

opinion that a programmatic action will not violate section 7(a)(2) of the Act and where incidental take of listed species is reasonably certain to occur but where the amount or extent of anticipated take cannot be quantified because site-specific information regarding where, when and how listed species will be taken is not yet available.

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■ 3. Amend § 402.14 by revising paragraphs (i)(1)(i) and (i)(3), and by adding paragraph (i)(6) to read as follows:

§ 402.14 Formal consultation.

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(i) * * *

(1) * * *

(i) Specifies the impact, i.e., the amount or extent, of such incidental taking on the species. A surrogate (e.g., habitat or ecological conditions or similarly affected species) may be used to express the amount or extent of anticipated take provided that the incidental take statement describes the causal link between effects to the surrogate and take of the listed species, why it is not practical to express the amount or extent of anticipated take or to monitor take-related impacts in terms of individuals of the listed species, and sets a clear standard for determining when the level of anticipated take has been exceeded;

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(3) In order to monitor the impacts of incidental take, the Federal agency or any applicant must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement. When the Services use a surrogate to express the amount or extent of take, the Federal agency or applicant must monitor the surrogate to ensure that the action does not exceed the anticipated amount or extent of take.

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(6) A programmatic incidental take statement will be provided in a biological opinion for a programmatic action that is anticipated to cause incidental take. In such circumstances, the programmatic incidental take statement will include specific provisions as reasonable and prudent measures under paragraph (i)(1) of this section to minimize the impacts of take caused by the programmatic action and to serve as a trigger to reinstitute formal consultation on the programmatic action.

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Dated: August 6, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior.

Dated: August 21, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-BD40

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Annual Catch Limits and Accountability Measures

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

ACTION: Availability of proposed fishery management plan amendments; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council has submitted the Recreational Accountability Measures Omnibus Amendment incorporating a draft Environmental Assessment, for review by the Secretary of Commerce. NMFS is requesting comments from the public on the Recreational Accountability Measures Omnibus Amendment, which was developed by the Council to modify the accountability measures for the Atlantic mackerel, Atlantic bluefish, summer flounder, scup, and black sea bass recreational fisheries.

DATES: Public comments must be received on or before November 4, 2013.

ADDRESSES: A draft environmental assessment (EA) was prepared for the Recreational Accountability Measures (AM) Omnibus Amendment 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 the Recreational AM Omnibus Amendment, including the draft EA, are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council (Council), 800

North State Street, Suite 201, Dover, DE 19901. This document is also available online at <http://www.mafmc.org>.

You may submit comments on this document, identified NOAA-NMFS-2013-0108, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov / [#!docketDetail;D=NOAA-NMFS-2013-0108](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0108), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Fax:** (978) 281-9135, Attn: Comments on Recreational Omnibus Amendment, NOAA-NMFS-2013-0108.

- **Mail and Hand Delivery:** John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on Recreational Omnibus Amendment."

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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281-9218; fax: (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

In 2011, the Council adopted, and NMFS implemented, an Omnibus Annual Catch Limit (ACL) and AM Amendment to establish AMs for the commercial and recreational fisheries that catch Atlantic mackerel, butterfish, Atlantic bluefish, summer flounder, scup, black sea bass, golden tilefish, ocean quahog, and Atlantic surfclams. The AMs for the recreational fisheries included in-season closure authority for the Regional Administrator when landings were known to have reached the recreational harvest limit (RHL) and pound-for-pound payback of any overage. In 2012, the recreational black

sea bass fishery significantly exceeded its RHL. The pound-for-pound payback requirement would drastically limit the recreational black sea bass fishery in fishing year 2014. As a result, the Council decided to review the recreational fishery AMs to determine if a different approach to recreational accountability would be more appropriate. Specifically, the Council wanted to develop AMs that took into account the status of the stock and the biological consequences, if any, resulting from a recreational sector overage.

Proposed Measures

The Recreational AM Omnibus Amendment proposes measures intended to respond to concerns that in-season closure and a pound-for-pound payback are not the most effective AMs for the recreational fisheries. First, the Council considered modifying the annual catch target (ACT) process to more formally consider incorporating uncertainty in recreational catch estimates; however, the Amendment proposes to maintain the existing ACT process. Second, the Amendment proposes to remove the in-season closure authority for recreational fisheries. Third, the Amendment proposes to use the 3-year moving average of the lower bound of the confidence interval of the recreational catch estimate to determine if an ACL has been exceeded. Fourth, measures are proposed that would result in a

payback if (1) the stock is overfished (i.e., the most recent estimate of biomass (B) is below the threshold, or $B/B_{MSY} < \frac{1}{2}$), or under a rebuilding plan and the ACL was exceeded, or (2) if biomass is below the target, but above the threshold (i.e., $\frac{1}{2} < B/B_{MSY} < 1$) and the acceptable biological catch (ABC) is exceeded. Otherwise, adjustments to the management measures would be used as an AM. In addition, measures are being proposed that would scale the amount of any payback to the stock status. The scale would work such that for stocks that are below the biomass threshold or under a rebuilding plan, payback would be equal to the full amount of the overage; for stocks that are above the biomass target, there would be no payback, regardless of the size of the overage. Stocks for which the biomass is in between the threshold and the target would have a payback amount equal to the product of the difference between recreational catch and the ACL and the payback coefficient. The payback coefficient would be equal to the difference between the biomass estimate and the target divided by one-half the biomass target. Finally, the Council considered reevaluating the catch limits after the fact to determine if, based on updated information, those catch limits were still appropriate. However, the Council determined that the necessary information and resources to support that type of reevaluation does not currently exist.

Public comments on the Recreational AM Omnibus Amendment and its incorporated documents may be submitted through the end of the comment period stated in this notice of availability. A proposed rule to implement the Recreational AM Omnibus Amendment will be published in the **Federal Register** for public comment. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of the Recreational AM Omnibus Amendment to be considered in the approval/disapproval decision on the amendment. All comments received by November 4, 2013, whether specifically directed to the Recreational AM Omnibus Amendment or the proposed rule for the Recreational AM Omnibus Amendment, will be considered in the approval/disapproval decision on the Recreational AM Omnibus Amendment. Comments received after that date will not be considered in the decision to approve or disapprove the Recreational AM Omnibus 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: August 29, 2013.

Kelly Denit,

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

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