

§ 648.70

available to NMFS, the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded, or is projected to be exceeded, by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial projection in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch, overage, and projection that resulted in the closure.

(2) *If reliable information is not available to make a mid-year determination:* Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded by scallop vessels following the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch and overage information.

(f) [Reserved]

[76 FR 43770, July 21, 2011, as amended at 77 FR 20742, Apr. 6, 2012; 77 FR 26122, May 2, 2012; 78 FR 27108, May 9, 2013]

50 CFR Ch. VI (10–1–13 Edition)

Subpart E—Management Measures for the Atlantic Surf Clam and Ocean Quahog Fisheries

§ 648.70 Surfclam and ocean quahog Annual Catch Limit (ACL).

(a) The MAFMC staff shall recommend to the MAFMC ACLs for the surfclam and ocean quahog fisheries, which shall be equal to the ABCs recommended by the SSC.

(1) *Sectors.* The surfclam and ocean quahog ACLs will be established consistent with the guidelines contained in the Atlantic Surfclam and Ocean Quahog FMP. The ACL for ocean quahog will then be allocated to the Maine and non-Maine components of the fishery according to the allocation guidelines of the Atlantic Surfclam and Ocean Quahog FMP as specified in § 648.78(b).

(2) *Periodicity.* The surfclam and ocean quahog ACLs may be established on an annual basis for up to 3 years at a time, dependent on whether the SSC provides single or multiple year ABC recommendations.

(b) *Performance review.* The MAFMC staff shall conduct a detailed review of the fishery performance relative to the ACLs at least every 5 years.

(1) If the surfclam or the ocean quahog ACL is exceeded with a frequency greater than 25 percent (*i.e.*, more than once in 4 years or any 2 consecutive years), the MAFMC staff will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure the ACL is not exceeded as frequently.

(2) The MAFMC may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that a stock has become overfished.

(3) Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded, but may be conducted in conjunction with such reviews.

[76 FR 60622, Sept. 29, 2011]