 3 years;

(3) IOY, including RQ, DAH, DAP, joint venture processing (JVP), if any, and TALFF, if any, for mackerel, which, subject to annual review, may be specified for a period of up to 3 years. The Monitoring Committee may also recommend that certain ratios of TALFF, if any, for mackerel to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

(4) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Loligo* squid, which, subject to annual review, may be specified for a period of up to 3 years; and

* * * * *

6. In § 648.23, paragraph (a)(5) is added to read as follows:

§ 648.23 Gear restrictions.

(a) * * *

(5) *Mackerel, squid, and butterfish bottom trawling restricted areas*–(i) *Oceanographer Canyon*. No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this section. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. Lat.	W. Long.
OC1	40°10.0′	68°12.0′
OC2	40°24.0′	68°09.0′
OC3	40°24.0′	68°08.0′
OC4	40°10.0′	67°59.0′
OC1	40°10.0′	68°12.0′

(ii) *Lydonia Canyon*. No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed in accordance with the provisions of paragraph (b) of this

section. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON

Point	N. Lat.	W. Long.
LC1	40°16.0′	67°34.0′
LC2	40°16.0′	67°42.0′
LC3	40°20.0′	67°43.0′
LC4	40°27.0′	67°40.0′
LC5	40°27.0′	67°38.0′

LYDONIA CANYON—Continued

Point	N. Lat.	W. Long.
LC1	40°16.0′	67°34.0′

* * * * *

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