

**2024-2025 *Illex* Squid Specifications and  
2024-2026 Longfin Squid Specifications**

**Draft Supplemental Information Report (SIR)**

**June 2024**



**Prepared by the  
Mid-Atlantic Fishery Management Council (Council)  
in cooperation with  
the National Marine Fisheries Service (NMFS or NOAA Fisheries)**

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Final action by Council: April 5, 2023 for *Illex* squid; August 10, 2023 for longfin squid  
Initial submission to NMFS: October 12, 2023, edited draft submitted April 18, 2024  
Final submission to NMFS: June 11, 2024

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## Acronyms, Abbreviations, and Wording Conventions

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
ACT	Annual Catch Target
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
Council	Mid-Atlantic Fishery Management Council
DAH	Domestic Annual Harvesting
DAP	Domestic Annual Processing
EA	Environmental Assessment
EFH	Essential Fish Habitat
EO	Executive Order
ESA	Endangered Species Act
F	Fishing mortality rate
FMP	Fishery Management Plan
FR	Federal Register
IOY	Initial Optimum Yield
MAFMC	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSB	Mackerel, Squid, Butterfish
MSY	Maximum Sustainable Yield
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (also known as NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing Limit
PBR	Potential Biological Removal
SIR	Supplemental Information Report
SSC	Scientific and Statistical Committee
TAL	Total Allowable Landings

## 1.0 Introduction and Summary

This document supports an action setting 2024-2025 specifications for *Illex*, and longfin squid specifications for 2024-2026. The Council adopted nearly status-quo multi-year specifications for both species, but NMFS re-affirms multi-year specifications via rulemakings for each year. The Council and its Scientific and Statistical Committee (SSC) will also review the multi-year specifications each year. Slightly more longfin squid were recommended to be set aside for potential discards based on updated data, resulting in a slightly lower commercial longfin squid quota.

## 2.0 Purpose of this Supplemental Information Report

The purpose of this Supplemental Information Report (SIR) is to determine if the proposed specifications require further analysis beyond that presented in the preceding relevant Environmental Assessments (EAs). These preceding EAs include: MAFMC 2023a for *Illex* (EA for 2023 *Illex* Specifications) and MAFMC 2021 for longfin squid (EA for 2021-2023 Longfin Squid Specifications).

To determine the potential need for additional analysis under the National Environmental Policy Act (NEPA), we have considered and have been guided by the Council on Environmental Quality (CEQ) NEPA regulations and applicable case law. The CEQ's regulations state that “[a]gencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 Code of Federal Regulations (C.F.R.) § 1502.9(d)(1). Consistent with 40 C.F.R. 1502.9(d)(4) and 1501.3(b) we have determined that any changes to the proposed action or new circumstances or information relevant to environmental concerns are **not** significant and therefore **do not require** a supplemental EA.

This document describes the proposed action with comparison to the impacts considered in the relevant preceding EAs (MAFMC 2023a and MAFMC 2021). Consideration is given to significant new circumstances or information relevant to environmental concerns that could relate to the proposed action or its impacts. The primary new information considered included the SSC's Acceptable Biological Catch (ABC) recommendations made in 2023 for the upcoming specifications considered in this document (MAFMC 2023b and MAFMC 2023c), which recommended status-quo ABCs for both squid species. The SSCs ABC recommendations were supported by several analytical documents, including:

1. Hendrickson and Rago 2023. Evaluation of Alternative Catch Limits for *Illex*.<sup>1</sup>
2. Rago 2023a. Effects of Survey Uncertainty on Risk of Violating Escapement and Fishing Mortality.<sup>1</sup>
3. Rago 2023b. User Manual for *Illex* Risk Analysis, v1.0.<sup>1</sup>
4. NEFSC 2023. Longfin Squid Management Track Stock Assessment.<sup>2</sup>

<sup>1</sup> Available at <https://www.mafmc.org/ssc-meetings/march-2023>

<sup>2</sup> Available at <https://apps-nefsc.fisheries.noaa.gov/saw/sasi.php> or <https://www.mafmc.org/ssc-meetings/july-24-26-2023>

### 3.0 Original Action

#### 3.1 Previous Specifications

NMFS published rulemaking on July 27, 2023 (88 FR 48389) that set the 2023 *Illex* squid specifications (supported by MAFMC 2023a) and reaffirmed the 2023 longfin squid specifications (supported by MAFMC 2021).

The preferred alternative in the 2023 *Illex* Specifications EA (MAFMC 2023a) included a 2023 ABC of 40,000 metric tons (MT), consistent with the Council's and SSC's recommendations. While no overfishing rate has been determined for *Illex*, theoretical and empirical analyses considered by the SSC suggested catches less than or equal to 40,000 MT would be unlikely to cause overfishing for *Illex* (Hendrickson and Rago 2023, Rago 2023a, Rago 2023b, SSC rationale summarized at MAFMC 2023b). A discard rate of 3.42 percent was used to set aside catch for discards based on recent estimates, which resulted in a 2023 Initial Optimum Yield (IOY), Domestic Annual Harvest (DAH), and Domestic Annual Processing (DAP) of 38,631 MT.

The 2023 longfin squid ABC was 23,400 metric tons (MT), consistent with the Council's and SSC's recommendations. This was the preferred alternative in the 2021 EA for 2021-2023 Longfin Squid Specifications (MAFMC 2021). Identical longfin specifications were preferred, and implemented each year including 2023. While no overfishing rate has been determined for longfin squid, theoretical and empirical analyses considered by the SSC suggested catches less than or equal to 23,400 MT would be unlikely to cause overfishing for longfin squid (NEFSC 2023, SSC rationale summarized at MAFMC 2023c). A discard rate of 2.0 percent was used to set aside longfin squid catch for discards based on recent estimates, which resulted in a 2023 IOY, DAH, and DAP of 22,932 MT.

#### 4.0 New Information and Circumstances

Determining whether a supplemental NEPA analysis is required involves a two-step process. First, one must identify new information or circumstances. Second, if there is new information, one must analyze whether it is significant to the analysis of the action and relevant to environmental concerns, and has bearing on the action or its impacts.

*The following, represents the primary relevant new information compared to the information considered in the relevant preceding EA for longfin squid (MAFMC 2021):*

- 2023 longfin squid management track assessment (NEFSC 2023); and 2022-2023 preliminary landings (the assessment uses landings through 2022), available for query at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/quota-monitoring-greater-atlantic-region>. The assessment findings were nearly identical to that considered in MAFMC 2021 – longfin squid biomass has been variable in a relatively high range. 2023 preliminary landings were very similar to 2022 (around 18,000 metric tons (MT) and within the historical range).
- Updated data suggested a longfin discard set aside of 2.16%, slightly higher than the previous 2.00% set aside. This leads to a negligible commercial quota difference.

The following, represents the primary relevant new information compared to the information considered in the relevant preceding EA for *Illex squid* (MAFMC 2023a):

- 2023 preliminary landings, available for query at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/quota-monitoring-greater-atlantic-region>. Preliminary 2023 *Illex* landings were very similar to 2022 landings (both 2022 and 2023 landings were lower than the remarkably strong 2017-2021 landings noted in MAFMC 2023a but within the historical range).

The following represents the primary relevant new protected species information compared to the information considered in the relevant preceding EAs for *Illex* and longfin squid:

- On May 27, 2021, NMFS completed formal consultation pursuant to section 7 of the ESA of 1973, as amended, and issued a biological opinion (2021 Opinion) on the authorization of eight FMPs, two interstate fishery management plans (ISFMP), and the implementation of the New England Fishery Management Council's Omnibus Essential Fish Habitat (EFH) Amendment 2.<sup>3</sup> On January 10, 2024, NMFS issued a 7(a)(2)/7(d) memorandum that reinitiated consultation on the 2021 Biological Opinion. Additional information on the reinitiation is provided in section 9.4.
- ESA-listed species of giant manta rays were not identified in 2021 longfin squid specifications EA as the 2021 Opinion (bullet above) was issued after this EA. However, as provide above, the Opinion determined that the authorization of the FMPs, including the Atlantic Mackerel/Squid (*Illex* and longfin)/Butterfish FMP, was not likely to jeopardize the continued existence of any ESA-listed species. Additionally, given similar gear types used to target longfin squid, information on gear interaction risks with giant manta rays are provided in the 2023 *Illex* specifications EA.
- Updated information on documented incidences of interactions with gear types similar to those predominantly used in the *Illex* and longfin squid fisheries. At the time that the 2023 *Illex* and 2021 Longfin Squid specification EAs were issued, depending on species, the best available information on documented gear interactions with specific protected species was provided through 2019. Since issuance of the these EAs, there have been updates to the observed/documentated interactions between a specific gear type and a protected species in gear similar to that used in these squid fisheries. The updated information continues to reveal interactions occurring with gear types similar to those used in the commercial *Illex* and longfin squid fisheries, and at rates or numbers that show relatively similar trends as provided in the 2023 *Illex* and 2021 Longfin Squid specification EAs. It's important to note, that depending on species (e.g., sea turtles), modeling methods may have changed since the previous EAs were issued. As a result, there may not be a one to one comparison in information provided between the previous and most information, and therefore, changes

<sup>3</sup> The eight Federal FMPs considered in the May 27, 2021, Biological Opinion include: (1) Atlantic Bluefish; (2) Atlantic Deep-sea Red Crab; (3) Mackerel, Squid (*Illex* and Longfin), and Butterfish; (4) Monkfish; (5) Northeast Multispecies; (6) Northeast Skate Complex; (7) Spiny Dogfish; and (8) Summer Flounder, Scup, and Black Sea Bass. The two ISFMPs are American Lobster and Jonah Crab

in estimated protected species bycatch rates do not necessarily signify significant changes in interaction risks/rates since the 2023 *Illex* and 2021 Longfin Squid specification EAs were issued.

## **5.0 Proposed New Action**

The proposed new action would largely maintain the 2023 specifications for both species. The proposed *Illex* specifications include an ABC of 40,000 MT for 2024 and 2025, identical to the 2023 ABC. For anticipated discards, 3.42% would continue to be set aside, leading to a commercial quota (i.e. Domestic Annual Harvest or DAH) of 38,631 MT. Initial Optimum Yield (IOY) and Domestic Annual Processing (DAP) would equal the DAH.

The proposed longfin specifications include an ABC of 23,400 MT for 2024-2026, identical to the 2023 ABC. For anticipated discards, 2.16% would be set aside, leading to a commercial quota (i.e. domestic annual harvest or DAH) of 22,893.7 MT. This represents a 0.17% reduction in 2024 versus 2023. Initial Optimum Yield (IOY) and Domestic Annual Processing (DAP) would equal the DAH.

No other measures are being changed as part of this action (for example possession limits) and remain in place and unchanged.

## **6.0 NEPA Compliance and Supporting Analysis**

CEQ requirements indicate that a supplemental NEPA analysis must be prepared if a new proposed action is substantially different from a previously completed but related action. However, not every change to a proposed action, including the presence of new information, necessitates the development of a new or supplemental NEPA analysis. NMFS provided guidance to Councils on the use of “non-NEPA documents” to help determine whether a new or supplemental NEPA document is necessary or if a non-NEPA document (for example this SIR) may be used to demonstrate that an original NEPA document sufficiently considered and analyzed the proposed actions and its effects.

Impacts on valued ecosystem components would not appreciably change from what was previously described in relevant preceding EAs, because the specifications would not be substantially changing. Continuing these specifications is expected to result in similar overall effort – we don’t expect changes in gear, participants, timing, fishing behavior, or total amount of effort in these years. The change in longfin quota is so minor that impacts would be negligible. Therefore, similar effort should result in similar expected impacts to what has already been considered (and experienced). Since these fisheries don’t always achieve their ABCs, some year-to-year variability is expected. Neither this action, recent landings data, nor the new assessment information has changed the expected impacts to valued ecosystem components (VECs). Rather, overfishing should continue to likely be avoided (so slight positive impacts for both target squid species) and other VEC impacts should generally be maintained, summarized next from the preceding EAs.

## **Preceding EAs Summary VEC Impacts for Preferred Alternatives**

MAFMC 2023a for *Illex* (EA for 2023 *Illex* Specifications): Habitat: ongoing slight negative; non-target species: negligible; human communities: moderate positive given ongoing economic contributions and variable productivity; protected resources: ongoing slight negative for species listed under the Endangered Species Act (ESA) or marine mammals protected under the Marine Mammal Protection Act (MMPA) that are in poor condition and slight positive impacts for other marine mammals in good condition.

MAFMC 2021 for longfin squid (EA for 2021-2023 Longfin Squid Specifications): Habitat: ongoing slight negative; non-target species: ongoing slight negative; human communities: slight positive given ongoing economic contributions and variable productivity; protected resources: ongoing slight negative for species listed under the Endangered Species Act (ESA) or marine mammals protected under the Marine Mammal Protection Act (MMPA) that are in poor condition and slight positive impacts for other marine mammals in good condition.

In addition, as noted in section 4.0, on January 10, 2024, NMFS issued a 7(a)(2)/7(d) memorandum that reinitiated consultation on the 2021 Biological Opinion. Given the information provided above, the proposed action does not entail making any changes to the Mackerel, Squid, and Butterfish Fishery during the reinitiation period that would cause an increase in interactions with or effects to ESA-listed species or their critical habitat beyond those considered in NMFS' January 10, 2024, reinitiation memorandum. Therefore, the proposed action is consistent with NMFS' January 10, 2024, 7(a)(2) determination, and as such, this new information is not expected to change any of the impacts previously considered in the EA and finding of no significant impact (FONSI). In addition, none of the updated information on observed/documented interactions between protected species and gear types similar to those used in the *Illex* and longfin squid fisheries will change the determination of impacts provided in the previous EAs. Also, as provided in section 4.0, the issuance of the 2021 Opinion resulted in the identification of giant manta rays as one of the ESA-listed species that may be affected by FMPs, including the Atlantic Mackerel/Squid (*Illex* and longfin)/Butterfish FMP, authorized in the Greater Atlantic Region. The 2021 Opinion determined that none of these FMPs was likely to jeopardize the continued existence of any ESA-listed species. Although giant manta rays were not considered in the 2021 Longfin Squid specifications EA, based on information provided in the 2021 Opinion and the 2023 *Illex* specifications EA, as well as the fact that: 1) there have been no documented interactions between this species and mid-water trawl gear; 2) there is limited documented interactions between this species and bottom trawl gear; and, 3) there is limited overlap with the *Illex* and longfin squid fisheries, the determination of impacts to ESA-listed species provided above is also applicable to giant manta rays.

Taking into consideration the above, this new information is not expected to change any of the impacts previously considered in the relevant preceding EAs and/or their FONSI. Based on the similar expected fishery operations and likewise similar impacts on valued ecosystem components, no additional analyses appear warranted beyond this document.

## **7.0 Public Participation**

The public had the opportunity to comment at several points during development of the current specifications including during rulemaking and at relevant Council meetings. Likewise when



developing the measures being considered via this document, public comments were taken at several meetings (noticed in the Federal Register) of the Council and/or its committees, including the relevant full Council meetings where the specifications were adopted by the Council (April 5, 2023 for *Illex* squid (<https://www.mafmc.org/briefing/april-2023>) and August 10, 2023 for longfin squid (<https://www.mafmc.org/briefing/august-2023>)).

## **8.0 Conclusion**

After considering the proposed action, as well as new information and circumstances, NMFS has determined that the proposed action and its effects fall within the scope of the EAs developed for prior specifications. It is thus not necessary to supplement the original actions because 1) the proposed actions and their impacts do not differ substantially from what was originally considered and analyzed; and (2) no new information or circumstances exist that are significantly different from when the previous EA's FONSI's were signed on June 30, 2023 (MAFMC 2023) and on July 8, 2021 (MAFMC 2021). The EAs and FONSI's thus remain valid to support the proposed action.

## **9.0 Compliance with Other Applicable Laws**

### **9.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA)**

Section 301 of the MSA requires FMPs to contain conservation and management measures that are consistent with the ten National Standards. The actions taken in this specification document are confined to processes defined within the FMP; therefore, as actions within the FMP have been deemed consistent with the National Standards, these specification actions are similarly consistent. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for the managed stocks and the U.S. fishing industry, including ACLs and measures to ensure accountability. The Council uses the best scientific information available (National Standard 2) and manages the stocks throughout their range (National Standard 3). These management measures do not discriminate among residents of different states, (National Standard 4), nor do they have economic allocation as their sole purpose (National Standard 5). They account for and can address variations in these fisheries and future actions can do likewise (National Standard 6). They avoid unnecessary duplication (National Standard 7). They take into account the fishing communities (National Standard 8) and they promote safety at sea (National Standard 10). The actions taken are consistent with National Standard 9, which addresses bycatch in fisheries. The Council has implemented many previous regulations that have indirectly acted to reduce fishing gear impacts on essential fish habitat, and nothing in this action should change previous conclusions regarding the fishery's impact on habitat. By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions, and the annual specification setting process, the Council will ensure that cumulative impacts of these actions will remain positive overall for the ports and communities that depend on these fisheries, for the Nation as a whole, and for the resources.

### **9.2 National Environmental Policy Act (NEPA)**

We have determined that the proposed action and its effects fall within the scope of previous EAs as described above, and that those analyses remain valid for this action. Thus, there is no need for supplemental NEPA analyses or to revise the previous FONSI.

### **9.3 Marine Mammal Protection Act (MMPA)**

None of the measures herein considered are expected to alter overall effort or fishing methods beyond what has been previously analyzed or anticipated. Therefore, this action is not expected to affect marine mammals in any manner not considered in previous consultations on the fisheries. Potential impacts to marine mammals from the proposed action are summarized above; however, additional information supporting these determinations can be found in the preceding EAs.

### **9.4 Endangered Species Act (ESA)**

Section 7 of the ESA requires federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species.

On May 27, 2021, the National Marine Fisheries Service's (NMFS) completed formal consultation pursuant to section 7 of the ESA of 1973, as amended, and issued a biological opinion ([2021 Opinion](#)) on the authorization of eight FMPs, two interstate fishery management plans (ISFMP), and the implementation of the New England Fishery Management Council's Omnibus Essential Fish Habitat (EFH) Amendment 2.<sup>4</sup> The 2021 Opinion considered the effects of the authorization of these FMPs, ISFMPs, and the implementation of the Omnibus EFH Amendment on ESA-listed species and designated critical habitat, and determined that those actions were not likely to jeopardize the continued existence of any ESA-listed species or destroy or adversely modify designated critical habitats of such species under NMFS jurisdiction. An Incidental Take Statement (ITS) was issued in the Opinion. The ITS includes reasonable and prudent measures and their implementing terms and conditions, which NMFS determined are necessary or appropriate to minimize impacts of the incidental take in the fisheries assessed in this Opinion.

On January 10, 2024, NMFS issued a 7(a)(2)/7(d) memorandum that reinitiated consultation on the 2021 Biological Opinion. The federal actions to be addressed in this reinitiation of consultation include the authorization of the federal fisheries conducted under the aforementioned eight federal FMPs (see footnote 4). The reinitiated consultation will not include American lobster and Jonah crab fisheries, which are authorized under ISFMPs. On December 29, 2022, President Biden signed the Consolidated Appropriations Act (CAA), 2023, which included the following provision specific to NMFS' regulation of the lobster and Jonah crab fishery to protect right whales, "Notwithstanding any other provision of law ... for the period beginning on the date of enactment of this Act and ending on December 31, 2028, the Final Rule ... shall be deemed sufficient to ensure that the continued Federal and State authorizations of the American lobster and Jonah crab fisheries are in full compliance with the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)." Given this, the American lobster and Jonah crab fisheries remain in compliance with the ESA through December 31, 2028.

<sup>4</sup> The eight Federal FMPs considered in the May 27, 2021, Biological Opinion include: (1) Atlantic Bluefish; (2) Atlantic Deep-sea Red Crab; (3) Mackerel, Squid, and Butterfish; (4) Monkfish; (5) Northeast Multispecies; (6) Northeast Skate Complex; (7) Spiny Dogfish; and (8) Summer Flounder, Scup, and Black Sea Bass. The two ISFMPs are American Lobster and Jonah Crab.

Given the information provided above, the proposed action does not entail making any changes to The Mackerel, Squid, and Butterfish Fishery during the reinitiation period that would cause an increase in interactions with or effects to ESA-listed species or their critical habitat beyond those considered in NMFS' January 10, 2024, reinitiation memorandum. Therefore, the proposed action is consistent with NMFS' January 10, 2024, 7(a)(2) determination.

### **9.5 Coastal Zone Management Act**

Section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended, requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The Coastal Zone Management Act provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. Responsible management of coastal zones and fish stocks must involve mutually supportive goals. NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina). These states also participated in the Council processes that resulted in the proposed action.

### **9.6 Administrative Procedure Act**

Section 553 of the Administrative Procedures Act establishes procedural requirements applicable to informal rulemaking by federal agencies. The purpose of these requirements is to ensure public access to the federal rulemaking process and to give the public adequate notice and opportunity for comment. If any abridgement of the standard rulemaking process is considered for this action, NMFS will address the rationale for such abridgement during relevant rulemaking.

### **9.7 Information Quality Act**

#### **Utility of Information Product**

This document includes a description of the proposed action and rationale for selection, and any changes to the implementing regulations of the FMP (if applicable). As such, this document enables the implementing agency (NMFS) to make a decision on implementation of annual specifications and management measures, and this document serves as a supporting document.

The action was developed to be consistent with the FMP, the MSA, and other applicable laws, through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on the considered action as discussed above.

#### **Integrity of Information Product**

The information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act).

#### **Objectivity of Information Product**

The category of information product that applies here is "Natural Resource Plans." This document was developed to be consistent with any applicable laws, including the MSA and its applicable National Standards. The analyses used to develop the proposed action are based upon the best scientific information available and the most up to date information is used to evaluate the impacts of those measures. The specialists who worked with these core data sets and population assessment

models are familiar with the most recent analytical techniques and are familiar with the available data and information regarding the relevant fisheries.

The review process for the proposed action involves the Council, NMFS regional offices, and NMFS headquarters. Relevant staff have expertise in fisheries biology/ecology, population dynamics, social sciences, fisheries management, policy analysis, habitat conservation, protected resources, and applicable law. Final approval of the proposed action and clearance of the rule is conducted by staff at NMFS' Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

### **9.8 Paperwork Reduction Act**

The Paperwork Reduction Act concerns the collection of information. The intent of the Act is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons, as well as to maximize the usefulness of information collected by the federal government. There are no changes to existing reporting requirements previously approved under this FMP. This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

### **9.9 Federalism/Executive Order 13132**

The proposed action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order (EO) 13132.

### **9.10 Environmental Justice/Executive Order 12898**

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations provides guidelines to ensure that potential impacts on these populations are identified and mitigated, and that these populations can participate effectively in the NEPA process (EO 12898 1994). NOAA guidance NAO 216-6A, Companion Manual, Section 10(A) requires the consideration of EO 12898 in NEPA documents. Agencies should also encourage public participation, especially by affected communities, during scoping, as part of a broader strategy to address environmental justice issues. Minority and low-income individuals or populations must not be excluded from participation in, denied the benefits of, or subjected to discrimination because of their race, color, or national origin. Although the impacts of this action may affect communities with environmental justice concerns, the proposed actions are not expected to adversely affect sustainable participation in the relevant fisheries; therefore, no negative economic or social effects in the context of EO 12898 are anticipated.

### **9.11 Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA), codified at 5 U.S.C. 600-611, is designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are: 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

This document provides the factual basis supporting NMFS’ determination regarding certification whether the proposed regulations will not have a “significant impact on a substantial number of small entities” and that an IRFA is preliminarily not needed in this case.

### **9.12 Basis and Purpose of the Rule and Summary of Preferred Alternatives**

This action is taken under the authority of the MSA and associated regulations for fisheries management.

### **9.13 Description and Number of Entities to Which the Rule Applies**

The proposed specifications have the potential to impact vessels which have limited access squid permits (no changes to incidental trip limits are proposed). As downloaded on October 10, 2023 (<https://www.greateratlantic.fisheries.noaa.gov/public/public/web/NEROINET/aps/permits/data/index.html>), there were 292 limited access squid permits. Based on affiliate data provided by NMFS in June 2023, these permits were held by approximately 215 entities, and 205 were small business entities (10 were classified as large businesses).

### **9.14 Economic Impacts on Regulated Entities**

This action would generally maintain the current squid specifications and there is no information that the action might impact small businesses differently than large businesses or unduly inhibit the ability of small entities to compete. To avoid exceeding the longfin squid ABC, the quota (DAH) would be reduced by 0.17% to better account for potential discards, a negligible amount or impact, especially considering that the fishery rarely lands its quota.

### **9.15 Analysis of Non-Preferred Alternatives**

When considering the economic impacts of the alternatives under the Regulatory Flexibility Act, consideration should also be given to those non-preferred alternatives which would result in higher net benefits or lower costs to small entities while still achieving the stated objective of the action. As described in the relevant preceding EAs, while higher quotas might lead to higher short-term revenues/profits, they also could induce overfishing and lead to lower long-term sustainable revenues/profits.

## **10.0 Preparers and Persons Consulted**

This document was prepared by Jason Didden, of Council staff.

NMFS provided guidance and review of this document from procedural, regulatory, and scientific perspectives. The Council also consulted with the Mid-Atlantic and New England states through their participation on the Council and related meetings.

Copies of this Supplemental Information Report, including the Regulatory Flexibility Analysis and other supporting documents, are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901

## 11.0 References

Hendrickson and Rago 2023. Evaluation of Alternative Catch Limits for *Illex*. Available at: <https://www.mafmc.org/ssc-meetings/march-2023>

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MAFMC 2023b. March 2023 SSC Report (*Illex*). 2023 Reports of the MAFMC's SSC are available at <https://www.mafmc.org/ssc>.

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Rago 2023a. Effects of Survey Uncertainty on Risk of Violating Escapement and Fishing Mortality. Available at <https://www.mafmc.org/ssc-meetings/march-2023>

Rago 2023b. User Manual for *Illex* Risk Analysis, v1.0. Available at <https://www.mafmc.org/ssc-meetings/march-2023>

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