



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

March 8, 2023

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

Dear Chris:

On September 6, 2022, we disapproved the majority of the measures proposed in Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan. In the decision letter to the Council, dated September 6, 2022, I provided details on the basis for that determination. The September letter fully described how the action did not meet the purpose and need of the Amendment and was inconsistent with National Standards 4, 5, 6, and 7; there is no further detail I can offer beyond what was specified in that letter. I did not address the other National Standards because our review did not identify any inconsistencies with them.

The Council has requested more information on how the *Illex* permit measures in Amendment 22 differ from the longfin squid measures that were approved in Amendment 20. As you recall, Amendment 20 revised the longfin squid permits, reduced excessive longfin squid catch during Trimester II, and minimized impacts to spawning aggregations and associated egg mops. The three main differences between the measures in Amendment 22 and Amendment 20 are: (1) Amendment 20 included conservation elements important to the target stock; (2) the possession reductions made in the new longfin squid tiered permits (particularly Tier 2 and Tier 3) were moderate relative to the catch that vessels receiving Tier 2 and 3 permits had previously landed, and these changes were less impactful overall to fishery participants than the proposed provision in Amendment 22; and (3) the permit qualification criteria specified in Amendment 20 were substantially lower than proposed in Amendment 22.

I'd like to focus on two specific areas where the amendments stand in stark contrast. First, the qualification criteria in Amendment 20 allowed any vessel with at least 10,000 lb of longfin squid landings from 1997-2013 to qualify for the highest Tier 1 permit. In contrast, Amendment 22 proposed minimum *Illex* qualification criteria of 500,000 lb for Tier 1, 100,000 lb for Tier 2, and 50,000 lb for Tier 3. As such, a vessel with similar *Illex* landings to longfin landings could have qualified for a Tier 1 longfin squid permit but would have been relegated to an "incidental" permit for *Illex*. Amendment 22 did not establish a rational basis for such a significant difference. Second, the stock conditions and resulting quotas were markedly different at the time that we made our decisions on these two amendments. In 2018, when we made the decision to approve Amendment 20, the longfin squid quota had remained relatively constant at approximately 49 million lb from 2013 (the last year to qualify for a Tier 1 permit) to 2018 (notably, in the years since we approved Amendment 20, the quota has remained constant at roughly 50 million lb). In contrast, while the *Illex* quota remained similarly flat at 50 million lb



from 2013 to 2018, between 2018 and 2022 when we made our decision regarding Amendment 22, the quota had increased each year, reaching a peak of 84 million lb, a 67-percent increase. Amendment 22 did not establish a rational basis to conclude that the proposed capacity reductions were still warranted and necessary in the face of increasing quotas.

One final point of difference between the two amendments is the span of time between the qualification time period used and the time at which the Council, and later NOAA's National Marine Fisheries Service, made our decisions on these amendments. Both amendments based permit requalification on the same timespan of 1997-2013, but while we approved Amendment 20 in 2018, it was another four years before we considered Amendment 22, nearly doubling the time between the end of the proposed qualification time period and the decision. Also, although not directly relevant to our approval/disapproval decisions, the public's reactions to and perspectives on the two amendments also differed substantially. Not only was the fishing industry much more split on the *Illex* permit issue, during the comment period for Amendment 22 we received a substantial number of letters, the majority of which opposed the amendment. In contrast, we received no public comments opposing the longfin squid permit revision measures when we were considering Amendment 20.

Should the Council wish to pursue development of an action to require measurement and/or restrictions on vessel hold capacity for the *Illex* fishery as was done for the mackerel fishery, we will continue to participate and engage with the Council as needed. Please reach out to Emily Gilbert, Acting Assistant Regional Administrator for Sustainable Fisheries, if you have further questions.

Sincerely,

A handwritten signature in blue ink that reads "Michael Pentony". The signature is cursive and somewhat stylized.

Michael Pentony  
Regional Administrator

cc: Michael Luisi, Council Chair, Mid-Atlantic Fishery Management Council  
Peter Hughes, Mackerel, Squid, and Butterfish Committee Chair