

The proposed rule and other materials prepared in support of this action are available at: <https://www.fisheries.noaa.gov/action/proposed-protective-regulations-oceanic-whitetip-shark>.

Public Hearings

One public hearing will be conducted in-person and one hearing will be conducted online as a Webex meeting, as specified in **ADDRESSES** above. The hearings will begin with a brief presentation by NMFS that gives an overview of the proposed protective regulations for the oceanic whitetip shark under section 4(d) of the ESA. After the presentation but before public comments, there will be a question and answer session during which members of the public may ask NMFS staff clarifying questions about the proposed protective regulations. Following the question and answer session, members of the public will have the opportunity to provide oral comments on the record regarding the proposed protective regulations. Members of the public will also have the opportunity to submit written comments at the hearings. Written comments may also be submitted at any time during the relevant public comment period as described above (see **DATES** and **ADDRESSES**). All oral comments will be recorded, transcribed, and added to the public comment record for this proposed rule.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: July 30, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240726-0205]

RIN 0648-BN02

Fisheries of the Northeastern United States; Framework Adjustment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan. Framework 16 was developed by the Mid-Atlantic Fishery Management Council to establish a volumetric hold baseline for limited access *Illex* squid vessels, clarify *Illex* squid reporting requirements, and allow NMFS to collect information on the vessel processing type for *Illex* and longfin squid vessels. This action is necessary to restrict future increases in the capacity of the *Illex* squid fishery and to gain more accurate catch information to inform stock assessments.

DATES: Comments must be received on or before Tuesday, August 20, 2024.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2024-0060, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0060 in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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

The Mid-Atlantic Fishery Management Council prepared a Framework 16 document that describes the proposed action and other alternatives considered. Copies of this document including the preliminary Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The document is also accessible via the internet at <https://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT:

Maria Fenton, Fishery Policy Analyst,

(978) 281-9196, or maria.fenton@noaa.gov.

SUPPLEMENTARY INFORMATION:

General Background

In 2019, the Mid-Atlantic Fishery Management Council (Council) initiated Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). The intent of this action was to revise the number and type of *Illex* squid permits to address the negative effects from a perceived race to fish after the fishery closed in August or September from 2017 to 2021 when the annual quota had been caught. However, NMFS ultimately disapproved Amendment 22 on September 7, 2022, because the agency concluded that the record supporting the Council’s proposal was not adequate or sufficient to support a decision to further restrict the number and types of permits in the *Illex* squid fishery in light of the Magnuson-Stevens Fishery Conservation and Management Act’s (Magnuson-Stevens Act) National Standards, Amendment 22’s stated purpose and need, and the goals and objectives of the FMP. Following the disapproval of Amendment 22, the Council decided to move forward with Framework 16 in order to address potential latent effort in the *Illex* squid fishery. The Council adopted proposed Framework 16 measures at its October 2023 meeting with the goal of capping fishing power in the *Illex* squid fishery.

Proposed Measures

The Magnuson-Stevens Act requires NMFS to approve, partially approve, or disapprove measures proposed by the Council. The Magnuson-Stevens Act also requires NMFS to publish proposed rules for public comment after preliminarily determining whether the measures are consistent with applicable law. NMFS is proposing and seeking comment on the measures in Framework Adjustment 16, as recommended by the Council.

1. Volumetric Hold Baseline for Limited Access *Illex* Squid Vessels

This action proposes establishing a volumetric hold baseline for limited access *Illex* squid vessels in order to restrict future increases in capacity in this fishery. This would be a vessel baseline measurement in addition to the standard horsepower and length baseline measures required for all federally permitted vessels in the Greater Atlantic Region. If NMFS implements the proposed volumetric hold baseline requirement for limited access *Illex* squid permit holders through a subsequent final rule, a

vessel's fish hold capacity measurement would need to be certified by a qualified individual or entity as specified in the proposed regulation text. The fish hold capacity measurement would need to be submitted to NMFS and must include a signed certification by the qualified individual or entity within 12 months of the implementation of the final rule for this action. A similar volumetric hold baseline requirement was implemented for Tier 1 and Tier 2 Atlantic mackerel permit holders through Amendment 11 to the Mackerel, Squid, and Butterfish FMP in 2011 (76 FR 86842). If a vessel already possesses a volumetric hold baseline related to its Tier 1 or Tier 2 Atlantic mackerel permit, that hold baseline could be incorporated for its limited access *Illex* squid permit as well.

If a limited access *Illex* squid permit is in Confirmation of Permit History (CPH) when fish hold capacity measurements are due, the default volumetric hold baseline for that CPH permit would be established based on the fish hold capacity measurement of the first replacement vessel greater than 20 ft (6.09 m) after the permit is removed from CPH (at which point the vessel's fish hold would have to be measured under the certification requirements before fishing under the permit). If a permit in CPH already had an existing fish hold capacity measurement for the vessel immediately preceding the permit's placement into CPH which met the measurement certification requirements, that fish hold capacity measurement could be used to establish a volumetric hold baseline for the *Illex* squid permit within the implementation period.

Replacement or upgraded vessels' re-certified fish hold capacity measurements could not exceed 110 percent of the permit's volumetric hold baseline (*i.e.*, there could only be an increase of 10 percent beyond the volumetric hold baseline). The modified fish hold, or the fish hold of the replacement vessel, would have to be surveyed by a qualified surveyor as described in the proposed regulation text, unless the replacement vessel already had an appropriate fish hold capacity measurement on file with NMFS.

2. *Illex* and Longfin Squid Processing Type

This action also proposes to allow NMFS to collect information on the vessel processing type for *Illex* squid moratorium permits and Tier 1 longfin squid permits to help analyze the catch per unit effort for these fisheries. This information would be collected

annually through the permit renewal application process. When these vessels submit their permit renewal application, they would need to indicate the vessel processing type (*i.e.*, freezing at-sea, refrigerated sea water, or fresh/iced) that they primarily intend to use for the coming fishing year.

3. *Illex* Squid Vessel Reporting Clarifications

Finally, this action proposes to clarify that limited access *Illex* squid vessels are required to report daily via the vessel monitoring system (VMS) while on a declared *Illex* squid trip. This clarification was requested by the Council during the development of Amendment 22, but due to the disapproval of that action (for reasons that had nothing to do with this reporting adjustment), NMFS committed to address this clarification in this action instead. These daily catch reports would include the amount of retained and discarded *Illex* squid and total pounds of all fish retained. These reports need to be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if *Illex* squid caught that day have not yet been landed.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making a final determination, NMFS will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures included in this rule. This proposed action would have the potential to affect vessels that hold limited access *Illex* and longfin squid permits. The analysis found that in 2023, there were 180 affiliates that held such permits, and 173 were small business entities and 7 were classified

as large business entities. A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide (North American Industry Classification System Code 11411).

The primary impact for regulated entities involves the cost of a survey to document vessel hold size. This would affect the 46 *Illex* squid permits that do not also have a similar requirement related to their existing Atlantic mackerel permit. The cost of a marine surveyor to measure a vessel's fish hold could cost approximately \$10–\$80 per foot of vessel length, which could range from \$750–\$6,000 for a 75-ft (22.9 m) vessel to \$1,500–\$12,000 for a 150-ft (45.7 m) vessel, depending on the surveyor, the boat design, and travel expenses. To the extent that surveys are already required for insurance purposes these costs may be already part of a vessel's operating costs. Given the overall costs of operating a fishing vessel, these one-time costs do not appear to be a significant impact on a substantial number of small entities. The vessel hold baseline upgrade restriction also limits how vessels may be re-configured or replaced. However, in the foreseeable future, a substantial number of small entities are unlikely to undergo extensive re-configurations or replacements as vessels are already restricted by their length overall and horsepower.

The additional reporting requirements and annual reporting requirement for processing type should be a negligible addition to existing documentation requirements.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information 0648–0202, Greater Atlantic Region Permit Family of Forms.

This action proposes that limited access *Illex* squid vessels obtain a vessel hold measurement and submit that documentation to NMFS. There are 46 limited access *Illex* squid permits that do not currently have a vessel hold measurement on file with NMFS, the remaining *Illex* squid permits already have a vessel hold measurement on file due to the same requirement for their Tier 1 or Tier 2 Atlantic mackerel permit. The burden estimate for verifying vessel specifications is 3 hours

per vessel therefore the total burden hours would be 138 hours. The hourly wage rate is \$33.78 which would result in a wage burden increase of \$4,661.64 (138 hours × \$33.78).

The costs and burden hours for daily VMS reporting in the *Illex* squid fishery have already been calculated and received public comments through a previous action. Therefore the changes in this proposed rule are simply a clarification of existing regulatory requirements and do not need additional approval through the PRA. The reporting of the vessel processing type that is proposed in this action will be on the permit renewal form and will add an negligible additional burden amounting to no cost, therefore it also does not need additional approval through the PRA.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspect of the collection of information at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 29, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.4, revise paragraphs (a)(5)(ii)(F) and (H), and add paragraphs (c)(2)(viii) and (ix) to read as follows:

§ 648.4 Vessel permits.

* * * * *

- (a) * * *
- (5) * * *
- (ii) * * *

(F) *Upgraded vessel.* See paragraph (a)(1)(i)(F) of this section. In addition for moratorium *Illex* squid permits, the replacement vessel's volumetric hold capacity may not exceed by more than 10 percent the volumetric fish hold capacity of the vessel's baseline specifications. The modified fish hold, or the fish hold of the replacement vessel, must be surveyed by a surveyor (accredited as in paragraph (a)(5)(ii)(H) of this section) and submitted to NMFS unless the replacement vessel already had an appropriate certification.

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(H) *Vessel Baseline specifications.*

(1) The volumetric fish hold capacity of vessels with an *Illex* squid moratorium permit will be considered a vessel baseline specification in addition to the baseline specifications set forth in paragraph (a)(3)(i)(H) of this section. Volumetric fish hold capacity for vessels with moratorium *Illex* squid permit must be established not later than [DATE 395 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER] if not previously established as specified in paragraphs (a)(5)(ii)(H)(2) of this section. The fish hold capacity measurement must be certified by one of the following qualified individuals or entities: An individual credentialed as a Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors (NAMS); an individual credentialed as an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors (SAMS); employees or agents of a classification society approved by the Coast Guard pursuant to 46 U.S.C. 3316(c); the Maine State Sealer of Weights and Measures; a professionally-licensed and/or registered Marine Engineer; or a Naval Architect with a professional engineer license. The fish hold capacity measurement submitted to NMFS as required in this paragraph (a)(5)(ii)(H)(1) must include a signed certification by the individual or entity that completed the measurement, specifying how they meet the definition of a qualified individual or entity. If the vessel's permit suite does not include a Tier 1 or Tier 2 limited access Atlantic mackerel permit for which a volumetric fish hold capacity baseline has been established, the permit is not in CPH, or the volumetric hold measurement is not submitted as established by the date

listed above, the subsequent moratorium *Illex* squid permit renewal application may be deemed incomplete until the volumetric hold measurement has been established.

(2) If an *Illex* squid vessel already possesses a volumetric hold baseline related to its Tier 1 or Tier 2 limited access Atlantic mackerel permit as specified in paragraph (a)(3)(iii)(H)(1), that measurement will automatically apply as a baseline specification for its *Illex* squid moratorium permit.

(3) If an *Illex* squid permit in CPH has an existing volumetric hold measurement pursuant to paragraph (a)(5)(ii)(H)(1) of this section for the vessel immediately preceding the permit's placement into CPH, that volumetric hold measurement may be used to establish a vessel hold baseline specification not later than [DATE 395 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]. In the alternative, if an *Illex* squid permit is in CPH, the volumetric hold capacity baseline may be the hold capacity of the first replacement vessel greater than 20 ft (6.09 m) after the permits are removed from CPH. Hold capacity for the replacement vessel must be measured pursuant to paragraph (a)(5)(ii)(H)(1) of this section.

* * * * *

- (c) * * *
- (2) * * *

(viii) The owner of a vessel that has been issued a limited access *Illex* squid permit must submit a volumetric hold certification measurement, as described paragraph (a)(5)(ii)(H) of this section, otherwise the permit application for 2026 will be considered incomplete.

(ix) An application for limited access *Illex* squid and Tier 1 longfin squid permit must also contain the primary vessel processing type for the coming fishing year.

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■ 3. In § 648.7, add paragraph (b)(3)(iv) to read as follows:

§ 648.7 Record keeping and reporting requirements.

* * * * *

- (b) * * *
- (3) * * *

(iv) *Illex* squid moratorium permit owners or operators. The owner or operator of a vessel issued an *Illex* squid moratorium permit must report catch (retained and discarded of *Illex* squid daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Electronic Vessel Trip Report Trip

Identifier; month, day, and year *Illex* squid was caught; total pounds of *Illex* squid retained and total pounds of all fish retained. Daily *Illex* squid VMS catch reports must be submitted in 24-

hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if *Illex* squid caught that day have not yet been landed. This report does not exempt the

owner or operator from other applicable reporting requirements of this section.

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