



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

April 22, 2020

Dr. Christopher M. Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street
Suite 201
Dover, DE 19901

Dear Chris:

I offer the following comments for consideration by the Mid-Atlantic Fishery Management Council on the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) Goals/Objectives and *Illex* Permit Amendment. Before taking final action on this amendment, I encourage the Council to clearly define the problem this action would address, consider all available information regarding the status of the fishery, and fully justify measures it adopts relative to applicable law and the FMP objectives.

The Council should clearly identify and understand what problems it is trying to address through this action. During recent meetings and public hearings, both Council members and industry participants expressed different opinions about the health of the stock, the state of the fishery, and the implications of recent high fishery landings and seasonal closures. The public hearing document lays out a number of possible reasons for taking action, most notably to reduce the implications of a race to fish. A clear and accepted problem statement will help the Council identify and justify appropriate measures focused on the most important issues raised during the scoping process for this action and discussed during recent public hearings.

The Council should consider the current state of the fishery to provide context for this action and assess what this action may accomplish in addressing the articulated problem statement. Based on available information, both the stock and the fishery are healthy and robust at this time. The Council's Scientific and Statistical Committee (SSC) continues to maintain that the stock is lightly exploited and not subject to overfishing. Although still under development and subject to future peer review, preliminary analysis by the SSC's *Illex* Working Group may offer further evidence to support previous SSC conclusions, which could be used to support higher *Illex* quotas in future years. Since 2017, the fishery has fully harvested available quotas and achieved optimum yield (OY). Market prices are high, participants are profiting from the fishery, and there are few bycatch concerns. Given the current condition and future outlook for the fishery, I would encourage the Council to consider compromise measures that would help mitigate the race to fish, minimize impacts to active permits, and preserve the ability of the fishery to achieve OY during years in which *Illex* is less available.

As you know, measures adopted under this action must be consistent with applicable law and the objectives of the FMP. The public hearing document notes that section 303(b)(6) and National Standards 4, 5, and 8 of the Magnuson-Stevens Fishery Conservation and Management Act are



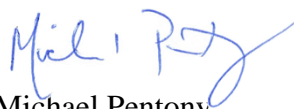
central to this action.¹ Analysis supporting this action should relate to the Council's rationale, take into account present participation in the fishery, and demonstrate how permit measures help achieve OY, minimize economic impacts, and maximize overall benefits to the fishery, including how total benefits outweigh hardships for affected fishery participants. Updated FMP objectives proposed for this action emphasize minimizing additional restrictions and providing the greatest degree of freedom and flexibility (Objective 2.1), and allowing operational flexibility (Objective 2.2). In adopting final measures, the Council should clearly describe how revisions to *Illex* permits would achieve these objectives and balance the social and economic needs of various sectors of the fishery (Objective 2.3). I am concerned that it may be difficult to demonstrate compliance with applicable law and FMP objectives without sufficient justification, and recommend that the Fishery Management Action Team prepare comprehensive analysis before the Council takes final action in June.

I recognize this will not be an easy decision for the Council. Both proponents and opponents have presented valid arguments for and against various alternatives. In balancing these perspectives, the Council must consider the tradeoffs and potential costs/benefits to the fishery. For example, if the Council wants to rely solely upon the 2013 control date to re-qualify existing moratorium permits and determine eligibility for the highest tier of fishery access, it must demonstrate that doing so is consistent with the goals and objectives of the action and the FMP and that the associated benefits to the *Illex* fishery at large outweigh potential costs to recent participants whose fishing opportunities would be constrained.

I encourage the Council to fully consider all relevant information regarding past and present performance of the fishery and ongoing efforts to improve the science supporting the status determination and future catch limits. Clearly articulating its rationale and developing sufficient supporting analysis will help the Council ensure this action is consistent with FMP objectives and applicable law.

Thank you for considering these comments. Doug Christel is available to discuss these comments with your staff, if you have questions regarding this letter.

Sincerely,



Michael Pentony
Regional Administrator

cc: Michael Luisi, Council Chairman

¹ National Standard 4 Guidelines at 50 CFR 600.325 indicate that any allocation of fishing privileges must be reasonably calculated to promote conservation, and should help achieve OY and be justified in terms of the FMP objectives. National Standard 5 Guidelines at § 600.330 indicate that measures cannot have economic allocation as their sole purpose and should not redistribute gains without also increasing efficiency. The National Standard 8 Guidelines (§ 600.345) suggest the Council should select a permit alternative that minimizes adverse economic impacts and provides the greatest potential for sustained participation by fishing communities.