



Mid-Atlantic Fishery Management Council

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P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: March 28, 2024
To: Council
From: Chris Moore, Executive Director
Subject: USFWS Regulation of Squid Fishery Exports

Over the last several years, the Council has been involved with an issue concerning the inclusion of U.S. squid fishery products in the U.S. Fish and Wildlife Service (USFWS) inspection and user fee system for monitoring wildlife imports and exports. This memo provides background on the issue and an update on recent correspondence with USFWS.

Background

Under the authority of the Endangered Species Act (ESA), the USFWS regulates the import and export of wildlife through the licensing of importers and exporters, inspection of shipments, and charging fees for processing applications and performing inspections. The ESA provides an exemption from these requirements for “shellfish and fishery products” if they are intended for human or animal consumption, not listed as injurious under the Lacey Act, and not listed under the ESA or CITES. This exemption currently applies to the vast majority of domestic fisheries, but it does not apply to the three commercially harvested U.S. squid fisheries. While squid meet all of the criteria described above, the USFWS has concluded that squid are neither shellfish nor fishery products.

Participants in the commercial squid fisheries [have reported](#) that these licensing requirements are redundant, time-consuming, and costly for U.S. squid producers. Squid are generally considered to be a higher volume, lower value product, so any fees associated with USFWS policies and regulations add layers of costs that make U.S. products more expensive to produce and thus less competitive in the international market. Council staff have reviewed current regulations and supporting documents from USFWS and have not found a rationale for excluding squid from the exemption for shellfish and fishery products. We are not aware of any evidence that squid fisheries are any more vulnerable to illegal trade than other fisheries that are covered by the exemption.

In 2020, the Council identified this issue as a top priority in its response to Executive Order 13921.¹ Specifically, the Council recommended that squid be reclassified as either “shellfish” or “fishery products” and therefore exempt from the USFWS inspection and user fee system. The Council reiterated this recommendation in [a December 2020 letter](#) sent to Secretary of Interior

¹ [Executive Order 13921 on Promoting American Seafood Competitiveness and Economic Growth](#) required the regional Councils to submit prioritized lists of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries.

David Bernhardt (we did not receive a response). The industry continues to report that these requirements create a costly and unnecessary regulatory burden.

Recent Correspondence (Attached)

- Email from Chris Moore to Edward Grace, Assistant Director, USFWS Office of Law Enforcement (3/12/24)
- Response from Eva Lara, Wildlife Inspector in Charge, USFWS Office of Law Enforcement (3/15/24)

From: Moore, Christopher <cmoore@mafmc.org>
Sent: Tuesday, March 12, 2024 1:18 PM
To: edward_grace@fws.gov
Cc: Mary Sabo <msabo@mafmc.org>; Spedden, Shelley <sspedden@mafmc.org>
Subject: USFWS Regulation of Squid Fishery Exports

Mr. Grace – My name is Chris Moore, and I am the Executive Director of the Mid-Atlantic Fishery Management Council. The Mid-Atlantic Council manages more than 65 marine species in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). I am writing to you because Rick Jacobson, USFWS Assistant Regional Director for the Northeast Region, suggested that you would be the appropriate person to contact about a regulatory issue affecting two of the Mid-Atlantic Council's managed fisheries. This issue concerns the inclusion of squid fishery products in the USFWS inspection and user fee system for monitoring the import/export of certain types of wildlife products.

As you are aware, the Endangered Species Act authorizes the USFWS to regulate the import and export of wildlife through the licensing of importers and exporters, inspection of shipments, and charging fees for processing applications and performing inspections (50 CFR 14). The ESA provides an exemption from these requirements for "shellfish and fishery products" if they are intended for human or animal consumption, not listed as injurious under the Lacey Act, and not listed under the ESA or CITES. This exemption currently applies to the vast majority of domestic fisheries, but it does not apply to the three commercially harvested U.S. squid fisheries (Atlantic longfin squid, Atlantic *Illex* squid, and California market squid). While these fisheries meet all of the criteria described above, the USFWS has concluded that squid are neither shellfish nor fishery products. This interpretation is inconsistent with the definitions of "shellfish" used by the National Marine Fisheries Service and the United Nations Food and Agriculture Organization.

These licensing and inspection requirements are redundant, time-consuming, and costly for U.S. squid producers. Squid are generally considered to be a higher volume, lower value product, so any fees associated with USFWS regulations add layers of costs that make U.S. products more expensive to produce and thus less competitive in the international market. We have reviewed current regulations and supporting documents and have not found a rationale for excluding squid from the exemption for shellfish and fishery products. We are not aware of any evidence that squid fisheries are any more vulnerable to illegal trade than other fisheries that are covered by the exemption. As such, we believe squid should be reclassified as either "shellfish" or "fishery products" and therefore exempt from the USFWS inspection and user fee system. More detailed recommendations and rationale can be found in our [December 2020 letter](#) to the Secretary of Interior.

This is an issue of importance to the Mid-Atlantic Council and many of its stakeholders, and I would greatly appreciate any assistance you can provide. Please feel free to contact me if you have any questions or if you would like to schedule a time to discuss the matter further. I look forward to hearing from you. Thanks! C

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From: Lara, Eva <eva_lara@fws.gov>
Sent: Friday, March 15, 2024 2:30 PM
To: Moore, Christopher <cmoore@mafmc.org>
Cc: Mary Sabo <msabo@mafmc.org>; Spedden, Shelley <sspedden@mafmc.org>; Grace, Edward <Edward_Grace@fws.gov>; Toomey, Keith <keith_toomey@fws.gov>
Subject: [EXTERNAL] USFWS Regulation of Squid Fishery Exports

Dear Christopher M. Moore:

Thank you for your email regarding the application of U.S. Fish and Wildlife Service (Service) import/export regulations to the importation and exportation of squid.

The Endangered Species Act (ESA) provides the Service authority to regulate the import and export of all fish and wildlife through licensing of importers and exporters, inspecting shipments, and charging and retaining reasonable fees for processing applications and conducting inspections. This authority is not limited to endangered or threatened species or those protected under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) and covers many wildlife species, including those used for food. This comprehensive system is designed to protect foreign and domestic wildlife from illegal trafficking, to guard against the introduction of injurious species, and to monitor the legal international wildlife trade. Inspection and regulation of all fish and wildlife provided by this system is also critical for conservation.

The ESA exempts the import and export of shellfish and fishery products that are intended for human or animal consumption and that are not listed as endangered or threatened from the law's trade regulations found in Title 50 Code of Federal Regulations (CFR) Part 14. These regulations waive the import/export license, declaration, and inspection requirements for these commodities, as defined in 50 CFR Part 10.12. 50 CFR Part 10.12 defines "shellfish" as:
an aquatic invertebrate animal having a shell, including, but not limited to,
(a) an oyster, clam, or other mollusk; and
(b) a lobster or other crustacean; or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

By this definition, squid do not qualify as shellfish because, though they are mollusks, they do not have a shell.

Service policy defines "fishery product" as a non-living fish of one of the following classes: Cyclostomata, Elasmobranchii, and Pisces. Since squid are not part of any of these classes, they do not qualify as fishery products.

Imports of squid are therefore not covered by the exemption for shellfish and fishery products intended for human or animal consumption in the ESA and 50 CFR Part 14. Service import/export regulations, including licensing requirements, thus apply to these importations and exportations.

Other Federal laws and regulations, including those administered by the National Marine Fisheries Service (NMFS) (whose jurisdiction includes such marine species as squid, octopus, cuttlefish, and sea urchins), provide different definitions of "shellfish and fishery product." NMFS regulations (50 CFR 222.205), however, specifically refer those engaged in international

trade of commodities subject to its jurisdiction to Service regulations (50 CFR Part 14) for import/export requirements.

The Service is the agency responsible for regulating all international wildlife trade. The Service finds no duplication of effort between NMFS and the Service as the agencies are responsible for monitoring different aspects of trade. The Service is the only agency responsible for collecting, maintaining, and analyzing detailed species information of wildlife trade, including wildlife used for human consumption. This data is used both in the U.S. and globally to inform conservation decisions with respect to international trade in these species, as well as maintaining and protecting a sustainable resource for U.S. stakeholders.

The Service's user fee system has been in place since the mid-1980's and was most recently updated in 2008 under guidance of the Office of Management and Budget. The Service has calculated that between 2018-2022, the approximate fees collected annually for imports and exports of shipments containing squid averaged 0.09% of the declared value of those squid shipments. These calculations accounted for both license application and user fees. It should be noted that these numbers include shipments that also contain other regulated fish and wildlife commodities which would require importers and exporters to obtain the license and pay user fees, regardless of the exemption status of squid.

I hope this information proves useful to the Council and its stakeholders. If you have additional questions on this matter, please feel free to contact me.



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