



**Mid-Atlantic Fishery Management Council**

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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman  
Christopher M. Moore, Ph.D., Executive Director

## MEMORANDUM

**Date:** July 31, 2020  
**To:** Council  
**From:** Chris Moore  
**Subject:** Executive Director's Report

The following materials are enclosed for Council review at the August 2020 Council Meeting during the Executive Director's Report:

1. 2020 Planned Meeting Topics
2. 2021 Council Meeting Schedule
3. Status of Council Actions Under Development
4. Status of Completed Council Actions and Specifications
5. Staff Memo: MRIP – COVID-19 Impacts
6. Summary of 6/5/20 MAFMC Joint Advisory Panel Webinar on Ocean Data Portals
7. MAFMC Letter to GARFO and NEFSC Regarding Redeployment of Observers (6/23/20)
8. Temporary Waivers on Northeast Observers Through July 31 (6/30/20)
9. NOAA Fisheries Identifies National-Level Observer Waiver Criteria; Will Begin Redeployment in Northeast (7/30/20)
10. Recreational Tilefish Permitting and Reporting – Final Rule Announcement (7/15/20)
11. MAFMC comments to USCG on Port Access Route Study (7/6/20)
12. MAFMC and NEFMC letter to BOEM on the SEIS for the Vineyard Wind I Project (7/27/20)
13. NRCC Summer Meeting Agenda (7/30/20)
14. MAFAC Report on Establishing a National Seafood Council – Executive Summary (7/1/20)
15. Comments from Lunds/Seafreeze/Town Dock: Request for Squid Species Exemption from Duplicative and Burdensome USFWS Regulations (7/28/20)
16. Comments from the Scallopers Campaign: Development of a Sea Scallop Limited Access Limited Access Leasing Program (7/29/20)
17. Executive Order 13921 Discussion Documents:
  - a. Staff Memo
  - b. Executive Order 13921 – Section 4
  - c. Guidance for Councils Response to E.O. 13921 Section 4
  - d. E.O. 13921 Recommended Action Template



# 2020 Planned Council Meeting Topics

Updated 7/29/20

## Joint MAFMC/ASMFC Meeting: August 6, 2020

Note: The following topics were originally planned for the August 10-13 Council Meeting.

- Black Sea Bass Commercial State Allocation Amendment: Approve Range of Alternatives
- Bluefish Allocation and Rebuilding Amendment: ~~Approve Range of Alternatives~~ [Continue Development of Alternatives](#)
- Recreational Reform Initiative: Update
- Black Sea Bass February Recreational Fishery: Review

## August 2020 Council Meeting: August 10-13, 2020

- Swearing-In of New and Reappointed Council Members
- Election of Officers
- Mackerel and Butterfish 2021-2022 Specifications
- Longfin Squid (Including Butterfish Cap) 2021-2023 Specifications
- River Herring and Shad Cap (RH/S) (Mackerel) for 2021-2022
- Bluefish 2021 Specifications: Review
- Summer Flounder, Scup, and Black Sea Bass 2021 Specifications: Review
- Commercial Scup Discards and Gear Restricted Areas: Review
- Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment: Approve Range of Alternatives
- Atlantic Surfclam And Ocean Quahog 2021-2026 Specifications
- [Surfclam and Ocean Quahog Commingling Issue: Update](#)
- [Surfclam Genetic Study: Update](#)
- [Executive Order 13921: Discuss](#)

## October 2020 Council Meeting: October 6-8, 2020 (Riverhead, NY)

- 2021 Implementation Plan: Discuss Draft Deliverables
- Research Priorities Update: Tracking Progress to Address Priorities
- Spiny Dogfish 2021 [and 2022](#) Specifications
- ~~[Surfclam and Ocean Quahog Commingling Issue: Update \(moved to August\)](#)~~
- ~~[Surfclam Genetic Study: Update \(moved to August\)](#)~~
- Joint Council-SSC meeting
- ~~[Final Report on HMS Diet Study \(delayed due to COVID-19\)](#)~~
- Chub Mackerel 2021 Specifications: Review
- EAFM Updates: Summer Flounder Management Strategy Evaluation and other EAFM activities
- Climate Change Scenario Planning Initiative: Update
- [Executive Order 13921: Develop and Prioritize Council Recommendations](#)

**December 2020 Council Meeting: December 14-17, 2020 (Baltimore, MD)**

- 2021 Implementation Plan: Approve
- Summer Flounder, Scup, and Black Sea Bass 2021 Recreational Management Measures: Develop and Approve
- Summer Flounder, Scup, And Black Sea Bass Commercial/Recreational Allocation Amendment: Approve Public Hearing Document
- Black Sea Bass Commercial State Allocation Amendment: Final Action
- Bluefish Allocation and Rebuilding Amendment: Approve Public Hearing Document
- Recreational Reform Initiative: Update
- Update on Habitat Activities
- Review RH/S White Papers

# 2020 Council Meeting Topics At-a-Glance

	August 6	Aug 10-13	Oct 6-8	Dec 14-17
<b>Mackerel, Squid, Butterfish (MSB) and River Herring and Shad (RH/S)</b>		<ul style="list-style-type: none"> <li>Mackerel and Butterfish 2021-2022 specs</li> <li>RH/S Cap (Mackerel) for 2021-2022</li> <li>Longfin Squid 2021-2023 Specs (Including Butterfish Cap)</li> </ul>	<ul style="list-style-type: none"> <li>Chub Mackerel 2021 Specs Review</li> </ul>	<ul style="list-style-type: none"> <li>Review RH/S White Papers</li> </ul>
<b>Summer Flounder, Scup, Black Sea Bass (SF/S/BSB)</b>	<ul style="list-style-type: none"> <li>BSB Com State Allocation Amd: Approve Range of Alternatives</li> <li>BSB February Rec Fishery: Review</li> <li>Rec Reform Initiative: Update</li> </ul>	<ul style="list-style-type: none"> <li>SF/S/BSB Com/Rec Allocation Amd: Approve Range of Alternatives</li> <li>SF/S/BSB 2021 Specs Review</li> <li>Commercial Scup Discards and GRAs: Review</li> </ul>		<ul style="list-style-type: none"> <li>SF/S/BSB Com/Rec Allocation Amd: Approve Public Hearing Doc</li> <li>SF/S/BSB 2021 Recreational Mgmt Measures</li> <li>Rec Reform Initiative: Update</li> <li>BSB Com State Allocation Amd: Final Action</li> </ul>
<b>Bluefish</b>	<ul style="list-style-type: none"> <li>Bluefish Amd: Update</li> </ul>	<ul style="list-style-type: none"> <li>Bluefish 2021 Specs Review</li> </ul>		<ul style="list-style-type: none"> <li>Bluefish Amd: Approve Public Hearing Doc</li> </ul>
<b>Tilefish</b>				
<b>Atlantic Surfclam and Ocean Quahog (SC/OQ)</b>		<ul style="list-style-type: none"> <li>SC/OQ 2021-2026 Specs</li> <li>SC/OQ Commingling Issue: Update</li> <li>Surfclam Genetic Study: Update</li> </ul>		
<b>Spiny Dogfish</b>			<ul style="list-style-type: none"> <li>Spiny Dogfish 2021-2022 Specs</li> </ul>	
<b>Science Issues</b>			<ul style="list-style-type: none"> <li>Research Priorities Update</li> <li>Joint Council-SSC Meeting</li> </ul>	
<b>Other</b>		<ul style="list-style-type: none"> <li>Executive Order 13921: Discuss</li> </ul>	<ul style="list-style-type: none"> <li>Review 2020 Implementation Progress and Discuss 2021 Draft Deliverables</li> <li>EAFM Updates: Summer Flounder Management Strategy Evaluation and other EAFM activities</li> <li>Climate Change Scenario Planning Initiative: Update</li> <li>Executive Order 13921: Develop Recommendations</li> </ul>	<ul style="list-style-type: none"> <li>2021 Implementation Plan: Approve</li> <li>Update on Habitat Activities</li> </ul>

## Acronyms/Abbreviations

Amd	Amendment	GARFO	NOAA Fisheries Greater Atlantic Regional Fisheries Office
BSB	Black Sea Bass	GRAs	Gear Restricted Areas
Com/Rec	Commercial/Recreational	HMS	Highly Migratory Species
Com	Commercial	Mgmt	Management
Doc	Document	MSB	Mackerel, Squid, Butterfish
EAFM	Ecosystem Approach to Fisheries Management	MSE	Management Strategy Evaluation
FMP	Fishery Management Plan		

Mtg	Meeting	SC/OQ	Atlantic Surfclam and Ocean Quahog
NEFSC	Northeast Fisheries Science Center	SF/S/BSB	Summer Flounder, Scup, Black Sea Bass
Pres	Presentation	Specs	Specifications
Rec	Recreational	SSC	Scientific and Statistical Committee
RH/S	River Herring and Shad		

**Actions Referenced in this Document**

- **BSB Com State Allocation Amd:** Black Sea Bass Commercial State Allocation Amendment
- **Bluefish Amd:** Bluefish Allocation and Rebuilding Amendment
- **Rec Reform Initiative:** Recreational Management Reform Initiative
- **SF-S-BSB Com/Rec Allocation Amd:** Summer Flounder, Scup, Black Sea Bass Commercial/Recreational Allocation Amendment
- **Illex Permitting & MSB Goals Amd:** Illex Permitting and Mackerel, Squid, Butterfish FMP Goals and Objectives Amendment

## MAFMC 2021 COUNCIL MEETINGS

February 9-11, 2021	Durham Marriot 201 Foster St. Durham, NC 27701 919-768-6000	Durham Convention Center 301 W. Morgan St. Durham, NC 27701 919-956-9404
April 6-8, 2021	Seaview, a Dolce Hotel 401 South New York Rd. Galloway, NJ 08205 609-652-1800	
June 8-10, 2021	Hilton Virginia Beach Oceanfront 3001 Atlantic Ave Virginia Beach, VA 757-213-3000	
August 9-12, 2021	The Notary Hotel 21 N. Juniper St. Philadelphia, PA 215-496-3200	
October 5-7, 2021	Yotel Hotel 570 10th Ave. New York, NY 10036 646-449-7700	
December 13-16, 2021	Westin Annapolis 100 Westgate Circle Annapolis, MD 21401 410-972-4300	



# Status of Council Actions Under Development

AS OF 7/29/20

FMP	Action	Description	Status	Staff Lead
Summer Flounder, Scup, Black Sea Bass	Commercial/Recreational Allocation Amendment	This joint MAFMC/ASMFC amendment will reevaluate and potentially revise the commercial and recreational sector allocations for summer flounder, scup, and black sea bass. This action was initiated in part to address the allocation-related impacts of the revised recreational data from MRIP. <a href="http://www.mafmc.org/actions/sfsbsb-allocation-amendment">http://www.mafmc.org/actions/sfsbsb-allocation-amendment</a>	The Council and Board will review FMAT recommendations and approve a range of alternatives at the August 2020 Council Meeting.	Dancy/Coutre/Beaty
	Black Sea Bass Commercial State Allocation Amendment	This joint MAFMC/ASMFC action will consider adjusting the allocations of the black sea bass commercial quota among states and whether the allocations should be managed jointly by the Council and Commission.	The Council and Board will approve a final range of alternatives for public comment when they meet jointly on August 6 during the ASMFC's Summer 2020 Meeting.	Beaty
Bluefish	Bluefish Allocation and Rebuilding Amendment	This joint MAFMC/ASMFC amendment considers potential revisions to the allocation of Atlantic bluefish between the commercial and recreational fisheries and the commercial allocations to the states. This action will also review the goals and objectives of the bluefish FMP and the quota transfer processes and establish a rebuilding plan for bluefish. <a href="http://www.mafmc.org/actions/bluefish-allocation-amendment">http://www.mafmc.org/actions/bluefish-allocation-amendment</a>	The Council and Board will review the FMAT discussion document and provide guidance to the FMAT on further development of alternatives when they meet jointly on August 6 during the ASMFC's Summer 2020 Meeting.	Seeley
Surfclam and Ocean Quahog	Surfclam and Ocean Quahog Commingling/ Discarding Issues	As surfclams have shifted toward deeper water in recent years, catches including both surfclams and ocean quahogs ("commingling") have become more common, resulting in increased discards of surfclams on quahog trips and vice versa. Current regulations do not allow surfclams and ocean quahogs to be landed on the same trip. The Council is exploring options to address this issue.	An FMAT will be established in June/July 2020.	Coakley/Montañez

FMP	Action	Description	Status	Staff Lead
Omnibus	Omnibus Amendment for Data Modernization	This amendment will address the regulatory changes needed to fully implement the Agency's Fishery-Dependent Data Initiative.	The Council last received an update at the October 2018 meeting.	GARFO/ NEFSC
Non-FMP	Golden and Blueline Tilefish Private Recreational Permitting and Reporting Issues	This action implements permitting and reporting requirements for private recreational tilefish vessels. The action was approved in a final rule amending the golden tilefish FMP to include blueline tilefish in November 2017 with delayed implementation. <a href="https://www.mafmc.org/rec-tilefish-evtr">https://www.mafmc.org/rec-tilefish-evtr</a>	A final rule for this action was published on 7/16/20 with an implementation date of 8/16/20. The Council is coordinating outreach efforts with GARFO.	GARFO lead MAFMC Contact: Seeley
	Recreational Reform Initiative	This is a joint initiative with the ASMFC to develop strategies to increase management flexibility and stability for jointly managed recreational fisheries (i.e., black sea bass, summer flounder, scup, and bluefish).	The Council and Board will receive an update when they meet jointly on August 6 during the ASMFC's Summer 2020 Meeting.	Beaty





## Timeline and Status of Current and Upcoming Specifications for MAFMC Fisheries

As of 7/29/20

Current Specifications	Year(s)	Council Approval	Initial Submission	Final Submission	Proposed Rule	Final Rule	Regs Effective	Notes
Golden Tilefish	2018-2020	4/11/17	6/5/17	8/16/17	9/7/17	11/7/17	11/2/17	2019 specs were reviewed in April 2018. No changes were recommended.
Golden Tilefish	2021-2022	4/8/20	5/11/20	7/21/20				
Blueline Tilefish	2019-2021	4/11/18	8/17/18	10/24/18	11/19/18	2/12/19	2/12/19	
Surfclam and Ocean Quahog	2018-2020	6/6/17	8/14/17	9/22/17	12/8/17	2/6/18	3/8/18	2020 specs were reviewed in June 2019. No changes were recommended.
Longfin Squid and Butterfish	2018-2020	6/7/17		8/24/17	12/13/17	3/1/18	4/2/18	2019 specs were reviewed in October 2018. No changes were recommended.
<i>Illex</i> Squid	2019-2020	10/3/18	12/4/18	2/11/19	5/1/19	8/2/19	8/1/19	
<i>Illex</i> Squid	2020-2021	6/17/20						
Atlantic Mackerel (MSB FW 13)	2019-2021	8/13/18	9/27/18	2/28/19	6/7/19	10/30/19	11/29/19	
Atlantic Mackerel (including RH/S cap)	2020	6/5/19	8/22/19	9/30/19	12/17/19	2/27/20	2/27/20	
Chub mackerel	2020-2022	3/7/19	5/31/19	10/25/19	3/9/20			
Scup	2020-2021	10/8/19	1/15/20	3/5/20		5/14/20	5/15/20	Revised specifications based on the 2019 operational stock assessment
Bluefish	2020	3/7/19	6/11/19	7/24/19	7/26/19	10/9/19	1/1/20	Interim specs to be replaced as soon as possible after results of 2019 operational assessment are available.
Bluefish	2020-2021	12/10/19	1/23/20	3/19/20	5/25/20	6/29/20	6/29/20	
Summer Flounder	2020-2021	3/6/19	6/25/19	7/18/19	7/26/19	10/9/19	1/1/20	
Black Sea Bass	2020-2021	10/9/19	1/15/20	3/5/20		5/14/20	5/15/20	Revised specifications based on the 2019 operational stock assessment
Spiny Dogfish	2019-2021	10/2/18	11/30/18	3/5/19	3/29/19	5/15/19	5/15/19	In multi-year specs

**Recreational Management Measures**

Current Management Measures	Year(s)	Council Approval	Initial Submission	Final Submission	Proposed Rule	Final Rule	Regs Effective	Notes
Summer flounder recreational measures	2020	12/10/19	1/22/20	1/22/20	4/6/20	6/18/20	6/18/20	Rulemaking required each year to continue use of conservation equivalency
Black sea bass recreational measures	2020	2/14/18	3/5/18	4/10/18	4/11/18	5/31/18	5/31/18	Reviewed in 2019. No changes from previous year's measures.
Scup recreational measures	2020	12/10/14	3/20/15		5/5/15	6/19/15	6/19/15	Reviewed in 2019. No changes from previous year's measures.
Bluefish recreational measures	2020	12/10/19	1/23/20	3/19/20	5/25/20			NMFS issued interim recreational management measures while the specs package was being developed (due to Florida landings in wave 1)



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## MEMORANDUM

**Date:** July 30, 2020  
**To:** Chris Moore  
**From:** J. Didden, K. Dancy  
**Subject:** MRIP – COVID-19 Impacts

To support Council discussion regarding the Marine Recreational Information Program (MRIP) and COVID-19 impacts during the Executive Director's report, Dr. Richard Cody will be available to provide an update and answer questions. Several staff attended the American Saltwater Guides Association's related Q&A session with MRIP staff. A recording of that session can be viewed here: <https://www.facebook.com/salth2oguides/videos/288417992374255/>.

### **Staff's Understanding of the Current Situation:**

APAIS (the access-point catch surveys) coverage gaps began in mid-March and are still persisting in some areas/modes. Resumption of sampling activities has not been consistent by state, and safety measures have probably reduced interviewer productivity.

There has been minimal effect on overall effort surveying through the mail-based Fishing Effort Survey and telephone-based For-Hire Survey. However, APAIS is used to bin effort by location (e.g. inland vs. ocean) and account/adjust for out-of-state fishing activity.

Options for production of catch estimates are still being evaluated, and MRIP is looking at various modeling/imputation approaches. 2020 catch estimates may be limited to annual estimates (no or limited wave estimates).

This is a dynamic situation and more updated information may be available at the time of the Council meeting.



**MAFMC Joint Advisory Panel Webinar  
on Mid-Atlantic and Northeast Ocean Data Portals  
June 5<sup>th</sup>, 2020**

The Mid-Atlantic Fishery Management Council hosted a webinar meeting for all of its Advisory Panels (APs), including the Mackerel, Squid, and Butterfish AP; the Summer Flounder, Scup, and Black Sea Bass AP; the Bluefish AP; the Spiny Dogfish AP; the Surfclam and Ocean Quahog AP; the Tilefish AP; the Ecosystem and Ocean Planning AP; and the River Herring and Shad AP. The purpose of this meeting was for AP members to develop recommendations on how the fisheries they participate in could be displayed on the Mid-Atlantic Data Portal and the Northeast Ocean Data Portal.

*The AP comments listed below represent the input of individuals and are not consensus statements.*

**AP Attendees:** Fred Akers, Katie Almeida, Carl Benson, Bonnie Brady, Tom Dameron, Jeff Deem, Jeremy Firestone, Joseph Gordon, Gary Grunseich, Annie Hawkins, Lyndie Hice-Dunton, Peter Himchak, Gregory Hueth, Jeff Kaelin, Howard King, Meghan Lapp, June Lewis, Carl LoBue, Pam Lyons Gromen, Gerry O’Neill, Jeffrey Pike, Michael Plaia, Bob Price, Christopher Spies, Amy Trice, David Wallace, Judith Weis, and Douglas Zemeckis.

**Other attendees:** Julia Beaty (MAFMC staff), Avalon Bristow (MARCO), Jessica Coakley (MAFMC staff), Karson Coutré (MAFMC staff), Scott Curatolo-Wagemann (Cornell Cooperative Extension), Kiley Dancy (MAFMC staff), Zoe Goozner, Fiona Hogan (RODA staff), Lane Johnston (RODA staff), Laura McKay (Virginia DEQ), José Montañez (MAFMC staff), Nick Napoli (NROC and MARCO), Matt Seely (MAFMC staff), Emily Shumchenia (NROC), Karl Vilacoba (Monmouth University), Alissa Wilson.

[View the webinar recording](#)

## **Webinar Summary**

### **Presentations**

The meeting began with a brief introduction and background information, provided by Nick Napoli, on the fisheries data enhancement project between the Northeast Regional Ocean Council (NROC), the Mid-Atlantic Regional Council on the Ocean (MARCO), and the Responsible Offshore Development Alliance (RODA). As part of this introduction, Nick Napoli gave an overview of the Mid-Atlantic and Northeast Ocean Data Portals (“Portals”), including: existing data sets, history of development, and examples of current uses. He mentioned that the Data Portal Team spends significant time vetting data products on the Portals with experts and other stakeholders that are most engaged in the various depicted activities. The fisheries data enhancement project, funded through Federal appropriation dollars in Fiscal Year 2019, aims to increase communication with the fisheries industry in order to further vet existing fisheries data products on the Portals, as well as get recommendations for new products.

Nick Napoli followed this introduction with an overview of the four fisheries data themes on the Mid-Atlantic Ocean Data Portal: (1) Fishery Management Areas; (2) Communities at Sea (Vessel Trip Report - VTR); (3) Vessel Monitoring System (VMS); and (4) Automatic Identification System (AIS). The maps are mostly broken out by gear type or Fishery Management Plan (FMP), although some had to be combined. MARCO, NROC and the Portal Teams know there are limitations with any dataset. Through this project, they are seeking more context about those limitations, and suggestions for how to address them.

Fiona Hogan described RODA's role in the project, which is to ensure fisheries data is presented as accurately as possible on the Portals. She explained that regulatory bodies and other industries are looking at the Portals, so it's important to make sure the data products are as descriptive as possible. She invited interested fishermen to join future webinars to give additional input, or to contact her directly for one-on-one meetings. She also reviewed the feedback that has been received to-date. So far, the project team has heard recommendations to improve metadata describing data limitations and providing management context, and show fisheries closed areas. Additionally, not all the FMPs managed by MAFMC are broken out on the Portals, and the lobster and recreational fisheries are not yet included at all.

### AP Feedback

An AP member noted that the previous Federal Administration created Regional Planning Bodies, and the Nature Conservancy developed a data portal during that process. He asked that since the Portal funding goes back to 2009, was the TNC data portal assimilated into the current data portals? MARCO/NROC staff responded that TNC has been a partner in both the Northeast and Mid-Atlantic Ocean Data Portals since they were established. This AP member was likely thinking about the same portals that are actually owned by NROC and MARCO, respectively.

The AP member also noted that there recently has been many data requests of fishermen, such as this current data enhancement project as well as RODA's Fisheries Knowledge Trust project. He said it is difficult for fishermen to satisfy everyone's requests. RODA staff provided additional information regarding the difference between this project and the Fisheries Knowledge Trust. The latter focuses on industry-owned data that may otherwise be confidential and is currently limited to two pilot studies working with the herring/mackerel and clam fleets.

One AP member said their organization has historically been wary of MARCO. It has taken a long time for fisheries to be an equal partner in this. The development of these maps has been helpful, but it appears that BOEM is not paying adequate attention to them.

One AP member said that it would be useful for a number of reasons for the industry to be able to manage its own data, such as through RODA's Knowledge Trust project. The Knowledge Trust, according to this AP member, is a good alternative to be able to easily access data (VMS, VTR, dealer, habitat, temperature) to inform management decisions related to offshore wind and fissures issues like the herring exclusion zone where fishing would be displaced. This individual said the maps on the Portal are useful and wants to see increased use. Some specific questions and suggestions were offered:

- For monkfish, is it possible to show effort by gear type?

- Menhaden fishing isn't part of the portals, but there is no VMS in that fishery since it's state-managed. Will VTRs help show the fishery information, and would this incur data confidentiality issues?
- Any economic information you can import into this is extremely valuable to us. The industry is being challenged by the wind developers and even our state to provide information on economic impacts, but this information is currently not available on the Portal.
- For recreational fishing, can party/charter activity be tracked through VTRs?

Regarding the question related to displaying monkfish effort by gear type, Nick Napoli responded that the codes would have to be further examined to determine the possibility of breaking out the data by gear type using VMS. He said the idea of adding economic information to the Portal was explored some years ago, but ultimately it was decided to not incorporate that information due to disparities between fisheries. However, offshore wind energy development might warrant renewed consideration of adding this information to the Portal. An AP member suggested that, if economic data were put on the Portal, it would be necessary for the user to be able to filter the data by wind energy lease polygons, or priority or secondary call area polygons.

An AP member expressed gratitude for the Portal as a resource, and was specifically pleased that Essential Fish Habitat (EFH) is nicely portrayed on the Mid-Atlantic Portal. The AP member expressed an interest in understanding where black seabass eggs are. It was also requested that the Carl N. Shuster, Jr. Horseshoe Crab Reserve be depicted on the Portal, as there is an overlap between Ørsted's New Jersey lease and the reserve. This request has since been addressed and this area is available on the MARCO Ocean Data Portal.

Fiona Hogan responded that Declared out of Fishery (DOF) information is not available on the public site yet, but that the project team are considering combining those data, or explaining the management context of why they're not there.

An AP member raised a question about the time period of available data for herring, mackerel, and squid: are there any data from before 2014, and if not, is there a way to incorporate pre-2014 data? Nick Napoli responded that the data from 2014 on are the most reliable, and inquired about whether VMS was utilized prior to that year. He said that the Portal currently has herring, mackerel, and squid data from 2014-2016. He mentioned that the Portal Team is collecting data from the most recent time period and is soliciting feedback on how to work with those data. One recommendation has been to group data according to fishing year rather than calendar year for applicable fisheries. Additionally, for squid, it would be good to get recommendations on how to handle codes; primary and sub-codes can get mixed, which is why there is a "pelagics" category shown and a separate category where squid was the primary trip.

The AP member mentioned that herring, mackerel, and squid VTR data would be available for years prior to 2014 and inquired if there would be a way to build that in. Nick Napoli responded that yes, this would be possible, and it would take one to two years of work to achieve. In the interim, it may be possible to update the squid fishing VMS data and get input on how to allocate the code maps, then try to parse out squid fishing activity from existing VTR data.

An AP member responded that the Illex fishery required VMS in 2016, but it was different for longfin. It would be helpful to overlay VMS and VTR data by fishery, instead of only being able to see one or the

other. Nick Napoli responded that the Portals are organized by data source, and asked if grouping by fishery would be more useful.

An AP member asked whether the regulatory zones for herring and mackerel spawning areas and closed areas appear on the portals. Nick Napoli responded that this has come up in previous discussions during this project. There is a folder for management areas, a separate folder for VTR data, and so on. He speculated that perhaps this needs to be by fishery instead. He encouraged additional feedback on how to incorporate past management regimes into that data. Fiona Hogan added that specific spawning closures for herring/mackerel are not currently on the Portals, but the four management areas are.

An AP member expressed concern that the Portals are being relied upon for management decisions but may not be comprehensive. An example of this was when BOEM used the MARCO Data Portal maps to inform the Empire Wind project, but the maps had only included fisheries data from 2006-2010 (which was later updated to 2012). An AP member added that data on the Portals should go back to the start of a Fisheries Management Plan to show any changes in management. Fiona Hogan responded that there are pros and cons of various time series, for example if using a snapshot of years that is too short you might miss out on periodic shifts in fishing patterns or might not see the effect of regulatory actions (e.g. sectors).

Nick Napoli asked for input on whether data sets should be changed from calendar year to fishing year, and, if so, could multiple years be grouped together?

An AP member responded that it is important to pair the timing of the closed areas to the fisheries data, so that you can see why people may not be fishing in a given area. This may be off if you lump a certain number of years together, and the current data sets do not always line up. This is why spatial regulations need to be reflected in the data: retention of a species was prohibited at a given time, and this does not necessarily mean the species did not exist in that area or was depleted. Clustering years might also mask really good or really bad years, which needs to be taken into consideration if grouping.

Fiona Hogan asked for feedback on transit data, such as whether or how specific fisheries were using AIS. An AP member responded that, in general, speeds vary by fishery and therefore there is variation in thresholds for transit versus fishing or other activities. It may be difficult to get the necessary VTR data due to confidentiality restrictions. This AP member suggested that the project team consider how to show that fishing is occurring in some areas even if the data is confidential. Nick Napoli mentioned that the project's upcoming fishery-specific webinars might provide an opportunity for the project team to discuss more detail about operational speeds for various fisheries, as well as confidentiality topics. Nick Napoli also said that the Fisheries Knowledge Trust may help address concerns about data confidentiality.

An AP member asked whether fisheries data in the Portals can be filtered by wind energy polygons, or secondary or primary lease area polygons? Nick Napoli responded that it may be possible to look at each lease area and provide economic information for those areas as a separate layer.

An AP member who participates in the herring fishery mentioned that there might not be much value-added for AIS data for herring, as captains typically shut off AIS at 12 miles. Nick Napoli explained that AIS data currently on the portals is not broken down by speed, though it would be possible to do that or to show directional travel.



An AP member expressed appreciation for this meeting and the information provided about data currently on the Portals. In particular the AIS information is very relevant to what they have provided to two wind energy developers about transit patterns.

Nick Napoli asked for additional suggestions regarding AIS, and noted that many people turn it off and that the signal is diminished further offshore. An AP member asked if it would be possible to have an AIS layer for offshore wind industry vessels. Nick Napoli explained that offshore wind industry vessel traffic can be seen in several different layers. For example, survey vessel activity appears prominently in the last several years of AIS data, especially 2018-2019. There are also several websites where you can see current activity, such as [marinetraffic.com](http://marinetraffic.com).



## 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](http://www.mafmc.org)  
Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman  
Christopher M. Moore, Ph.D., Executive Director

June 23, 2020

Mr. Michael Pentony  
Regional Administrator  
National Marine Fisheries Service  
Greater Atlantic Region  
55 Great Republic Drive  
Gloucester, MA 01930

Dr. Jon Hare  
Science and Research Director  
Northeast Fisheries Science Center  
166 Water Street  
Woods Hole, MA 02543

Dear Mr. Pentony and Dr. Hare:

The Mid-Atlantic Fishery Management Council (Council) would like to express its deep concern about the plan to place observers on vessels in the Greater Atlantic Region beginning on July 1, 2020. The most recent data indicate that COVID-19 is continuing to spread rapidly in the United States. According to the Centers for Disease Control, on June 19 and 20, there were 32,218 and 32,411 new cases reported, respectively.<sup>1</sup> These represent the two highest one-day increases since April 25. The Council believes that deploying observers on fishing vessels at this time poses an unnecessary risk to the health and safety of fishermen and observers. We strongly recommend that you continue to extend the observer coverage waiver until the number of active COVID-19 cases in the region has been substantially reduced and the number of new cases is steadily declining. This recommendation aligns with the Council's own developing position regarding in-person meetings, which prioritizes health and safety above all other concerns.

It is our understanding that NOAA, like the Council, continues to operate under a maximum telework policy. Also, we believe that NOAA staff such as Northeast Fisheries Science Center employees are currently prohibited from participating in on-board cooperative research. During our June Council Meeting, which was conducted entirely by webinar, we discussed plans for how and when to resume in-person meetings. The Council was generally in agreement that at this time the public health risks outweigh the benefits of face-to-face meetings and that we should continue to utilize virtual meetings for the near term. Considering these steps that have been taken to minimize health risks for fishery scientists and managers, why should the same consideration not be extended to the fishing industry?

Although some states are beginning to slowly reopen, social distancing protocols are still almost universally recommended or required. However, the close living quarters on most fishing vessels would make social distancing virtually impossible. Recognizing that the virus could spread rapidly within these environments, many fishing crews have been self-quarantining before fishing trips. Unless observers are subject to mandatory 14-day quarantine periods between assignments, we are concerned that they could unknowingly become vectors for transmission of the virus between fishing vessels.

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<sup>1</sup> Data source: Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

In evaluating the costs and benefits of redeploying observers, we encourage you to consider not only the health risks to individuals onboard the fishing vessels but also the potential lost wages/revenues if a vessel cannot operate due to an infection caused by an observer. Given the known risks of the ongoing pandemic, is NOAA planning to assume liability for the health costs and other legal or financial ramifications resulting from an infection transmitted by an observer? This is an issue of concern for the fishing industry and should be addressed before observers are redeployed.

The Council recognizes and appreciates that observers provide valuable data that support the effective management of U.S. fisheries. While losing additional observer data will be challenging from a science and management perspective, there are existing methods to compensate for missing data that can likely help bridge any data gaps. However, there is no way to compensate for a lost life.

In closing, the Council does not believe that the observer program can be safely operated at this time and urges you to reconsider your plans to lift the observer waiver. The Council and NOAA Fisheries share a responsibility to promote the safety of human life at sea, and we hope that you will reconsider your position on this issue. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Luisi". The signature is fluid and cursive, with a large initial "M" and "L".

Michael P. Luisi  
Chairman, Mid-Atlantic Fishery Management Council

cc: Mid-Atlantic Council Members  
Dr. Chris Moore  
Mr. Sam Rauch

# Temporary Waivers on Northeast Observers, Monitors Through July 31, Resuming Coverage August 1

*June 30, 2020*

NOAA Fisheries has temporarily waived the requirement for vessels with Greater Atlantic Region fishing permits to carry a fishery observer or at-sea monitor through July 31. Observer coverage to resume August 1.

**Bulletin** | [New England/Mid-Atlantic](#)

June 30, 2020

Although we had announced plans to resume observer deployments on July 1, we recognize the COVID-19 pandemic continues to evolve and as such, has required us to re-evaluate and adapt to changing circumstances. In response, NOAA Fisheries is extending the waiver granted to vessels with Greater Atlantic Region fishing permits to carry human observers or at-sea monitors through July 31, 2020.

This action is authorized by 50 CFR 648.11, which provides the Greater Atlantic Regional Administrator authority to waive observer requirements, and is also consistent with the criteria described in the agency's [emergency rule](#) on observer waivers during the COVID-19 pandemic.

We intend to begin redeploying observers and at-sea monitors on vessels fishing in northeast fisheries on **August 1**. During the month of July, we will continue to work with regional observer and at-sea monitoring service providers to finalize their observer redeployment plans, conduct outreach with industry, and finalize our internal programs and policies that will support the safe and effective redeployment of observers and at-sea monitors in the region.

Observers and at-sea monitors are an essential component of commercial fishing operations and provide critical information that is necessary to keep fisheries open and to provide sustainable seafood to our nation during this time. We will continue to monitor all local public health notifications, as well as the Centers for Disease Control and Prevention (CDC) for updates. We are committed to protecting the public health and ensuring the safety of fishermen, observers, and others, while fulfilling our mission to maintain our nation's seafood supply and conserving marine life.

As has been done throughout the rest of the country, it is the intent of NOAA Fisheries to begin redeploying observers as soon as it is safe and appropriate to do so. While we intend to begin redeploying observers on August 1, we recognize that this public health crisis continues to evolve and changing conditions may warrant re-evaluating these plans. Should our plans regarding redeploying observers and at-sea monitors change, we will announce any changes as soon as practicable.

# NOAA Fisheries Identifies National-Level Observer Waiver Criteria; Will Begin Redeployment in Northeast

July 30, 2020

A message from NOAA Fisheries Assistant Administrator Chris Oliver.

[Leadership Message](#) | [Alaska](#) [New England/Mid-Atlantic](#) [Pacific Islands](#) [Southeast](#) [West Coast](#)  
[National](#)

Providing seafood to the country remains an essential function even in these extraordinary times, and adequately monitoring United States fisheries remains an essential part of that process.

To improve transparency in our approach to observer deployment, we have established national-level criteria for vessels to be waived (released) from observer or at-sea monitor coverage. Going forward, observer or monitor coverage may be waived, for both full and partial-coverage fisheries, on a trip-specific basis if one of the following two criteria are met:

- (1) Observers or at-sea monitors are not available for deployment; or
- (2) The observer providers cannot meet the safety protocols imposed by a state on commercial fishing crew or by the vessel or vessel company on its crew. Within our limited authority, our efforts are intended to ensure observers and monitors are following the same safety protocols that fishermen are following.

We recognize that there are differences for observer and at-sea monitor deployment across fisheries, and have heard the concerns expressed about how observer coverage varies regionally, and even within regions. Given the diversity in our fisheries, from the composition of the fleets to how the fisheries are prosecuted, regional flexibility will continue in the detailed implementation of the two waiver criteria. We believe this adaptable approach will allow us to be transparent with stakeholders as well as responsive to ever-evolving changes on the ground. We also continue to encourage the use of electronic monitoring, as appropriate, as an additional option.

On August 14, we will resume deployment of observers and at-sea monitors in the Northeast partial-coverage fisheries. We are maintaining existing observer and monitor, both at-sea and shoreside, coverage throughout our other regions. Vessels should continue to seek observer and monitor coverage waivers through their regular regional process.

NOAA Fisheries has been working with the regional observer and monitor providers to enact safety protocols that match those that are in effect for vessel operators and crew, during this continually evolving situation. The contractual relationships between industry, NOAA Fisheries, and observer providers vary by region and sometimes within a region.

Observers and monitors, at-sea and shoreside, are an essential component of commercial fishing operations and provide critical information that is necessary to keep fisheries open and to provide sustainable seafood to our nation during this time. We will continue to monitor all local public health notifications, as well as the Centers for Disease Control and Prevention, for updates. We are committed to the health and safety of fishermen, observers, and others while fulfilling our mission to maintain our nation's seafood supply and conserving marine life.

Chris Oliver  
NOAA Fisheries Assistant Administrator

## NEWS

# Final Rule to Implement Permitting and Reporting Requirements for Private Recreational Tilefish Vessels in the Mid-Atlantic

July 15, 2020

Effective August 17, 2020.

[Bulletin](#) | [New England/Mid-Atlantic](#) | [Mid-Atlantic](#)

Beginning August 17, 2020, NOAA Fisheries will require private recreational tilefish vessels, fishing north of the North Carolina/Virginia border, to have a federal recreational tilefish vessel permit and file catch reports. These changes were approved in Amendment 6 to the Tilefish Fishery Management Plan. This action is being taken to better characterize and monitor the recreational fisheries for both blueline tilefish and golden tilefish.

Apply for your federal private recreational tilefish vessel permit through [Fish Online](#). You must apply for this permit using our online system, we are not providing paper applications for this permit. This new permit is required even if a vessel already holds a for-hire tilefish permit.

Private recreational tilefish anglers must also fill out and submit an electronic vessel trip report within 24 hours of returning to port for trips where tilefish were targeted and/or retained. Reports can be submitted through any NOAA Fisheries approved [electronic reporting system](#).

For more information, please see the [final rule](#) as published in the *Federal Register*.



## 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](http://www.mafmc.org)  
Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman  
Christopher M. Moore, Ph.D., Executive Director

Mr. Jerry Barnes and Mr. Matt Creelman  
Fifth Coast Guard District  
431 Crawford Street  
Portsmouth, VA 23704

July 6, 2020

Dear Mr. Barnes and Mr. Creelman,

Please accept these comments from the Mid-Atlantic Fishery Management Council (the Council) on the request for comments on the ongoing Port Access Route Study (PARS) for the Seacoast of New Jersey including offshore approaches to the Delaware Bay.

The Council manages more than 64 marine species<sup>1</sup> in federal waters and is composed of members from the coastal states of New York through North Carolina (including Pennsylvania). Fishing activity for all Council-managed commercial and recreational fisheries occurs within the study area for this PARS. Marine fisheries are profoundly important to the social and economic well-being of Mid-Atlantic communities and provide numerous benefits to the nation, including domestic food security.

The study area for this PARS encompasses 5 wind energy lease areas. Wind energy development off the U.S. east coast is advancing at a rapid pace. The Council has concerns about the potential for the coexistence of fisheries and large-scale offshore wind projects, but supports policies for U.S. wind energy development that will sustain the health of marine ecosystems and fisheries resources. Risks to marine ecosystems and fisheries must be minimized.<sup>2</sup> Our main concerns regarding offshore wind energy development include: 1) the ability of commercial and recreational fishing vessels to continue to safely fish in and transit through the wind energy areas; 2) the continued operation of fisheries-independent surveys conducted by the National Marine Fisheries Service, states, and other entities; and 3) search and rescue operations.

This PARS should consider all available data to understand patterns of commercial and recreational fishing vessel activity in the area, including vessel monitoring system (VMS), automatic information system (AIS), vessel trip report (VTR), and fisheries observer data. Each of these data sets have limitations, which must be explicitly considered and acknowledged in the PARS. For example, data on fishing and transiting locations derived from VMS, AIS, and VTRs do not account for all fishing activity in the area. Specifically, smaller vessels, vessels which only operate in state waters, and private recreational anglers are under-represented and/or completely missing from these data sets. It is

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<sup>1</sup> 14 species (summer flounder, scup, black sea bass, bluefish, Atlantic mackerel, *Illlex* and longfin squids, butterfish, Atlantic surfclams, ocean quahogs, golden and blueline tilefish, spiny dogfish [joint with the New England Fishery Management Council], and monkfish [joint with the New England Fishery Management Council]) are managed in specific fishery management plans. More than 50 additional species are managed as ecosystem components across all fishery management plans.

<sup>2</sup> The Council's policy on offshore wind energy development is available at <https://www.mafmc.org/actions/offshore-energy>.

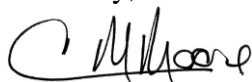
imperative that these data sets be supplemented with extensive input from commercial and recreational fishery stakeholders. Stakeholder input should be collected through a variety of channels, including in-person workshops and meetings, webinars, online comment forms, written communications, and phone calls. We are concerned that the ongoing COVID-19 pandemic will limit the Coast Guard's ability to collect stakeholder input through in-person meetings, which can be especially important for discussing and reviewing spatial data. In addition, some stakeholders feel most comfortable providing input in-person. We urge the Coast Guard to hold in-person meetings with as many stakeholders as possible once health risks have been minimized.

Input provided by fishermen through previous efforts should also be considered. This input is very valuable, though not focused on the study area for this PARS. For example, the Responsible Offshore Development Alliance (RODA) put forward a proposal for transit routes through the lease areas off southern New England.<sup>3</sup> In addition, RODA and the New York State Energy Research and Development Authority (NYSERDA) worked with many fishermen to summarize commercial fishing transit patterns in the New York Bight.<sup>4</sup> Similar input focused on the study area for this PARS should be obtained. In addition, given limitations with the available data sets, extensive stakeholder input on recreational fishing activity should also be sought.

Lastly, we urge the Coast Guard to issue clear and unambiguous guidance regarding wind farm layout restrictions that are necessary to allow for safe vessel transit, fishing activity, and search and rescue operations. These recommendations will be very important for the Bureau of Ocean Energy Management and wind developers to consider. For example, consideration should be given to concerns expressed by the New England Fishery Management Council regarding ambiguous statements about the minimum recommended spacing between wind turbines in the draft PARS for the areas offshore of Massachusetts and Rhode Island (MARIPARS). Those concerns are not repeated here but can be found in the letter linked below.<sup>5</sup> The conclusions made in the final reports for the New Jersey and approaches to Delaware Bay PARS should be less ambiguous. It is important to note that the Coast Guard's recommendations in the MARIPARS build off an agreement by developers to use a uniform layout across multiple leases in that area. No such agreement currently exists for the leases in the region of this PARS; therefore, clear Coast Guard advice on this matter will be especially important.

The Council looks forward to working with the Coast Guard to ensure that any future wind development activities minimize impacts to the marine environment and can be developed in a manner that ensures coexistence with our fisheries.

Sincerely,



Christopher M. Moore, PhD  
Executive Director, Mid-Atlantic Fishery Management Council

cc: M. Luisi, W. Elliott, J. Beaty

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<sup>3</sup> [https://rodafisheries.org/wp-content/uploads/2020/01/200103-MA\\_RI-layout-proposal.pdf](https://rodafisheries.org/wp-content/uploads/2020/01/200103-MA_RI-layout-proposal.pdf)

<sup>4</sup> <https://www.nyftwg.com/new-york-bight-transit-lane-workshop-2/>

<sup>5</sup> <https://s3.amazonaws.com/nefmc.org/200316-NEFMC-to-USCG-re-MARIPARS.pdf>





New England  
Fishery Management  
Council



July 27, 2020

Program Manager, Bureau of Ocean Energy Management  
Office of Renewable Energy Programs  
45600 Woodland Road (VAM-OREP)  
Sterling, Virginia 20166

Dear Sir/Madam,

Please accept these comments from the New England Fishery Management Council (New England Council) and Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) on the Supplemental Environmental Impact Statement for the Vineyard Wind I project proposed offshore of Massachusetts. Please note that we have not considered the revised NEPA regulations published on July 16 (85 FR 43304) in the development of these comments.

The New England Council has primary management jurisdiction over 28 marine fishery species in federal waters and is composed of members from Connecticut to Maine. The Mid-Atlantic Council manages more than 64 marine species<sup>1</sup> in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). In addition to managing these fisheries, both Councils have enacted measures to identify and conserve essential fish habitats, protect deep sea corals, and manage forage fisheries sustainably. The Councils support policies for U.S. wind energy development and operations that will sustain the health of marine ecosystems and fisheries resources. While the Councils recognize the importance of domestic energy development to U.S. economic security, we note that the marine fisheries throughout New England and the Mid-Atlantic, including within the project area of Vineyard Wind 1 and in surrounding areas, are profoundly important to the social and economic well-being of communities in the Northeast U.S. and provide numerous benefits to the nation, including domestic food security.

### ***General comments***

Relative to the cumulative effects analysis, we appreciate BOEM's expanded assessment of how many wind farm projects constitute reasonably foreseeable future actions, and find that this revised scope combined with more robust evaluation of potential impacts provides a better foundation for understanding the overall effects of the project. While acknowledging these improvements, we are concerned about the integration of the DEIS and SEIS into a comprehensive FEIS. We know BOEM is working under Secretarial Order regarding maximum document length and worry that page limits will relegate too much content to appendices, making the document hard to follow. BOEM should carefully consider whether some information from the appendices can be included in the body of the FEIS. For example, the written descriptions and maps of resource geographic analysis areas (Appendix A.1 and

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<sup>1</sup> Fourteen species are managed with specific Fishery Management Plans, and over 50 forage species are managed as "ecosystem components" within the Mid-Atlantic Council's FMPs.

A.7, respectively) are fundamental to understanding the assessment and would be helpful to include in the body of the document. In addition, Tables 3-1 and 3-2 in Appendix B which provide impact definitions (negligible, minor, moderate, major) are important, and should be pulled forward. To the extent that information must be placed in an appendix, it is essential that BOEM hyperlink to relevant sections of the document so that related information can be easily identified. It would also be useful to include hyperlinks to figures, tables, and section headings throughout the body of the EIS itself. To the extent that the EIS references the COP, BOEM should provide very specific references to the relevant volumes and sections (with page numbers, if possible), as the COP itself is a complex document. Ideally the FEIS document would stand alone and not incorporate DEIS and SEIS sections by reference. Given revisions to the project over time, referencing entire sections of the DEIS and SEIS would be very confusing.

During preparation of the FEIS, BOEM should ensure that an assessment of magnitude (minor, moderate, major) is made for all alternatives and VECs. Also, we recognize that it is an editorial decision to specify magnitude but not direction for adverse impacts (vs. magnitude and direction for beneficial impacts), but it might improve clarity to identify the direction of adverse impacts, or, at the very least, reiterate this caveat at intervals throughout the text. In addition, BOEM should be careful when summarizing the effects of an alternative on a VEC when a range of positive and negative outcomes are expected, over different time frames, due to a range of impact producing factors (IPFs; for example, the diverse range of IPFs and effects associated with fish, invertebrates, and EFH). This is not a significant issue when reading the text, where differences across IPFs are clearly laid out, but should be noted as a caveat where impacts are summarized, for example in Table ES-2 on page ES-5. Some readers may not read much more than these summary tables. Further, depending on the VEC and IPFs in question, an assessment of net effects might not be appropriate, and instead a range of effects should be specified.

### ***Management alternatives***

It would be helpful for the FEIS to identify BOEM's preferred action, as indicated by NEPA regulations (EIS documents shall "identify the agency's preferred alternatives, if one or more exists...in the final statement" (CFR § 1502.14 (e)). It would also be informative to clearly outline which actions are feasible and preferred on the part of Vineyard Wind. Specifically, Vineyard Wind and other developers have agreed to a 1x1 nautical mile east-west oriented layout (Alternative D2), which differs from the original layout outlined in the COP, and is not part of the 'proposed action' alternative (Alternative A). Also, Vineyard Wind has negotiated with the local community around the Covell's Beach cable landfall (Alternative B), vs. the New Hampshire Ave. landfall (included in Alternative A). The June 3, 2020 COP<sup>2</sup> does not provide any additional clarity as to which options might be likely or preferred. While many readers may be aware of these developments, the FEIS should convey which are the most likely outcomes, and the proposed action as defined in the FEIS should reflect these plans released by the developers.

We appreciate BOEM's analysis of the transit lane alternative (Alternative F), as recommended by fishery stakeholders. However, as described on pages 2-4 and 2-5 of the SEIS, the transit lane

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<sup>2</sup> <https://www.boem.gov/sites/default/files/documents/renewable-energy/Vineyard-Wind-COP-Volume-I-Appendix-I-Complete.pdf>

Alternative F does not seem feasible. For example, a discussion of issues associated with the cables indicates a need for technically impossible factory joints should the transit lanes be incorporated into the design, which seems to render Alternative F impossible to execute. Is this a function of having a 2 or 4 nm distance between wind turbine generators (WTGs) that would need to be covered by longer sections of inter-array cable? With respect to tradeoffs around power loss under Alternative F, is this related to the footprint of the project and turbine spacing? Or to increasing distance from shore as additional areas of the lease are built out? Finally, in the context of regional demand, it would be helpful to understand how the placement of 2 or 4 nm transit lanes throughout the MA and MA-RI WEAs intersects with the use of larger 14 MW WTGs, vs. the 10 MW originally considered. As compared to the original project design, it seems that loss of turbine placements due to transit lanes might be balanced out by generating more electricity per turbine, thereby still meeting regional demand. Perhaps an in-depth analysis of number of WTGs vs. WTG capacity would show that this is not the case, but a discussion of these tradeoffs would help to demonstrate this.

Also related to the alternatives, the FEIS should be clear that in the context of both direct and cumulative impacts, no action (Alternative G) means that the Vineyard Wind I project would not be built, but that other nearby wind farms are still presumed likely. Readers may assume that no action means no offshore wind construction in the region, especially because this is the first large-scale wind farm to reach this stage of development.

### ***Finfish, Invertebrates, and Essential Fish Habitat***

Multiple aspects of wind farm construction and operations involve noise production. Noise can negatively affect biological processes for many species of fishes and invertebrates. The SEIS indicates that pile driving will generate the most impacts. We ask that BOEM carefully evaluate the information on pile size and hammer energy provided in the Vineyard Wind I COP, as well as information available for other reasonably foreseeable future projects, to ensure that the radial estimates of impacted area are accurate (e.g. the difference in effects between 2,500 kJ vs. 4,000 kJ hammers). It would be useful to monitor noise during construction activities to ground truth these estimates at as many locations as possible. Time of year restrictions related to pile driving should be considered as a mitigation measure, since some species, including longfin squid, could be disproportionately affected if most pile driving occurs in summer during their spawning season.

### ***Recreational fishing***

It is our understanding that the geographic scope for private recreational fishing will be expanded for the FEIS. This is necessary as the geographic scope for private recreational fishing as defined in the SEIS excludes impacts to communities based in Rhode Island, Connecticut, and New York. Precise information on the location of private fishing trips is lacking; however, private recreational fishing effort based out of states other than Massachusetts does occur within the wind energy lease areas included in the geographic area of the analysis. The grouping of private recreational fishing with "recreation and tourism," rather than with commercial and for-hire fisheries, is not intuitive to us and makes it challenging for readers to understand the full picture of potential impacts on all fishery sectors.

### ***Navigation and Vessel Traffic, Other Uses***

We continue to hear concerns from commercial fishing partners about navigation safety, including the potential for impacts due to use of radar. The continued ability of the Coast Guard to effectively conduct search and rescue, or SAR operations, described in the Other Uses analysis, is also of concern. The ability of fishing vessels to operate within the Vineyard Wind I and adjacent wind farms will influence the magnitude of negative effects of the projects on commercial fisheries.

### ***Mitigation and monitoring***

With a project of this scope, there are many opportunities for mitigation of negative effects, via changes in project design or construction methods, and through compensation funds. A clear description of mitigation measures (which are summarized in the DEIS, but not described in the SEIS) will be important to understanding the impacts of the proposed action and should be included in the FEIS. The document should indicate which mitigation measures are assumed in the EIS analyses and which measures might be required as conditions on the construction permit. It is challenging to piece these mitigation elements together, absent a consolidated summary. This should include a summary of fisheries mitigation funds for fishermen from Massachusetts and Rhode Island, as well as a description of how fishermen from other states can be compensated appropriately for any losses.

Related to this, a robust monitoring program, while not mitigation per se, is important to understanding project effects and adaptively managing wind farm construction in the region going forward. In terms of process, it would be helpful to understand how Vineyard Wind and other regional developers will be held accountable to monitoring plans, as well as the mechanism for modifying these plans over time. Given that large scale offshore wind development is new for our region, and that the spatial scale of reasonably foreseeable projects is unprecedented world-wide, there are certain to be effects that we cannot fully anticipate at present. We appreciate developer commitments to the work of the Responsible Offshore Science Alliance and the coordination around monitoring that will result, but these are voluntary agreements, vs. permit conditions.

There are many opportunities for learning and adaptive management going forward. For example, the SEIS discusses that there may be positive effects associated with the creation of artificial hard bottom habitats. A range of materials could be used for scour protection and for cable armoring where burial is not possible. These materials will likely have different ecological benefits, depending on the species. Materials can be selected for their expected benefits, and/or the effects of different types of materials might be compared. Time of year restrictions on construction and maintenance, e.g. to protect fish spawning activity, also provide an opportunity for data gathering and adaptive approaches. These windows may shift over time as the region continues to experience the effects of climate change. Such shifts could have implications for best practices related to operations and maintenance of the Vineyard Wind I project, as well as other projects in the region.

### ***Relationship to other projects***

Vineyard Wind I does not exist in a vacuum, and the relationship between this project and others is important. Consistency of layout across this and future projects is critical to mitigating certain types of adverse impacts, including on fishing operations. Learning from the construction process and from monitoring should lead to adaptive management, for this and other projects. BOEM should articulate how it will ensure that regional development occurs in a coordinated manner across projects. For example, once the Vineyard Wind I turbine layout is established, will extension of this layout to

adjacent projects in the MA and MA-RI WEAs be assumed in future COPs, and be the starting point for future EIS analyses? Should a single planning and environmental evaluation process be conducted when multiple projects wish to use similar routes for their export cables? If the effects of installation or operation are found to be unacceptable despite best efforts to mitigate them, will this information be used to alter future projects?

### ***Conclusion***

We appreciate the opportunity to provide comments to ensure this EIS provides a comprehensive and effective evaluation of expected impacts from the Vineyard Wind I project. The Councils look forward to working with Bureau of Ocean Energy Management to ensure that any wind development in our region minimizes impacts on the marine environment and can be developed in a manner that ensures coexistence of our fisheries with future wind development activities.

Please contact us if you have any questions.

Sincerely,



Thomas A. Nies  
Executive Director, New England Fishery Management Council



Dr. Christopher M. Moore  
Executive Director, Mid-Atlantic Fishery Management Council

cc: James. Bennett, BOEM Renewable Energy Program  
Walter Cruickshank, Acting Director, BOEM  
Michael Pentony, Reg. Admin, GARFO

# 2020 SUMMER NRCC INTERSESSIONAL AGENDA

via Webinar

*All times are approximate*

## Thursday, July 30

*10:00 a.m. – 10:05 a.m.*

1. Welcome, Introductions, Announcements  
(Moore, Sullivan)

*10:05 a.m. – 11:00 a.m.*

2. East Coast Scenario Planning Working Group  
Discussion leader: Ruccio
  - Provide scope of different options, including estimates for the requirements for those options (staff, time, etc.)

*11:00 a.m. – 11:55 a.m.*

3. Regional BSIA Framework Working Group  
Discussion leader: Kelly
  - Updates on the BSIA Framework Table and the discussion of NMFS point(s) of contact for the SSC.

*11:55 a.m. – 12:00 p.m.*

4. Other Business

*12:00 p.m. Meeting adjourns*



**Establishing a National  
Seafood Council**  
**Report and Recommendations from the  
Marine Fisheries Advisory Committee**

July 1, 2020

# Executive Summary

Since 2018, the Marine Fisheries Advisory Committee (MAFAC) has been considering what the federal government can do to help improve consumer confidence in, and subsequently consumption of, U.S. seafood in our country, in order to support and increase value of our sustainably managed fisheries and aquaculture. Increasing the consumption of U.S. seafood will also directly improve the health of the American people and support U.S. jobs. Facilitating this is not only in the best interest of the seafood industry but also is a service to the public. Most importantly, MAFAC identified the need to elevate the narrative of the inherent sustainability behind the management practices and harvesting of U.S. wild-capture and aquaculture seafood products, which are not adequately appreciated in the public marketplace.

In investigating what the federal government's role could be to increase U.S. consumption of U.S. seafood, MAFAC learned about the Fish and Seafood Promotion Act of 1986 (FSPA) and identified components of it as potentially viable options to achieving this goal. Specifically, MAFAC determined that establishment of an industry led and federally overseen National Seafood Council under the FSPA could be an effective mechanism to reach the stated goals. To test this hypothesis, MAFAC members developed a concept for what a National Seafood

Council could look like and gathered feedback from the U.S. seafood community. Additionally, MAFAC sought feedback from advisors on the FSPA and implementing regulations in their current forms, to evaluate feasibility of their implementation.

Amidst the later stages of MAFAC's work, the COVID-19 crisis escalated in the United States, creating significant challenges in the U.S. seafood supply chain. These challenges only amplify the need for a National Seafood Council. This Council could enhance resilience for all U.S. seafood-related industries in the face of future disruptions.

Following external engagement and significant Committee discussion, MAFAC is confident the concept for a National Seafood Council will benefit the U.S. seafood industry and, indeed, the consumer. This report documents MAFAC's findings and the recommendations for its implementation. If NOAA Fisheries, NOAA, and the Department of Commerce agree with MAFAC's assessment and recommendations, MAFAC encourages swift implementation and continued communication on this topic with industry and other stakeholders. The timing is appropriate, and industry appears supportive. Any delay could stall and lessen the positive momentum and synergistic opportunities that currently exist.

The full report can be viewed on [this page](#) under "Recommendations and Report to the Agency."



July 28, 2020  
Dr. Chris Moore  
Executive Director  
Mid-Atlantic Fishery Management Council  
800 North State Street, Suite 201, Dover, DE 19901

**RE: Request for Inclusion of a Squid Species Exemption from Duplicative and Burdensome USFWS Regulations, in the Council's Identification of Important Regulatory Reforms Pursuant to Executive Order (EO) 13921 Promoting American Seafood Competitiveness and Economic Growth**

Dear Dr. Moore:

We learned during the May 27-28 meeting of the Regional Fishery Management Councils' Council Coordinating Committee we first heard that the National Marine Fisheries Service (NMFS) will be surveying the Councils to gather ideas to reduce regulatory barriers negatively affecting American seafood competitiveness, consistent with EO 13921.

After listening to your report on the EO to the Council last month, and receiving your recent EO Comment Form announcement, we understand that the Council is now actively soliciting ideas. We were pleased to hear your response to Council Member Dewey Hemilright's question about the possibility of HMS ideas being solicited, even though those regulatory constraints lie outside the Council's immediate jurisdiction.

With this in mind, we are asking the Council to support recommending to NMFS the reform of a U.S. Fish & Wildlife Service (USFWS) Loligo and Illex squid fishery regulatory issue, which is having serious negative economic and competitive effects on our businesses. The issue is directly related to the inclusion of squid fishery products in a USFWS inspection and user fee system established for monitoring the import and export of certain types of protected wildlife products (at 50 CFR 14).

NMFS has taken a position in opposition to the USFWS' justification for including U.S.-produced squid species as part of these program in the past, including most recently in Congressional testimony in 2016. Encouraging NMFS and USFWS to reform this program will not require any changes to the Council's Mackerel, Squid, Butterfish Fishery Management Plan (MSB FMP).

These USFWS policies and regulations require squid producers to ship U.S. squid only from designated ports, and pay duplicative inspection fees, paperwork fees, and license fees; all leading to higher costs for our goods and delays in the shipment of our perishable seafood products year-round.

The USFWS regulations in question are intended to apply to small shipments of wildlife species of concern, to prevent abuse through the unauthorized trade in protected animals. This program should have nothing to do with the legitimate commercial production and distribution of US seafood, including squid. Virtually all other US commercial fishery products are exempt from this program and these rules.

We fully recognize this issue has joint agency ramifications and that NOAA/NMFS may not have the direct authority to force a sister agency to adjust their regulations. However, NOAA officials have been clear that the new EO does give the Agency the authority to make recommendations on cross-cutting issues that impact NOAA's commercial fishing industry stakeholders. This issue of duplicative squid inspections, within the exclusive jurisdiction of the USFWS, is an example of where we need Council and NOAA assistance in making this recommendation for reform to the Administration.

The USFWS's current policy and associated regulations, which include squid products in an import/export monitoring program created to protect rare and endangered wildlife, negatively impacts small U.S.-owned businesses, and renders U.S.-produced squid less competitive in international markets, thereby exacerbating the annual \$16B seafood trade deficit (much of it with China and other Asian countries). These requirements provide zero environmental conservation benefit for U.S. interests. Furthermore, the USFWS's role in seafood inspection is redundant and provides no benefit to our fishing companies or U.S. consumers.

Our repeated requests to the USFWS to exempt squid as either a shellfish (i.e. mollusk) or a fishery product, and to provide relief to all our U.S. domestic squid fisheries, have long been ignored. The USFWS has clear authority to grant exemptions for shellfish and fishery products, and has done so for virtually all other seafood, but has refused to do so in the case of squid.

The Agency has never given a justifiable reason for their position other than to say they can interpret the statute and form policy decisions in any manner they so choose (and require fees to be paid to support those decisions). The FWS has likewise ignored comments from NMFS in the past, as described above, attempting to correct the USFWS's false assumption that squid does not meet their definition of 'shellfish' or 'fishery product'.

Now, the MAFMC working with NOAA/NMFS and the Administration has an excellent opportunity to make a substantial difference for our industry, consistent with the intent of EO 13931, by pressing the USFWS to make a logical and reasonable change to their inspection and user fee system by exempting U.S. squid products from it.

We believe our request for an exemption from this system, through an EO 13921 lens, is warranted in order to eliminate the significant negative impacts of the overregulation of harmless edible shellfish and fishery products and redundant seafood inspection requirements imposed by the USFWS. In our opinion, the USFWS has placed an unnecessary economic and regulatory burden on numerous small U.S. businesses for no justifiable benefit, environmental or otherwise.

#### Fishing Industry Request to the MAFMC

We believe the MAFMC should recommend to NOAA/NMFS and to the Administration that the USFWS revise its wildlife import/export rules (See 73 FR 74615 and 50 CFR Parts 10-14), to exempt U.S. squid species pursuant to the President's Executive Order.

Clearly, these harmless food products should be defined correctly either as "shellfish" or "fishery products" (or both) and thus exempted from the system at 50 CFR Parts 10-14. U.S. east coast

squid *fisheries* are managed by the MAFMC/NMFS under the MSA, our nation's premier *fisheries* management law, as components of federal *fisheries* management plans. California's squid *fishery* is also actively managed, by the CA Dept. of *Fish* and Wildlife. Thus, the Administration should amend this FWS policy and properly define squid as a "*fishery* product" and require the USFWS provide an exemption from the wildlife inspection user fee system.

### A Brief Chronology of the Issue

Prior to the Final Rule of December 2008, U.S. squid seafood products were exempt from these USFWS requirements and inspection fees. During the 2008 rulemaking process the USFWS received comments from the commercial fishing industry and NMFS, both of whom opposed the USFWS' definition of "shellfish" as inconsistent with that of NMFS and the United Nations Food and Agriculture Organization (FAO). Frankly, all the evidence we have indicates that squid are considered to be *both* mollusks and fishery products by scientists including the lead federal agency responsible for managing fisheries and seafood resources, in fact by pretty much everyone except the USFWS.

At that time the NMFS requested the USFWS revise its definition of shellfish to include squid to be consistent with that of NMFS, the lead federal fisheries management agency; which could have provided relief to our industry in terms of an exemption from the USFWS inspection fee system (e.g. permissible for certain shellfish & fishery products). In the end, the USFWS did not agree with NMFS; did not alter its erroneous definition of shellfish; nor did it choose to consider squid products to be fishery products.

There is additional history here for the MAFMC to consider. In 2008 Congressman Henry Brown (R-SC), at that time the Ranking Member on the House Natural Resources Committee, Subcommittee on Fisheries, Wildlife and Oceans, submitted comments to the USFWS calling into question the lack of justification for the Agency to engage in seafood inspection by revising their import/export license requirements at 50 CFR 14.

It was not until 2012-13 that the Obama Administration began to aggressively enforce these regulations, due in part to what appears to be an effort by the USFWS to offset the fiscal impacts of budget sequestration at that time.

In October 2014, the House Natural Resources Chairman Doc Hastings (R-WA) raised similar issues in a letter to then Interior Secretary Sally Jewel, to which he received a rather lukewarm response (on December 22, 2014), essentially indicating the USFWS was entirely comfortable with their interpretation of the definition of shellfish and their enforcement of the 2008 Final Rule.

On January 22, 2016, the House Natural Resources Subcommittee on Water, Power and Oceans held a hearing on the USFWS licensing requirements. The Subcommittee heard testimony from NOAA/NMFS officials that our domestic squid fisheries were healthy, sustainably-managed seafood products that were not a threat to the environment; while the USFWS representative, Mr. William Woody, stated the agency has broad authority to interpret the definition of shellfish and fishery products in any manner they choose.

On June 22, 2017, three coastal Republican Members of Congress sent a joint letter to then Secretary Zinke requesting a review of the USFWS regulations and an exemption from the current user fee system regime. To date, we have not seen any helpful signs from the Agency. We believe both the President's EO 13771 and EO 13921 provide a legitimate and consistent opportunity for the Federal Government to reexamine this situation. We appreciate the possibility that the Council could now provide us with an opportunity to regain momentum on this issue by including it in your response to the NMFS' solicitation of issues negatively affecting American seafood competitiveness.

It is also important to recognize the Council's long-term efforts to develop measures to sustain the east coast squid fisheries, as part of the MSB FMP. Along with those efforts, our companies have been able to partner in the Marine Stewardship Council's (MSC) certification of our Atlantic Loligo and Illex squid products, which are in demand here, in Canada, Europe, and Asia.

The mission of the MSC is to use their ecolabel and fishery certification program to contribute to the health of the world's oceans by recognizing and rewarding sustainable fishing practices. By working with them, we can influence the choices people make when buying seafood and transform the world's seafood market to a sustainable future by offering top quality U.S. seafood products.

Clearly, MSC-certified squid products pose no threat to the environment despite the fact that the USFWS user fee and monitoring system treats them in a manner similar to a CITES, ESA, or Lacey Act-listed species of concern. These squid species (and products made thereof) are not listed as injurious under 50 CFR part 16; they are not ESA-listed or candidates for listing (part 17); nor are they a CITES species (part 23). These species are not considered to be aquatic invasive species nor are they a threat to the U.S. environment in any way -- so the justification for inclusion in the USFWS declaration process for fish and wildlife defies common sense.

The specific domestic fisheries being directly harmed by the USFWS' policy and associated regulations are these:

#### Atlantic Longfin/Loligo squid

Harvest season: Offshore September through mid-April; Inshore May through August

Available quota level: 50,555,887 lbs. (22,932 mt)

2017 Harvest level: 17,993,000 lbs. (8,162 mt); Value: \$23.4 million ex vessel

2018 Harvest level: 25,588,130 lbs. (11,588 mt); Value: \$38 million ex vessel

2019 Harvest level: 27,213,341 lbs. (12,242 mt); Value: \$39 million ex vessel

#### Atlantic Shortfin/Illex squid

Harvest season: May through October

Available quota: 50,518,927 lbs. (26,000 mt)

2017 Harvest level: 49,612,500 lbs. (22,500 mt); Value: \$22.5 million ex vessel

2018 Harvest level: 53,177,989 lbs. (24,117 mt); Value: \$23.6 million ex vessel

2019 Harvest level: 54,729,757 lbs. (24,825 mt); Value: \$28 million ex vessel

### California Market / Loligo squid

Harvest season: April 1 through March 31, or attainment of 118,000 short ton harvest limit

2017 Harvest level: 137,671,129 lbs. (62,446.57 mt); Value \$68,726,265 ex vessel

2018 Harvest level: 73,145,367 lbs. (33,178.5 mt); Value: \$35,767,673 ex vessel

2019 Landings: 27,198,474 lbs. (12,337.14 mt); Value: \$13,434,163 ex vessel

### Monitoring/Inspections of Squid Fisheries, Processing and Trade

As referenced above, U.S. squid fisheries are carefully managed and closely monitored in their respective regions by the federal government via the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and through the Secretary of Commerce pursuant to his authorities over NOAA and NMFS. In addition to monitoring by the federal government, California's squid fishery is actively managed by the California Department of Fish and Wildlife.

These fisheries are sustainably managed, they are not being overfished and overfishing is not occurring. In fact, the Atlantic Longfin squid fishery was the first squid fishery in the world to secure MSC certification, on May 22, 2018, and the Atlantic Shortfin (Illex) squid fishery was subsequently certified as MSC-sustainable on May 2, 2019. These certifications by a nongovernmental third-party is further evidence these fisheries are well-managed and not a threat to the marine ecosystem or U.S. commerce and thus should not require redundant USFWS oversight.

Squid are harvested by trawl (Atlantic) and purse seine (Pacific) gear on U.S.-owned/operated commercial fishing vessels on trips of short duration (e.g. typically 1 to 4 days; all within the U.S. EEZ). The vessels are subject to U.S. Coast Guard inspection and on-the-water federal observer coverage requirements by NOAA staff and contractors, in addition to compliance with the NOAA/NMFS Office of Law Enforcement (OLE).

Product quality is commonly maintained at-sea through the use of refrigerated sea water systems. The harvest is offloaded at shore-side plants in any number of coastal States (including but not limited to Massachusetts, Rhode Island, New Jersey, Virginia and California). There, product is subject to further processing under additional laws and chain of custody protocols.

Once the fresh squid are delivered to shore-side plants, for product not destined for the fresh market, it is processed/cleaned/packed/frozen for human consumption in both domestic and export markets. Market conditions vary by year and squid products are regularly imported and exported by U.S. companies, but the majority of U.S squid being harvested and processed today (approximately 65%) is destined for export markets.

In addition to vessel monitoring requirements; squid processing plants are subject to site inspections by the Department of Commerce and the Food & Drug Administration (FDA) as well as the CA Department of Fish and Wildlife, State Sanitation Departments, Bureau of Weights and Measures (scales) and even the local Fire Department. Squid processing plants are also required to meet comprehensive Hazard Analysis Critical Control Point ("HACCP") food safety requirements.

In sum, the fishery production process for squid is already monitored by federal and state governments and the products are of high quality, therefore seafood inspection by the USFWS is costly overkill and frequently threatens the timely and safe delivery of a highly-perishable product to our customers.

On the trade monitoring side, squid export shipments are tracked by the U.S. Department of Commerce (USDOC). Frozen squid are lot inspected by the USDOC. This also enables USDOC to issue health certificates required by non-EU Countries. Import documentation is checked by the FDA and U.S. Customs Service. Shipments are periodically flagged and inspected by the FDA. There is no need for additional USFWS oversight.

### Added Cost of USFWS Oversight and the U.S. Seafood Trade Deficit

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. This undermines U.S. trade policy and increases our trade deficit, especially with China and Japan.

Further, the FWS's limiting of the ports which can be used for squid exporting (to conduct duplicative inspections of shipments already inspected by USDOC) prevents companies from getting the best freight rates, further negatively impacting US product competitiveness abroad.

There are hundreds of import/export shipments, consisting of thousands of containers in the aggregate, of U.S. squid products each year, originating on both the East and West coasts. Collectively, the U.S. companies moving these shipments are subject to many tens of thousands of dollars of additive fees courtesy of the USFWS and for no environmental or economic benefit to the U.S. All the costs noted below must be added to the costs that U.S. squid producers must pay to export their products overseas while they attempt to successfully compete in international markets.

Furthermore, we understand there is growing interest among some U.S. companies to export fresh squid products, particularly to Canada, but they are unable to develop these additional business opportunities due to the overly burdensome USFWS regulations and cost of the fee system. In a very real sense, the USFWS is also harming the development of new U.S. products for export markets.

These fees should also be considered in the context of squid container shipments which range in the size of 35,000 pounds to 55,000 pounds (per container) with values ranging from \$25,000 to \$150,000 (depending on the species and market grade). As such, the size of these shipments far exceeds the Agency's current exemption for "trade in small volumes of low-value non-federally protected wildlife parts and products" which requires wildlife shipments where the quantity in each shipment of wildlife parts or products is 25 or fewer and the total value of each wildlife shipment is \$5,000 or less.

- Every U.S. company exporting/importing squid must secure a USFWS license at a cost of \$100.

- There is a \$93 USFWS base inspection rate for EACH squid shipment leaving/entering the U.S.
- In addition, there is a \$53 per hour overtime (OT) fee that companies may be required to pay the USFWS. This is particularly impactful on some West coast companies where approximately 90% of shipments are loaded on a Thursday/Friday and sail on the following Sunday/Monday. This may lead to thousands of dollars in OT payments to the federal government for a redundant layer of seafood inspection.
- The USFWS allows U.S. companies to only ship squid through designated ports. Any shipments not going through a port on the official list are subject to an added “non-designated port inspection fee” of \$146 per shipment. There are also FWS time requirements for advance notice and any inspection delays may also negatively impact the buyer process under rapidly changing market conditions.
- These U.S. companies must also pay staff time and hire freight firms to manage the USFWS paperwork requirements.

We thank you for this opportunity to seek the Council’s support for including a recommendation to the Administration to exempt squid species from the USFWS wildlife import/export requirements, in response to the opportunities provided to U.S. seafood producers by EO 13921. We truly appreciate your consideration of our request. Please do not hesitate to contact any of us for additional information.

Respectfully submitted,

*Jeff Reichle*

Jeffrey B. Reichle  
Chairman  
Lund’s Fisheries, Inc.

*Meghan Lapp*

Meghan Lapp  
Fisheries Liaison, Gen Mgr.  
Seafreeze, Ltd, Seafreeze Shoreside

*Ryan Clark*

Ryan G. Clark  
President & CEO  
The Town Dock

**Attachment:** *The following memo summarizing this issue, and a copy of this letter, were provided to Interior Secretary Bernhardt at a Roundtable Discussion in Boston, July 21, 2020.*

**USFWS IMPORT/EXPORT REGULATIONS FOR SHELLFISH & FISHERY PRODUCTS ARE HARMING U.S. SEAFOOD COMPANIES**

The USFWS regulates the trade of shellfish and fishery products under the wildlife laws enforced by the Agency at 50 CFR 14. The Agency provides exemptions from these import/export regulations for certain shellfish and non-living fishery products if they are for human or animal consumption and the species is not listed as injurious under the Lacey Act (50 CFR Part 16), does not require a permit under the Endangered Species Act (50 CRF Part 17), or is not listed under CITES (50 CFR 23).

The USFWS has the authority to determine whether a species meets the definition of “shellfish or fishery product” in the context of these regulations and provide exemptions for such products. Despite these possible exemptions -- the Agency continues to apply costly and unworkable import/export requirements on U.S. edible squid products. The products are not ESA/CITES-listed, are not considered injurious, and pose no threat to the environment. They are fishery products intended for human consumption, plain and simple.

On December 9, 2008 the USFWS published a final rule (73 FR 74615) to revise subpart I – Import/Export Licenses of 50 CFR14 to clarify license and fee requirements and revise statutory exemptions. The U.S. commercial fishing industry and NOAA/NMFS had commented on the proposed changes with respect to the inclusion of shipments of squid products. Both the fishing industry and NOAA/NMFS questioned the USFWS interpretation of the definition of “shellfish” (i.e. aquatic invertebrates with a shell) and noted the USFWS inconsistencies with FAO’s inclusion of squid species in the class Cephalopoda as shellfish. In the final rule the USFWS agreed the organisms were indeed mollusks but chose not to consider them to be aquatic invertebrates with a shell as per the existing USFWS definition of shellfish.

Furthermore, the Agency has refused to consider (and exempt) squid products as “fishery products”, a policy decision that defies logic. Thus, the USFWS is treating edible domestic frozen squid for human consumption exactly as they treat Lacey Act-listed injurious and invasive zebra mussels and Chinese mitten crabs, CITES-listed paddlefish and queen conch, ESA-listed fresh water mussels, and fertilized salmonid & trout eggs.

Based on questionable interpretations of “shellfish and fishery products” the USFWS continues to charge individual U.S. seafood companies tens of thousands of dollars each year in license fees, employee paperwork time, fines, storage, delays and travel/overtime for Agency employees to overregulate a harmless U.S. seafood product.

Here is just one example of the USFWS flawed and burdensome system, there are many. The Agency requires at least a 48-hour notice prior to an export shipment but will not clear a shipment until it gets close to the export date. Companies that have provided the Agency with as much as a 10-day advance notice do not see their export clearances until after the “port cut” – the last day a company can deliver a full container to the terminal in order to load the vessel that has been booked for the delivery. If a company misses a port cut they are paying \$500-600 per day until the container boards the next vessel (about 9 days). Terminals are typically open for receiving just 2-3 days prior to the port cut and there is just a 3-4 day window to deliver loaded containers. If a company must wait for Agency clearance to begin the loading process they will miss every shipment because the Agency cannot provide timely approvals until after the port cut.

In addition, if the Agency rejects a container on the basis they want to inspect the contents they require a company to deliver the loaded container to a bonded warehouse at the company’s expense. Timing is critical when we are delivering refrigerated cargo due to its perishable nature. The Agency process is last minute and structured in a way that makes it impossible to load the vessel as customers require which can also result in added costs per container. Here are a few of the costs enumerated below --

Carrier detention: \$300/day for 9 days. \$2700  
Chassis use: \$35/day for 9 days. \$315  
Storage at trucker’s yard: \$150/day for 9 days. \$1350  
Rolled booking charge: \$500



Trucking to Bonded Cold Storage: \$1200

Last Minute Appointment at Bonded Cold Storage: \$1000

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. This undermines U.S. trade policy and our trade deficit, especially with China and Japan.

Further, the Agency's limiting of the ports which can be used for squid exporting (to conduct duplicative inspections of shipments already inspected by USDOC) may prevent companies from getting the best freight rates, further negatively impacting US product competitiveness abroad.

There are hundreds of import/export shipments, consisting of thousands of containers in the aggregate, of U.S. squid products every year, originating on both the East and West coasts. Collectively, the U.S. companies moving these shipments are subject to many tens of thousands of dollars of additive fees courtesy of the USFWS and for no environmental or economic benefit to the U.S. All the costs of USFWS compliance must be added to the bottom line for U.S. squid producers to export their products overseas and to successfully compete in international markets.

In conclusion, we believe President Trump's recent Executive Order 13921 designed to remove unnecessary regulatory burden on the U.S. seafood industry and promote trade opportunities should be the tool by which the USFWS exempts domestic squid products from costly and unworkable inspections, licenses and user fees.

We also believe Congress did not intend for the USFWS to interject unscientific policy decisions into our national seafood inspection system, especially for shellfish and fishery products that are not a protected species and pose no threat to the environment.

The USFWS has no justifiable reason to treat U.S. squid products differently than other edible fishery products and should include squid products in the regulatory definition of "shellfish & fishery products" at 50 CFR-Chapter1-Subchapter B-Part 14.21(a)(1) and exempt these products from the inspections, licenses and user fees.

Prepared by: Rick Marks, ROMEA; [rem@hsgblaw-dc.com](mailto:rem@hsgblaw-dc.com) (July 21, 2020)

###



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

July 29, 2020

Dear Dr. Moore,

Over the last year, the Scallopers Campaign has been working with participants in the Limited Access (LA) Atlantic sea scallop fishery to secure much needed operational flexibility through the development of a leasing program. We have worked closely with the New England Fishery Management Council's (NEFMC) Sea Scallop Advisory Panel (AP) to ensure that the development of a leasing program is a high work priority for 2021. Within the past twelve months, the AP has voted four times in support of the development of a leasing program for the LA fleet.

We bring this issue to the attention of the Mid-Atlantic Fishery Management Council (MAFMC) for two reasons.

- First, industry support for leasing among LA scallop vessels homeported in the Mid-Atlantic region is overwhelming. The sea scallop fishery is among the Mid-Atlantic's most important and highest revenue fisheries. Despite the social and economic importance of the fishery to the Mid-Atlantic's fishing and processing industries, the Mid-Atlantic Council only has two votes on the NEFMC's Scallop Oversight Committee.
- Unfortunately, representatives from the Mid-Atlantic cannot vote on the NEFMC, including the Council's annual priority-setting process. Given the importance of this issue to the scallop fishery and the overwhelming level of support from the fleet homeported in the Mid-Atlantic, we request that the Mid-Atlantic Council transmit a request to the NEFMC asking them to include initiating a leasing amendment to the Atlantic Sea Scallop FMP in its 2021 priorities.

The Mid-Atlantic scallop fleet is ready to engage in the amendment process. As you may know, there are more LA scallop vessels homeported in the MAFMC region than in that of the NEFMC. An overwhelming 70% of LA vessels support initiating the process to develop a leasing program for the fishery. Within the vessels homeported in the Mid-Atlantic states, support rises to 83%. Please reference the attached information sheet for additional numbers. Additional resources, including an issues statement describing the purpose and need for the action, are available at [ScallopersCampaign.org](https://ScallopersCampaign.org).

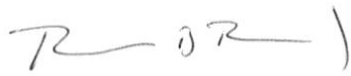
The Scallopers Campaign strongly believes in the ability of the NEFMC's plan amendment process, with the benefit of input from the AP, the PDT, the Scallop Committee and the public, to develop an effective leasing program. The industry is eager to begin the discussion, and we ask your support in requesting

the NEFMC to consider and include the issue in their 2021 priorities to initiate the process and engage the Mid-Atlantic fleet in the discussion.

Sincerely,

Handwritten signature of Jeffrey Pike in black ink.

Jeffrey Pike

Handwritten signature of Rick Robins in black ink.

Rick Robins

# WANTED!

## Flexibility in the Scallop Fishery

### Strong Support Across the Industry for Leasing Project

A growing majority of limited access scallop vessel owners are asking for leasing in their fishery. The call grows stronger every day! It's time for the Council to start work on a new approach to building flexibility in the Atlantic sea scallop fishery.

#### FLEET-WIDE SUPPORT

### 244 vessels

support the project in the limited access (LA) fishery. These numbers include 51 owners operating out of 7 states.

#### SMALLER OPERATORS ON BOARD

More than half (67%)

of supporting owners have

### 4 or fewer permits.

#### STATE BY STATE

A majority of permits in vessels home ported in

### 6 states

(MA, RI, CT, NJ, VA, and NC) support the pilot project.

#### CLASS BY CLASS

70% of the LA scallop fishery supports the project (with more joining as they hear about us), including

- 68% of full-time (FT) permit holders
- 100% of FT permits also authorized to use trawl nets
- 69% of FT small dredge permit holders
- 78% of part-time (PT) small dredge permit holders

*Based on 2019 GARFO scallop vessel information*

*The limited access scallop fleet supports the initiation of an action by the New England Fishery Management Council to prioritize a voluntary leasing project in the limited access fishery that provides owners with operational flexibility, is conservation neutral, and includes measures to protect non-participants and other fisheries.*





**Mid-Atlantic Fishery Management Council**  
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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman  
Christopher M. Moore, Ph.D., Executive Director

## MEMORANDUM

**Date:** July 30, 2020  
**To:** Chris Moore, Executive Director  
**From:** Mary Sabo, Staff  
**Subject:** Executive Order on Promoting American Seafood Competitiveness and Economic Growth

On May 7, 2020, the President of the United States signed an Executive Order on Promoting American Seafood Competitiveness and Economic Growth. The purpose of this Executive Order is “to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent Federal actions; and remove unnecessary regulatory burdens.”

Section 4 of the Executive Order requires each Regional Fishery Management Council to submit, within 180 days of the date of this order, a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries, including a proposal for initiating each recommended action within 1 year of the date of this order. Recommendations must be consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. The Council’s list of recommendations is due to NOAA Fisheries on November 2, 2020.

Council staff have solicited public input on potential changes to regulations, orders, guidance documents, or other similar actions that could reduce burdens on domestic fishing and/or increase fishery production. Staff have similarly requested input from Council members. Comments are being collected via email and an online comment form through August 5 and will then be compiled and posted as a supplemental document on the August meeting page. During the Executive Director’s Report, the Council will review comments received and provide additional input and direction to staff.

Enclosed behind this memo are several supporting documents for Council consideration:

- Executive Order 13921 on Promoting American Seafood Competitiveness and Economic Growth – Section 4
- Guidance for Councils Response to E.O. 13921 Section 4 (provided by NOAA Fisheries)
- E.O. 13921 Recommended Action Template (provided by NOAA Fisheries)

*The following is an excerpt from the Executive Order on Promoting American Seafood Competitiveness and Economic Growth. To view the full Executive Order, visit <https://www.federalregister.gov/documents/2020/05/12/2020-10315/promoting-american-seafood-competitiveness-and-economic-growth>.*

**Sec. 4. Removing Barriers to American Fishing.** (a) The Secretary of Commerce shall request each Regional Fishery Management Council to submit, within 180 days of the date of this order, a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries, including a proposal for initiating each recommended action within 1 year of the date of this order.

(i) Recommended actions may include changes to regulations, orders, guidance documents, or other similar agency actions.

(ii) Recommended actions shall be consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.); and other applicable laws.

(iii) Consistent with section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(f)), and within existing appropriations, the Secretary of Commerce shall provide administrative and technical support to the Regional Fishery Management Councils to carry out this subsection.

(b) The Secretary of Commerce shall review and, as appropriate and to the extent permitted by law, update the Department of Commerce's contribution to the Unified Regulatory Agenda based on an evaluation of the lists received pursuant to subsection (a) of this section.

(c) the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chair of the Council on Environmental Quality a report evaluating the recommendations described in subsection (a) of this section and describing any actions taken to implement those recommendations. This report shall be updated annually for the following 2 years.

## Guidance for Councils Response to E.O. 13921 Section 4

In response to [Executive Order 13921](#), a formal request was sent to the Regional Fishery Management Councils for a prioritized list of recommended actions “to reduce burdens on domestic fishing and to increase production within sustainable fisheries” by November 2, 2020, as required under Section 4 of the order. To provide further details and instructions for submissions, this document spells out guidance for Councils in formatting their responses.

Examples have been provided in the attached template table *EO13921 Recommended Actions Template* to provide a framework for responding to the request. Please develop your prioritized list and send a copy of the completed table (one response per Council) by email to [Kelly Denit](#) and copy [Morgan Corey](#), Office of Sustainable Fisheries. To facilitate tracking recommended actions, please provide the following information in your response:

Indicate the **priority number** relative to other proposed actions in order of preference, with 1 being the highest priority, and assign a unique priority number to each proposed action (i.e., only one action assigned to priority 1, 2, 3, etc.). If possible, consider bundling actions by FMP or by fishery before prioritizing.

Classify the recommended action(s) type as a Regulation, Order, Guidance, or Other Similar Agency Action using the dropdown list.

Identify the relevant Code of Federal Regulations (CFR) Citation under Title 50, if applicable (CFR information [here](#)).

Describe the recommended action, including current regulation implications and issues that could be addressed by taking the action(s).

Explain **how** the recommended action(s) reduces burdens on domestic fishing and/or increases production within sustainable fisheries. Be as specific as possible (qualitative information is enough) to detail the anticipated effects (social, economic, biological) of taking the action(s).

Outline a proposal for initiating each recommended action, including the current status of discussions, steps to be taken, expected timeline for Council discussion and decisions.

E.O. 13921 Recommended Action Template – *Provided by NOAA Fisheries on 7/16/20*

Council(s)	Priority Number	Action type (e.g. Changes to Regulations, Orders, Guidance Documents, Other Similar Agency Actions)	Relevant CFR Citation under Title 50 (if applicable)	Description of recommended action(s)	Rationale of how the recommended action(s) reduces burdens on domestic fishing and increases production within sustainable fisheries	Proposal for initiating each recommended action(s) within 1 year of the date of this order (i.e., by May 7, 2021)
Example - XFMC	1	Regulation	50 CFR 622	This regulation would modify provisions for Fish A vessels transiting through cold weather closed areas with Fish A on board in federal waters. The proposed action would allow trawl doors in the rack (cradle), nets in the rigging and tied down, and trawl net on the deck during transit. Currently, Fish A vessels transiting cold weather closed areas with Fish A on board are required to stow a trawl net with a mesh size of less than 4 inches below deck. Fishermen have requested a change to these transit provisions as vessel design changes have limited access to below deck storage, the need to disassemble the trawl gear prior to stowing nets below deck in rough conditions is a safety at sea concern, and some fishermen have avoided transiting the closed areas entirely.	Because of safety at sea concerns caused by shoals in state waters off State B, federally permitted Fish A vessels from states north of State B that operate off of State B during cold weather closures, but have been unable to store fishing gear according to the current transit regulations, have been forced to land their catch in State B rather than at their homeport. The proposed changes would make it easier for these vessels to comply with the gear stowage requirements and, as a result, more easily return to their homeport with Fish A on board. Also, the proposed changes were recommended by the Council's Law Enforcement Advisory Panel, who indicated these changes would make it easier for enforcement officers to see if Fish A fishermen are complying with the transit provisions. As such, the burden on law enforcement officers would also be effectively reduced.	Rulemaking requested by Gulf Council at their June meeting. Proposed rule anticipated to publish by October 2020.
Example - XFMC	2	Guidance Document	n/a	Revise guidance document to increase process efficiencies.	Removing unnecessary time lags in the process may reduce start up cost for the producers as well as may allow facilities to more easily start production.	Plan to engage in discussion with NMFS on possible revision to timing and text at January 2021 Council meeting.