

(d) * * *

(2) The owner and operator of a vessel required to be permitted under this part and that has bottom longline gear on board must undertake the following bycatch mitigation measures:

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 241022-0277]

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: Final rule.

SUMMARY: NMFS approves and implements Framework Adjustment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan. Framework Adjustment 16 was developed by the Mid-Atlantic Fishery Management Council to establish a volumetric vessel hold capacity baseline for limited access *Illex* squid vessels, allow NMFS to collect information on vessel processing type from limited access *Illex* and Tier 1 longfin squid vessels, and clarify existing *Illex* squid reporting requirements. This action is necessary to restrict future increases in capacity in the *Illex* squid fishery and gain more accurate catch information to inform stock assessments.

DATES: Effective November 29, 2024, except for instruction 3 amending §§ 648.4(a)(5)(ii)(F), 648.4(a)(5)(ii)(H), and 648.4(c)(2)(viii), which is effective November 28, 2025.

ADDRESSES: Copies of Framework Adjustment 16, including the preliminary Regulatory Impact Review and the Regulatory Flexibility Act Analysis prepared by the Mid-Atlantic Fishery Management Council, 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>.

Copies of the small entity compliance guide are available from Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2298, or via the internet at <https://www.greateratlantic.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Maria Fenton, Fishery Policy Analyst, (978) 281-9196, or maria.fenton@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council adopted Framework Adjustment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) during its October 2023 meeting. This action was initiated following NMFS' September 7, 2022, disapproval of Amendment 22 to the Mackerel, Squid, and Butterfish FMP. The purpose of Amendment 22 was to better align fleet capacity with current quotas by creating a tiered permit system for the current limited access *Illex* squid permits to remove latent effort from the fishery. Amendment 22 was developed in response to an overall increase in the number of active limited access *Illex* vessels, which had no trip limits, and a perceived increase in racing to fish during the weeks leading up to *Illex* fishery closures since 2017. To address these issues, Amendment 22 proposed reallocating existing *Illex* squid limited access permits through tiered permitting measures. NMFS' review of Amendment 22 determined 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* 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 considered alternative measures to address potential latent effort in the *Illex* fishery through Framework 16.

Approved Measures

This action approves the management measures recommended in Framework Adjustment 16 to the Mackerel, Squid, and Butterfish FMP. The measures implemented in this final rule are:

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

Section 303(b)(4) of the Magnuson-Stevens Act allows for provisions in an

FMP that limit the type and quantity of vessels participating in a fishery, for conservation and management purposes. This action establishes a volumetric vessel hold capacity baseline for limited access *Illex* squid vessels in order to restrict future increases in capacity in the fishery. This baseline will be required in addition to the standard length and horsepower baselines that are mandatory for all Federal limited access permits in the Greater Atlantic Region.

In order to establish its volumetric hold baseline, a limited access *Illex* squid vessel's fish hold capacity measurement must be certified by a qualified individual or entity as specified at 50 CFR 648.4(a)(5)(ii)(H)(1). Limited access *Illex* squid vessels must submit a fish hold capacity measurement, along with a signed certification by the qualified individual or entity, to NMFS within 395 days of the publication of this final rule. A similar volumetric hold baseline was implemented for Tier 1 and Tier 2 Atlantic mackerel permit holders through Amendment 11 to the Mackerel, Squid, and Butterfish FMP (76 FR 68642, November 7, 2011). If a vessel already has a volumetric hold baseline related to a Tier 1 or Tier 2 mackerel permit, that baseline could be used for its limited access *Illex* squid permit as well, and no new survey is required.

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 will be established based on the fish hold capacity measurement of the first replacement vessel greater than 20 feet (ft) (6.09 meters (m)) after the permit is removed from CPH (at which point the vessel's fish hold would have to be measured consistent with the requirements at § 648.4(a)(5)(ii)(H)(1) before the vessel could fish under the permit). If a permit in CPH already had an existing fish hold capacity measurement from the vessel immediately preceding the permit's placement into CPH that met the certification requirements, that measurement could be used to establish a volumetric hold baseline for the *Illex* squid permit during the implementation period.

If a limited access *Illex* squid vessel is upgraded (through refitting or replacement), the upgraded vessel's volumetric hold capacity cannot exceed its volumetric hold baseline by more than 10 percent. The modified fish hold, or the fish hold of the replacement vessel, must be surveyed by a qualified

surveyor, as described at § 648.4(a)(5)(ii)(H), unless the replacement vessel already has an appropriate fish hold capacity measurement on file with NMFS, in which case no new survey is required.

2. Limited Access *Illex* and Longfin Squid Processing Type

Section 303(a)(5) of the Magnuson-Stevens Act requires FMPs to specify the pertinent data that shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery. This action authorizes NMFS to collect information on processing type (e.g., frozen at-sea, refrigerated sea water, fresh/iced) from vessels issued a limited access *Illex* or Tier 1 longfin squid permit. Vessel processing type information will be collected annually during the permit renewal process as described at § 648.4(c)(2)(ix), beginning in permit year 2025 (starting January 1, 2025). This information will help scientists analyze the catch per unit effort (CPUE) in the *Illex* and longfin squid fisheries, which will improve the monitoring and management of these fisheries.

3. Clarifications to Existing *Illex* Squid Vessel Reporting Requirements

Section 305(d) of the Magnuson-Stevens Act requires the Secretary to promulgate regulations necessary to carry out any FMP, FMP amendment, or other provision of the Magnuson-Stevens Act. This action clarifies an existing requirement that limited access *Illex* squid vessels are required to submit daily vessel monitoring system (VMS) catch reports while on declared *Illex* squid trips, as described at § 648.7(b)(3)(iv).

Comments and Responses

We received nine public comments on the Framework Adjustment 16 proposed rule during the public comment period: One from Seafreeze Ltd.; four from the Town Dock; one from Lund's Fisheries; and three from members of the public. Consolidated responses are provided to similar comments on the proposed measures.

Limited Access *Illex* Squid Vessel Volumetric Hold Baseline

Comment 1: Two commenters (Seafreeze Ltd. and Lund's Fisheries) supported the proposed measure establishing a volumetric hold baseline for limited access *Illex* squid vessels. Seafreeze Ltd. stated that establishing a volumetric hold baseline will help prevent speculative entry and activation of latent effort (from smaller-capacity

vessels onto larger-capacity vessels) in the *Illex* squid fishery. Seafreeze Ltd. also explained that many existing participants in the *Illex* squid fishery hold Tier 1 or Tier 2 mackerel permits with associated hold capacity baselines, but new entrants often do not. Therefore, because those new vessels do not have an existing baseline limiting hold expansion, their entry into the fishery could significantly increase fleet capacity. Lund's Fisheries stated that establishing a volumetric hold baseline for limited access *Illex* squid vessels would be a good first step towards freezing the footprint of the fishery and matching harvesting capacity to resource availability. Lund's Fisheries also noted that in its experience, certified hold measurements can be obtained at a reasonable cost, and would provide the Council with important effort information. Lund's Fisheries was also supportive of the flexibility given to permits in CPH being able to use an existing fish hold measurement from a previous vessel to establish that permit's hold capacity baseline.

Response 1: We agree and are approving and implementing the measure as proposed.

Comment 2: Seven commenters (four from the Town Dock and three members of the public) opposed the implementation of a volumetric hold baseline for limited access *Illex* squid vessels. Six commenters (three from the Town Dock and three members of the public) felt that the establishment of this baseline was redundant and unnecessary, given that limited access permits in the Greater Atlantic Region already have length and horsepower baselines and with associated upgrade restrictions. Five commenters (three from the Town Dock and one member of the public) stated that adding a hold capacity baseline will make it more difficult for permit holders to upgrade aging vessels in the future, as finding replacement vessels that fits the existing length and horsepower baselines is already challenging.

Response 2: We have considered this comment and disagree that establishing a volumetric hold baseline for limited access *Illex* squid vessels is unnecessary. While it is true that Greater Atlantic Region limited access permits are already subject to length and horsepower baselines and upgrade restrictions, due to the high volume nature of the *Illex* fishery, a vessel's fishing capacity can be significantly increased via hold modification while staying within its length and horsepower requirements. This is why the Council chose to pursue hold capacity restrictions as a tool to cap

fishing power in the *Illex* fishery and we are implementing the measure as proposed. We acknowledge that accommodating a third baseline may make it more difficult to find replacement vessels in the future, but the overall benefits to the fleet resulting from the establishment of a volumetric hold baseline outweigh this challenge.

Comment 3: Three commenters from the Town Dock commented that overfishing of *Illex* squid is not occurring, and only a relatively small percentage of the quota has been harvested in recent years. Commenters stated that this indicates that there is not an overcapacity issue in the fishery, and wondered why additional restrictions on hold capacity are necessary. Similarly, one member of the comment questioned why this measure is necessary given that the *Illex* commercial quota has increased in recent years.

Response 3: The statement that overfishing of the *Illex* squid stock is not occurring requires some clarification. The 2022 *Illex* squid management track assessment was unable to make overfishing or overfished determinations for the stock because there are no reference points or accepted methods for estimating fishing mortality rate and biomass. As a result, the stock status is unknown.

It is true that in recent years the *Illex* squid acceptable biological catch (ABC) has increased (from 30,000 mt in 2020 to 40,000 mt in 2023), and a relatively small percentage of the domestic annual harvest (DAH) has been caught annually in the last few years (15 percent in 2022 and 14 percent in 2023). However, during 2019–2021, data indicate that 98–113 percent of the *Illex* squid DAH was caught. Further, when resource abundance was high during 2017–2019, the number of active vessels participating in the fishery increased, landings in the weeks leading up to closures increased, and landings per active vessel declined. In response to these findings, the Council developed the volumetric hold baseline measure to help freeze the footprint of the *Illex* squid fishery and curb further increases in fishing capacity, and we are implementing the measure as proposed.

Comment 4: Several commenters (four from the Town Dock and three members of the public) referenced the estimated costs associated with implementing a vessel hold capacity baseline, explaining that this will be burdensome to vessel owners. Four commenters (three from the Town Dock and one member of the public) explained that recent poor harvest of *Illex* and longfin squid has already put the fleet under

financial strain, which will make it even more difficult to pay to obtain certified hold measurements. One commenter from the Town Dock estimated that it could cost more than \$30,000 to get their vessels measured, and explained that other recent increases in business expenses (e.g., fuel, labor, insurance) will make these costs more difficult to accommodate.

Response 4: While the economic impact of complying with the volumetric hold baseline may be substantial for some participants in the *Illex* squid fishery, we considered the nature and extent of these costs relative to the benefits of the measure. We also attempted to minimize the costs to the fleet by giving permit holders the flexibility to use existing certified hold measurements (e.g., from a Tier 1 or Tier 2 mackerel permit, from a vessel prior to a permit going into CPH) to establish the volumetric hold baseline for their limited access *Illex* squid permit.

Limited Access Illex and Tier 1 Longfin Squid Processing Type

Comment 5: Lund's Fisheries opposed allowing NMFS to collect information about processing type from limited access *Illex* and Tier 1 longfin squid vessels, stating that this information is already recorded through the Northeast Fisheries Science Center's Study Fleet program and has already been used by scientists in recent stock assessments.

Response 5: We disagree that processing type information is already readily available for the *Illex* and longfin squid fisheries. Study Fleet program data, including processing type information, was used in the 2022 *Illex* squid research track assessment to calculate CPUE information for the "wet" and "freezer" components of the fleet. The assessment report states that the data collected through the Study Fleet program appear to be fairly representative of the wet boat portion of the fleet, but the utility of the data for calculating CPUE for the freezer boat portion is limited due to the fact that only one freezer vessel participates. Authorizing NMFS to collect processing type information from all limited access *Illex* and Tier 1 longfin squid vessels will help fill this data gap and improve scientists' ability to calculate CPUE for all components of both fisheries. Additionally, because this information will be collected through a single question on a vessel application that is already required annually, we expect there to be negligible added burden to the fleet resulting from this measure.

Clarifications to Existing Illex Squid Vessel Reporting Requirements

Comment 6: Lund's Fisheries supported the proposed clarifications to existing *Illex* squid vessel reporting requirements.

Response 6: NMFS agrees and is approving and implementing the clarification as proposed.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

NMFS is issuing this rule pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this final rule is consistent with the Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information OMB Control No. 0648-0202, Greater Atlantic Region Permit Family of Forms, by requiring limited *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).

Vessel processing type information will be collected through an existing permit renewal form and will add a negligible additional burden amounting to no cost; therefore, it does not need additional approval through the PRA. 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 final rule are simply a clarification of existing regulatory requirements and do not need additional approval through the PRA.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a 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: October 22, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 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. Amend § 648.4 by adding paragraph (c)(2)(viii) and (ix) to read as follows:

§ 648.4 Vessel permits.

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(c) * * *
(viii) [Reserved]

(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. Effective November 28, 2025, further amend § 648.4 by revising paragraphs (a)(5)(ii)(F) and (H) and adding paragraph (c)(2)(viii) 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 upgraded 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 November 28, 2025 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 could be applied 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 November 28, 2025. 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.

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(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.

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

§ 648.7 Record keeping and reporting requirements.

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(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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