



Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201, Dover, DE 19901
Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org
Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: *DRAFT (May be modified before Council Meeting)*
To: Council
From: Jason Didden, staff
Subject: September 12, 2019 MSB-COM Meeting Summary; *Illex* Permitting and MSB Goals and Objectives Amendment

1. Introduction

The goal for the Council meeting regarding this action is to review the Atlantic Mackerel, Squid, and Butterfish Committee's (MSB-COM) recommendations and to provide direction on Amendment development.

The MSB-COM met on September 12, 2019 to review and develop options for modifying access to the *Illex* squid fishery as well as for revising the MSB Fishery Management Plan's (FMP) Goals and Objectives. A recording is available at: <http://mafmc.adobeconnect.com/pd61pmxhvah0/>.

MSB-COM members in attendance included Peter Hughes (Chair), Sara Winslow (Vice-Chair), Sonny Gwin, Laurie Nolan, Joe Cimino, Stew Michels, Adam Nowalsky, Peter deFur, Andy Shiels, and Eric Reid. Mike Luisi, the Council Chair also attended.

Other attendees included: Jason Didden, Tara Froehlich, Dan Farnham, Brendan Mitchell, Chris Lee, Aimee Ahles, Katie Almeida, Chuck Weimar, Greg DiDomenico, Deirdre Boelke, Jeff Reichle, Jeff Kaelin, Meade Amory, Gerry O'Neil, Doug Christel, Aly Pitts, Meghan Lapp, and Pam Lyons Gromen.

Jason Didden of Council staff provided an overview of the MSB-COM meeting objectives, which were 1) To identify problem statements to address and the goals to achieve through this action, and 2) To review and develop initial alternatives in order to provide direction to the Fishery Management Action Team (FMAT) for this action, as well facilitating input from the MSB Advisory Panel (AP) at its September 23, 2019 meeting. A summary of that AP meeting will also be included in the briefing materials for the October 2019 Council Meeting.

The meeting started with the Goals and Objectives component and then addressed the *Illex* permitting component. Each component began with a discussion of the problem statement and goals addressed by this action, and then proceeded into discussion of alternatives.

2. MSB FMP Goals and Objectives Component

2A. Problem and this action's goal regarding MSB FMP Goals and Objectives

The “problem” is that there have been no revisions in a long time, and the “goal” is to make sure that the FMP Goals and Objectives are aligned with the Council’s current priorities and Strategic Plan.

Council action: Is the “problem” and “goal” for this component described correctly?

2B. Alternatives regarding MSB FMP Goals and Objectives

Council staff reviewed the goals and objectives of the current FMP and those recently developed by the Council for chub mackerel’s addition to the FMP. The Council previously indicated that staff should develop a single set of merged goals and objectives that can have call-outs for particular species (i.e. chub mackerel) if appropriate.

The draft unified goals and objectives provided in briefing materials to the MSB-COM are provided below, and some possible additions/changes are noted based on discussions by the MSB-COM. **Solid underlined, bold, italicized** font indicates a change the MSB-COM thought should be made, and a **dotted underline with bold italicized** font indicates a possible change for further consideration.

- *Goal 1: Maintain sustainable MSB stocks.*
 - *Objective 1.1: Prevent overfishing and achieve and maintain sustainable biomass levels that achieve optimum yield in the MSB fisheries, with specific consideration of meeting the needs of **chub mackerel** predators.*
 - *Objective 1.2: Consider **and strive** to account for, to the extent practicable, the role of MSB species **and fisheries** in the ecosystem, including roles as prey, predator, and food for humans.*
- *Goal 2: Achieve the greatest overall 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 these resources consistent with the 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: Minimize harvesting conflicts among fishermen.*
 - *Objective 2.4: Balance social and economic needs of various sectors of the **chub mackerel MSB** fisheries (e.g., commercial, recreational, regional) and other fisheries, including recreational fisheries for highly migratory 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.

There was concern voiced about the ability to quantify MSB species' roles in the ecosystem given the similar difficulties previously discussed for just chub mackerel. Specifically, does including Objective 1.2 set the Council up for failure? Staff noted the relevant objective (1.2) states this is to be done "to the extent practicable," and that for butterfish there actually is already a direct and quantifiable integration of ecosystem considerations via the chosen fishing mortality target. An alternative was not proposed, and additional discussion including preliminary NMFS legal input noted that goals and objectives can be qualitative and something to strive for.

There was also discussion about whether the call-outs for chub mackerel (see highlighted instances above) were necessary or whether more generic language could be used. The MSB-COM identified one potential change from chub mackerel to MSB more generally, noted above.

Public comment supported additional focus on fishing communities (including processors) in the goals and objectives given the investments that must be made in terms of vessels and shore-side infrastructure for MSB fisheries, especially given the dependence on MSB species for specific communities. There was also a request for recirculation of a list of goals/objectives that had been sent to staff previously from a group of Advisory Panel members (Greg DiDomenico, Jeff Kaelin, Katie Almeida, and Meghan Lapp) who were concerned that the overall MSB goals and objectives "not be based upon what was done for the Chub Mackerel amendment." That list is included below:

1. Maintain sustainable stocks, prevent overfishing, and achieve and maintain sustainable biomass levels that achieve optimum yield in the fisheries and meet predator needs, while acknowledging environmental variables and drivers.
2. Maintain viable fisheries and fishing communities.
3. Allow opportunities for commercial and recreational 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.
4. Provide the greatest degree of freedom and flexibility to all harvesters of these resources consistent with the attainment of the other objectives of this FMP.
5. Increase understanding of the conditions of the stocks and fisheries and promote opportunities for industry collaboration on research.
6. Maximize US fishing opportunities by making extra quota available to the US fishery if other areas outside our jurisdiction under harvest scientifically developed quota on the same cross- border stocks, in absence of international agreement.

There was also public comment supporting the added ecological considerations, and requested that the impact of fisheries on the ecosystem be specifically included given the Council's Strategic Plan (possible edit noted). There was also a question about whether other FMPs in other Councils were considered. Staff responded that they were not; staff used the outline of the

chub mackerel goals and objectives given the Council had recently and extensively considered the chub mackerel goals and objectives. Public comment also noted that ecosystem considerations are already addressed when the Scientific and Statistical Committee (SSC) sets Acceptable Biological Catches (ABCs).

Council action: Are the above unified goals and objectives appropriate? Are any modifications warranted? What is the Council's preference regarding the noted potential edits?

3. Illex Permitting Component

3A. Problem(s) and this action's goal regarding *Illex* Permitting

Staff summarized previous FMAT input regarding the *Illex* Permitting issue (<http://www.mafmc.org/s/Illex-FMAT.pdf>) and the way the recent longfin squid permitting amendment addressed “problems” and “goals.” Staff noted that the Magnuson-Stevens Act (MSA) prohibits measures that have “economic allocation” as their sole purpose.

The “problems” from the status quo situation discussed (by the MSB-COM and/or the public) during the meeting included (and will be developed further – there was not consensus):

- Difficulty of timely closures with higher levels of vessels start 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 – 2017 and 2018/19 data will be examined during development of the action).
- Potential for racing to fish to lead to safety issues (weather, maintenance, overloading).
- Loss of quota access for vessels with historical dependence on *Illex* as well as associated fishing community impacts.
- Disruptive early closures; catching the quota early in the year may mean more, but less valuable, small squid are caught.
- Activation of previously latent permits may exacerbate racing to fish (public comment noted several large vessels are being built to participate in the *Illex* fishery).

The “goal” of the Amendment related to the *Illex* permit component would therefore be to consider further limiting access to the *Illex* fishery and consider the appropriate number of vessels and types of access that could address the above problems. The FMAT has noted before that a permit requalification is unlikely to completely and/or permanently solve racing to fish issues, since the remaining vessels often have incentives to increase their fishing power over time.

Council action: As they are being further refined, does the Council have any additional input on the “problems” and “goals” for this component?

3B. Alternatives regarding *Illex* Permitting

The MSB-COM discussed that given the nature of the *Illex* fishery (high variability), days at sea/ trip limits/ area closures are not practical solutions to racing to fish. The MSB-COM also passed a motion that it believes Individual Transferable Quotas (ITQs) are not appropriate at this time (Note: “ITQ” was discussed to include similar types of measures):

*-I move that the Committee recommend that ITQs not be included in this Amendment.
Nolan/deFur, Motion passes via Consensus (Motion from Committee, Council action needed)*

Public comment was mostly, but not universally, opposed to ITQs as well, partly to avoid delays with implementing this action given the additional requirements for ITQs. There was public interest in considering community development quotas or other community support measures should the Council pursue ITQs in the future.

A discussion regarding the control date (Aug 2, 2013) noted that the Council can use (or not use) the control date. The primary purpose of a control date is to notify the public that access to the fishery may change in the future, and to discourage speculative entry/investment for those who were not active before the control date. Analyses to date have used the full year of 2013 data, in a similar fashion as the longfin squid permit amendment. There was public comment for using the control date and for not using the control date, as well as potentially considering a separate permit for vessels that had substantial landings since 2013 but would not qualify if a control date was used.

Staff reviewed a set of possible requalification criteria and previous FMAT recommendations (which were general in nature – see <http://www.mafmc.org/s/Illex-FMAT.pdf>). There was substantial discussion by the MSB-COM and public regarding the pros and cons of various options relative to both qualifying years and landings thresholds. Based on that discussion, the MSB-COM requested further information regarding several permit requalification options (varying time periods and thresholds). Those options and the numbers of qualifying moratorium permits for each option are provided in Table 1 below. If this range appears suitable to the Council, the FMAT will develop impact analyses for the various options. There are options that both use and do not use the 2013 control date. There was a request for additional information about how many vessels have participated at higher poundage thresholds, and staff is investigating whether doing so would violate data confidentiality requirements. Much of the conversation centered on whether recent entrants would endanger the viability of historical participants, and the consideration of the investments in the fishery by various participants at various times.

The MSB-COM did discuss and pass two motions on several particular options as not warranting further development. There was public comment on each side (pro/con) of these motions.

-I move to recommend removing all the options that use a 10,000-pound single trip threshold (under any time period). Nolan/Gwin, 5/3 Motion Passes (Motion from Committee, Council action needed)

-I move that the Committee recommend removal of qualification dates that extend through 2019. Nolan/Gwin, 6/1/1 Motion Passes (Motion from Committee, Council action needed)

The prevailing rationale for the first was that a 10,000-pound trip is the incidental trip limit, and a single 10,000-pound trip would not signify substantial directed effort. There was a question by a MSB-COM member attempting to explore how different the 10,000-pound single trip criteria was from the option that is currently set as a 48,000-pound single trip criteria. Depending on the time periods selected, it appears that about 4-6 vessels are affected by using the 48,000-pound version versus the 10,000-pound version (staff compared Table 1 below to Table 1 in the September MSC-COM meeting briefing memo). Upon request to estimate based on related analyses, staff estimated that most vessels that would qualify under a 10,000-pound single trip criteria are also the same vessels that would qualify under a 50,000 pound best year total criteria. Staff will confirm this in later follow-up analyses of permit crossover between these options. Discussion also noted that impacts from not requalifying may be mitigated by additional lower-level tiered access for non-requalifiers.

The prevailing rationale for the second motion (regarding 2019) was that the main point behind requalification is to avoid a substantial new/recent influx of effort, and extending the qualification date through 2019 would be contrary to the goals of the action. The Amendment was also well underway before the start of the 2019 fishing year, with scoping taking place in February-April 2019. Council and GARFO staff had a discussion regarding whether certain technical economic analyses would need to consider impacts on non-requalifying vessels based on their landings through 2019, but this was a separate question from whether having options that considered landings through 2019 would be necessary to appropriately consider “present participation in the fishery” as required by the MSA. GARFO staff noted (and Council staff agrees) that qualifying criteria for limited access do not typically include partial in-year data, and that including qualifying landings through 2018 (and related analyses) should satisfy the MSA requirements to consider “present participation in the fishery.”

It was not clear whether the MSB-COM definitely wanted further development of a 2004-2013 time period option, but GARFO staff was able to include it in the preliminary requalifier analysis.

There was substantial discussion by the MSB-COM and public about whether there should be provisions for non-requalifying vessels. There was some interest in provisions for non-requalifying vessels, but concern that if such provisions were liberal enough then non-requalifying vessels may be able to continue fishing as if they had requalified, undermining the goals of the action. Concern was voiced by the public that for non-requalifiers, trip limits could be wasteful, but also that percentage sub-quotas may be challenging to monitor/enforce. Discussion was not clear whether these provisions would apply universally to all non-

requalifiers, or only non-requalifiers who also had substantial landings after the 2013 control date. This issue was left unfinalized, with a general request for staff to develop related options. Additional direction on this topic would be useful, especially which time periods are of most concern in terms of possible non-requalifier accommodation.

Staff notes that under most of the thresholds (see Table 1 below), including landings from 1997-2018 versus 1997-2013 adds 5-8 vessels due to more recent landings. Comparisons also indicate that starting in 2004 versus 1997 removes 3-6 vessels (depending on the threshold) that were apparently active between 1997-2003 but not between 2004-2013.

One potential option for requalification that was mentioned but not substantially discussed was to consider only years with low landings, to emphasize dependence.

After considering public input, the MSB-COM endorsed by consensus a range of qualifying years and thresholds as described in Table 1 below, though again it was not clear if the 2004-2013 time period was part of that consensus or not.

Council actions:

Are the requalification options summarized in Table 1 the options the Council would like the FMAT to continue analysis on at this time? Are any additions or modifications appropriate? Can any be eliminated to simplify analyses?

In what direction would the Council like the FMAT to work on in terms of accommodations for non-requalifiers? Based on staff's sense of 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 trip limit (10,000 pounds) or a new permit with a trip limit of 20,000 pounds to acknowledge their original qualification.

-Another permit level, 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 standard (10,000-20,000 pounds) options, to acknowledge their present participation. This may principally apply if the control date is used. Trip limit and/or sub-quota percent limitations (like Atlantic mackerel Tier 3) could be developed by the FMAT.

Table 1. Requalification Options the MSB-COM Expressed Interest In for Further Development

Note: All re-qualifier estimates preliminary.		More re-qualifiers 						Less re-qualifiers
<i>Percent in parentheses is percent reduction of MRIs</i>	76 <i>Illex</i> Moratorium MRIs⁽¹⁾ currently (Unlimited trip limit when fishery is open)	At least 50,000 pounds in any one year	At least 100,000 pounds in any one year	At least one trip above 48,000 pounds⁽²⁾	At least 300,000 pounds in any one year	At least 500,000 pounds in any one year	At least 1,000,000 pounds in any one year	Only requalify MRIs that accounted for 95% of total landings in time period⁽³⁾
More re-qualifiers	1997-2018	50 (-34%)	48 (-37%)	48 (-37%)	44 (-42%)	41 (-46%)	30 (-61%)	24 (-68%)
	1997-2013	43 (-43%)	42 (-45%)	40 (-47%)	38 (-50%)	35 (-54%)	28 (-63%)	24 (-68%)
	2004-2013	39 (-49%)	38 (-50%)	36 (-53%)	35 (-54%)	31 (-59%)	22 (-71%)	21 (-72%)
Less re-qualifiers	Need landings in both 1997-2013 and 2014-2018	26 (-66%)	26 (-66%)	25 (-67%)	23 (-70%)	17 (-78%)	13 (-83%)	13 (-83%)
<p>(1) A Moratorium Rights Identifier (MRI) is a unique NMFS-issued number that identifies a unique permit history, and may move between vessels over time.</p> <p>(2) 48,000 pounds is the trip size (rounded to 1000s of pounds) that accounts for 95% of total landings from 1997-2018</p> <p>(3) And these vessels are those with the highest total landings in the time period. While the 95% option (far right column) could be a stand-alone option, it also provides information regarding all the other options in the same row. For example, about 50 vessels would requalify if a threshold of 50,000 pounds was used over 1997-2018 (upper left option), and 24 (upper right option) of those 50 MRIs accounted for 95% of landings during that time period.</p>								

Two related issues were mentioned in the meeting briefing memo and discussed. First, whether to require a fish hold capacity measurement and use it as a baseline in terms of upgrade limitations; and second, to clarify that daily Vessel Monitoring System (VMS) catch reporting is required for *Illex*.

The FMAT has noted some concerns about the enforceability of fish hold measurements as an upgrade restriction, and can provide additional information if the Council wants further development of such a measure. Public comment was supportive of additional consideration of the fish hold requirement as a way to control capacity in this fishery. The MSB-COM expressed support for additional development of the fish hold issue by the FMAT and to include clarification in this action that daily VMS catch reporting is required for *Illex*.

Council action: Does the Council endorse further development of the fish hold and VMS reporting issues?

A final issue raised during public comment was whether to consider a particular start date for the *Illex* fishery to improve squid size/value, avoid butterfish bycatch issues, and allow for scheduling of vessel maintenance. Allowing additional incidental *Illex* catch retention before the start of any set season was also mentioned in order to avoid regulatory discards. There was not universal support in public comment. Staff offered to generate some preliminary analyses (e.g. when has the fishery typically started) for additional input by the Advisory Panel and Council on this topic.

Council action: Does the Council endorse further development of fishery start date options?