



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: July 14, 2020
To: Council
From: J. Didden, staff
Subject: Supplemental *Illex* Materials

Comments received after the briefing book deadline and before the supplemental deadline are attached. Comments submitted after the supplemental deadline are posted to the late comment form at <https://www.mafmc.org/briefing/july-2020>.

FMAT members clarified one point on the capacity estimates presented in the July 8, 2020 decision memo. The capacity estimates for the Committee alternatives in Table 1 of that memo represent the capacity estimates for all vessels in all tiers. Committee alternatives #4 and #5 utilize tiers, and the capacity estimates for just Tier 1 are 48,353 MT for #4 and 55,906 MT for #5 (i.e. somewhat lower for only Tier 1 vessels – the totals were 56,128 MT for #4 and 57,803 MT for #5).

Staff also received several questions about the vote counts for the Committee motions. For the requalification criteria, the vote was 11/0/1 (no opposition, one abstention). For the goals and objectives, the vote was 11/0/1. For the Tier 1 hold volume/baseline requirement, the vote was 9/1/2. Requiring daily VMS reporting passed 12/0/0.

July 13, 2020

Dear Mid-Atlantic Council,

I am writing today about the Illex Amendment.

I am in favor of no action (Option #1). Option #2 or Option #5 are acceptable alternatives. Recent participation is due to increased demand in new markets. Participation of permitted vessels, including recent participants, should not be discouraged by imposing unworkable trip limits like those proposed in Option #4. There seems to be little basis at this time for limiting permits and/or trip landings in a healthy fishery where the quota is being increased. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melissa Chace".

Melissa Chace
Director of International Purchasing & Sales, The Town Dock

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

July 12, 2020

My name is Scott Charlwood and I am the Senior Operations Director for The Town Dock. I participated in the public webinar for Rhode Island and appreciate the opportunity to comment on the Final Action stage of the Illex amendment.

I support the position of The Town Dock and the Illex Coalition's position. No Acton seems like a course that the full Council should strongly consider.

I am responsible for the operations, production, boat unloading, and global logistics teams for the company. Over the past several years we have adapted and grown accustomed to handling large volumes of Illex Squid for the company and participating independent and company owned vessels. Any kind of restriction to active participants will negatively impact the community dependence of companies in Point Judith and New Bedford where most of our squid is offloaded and processed. Ice companies, fuel companies, boat yards, welders, net builders, and our own production teams depend on this resource for their incomes and jobs

A reduction in permits or tiering out new participants could make the USA foodservice market short of product in that case as we have seen in so many fisheries before, we lose the market and never regain it back. This is exactly what happened with Butterfish, however in that case the fishery was cut back due to biological concerns and overfishing.

I was reviewing the public document and it seems that Illex goes up and down in availability over the entire timeframe of 1997-2019. If boats are eliminated, and there are no bycatch or biological issues, and the quota is set to go up in future years seeing how the Industry Funded group seems to have turned out positive news, why would the council risk reduction in the fleet if there is a risk of not catching the entire quota? Those lean years are going to need a good size fleet to catch the majority of the quota. Boats have breakdowns, boat procure other fisheries in times of higher prices.

I appreciate your time and willingness to listen to all parties.

Regards,

Scott Charlwood
Senior Director of Operations and Logistics
The Town Dock
Narragansett, RI

From: Mark Wollenweber <mwollenweber@towndock.com>
Sent: Friday, July 10, 2020 11:59 AM
To: Didden, Jason <jdidden@mafmc.org>
Subject: re: Final Comments Illex Amendment

July 10, 2020

Dear Mid-Atlantic Fishery Management Council:

I am writing today to request that no action be taken regarding the Illex Amendment and that all current permit holders be requalified. This Amendment is being driven by the self-interest of the large Tier 1 boats and is not being driven by the known science of the Illex fishery. The Amendment is a supposed "solution" to problems that do not actually exist. The Amendment will marginally improve the economics for the large Tier 1 boats but will have a \$4 to \$5 million dollars' worth of negative economic impact on the rest of the Illex permit holders and the shoreside facilities who process the product. Please do not let the vested interests of a few Illex permit holders use the Mid-Atlantic Fishery Management Council's fisheries regulatory powers to protect their own wallets instead of supporting an entire fishery.

Regards,
Mark Wollenweber

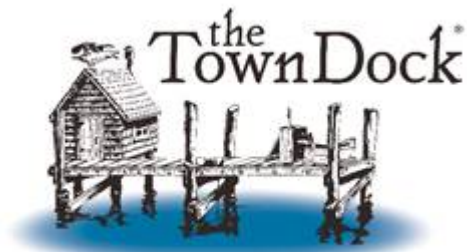
Mark Wollenweber

Director of Global Seafood Processing

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www.towndock.com



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From: Cathy Harvey <charvey@towndock.com>
Sent: Monday, July 13, 2020 2:37 PM
To: Didden, Jason <jdidden@mafmc.org>
Subject: Illex Comments

Dear Council Members,
Please submit my comments below on the Illex Amendment.

- I prefer no action (Option #1). An acceptable alternative would be Option #2 or Option #5.
- Not only would The Town Dock experience a negative economic impact from the loss of customers, jobs and profitability, but our affiliated vessels would suffer from a low Tier 2 trip limit, impacting their profitability as well.

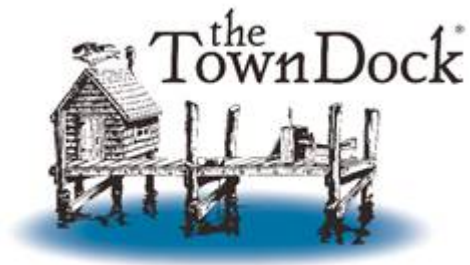
Cathy Harvey

Accounting Manager

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From: Kat Smith <ksmith@towndock.com>
Sent: Monday, July 13, 2020 2:38 PM
To: Didden, Jason <jdidden@mafmc.org>
Subject: Comment: Proposed Illex Amendment

Dear Mid-Atlantic Council:

I am writing to express my concerns about the illex amendment. From the first meeting I attended, two things were very clear to me: we do not know a great deal about the illex fishery, and that all signs point to a healthy stock of this species.

I am dismayed that the Council seems to push forward changes that appear based solely on economics, not on marine science. My dismay has only deepened that, with no scientific basis, the Council continues to examine non-evidence-based changes at a time when many vessels are suffering tremendous financial strain in the current economic climate.

Illex has emerged as a cost-effective, domestic squid that many customers rely on. In general, but particularly at this time, many customers would not be able to afford the rising illex prices that come with sharply reduced competition, nor would they be able to afford buying up to the domestic loligo. I feel that restrictive requalifying would force many restaurants to start or resume buying less expensive imported products, a loss for the fishing industry here in the Atlantic seaboard.

I hope the Council will elect their first option, full requalification of current permits. If not, I hope to see requalification of the majority of permits.

Respectfully,

Kat Smith

Senior Marketing & Communications Manager

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July 10, 2020

Dear Mid-Atlantic Fishery Management Council:

My name is Heather Ford and I am the IT Operations Manager at the Town Dock. I disagree with the MSB Committee's recommendation of option #4. Option # 2 or Option #5 would be acceptable alternatives to option #4, we prefer no action (Option #1).

Furthermore, In Option #4 there is no gain in efficiency or reduction of capacity. This Option will also inflict economic pain on our company and could impact my job during a time where unemployment is over 10% nationwide.

Sincerely,
Heather Ford

Executive Director Chris Moore and MAFMC Members:

I am writing to you in regards to the MSB FMP Goals and Objectives and Illex Permits Amendment. I am one of the younger participants in the Illex fishery and part of the "next generation" of fishermen looking to make my livelihood on the water and take on the future stewardship of our marine resources. Myself, and my partners, who are the captains of the vessel, invested our lifesavings and 15 months into rebuilding a vessel with an existing illex permit in anticipation of having access to this fishery. As such this amendment is of particular importance to us, with the Illex fishery having become an important part of our fishing year and making up **40% of yearly revenues in 2019.**

I'd like to start by saying there is no biological need for this action, we have a healthy biomass, 24,000MT to 26,000MT and now 30,000MT in the last few years and there are still two different working groups looking at how to raise this quota further and do in season adjustments in years of high abundance. The concept of looking to cut people out of a healthy and profitable fishery while simultaneously looking to raise quotas goes against everything that this council stands for including the mandates of the Magnuson-Stevens Act and the goals and objectives of Fishery Management Plan.

If the council were to move forward with a limited access plan the Magnuson-Stevens Act states that any FMP may establish a limited access system for the fishery in order to **achieve optimum yield** if, in developing such system, the Council and the Secretary take into account: (A) **present participation in the fishery.** The current preferred alternative put forth by the MSB Committee does neither of these things. It actively tries to cut out the present participants in the fishery and the 62,000lbs trip limit is not economically viable. It can take the first 30,000lbs of illex on a trip to cover the variable costs of said trip which for my vessel range from \$6800-\$9200. Then you must also cover your yearly fixed costs of the vessel as well. Under this plan the **Gabby G would stand to lose 20% of its yearly revenue and 59% of what it can currently catch.** Such a loss could potentially put this boat out of business, especially when market conditions are so fragile because of the current pandemic.

The most contentious issue in this amendment is the 2013 control date. Currently there are only 76 permits in what was in 2019 a \$28Mill dollar fishery. These permits all qualified previously and the only reason many of them became inactive over the years was that processors only accepted frozen at sea or RSW caught squid. It wasn't until 2018 that some newer processors started accepting iced illex and at that time vessels with qualifying permits that were forced out could now participate in the fishery again. This is exactly the situation that our vessel was in and why we didn't enter into the fishery until the 2018 season.

According to the public hearing documents, this amendment was initiated in response to a request by some fishery participants to reduce the number of limited access permits following, what is being called, early closures in the fishery in 2017, 2018 and 2019. Further reasoning is that there exists overcapitalization in the

fishery, which could lead to a race to fish and the following negatives outcomes; monitoring difficulties, business disruptions, yield reduction, gear conflicts and community impacts. I will be addressing each on these reasons in turn.

- Safety at sea: The safety risk assumes that reducing the number of permits will decrease the race to fish. The public hearing document refutes this saying that at best permit reductions will only provide a temporary reduction in the race. The nature of the Illex fishery dictates that there will always be a race to fish with the squid only being available for a limited time of the year.
- Monitoring difficulties: The argument is that high weekly landings make a timely closure of the fishery more difficult. This problem could more easily be addressed by required daily reporting of landings and a larger buffer at the end of the season than the current 95% one that is in place now.
- Business disruptions: The argument being that hitting optimal yield in recent years has caused the fishery to close early. Hitting OY is technically the goal of management as mandated by MSA, and the FMP, and should not be considered a negative. In addition historically only a small percentage of Illex are landed in October and November and the traditional Illex fleet has usually switched over to the offshore loligo fishery by that time.
- Yield Reduction: The argument that catching the quota earlier will take out a larger number of smaller individuals and reduce recruitment. The council could alleviate this by instituting a start date if they wished, but there is also a specific food market for smaller illex squid that has been instrumental in driving up ex-vessel price.
- Gear conflicts: There was one public comment made about increased participation leading to possible gear conflicts, but the majority of the increased effort has been in the Southern New England, an area that hasn't traditionally been persecuted in this fishery and where there are lobster GRA's to prevent such conflicts.
- Community Impacts: The argument being that historical participants and communities could be negatively impacted if landings and revenues move to other ports. I believe this argument to be false. Historically speaking we have only landed a small portion of the illex quota. While it is true that these ports may be landing a lower percentage of the total illex landings, the landings in these ports are still higher than their historical average and at an increased ex-vessel price. The analogy being that the overall economic pie has expanded dramatically in recent years, and while historical participants may have a smaller percentage of that pie, they are still seeing record profits compared to their historical average.

Outside of the above reasons listed above the only reason for this amendment would be economic allocation, and National Standard 5 says that no management measure shall have economic allocation as its sole purpose.

While the goals and objective portion of this amendment has not been contentious during development, the proposed action in the Illex permitting portion of the amendment seems to counter the goals and objectives themselves, specifically:

Objective 1.1: Prevent overfishing and maintain sustainable biomass levels that achieve optimum yield in the MSB fisheries.

The fishery has only achieved optimum yield 5 times in its history since 1997 when the foreign fishery was discontinued, those years being 1998, 2004, 2017, 2018 and 2019. Severely reducing access to the fishery could result in a continued failure to reach OY and an economic loss to the Nation.

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

In the FMAT meetings leading up to the July council meeting members have repeatedly said that **the current preferred alternative will not address the race to fish and does not help to achieve optimum yield.** Furthermore In the Regional Administrator, Mike Pentony's letter to the council he said that any benefit to historical communities would have to outweigh the negative impacts to newer participants and must help to achieve OY. If the council moves forward with option 4 and reduce effort, then the first year we fail to achieve OY there will have been a net negative impact to the nation and will be hugely detrimental to those vessels that didn't qualify for a tier 1 permit.

Because of the reasons listed above I ask that the council please support the following alternatives.

Preferred Alternative: Minimal Action:

Alternative A2, B2, 1997-2019 50,000 lbs best year. Minimal action, no tiers and full requalification of all present and historic participants in the fishery requalifying 51 permits and reduces the total number of permits by 33%.

Acceptable Alternative: Should the council insist on a tiered approach:

- ☐ Tier 1 Classification: A4 B6 500,000 pounds best year qualifier 1997-2013; or A2 B7 1,000,000 pounds best year qualifier 2014-2019 (+/- 41 permits).
- ☐ Tier 2 Classification: A2 B3 100,000 pounds best year qualifier 1997-2019; 90,000 pound trip limit; no sub-quota (+/- 7 permits).
- ☐ Tier 3 Classification: A2 B2 C3 50,000 pounds best year qualifier; 48,000 lb. trip limit; no sub-quota (+/- 3 permits).
- ☐ Incidental limit: 10,000 pounds (+/- 25 permits).

I am in favor of fish-hold capacity restrictions on tier 1 vessels only.

The plan outlined above represents a true compromise amongst industry participants, favoring the older historical participants and allowing those recent participants to qualify for a tier 1 permit only if they have a high participation in, and dependence on the fishery.

Thank you Council members and Council staff for the time and effort that you have put into this amendment and for your consideration of my comments.

Daniel J. Farnham
Gabby G. Fisheries Inc.
F/V Gabby G

Dear Council Members,

My name is Jeff Wise, I've been a captain in the industry for 20 years. I am the Captain of the FV Lightning Bay out of Point Judith Rhode Island, and I'm also a former boat owner. I will qualify for a Tier1 permit under the Committee recommendation. As we are coming to the end of the amendment process, I'd like to make a few points.

First, I want to say that I do not think it is right that we are moving forward with this amendment, especially after hearing of the SSC's reports and the increase in quota that resulted from them. Those reports and the increase should have signified to the Council that this amendment is not warranted. That they only gain for moving forward is an economic benefit for a select few, but for most they would suffer economic and productivity loss.

I have heard that the Committee voted for a 62,000 pound trip limit for Tier2 boats. I know it has been explained to Committee and Council members that catching and storing Illex on a vessel is a much different process than longfin or other species that we can slowly grade and weigh prior to putting in the fish hold. You want it out of the water and down into the hold fast as it is extremely perishable, we do not have a chance to estimate the weight. To avoid violations by NMFS tier 2 boats would have to bring in much lower weight than the trip, making the trip less profitable and fishing less efficient for these boats. This committee recommended trip limit of 62,000 per trip is a way to put the Tier2 boats and fellow fishermen out of the fishery. The trip limit needs to be at least 85,000lbs for Tier2. However, there is really no need for a trip limit since all of the boats in Tier 2 cannot upgrade to large RSW vessels due to existing Horsepower/Length restrictions.

I'd like to again touch on the permitting/ history issue. My personal believe is that all vessels, regardless of history are given an equal opportunity to harvest whatever has been allocated to them by their permit. If an individual or company puts forth the effort, and investment they should then be initialed to utilize it to its fullest potential. Permits aren't bought and sold with the understanding that you may or may not be actually be able to use it. That's not smart business. The fishing industry in the last 20 years has gone through significant changes and the ability to diversify has become almost impossible. With the loss of many markets due to catch limits and regulations the options for today's fishermen are extremely limited. The last time we relied on catch history to determine allocations a monopoly was created and a fishery all but closed (George's Bank) and it seems as if we may be headed in a similar direction at least as far as a monopoly is concerned.

Which brings me to my final point, the solution to some of this problem seems to be obvious, the total allocation of illex needs to be increased to accommodate all the boats invested in the fishery. The SSC and Council just took a step in that direction. Though they were cautious with this increase, I understand that we might be looking at another possible increase in the future, especially with the new information being considered in the upcoming Illex assessment in 2021.

This is not codfish, or yellowtail flounder we're talking about. It has no year class in 10-12 months it's dead. Therefore, making the argument of over harvesting an abundant biomass a moot point. In fact, I heard that the SSC stated that if we had been fishing at 30,000 MT for the past few years we would NOT have done any damage to the stock. The overall TAC could be doubled, and you still wouldn't be scratching the surface of that biomass. Yet now as we get an increase, there will be economic damage done to those put into a T2 with a 62k pound trip limit, a limit I did not see as an option in the public hearing document.

I support either no action with this amendment, or just getting rid of the permits with incidental landings over the last 20 years. In the past 30 years the fishing industry has experienced nothing but regulations, cutbacks and closures. We finally have an opportunity for all boats and infrastructure related to the illex fishery to prosper together, equally on abundant resource instead of everyone worried about their individual agendas, there's plenty to go around and everyone has been succeeding these past few years. Why put harm and additional restrictions onto a fishery where there should be flexibility?

Thank you for your consideration.

Capt Jeff Wise

F/V Lightning Bay

Dear MAFMC,

My name is David White and I am the Captain/Owner of the F/V Perception out of Montauk, NY. My boat caught over 1,000,000 pounds of illex in 2019.

I am writing to state my stance as **“No Action”** on this amendment. I would be a Tier 2 boat if Option #4 was approved from the Committee. Option #4 would have a drastic economic negative impact on my boat, my crew, and my business, and cost me . As one of four New York Illex Boats, this may put me out of the illex business. A significant portion of my recent years’ revenues are on Illex Squid.

After hearing about the results of the two Illex working group and the SSC’s determination in allowing another increase in the Illex quota, I am very surprised that the Committee overwhelmingly voted to move forward with an alternative that restricts and removes people from this fishery and doesn’t even fully consider recent participation.

There is no biological reasoning for moving forward with this amendment. There is also no way this amendment with solve the “race to fish issue” that has been used by the proponents of this amendment as a reason to push forward. By nature, this fishery is a derby fishery and it is opportunistic. The squid move up an onto the shelf during a certain time of the year and the industry inherently races each other to get as much as they can before it moves off again. Even if you remove or restrict participants people will still be racing each other to fish. In fact, the Council may be making this fishery LESS safe because those of us that will be restricted to the 62,000 pound trip limit will want to make more trips faster to make up for the loss of poundage that we are allowed to keep in order to not lose income. This works against make a fishery safe and efficient.

I hear that after the two working groups submitted updated data and analysis to the SSC, that the SSC has once again approved an increase in quota for illex. I also hear that it is likely that there will be another increase in the future.

After all of this, I was very surprised to have been informed of the Committee’s preferred alternative. That one, it is seeking to continue action and two that it does not consider all recent participation

During these times of great economic uncertainty, the Council should be looking out for all members of this healthy and thriving fishery, instead of a select few, to encourage prosperity.

I encourage the Council to vote “no action” on this amendment.

Sincerely,
David White
F/V Perception



FV Susan Rose
Susan Rose Fisheries LLC
Narragansett, RI
7/9/20

Dear Mid Atlantic Council,

I am writing to comment on the Final Action of the Illex Amendment. I support the Illex Coalition position, and I personally feel that a **No Action vote** makes the most sense at this time. After catching over 1,000,000 lbs of Illex Squid in 2019, this boat would end up with an Incidental Permit should Option #4 be approved as-is, putting us out of the illex fishery for good.

I am the Captain of the FV Susan Rose. This boat is owned by Ryan Clark. As Mr. Clark has stated in his verbal and written comments over the past

two years, my boat is a recent participant that could be thrown out of the fishery should the Council adopt Option #4 as recommended from the MSB Committee.

This would force me, my crew, and this fishing vessel out of the illex fishery causing significant harm to my income and that of my crew. We spent quite a bit of time and money getting the boat ready to fish in 2019 Illex Fishing Year, and like many others we had a successful season. I have invested my time to prepare the vessel for the fishery and fish the vessel for Illex in 2019, and Mr. Clark has invested close to \$2,000,000 into this vessel to participate in the illex fishery. To lose full access to illex by the Council adopting Option #4 would be catastrophic for my boat.


I am proud to catch illex squid that will be sold to the American Public through the restaurant chains that Town Dock supports. Town Dock has given me and my crew opportunities to earn a living and support our business by purchasing my iced Illex squid in 2019.

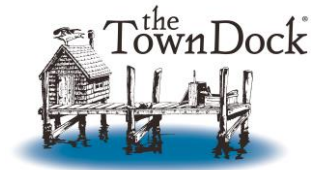
Every alternative other than No Action has serious flaws, and my boat is one example. You may also have boats that caught 500,000lbs of illex squid in 1999, and that boat has been sold two or three times over since then, but would qualify for a Tier1 permit? How does this make any sense? These compromise actions are producing crazy results, and my boat is one example of these results. Just requalify everyone, and start from scratch. Nothing is getting solved here, other than putting people out of business. Illex pricing is at record highs, and landed pounds are at record highs. There is no bycatch and no biological concerns.

Should we lose this permit under this action, it will not be defensible.

Our permit has already qualified for limited access and we should not be at risk at losing the permit or equal access to this resource. Being able to continue to have equal access to Illex is very important to me and my crews' income, and the ongoing success of the FV Susan Rose.

Thank you,


Jamie McCavanagh, Captain
F/V Susan Rose



45 State Street | PO Box 608
Narragansett, RI 02882

July 9, 2020

Mid-Atlantic Fisheries Management Council
800 North State Street, Suite 201
Dover, DE 19901

To whom it may concern,

I appreciate the opportunity to submit written comment supporting **no action** on the proposed *Illex* amendment.

As the Sr. Director of Quality Assurance and Product Development at The Town Dock, I receive direct customer feedback on our products. The feedback from our domestic distribution of *Illex* has been overwhelmingly positive and we believe *Illex* has the potential to be a growth vehicle if all permits are requalified. In addition, there is growing demand for sustainably sourced seafood. As the Marine Stewardship Council (MSC) Chain of Custody representative for The Town Dock, I see first-hand how critical full access to the *Illex* fishery, that the Town Dock helped to certify, is to our business today and the business we're developing for tomorrow.

The opportunity to create new domestic markets for *Illex*, as would be possible through a **no action** decision, would benefit not only the Town Dock but also promote the US economy from catch to consumer. Many *Illex* permits have become active in recent years because of these new and growing domestic markets. As all of the evidence points to the *Illex* fishery being abundant and healthy, I cannot see a reason to limit the fishery on those grounds, and in fact, am aware of moves to increase the quota. Taking **no action** on the proposed *Illex* amendment would support and promote the growth of the entire squid industry, which cannot be understated in this time of great economic need, especially in light of the scientific evidence that doing so would not burden the *Illex* fishery.

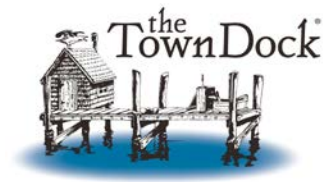
As such, I support **no action** on the proposed *Illex* amendment. I appreciate your consideration.

Respectfully,

Brianna Hughes, Ph.D.
Sr. Director, Quality Assurance & Product Development



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45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

July 13, 2020

To: Mid Atlantic Fisheries Management Council
Cc: Jason Didden

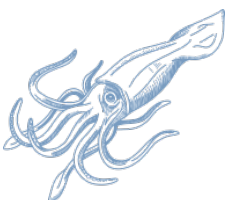
Good Day,

I am writing in reference to the Illex fisheries amendment that is currently being debated and position said letter for the council to take a 'no action' stance, or support of Option #1 as outlined by the council.

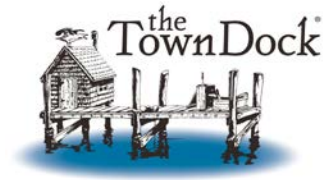
I am employed by The Town Dock as the Vice President of Sales and Marketing. Being in the outward facing role I am, I have been able to see first-hand the drastic improvement to our selling abilities as well as the increase for overall squid demand due to being able to bring to market two unique USA based raw materials. We have grown this segment of business over the past three years from a very small bait program to a multi-million pound, strategic focused line for our company.

The growth program outlined above has allowed Town Dock to continue to re-focus efforts of both cost and time to aid in this continual growth of Illex squid. From increasing boat catch, hiring more production associates, increasing revenues for fishing vessels and building out our shoreside facilities with sustainable local jobs, not only has the company seen a positive benefit but the community in general has seen that benefit as well. We as an organization are dedicated to supporting the local RI fisheries, independent vessel owners as well as our own fleet of contracted boats. Continuing to maintain the level of illex squid we are allowed to procure in line with prior years will allow Town Dock to support the community and all those that aid in our company growth.

As we continue to see COVID-19 wreak havoc on foodservice throughout the country, there is a perpetual push from foodservice operators as well as retail buyers to source local, sustainable products from all raw material procurement. Our ability to rely on our MSC certified local caught species is, and will be for the foreseeable future, based on the catch regulations and proposed trip limits this council is reviewing. Placing all permit holders in option #4 will drastically limit our ability to support current programs as well as future program growth.



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Understanding that the raw material is in abundance and there is not clear scientific data or research to support the lack of illex raw material in the fishery supports a monitored approach, or no action stance, until we are truly able to understand how the trip limits would or would not impact the species.

We, as a company, have seen the tremendous support from an operator standpoint not only in the North East but Nationally. Illex has become a great resource for utilizing a local caught, product of the US material vs. utilizing product from China or other sources throughout the world. Our support to the fishery, sustainability and continued growth of this program will perpetuate the reinvestment in the community and local fishing vessels for years to come.

I greatly thank you for your time in reading this statement and again, support option #1 and or 'no action' at this time.

Kindest regards,

A handwritten signature in black ink, appearing to read 'Justin Hamilton', with a long horizontal flourish extending to the right.

Justin Hamilton
Vice President of Sales & Marketing
The Town Dock



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July 8, 2020

Chris Oliver, Assistant Administrator
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Re: Problems with the Atlantic Mackerel, Squid, and Butterfish Committee's Preferred Alternative for the *Illex* Fishery Permitting Amendment:

Dear Administrator Oliver:

On behalf of Fishing Vessel Enterprises, Inc. and The Town Dock, we are writing to express our strong concerns regarding the Mid-Atlantic Fishery Management Council's development of an Atlantic Mackerel, Squid, and Butterfish ("MSB") FMP Goals/Objectives and *Illex* (Squid) Permitting Amendment (the "*Illex* Amendment"). Fishing Vessel Enterprises is an active participant in the *Illex* fishery and its vessels operate out of Cape May, New Jersey. Based in Point Judith, Rhode Island, The Town Dock owns seven fishing vessels that fish primarily for squid, also buys squid from several dozen independently-owned vessels, and is the largest supplier of squid in the United States.

Despite receiving strong reservations to the *Illex* Amendment in an April letter from Regional Administrator Pentony, the Council is preparing to take final action on July 16 on it without having addressed the agency's concerns. Specifically, the Regional Administrator's letter highlights potential legal inconsistencies under the Magnuson-Stevens Fishery Conservation and Management Act (the "MSA"), and reminds the Council that a "clearly articulated rationale" and "supporting analysis" are necessary to show compliance with the MSA. We are requesting an opportunity to discuss this pending management action with you, ahead of the Council's July 16 meeting, as the *Illex* Amendment does not appear to be consistent with the MSA and should not be approved in its current form.

As you may know, the Council began the scoping process for this amendment in January 2019. The amendment objectives are two-fold: (i) to consider modifications to the MSB

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Chris Oliver, Assistant Administrator

July 7, 2020

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FMP goals and objectives; and (ii) to consider modifications to the *Illex* permitting system. Our concerns focus on the second objective, as the MSB Committee's preferred alternative for amending the *Illex* permitting system would bifurcate the fishery into a tiered limited access system based on a stale control date from August 2, 2013.

As proposed, the alternative would create a Tier I permit allowing a holder unlimited landings as long as quota remains available, and Tier II and Tier III permits that would impose trip limits of 62,000 pounds and 20,000 pounds, respectively. The determination criteria for separating vessels into these tiers would be based solely on historic participation prior to the stale control date. All vessels that harvested more than 500,000 pounds during the qualifying years of 1997-2013 would receive a Tier I permit, even if they did not fish thereafter. Vessels that harvested over 100,000 pounds in any year between 1997-2018 would receive a Tier II permit. Tier III qualifiers would need to have landed 50,000 pounds in any year between 1997 and 2018. Notably, vessels with landings only in 2019 (no matter how significant) would not receive an *Illex* permit at all. As described below, there are several significant legal shortcomings to this preferred alternative that are both discriminatory to current active participants and harmful to the *Illex* fishery as a whole.

The most prominent flaw with this alternative is its reliance on a control date from 2013 for a Tier I permit. Control dates are meant to discourage speculative investment in a fishery thought to be at or near full harvesting capacity. In 2016, the Council initiated a similar permitting alternative in the *Loligo* squid fishery that also relied on a 2013 control date. The Council finalized that amendment in 2018. When the Council approved the *Loligo* action, it specifically opted to take no action in the *Illex* fishery, despite having considered several measures during development of the management action in 2016 and 2017. Councils have long been directed to work diligently to implement new management measures following publication of a control date. By choosing not to initiate new action in the *Illex* fishery based on the 2013 control date, the Council clearly signaled to industry participants that any new participation in the *Illex* fishery would not be considered speculative. Investment in the fishery quickly followed.

Moreover, and as explained extensively in both the Public Hearing Document for the Amendment and in GARFO's April 22nd letter, *Illex* fishery participants only landed more than 75% of the quota three times between 2000 and 2016. This most likely explains why the Council failed to timely pursue an *Illex* capacity amendment. Yet the MSB Committee's current alternative

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Chris Oliver, Assistant Administrator

July 8, 2020

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would relegate more than a dozen recent participants to Tier II status and wholly eliminate participation of vessels that entered the fishery in 2019. Meanwhile, there appears to be several vessels that have not participated in the fishery since 2013 (and in the case of one vessel, over twenty years) that would receive a Tier I permit.

It is also impossible to reconcile this preferred alternative with the President's recent Executive Order from May 7, 2020. That Order directs Councils to *remove* burdensome and wasteful regulations that do not maximize production within sustainable fisheries. By contrast, the preferred alternative would not promote the harvest of optimum yield in a fishery with an impending quota increase of 4,000 metric tons, and it would decrease opportunities for participants who have been actively investing in the fishery and for the local communities that support it.

Finally, and as previously mentioned, GARFO has already identified several legal shortcomings related to this alternative – namely, that its analyses are insufficient to satisfy the Magnuson-Stevens Act (“MSA”) National Standards 1, 4, 5, and 8, and the accompanying Guidelines (“NSG”).

First, the Committee's preferred alternative does not improve the fishery's potential for achieving optimum yield under National Standard 1; rather, the fishery is likely to return to pre-2017 harvest levels that consistently failed to achieve optimum yield on a continuing basis, especially given the impending increase in quota of 4,000 metric tons for the 2021 season.

Second, under National Standard 4, the preferred alternative does not provide any conservation benefit, a key determinant in recent case law regarding MSA-based fishery allocations. Further, the amendment is not fair and equitable, as National Standard 4 requires. The capacity element of the amendment is not consistent, in terms of promoting flexibility in the fishery, with the goals and objectives the Council is updating in the very same action.

Third, neither the Committee nor the Council have demonstrated that this alternative creates or adds any efficiency to the fishery under National Standard 5. Indeed, the only justification for this alternative is to reduce the race to fish. Yet by its very nature, the *Illex* fishery is a derby fishery, as *Illex* are a seasonal stock that appear in fishable waters for only a few months during the summer and early fall. Therefore, effort only mobilizes when species are available, regardless of how many participants have access to the fishery. Moreover, other adverse elements of a race to fish are non-existent in this fishery. Prices are increasing, and bycatch is

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Chris Oliver, Assistant Administrator

July 8, 2020

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essentially non-existent. (Incongruously and contrary to National Standard 9, the Tier II and Tier III trip limits might actually promote regulatory discards.)

Finally, while the alternative is admittedly designed to benefit certain fishing communities, National Standard 8 “does not constitute a basis for allocating resources to a specific fishing community nor for providing preferential treatment based on residence in a fishing community.” Indeed, the lost revenue to shore-side processors and market suppliers who purchase from the would-be Tier II and Tier III permittees is estimated to be roughly \$4 to \$5 million annually.

In short, this preferred alternative suffers from inherent, fundamental defects that cannot be “analyzed away.” There are no tangible or quantifiable benefits to be gained in the *Illex* fishery from advancing this alternative, and this amendment would be wholly incapable of satisfying the criteria of the MSA, the NSGs, and the goals and objectives of the MSB FMP.

* * *

Thank you for the opportunity to submit this letter and for your consideration of these critical issues. We look forward to having the chance to speak with you by phone to discuss our concerns

Respectfully submitted,



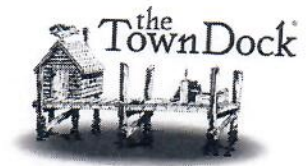
David E. Frulla

Andrew E. Minkiewicz

Bret A. Sparks

*Counsel for Fishing Vessel Enterprises, Inc. and
The Town Dock*

**cc: Michael Pentony, Regional Administrator of GARFO
Chris Moore, Executive Director of MAFMC
Michael Luisi, Chair of MAFMC**



45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

Dear Mid-Atlantic Council,

7/12/2020

As the Director of Fresh Purchasing and Sales at The Town Dock I am writing to state my objection to this Amendment. **I support the Illex Coalition solutions and would also support a No Action vote.** I cannot support Option #4 from the MSB Committee. There is too much economic hardship produced with minimal benefits to the fishery.


In my last letter I explained my concerns with the drivers behind this Amendment: Race to fish, safety, monitoring difficulties, and bycatch. It has been made clear though staff analysis that reducing effort in this fishery is not going to solve the race to fish. Due to the short seasonality of this fishery there will always be a race to fish, as the fleet is going to want to catch the fish while they are on the shelf.

The other reasons for moving ahead with this amendment have been refuted throughout this process. In fact, if the Council chooses to tie vessels to a trip limit, you may be making this fishery LESS safe as vessels will want to push for more trips to make up for the loss in income due to the low trip limit. More trips also mean fishing faster and spending more money on food, supplies, and fuel. Rendering this fishery less efficient which is extremely bad for business.

It is clear after the SSC's determination of another increase in quota that there are no dire biological concerns with this fishery that should cause the Council to reduce effort. In fact, the Illex working group and SSC's findings were overall positive for the stock and yet we move forward with reducing effort and access for some while allowing a select few to reap the benefits of this good news.

The clear driver behind this amendment has been strictly economic from the start. This has been about choosing winner and losers, determining who gets to continue to be successfully in this healthy and thriving fishery. This is not how a fishery should operate, especially with a healthy fishery and during times of such economic uncertainty. The Council should be supporting and ensuring economic success and flexibility for all. There should be no action taken on this amendment. It goes against most goals and objectives and does not comply with National Standards.

Sincerely,

Mike Roderick 
Director of Purchasing and Fresh Sales



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July 12, 2020

Chris Moore, PhD, Executive Director,
Mid-Atlantic Fishery Management Council,
800 North State Street, Suite 201,
Dover, DE 19901

Dear Dr. Moore,

I appreciate the opportunity to provide my written comment. I am the Founder of The Town Dock and owner of the FV Lightning Bay and I am writing in support of the Illex Coalition's position. This coalition is a mixture of both Historical participants and Recent participants. The FV Lightning Bay would end up with a Tier1 Illex permit in Option #4.

After carefully reviewing all of the facts, listening in on many of the webinars, and participating in this process, I believe that No Action on this amendment is the proper way to proceed given the following facts:

- 1) The stock is doing very well, we have a 4000mt boost, there is no bycatch and no biological concerns. The stock may go higher in the future.
- 2) During COVID-19, several east coast fisheries have been devastated, and fishermen have been negatively impacted. This amendment will put fishermen out of this lucrative and highly profitable fishery, adding financial injury to our industry.
- 3) Option #4, or many of the other options except for No Action, may put this stock in the hands of two companies. This is trending towards a monopolistic control of the fishery. The council must stand in the way of this trend.
- 4) This action is against the Goals and Objectives of the Council, and against several of the National Standards.
- 5) Option #4 is not defensible

I see the Mid-Atlantic Council in the unfortunate role of steward of the fisheries between these two industry groups. Where greed and human nature have taken over, they are forced to weigh out the science and facts surrounding the status of each stock, and what is in the best interest of their states and the nation. However, in my lifetime and overall 50 year career in fisheries, it is extremely rare to see a Council take action to limit participants when the stock is so robust and there is no bycatch issues or biological issues. I have been through groundfish cutbacks, monkfish cutbacks, the highs and lows of butterfish, longfin inshore issues with squid mops, herring and mackerel highs and lows, and countless other fishery disasters where Councils had no option but to take actions to limit fisheries. The reasons to cut this fishery back because of safety at sea, race to fish mitigation, overages in quota, or gear conflicts are at best weak arguments or just untrue. The results that Option #4 would produce with current participants being eliminated from the fishery are absurd. These stories are pushed by a few Historical Participants as key reasons to take action. But the real underlying truth is that a few Historical Participants want to control more and more of the fishery, because now this fishery has finally turned around where pricing and overall revenues are setting record highs. I hope the Council can see through this when deciding final action.

Kind Regards,

Noah G. Clark
Owner, FV Lightning Bay



July 13th, 2020

Dear Mid Atlantic Council,

My name is Joseph Swift and I own Crystal Ice Company in New Bedford, MA. Crystal Ice has been supplying ice to the Illex boats that come into New Bedford for several years. This is an important revenue source for my company and greatly contributes to my ability to keep all my employees employed all year long. Option #4 may remove or extremely limit the catching ability of at least 11 boats that purchase their ice from me during the summer Illex season. The overall revenue loss would be significant and would force me to cut hours, men, or both from my workforce. There is no merit for negatively impacting these Illex boats and I support the position of the Illex Coalition. These boats rely on squid for their own revenue and profitability. Option #4 takes that away and economically reallocates it to others. I also am aware that there are other boats in the port of New Bedford and up and down the coast that may want to enter the Illex Fishery in the future but option #4 would eliminate that chance.

Thank you for your time and consideration in this matter.

Regards,

Joseph Swift

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Fax: 508-993-2486

July 13, 2020

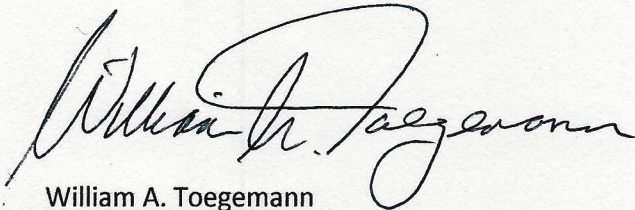
Dear Mid-Atlantic Fishery Management Council:

I am writing to you today to express my comments regarding the Illex Amendment.

My preference would be that there is no action taken. I believe that any action should be based on the availability of stock in the fishery and there is no evidence that the stock cannot withstand the current number of vessels fishing for Illex. Once there has been a determination that the stock is negatively impacted by the harvesting, the council should address that issue.

The arguments for making changes are predominantly economic in that some of the vessels currently fishing are catching less of the quota and find sharing the quota on a healthy fishery unappealing. However, by instituting a limit on the number of permits in the fishery, there is economic damage that would occur by further reducing the number of options the vessel captains have to make a living for themselves, their crew and the vessel owner, thereby creating economic harm to those parties.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Toegemann". The signature is fluid and cursive, with a large initial "W" and "T".

William A. Toegemann

Controller

The Town Dock