



Mid-Atlantic Fishery Management Council
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MEMORANDUM

Date: November 5, 2019
To: File
From: Jason Didden
Subject: October 29, 2019 Fishery Management Action Team (FMAT) Summary (*Illex*)

The FMAT for the *Illex* Permitting and Mackerel, Squid, Butterfish FMP Goals and Objectives Amendment met via webinar on October 29, 2019. FMAT participants included Jason Didden, Doug Christel, John Walden, Lisa Hendrickson, Ben Galuardi, and Don Frei.

Other participants who identified themselves included Aly Pitts, Ashleigh McCord, Aimee Ahles, Katie Almeida, Dan Farnham, Don Fox, Jeff Kaelin, Greg DiDomenico, Meghan Lapp, Jimmy Elliott, and Phillip Merris, Mike Roderick, and Ryan Clark.

The purpose of the call was to update the FMAT on recent Council action and plan/develop related options/analyses.

This summary follows the agenda for the call, which was made up of items 1-8 below.

1) Any suggestions on the updated Goals and Objectives?

Based on input from the MSB Committee, MSB Advisory Panel, and October 2019 Council Meeting, Council staff reviewed potential revised draft Goals and Objectives with the FMAT. The issue of minimizing harvesting conflicts seemed contained within Objective 2.3 below and was deleted. The FMAT suggested several other clarifications, resulting in the updated draft Goals and Objectives below. The FMAT wanted to highlight that objectives 2.4 and 3.3 are suggested new additions compared to the October 2019 briefing materials (http://www.mafmc.org/s/Tab04_Illex-Amendment_2019-10.pdf). With “Goal 2,” the FMAT recommended adding “net” before benefit to highlight that costs and benefits should be considered during decision-making – the start of Goal 2 highlights however that calculating net benefits can be challenging.

Goal 1: Maintain sustainable MSB stocks.

- Objective 1.1: Prevent overfishing and maintain sustainable biomass levels that achieve optimum yield in the MSB fisheries.
- Objective 1.2: Consider and, to the extent practicable, account for the roles of MSB species/fisheries in the ecosystem.

Goal 2: Acknowledging the difficulty in quantifying all costs and benefits, achieve the greatest overall net benefit to the Nation, balancing the needs and priorities of different user groups and effects of management on fishing communities.

- Objective 2.1: Provide the greatest degree of freedom and flexibility to harvesters and processors (including shoreside infrastructure) of MSB resources consistent with attainment of the other objectives of this FMP, including minimizing additional restrictions.
- Objective 2.2: Allow opportunities for commercial and recreational MSB fishing, considering the opportunistic nature of the fisheries, changes in availability that may result from changes in climate and other factors, and the need for operational flexibility.
- Objective 2.3: Consider and strive to balance the social and economic needs of various sectors of the MSB fisheries (commercial including shoreside infrastructure and recreational) as well as other fisheries or concerns that may be ecologically linked to MSB fisheries.

-Objective 2.4: Investigate opportunities to access international/shared quotas of MSB species.

Goal 3: Support science, monitoring, and data collection to enhance effective management of MSB fisheries.

- Objective 3.1: Improve data collection to better understand the status of MSB stocks, the role of MSB species in the ecosystem, and the biological, ecological, and socioeconomic impacts of management measures, including impacts to other fisheries.
- Objective 3.2: Promote opportunities for industry collaboration on research.

-Objective 3.3: Encourage research that may lead to practicable opportunities to further reduce bycatch in the MSB fisheries.

2) Discussion about the *Illex* problems the Council has identified so far: Are the issues listed to date a sufficient basis for action? Also related, 3) Besides continuing to highlight that shrinking the fleet is unlikely to totally resolve the race to fish issue, and that even any slowing of additional entrants/racing to fish is likely to be a short-term effect, are there other key considerations we should flag to the Council?

Staff summarized the Council's reasons for initiating this action and the MSA's requirement that economic allocation cannot be the sole purpose of any action. Staff noted that a quick review of relevant case law suggests that actions were upheld when Councils considered and integrated factors other than economic allocation during the development of an action, but found actions to be out of compliance with the MSA when economic allocation was the sole purpose for an action. Staff also noted the rationale discussed by the Committee regarding the effects of activation of latent effort that was included in the October 2019 Council meeting briefing materials, including the following:

- Difficulty of timely closures with more vessels participating.
- Potential for racing to fish to lead to increased bycatch (bycatch has not been an issue for *Illex* through 2016 when discards were last examined – updated data will be examined during development of the action).
- Potential for racing to fish to lead to safety issues (weather, maintenance, overloading).
- Disruptive early closures; loss of quota access for vessels with historical dependence on *Illex* as well as associated fishing community impacts.
- Catching the quota earlier in the year may mean more, potentially less valuable, small/immature squid are caught before they have an opportunity to spawn.

FMAT members discussed this rationale and encouraged a more discrete problem statement to make it clear from a purpose and need perspective that economic allocation is not the sole purpose of this action, otherwise the action will just be about excluding one group of people and giving the quota to another group so that they can stretch the quota out over the year. The Council needs to be clearer about what the purposes are for this action beyond economic allocation.

Part of Council consideration regarding any requalification option should be the ability of the remaining fleet to harvest optimum yield on an ongoing basis. The Council also needs to consider the impacts on fishing communities related to those who have a longer dependence on this resource versus others who have more recently become dependent on the resource.

The FMAT continues to note that individual fishing quotas (transferable or not) will more effectively solve the race to fish given that after permit requalification, the remaining participants can still race to fish if the quota is the only limiting factor. The FMAT noted that the ability to race to fish may depend on vessel processor type (freezer, RSW, fresh/ice). While effort controls are often used in squid fisheries (e.g. https://www.fishsource.org/fishery_page/5785), the FMAT acknowledges they may not be appropriate for *Illex* given the variable availability that can occur.

Public Comments on Items 1-3

There was a request for clarification regarding the addition of the term “net” in Goal 2 and evaluating tradeoffs. Staff explained that the idea is to account for and weigh the plusses and minuses of any decision (including the *Illex* permit question).

There was a request for clarification about whether resolving conflict among harvesters was taken out of the goals and objectives. Upon further review, this question was not fully resolved at the October Council meeting, but left open for further discussion and FMAT input. See above for recommendation. A follow up requested clarification of what is intended by balancing needs of MSB fisheries and other fisheries or concerns that are ecologically linked to MSB fisheries. Staff noted that different Council members may likely interpret this differently over time depending on the topic at hand.

There was a request for acknowledgement of a control date as a known and accepted fisheries management tool. Staff noted that the discussion on this call was that regardless of using or not using a control date (either of which may be justifiable), economic allocation can not be the sole purpose of any management measure.

There was support for the Council clarifying its problem statement.

There was comment that there could be a variety of mechanisms to ensure effective closure of the quota rather than just eliminating participants.

There were comments that avoiding overcapitalization of the fleet and matching capacity to the quota should be part of the rationale for this action and that the consequences of overcapitalization in other fisheries in the region (e.g. groundfish) should also be considered.

- 4) What analyses are appropriate to describe the dependence on Illex for re-qualifying and non-re-qualifying vessels? I was thinking percent dependence on Illex as a proportion of revenues for combined totals over 2014-2016 (three low catch years) and 2017-2019 (three high catch years).
- 5) To satisfy the MSA requirement to consider “capability of fishing vessels used in the fishery to engage in other fisheries” would it make sense to describe the GARFO permits currently held by qualifiers and non-qualifiers?

It would be more descriptive to describe all sources of revenue for vessels rather than just the percent of revenues from *Illex*.

Will need to add community descriptions – where are the *Illex* being landed. Could either look at trends in landings by port or look at vessels and their home or principal ports. Council staff will follow up with J. Walden on descriptive options.

GARFO is going to attempt to describe the other permits (besides *Illex* Moratorium) that are currently held by re-qualifying and non-re-qualifying vessels under the different requalification criteria.

Public Comments on Items 4-5

There was a question why the descriptive analyses focused on dates after the 2013 control date. Staff responded that analyses generally describe impacts compared to recent performance, and the years 2017-2019 and 2014-2016 made up 2 three-year periods describing some high and low performance years for *Illex*.

There was a request to include a longer time frame where price wasn't so high and analysis of how often/consistently vessels and/or ports participated in terms of describing dependence. Staff discussed including 2011-2013 as well to cover a longer timeframe and some medium landings years as well as looking at consistency of revenue. Staff will explore an analysis such as what percent of participants in each group had at least X% of their revenue in at least Y% of the years.

There was a comment that the Council should consider information about investments, including shoreside investments. FMAT members noted they do not have information on investments. Council staff noted that the Advisory Panel process is one option where participants can communicate investment information to the Council.

6) Initial thoughts on the request by the Council for an option that creates a secondary tier for those who entered after the control date.

There was FMAT discussion that previous development of this issue had included other Tier options for non-requalifiers generally, not just more recent entrants. After the call, staff reviewed the motion and materials for the October 2019 Council meeting:

The motion from the Council meeting re: Tiers was: “Move to direct the staff and FMAT to develop a tiered approach.” This motion related to Committee discussions and the following excerpt from the October 2019 Council Meeting briefing materials (http://www.mafmc.org/s/Tab04_Illex-Amendment_2019-10.pdf - p7 first memo):

In what direction would the Council like the FMAT to work on in terms of accommodations for non-requalifiers? Based on the overall discussion at the MSB-COM meeting, staff proposes the following structure:

- 2 “standard” options for non-requalifiers for further development: the current open access permit and trip limit (10,000 pounds) or a new permit (“Tier 3”) with a trip limit of 20,000 pounds to acknowledge their original qualification (similar to approach with longfin squid).
- Another permit level (Tier 2), that could be combined with the 2 “standard” options above, where permits that don’t requalify but have some higher level of recent participation would get a higher level of access than the above “standard” options to acknowledge their present participation. This may principally apply if the 2013 control date is used. Trip limit and/or sub-quota percent limitations (like Atlantic mackerel Tier 3) could be developed by the FMAT.

Staff is going to draft a strawman tier option for further evaluation by the FMAT and then the Committee/Council. The FMAT discussed that the restrictions placed on each Tier (e.g. quota split) is a key aspect for Tier development. The FMAT noted that determining what any Tier “needs” may be impossible, and some other metric, like landings history is likely a more viable option. Discussion noted that Tiering may impact catch per unit of effort (CPUE) calculations and may complicate assessment-related efforts. An *Illex* stock assessment will require the use of CPUE data if it is to become an in-season assessment with in-season management. Because there are currently no regulations limiting effort or catch per vessel, CPUE can be considered for use as a relative abundance metric in an assessment. However, creating tier systems that will add catch limits for specific permit tiers will impact the use of CPUE data. The FMAT will highlight potential assessment-related concerns based on the design of any proposed Tiering system.

Public Comments on Item 6

There was a question whether the focus on recent entrants was indicated by the Council in October 2019. Staff noted they would review the meeting audio. While the motion and discussion did not indicate a specific direction for Tiers, the focus on recent entrants is consistent with the approach that was proposed in the briefing book for the October 2019 meeting. The Council will be able to build on (or reject) any strawman Tier option developed by the FMAT.

7) Additional thoughts re: “other alternative sets”

- 7a. Reporting
- 7b. Hold Baseline
- 7c. Directed fishing start date (E.g. May 15, June 1, etc.)
 - 7ci. Monthly prices
 - 7cii. Monthly bycatch
 - 7ciii. Additional *Illex* incidental provisions
 - 7civ. Use of a start date related to a pre-season survey and depletion-type model

In October 2019, the Council supported initial development of alternatives that could: clarify that daily VMS catch reporting is required, establish a vessel hold baseline, and establish a start date for the fishery.

The FMAT discussed that tow-based reporting would increase the ability to assess *Illex* through LPUE/depletion-type approaches. Getting information on processing-type for vessels would be necessary for this type of assessment. The FMAT will further develop what alternatives for these issues might look like and discuss at a future meeting. There was concern that any potential measures did not duplicate or conflict with ongoing efforts of the *Illex* working group, and any measures should be consistent with the results of the *Illex* working group. Consideration of reporting changes may not align with the timing of this action and the timing of the *Illex* working group.

The request for a start date option originated with parts of industry that are concerned about early landings extracting large numbers of small squid. The FMAT discussed reviewing monthly price and bycatch information to determine the potential usefulness of a May or June start-date for this fishery. Staff will also review average size information since size and maturity were factors cited for the initial suggestion of a revised fishery start date. Until that information is developed it is difficult to see what options the data might suggest for a revised start date. This issue was also considered during a previous assessment – staff will review. Council staff will also attempt to locate the rationale for the Canadian June 1 start date. Determining the appropriateness of a start date may depend on age and growth information, which may indicate that more time and analyses are required for this issue (i.e. it might be more appropriate for a future action). Subsequent FMAT discussion also noted that a fishery start date would be necessary if a pre-season survey is to be conducted in order to obtain an estimate of pre-fishery “stock” size for any type of in-season depletion-type model.

The FMAT discussed the Council’s request for development of a vessel hold baseline and upgrade restriction, similar to what was done for mackerel (Amendment 11). GARFO staff noted concerns with enforcing the upgrade restrictions – they don’t have anyone to inspect fish holds. GARFO staff noted that NAFO has provisions for annual review and enforcement of fish hold requirements. GARFO also noted that the Council needs to be clear about its goals for this alternative in terms of what it’s trying to achieve. Council staff will retrieve the language used for mackerel, and GARFO staff will summarize NAFO provisions for enforceability. Center staff also noted that

while you might have some impact on capacity utilization by regulating fish hold, there are many factors that can affect capacity use.

Public Comments on Item 7

There was comment that the vessel hold baseline is seen as part of the effort to match capacity with quota and seen as a crucial component of this action.

There was comment that a decision on a hold baseline needed to take into account what was going to happen with the requalification. The interaction of the cumulative effects would need to be considered.

There was comment that analysis needs to consider unintended consequences of measures like the hold baseline and start date.

There was comment opposing adding mandatory tow-based data collection to this action, instead first seeing what develops out of the ongoing *Illex* working group and related industry and other collaborative efforts.

8) Timeline/Action Plan adjustments (current with some edits is attached)

Staff distributed an adjusted timeline to the FMAT, and will update on the website. GARFO staff noted that the updated timeline is still ambitious.