Fishery Conservation and Management § 648.97

(ii) **ACL recommendations.** The Councils shall establish ACLs for each management area that are equivalent to the ABCs calculated using the control rule established in the FMP, and reviewed and recommended by the SSC.

(iii) **Timing.** If determined necessary under the annual review process, the Councils shall develop and approve any recommendations for ABCs and ACLs prior to December 31, to the extent possible. Once the Councils have approved the recommended ABCs and ACLs, only if they require adjustments to the ACTs described in paragraph (d) shall they be submitted to NMFS as part of an annual framework adjustment or in-season framework adjustment, as described in paragraphs (a) and (b) of this section, along with any necessary analysis required by applicable law. After receipt of the Councils’ recommendation for ACLs, NMFS shall review the Councils’ decision and, if consistent with applicable law, implement the ACLs in accordance with the Administrative Procedure Act.

(d) **Accountability Measures (AMs).**

(1) **Specification of ACTs.** Through the annual review process described in paragraph (a) of this section, or otherwise determined necessary, the Councils shall specify ACTs for each management area that are set sufficiently below the ACL to account for management uncertainty and prevent the ACL from being exceeded. The ACTs established for each management area shall be the basis for setting management measures (DAS and trip limits), after accounting for incidental catch in non-directed fisheries and discards in all fisheries.

(2) **ACL overages and adjustments.**

(i) **Council action.** The Councils shall revise the ACT for a monkfish stock if it is determined that the ACL was exceeded in any given year, based upon, but not limited to, available landings and discard information. The amount of an ACL overage shall be deducted from the ACT for the corresponding monkfish stock on a pound-for-pound basis. The revised ACT and corresponding management measures (DAS and trip limits) shall be implemented through either the annual or in-season framework adjustment process, specified in paragraphs (a) and (b) of this section, in the second fishing year following the fishing year in which the ACL overage occurred.

(ii) **NMFS action.** If the Councils fail to take appropriate action to correct an ACL overage consistent with paragraph (d)(1)(i) of this section, the Regional Administrator shall implement the required adjustment, as described in paragraph (d)(2)(i) of this section, including the specification of DAS and trip limits using a formulaic approach developed by the PDT, in accordance with the Administrative Procedure Act and other applicable law. Notification of the proposed ACL revision and DAS and/or trip limit adjustments shall be published in the Federal Register no later than January 1, if possible, for implementation on May 1 of the second fishing year following the fishing year in which the ACL overage occurred.

(e) **Emergency action.** Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(c) of the Magnuson-Stevens Act.

(76 FR 30274, May 25, 2011, as amended at 76 FR 81849, Dec. 29, 2011)

§ 648.97 Closed areas.

(a) **Oceanographer Canyon Closed Area.** No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Oceanographer Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, while on a monkfish DAS:

<table>
<thead>
<tr>
<th>Point</th>
<th>N. Lat.</th>
<th>W. Long.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) OC1</td>
<td>40°10'</td>
<td>68°12'</td>
</tr>
<tr>
<td>(2) OC2</td>
<td>40°24'</td>
<td>68°09'</td>
</tr>
<tr>
<td>(3) OC3</td>
<td>40°24'</td>
<td>68°08'</td>
</tr>
<tr>
<td>(4) OC4</td>
<td>40°15'</td>
<td>67°59'</td>
</tr>
<tr>
<td>(5) OC1</td>
<td>40°15'</td>
<td>68°12'</td>
</tr>
</tbody>
</table>

(b) **Lydonia Canyon Closed Area.** No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Lydonia Canyon Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, while on a monkfish DAS:
§ 648.100 Summer flounder Annual Catch Limit (ACL).

(a) The Summer Flounder Monitoring Committee shall recommend to the MAFMC separate ACLs for the commercial and recreational summer flounder fisheries, the sum total of which shall be equal to the ABC recommended by the SSC.

(1) Sector allocations. The commercial and recreational fishing sector ACLs will be established consistent with the allocation guidelines contained in the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP).

(2) Periodicity. The summer flounder commercial and recreational sector 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 Summer Flounder Monitoring Committee shall conduct a detailed review of fishery performance relative to the sector ACLs at least every 5 years.

(1) If one or both of the sector-specific ACLs is exceeded with a frequency greater than 25 percent (i.e., more than once in 4 years or any 2 consecutive years), the Summer Flounder Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are 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 the summer flounder 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.

[70 FR 21946, Apr. 28, 2005]

§ 648.101 Summer flounder Annual Catch Target (ACT).

(a) The Summer Flounder Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the commercial and recreational fishing sectors as part of the summer flounder specification process. The Summer Flounder Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

(1) Sectors. Commercial and recreational specific ACTs shall be less than or equal to the sector-specific ACLs. The Summer Flounder Monitoring Committee shall recommend any reduction in catch necessary to address sector-specific management uncertainty, consistent with paragraph (a) of this section.

(2) Periodicity. ACTs 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 Summer Flounder Monitoring Committee shall conduct a detailed review of fishery performance relative to ACTs in conjunction with any ACL performance review, as outlined in §648.100(b)(1) through (3).

[76 FR 60626, Sept. 29, 2011]

§ 648.102 Summer flounder specifications.

(a) Commercial quota, recreational landing limits, research set-asides, and other specification measures. The Summer Flounder Monitoring Committee

802