



## Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

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

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

# MEMORANDUM

**Date:** July 29, 2022  
**To:** Council  
**From:** Jason Didden, Staff  
**Subject:** *Illex* Permit Action Update

Per a June 7, 2022 notice of availability (NOA), NMFS will approve, disapprove, or partially approve the Council's Amendment regarding *Illex* permits in the coming months. Given the pending decision by NMFS, NMFS's previously communicated concerns about the action, and amount of time since Council approval (July 2020), this agenda item reviews the Council recommendations in the *Illex* Permit action. No action is needed at this time. Attached are several relevant documents:

- Council July 2022 Comments on the NOA for the *Illex* Permit Action (Comments due August 8, 2022)
- June 2022 NOA on the *Illex* Permit Action
- 2020 Council Press Release on the *Illex* Permit Action
- 2020 GARFO Letter Expressing Concerns about the *Illex* Permit Action



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

July 29, 2022

Mr. Michael Pentony  
National Marine Fisheries Service (NMFS), GARFO  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Mike:

Please accept this letter as a comment in response to the announcement of the availability of Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan, also referred to as the *Illex* Permit Action.

The Council would like to reiterate its desire for full implementation of this action. The proposed action addresses concerns that excessive participation in the fishery by previously inactive permits will exacerbate the race to fish observed in the fishery since 2017 and the negative impacts to participants caused by early fishery closures. The Council's recommended measures were carefully considered to strike a balance of ensuring that sufficient capacity remains to harvest optimum yield while mitigating negative impacts. We look forward to continuing to work with NMFS to implement this Amendment.

Please call me or Jason Didden of my staff if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "C. Moore".

Christopher M. Moore, Ph.D.  
Executive Director

cc: M. Luisi, W. Townsend, J. Didden, C. Bari

population will be treated as if it were listed as a threatened species for purposes of establishing protective regulations under section 4(d) of the Act with respect to such population. The species-specific rules (protective regulations) adopted for an experimental population under § 17.81 will contain applicable prohibitions, as appropriate, and exceptions for that population.

■ 5. Amend § 17.83 by revising paragraph (b) and adding paragraph (c) to read as follows:

**§ 17.83 Interagency cooperation.**

\* \* \* \* \*

(b) For a listed species, any experimental population that, pursuant to § 17.81(c)(2), has been determined to be essential to the survival of the species or that occurs within the National Park System or the National Wildlife Refuge System, as now or hereafter constituted, will be treated for purposes of section 7 of the Act as a threatened species.

(c) For purposes of section 7 of the Act, any consultation or conference on a proposed Federal action will treat any experimental and nonexperimental populations as a single listed species for the purposes of conducting the analyses and making agency determinations pursuant to section 7(a) of the Act.

■ 6. Amend § 17.84 by:

- a. Revising the section heading; and
- b. Removing the word “special” where it appears in the heading and first sentence of paragraph (l)(1) and in the headings to paragraphs (l)(16) and (x)(8).

The revision reads as follows:

**§ 17.84 Species-specific rules—vertebrates.**

\* \* \* \* \*

■ 7. Amend § 17.85 by revising the section heading and paragraph (a)(2)(i) to read as follows:

**§ 17.85 Species-specific rules—**  
**invertebrates.**

(a) \* \* \*

(2) \* \* \*

(i) Except as expressly allowed in the rule in this paragraph (a), all the prohibitions of § 17.31(a) and (b) apply to the mollusks identified in the rule in this paragraph (a).

\* \* \* \* \*

**§ 17.86 [Removed and Reserved]**

■ 8. Remove and reserve § 17.86.

**Shannon A. Estenoz,**  
*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2022-12061 Filed 6-6-22; 8:45 am]

BILLING CODE 4333-15-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**RIN 0648-BK20**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Announcement of the availability of a proposed fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic Fishery Management Council submitted Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan to the Secretary of Commerce for review and approval. We are requesting comments from the public on this amendment in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. This amendment would implement updated and reformatted goals and objectives for the fishery management plan, a tiered permit system for vessels currently issued an *Illex* squid moratorium permit, a fish hold volume baseline, a fish hold volume upgrade restriction for the highest tier *Illex* squid moratorium permits, and clarify that all *Illex* squid moratorium permits must submit daily catch reports via the vessel monitoring system. The purpose of this action is to align the fishery goals/objectives with current Council vision and priorities and to revise the number and types of *Illex* squid moratorium permits to reduce the negative effects from a race to fish in recent years.

**DATES:** Comments must be received on or before August 8, 2022.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2022-0056, by the following method:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/) #!docketDetail;D=NOAA-NMFS-2022-0056, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or

individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The Mid-Atlantic Council prepared an environmental assessment (EA) for Amendment 22 that describes the proposed action and provides an analysis of the impacts of the proposed measures and other alternatives considered. Copies of Amendment 22, including the EA, the Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA and associated analysis is accessible via the internet <http://www.mafmc.org/supporting-documents>.

**FOR FURTHER INFORMATION CONTACT:** Carly Bari, Fishery Policy Analyst, 978-281-9150.

**SUPPLEMENTARY INFORMATION:**

**Background**

The original goals and objectives for the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) were developed in 1981 when the individual fisheries were merged into one FMP. Since that time, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) has been amended several times and the Mid-Atlantic Fishery Management Council has developed several strategic plans to reflect updated priorities and strategic initiatives such as integrating an ecosystem approach to fisheries management into its FMPs. In September 2020, Atlantic chub mackerel was formally integrated into the FMP, along with updated goals and objectives for managing this species. The Council initiated Amendment 22 in January 2019 in part to update the FMP’s goals and objectives to reflect current Council vision and priorities, make them consistent with the formats used in other FMPs managed by the Council, and to merge the original FMP goals and objectives with those developed for Atlantic chub mackerel.

Amendment 22 is also intended to reconsider the appropriate number of

*Illex* squid moratorium permits. Originally implemented in 1997 under Amendment 5 to the FMP (May 27, 1997; 62 FR 28638), there are currently about 75 *Illex* moratorium permits remaining in the fishery. Since 2017, we have closed the *Illex* squid fishery in August or September of each year because the fishery fully harvested the available quota, with more vessels actively participating in the fishery in recent years. Because not all vessels issued an *Illex* moratorium permit have actively participated in the fishery in recent years, the Council is concerned that these other permits may become active in the fishery, exacerbating the race to fish observed since 2017 and the negative impacts to participants caused by early fishery closures.

To address these issues, Amendment 22 proposes the following measures, which are outlined in further detail in the EA prepared for this action (see **ADDRESSES**):

- Updated FMP goals and objectives reformatted to reflect current Council vision and priorities and the integration of approved Atlantic chub mackerel goals and objectives;
- A Tier 1 *Illex* squid moratorium permit for any existing *Illex* moratorium permit that landed at least 500,000 lb (226.8 mt) of *Illex* squid in one year from 1997–2013 or purchased and installed a refrigerated seawater system, plate freezing system, or blast freezer between January 1 and August 2, 2013, that also landed at least 200,000 lb (90.7 mt) of *Illex* squid before December 31, 2013;

- A Tier 2 *Illex* squid moratorium permit for any existing *Illex* moratorium permit that landed at least 100,000 lb (45.4 mt) of *Illex* squid in one year from 1997–2018;

- A Tier 3 *Illex* squid moratorium permit for any existing *Illex* moratorium permit that landed at least 50,000 lb (22.7 mt) of *Illex* squid in one year from 1997–2018;

- *Illex* squid possession limits for new *Illex* squid moratorium permits proposed in this action, including an unlimited initial possession limit for Tier 1 permits, a 62,000-lb (28,123-kg) possession limit for Tier 2 permits, and a 20,000-lb (9,072-kg) possession limit for Tier 3 permits;

- A fish hold volume baseline measurement and 10-percent upgrade restriction for proposed Tier 1 *Illex* squid moratorium permits; and

- Clarification that *Illex* squid moratorium permits must report daily catch via the vessel monitoring system on declared *Illex* squid trips.

In accordance with section 304(a)(1) of the Magnuson-Stevens Act, we are soliciting public comments on Amendment 22 to the Mackerel, Squid, and Butterfish FMP and its incorporated documents through the end of the comment period specified in the **DATES** section of this notice of availability (NOA). Under this provision of the Magnuson-Stevens Act (section 304(a)(3)), the Secretary may approve, partially approve, or disapprove the amendment as submitted by the Council. All comments received by the end of the comment period of the NOA

will be considered in the approval/disapproval decision on the amendment. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision.

In a letter dated April 22, 2020, and available on the Council's website (see the July 16, 2020, meeting at [www.mafmc.org/meetings](http://www.mafmc.org/meetings)), we expressed concerns with the requalification and tiered permitting measures considered by the Council in the development of this action. These concerns remain, and we invite public input on whether this action satisfies the requirements of the Magnuson-Stevens Act's National Standards, is consistent with the Mackerel, Squid, and Butterfish FMP's goals and objectives, and accomplishes the Amendment's statements of need, purpose, and objectives. If, after reviewing public comments received in response to this NOA, we approve this action, we will publish a proposed rule in the **Federal Register** that would implement the amendment's management measures and solicit additional public comment at that time on the proposed regulations.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 2, 2022.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2022–12226 Filed 6–6–22; 8:45 am]

**BILLING CODE 3510–22–P**



## **PRESS RELEASE**

FOR IMMEDIATE RELEASE  
July 20, 2020

PRESS CONTACT: Mary Sabo  
(302) 518-1143

### **Council Approves Changes to Management of *Illex* Fishery**

Last week the Mid-Atlantic Fishery Management Council approved an amendment that proposes modifications to the permitting and management of the *Illex* squid fishery. These changes are intended to both reduce excess capacity in the fishery and mitigate the rapid use of the quota seen in recent years. The amendment also revises the goals and objectives of the Mackerel, Squid, Butterfish (MSB) Fishery Management Plan (FMP). After considerable discussion and consideration of public comments, the Council selected preferred alternatives and adopted the amendment for Secretarial review and implementation. Below are summaries of the issues and the Council’s preferred alternatives.

#### ***Illex* Permitting**

In June 2017, the Council considered, but did not adopt, revisions to *Illex* squid permits as part of Amendment 20 to the MSB FMP. Since then, effort and landings have substantially increased, and the fishery closed early in 2017-2019 after harvesting the *Illex* squid quota. Given recent fishery performance, the Council initiated this amendment to evaluate whether permitted access to the *Illex* fishery should be modified based on present and historical participation, and/or other considerations. The amendment considered a range of permitting alternatives, including various time periods and thresholds for permit re-qualification and options for a tiered permitting system.

During last week’s meeting, the Council reviewed analyses and public comments and heard additional public testimony from fishery participants both in favor of, and opposed to, potential changes to *Illex* permitting. The Council ultimately voted to implement a tiered permitting system. The proposed tiers, qualification criteria, and trip limits are described in the table below.

	<b>Qualification Criteria</b>	<b>Trip Limit</b>
<b>Tier 1</b>	<i>Either:</i> <ul style="list-style-type: none"> <li>• Landed at least 500,000 pounds in one year between 1997 and 2013</li> </ul> <u>OR</u> <ul style="list-style-type: none"> <li>• Purchased and installed a refrigerated seawater system, plate freezing system, or blast freezer between January 1, 2012 and August 2, 2013 and landed a minimum of 200,000 pounds of <i>Illex</i> in the 2013 fishing year</li> </ul>	None
<b>Tier 2</b>	<ul style="list-style-type: none"> <li>• Landed at least 100,000 pounds in one year between 1997 and 2018</li> </ul>	62,000 pounds
<b>Tier 3</b>	<ul style="list-style-type: none"> <li>• Landed at least 50,000 pounds in one year between 1997 and 2018</li> </ul>	20,000 pounds

Under this tiered permitting system, of the 75 current limited access moratorium permits, it is estimated that 35 would qualify for Tier 1, 13 would qualify for Tier 2, 2 would qualify for Tier 3, and 25 would not qualify for any Tier. The Council acknowledged that this action would have positive and negative

economic consequences for some fishery participants but ultimately concluded that the selected alternative best balanced the needs of historic participants, present participants, and dependent fishing communities.

***Other Illex Management Measures***

The Council also voted to require that Tier 1 permit holders obtain a baseline measurement of their vessel fish hold volume. These permit holders would then be subject to a 10% upgrade restriction. This measure is intended to help freeze the footprint of the fishery and avoid additional over-capitalization. The amendment would also clarify that daily catch reporting of *Illex* is required via Vessel Monitoring Systems (VMS) for vessels with limited access *Illex* permits.

***Next Steps and Additional Information***

The Council will submit this amendment to the Secretary of Commerce for approval and implementation. Updates will be posted on the Council's website at <http://www.mafmc.org/actions/illex-permitting-msb-goals-amendment>. For additional information about this action, contact Jason Didden at [jdidden@mafmc.org](mailto:jdidden@mafmc.org) or (302) 526-5254.



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





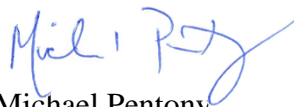
central to this action.<sup>1</sup> Analysis supporting this action should relate to the Council's rationale, take into account present participation in the fishery, and demonstrate how permit measures help achieve OY, minimize economic impacts, and maximize overall benefits to the fishery, including 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

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<sup>1</sup> 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.