



## Joint MAFMC/ASMFC Webinar

Thursday, August 6, 2020

The Mid-Atlantic Fishery Management Council (MAFMC) will meet jointly with the Atlantic States Marine Fisheries Commission's (ASMFC) Bluefish Management Board and Summer Flounder, Scup, and Black Sea Bass Management Board on Thursday, August 6, 2020. This meeting will be conducted by webinar.

**Meeting Materials:** MAFMC materials for the joint portion of the meeting are available at <https://www.mafmc.org/briefing/august-6-2020>.

**Webinar Registration:** Participants and attendees can register for the webinar at <https://attendee.gotowebinar.com/register/1528434820936821518> (Webinar ID 686-139-491).

**IMPORTANT:** When registering, Council members should place two zeros (00) prior to their names (e.g., 00John Doe). Council members are encouraged to connect to the webinar using the computer audio option (VoIP). For the best sound quality, we recommend you get a headset (any headphones with a microphone should work, such as headphones you use with your phone). Detailed instructions on joining and participating in the webinars can be found at <http://www.asmfc.org/home/2020-summer-meeting-webinar> in the "Live-Streaming" section.

**Contact:** This webinar will be hosted by the ASMFC. If you are having issues with the webinar (connecting to or audio related issues), please contact Chris Jacobs at 703.842.0790.

### Agenda

- 8:30 a.m. – 11:00 a.m.      Mid-Atlantic Fishery Management Council (MAFMC) and ASMFC Bluefish Management Board (Tab 1)**
- Welcome/Call to Order (C. Batsavage/M. Luisi)
  - Board Consent
  - Public Comment
  - Review Fishery Management Action Team/Plan Development Team (FMAT/PDT) Discussion Document on Bluefish Allocation and Rebuilding Draft Amendment (D. Colson Leaning, M. Seeley)
  - Provide Guidance to FMAT/PDT on Bluefish Allocation and Rebuilding Draft Amendment (Batsavage, M. Luisi)
  - Consider Fishery Management Plan Review and State Compliance (D. Colson Leaning) *Action*
  - Other Business/Adjourn
- 11:00 a.m. – 11:15 a.m.      Break**

- 11:15 a.m. – 12:15 p.m.      MAFMC and ASMFC Summer Flounder, Scup and Black Sea Bass Management Board (Tabs 2-5)**
- Welcome/Call to Order (A. Nowalsky/M. Luisi)
  - Board Consent
  - Public Comment
  - Consider Black Sea Bass Commercial State Allocation Amendment/Draft Addendum XXXIII for Public Comment (C. Starks) **Action (Tab 2)**
  - Recess

**12:15 p.m. – 1:15 p.m.      Break**

- 1:15 p.m. – 3:45 p.m.      MAFMC and ASMFC Summer Flounder, Scup and Black Sea Bass Management Board (continued)**
- Reconvene
  - Consider Black Sea Bass Commercial State Allocation Amendment/Draft Addendum XXXIII for Public Comment, continued
  - Update on Recreational Reform Initiative (J. Beaty) **Possible Action (Tab 3)**
  - Review and Consider Approval of Massachusetts 2020 Black Sea Bass Recreational Conservation Equivalency Proposal (C. Starks) **Action (Tab 4)**
  - Other Business/Adjourn

Note: Additional public comments on other summer flounder, scup, and black sea bass topics are included in **Tab 5**

The above agenda items may not be taken in the order in which they appear and are subject to change as necessary. Other items may be added, but the Council cannot take action on such items even if the item requires emergency action without additional public notice. Non-emergency matters not contained in this agenda may come before the Council and / or its Committees for discussion, but these matters may not be the subject of formal Council or Committee action during this meeting. Council and Committee actions will be restricted to the issues specifically listed in this agenda. Any issues requiring emergency action under section 305(c) of the Magnuson-Stevens Act that arise after publication of the Federal Register Notice for this meeting may be acted upon provided that the public has been notified of the Council's intent to take final action to address the emergency. The meeting may be closed to discuss employment or other internal administrative matters.



**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 22, 2020  
**To:** Council and Board  
**From:** Matthew Seeley, Council staff  
**Subject:** Bluefish Allocation and Rebuilding Amendment

The Council and Board are developing an amendment to address several issues in the bluefish fishery. The Council and Board reviewed scoping comments at the joint May meeting and advised the Fishery Management Action Team (FMAT) to begin drafting alternatives. The FMAT then met in May to develop an initial range of alternatives. Those alternatives were further refined based on input at the joint June Council/Board meeting. Now, the FMAT is requesting Council/Board input as a result of their most recent July FMAT meeting. All discussion and requested input are detailed within the FMAT meeting summary.

The following briefing materials are enclosed on this topic:

- 1) Cover Memo
- 2) Atlantic States Marine Fisheries Commission – Bluefish Board Meeting Overview
- 3) FMAT Meeting Summary
- 4) Action Plan
- 5) Public Comment

# MEETING OVERVIEW

**ASMFC Bluefish Management Board and Mid-Atlantic Fishery Management Council Webinar**  
**August 6, 2020**  
**8:30 a.m. – 11:00 a.m.**

Chair: Chris Batsavage (NC) Assumed Chairmanship: 12/19	Technical Committee Chair: Mike Celestino (NJ)	Law Enforcement Committee Representative: Rob Kersey (MD)
Vice Chair: Joe Cimino (NJ)	Advisory Panel Chair: Vacant	Previous Board Meeting: May 6, 2020
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (17)		

## 2. Board Consent

- Approval of Agenda
- Approval of Proceedings from May 2020

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time should use the webinar raise your hand function and the Board Chair will let you know when to speak. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance, the Board Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

## 4. Review Fishery Management Action Team (FMAT) Discussion Document on Bluefish Allocation and Rebuilding Draft Amendment (8:45-9:15 a.m.)

### Background

- In December 2017, the Board and Council jointly initiated the development of an amendment to consider modifications to the fishery management plan's goals and objectives, commercial/recreational allocations, commercial allocations to the states, the quota transfer processes, and any other issues pertinent to management of the fishery.
- The 2019 operational stock assessment indicated that the stock was overfished relative to the updated biological reference points. In response to the overfished designation, a rebuilding plan was incorporated into the amendment.
- At the June meeting, the Board and Council directed the FMAT to further develop and analyze a range of management approaches including, but not limited to, recreational sector separation, the refereed commercial quota transfer provision, sector transfers, and regional commercial quotas.
- The Fishery Management Action Team (FMAT) met in July to review staff progress in developing the management approaches and provide recommendations. **(Supplemental Materials)**

### Presentations

- FMAT Report by M. Seeley & D. Colson Leaning

**5. Provide Guidance to the FMAT on Bluefish Allocation and Rebuilding Draft Amendment (9:15-10:45 a.m.)**

**Background**

- The Board and Council should provide guidance to the FMAT on the specific approaches to be considered for further analysis and those that should not be pursued further in this action.
- The FMAT will reconvene following the meeting to further develop draft management alternatives. At the next meeting in December, the Council and Board will consider approval of a range of alternatives for inclusion in a public hearing document.

**6. Consider Approval of FMP Review and State Compliance for the 2019 Fishing Year (10:45-10:55 a.m.)**

**Background**

- Annual state compliance reports for bluefish are due May 1. The Plan Review Team reviewed the reports and drafted the FMP review report for the 2019 fishing year. **(Briefing Materials)**
- The PRT review indicated that all states implemented regulations consistent with the intent of Amendment 1 and Addendum I of the Bluefish FMP and Maine, South Carolina and Georgia meet the requirements for *de minimis* status for 2020.
- The PRT recommends that the Board task the TC with reviewing the effectiveness of the Addendum I sampling design and reevaluate the optimal geographic range and sample size for bluefish age data. Additionally, the PRT recommends that the TC look into the increased importance of recreational discards in stock assessments. Generating reliable discard length data from recreational anglers could improve the robustness of stock assessments moving forward.

**Presentations**

- FMP Review of the 2019 fishing year by D. Colson Leaning

**Board Actions for Consideration**

- Consider approving the FMP Review Report and state compliance
- Consider tasking the TC with the PRT recommendations listed above in the background section.

**7. Other Business (10:55-11:00 a.m.)**

**8. Adjourn**



## **Bluefish Allocations and Rebuilding Amendment**

**FMAT Meeting: July 14, 2020, 9:00 a.m. - 12:00 p.m.**

### **Meeting Summary (Dated: July 27, 2020)**

The objective of this meeting was for the Fishery Management Action Team (FMAT) to further refine draft alternatives, including incorporation of Council/Board input and identifications of alternatives that should not be further pursued in this action. The FMAT discussed the implications of each draft approach and worked to identify additional analyses needed to guide the Council/Board during their next discussion of this action in August. The Council/Board are scheduled to approve draft alternatives for inclusion in a public hearing document in December.

All alternative sets have been further developed using the direction provided by the Council/Board and are discussed within this document. However, this document predominantly focuses on the recommendations and direction provided by the Council/Board at the joint June 2020 meeting to further develop specific alternative sets for this Amendment.

**FMAT members present:** Ashleigh McCord (GARFO), Cynthia Ferrio (GARFO), Matt Cutler (NEFSC), Samantha Werner (NEFSC), Tony Wood (NEFSC), Mike Celestino (NJ DFW), Dustin Colson Leaning (ASMFC Staff), and Matthew Seeley (MAFMC Staff)

**Others present:** Mike Waine (ASA), Rusty Hudson (DSF), Hannah Hart (FL FWC), Chris Batsavage (NC DMF), James Fletcher (UNFA), Kiley Dancy (MAFMC Staff), and Jose Montanez (MAFMC Staff)

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**1. Fishery Management Plan Goals and Objectives**

The Council/Board made no changes at the joint June meeting. See Section 1 of the FMAT summary from June 2020 for the updated FMP Goals and Objectives.

**FMAT Comments/Recommendations on Issue 1**

The FMAT discussed the status of the proposed FMP Goals and Objectives but did not offer any revisions at this meeting. The FMAT will continue to revise the proposed FMP Goals and Objectives upon more input from the Council/Board, if necessary.

**2. Commercial and Recreational Sector Allocations**

The Council/Board removed the NEFSC discard estimates and endorsed the MRIP discards estimates (previously referred to as the “GARFO method”) at the joint June meeting. They also recommended further development of the phase-in and trigger approaches to developing alternatives. See Section 2 of the FMAT summary from June 2020 for the updated sector allocations.

**Phase-in Approaches**

Phasing in allocation changes would allow for the commercial/recreational allocation percentages to adjust slowly over time starting with the status quo percentage listed in Table 1 and ending with an alternative set of allocation percentages. Considering the current recreational allocation is at 83% and an increase to 89% (the largest proposed increase) represents less than a 10% increase in allocation, a phase-in approach may not be necessary from at least the recreational fishery perspective. Furthermore, the FMAT previously indicated that phasing in allocation changes could be challenging to coordinate during a rebuilding period that has the potential to already be complex and destabilizing.

**Table 1. Recreational and commercial sector allocation alternatives based on catch data**

Alternative	Allocation Time Series	Recreational Allocation	Commercial Allocation
Status quo	1981-1989 (Landings-based)	83%	17%
2.02	5 year (2014-2018)	89%	11%
2.03	10 year (2009-2018)	89%	11%
2.04	20 year (1999-2018)	87%	13%
2.05	Full Time Series (1981-2018)	86%	14%

## Trigger Approaches

Table 1 above provides the sector allocation alternatives under the proposed time series. If a trigger-based approach to setting allocations is selected, these allocations could shift slightly if the ABC surpasses a specified threshold. The breakdown of sector allocations after the ABC exceeds a threshold is yet to be determined. See “Discussion Points/Questions” below.

### Discussion Points/Questions

- Phase-in
  - Phasing-in allocation changes could take place over any number of years, but does 2-5 years represent a reasonable range of alternatives?
  - Does the FMAT still support removal of this alternative given the concerns listed above?
  - Are there examples of when the phase-in approach is necessary or would be supported for changes to the recreational and commercial allocations?
- Trigger
  - What level should the trigger threshold be set at?
    - Analyses? Recent ABCs to establish a trigger?
    - What would an ABC look like if the stock rebuilds to the 2019 target?
      - Is this a reasonable basis for developing a trigger level?
  - What should the sector allocation shares be after a trigger threshold level is exceeded?
    - One potential alternative: Recreational sector receives a larger share of the quota above the trigger level. This could be justified by the reasoning that the commercial sector may only need so much quota at high biomass levels (e.g. market saturation).

### FMAT Comments/Recommendations on Issue 2

#### *Phase-in*

The FMAT discussed the ability to phase-in new allocations for the commercial and recreational sectors. All of the proposed allocation alternatives decrease the commercial allocation and increase the recreational allocation. The commercial sector is already working with a reduced quota



following the overfished designation and the resultant lower ABC. If the commercial allocation is further reduced by this amendment, it could be less economically damaging to phase-in allocation changes while the stock rebuilds. However, the FMAT noted that phasing in allocation changes are not warranted from the recreational perspective because an increased landings limit would allow for more flexibility within the recreational sector.

The FMAT acknowledged that big changes to the commercial sector allocation and state quotas will have an especially profound effect on commercial fishermen that target bluefish using gillnet gear. If quotas in their states become restrictive, they may be forced to target different species or change gear. This may create substantial economic hardship. A phase-in approach may mitigate these negative impacts by shifting allocations from one sector to another over a longer period of time with the goal of minimizing economic burden. The FMAT noted that it could be worth considering phasing in allocations if any major allocation shifts occur at either the sector or state level.

The FMAT discussed the difficulties of the many moving parts within this Amendment (i.e. rebuilding timelines, phase-in timelines, etc.). FMAT members agreed that the Council/Board should consider streamlining any phase-in approach with the preferred alternative that is selected for rebuilding. This will limit the amount of regulatory changes that need to occur and can potentially be built into the rebuilding plan.

#### *Trigger*

The FMAT agreed that the trigger approaches create more complexity for fisheries management compared to the phase-in approach. In order to develop this alternative set, the FMAT would need to perform analyses to determine what the trigger level should be, how catch is allocated above the trigger level, and how catch is allocated below the trigger. The FMAT agreed that a trigger may not be an appropriate management tool to use while the bluefish stock rebuilds. However, it may be a useful tool to implement once the stock rebuilds to the target. Thus, the FMAT does not recommend further pursuing trigger approaches for the commercial and recreational sector allocations at this time. The FMAT does recommend including a provision that would allow future implementation of the trigger approach through a framework or addendum.

### **3. Commercial Allocations to the States**

The Council/Board made no changes to the existing allocation alternatives at the joint June meeting. See [Section 3](#) of the FMAT summary from June 2020 for the updated commercial allocations to the states. However, the Council/Board requested further development of the phase-in and trigger approaches to developing alternatives. Also, the Council/Board directed staff to develop an alternative set that incorporated a minimum default allocation under each proposed time series.

#### **Phase-in Approaches**

The degree to which commercial allocations to the states change vary across time series. These changes typically are more substantial for states that have been either landing all their quota and

requesting transfers, not achieving their quota for many years, or have been transferring away their quota for many years. A phase-in allocation approach could mitigate the negative socioeconomic consequences of a state losing a significant portion of its quota by allowing for gradual change.

The FMAT previously said that phasing in allocation changes could be challenging to coordinate during a rebuilding period that has the potential to already be complex and destabilizing. The FMAT noted that they want to ensure altering the commercial allocations to the states does not make management unduly complicated for the respective states. In addition, a re-allocation of state quotas that accurately represents the current needs of the fishery reduces the need for a phase-in approach because states will have a more appropriate quota given their recent landings. Lastly, a phase-in approach would not be applicable if the Council/Board replace state by state commercial allocations with regional commercial allocations.

### Trigger Approaches

Table 2 provides three options of different commercial quota triggers that allow for a “surplus” of quota to be allocated to each state. The four states that have an allocation of less than 1% will receive a smaller percentage (either 0.05%, 0.10%, or 0.25%). The remaining quota will be allocated equally to the other ten states.

**Table 2. Bluefish state allocations under an 8.84 M lb (20-year average commercial quota), 8.21 M lb (10-year average commercial quota), or 6.67 M lb (5-year average commercial quota) trigger point.**

	Baseline	Option 1 (0.05%)	Option 2 (0.10%)	Option 3 (0.25%)	
State	Allocation of baseline quota ≤8.84 M lbs, 8.21 M lbs, or 6.67 M lbs	Allocation of additional quota beyond either 8.84 M lbs, 8.21 M lbs, or 6.67 M lbs	Allocation of additional quota beyond either 8.84 M lbs, 8.21 M lbs, or 6.67 M lbs	Allocation of additional quota beyond either 8.84 M lbs, 8.21 M lbs, or 6.67 M lbs	Revised state quotas
ME	0.67%	0.05%	0.10%	0.25%	Dependent on total annual coastwide quota; state percent shares vary with amount of "additional" quota in a given year.
NH	0.41%	0.05%	0.10%	0.25%	
MA	6.71%	9.98%	9.96%	9.90%	
RI	6.81%	9.98%	9.96%	9.90%	
CT	1.27%	9.98%	9.96%	9.90%	
NY	10.38%	9.98%	9.96%	9.90%	
NJ	14.81%	9.98%	9.96%	9.90%	
DE	1.88%	9.98%	9.96%	9.90%	
MD	3.00%	9.98%	9.96%	9.90%	
VA	11.94%	9.98%	9.96%	9.90%	
NC	32.03%	9.98%	9.96%	9.90%	
SC	0.04%	0.05%	0.10%	0.25%	
GA	0.01%	0.05%	0.10%	0.25%	
FL	10.06%	9.98%	9.96%	9.90%	
<b>Total</b>	100%	100%	100%	100%	100%

## Minimum Default Allocations

Tables 3-6 present allocations including a minimum default allocation of 0.10-1.00%. Minimum default allocations were applied to each state by allocating a baseline quota of 0.10-1.00% to each state. Then, the rest of the annual commercial quota is allocated based on historic landings under different time series.

**Table 3. State-by-state commercial bluefish allocations along the U.S. Atlantic coast using different proposed time series and a minimum default allocation of 0.10%.**

		0.10% Minimum Default Allocation					
State	True Status quo 1981-1989	Status quo 1981-1989	5-year 2014-2018	10-year 2009-2018	20-year 1999-2018	Time Series 1981-1989	½ '81-'89 -½ '09-'18
ME	0.67%	0.76%	0.10%	0.11%	0.11%	0.52%	0.58%
NH	0.41%	0.51%	0.13%	0.22%	0.27%	0.74%	0.42%
MA	6.71%	6.72%	10.59%	10.12%	7.53%	7.18%	7.65%
RI	6.81%	6.81%	11.74%	9.61%	7.98%	7.95%	7.58%
CT	1.27%	1.35%	1.26%	1.09%	0.82%	1.20%	1.28%
NY	10.38%	10.33%	20.12%	19.76%	19.27%	14.65%	12.93%
NJ	14.81%	14.70%	11.17%	13.85%	15.11%	15.45%	14.46%
DE	1.88%	1.95%	0.67%	0.49%	0.48%	1.17%	1.55%
MD	3.00%	3.06%	1.57%	1.92%	1.62%	2.17%	2.75%
VA	11.94%	11.88%	4.65%	5.87%	6.93%	8.77%	10.22%
NC	32.03%	31.68%	31.71%	32.03%	36.52%	33.15%	31.78%
SC	0.04%	0.13%	0.10%	0.10%	0.10%	0.12%	0.13%
GA	0.01%	0.11%	0.10%	0.10%	0.11%	0.11%	0.11%
FL	10.06%	10.02%	6.08%	4.78%	3.16%	6.91%	8.57%

**Table 4. State-by-state commercial bluefish allocations along the U.S. Atlantic coast using different proposed time series and a minimum default allocation of 0.25%.**

		0.25% Minimum Default Allocation					
State	True Status quo 1981-1989	Status quo 1981-1989	5-year 2014-2018	10-year 2009-2018	20-year 1999-2018	Time Series 1981-1989	½ '81-'89 -½ '09-'18
ME	0.67%	0.89%	0.25%	0.26%	0.26%	0.66%	0.72%
NH	0.41%	0.65%	0.28%	0.36%	0.41%	0.88%	0.56%
MA	6.71%	6.73%	10.52%	10.05%	7.52%	7.18%	7.64%
RI	6.81%	6.82%	11.65%	9.56%	7.97%	7.94%	7.57%
CT	1.27%	1.47%	1.39%	1.22%	0.96%	1.33%	1.40%
NY	10.38%	10.26%	19.85%	19.49%	19.01%	14.49%	12.80%
NJ	14.81%	14.54%	11.09%	13.70%	14.94%	15.27%	14.31%
DE	1.88%	2.06%	0.81%	0.64%	0.62%	1.30%	1.67%
MD	3.00%	3.15%	1.69%	2.03%	1.74%	2.28%	2.84%
VA	11.94%	11.78%	4.71%	5.89%	6.93%	8.73%	10.16%
NC	32.03%	31.16%	31.19%	31.50%	35.89%	32.59%	31.25%
SC	0.04%	0.28%	0.25%	0.25%	0.25%	0.27%	0.28%
GA	0.01%	0.26%	0.25%	0.25%	0.26%	0.26%	0.26%
FL	10.06%	9.95%	6.10%	4.83%	3.24%	6.92%	8.54%

**Table 5. State-by-state commercial bluefish allocations along the U.S. Atlantic coast using different proposed time series and a minimum default allocation of 0.50%.**

		0.50% Minimum Default Allocation					
State	True Status quo 1981-1989	Status quo 1981-1989	5-year 2014-2018	10-year 2009-2018	20-year 1999-2018	Time Series 1981-1989	½ '81-'89 -½ '09-'18
ME	0.67%	1.12%	0.50%	0.51%	0.51%	0.90%	0.95%
NH	0.41%	0.89%	0.53%	0.61%	0.66%	1.11%	0.80%
MA	6.71%	6.74%	10.39%	9.95%	7.51%	7.18%	7.62%
RI	6.81%	6.83%	11.48%	9.47%	7.94%	7.91%	7.56%
CT	1.27%	1.68%	1.59%	1.43%	1.18%	1.54%	1.61%
NY	10.38%	10.15%	19.39%	19.04%	18.58%	14.22%	12.60%
NJ	14.81%	14.27%	10.94%	13.46%	14.66%	14.98%	14.05%
DE	1.88%	2.25%	1.03%	0.87%	0.86%	1.51%	1.87%
MD	3.00%	3.29%	1.89%	2.21%	1.94%	2.45%	2.99%
VA	11.94%	11.61%	4.79%	5.94%	6.94%	8.68%	10.05%
NC	32.03%	30.29%	30.32%	30.61%	34.85%	31.67%	30.38%
SC	0.04%	0.53%	0.50%	0.50%	0.50%	0.52%	0.52%
GA	0.01%	0.51%	0.50%	0.50%	0.51%	0.51%	0.51%
FL	10.06%	9.85%	6.14%	4.91%	3.38%	6.93%	8.49%

**Table 6. State-by-state commercial bluefish allocations along the U.S. Atlantic coast using different proposed time series and a minimum default allocation of 1.00%.**

		1.00% Minimum Default Allocation					
State	True Status quo 1981-1989	Status quo 1981-1989	5-year 2014-2018	10-year 2009-2018	20-year 1999-2018	Time Series 1981-1989	½ '81-'89 -½ '09-'18
ME	0.67%	1.57%	1.00%	1.01%	1.01%	1.37%	1.42%
NH	0.41%	1.36%	1.03%	1.10%	1.15%	1.56%	1.28%
MA	6.71%	6.77%	10.15%	9.74%	7.48%	7.17%	7.59%
RI	6.81%	6.85%	11.16%	9.29%	7.88%	7.85%	7.53%
CT	1.27%	2.09%	2.01%	1.86%	1.63%	1.96%	2.03%
NY	10.38%	9.92%	18.47%	18.15%	17.72%	13.69%	12.19%
NJ	14.81%	13.73%	10.66%	12.99%	14.10%	14.39%	13.53%
DE	1.88%	2.61%	1.49%	1.34%	1.33%	1.94%	2.26%
MD	3.00%	3.58%	2.29%	2.59%	2.33%	2.81%	3.31%
VA	11.94%	11.27%	4.97%	6.03%	6.96%	8.56%	9.83%
NC	32.03%	28.55%	28.57%	28.85%	32.77%	29.82%	28.63%
SC	0.04%	1.03%	1.00%	1.00%	1.00%	1.02%	1.02%
GA	0.01%	1.01%	1.00%	1.00%	1.01%	1.01%	1.01%
FL	10.06%	9.65%	6.22%	5.08%	3.67%	6.94%	8.39%

**Discussion Points/Questions**

- Phase-In
  - Phasing-in allocation changes could take place over any number of years, but does 2-5 years represent a reasonable range of alternatives?
  - Does the FMAT still support removal of this alternative given the concerns listed above?
  - Are there examples of when the phase-in approach is necessary or would be supported for changes to the commercial allocations to the states?
- Trigger
  - Is using the average commercial quotas to develop a trigger the best approach?
  - Are there other approaches the FMAT should explore?
  - Average commercial quotas over the past 20, 10, or 5 years?
  - Are the proposed percentages (0.05%, 0.10%, 0.25%) appropriate for the four states with a current allocation of less than 1%?
- Minimum Default Allocations
  - Which minimum default allocation percentage is most appropriate?
  - Are there any reasons why a minimum default allocation would not be preferred over a standard allocation alternative?

### **FMAT Comments/Recommendations on Issue 3**

#### *Phase-in*

The FMAT discussion regarding phasing in sector allocation changes also pertains to the considerations discussed in phasing in commercial state allocation changes (as indicated above).

#### *Trigger*

The FMAT discussed the trigger-based examples provided in Table 2 of this document and concluded a trigger-based approach is more applicable for the commercial allocations to the states than the sector-based allocations (Issue 2). The FMAT noted that the proposed commercial quota triggers are a good starting point but would require further analysis and input from the Board and Council. One FMAT member said that other than equity across states, the proposition to allocate equally across states does not appear to have significant economic reasoning. States with a large quota share like NC would be disproportionately affected. The FMAT also noted that a wider range of alternatives should be developed. Under the current example in Table 2, NC (32.03%) and CT (1.27%) would receive the same allocation once the trigger threshold was met. The FMAT recommends developing different ranges of status quo percentages that would lead to more appropriate “surplus” percentages. For example, status quo percentages and the associated “surplus” allocation percentage could be broken down as follows:

Possible Range of Baseline Quota	Possible Associated Additional Quota Allocations
0-1%	0.25%
>1-5%	3.00%
>5%	12.86%

State	Baseline	Option 4 (0.25%)
	Allocation of baseline quota ≤8.84 M lbs, 8.21 M lbs, or 6.67 M lbs	Allocation of additional quota beyond either 8.84 M lbs, 8.21 M lbs, or 6.67 M lbs
ME	0.67%	0.25%
NH	0.41%	0.25%
MA	6.71%	12.86%
RI	6.81%	12.86%
CT	1.27%	3.00%
NY	10.38%	12.86%
NJ	14.81%	12.86%
DE	1.88%	3.00%
MD	3.00%	3.00%
VA	11.94%	12.86%
NC	32.03%	12.86%
SC	0.04%	0.25%
GA	0.01%	0.25%
FL	10.06%	12.86%
<b>Total</b>	<b>100%</b>	<b>100%</b>

*Minimum Default Allocations*

The FMAT discussed the proposed minimum default allocations that were based on the approach used in Amendment 3 for Atlantic menhaden. The FMAT concluded that the range of percentages are sufficient but indicated that 1% as a minimum default allocation is too high. The FMAT recommends an allocation closer to the *de minimis* level of 0.1%.

**4. Regional Commercial Allocations**

At the joint June meeting, the Council/Board reviewed the Florida Regional Proposal and tasked staff to develop regional commercial allocations. Table 7 presents draft allocation alternatives by region (New England, Mid-Atlantic, South Atlantic) for the same time series used to develop the sector and commercial state-to-state allocations.

**Table 7. Regional commercial bluefish allocations along the U.S. Atlantic coast using different proposed time series.**

Alternative	Time Series	New England (ME-CT)	Mid-Atlantic (NY-VA)	South Atlantic (NC-FL)
4.1	Status quo: 1981-1989	15.86%	42.00%	42.13%
4.2	2014-2018	23.66%	38.23%	38.13%
4.3	2009-2018	20.93%	41.97%	37.13%
4.4	1999-2018	16.44%	43.53%	40.05%
4.5	1981-2018	17.34%	42.31%	40.45%
4.6	½ '81-'89 -½ '09-'18	17.25%	41.99%	40.75%

To account for a single state harvesting too much of the regional allocation, commercial vessel trip limit step downs could be used, similar to what is currently in place for the South Atlantic Spanish Mackerel fishery. The Spanish mackerel fishery also withholds a designated amount of quota (e.g. 250,000 pounds) to help slow the rate of harvest. The Spanish mackerel step down system is presented in Table 8.

**Table 8. Harvest triggers and associated trip limits for South Atlantic Fishery Management Council managed Spanish Mackerel.**

Spanish Mackerel (SAFMC)	
Harvest Trigger (%)	Trip Limit
0% of adjusted quota*	3,500 pounds
75% of adjusted quota*	1,500 pounds
100% of adjusted quota*	500 pounds

\*Once 100% of the adjusted quota is harvested, the remaining 250,000 pounds is available at 500 pounds/trip.

Bluefish share similar migratory habits as Spanish Mackerel making them available to certain states during different times of the year. Thus, regional management is being considered by the Council/Board and could utilize similar management measures such as an adjusted quota and step-down trip limits (Tables 9 and 10).

For bluefish, trip limits can be set coastwide or specific to each region, however, trip limits may be difficult to develop considering state trip limits range from “no restrictions” to 500 pounds/week to 7,500 pounds/day (Table 11). As always, state trip limits can be more restrictive than the federal limits. However, states may not be inclined to restrict themselves since the new quotas are regionalized and neighboring states may not adhere to the same self-designated lower limits.

**Table 9. Percentage of bluefish trips for 2017-2019 with landings summarized in pound bins. (Data provided by ACCSP).**

Pound Bin	New England Trips			Mid-Atlantic Trips			South Atlantic Trips		
	2019	2018	2017	2019	2018	2017	2019	2018	2017
5000+	<1%	<1%	<1%	0%	0%	<1%	<1%	<1%	<1%
4000-4999	<1%	<1%	<1%	0%	0%	<1%	<1%	<1%	<1%
3000-3999	<1%	<1%	<1%	0%	0%	<1%	<1%	<1%	<1%
2000-2999	<1%	<1%	<1%	0%	<1%	0%	<1%	<1%	<1%
1000-1999	<1%	<1%	1.25%	<1%	2.45%	1.45%	1.58%	1.13%	1.26%
500-999	2.34%	1.42%	3.42%	2.29%	3.12%	3.31%	3.69%	3.08%	2.99%
<500	95.84%	96.69%	94.10%	97.20%	94.40%	95.20%	94.31%	95.33%	94.76%

**Table 10. Proposed bluefish harvest triggers and associated trip limits for the Atlantic coast.**

New England (ME-CT)		Mid-Atlantic (NY-VA)		South Atlantic (NC-FL)	
Harvest Trigger	Trip Limit (lbs)	Harvest Trigger	Trip Limit (lbs)	Harvest Trigger	Trip Limit (lbs)
0%	3,500	0%	2,000	0%	10,000
75%	1,500	75%	1,500	50%	3,500
90%	500	90%	500	75%	1,500
-	-	-	-	90%	500



**Table 11. Current commercial bluefish trip and size limits for all Atlantic coast states.**

<b>ME</b>	No Restrictions
<b>NH</b>	No Restrictions
<b>MA</b>	5,000 lbs/day or trip (whichever is longer)
<b>RI</b>	12" min size;
	1,000 lbs/bi-wk (1.1-4.30)
	8,000 lbs/wk (5.1-11.09)
	500 lbs/wk (11.10-12.31)
<b>CT</b>	9" min size;
	1,200 lbs/trip
<b>NY</b>	9" min size;
	Trip Limit: 5,000 lbs (Jan-April); 750 lbs (May-Aug); 500 lbs (Sept-Oct); 1,000 lbs (Nov-Dec)
<b>NJ</b>	9" min size
<b>DE</b>	No Restrictions
<b>MD</b>	8" min size
<b>PRFC</b>	Trip limits after 80% of VA-MD quota is landed
<b>VA</b>	No Restrictions
<b>NC</b>	No Restrictions
<b>SC</b>	No directed fishery
<b>GA</b>	12" min size;
	15 fish
<b>FL</b>	12" min size;
	7,500 lbs/day

Regional commercial transfers provisions can be the same as the current state-to-state transfers but set for region-to-region. Ideally, transfers will be limited with the additional flexibility provided by regional quotas and increased access to a larger quota share. Furthermore, new allocations based on updated data should reduce the need for transfers for the foreseeable future.

**Discussion Points/Questions**

- Does the introduction of regional quotas exacerbate the “race to fish” incentive as each state’s fisheries compete with one another to harvest quota first?
- Is an adjusted quota (SAFMC Spanish Mackerel example) appropriate to use for bluefish?
- Are the proposed trip limits and harvest triggers appropriate? See the current state trip limits for varying trip limits by region.
  - Are additional analyses necessary?
- Will future changes to trip limits occur through specifications?

- Will transfers follow the current state-to-state provisions but on a regional level as indicated above?

#### **Expected Future Analysis:**

- How would regional transfers work as an administrative process? The Spanish mackerel fishery should be examined further as a potential example.

#### **FMAT Comments/Recommendations on Issue 4**

The FMAT briefly discussed the pros and cons of implementing the regional allocation approach. Some states that lose quota because of reallocation could benefit from increased access by combining their quota with other states in their region. However, there are some concerns about managing fisheries on a regional basis. Under the proposed alternative, commercial trip limit step downs would be automatic and regionally applied, which may not suit the needs of individual states that may have different seasonal fisheries. The FMAT discussed whether the current configuration of state groupings as currently proposed is appropriate. The FMAT was interested in verifying whether the regional state groupings have any biological basis. One suggested approach would be to compare state-by-state temporal availability (based on migration) using landings as a proxy for abundance. Lacking biological backing, the regional commercial allocation proposal may have less technical merit. The FMAT would like input from the Council/Board as to whether this is a worthwhile analysis prior to pursuing this task.

The FMAT discussed the importance of requiring identical trip limit regulations at the federal and state level if regional commercial allocations are adopted. This would also require a high level of state buy-in and cooperation.

The FMAT noted that Table 9 is useful for understanding how many individual vessels encompass the larger trip pound bins. The data shows that only a small percentage of trips would be negatively impacted by the implementation of regional trip limits. Any vessel that typically harvests bluefish in large quantities could be disproportionately affected as they are forced to decrease their productivity.

The FMAT thought that the Table 9 should be redeveloped to display each trip limit bin's percent contribution to the total landings for that year. This will help identify if the majority of bluefish landings are coming from a small number of trips with very high landings or many trips with a low amount of landings. Furthermore, the FMAT recommended reassessment of the proposed trip limits once the landings data has been analyzed.

The FMAT also discussed the ability to change trip limits through specifications, which offers some flexibility in developing these measures. Changing trip limits through specifications would hopefully also minimize the need for transfers under the regional commercial allocation alternatives. When considering transfers, provisions could be set where quota could be sent from one region to another. However, complications would arise if not all states in one region agree to send quota to a different region. The FMAT requests that the Council/Board specify whether transfer provisions should be developed under the regional commercial allocation alternatives.

## **5. Rebuilding Plan**

The Council/Board made no changes at the joint June meeting. See Section 5 of the FMAT summary from June 2020 for the rebuilding alternatives. However, the Council/Board requested clarification on what happens if the overfished stock does not (or is anticipated to not) rebuild within the projected timeline, and specifically, if the failure to rebuild is due to environmental conditions. The following language from the MSA details the approach to be taken if the stock is not rebuilt under the proposed timeline.

16 U.S.C. 1854

MSA § 304

(5) If, within the 2-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.

**Case Study:** In 2005, the Natural Resources Defense Council challenged the 2002 annual catch limits for dark-blotched rockfish. A 2001 stock assessment updated showed that the stock was in a worse condition than previously thought and the stock could not rebuild in 10 years. Thus, the 2002 catch limit was increased based on the longer rebuilding time and a consideration of the needs of fishing communities. However, the Court held that the agency could not take into account the needs of fishing communities for species with rebuilding periods longer than 10 years. The Court further held that increasing ACLs based on information demonstrating that the stock is in worse condition is “incompatible with making the rebuilding period as short as possible.” (NRDC v. NMFS, 9th Cir. Aug. 24 2005, 421 F.3d 872; 2005 U.S. App. LEXIS 18143; 35 ELR 20174.)”

## **Discussion Points/Questions**

- If the stock proves to be less responsive to reductions in fishing mortality than expected, would there be justification under the MSA to adjust the biomass target level accordingly?
- If the Secretary finds that the rebuilding plan has not resulted in adequate progress toward rebuilding the bluefish stock, is further reducing fishing mortality the only tool available to the Secretary?
- What role does management of forage fish stocks play in regard to the bluefish rebuilding plan?

## **FMAT Comments/Recommendations on Issue 5**

The FMAT discussed the concerns raised by the Board and Council in regards to the cyclical nature of bluefish abundance and the influence that forage fish and the environment have on the species' ability to rebuild spawning stock biomass to the target within the specified rebuilding timeline. While the FMAT recognizes these concerns and the role that the calibrated MRIP estimates have had on the stock assessment, there was consensus that we need to wait and at least see how the rebuilding plan initially performs. The FMAT noted that NOAA Fisheries is mandated by MSA to prevent overfishing and implement a rebuilding plan. Progress will be evaluated every 2 years and adjustments can be made as necessary. If a rebuilding plan is found to be making inadequate progress, adjustments can include more restrictive management measures and potentially increased funding for research to understand why a rebuilding plan is not going as initially proposed. NOAA Fisheries has specific qualification criteria to assess if adequate rebuilding progress has been made. Ultimately, it is important to first address fishing mortality and then reassess. As more data becomes available and a stock assessment update is conducted, the biological reference points may change and shift stakeholder perspective on the rebuilding process. Finally, the rebuilding plan should be thought of as a "living plan", as it is regularly reviewed, and revised when necessary.

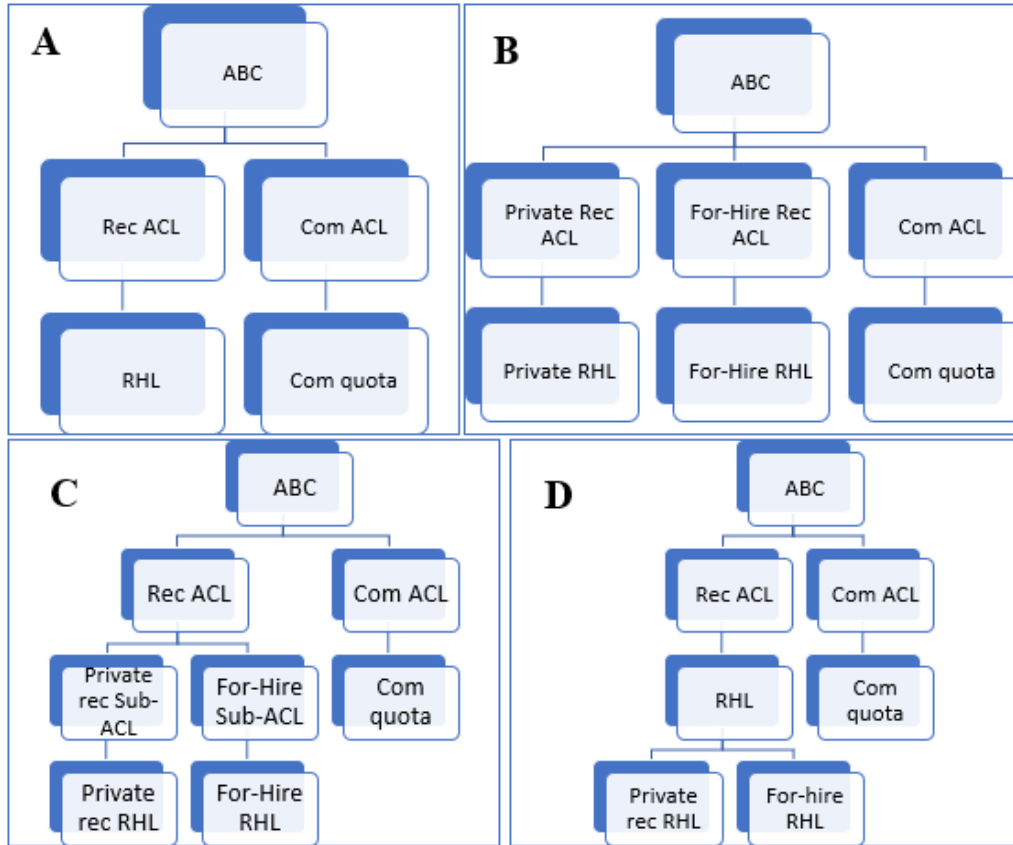
## **6. For-Hire Sector Separation**

The Council/Board recommended further development of the for-hire sector separation alternatives at the joint June meeting. These alternatives are all developed in pounds of fish.

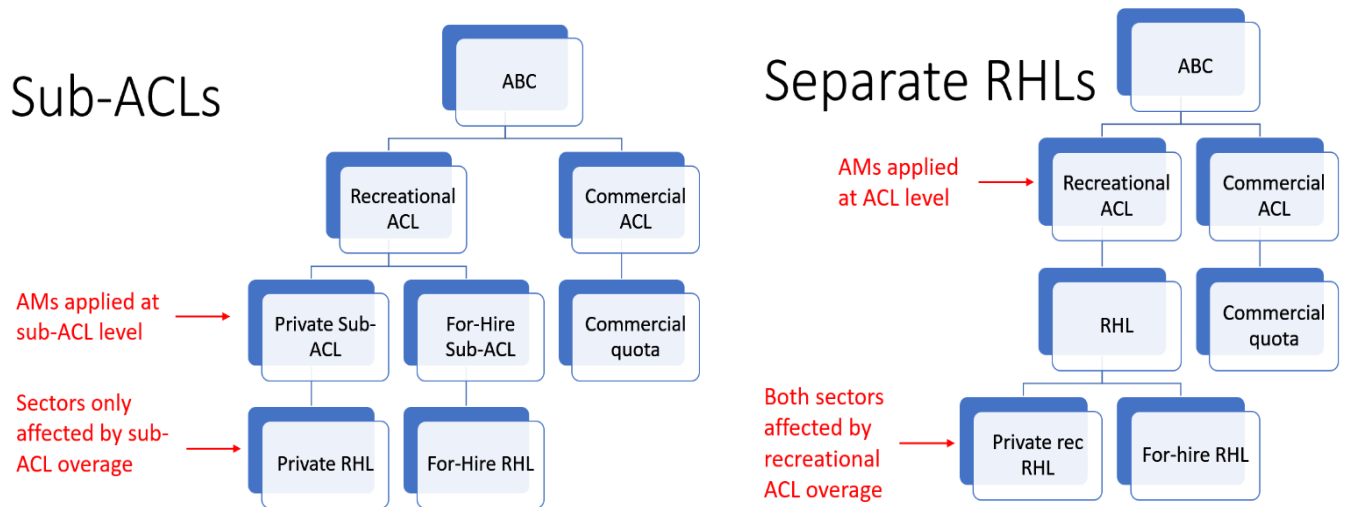
This option would specify within the FMP a separate percentage allocation to the for-hire recreational sector of either the ABC limit, the recreational ACL, or the RHL. There are several potential ways in which a separate allocation could be created for the for-hire sector, described below with comparison to the current process which does not include sector separation. These potential options are illustrated in Figure 1. The differences between some of these options are nuanced, and the pros and cons of each approach should be further explored by the FMAT if these alternatives remain in the amendment.

- A. Current FMP:** The ABC is divided into the recreational ACL and the commercial ACL. Projected recreational discards are removed from the recreational ACL to derive the recreational harvest limit. Both the private and for-hire recreational sectors are held to a single combined ACL and RHL, and performance evaluation and accountability measures are applied to both fisheries together.

- B. **Separate ACLs (NOT RECOMMENDED):** The ABC would be allocated three ways: into a private recreational ACL, a for-hire recreational ACL, and a commercial ACL. This method would require development of these three allocations, and development of separate accountability measures for the private recreational and for-hire sectors.
- C. **Recreational Sub-ACLs:** The ABC would remain divided into the recreational ACL and commercial ACL based on the allocation approach selected through this action. The recreational ACL would be further allocated into private and for-hire sub- ACLs. This method would also require development of separate accountability measures for the private recreational and for-hire sectors (Figure 2-left).
- D. **Separate RHLs:** The private recreational and for-hire recreational sectors would remain managed under a single recreational ACL. Separate RHLs could be developed for each sector for the purposes of determining management measures. Accountability under this option would be partially at the RHL level (in the sense that performance to the RHL would be evaluated for each recreational sector for the purposes of adjusting future management measures to constrain harvest to the RHL) and partially at the ACL level (in the sense that accountability measures must be established at the ACL level to trigger a response if the entire recreational ACL is exceeded). This approach includes separate management of harvest only; dead discards are not included in RHLs and would be accounted for at the ACL level (Figure 2-right).



**Figure 1.** Conceptual flowcharts of potential recreational sector separation configurations including A) status quo, B) separate ACL allocations, C) Sub-ACL allocations, and D) separate RHLs. Note: ACTs, TALs not depicted in above flowcharts.



**Figure 2.** Conceptual flowcharts of potential recreational sector separation configurations including where accountability measures are applied and detailing where sectors are affected by ACL overages.

### Staff Recommendation

Structure C represents the best alternative for several reasons. First, the commercial and recreational allocation alternatives developed thus far would remain intact. In contrast, the adoption of structure B would require that this process start over with the development of allocations between three sectors as opposed to two. Second, accountability is more straightforward under structure C. The for-hire sector and the private sector would be individually evaluated on their respective RHL and ACL performance. This is not the case under structure D which would evaluate RHL performance for each sector individually, but ACL evaluation would pool the two sector's catch performance. In short, the for-hire sector or the private angler sector would be held accountable to the other sector's level of discards. For example, if the private angler sector's discards are estimated to be higher than normal in a given year, yet the for-hire sector's discards estimate remains low, and if the ACL is exceeded, both sectors will be held accountable regardless of their individual contributions to the ACL overage. The for-hire sector will be penalized by a reduction in the ACL the subsequent year.

Structure D presents a viable alternative to C if fishery managers' preference is to keep the two recreational sectors grouped together in terms of AMs, and ACL overages are not a major concern.

### Discussion Points/Questions

- Are there any reasons why recreational sector separation structure C is not preferable over options B or D?

### Expected Future Analysis

- Consider landings and discard data limitations at the mode level.
- Discuss the pros and cons of requiring that all for-hire operators submit eVTRs.

### FMAT Comments/Recommendations on Issue 6

The FMAT reviewed and discussed the implications associated with all options (A-D) in figure 1. The FMAT strongly agreed with the staff recommendation to rule out option B as a viable choice considering it would require redevelopment of all the commercial-recreational allocation alternative sets developed thus far.

After further consideration, the FMAT concluded that option C is the best choice for developing for-hire sector separation alternatives. Through scoping, the for-hire stakeholders indicated they want a separate sector from the private recreational angler sector. This includes having separate monitoring of landings and discards, as well as, separate accountability measures. Option C, as opposed to option D, offers the ability for recreational accountability to be sector specific at both the recreational measures setting level through RHL evaluation and the AMs level through ACL evaluation (Figure 2). AMs under option D would apply to the recreational ACL level, thus an overage in one recreational sector could trigger a pound for pound payback that would affect both sectors. Consideration of how transfers will be affected under for-hire sector separation are discussed in section 7 of this document.

The FMAT also discussed future analyses that will be necessary as the Council/Board further explore for-hire sector separation. Analyses should be conducted to advance the understanding of what data is going to be used to develop the allocations and used for catch accounting/monitoring. Most for-hire anglers are in support of using eVTRs instead of MRIP data, however, not all states currently require eVTRs. The FMAT agreed that transitioning to an accounting system reliant on eVTRs and ensuring all states implement the same requirements in a timely manner is a large undertaking, which will require significant administrative effort and stakeholder buy in. Some FMAT members thought that further developing eVTR reporting may be necessary prior to implementing for-hire sector separation. The FMAT also considered the potential benefit of implementing recreational sector separation using MRIP data and transitioning to eVTR catch accounting in a later action. Following this idea, the FMAT discussed the potential challenges with utilizing MRIP data for catch accounting. MRIP estimates are most accurate at the coastwide level and become less accurate the more granular the query level gets. The FMAT agreed that more analysis is needed to better understand the range of PSE values for the for-hire mode and the implications they have for setting recreational measures and evaluating catch performance against a for-hire ACL.

## **7. Transfers – Sector**

### ***Proposed sector transfer process under no recreational sector separation***

Under the proposed transfer alternatives, the Board and the Council would have the ability to recommend that a portion of catch or landings limits be transferred between the recreational sector and the commercial sector. The need for a sector transfer would be assessed annually through the specifications process, typically at the August joint meeting. Prior to the meeting, the Monitoring Committee would develop a projection of next year's catch or landings for both the recreational and the commercial sectors using considerations such as catch in prior years, changes in management measures (e.g., possession limits, minimum size limits, seasons, quotas), trends in fishery effort, and changes in abundance and biomass levels. These projected commercial and recreational catches would be compared to the initial proposed sector ACLs or landings limits for the upcoming fishing year. If, based on this comparison, one sector is not anticipated to catch its limit, and the other sector is expected to exceed its limit, the Council and Board can recommend that a portion of the ACL be transferred to the other sector up to a maximum percentage of the ABC. If both sectors are projected to achieve or underachieve their respective catch limits for that year, then no transfer is recommended.

Under the current plan, NOAA Fisheries implements specifications in January for the new fishing year following the August meeting. Once preliminary prior year MRIP estimates are available in February, NOAA Fisheries compares the estimate of recreational landings for the previous year to the RHL to make any necessary adjustments before finalizing the amount of quota transferred. The adjustment notice with final specifications is usually published in March/April. This process could be continued, except instead of only analyzing recreational landings, both commercial and recreational landings and discards from the previous year would be analyzed to inform any adjustments to the transfer between the commercial and recreational sectors.



The recreational accountability measures (AMs) for bluefish were updated in Omnibus Amendment 3 to the Bluefish FMP. The AMs indicate that special consideration be given when a sector transfer contributes to a fishery-level ACL (which includes recreational and commercial catch) overage. ACL overages can potentially result from too much quota being transferred away from the recreational sector. Recreational landings may exceed projected catch in a given year and thus may exceed the transfer-adjusted-RHL. In these instances, the Bluefish Monitoring Committee can recommend that the amount transferred between the recreational and commercial sectors be reduced by the ACL overage amount in a subsequent fishing year.

*Sector transfer process considerations*

Question	Discussion
<b>Transferring at the catch limit or landings limit level?</b>	<ul style="list-style-type: none"> <li>• Transferring landings could complicate the evaluation of catch performance against the ACL. If the landings limit is increased, the ACL should probably be adjusted by the landings transfer amount to prevent an ACL overage. This would have a similar result to simply transferring at the catch level, however, the basis would be projected landings, and the landings limit increase would be the basis for the ACL increase (i.e., projected discards would not change).</li> <li>• Additional discussion of recreational and commercial data timing is needed to determine how feasible or accurate catch projections (as opposed to landings projections) may be. The NEFSC’s recreational dead catch in weight estimates are usually available later in the year than estimates of preliminary harvest in numbers and weight and discards in numbers of fish.</li> </ul>
<b>What should the transfer cap be set at?</b>	<ul style="list-style-type: none"> <li>• The transition from old uncalibrated MRIP data to new calibrated MRIP data adds uncertainty in analyzing past performance relative to catch and landings limits and calls into question whether any analyses can actually inform the size of the transfer cap that may be needed in future years. The appropriate size of a transfer cap may depend on whether catch or landings are transferred and whether the cap is considered as a percentage of the ABC or TAL.</li> </ul>
<b>What should the timing and process look like for transfers?</b>	<ul style="list-style-type: none"> <li>• The timing and process for the existing bluefish transfers may not work for this FMP under the current process. Federal recreational management measures, and often general guidelines for reductions or liberalizations, are typically adopted in December. If the catch or landings projection and adjustment for a transfer is not conducted until early the next year, it is not clear how this would work with the timing of recreational measures development.</li> <li>• The process for adjusting catch or landings limits after publication of the specifications final rule should also be clarified.</li> </ul>
<b>Should criteria be established that prohibits transfers from occurring?</b>	<ul style="list-style-type: none"> <li>• Consideration could be given to prohibiting transfers under certain conditions, such as when a stock is overfished or under a rebuilding plan.</li> </ul>

<b>How are transfers handled under recreational sector separation (if adopted through this action)?</b>	Option 1: Transfers between sectors are prohibited. The new regulatory structure involved with developing recreational sector separation creates additional complexity in developing the transfer provision. Transfers provide additional regulatory burden and increased likelihood of ABC overages.
	Option 2: Tri-directional transfers occur between all three sectors <ul style="list-style-type: none"> <li>▪ Reasons for: equitability, flexibility</li> <li>▪ Reasons against: This option greatly complicates the specifications process with the need to address additional considerations such as which direction transfers should occur and how much should be allocated to each sector.</li> </ul>
	Option 3 (Staff preferred option): Transfers occur only between the commercial fishery and the <u>combined</u> recreational ACL. Landings are projected for the for-hire and private angler sectors and compared to their respective landings limits. Any projected underages are added together and transferred from the recreational ACL to the commercial ACL. <ul style="list-style-type: none"> <li>▪ Reasons for: Each sector has the potential to benefit from the sector process.</li> <li>▪ Reasons against: Projecting landings by recreational sector may be challenging if MRIP PSEs by mode are high.</li> </ul>

**FMAT Comments/Recommendations on Issue 7**

The FMAT discussed the staff recommendation to transfer catch at the ACL level if sector separation is implemented and agreed that this would likely be simpler than considering the tri-directional transfer option. Timing challenges in terms of data availability and when the projections occur were also discussed. Specifically, if GARFO adjusted the size of a transfer from the commercial to the recreational sector in March, the FMAT struggled to determine how this may affect recreational measures. The FMAT also pointed out that commercial discards have historically been considered negligible, but if this trend were to change, the timing of the release of commercial discard estimates could pose additional challenges for the transfer process. The aforementioned concerns led the FMAT to believe that projecting catch may be much more difficult than projecting just landings. Thus, projecting catch is much more uncertain and more challenging to predict than landings. With preliminary landings data available earlier in the year, the FMAT supported the idea of projecting landings for each individual sector. In summary, the FMAT supports option 3 (referenced in table above) if recreational sector separation is implemented.

When considering how quota moves through the proposed bluefish flowchart (figure 3), the FMAT recommends that transfers should be one of the last measures considered. This allows for all reductions (including management uncertainty, discards, etc.) to be accounted for when determining whether a transfer should occur and how large the transfer should be.

## **8. Transfers – Commercial State-to-State (Refereed)**

This alternative offers a neutral party (ASMFC Staff) to match up transfer partners and make sure that one or more states are not requesting quota transfers too early. The approach warrants individual states to project their landings and identify when they will land their individual state quotas. Once states reach 75% of their own quota, they can notify the neutral party that they want to request a quota transfer. The neutral party will then need to review which states are not going to land their quota based on projections and share this information with the state requesting quota. The state in need of quota will then reach out to states with a projected surplus to request a transfer. The appropriate transfer amount would be determined by the neutral party. This will then allow the neutral party to initiate a quota transfer from the two states and ensure additional quota will be available for other states that are projected to land their own state quota later in the year.

### *Transfer rule options*

1. Any transfer requested by a state is reduced by multiplying the requesting states percent share of the coastwide projected overage. The remaining quota is not transferred and stays with the state as a surplus of quota in reserve for other states to request.
2. The transfer process is identical to the first rule with one exception. If the state with a projected surplus of quota is able to complete the transfer and still has sufficient projected surplus to cover the sum of all other states' projected overages, the transfer amount is approved as received and not reduced. If the state's projected surplus can't meet this requirement, the transfer process functions as above and is reduced by multiplying the requesting state's share of the coastwide overage. The remaining quota is not transferred and stays with the state as a surplus of quota in reserve for other states to request.

### *Projection Calculation*

ASMFC Staff will use state by state quota utilization trends from the prior 3 years when developing projected landings for the current year. The projection methodology will closely resemble the methodology used by Council staff to project recreational harvest by state and wave in the 2019 Recreational Measures Staff Memo<sup>1</sup>. However, ASMFC staff would have the ability to adjust the state by state landings projections analysis as stock conditions and fishery trends change.

Note: The potential reallocation of commercial state-to-state quotas will most likely reduce the need for transfers in the near future, however, as the fishery continues to change transfers requests are likely to increase in occurrence.

Quota Transfer Example Scenarios (Table 12 and 13):

Scenario using transfer rule 1 - NY requests 100,000 lbs from NJ. NY's share of the coastwide overage is 36% so it receives 36,000 lbs from NJ. 64,000 lbs are left with NJ, which would help reserve quota should RI request a transfer from NJ.

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<sup>1</sup>

<https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5dc192e13810a93900b77283/1572967138379/Bluefish+MC+Rec+Measures+Staff+Memo.pdf>

Scenario using transfer rule 2 - RI requests 100,000 lbs from NJ, after the transfer NJ's projected surplus is 182,000, which is still enough to cover NY's projected overage. The transfer is approved as requested.

**Table 12. Average commercial landings from 2017-2019 in pounds by state and month.**

STATE	Average Commercial Landings (lbs) by Month (2017-2019)												Grand Total
	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPT	OCT	NOV	DEC	
ME						30							30
NH													0
MA	340	826	4,155	9,020	42,775	124,754	175,418	248,429	91,331	37,962	9,281	120	744,411
RI	4,357	4,378	3,783	4,289	38,328	80,135	139,385	169,082	296,233	405,911	148,362	6,099	1,300,340
CT	2,633	271	584	262	3,628	7,946	9,119	23,363	37,656	31,804	9,591	1,498	128,354
NY	3,373	916	24,743	56,820	522,066	383,907	238,115	181,534	195,442	134,882	89,268	6,275	1,837,341
NJ	48,205	26,009	36,919	12,458	214,602	26,653	5,894	15,928	35,099	51,250	79,974	12,102	565,092
DE				4,609	8,253	1,209	834	4,554	2,322	563	192	356	22,892
MD	1,177	949	112	13,626	13,715	3,242	5,458	7,077	13,719	6,991	13,546	2,517	82,129
VA	1,724	786	10,860	23,851	73,983	25,595	28,197	77,163	86,467	82,712	15,995	12,700	440,032
NC	209,629	514,572	192,818	701,469	336,959	160,212	242,351	405,948	345,452	363,810	74,927	13,883	3,562,031
SC	8	7	46	51	20	8	54	17					210
GA													0
FL	79,183	109,796	173,318	96,795	23,528	10,795	7,043	6,376	19,345	75,042	204,018	144,780	950,018
COAST	350,629	658,509	447,336	923,250	1,277,856	824,486	851,868	1,139,471	1,123,065	1,190,927	645,154	200,329	9,632,879

**Table 13. State commercial landings projections.**

State Commercial Landings Projections (lbs)							
STATE	Percent share	2020 Quota (lb)	Sum of 2017-19 landings occurring from Jan-June	Proportion of 2017-19 landings occurring from Jan-June	2020 landings to date	Projected Landings	Underage/Overage
ME	0.67	18,496	30	100%	0	0	18,496
NH	0.41	11,468	0	0%	0	0	11,468
MA	6.72	185,838	181,871	24%	18,905	77,378	108,460
RI	6.81	188,366	135,269	10%	51,729	497,274	-308,908
CT	1.27	35,036	15,324	12%	2,457	20,577	14,459
NY	10.39	287,335	991,826	54%	250,060	463,232	-175,897
NJ	14.82	409,934	364,845	65%	82,416	127,650	282,284
DE	1.88	51,966	14,071	61%	822	1,337	50,629
MD	3	83,054	32,821	40%	2,946	7,372	75,682
VA	11.88	328,682	136,798	31%	43,196	138,948	189,734
NC	32.06	887,058	2,115,659	59%	450,740	758,889	128,169
SC	0.04	974	139	66%	40	60	914
GA	0.01	263	0	0%	0	0	263
FL	10.06	278,332	493,414	52%	89,007	171,373	106,959
COAST	100	2,766,801	4,482,066	47%	992,317	2,132,693	634,108

### **Discussion Points/Questions:**

1. Is 75% of a state's quota an appropriate threshold level at which states can request a transfer?
2. By setting a coastwide threshold level, some states will be allowed to request quota transfers earlier in the season compared to others. Is this equitable and does this have any unintended consequences?
3. Are there concerns about either transfer rule?
4. Does the FMAT have a preference for either transfer rule?

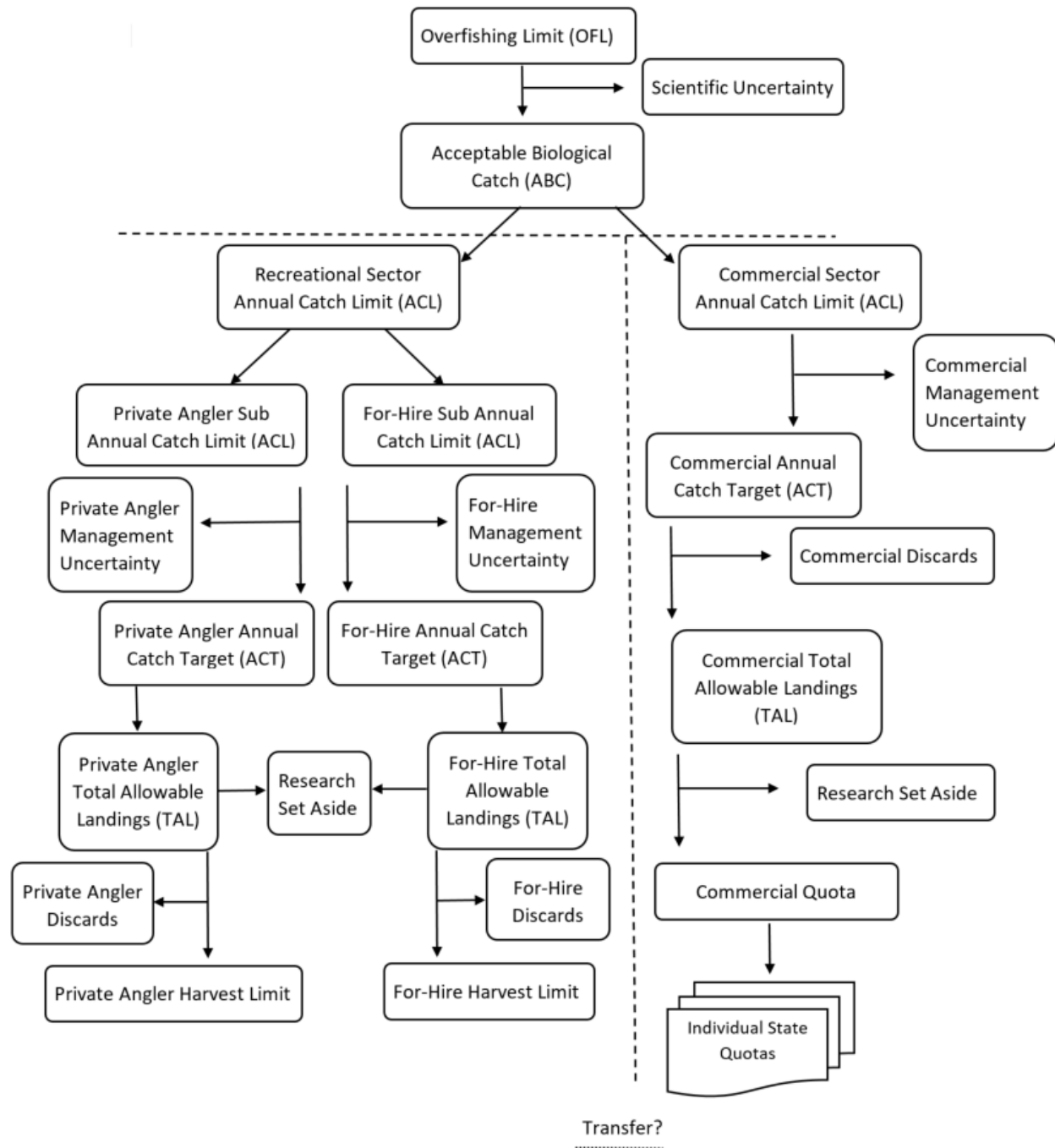
### **FMAT Comments/Recommendations on Issue 8**

The FMAT discussed the two proposed transfer rule options for the refereed approach and concluded that both options are very informative. However, the two examples provided above make it very clear that the referred approach to commercial state-to-state transfers may create more administrative burden than the current provisions utilized for state-to-state transfers. The two approaches may also incentivize states to request more quota than they actually need since they know that the amount requested will likely be reduced by their share of the projected overage. States may also be incentivized to request quota more frequently from other states which would require increased communication and greater effort from state staff personnel. The FMAT also thought that it would be unlikely that individual states would want to reduce their own autonomy and flexibility by implementing these restrictions on transfers. For example, there may be instances where the state personnel's projection of landings differs from the neutral party's projections, which affects the state's ability to receive an adequate transfer amount. Thus, the FMAT recommends the Council/Board removal of this alternative and management continue with the status quo alternative. However, the two transfer rule options may be useful to retain in the document and could be noted as "considered but rejected".

## **9. Management Uncertainty**

The Council/Board made no changes at the joint June meeting. See [Section 6.1](#) of the FMAT summary from June 2020 for the updated management uncertainty flow chart alternatives.

As the for-hire-sector separation alternatives continue to be developed, revisions may need to be made to the proposed flow chart (Figure 3). Specifically, under option B (see Section 6 of this document) where the sector split occurs at the ACL level.



**Figure 3. Proposed bluefish flow chart representing recreational sector separation and reductions for management uncertainty within each sector.**

**FMAT Comments/Recommendations on Issue 9**

No changes were recommended by the FMAT at this meeting regarding sector specific management uncertainty.

**10. *De minimis***

The Council/Board made no changes at the joint June meeting. See Section 6.3 of the FMAT summary from June 2020 for the proposed *de minimis* provisions which would apply in only state waters.

**FMAT Comments/Recommendations on Issue 10**

No changes were recommended by the FMAT at this meeting regarding *de minimis* status.



## **Bluefish Allocation and Rebuilding Amendment - Action Plan**

(Updated as of July 2020)

### **Amendment Goal**

The goal of this amendment is to review and possibly revise the allocation between the commercial and recreational fisheries and the commercial allocations to the states. This action is needed to rebuild the bluefish stock, avoid overages, achieve optimum yield, prevent overfishing, and reduce the need for quota transfers off the U.S. east coast.

### **Fishery Management Action Team**

The Council will form a team of technical experts, known as a Fishery Management Action Team (FMAT) to develop and analyze management alternatives for this amendment. The FMAT is led by Council staff and includes management partners from the National Marine Fisheries Service (NMFS) Greater Atlantic Regional Fisheries Office (GARFO), the Northeast Fisheries Science Center (NEFSC), the Southeast Fishery Management Council (SAFMC), and the Atlantic States Marine Fisheries Commission (ASMFC). The FMAT will work with other experts to address specific issues, as needed.

### **FMAT Membership**

Name	Role/Expertise	Agency
Matthew Seeley	FMAT Chair	MAFMC
Danielle Palmer	Protected Resources	NMFS GARFO
David Stevenson	Habitat Conservation	NMFS GARFO
Cynthia Ferrio	Sustainable Fisheries	NMFS GARFO
Ashleigh McCord	NEPA	NMFS GARFO
Tony Wood	Population Dynamics	NEFSC
Matthew Cutler	Social Sciences	NEFSC
Samantha Werner	Economist	NEFSC
Dustin Colson Leaning	Plan Coordinator	ASMFC
Mike Celestino	Bluefish Technical Committee	NJDFW



## Applicable Laws

Magnuson-Stevens Act	Yes
National Environmental Policy Act	Yes – will require an Environmental Assessment or Environmental Impact Statement
Administrative Procedure Act	Yes
Regulatory Flexibility Act	Yes
Paperwork Reduction Act	Possibly; depends on data collection needs
Coastal Zone Management Act	Possibly; depends on effects of the action on the resources of the coastal states in the management unit
Endangered Species Act	Possibly; level of consultation will depend on the actions taken
E.O. 12866 (Regulatory Planning and Review)	Yes
E.O. 12630 (Takings)	Possibly; legal review will confirm
E.O. 13123 (Federalism)	Possibly; legal review will confirm
E.O. 13771 (Reducing Regulation and Controlling)	Possibly; legal review will confirm
Essential Fish Habitat	Possibly
Social Impact Analysis	Possibly
Information Quality Act	Yes

## Expected Document

Acronym	NEPA Analysis	Requirements
EA	Environmental Assessment	<b>NEPA applies, no scoping required, public hearings required under MSA</b>
EIS	Environmental Impact Statement	NEPA applies, scoping required, public hearings required

## Draft Timeline for Amendment Development and Implementation

<b>Task Description</b>	<b>Date (subject to change)</b>
<b>Initiation and request of FMAT participants</b>	December 2017
<b>Formation of FMAT</b>	January 2018
<b>Initial FMAT discussion</b>	March 2018
<b>ASMFC meeting</b> - review scoping plan and document	May 2018
<b>Scoping hearings / scoping comment period</b>	June-July 2018
<b>Council Meeting</b> - review scoping comments and FMAT, Advisory Panel (AP), and Monitoring Committee recommendations; discuss next steps	August 2018
<b>AP Meeting</b> - review amendment goals and objectives, FMAT recommendations, develop recommendations for alternatives; any amendment issues?	July 2019
<b>FMAT Meeting</b> – review comments and develop draft alternatives	August 2019
<b>Joint Council and Board Meeting</b> – discuss incorporating rebuilding and review the issues to be covered in the Amendment	October 2019
<b>Joint Council and Board Meeting</b> – approve supplemental scoping document for additional scoping hearings	December 2019
<b>Supplemental scoping hearings / scoping comment period</b>	February-March 2020
<b>FMAT Meeting</b> – review comments and provide recommendations for the scope of the action	April 2020
<b>Joint Council &amp; Board Meeting</b> - review scoping comments and FMAT recommendations; identify potential alternatives to consider	May 2020
<b>FMAT Meeting</b> – develop draft alternatives	May 2020
<b>AP Meeting</b> – provide recommendations on draft alternatives	June 2020
<b>Joint Bluefish Committee and Board Meeting</b> - review and refine draft alternatives	June 2020
<b>FMAT Meeting</b> – refine draft alternatives for the August Joint Council Board Meeting	July 2020
<b>Joint Council &amp; Board Meeting</b> – review and refine draft alternatives	August 2020
<b>FMAT Meeting</b> – finalize draft alternatives for the December Joint Council Board Meeting	September/October 2020
<b>Joint Council &amp; Board Meeting</b> – review and approve alternatives for public hearing document	December 2020

<b>Development of public hearing document and hearing schedule</b>	December 2020/January 2021
<b>Joint Council &amp; Board Meeting</b> – approve public hearing document and EA/EIS	February 2021
<b>Public hearings</b>	March/April 2021
<b>AP Meeting</b> - recommendations for final action	March/April 2021
<b>Bluefish Committee Meeting</b> - recommendations for final action	Spring 2021
<b>Joint Council &amp; Board Meeting</b> - final action	Spring 2021
<b>Submission of draft EA/EIS to GARFO</b>	Spring/Summer 2021
<b>Draft EA/EIS revisions and resubmission</b>	Summer/Fall 2021
<b>Rulemaking (proposed rule)</b>	Fall 2021
<b>Rulemaking (final rule)</b>	Winter 2021

To the Mid-Atlantic Fisheries Management Council,

My name is Dean Pesante, owner/operator of the F/V Oceana Inshore Gillnet Vessel based out of Point Judith, Rhode Island. I have been working as a commercial fisherman since 1984 and have captained my own vessel since 1991. On behalf of myself, other commercial fishermen, and shoreside dealerships and businesses throughout the state of Rhode Island, I am writing to you today to express my concern and request action be taken on issues pertaining to recent changes in Bluefish management. Specifically, I am referring to 1) quota distribution between commercial and recreational sectors and 2) commercial quota distributions between the Atlantic states. I am expressing my concerns because the new drastic cuts in quota for the commercial sector would create tremendous hardships for people in the Bluefish industry.

### **Adjustment of Recreational and Commercial Quota**

Currently, Bluefish are in greater demand in the marketplace than they ever have been. More people are buying Bluefish every year, and they have become an extremely desirable fish to eat. The increasing demand for Bluefish has made the fishery more valuable and important to commercial fishermen and related businesses. Consequently, more commercial fishermen and related businesses have come to rely on this fishery and need an appropriate amount of quota to sustain their businesses.

Recent management measures have cut the commercial quota by more than 50%. These measures will create enormous financial and economic hardships for the commercial fishing industry. In keeping true to its mission of providing food to consumers, the commercial fishing industry is considered an essential business, and the reduction in quota will prevent the industry from operating sufficiently. It is important to understand that cutting the commercial Bluefish quota in half will have detrimental social and economic impacts as well as severely and directly hurt the livelihoods of Bluefish fishermen and associated businesses. In creating policies, please consider how you would feel if your income were cut in half.

The commercial fishery is managed with empirical data reported in a responsible manner under Federal and State Laws by both fishermen and dealers. ALL commercial fishermen provide accurate and realistic information to Federal and State entities. In contrast, recreational fishermen are not required by any law to report data nor any information. They only provide information voluntarily, and the data received from recreational fishermen is marginal at best. Because they are not regulated by Federal or State Laws, recreational fishermen that voluntarily report information have the ability to inflate data and exaggerate landings.

It is difficult to understand how such severe quota reductions to the commercial Bluefish industry were made with consideration to incredibly uncertain data from the recreational sector.

For these reasons, we feel the Bluefish quota needs to be reallocated with a much higher percentage given back to the commercial industry.

### **Adjustment of Commercial Bluefish Quota between Atlantic States**

The second issue I would like to discuss is the commercial Bluefish quota distribution between the Atlantic states. Evidence suggests the trend of both Bluefish populations and associated landings by commercial fishermen have changed immensely in recent years on the Atlantic coast. While the population of Bluefish and consequent landings have together increased significantly in northern Atlantic waters, the population and landings have decreased significantly in southern Atlantic waters. These changes are most likely due to climate change and water temperatures.

Southern states that currently have a larger percentage of Bluefish quota have consistently reported landings significantly below their allocation. The opposite is true in Northern states (New York, Rhode Island, and Massachusetts), who have consistently landed an amount of fish that exceeded their quotas. Consequently, northern States have had to request quota be transferred from the Southern states.

I believe an adjustment of quota allocation between the States should be made to accommodate the current state of the Bluefish population and landings. A more accurate and appropriate allocation of Bluefish quota is necessary.

Reductions in quota in the commercial Bluefish industry will have dire consequences for fishermen and related businesses. In this letter, I have proposed the following two solutions to resolve the current problems: 1) Reallocate quota from the recreational sector to the commercial sector and 2) Modify the percentage of commercial quota between Atlantic States to better represent the current trends in Bluefish populations and landings. Please consider these solutions and take prompt action.

Respectfully,

Dean Pesante

F/V Oceana



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

## MEMORANDUM

**Date:** July 28, 2020  
**To:** Council and Board  
**From:** Julia Beaty (MAFMC staff) and Caitlin Starks (ASMFC staff)  
**Subject:** Black Sea Bass Commercial Allocation Amendment

The Mid-Atlantic Fishery Management Council will meet jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board to consider the Black Sea Bass Commercial State Allocation Amendment/Draft Addendum XXXIII for public comment. Behind this memo is a meeting overview provided by the ASMFC. Please note that the overview includes information pertaining to this topic as well as the Recreational Reform Initiative (Tab 3) and the Massachusetts 2020 Black Sea Bass Recreational Proposal (Tab 4).

The Draft Amendment/Addendum XXXIII document for public comment will be posted as a supplemental document on the meeting page (<https://www.mafmc.org/briefing/august-6-2020>) on Wednesday, July 29.

# MEETING OVERVIEW

**ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council Webinar**  
**August 6, 2020**  
**11:15 a.m. – 3:45 p.m.**

Chair: Adam Nowalsky (NJ) Assumed Chairmanship: 12/19	Technical Committee Chair: Greg Wojcik (CT)	Law Enforcement Committee Representative: Snellbaker (MD)
Vice Chair: Justin Davis (CT)	Advisory Panel Chair: Vacant	Previous Board Meeting: May 6, 2020
Voting Members: MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, NMFS, USFWS (12 votes)		

## 2. Board Consent

- Approval of Agenda
- Approval of Proceedings from May 2020

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time should use the webinar raise your hand function and the Board Chair will let you know when to speak. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance, the Board Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

## 4. Consider Draft Addendum XXXIII for Public Comment (11:30-2:25 p.m.) Action

### Background

- In October 2019, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) initiated development of Draft Addendum XXXIII to the Interstate Fishery Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass. The Draft Addendum considers modifications to the black sea bass commercial state allocations. In December 2019, the Mid-Atlantic Fishery Management Council (Council) initiated a complementary amendment to make this a joint action between the Board and Council. The amendment would consider including the state specific commercial allocations in the Council FMP.
- The goal of this action is to “consider adjusting the current commercial black sea bass allocations using current distribution and abundance of black sea bass as one of several adjustment factors to achieve more balanced access to the resource. These adjustment factors will be identified as the development process moves forward.”
- Draft Addendum XXXIII proposes various management options for modifying the commercial state allocations, including an approach to increase Connecticut’s current 1% quota to 5%, an approach using dynamic regional allocation adjustments, trigger-based approaches, and allocating a certain percentage of the coastwide quota based on historical allocations.

Several options incorporate current (**Briefing Materials**). The document also includes management options for including the commercial state shares in the Council FMP.

- If the draft addendum is approved for public comment in August, public hearings could take place in late summer/fall 2020, and the Board and Council could consider final action in December.

**Presentations**

- Overview of Draft Addendum XXXIII by C. Starks

**Board Actions for Consideration**

- Approve Draft Addendum XXXIII for public comment

**5. Lunch Break (12:00-1:00 p.m.)**

**6. Consider Draft Addendum XXXIII for Public Comment, *continued***

**7. Update on Recreational Reform Initiative (2:25-3:10 p.m.) Possible Action**

**Board Discussion**

- The Recreational Reform Initiative is an ongoing joint effort of the Commission and Council, which aims to propose and develop strategies to increase recreational management flexibility and stability for jointly managed species (summer flounder, scup, black sea bass, and bluefish).
- At their June joint meeting, the Council and Board reviewed a draft outline of topics under consideration through the Recreational Reform Initiative and Monitoring Committee discussion on the initiative (**Briefing Materials**). After considering the topics currently under consideration, as well as items removed from further consideration through the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment, the Council and Board tasked staff with determining which items could be addressed through a joint framework/addendum and which changes would require an amendment (**Supplemental Materials**).

**Presentations**

- Update on Recreational Reform Initiative by J. Beaty

**Board Actions for Consideration**

- Consider initiating a framework/addendum or amendment to address any management options considered through the Recreational Reform Initiative

**8. Review and Consider Approval of Massachusetts 2020 Black Sea Bass Recreational Proposal (3:10-3:40 p.m.) Final Action**

**Board Discussion**

- Massachusetts submitted a proposal for recreational black sea bass conservation equivalency to extend the end of the state's for-hire recreational black sea bass season in 2020 to account for days closed to for-hire fishing at the beginning of the season due to the COVID-19 pandemic (**Briefing Materials**).
- The Technical Committee reviewed the proposal in May, and provided recommendations on the data that should be used to calculate the daily harvest rate and resulting season modification to achieve conservation equivalency (**Briefing Materials**).



- Comments on the Massachusetts proposal were also provided by the Advisory Panel and Law Enforcement Committee by email.

**Presentations**

- Overview of Massachusetts conservation equivalency proposal by N. Meserve
- Technical Committee recommendations and AP and LEC comments on Massachusetts conservation equivalency proposal by C. Starks

**Board Actions for Consideration**

- Approve Massachusetts conservation equivalency proposal

**9. Other Business (3:40-3:45 p.m.)**

**10. Adjourn**



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

## MEMORANDUM

**Date:** July 27, 2020  
**To:** Chris Moore, Executive Director  
**From:** Julia Beaty, staff  
**Subject:** Recreational Reform Initiative

During their August 2020 joint meeting, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) will discuss next steps for the Recreational Reform Initiative. The goal of this discussion is to determine if a framework/addendum or amendment should be initiated to address any management options considered through the Recreational Reform Initiative.

The following documents are included behind this tab for Council and Board consideration:

- Draft outline of the Recreational Reform Initiative developed by the Recreational Reform Steering Committee
- Summary of May 28, 2020 Monitoring Committee discussion of the Recreational Reform Initiative
- Summary of topics removed from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment, including FMAT recommendations for those topics
- Summer flounder, scup, and black sea bass regulations regarding framework adjustments (regulations are identical for all three species)
- Summary of July 14, 2020 Recreational Reform Steering Committee call
- Staff memo on which options currently under consideration could likely be pursued through an FMP framework/addendum and which would likely require an FMP amendment
- Additional comments on Harvest Control Rule from Adam Nowalsky

# Recreational Management Reform

Joint initiative of the Mid-Atlantic Fishery Management Council (MAFMC), Atlantic States Marine Fisheries Commission (ASMFC), and the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) addressing recreational management of black sea bass, summer flounder, scup, and bluefish

**Draft** initiative outline developed by the Recreational Management Reform Steering Committee  
This document is intended for discussion purposes by the Monitoring and Technical Committees.  
It has not been approved by the MAFMC and ASMFC for other purposes.

4/27/2020

## Goal/Vision

- **Stability** in recreational management measures (bag/size/season)
- **Flexibility** in the management process
- **Accessibility** aligned with availability/stock status\*

\* This component of the goal/vision is meant to address the perception from some stakeholders that management measures are not aligned with stock status (e.g., restrictive black sea bass measures when spawning stock biomass is more than double the target level). The intent is not to circumvent the requirement to constrain recreational catch to the annual catch limit, nor is the intent to change the current method for deriving catch and landings limits as defined in the fishery management plans (FMPs).

## Objective 1: Better incorporate uncertainty in the MRIP data into the management process

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- This is not a standalone objective. Everything listed below could be used in conjunction with all other objectives.
- Adopt a process for **identifying and smoothing outlier estimates**, to be applied to both high and low outlier estimates as appropriate. Develop a standard, repeatable process to be used each year. The Monitoring and Technical Committees would maintain the discretion to deviate from this process if they provide justification for doing so. The process currently used by the Monitoring and Technical Committees is not codified in the FMPs; therefore, it is not anticipated that a change to this method would require an FMP framework/addendum or amendment. However, it would be beneficial to include an approved process in a technical statement of organization, practices, and procedures (SOPPs) document for the development of recreational measures.
  - *Status*: Starting in 2018, the Summer Flounder, Scup, Black Sea Bass Technical Committee recommended using the Modified Thompson's Tau approach to identify outlier MRIP estimates. They used two different approaches to smooth two black sea bass outlier estimates (i.e., New York 2016 wave 6 for all modes and New Jersey 2017 wave 3 private/rental mode only). They agreed that the appropriate smoothing method may vary on a case by case basis.
  - *Potential next steps*: Establish a process to be used for all four species to identify and smooth outlier MRIP estimates, as appropriate. The process described above

for black sea bass could be used for this purpose. Discuss whether smoothed estimates should be used in other parts of the process, in addition to determining if changes to recreational management measures are needed (e.g., ACL evaluation and discards, should low estimates also be smoothed). Guidelines for how these smoothed estimates will be used should also be established. Monitoring/Technical Committee input would be beneficial.

- *Suggested immediate next step*: Task the Monitoring/Technical Committees with developing a draft process for identifying and smoothing outlier MRIP estimates for all four species.
- Use an **envelope of uncertainty approach** when determining if changes in recreational management measures are needed. Under this approach, a certain range above and below the projected harvest estimate (e.g., based on percent standard error) would be defined to be compared against the upcoming year's RHL. If the RHL falls within the pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures. The intent is to develop a standard, repeatable, and transparent process to be used each year. The Monitoring and Technical Committees would maintain the discretion to deviate from this process if they saw sufficient justification to do so. The process currently used by the Monitoring and Technical Committees to determine if changes are needed to recreational management measures is not codified in the FMPs; therefore, a change to this method may not require an FMP framework/addendum or amendment. However, it would be beneficial to include an approved process in a technical SOPPs document for the development of recreational measures.
- *Status*: The 2013 Omnibus Recreational Accountability Measures Amendment considered a similar approach using confidence intervals around catch estimates to determine if the recreational ACL had been exceeded; however, that amendment proposed using only the lower bound of the confidence interval, rather than the upper and lower bounds. For this reason, that portion of the amendment was disapproved by NOAA Fisheries. In some recent years, the Monitoring and Technical Committees have made arguments for maintaining *status quo* measures for black sea bass and summer flounder based on percent standard error (PSE) values associated with MRIP estimates.
  - *Potential next steps*: Work with the Monitoring/Technical Committee to define the most appropriate confidence interval around the projected harvest estimate for comparison against the upcoming year's RHL (e.g., +/- 1 PSE). Technical analysis (e.g., simulations) may also be needed to evaluate the impacts of maintaining *status quo* recreational management measures when small to moderate restrictions or liberalizations would otherwise be required or allowed.
  - *Suggested immediate next step*: Task the Monitoring/Technical Committee with developing recommendations for this approach.
- **Evaluate the pros and cons of using preliminary current year data** combined with data from a single previous year, or multiple previous years, to project harvest for comparison against the upcoming year's RHL. The FMPs do not currently prescribe which data should be used to develop recreational management measures, beyond requiring use of the best scientific information available. If the Council and Board wish to provide guidance to the Monitoring and Technical Committees on which data to use, or if they wish to place restrictions on the use of certain types of data (e.g., preliminary

current year data), then a technical SOPPS document or an FMP framework/addendum or amendment may be necessary

- *Status:* Each year MAFMC staff develop initial projections of recreational harvest of summer flounder, scup, and black sea bass in the current year to compare against the upcoming year's RHL. These projections combine preliminary current year harvest estimates through wave 4 with the proportion of harvest by wave in one or more past years. The Monitoring Committee provides recommendations on the appropriate methodology in any given year and the data used (e.g., one or multiple previous years) varies on a case by case basis. A different process is used for bluefish. Historically, expected bluefish recreational harvest has been evaluated when considering a recreational to commercial transfer. Expected bluefish harvest was typically based on the previous year or a multiple year average and did not account for preliminary current year data. These different methodologies were developed based on Monitoring Committee guidance and are not prescribed in the FMP. The Recreational Reform Steering Committee has suggested that consideration should be given to the appropriateness of using preliminary current year data and data from one or multiple previous years. No progress has been made on this topic beyond preliminary discussions at the steering committee level.
- *Potential next steps:* Evaluate the various methodologies that have been used to project recreational harvest of the four species in the past and how this intersects with other changes under consideration (e.g., setting measures for two years at a time, objective 3). Discuss if changes should be considered and if analysis is needed.
- *Suggested immediate next step:* Seek Monitoring/Technical Committee input on whether changes to the current process for calculating expected recreational harvest are needed.

## **Objective 2: Develop guidelines for maintaining *status quo* measures**

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- This is not a standalone objective. It could be used in conjunction with objectives 1, 3 (with the exception of the interim year, as described under objective 3), and 5.
- Develop a process for considering both recreational harvest data (all considerations under objective 1 could apply) and multiple stock status metrics (biomass, fishing mortality, recruitment) when deciding if measures should remain unchanged. For example, poor or declining stock status indicators could require changes when *status quo* would otherwise be preferred. Depending on the specific changes under consideration, an FMP framework/addendum or amendment may be necessary, or a technical SOPPS document could be developed.
  - *Status:* The steering committee drafted a preliminary example which was discussed at the [October 2019 joint Council/Board meeting](#).
  - *Potential next steps:* Recommend draft guidelines for maintaining *status quo* measures and consider which, if any, types of technical analysis are needed to consider the potential impacts. Consider if socioeconomic factors (e.g., trends in fishing effort) should also be included in these guidelines.
  - *Suggested immediate next step:* Seek Monitoring/Technical Committee input on the initial draft guidelines developed by the steering committee.

### **Objective 3: Develop process for setting multi-year recreational management measures**

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- This is not a standalone objective. It could be used in conjunction with objectives 1, 2, and 5.
- Develop a process for setting recreational management measures for two years at a time with a commitment to making no changes in the interim year. This would include not reacting to new data that would otherwise allow for liberalizations or require restrictions. Objective 2 (control rules for maintaining *status quo* measures) would not apply in the interim year. Everything under objective 1 (incorporate uncertainty in the MRIP data) could also apply here. An FMP framework/addendum may be needed to make this change. For example, changes to the current accountability measure regulations may be needed. Additional discussions with GARFO are needed regarding Magnuson-Stevens Act requirements.
  - *Status:* The steering committee drafted a preliminary example process which was discussed at the [October 2019 joint Council/Board meeting](#). Previous steering committee discussions indicated that this is a high priority topic and it is central to the draft mission statement previously proposed by the steering committee (i.e., allow for more regulatory stability and flexibility in the recreational management programs for summer flounder, scup, black sea bass, and bluefish by revising the current annual timeframe for evaluating fishery performance and setting recreational specifications to a new multi-year process.)
  - *Potential next steps:* Consider if changes are needed to the draft timeline included in the [October 2019 joint meeting briefing materials](#). Further evaluate how the Magnuson-Stevens Act requirement for annual evaluation of annual catch limit overages and accountability would factor into this approach.
  - *Suggested immediate next step:* Work with GARFO to determine if there are major impediments to this potential change based on Magnuson-Stevens Act requirements.

### **Objective 4: Consider improvements to the process used to make changes to state and federal recreational management measures**

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- This is not a standalone objective. It could be used in conjunction with objectives 1, 3 (with the exception of the interim year, as described under objective 3), and 5.
- The steering committee has discussed various considerations related to maintaining *status quo* management measures; however, they have not discussed the process that should be used when changes are needed. In recent years, federal waters measures have been adjusted at the coastwide level and state waters measures have been adjusted at the state/region and wave level. Improvements to various aspects of the current process for changing measures may warrant consideration. Topics which could be addressed could include state by state versus regional management measures, the federal conservation equivalency process, guidelines for using MRIP data at coastwide/regional/state/wave/mode levels, using data sources other than MRIP, and other topics. Depending on the specific changes desired, this may require an FMP framework/addendum or amendment.
  - *Status:* Not currently identified as a priority by the steering committee.

- *Suggested immediate next step*: Clarify if this is a priority for the Council and Board and which specific topics should be addressed.

## **Objective 5: Consider making recommendations for federal waters recreational management measures earlier in the year**

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- This is not a standalone objective. Everything listed below could be used in conjunction with all other objectives.
- The steering committee has discussed the idea of recommending federal waters recreational management measures in August or October rather than December of each year (or every other year, see objective 3). The current process of recommending federal waters measures for the upcoming year in December can pose challenges for implementing needed changes in both federal and state waters in a timely and coordinated manner. It also limits how far in advance for-hire businesses can plan their trips for the upcoming year. In recent years, changes to the federal recreational measures for summer flounder, scup, and/or black sea bass have not been implemented until May-July of the year in which the changes are needed. Adopting recommendations for federal waters measures in August or October could allow for changes to be implemented earlier in the year; however, fewer data on current year fishery performance would be available for consideration. If there is a significant change in the process to establish measures, an FMP framework/addendum or amendment may be necessary.
  - *Status*: Has been identified by steering committee as a potential priority, but the pros and cons have not yet been given thorough consideration.
  - *Potential next steps*: Evaluate the pros and cons of this change and how it would intersect with other changes under consideration (e.g., setting measures for two years at a time, objective 3). Discuss if analysis is needed. Monitoring/Technical Committee input could be beneficial, especially regarding implications related to the timing of data availability.
  - *Suggested immediate next step*: Seek Monitoring/Technical Committee input on the pros and cons of recommending federal waters recreational management measures for the following year in August, October, or December of the current year.

### Steering Committee membership (in alphabetical order):

Julia Beaty (MAFMC staff)  
 Joe Cimino (MAFMC Summer Flounder, Scup, Black Sea Bass Committee Vice Chair)  
 Justin Davis (ASMFC Summer Flounder, Scup, Black Sea Bass Management Board Vice Chair)  
 Tony DiLernia (MAFMC Summer Flounder, Scup, Black Sea Bass Committee Chair)  
 Emily Keiley (GARFO staff)  
 Toni Kerns (ASMFC staff)  
 Mike Luisi (MAFMC chair)  
 Adam Nowalsky (ASMFC Summer Flounder, Scup, Black Sea Bass Management Board Chair)  
 Mike Ruccio (GARFO staff)  
 Caitlin Starks (ASMFC staff)



**Summer Flounder, Scup, and Black Sea Bass Monitoring Committee  
Webinar Meeting  
May 28, 2020  
Partial Meeting Summary (Recreational Reform Initiative Only)**

**Monitoring Committee Attendees:** Julia Beaty (MAFMC staff), Peter Clarke (NJ DEP), Dustin Colson Leaning (ASMFC staff), Karson Coutré (MAFMC staff), Kiley Dancy (MAFMC staff), Steve Doctor (MD DNR), Emily Keiley (GARFO), Alexa Kretsch (VMRC), John Maniscalco (NY DEC), Lee Paramore (NC DMF), Caitlin Starks (ASFMC staff), Rachel Sysak (NY DEC), Mark Terceiro (NEFSC), Corinne Truesdale (RI DEM), Sam Truesdell (MA DMF), Greg Wojcik (CT DEP), Rich Wong (DNREC), Tony Wood (NEFSC)

**Additional Attendees:** Annie, Steve Cannizzo (NY RFFA), Mike Celestino (NJ DEP, Bluefish MC), Nicole Lengyel Costa (RI DEM, Bluefish MC), Maureen Davidson (NY DEC, Council/Board member), Greg DiDomenico (Lund's Fisheries), Tony DiLernia (Council member), Cynthia Ferrio (GARFO, Bluefish MC), James Fletcher (United National Fishermen's Association), Jeff Kaelin (Lund's Fisheries), Joseph Munyandorero (FL FWC, Bluefish MC), Adam Nowalsky (Council/Board member), Eric Reid (Council member), SRW, Mike Waine (ASA), Kate Wilke (Council member), Amy Zimney (SC DNR, Bluefish MC)

### **Meeting Summary**

The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee met via webinar on Thursday May 28, 2020 to discuss several topics. The Bluefish Monitoring Committee was invited to participate in the discussion of the Recreational Reform Initiative as this initiative also addresses bluefish.

Briefing materials considered by the Monitoring Committee are available at:  
<https://www.mafmc.org/council-events/2020/sfsbsb-mc-may28>.

*Note: This document summarizes only the Monitoring Committee's discussion of the Recreational Reform Initiative. A more complete summary addressing all topics discussed by the Monitoring Committee will be compiled at a later date.*

### **Recreational Reform Initiative**

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Council staff summarized a draft outline of the Recreational Reform Initiative developed by the Recreational Reform Steering Committee. The Monitoring Committee was generally supportive of continued development of all approaches in the Steering Committee outline. Comments on each objective in the outline are summarized below.



Objective 1: Better incorporate uncertainty in the MRIP data into the management process

Objective 1 in the Steering Committee outline contains three specific suggestions for better considering uncertainty in the MRIP data. The first suggestion is to adopt a standardized process for identifying and smoothing outlier MRIP estimates to be applied to both high and low outliers. The Monitoring Committee agreed that it would be very beneficial to adopt such a process.

The group agreed that outliers could be identified using the Modified Thompson Tau approach used in the past for some black sea bass outliers, or other methods. One Monitoring Committee member said there are multiple potentially appropriate methods for identifying outliers and consideration should be given to which methods are most appropriate for different circumstances. For example, a multi-faceted approach could be considered. Another Monitoring Committee member said consideration should be given to the appropriate level at which the estimates are examined for outliers, for example, at the state/wave/mode/year level or the coastwide annual level.

MRIP estimates are used in many parts of the management process, including in the stock assessment, development of annual catch and landings limits, comparison of catch to the annual catch limit (ACL) to determine if accountability measures are triggered, and development of recreational management measures. To date, smoothed outliers have only been used in a few instances to develop recreational management measures for black sea bass. They have not been used for other purposes for summer flounder, scup, and black sea bass. For example, the smoothed black sea bass estimates for 2016 and 2017 were not used in the 2019 operational stock assessment due to concerns about the appropriateness of smoothing only two high estimates in recent years without examining the entire time series for both high and low outliers. Several Monitoring Committee members noted that this creates a potentially problematic disconnect with other parts of the management process. The group agreed that adoption of a standardized method for identifying and smoothing both high and low outliers would increase the likelihood of being able to use smoothed estimates in all parts of the management process. The group agreed that it would be very important to identify and smooth both high and low outliers and to have a standardized process.

One Monitoring Committee member noted that even if smoothed estimates are used in management, no change would be made to the official MRIP estimates. The group agreed that it could be beneficial to have MRIP staff provide feedback on the process to identify and smooth outliers to help increase buy-in for using smoothed estimates in multiple parts of the management process. The intent would not be to have MRIP staff approve the smoothed estimates, but rather to provide feedback on the appropriateness of any methods developed.

The second specific suggestion under objective 1 is to use an “envelope of uncertainty” approach to determine if changes to recreational management measures are needed. Under this approach, a certain range above and below the projected harvest estimate (e.g., based on percent standard error) would be defined for comparison against the upcoming year’s recreational harvest limit (RHL). If the RHL falls within the pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures. The Monitoring Committee agreed that this is worth pursuing and that further discussion is needed on defining the appropriate envelope. One Monitoring Committee member noted that the group has struggled to define similar metrics in the past and asked if the Council and Board would determine how to define the envelope or if it would be a Monitoring Committee decision. One Monitoring

Committee member said that, given their technical expertise, it may be more appropriate for the Monitoring Committee to recommend the appropriate envelope, rather than the Council and Board.

The third specific suggestion under objective 1 is to consider the appropriateness of using preliminary current year MRIP data in the management process. The Monitoring Committee agreed that this may warrant further consideration. One member noted that MRIP has changed the timing of when they incorporate for-hire data into their estimates. In the past, preliminary estimates were sometimes released without the incorporation of for-hire vessel trip report (VTR) data. VTR data were incorporated into the final estimates. Under the current process, VTRs are incorporated into the preliminary estimates, so the differences between the preliminary and final estimates may not be as great as they were in the past. He recommended an evaluation of the scale of the change from preliminary to final estimates under the current MRIP estimation methodology. He also noted that final data may be appropriate for longer-term decisions including development of management measures that are intended to be in place for multiple years. However, he cautioned that if only final data are used for annual adjustments to measures, there will be a greater disconnect between the data used and current operating conditions than if preliminary current year data were also considered. A few Monitoring Committee members agreed that there are certain situations in which it is beneficial to use preliminary current year data, including making annual adjustments to measures and considering how variation in harvest might be influenced by factors such as year class strength.

One Steering Committee member said the Steering Committee's intent for all three suggestions under objective 1 was not to ask the Monitoring Committee to second-guess and revise the MRIP estimates, but rather to think about the impact outliers can have on recreational management. For example, outlier estimates can lead to significant changes in management measures from year to year which may not be reflective of a true conservation need.

*Objective 2: Develop guidelines for maintaining status quo measures*

The second objective in the Steering Committee outline is to develop a process for considering both recreational harvest data (all considerations under objective 1 could apply) and multiple stock status metrics (biomass, fishing mortality, recruitment) when deciding if measures should remain unchanged. The Monitoring Committee was generally supportive of this approach.

One Monitoring Committee member said it would be helpful to give greater consideration to how expected catch (i.e., landings and dead discards) compares to the ACL, rather than focusing on the RHL as the primary management target when setting management measures for the following year. She questioned whether the Fishery Management Plan would need to be modified to provide more flexibility in this regard.

Another Monitoring Committee member said the group tends to be most comfortable with estimates of expected landings and dead discards when they are based on assessment data. He thought it could be helpful to give stock status metrics from the assessments greater consideration in the process of determining how to change management measures. For example, he feels more confident in the need for more restrictive measures in response to a stock assessment rather than in response to recreational harvest estimates alone, which can be quite variable.

Objective 3: Develop process for setting multi-year recreational management measures

The third objective in the Steering Committee outline is to develop a process for setting recreational management measures for two years at a time with a commitment to making no changes in the interim year. This would include not reacting to new data that would otherwise allow for liberalizations or require restrictions. The Monitoring Committee was very supportive of this approach.

The Monitoring Committee agreed that this approach could lead to compounding overages or underages of catch and harvest limits. However, this could represent just as much of a conservation benefit as a conservation risk.

Multiple Monitoring Committee members said maintaining the same measures for at least two years can allow for better evaluation of the effectiveness of the measures at constraining harvest. The group discussed how harvest can fluctuate widely under constant management measures. Having more years of constant measures would allow for a better understanding of the variations in harvest.

One member clarified that the proposal was for two years and not a longer time period because it is anticipated that updated stock assessment information will be available every two years. This would allow management to react to updated stock assessment information.

One Monitoring Committee member said this approach could pull together many aspects of the other approaches in the Steering Committee outline and it could be a good way to move forward with the goal of stability in management measures. For example, it could allow for use of final MRIP estimates (see objective 1), would allow for consideration of the timing of the management measures recommendation (see objective 5), would allow for changes to be considered in response to updated stock assessment information, and would allow for year-to-year stability in recreational management measures.

Another Monitoring Committee member said this approach would work best if the RHL is the same across the two years.

The group discussed how state conservation equivalency could work under this approach. There was a general consensus that the approach would work best with a strong commitment to no changes at the federal or state level during the two years, including no changes made through conservation equivalency.

One Monitoring Committee member noted that it could be difficult to explain to stakeholders why they may have to forego potential liberalizations in the interim year under this approach. She recommended that this approach be evaluated from a socioeconomic perspective. Another Monitoring Committee member recommended consideration of the benefits of this approach in terms of compliance with and enforcement of the management measures.

Objective 4: Consider improvements to the process used to make changes to state and federal recreational management measures

The fourth objective in the Steering Committee outline relates to improvements to the process used to make changes to state and federal waters recreational management measures. The Steering Committee has not discussed this objective in great detail.

A few Monitoring Committee members said it would be beneficial to have guidelines on how to best use MRIP data at the state/mode/wave levels. The group agreed that additional analysis is

needed to better understand the limitations of the MRIP data for any given species before recommendations can be made for how to best use the MRIP data. For example, one Monitoring Committee member said it may be challenging to develop robust guidelines that could be applied uniformly across all states as MRIP sampling is not consistent across states and states with more frequent intercepts of the species in question may be put at an advantage. Other Monitoring Committee members agreed.

One bluefish Monitoring Committee member said regional measures, especially for shared water bodies, are worth considering and can help address concerns about using MRIP data at too fine of a scale.

*Objective 5: Consider making recommendations for federal waters recreational management measures earlier in the year*

The Steering Committee has discussed the idea of recommending federal waters recreational management measures in August or October rather than December of each year. The Monitoring Committee supported further consideration of this approach. Many members noted that it has been challenging for states to develop measures and for the Technical Committee to review proposals under the tight deadlines that are needed under the current process. Moving some of the decision making to earlier in the year could allow more time for robust review of proposals. However, the group also noted that earlier decision making would not allow for consideration of preliminary current year data when developing recreational management measures for the following year. This may be acceptable when measures are intended to be in place for multiple years (e.g., see objective 3).

*General comments on the Recreational Reform outline*

The group noted that the Council and Board may wish to include additional topics in the Recreational Reform Initiative after discussing the ongoing commercial/recreational allocation amendment during their next meeting.

Several Monitoring Committee members supported consideration of an additional approach that would more explicitly tie changes in management measures to the stock assessment, for example by considering changes only when new stock assessment information is available. This may be feasible under the anticipated every other year timeline for stock assessment updates in the future.

One member of the public asked how the Recreational Reform Initiative complies with the recent executive order to produce seafood. One Steering Committee member emphasized that the initiative relates to recreational fishing only and not commercial fishing. Another Steering Committee member said the initiative would help ensure a supply of seafood by maintaining harvest at sustainable levels.

## *Summer Flounder, Scup, Black Sea Bass Commercial/Recreational Allocation Amendment Partial Summary of May 2020 FMAT Meetings*

This document summarizes input from the Fishery Management Action Team (FMAT) on three topics which the Council and Board agreed to remove from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment and consider pursuing through a separate action (i.e., a “harvest control rule” proposal, recreational accountability, and recreational catch accounting). A full summary of the May 2020 FMAT meetings is available here: [https://www.mafmc.org/s/Tab03\\_SFSBSB-ComRecAllocationAmd\\_2020-06.pdf](https://www.mafmc.org/s/Tab03_SFSBSB-ComRecAllocationAmd_2020-06.pdf).

### **1. "Harvest control rule" based approaches**

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Under this approach, proposed by six recreational organizations (see pages 147-152 of [this document](#) for the full proposal), recreational “allocation” would not be defined as a set percentage of the total catch limit but as a specific combination of bag/size/season limits preferred by recreational fishermen in each state, which would become more restrictive when estimated biomass changes declines below the target level. The restrictions would occur in a pre-determined, stepwise manner. The commercial “allocation” would be the commercial quota preferred by the commercial industry when biomass is high and it would be reduced as biomass declines below the target level in proportion with the restrictions on the recreational fishery. This approach is largely conceptual at this stage and is not yet associated with specific proposed measures.

The FMAT and Council/Board previously discussed that this approach as currently configured may be less directly related to the allocation of catch between the commercial and recreational sectors and more related to how measures are determined for each sector. The FMAT previously recommended exploring how this proposal could be tied in more directly with allocation and whether it would be feasible under our current management system and legal constraints.

#### ***FMAT Comments and Recommendations:***

**The FMAT recommended removing this approach from consideration in this amendment and considering similar concepts through a separate action, likely the ongoing recreational reform initiative.** The FMAT recognized that there is interest in further pursuing this approach from members of the public as well as Council/Board members; however, the FMAT still had a number of concerns about the applicability and feasibility of this proposal. Ultimately, for the reasons described below, the FMAT determined that a) this approach would likely not be consistent with the Magnuson-Stevens Act (MSA) without substantially revising its intent and design; b) this approach as currently conceptualized still does not have a strong connection to commercial/recreational allocations, and c) concepts from this proposal seem well-suited to consideration for the recreational management process, such as the ongoing recreational reform initiative. In addition, the FMAT discussed the potential for exploring ways to apply the tiered management concept from this approach to the dynamic allocation mechanisms category.

#### **Magnuson-Stevens Act Compliance**

The FMAT previously questioned whether this approach could be designed to comply with existing MSA requirements for catch limits and accountability measures. The MSA requires that

ACLs be set each year in pounds or numbers of fish, and that each ACL have associated AMs to prevent exceeding the ACL and to trigger a management response if an ACL is exceeded. At this meeting, the FMAT reiterated that under the MSA, the FMP needs to define a way to measure total removals (total dead catch) and to evaluate performance relative to an ACL set in numbers of fish or pounds. This does not mean it's impossible to start with preferred measures and translate those into catch, but managers are still required to demonstrate that catch associated with the measures is not expected to exceed each sector's ACL, and collectively not expected to exceed the ABC. Ultimately, managers must demonstrate that measures are expected to prevent overfishing.

This proposal as currently described does not appear consistent with these MSA requirements, unless each set of recreational measures and commercial quotas could be clearly associated with projected catch levels and the uncertainty and variability in that process could be appropriately accounted for. A major concern with this approach is the feasibility of accurately predicting catch levels at each of the various management measure thresholds, particularly for the recreational fishery. The FMAT has previously noted that even when recreational measures have remained similar across years, the resulting MRIP estimates can vary significantly. For both fisheries, total dead catch can vary substantially with external factors such as changing total and regional availability, recruitment events, or changing effort based on factors other than measures.

In addition, there could be substantial uncertainty with projecting discards for both sectors based on the commercial quotas and recreational management measures associated with each threshold. All these factors would pose challenges for justifying how this approach could constrain catch to the ACLs and ABC without additional management uncertainty buffers.

### **Process/Analysis Considerations and Connection to Allocation**

The proposal suggests that there is a limit to how much access each sector “needs” (e.g., there is a range and maximum amount of fish that recreational anglers will want to take home, and there is a limit to where profit will be maximized for the commercial fishery). The proposal also suggests that measures or quotas under each threshold should consider state or regional variation in fishery needs. The FMAT noted that determining the needs of each sector under various threshold levels is likely to be a very involved and potentially political process, with heavy analysis and stakeholder input needs.

While some suggestions have been made for how to analyze and determine optimal commercial and recreational access levels at each biomass threshold, expertise outside of the FMAT and Council/Board would likely be required, particularly for establishing an economic basis for the commercial quota levels. In addition, it is still unclear how the balance of access for each sector would be negotiated. The discussion of measures at each threshold for each fishery would also need to reconcile those separate levels of access to ensure that overall catch/removals are still expected to be constrained to the ABC. For some species, such as black sea bass, it is unlikely that both sectors could operate at their preferred levels of access even under positive stock conditions without exceeding the ABC and/or OFL. A process for balancing/negotiating preferred levels of access between the commercial and recreational sectors could be very time and work intensive in terms of analysis and gathering stakeholder input and would potentially delay this action.

The FMAT also discussed that the step-wise approach proposes that higher levels of biomass correspond to higher levels of access, which could allow for liberalization of recreational measures. However, the very large recreational fishery capacity means that effort and catch also typically scales with biomass and availability, in some cases even under highly restrictive recreational measures. This complicates the assumption that recreational measures can liberalize when biomass increases. In addition, changes in the recreational fishery over the years (general effort increases, species-specific effort changes, legal/policy constraints, and improved technology for targeting fish) further complicate the assumption that past recreational measures can be used to estimate expected future catch. The FMAT also noted that it could be easier to agree on measures associated with good stock biomass conditions, but setting measures for lower biomass thresholds may be much more difficult.

### **Potential Application of Ideas Through a Separate Action**

The FMAT agreed that there are several concepts in this proposal that would be worthwhile to explore in terms of application to the process of setting recreational measures. For example, the FMAT noted benefits of the transparency provided by a tiered management approach with clearly defined measures at each level. Additional exploration of the relationship between the effectiveness of recreational management measures and estimated biomass would also be worthwhile. Recreational reform is currently identified as a priority for the Council and Board, and an action to address recreational management is listed on the Council's 2020 implementation plan. The FMAT felt comfortable recommending removal of this option from this action given that there is a pre-existing process that appears to be more appropriate for its discussion.

The FMAT also suggested the possibility of creating a tiered allocation approach under "dynamic allocation approaches" (section 8). While this would not necessarily have the same basis and intent as this approach, some of the ideas discussed under this proposal could be transferable to an allocation framework where thresholds for different allocations could be created. This differs from a trigger-based allocation approach (section 8.2) given that it would not involve completely separate allocation tiers as opposed to a baseline allocation up to a certain point with excess quota allocated differently.

### ***Public Comments:***

One member of the public stated that this feels like an apples to oranges conversation, and that if both sectors are not held to the same standards, the commercial sector will get penalized. She stated that the recreational sector has gone way over their limits in recent years. When this happens, stock biomass can go down which impacts both sectors. She stated that this option seems likely to negatively impact the commercial fishery.

Another member of the public stated that although this approach would require difficult in-depth analysis, he supported its further evaluation.

## **2. Recreational accountability alternatives**

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The theme of increased recreational accountability was prominent in many scoping comments. For example, some comments suggested more frequent recreational overage paybacks and bringing back recreational in-season closures. The FMAT previously noted that large scale revisions to

recreational accountability may be outside the intended scope of this action as the FMAT understands it.

At the May joint meeting, the Council and Board discussed this issue and agreed to leave it in the range of alternatives until it becomes more clear what types of allocation alternatives will be considered. Some Board and Council members suggested that while the current AMs may be appropriate for the current allocations, alternatives that would drastically change the management approach may require modified or additional AMs.

### **Current Recreational Accountability Measures**

Federal regulations include proactive AMs to prevent the recreational ACL from being exceeded and reactive AMs to respond when an ACL is exceeded. Proactive recreational accountability measures include **adjusting management measures (bag limits, size limits, and season) for the upcoming fishing year** that are designed to prevent the RHL and ACL from being exceeded. The NMFS Regional Administrator no longer has in-season closure authority for the recreational fishery if the RHL or ACL is expected to be exceeded. For reactive AMs, **paybacks of ACL overages may be required in a subsequent fishing year, depending on stock status and the magnitude of the overage**, as described below. ACL overages in the recreational fishery are evaluated by comparing the most recent 3-year average recreational ACL against the most recent 3-year average of recreational dead catch (i.e., landings and dead discards). If average catch exceeds the average ACL, then the appropriate AM is determined based on the following criteria:

1. If the stock is overfished ( $B < \frac{1}{2} B_{MSY}$ ), under a rebuilding plan, or the stock status is unknown: The exact amount, in pounds, by which the most recent year's recreational ACL has been exceeded, will be deducted in the following fishing year, or as soon as possible once catch data are available.
2. If biomass is above the threshold, but below the target ( $\frac{1}{2} B_{MSY} < B < B_{MSY}$ ), and the stock is not under a rebuilding plan:
  - If only the recreational ACL has been exceeded, then adjustments to the recreational management measures (bag, size, and seasonal limits) would be made in the following year, or as soon as possible once catch data are available. These adjustments would take into account the performance of the measures and the conditions that precipitated the overage.
  - If the Acceptable Biological Catch ( $ABC = \text{recreational ACL} + \text{commercial ACL}$ ) is exceeded in addition to the recreational ACL, then a single year deduction will be made as a payback, scaled based on stock biomass. The calculation for the payback amount in this case is:  $(\text{overage amount}) * (B_{msy} - B) / \frac{1}{2} B_{msy}$ .
3. If biomass is above the target ( $B > B_{MSY}$ ): Adjustments to the recreational management measures (bag, size, and seasonal limits) would be considered for the following year, or as soon as possible once catch data are available. These adjustments would take into account the performance of the measures and the conditions that precipitated the overage.



### *FMAT Comments and Recommendations:*

**The FMAT recommended removing recreational AMs as a separate alternative and felt that recreational accountability could be considered within this action as it relates to other management alternatives being considered.** For example, if the sector separation approach is pursued, different AMs may need to be developed as a part of that alternative. The current AMs were established through the Omnibus Recreational Accountability Amendment (Amendment 19 to this FMP, adopted in 2013). This amendment removed the in-season closure authority held by the NMFS regional administrator, which allowed for coastwide closures of the recreational fisheries if they were projected to exceed the RHL based on preliminary data. Amendment 19 also increased the flexibility in evaluation and response to recreational overages given the uncertainty associated with the MRIP data and tied overage responses to stock status as described above. The FMAT felt that much of the rationale for the changes made through Amendment 19 remains valid. For example, the timing of recreational data availability and the potential for revisions between preliminary and final estimates still pose challenges for in-season closures. One potential avenue for reconsideration of recreational AMs is through the recreational reform initiative.

### *Public Comments:*

One member of the public commented that in-season closures or changes are tough on the for-hire industry and did not support bringing that back as an AM.

### **3. Recreational catch accounting alternatives**

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Examples of changes to recreational catch accounting recommended through scoping are listed below. The intent behind these recommendations is to reduce uncertainty in the recreational data. It is worth keeping in mind that MRIP is currently considered the best scientific information available for the recreational fisheries and will continue to be used for stock assessments and catch limit evaluations for the foreseeable future. MRIP is a national-level program and the Council and Commission have a very limited ability to influence changes to the MRIP estimates.

- **Mandatory private angler reporting:** Private angler reporting through smart phone apps has been explored in specific fisheries in other regions, and will soon be required in this region for blueline tilefish. Consideration could be given to the feasibility of private angler reporting for summer flounder, scup, and black sea bass given that these fisheries take place in state and federal waters, from shore and from private and for-hire vessels, and that there are millions of directed trips per year for each species (e.g., an estimated 8.7 angler trips for which summer flounder was the primary target, 2.7 million for which scup was the primary target, and 1.4 million for which black sea bass was the primary target in 2019). Given the scale of these recreational fisheries, mandatory private angler reporting may be a challenge to implement. Thorough consideration should be given to the potential levels of non-compliance and how this may impact the resulting data.
- **Tagging programs:** A few scoping comments suggested that anglers be issued tags for a specific number of fish each year. Tagging programs are used in some recreational fisheries, but they may be more appropriate for species with much lower harvest levels than summer flounder, scup, and black sea bass. The FMAT should consider the pros and cons of moving forward with this approach compared to a traditional possession limit, especially

considering the millions of participating anglers in the fisheries for these species. Ensuring that the program is fair and equitable is a challenge. For example, consideration would need to be given to who receives tags, how they are distributed, and how the program is administered.

- **Mandatory tournament reporting:** A few scoping comments recommended mandatory catch reporting for recreational fishing tournaments. During the May 2020 joint meeting, one Council/Board member questioned the value of mandatory reporting for tournaments given that tournament catch likely constitutes a very small percentage of total catch. An evaluation of summer flounder, scup, and black sea bass catch in tournaments has not been performed and may not be possible given that there does not seem to be a central list of non-HMS tournaments. Recreational catch from tournaments for summer flounder, scup, and black sea bass should be included in MRIP estimates but is not specifically designated as tournament catch.
- **Enhanced VTR requirements:** A few scoping comments recommended additional VTR requirements, such as requiring VTRs for for-hire vessels that do not have federal permits and reinstating “did not fish” reports for federal permit holders to better understand fishing effort.

#### *FMAT Comments and Recommendations:*

**The FMAT recommended removing this issue from the amendment but supported the continued exploration of improving recreational data through other avenues.** Although the FMAT felt that this alternative was outside of the scope of this allocation action, especially with implementation timeline concerns, they recognized that these recreational catch accounting and accountability topics were important issues. The FMAT also noted that recreational catch accounting is an issue that fisheries outside of this FMP are addressing so it may be more appropriate to pursue for multiple species outside of this amendment. One FMAT member asked about scoping comments related to this topic and whether the general sentiment was to address recreational catch accounting before considering changes to the allocations. Staff responded that several scoping comments suggested this, while other scoping comments voiced a general mistrust or need to improve MRIP with no additional comments regarding allocation.

#### *Public Comments:*

One member of the public is currently involved in helping with private angler reporting for blueline tilefish and noted that although it is a relatively small group of anglers, the process is already a large undertaking and felt that for summer flounder, scup and black sea bass, this concept should be held off for a later time.

A Council and Board member noted that since the FMAT recommended the removal of some alternatives it would be helpful if there were time allocated to have a specific discussion with the Council and Board to understand what potential management actions would be appropriate for those issues.

One member of the public commented that he had mentioned mandatory reporting for tournaments during scoping because he believes it would be important to have more information on that. He

added that less than 50% of permit holders are reporting in some cases. Because of this, he feels it is very important to either reinstate did not fish reports or attempt to determine for-hire effort in state waters. One FMAT member agreed that it would be worth exploring ways to identify or quantify tournament catch in the future, separate from this action. A Council and Board member wondered why it was important to estimate tournament catch separately from the current MRIP surveys or if there is evidence that tournament catch is not being captured adequately.

## § 648.110 Summer flounder framework adjustments to management measures.

- a *Within season management action.* The MAFMC may, at any time, initiate action to add or adjust management measures within the Summer Flounder, Scup, and Black Sea Bass FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the FMP.
- 1 *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limit; specification quota setting process; FMP Monitoring Committee composition and process; description and identification of essential fish habitat (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research. Issues that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.
- 2 *MAFMC recommendation.* After developing management actions and receiving public testimony, the MAFMC shall make a recommendation to the Regional Administrator. The MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the MAFMC recommends that the management measures should be issued as a final rule, it must consider at least

the following factors and provide support and analysis for each factor considered:

- i Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season;
    - ii Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures;
    - iii Whether there is an immediate need to protect the resource; and
    - iv Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.
  - 3 **NMFS action.** If the MAFMC's recommendation includes adjustments or additions to management measures and, if after reviewing the MAFMC's recommendation and supporting information:
    - i NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors in paragraph (a)(2) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.
    - ii If NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the MAFMC recommendation, the measures will be published as a final rule in the FEDERAL REGISTER.
    - iii If NMFS does not concur, the MAFMC will be notified in writing of the reasons for the non-concurrence.
  - 4 **Emergency actions.** Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.
- b [Reserved]

[76 FR 60630, Sept. 29, 2011, as amended at 76 FR 1849, Dec.. 29, 2011; 80 FR 37196, June 30, 2015]



## Recreational Management Reform Initiative Steering Committee Meeting Summary

July 14, 2020

**Steering Committee Attendees** (in alphabetical order): Julia Beaty (MAFMC staff), Joe Cimino (MAFMC Summer Flounder, Scup, and Black Sea Bass Committee Vice Chair), Tony DiLernia (MAFMC Summer Flounder, Scup, and Black Sea Bass Committee Chair), Toni Kerns (ASMFC staff), Mike Luisi (MAFMC Chair), Adam Nowalsky (ASMFC Summer Flounder, Scup, and Black Sea Bass Board Chair), Mike Ruccio (GARFO staff), Caitlin Starks (ASMFC staff)

### **Background**

The Recreational Management Reform Steering Committee met via teleconference to discuss next steps for the Recreational Management Reform Initiative. More information on this initiative is available at: <https://www.mafmc.org/actions/recreational-reform-initiative>.

### **Identifying and Smoothing Outlier MRIP Estimates**

The Steering Committee briefly discussed their previous recommendation to develop a standardized process to identify and, if necessary, adjust (or “smooth”) outlier estimates from the Marine Recreational Information Program (MRIP).<sup>1</sup> They agreed that it would be appropriate for the Monitoring and Technical Committees to build off their past work and move forward with further developing this approach.

### **Harvest Control Rule Proposal**

The Steering Committee discussed a proposal put forward by six recreational organizations through scoping for the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment (see pages 147-152 of [this document](#) for the full proposal). This proposal, referred to as a “harvest control rule,” recommended defining recreational “allocation” not as a set percentage of a total catch limit, but as a specific combination of bag/size/season limits preferred by recreational fishermen in each state, which would become more restrictive when estimated biomass declines below the target level. The restrictions would occur in a pre-determined, stepwise manner. The commercial “allocation” would be the commercial quota preferred by the commercial industry when biomass is high and it would be reduced as biomass declines below the target level in proportion with the restrictions on the recreational fishery. This approach is largely conceptual at this stage and is not yet associated with specific proposed measures.

Based on the recommendations of the Fishery Management Action Team (FMAT), the Council and Board agreed not to further consider this proposal through the Commercial/Recreational

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<sup>1</sup> See the draft initiative outline developed by the Steering Committee in April 2020 for more information: [https://www.mafmc.org/s/2Rec\\_reform\\_outline\\_v6.pdf](https://www.mafmc.org/s/2Rec_reform_outline_v6.pdf)

Allocation Amendment; however, they expressed a desire to further evaluate certain aspects of it through other avenues. They agreed that the allocation aspects of the proposal are not feasible given current Magnuson-Stevens Act requirements. For example, the Magnuson-Stevens Act requires the use of annual catch limits set in pounds or numbers of fish. Management measures must be expected to prevent those limits from being exceeded. In addition, it is not clear how this approach would ensure that overfishing does not occur or how it would function if a specific fishing mortality target had to be achieved in a rebuilding scenario. For these reasons, it is not possible to define a recreational allocation as a preferred set of management measures independent from an annual catch limit.

The Recreational Reform Steering Committee agreed that the proposal's recommendation for pre-determined recreational management measure "steps" associated with different biomass levels warrants further consideration and could be feasible under current Magnuson-Stevens Act and FMP requirements. A few Steering Committee members asked if the management measure step approach would be desired by stakeholders if separated from the allocation aspects of the original proposal. The group generally agreed that pre-defined management measures at different biomass levels would provide an additional level of predictability to the management process, which would be beneficial to recreational fishery stakeholders.

One Steering Committee member suggested comparing past management measures to harvest as a starting point for determining which measures might be appropriate at each biomass level "step." Other Steering Committee members cautioned that harvest is impacted by many factors in addition to management measures, such as availability and fishing effort. As past experience managing these recreational fisheries has shown, it can be very difficult to predict future harvest under a given set of management measures even when focused only on the upcoming year. The intent of this approach is to provide stability and predictability by pre-determining management measures which could be used beyond just the upcoming year. One Steering Committee member also noted that, in addition to changes in biomass levels, the distribution of the stocks has changed over time, which would pose additional challenges for predicting future harvest based on the past performance of management measures, depending on the time frame of past measures examined. For these reasons, the Steering Committee agreed that any pre-determined measures would be a starting point for consideration and must be regularly re-evaluated.

The Steering Committee agreed that the proposal's suggestion of pre-defined upper and lower bounds for the most liberal and most restrictive measures could be retained; however, like the management measure steps, they would be a starting point for consideration and the Council and Board may have to use measures outside of those bounds in any given year. They agreed that extensive input from the recreational fishing community is needed to help define the preferred upper and lower bounds of management measures. As described by one Steering Committee member, the upper bound would represent the highest desired level of access and any liberalizations beyond that would not be beneficial to or "needed" by the recreational community. On the other hand, as described by this Steering Committee member, the most restrictive set of potential measures would be so restrictive that there may not be a conservation benefit to making them even more restrictive. They would also represent the most extreme restriction which could be tolerated without causing severe negative economic impacts such as widespread loss of businesses (e.g., for-hire vessels and bait and tackle shops). It is important to note that the desired

potential upper and lower bounds have not yet been determined or evaluated. It has not been determined if this concept will be feasible in practice.

All Steering Committee members agreed that further analysis should be done to evaluate the potential management measures which could be used at different biomass levels. This analysis may suggest that it is not appropriate to associate a predicted harvest level in years beyond the upcoming year with a given set of management measures. However, even if this is the case, it would still be beneficial to do the analysis to evaluate our ability (or inability) to predict future harvest.

### **Other Topics Removed from Commercial/Recreational Allocation Amendment**

During their June 2020 joint meeting, the Council and Board passed a motion to “consider initiating an action by the end of 2020 to develop a recreational accountability and accounting joint action.”

The Steering Committee briefly discussed recreational accountability and accounting in relation to the Recreational Reform Initiative. They did not discuss these topics in detail as they felt that they are outside the formal mission and charge of this group.

Multiple Steering Committee members recommended that the Council and Board gain a better understanding of private angler reporting efforts in other regions before initiating an action to consider improvements to recreational catch accounting in this region. They agreed that it would be important to understand what has worked well in these other efforts, as well as the challenges and levels of compliance. In addition, the Council and Board have discussed if this topic may be more appropriately considered for all Council and Commission managed recreational species, rather than just a few species.

A few Steering Committee members said past discussions of recreational catch accounting and recreational accountability have sometimes confused the two subjects. A better understanding of the intent of the recommendations for considering changes to accountability measures (e.g., in-season closures, more frequent repayments of RHL overages) would be beneficial.

### **Role of Steering Committee**

The Steering Committee agreed that they have fulfilled their mission and should disband. Further discussions of this action should occur at the level of the Board and the full Council or the Council’s committees. They recommended that the Council and Board initiate a management action such as a framework/addendum to further develop priority approaches considered through the Recreational Reform Initiative. Further development would follow the standard process with involvement by a technical group (e.g., an FMAT, the Monitoring and Technical Committees, or a different group), Council committees or the full Council and Board, as appropriate.

### **Next Steps**

In summary, the Steering Committee recommended that the Council and Board initiate a management action to pursue priority topics and that a technical group (e.g., the Monitoring/Technical Committee or a separate group) move forward with further developing and



analyzing topics such as identifying and smoothing outlier MRIP estimates and the stepped approach to recreational management measures proposed through the Harvest Control Rule.



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Christopher M. Moore, Ph.D., Executive Director

## MEMORANDUM

**Date:** July 27, 2020  
**To:** Chris Moore, Executive Director  
**From:** Julia Beaty, staff  
**Subject:** Recreational Reform Initiative - Topics Requiring an FMP Amendment vs. Framework/Addendum

During their June 2020 joint meeting, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) asked for clarification on which topics currently under consideration through the Recreational Reform Initiative, as well as topics removed from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment could be pursued through an FMP framework/addendum and which would require a full FMP amendment.

The federal regulations describe the framework process and list the types of management changes which may be pursued through a framework action. The associated regulations for summer flounder are found at 50 CFR § 648.110 and are also included in the briefing materials for the August 6, 2020 joint meeting of the Council and the Board. The corresponding regulations for scup, black sea bass, and bluefish are very similar. These regulations list the types of management changes which may be considered through a framework as opposed to a full FMP amendment. Of note for the Recreational Reform Initiative and related discussions, the list of frameworkable items includes introduction of new accountability measures, permitting restrictions, recreational possession limits, recreational seasons, recreational harvest limits (RHLs), specifications quota setting process, any other recreational management measures, and any other measures currently included in the FMP.

It is important to emphasize that a framework may not always be appropriate even if the type of change falls within a category listed in the framework regulations. If the specific proposed action represents a significant departure from previously contemplated measures or otherwise introduces new concepts, an amendment may be more appropriate than a framework. This is expressly stated in the framework regulations for summer flounder, black sea bass, and bluefish.

The federal regulations and discussions with the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) staff suggest that the following topics discussed through the Recreational Reform Initiative and/or the Commercial/Recreational Allocation Amendment

could potentially be considered through a joint FMP framework/addendum, depending on the details of the specific change considered:

- Everything listed in the Recreational Reform Initiative outline developed by the Steering Committee, including:<sup>1</sup>
  - Adopting a standardized process for identifying and smoothing outlier MRIP estimates.
  - Using an “envelope of uncertainty” approach when determining if changes in recreational management measures are needed (i.e., if next year’s RHL falls within a pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures).
  - Evaluating the pros and cons of using preliminary current year MRIP data.
  - Developing guidelines for maintaining status quo measures.
  - Setting recreational management measures for two years at a time with a commitment to making no changes in the interim year unless required due to poor stock status.
  - Considering improvements to the process used to make changes to state and federal recreational management measures.
  - Changing the timing of the recommendation for federal waters recreational management measures from December of the previous year to October or August.
- Changes to recreational accountability measures, such as changes to requirements for payback of overages and in-season closures (a topic removed from the Commercial/Recreational Allocation Amendment).
- The pre-determined management measure step approach described in the Harvest Control Rule proposal put forward by 6 recreational fishing organizations through scoping for the Commercial/Recreational Allocation Amendment.<sup>2</sup>
- Changes to the data reported through VTRs (depending on the specifics of the change), assuming no changes are made to who is required to submit VTRs.

The following topics discussed through the Recreational Reform Initiative and/or the Commercial/Recreational Allocation Amendment would likely require an FMP Amendment:

- Private angler reporting - This has not been previously contemplated through the FMPs for summer flounder, scup, black sea bass, and bluefish. In addition, if private angler reporting for these species were to be managed at the federal level, it would require private anglers to obtain federal permits.
- Tagging programs for the recreational fisheries - This would likely require an amendment for similar reasons to those described above for private angler reporting.
- Mandatory tournament reporting - This would likely require an amendment for similar reasons to those described above for private angler reporting.

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<sup>1</sup> Some items in the Steering Committee outline may not require an FMP change, but could be pursued through an FMP framework/addendum if desired by the Council and Board. See the Steering Committee outline for more details ([https://www.mafmc.org/s/2Rec\\_reform\\_outline\\_v6.pdf](https://www.mafmc.org/s/2Rec_reform_outline_v6.pdf)).

<sup>2</sup> See the summary of July 14, 2020 Steering Committee meeting for more information (available in the [briefing materials](#) for the August 6, 2020 joint meeting of the Council and Board).

- Requiring additional entities to submit federal VTRs. For example, requiring private anglers and/or for-hire vessels which only operate in state waters to submit VTRs under the joint FMP would likely require an amendment as this has not been previously contemplated through the FMP and it would represent a notable change from current reporting requirements.

Additional comments from Adam Nowalsky on the Harvest Control Rule Proposal  
Emailed 7/24/2020

1) Regarding the question about how to establish what the measures would be at each step in the HCR, here are two ways to attempt this -

- Pull the management history and look at the state specific measures under various stock conditions as explained in the HCR write up.
- Reach out to the states to ask for assistance. State directors could request input from their TC/MC members with whom the HCR concept has been shared so that they understand the context of trying to recommend measures across the spectrum (i.e., least restrictive to most restrictive based on stock condition).

2) Translate measures from step 1 into predicted coastwide harvest based on past performance and other analysis. Input from the Regional Office/Science Center staff on how best to approach this is welcome, but the idea at a high level is to develop a set of measures that has a predictive amount of catch (the state TC/MC members may even be able to provide estimates especially considering their experience with the CE process). That catch does not have to be a point estimate, it can be a range. Steps 3, 4, and 5 are intended to be used to help satisfy MSA requirements.

3) A multi-year average with static measures to generate a "rolling" annual catch estimate could be used. If this rolling estimate is outside of the range of catch associated with step 2 then perhaps there is a management response (just as an example).

4) Use F as a sign post to guide performance. For example, if the rolling annual catch estimates from step 3 is outside of the range of catch in step 2, and F is above its target then management action must be considered. If F is below its target, no management action is necessary.

5) Moving forward on a fixed timeframe (every 5 years?) the performance of measures would be reviewed relative to expected harvest and consider modification to measures if needed.



# The Commonwealth of Massachusetts

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### Massachusetts 2020 Black Sea Bass For-hire Fishery Conservation Equivalency Proposal

July 17, 2020

#### Overview

The Massachusetts Division of Marine Fisheries (DMF) submits this conservation equivalency proposal to extend the end of the state’s for-hire recreational black sea bass season in 2020 to account for seven days closed to for-hire fishing at the beginning of the season due to the COVID-19 pandemic. Three alternatives are presented (Table 1).

Option A was DMF’s initial proposal and would extend the season 53 days. The approach of Option A best represents expected values for a conservationally equivalent exchange for days lost in the beginning of the season, except that the MRIP data have high PSEs caused by a paucity of intercept data in Wave 5 due to so few days being historically opened in September. Option B was added to the proposal to allay Technical Committee concerns about the high PSEs and instead uses lower PSE data from the adjacent Wave 4 as a proxy for Wave 5 harvest estimates. However, DMF believes that given annual pattern of landings and decreasing catch rates and angler participation after Labor Day, it is excessively conservative to apply Wave 4 daily landings values to wave 5. DMF proposes Option C, a compromise approach that falls in between the first two and extends the fishery only through October 9, the final open fishing day for summer flounder.

*Table 1. Massachusetts status quo and proposed rules for recreational black sea bass fishing aboard for-hire vessels in 2020 via conservation equivalency.*

	Season	Daily Bag Limit	Minimum Size
Status Quo	May 18 – September 8	5 fish	15”
Option A	May 25 – October 31	5 fish	15”
Option B	May 25 – September 21	5 fish	15”
Option C (preferred)	May 25 – October 9	5 fish	15”

#### Introduction

Consistent with executive orders of the Governor of Massachusetts in response to the COVID-19 pandemic and further guidance from the Administration, DMF issued Permit Conditions for all 2020 For-hire Permit holders making it unlawful to conduct any for-hire fishing activity in the Commonwealth effective April 27, 2020<sup>1</sup>. These permit conditions were rescinded effective May 25, 2020, when for-hire fishing operators were authorized to resume operations provided they comply with specific restrictions and safety standards under the phased-in re-opening guidance<sup>2</sup>.

<sup>1</sup> <https://www.mass.gov/doc/042720-statement-of-permit-conditions-to-restrict-for-hire-fishing-during-covid-19-stay-at-home/download>

<sup>2</sup> <https://www.mass.gov/doc/051820-statement-of-permit-conditions-on-2020-for-hire-permit-and-workplace-safety-and/download>

These permit conditions were issued pursuant to the authority set forth at G.L. c. 130, §§17C and 80 and 322 CMR 7.01(7) and 7.10(7). Violation of these permit conditions would result in an adjudicatory hearing to suspend or revoke the for-hire permit, as well as any other fines and penalties provided in G.L. c.130. The Massachusetts Environmental Police (MEP) enforce permit conditions the same as regulations. During the for-hire fishing closure, MEP conducted normal enforcement operations, reporting high compliance with the permit conditions and only one documented violation by an individual who was not a holder of a 2020 for-hire permit.

DMF submits this conservation equivalency proposal to amend the 2020 Massachusetts black sea bass for-hire fishing season in response to this closure of the for-hire fishery. Private recreational fishing, while likely impacted by social distancing measures, was not prohibited during the same period. If an alternative conservationally equivalent for-hire season is authorized by the ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board, DMF would implement the revision to the 2020 for-hire season by permit condition. The for-hire season would revert in 2021 to that in the regulations (May 18–September 8), unless subsequently amended through a Board-approved revision.

This action would cause a temporary regulatory mode-split in the MA recreational black sea bass where non currently exists. DMF is on the record expressing concerns with recreational mode-splits between for-hire and private anglers; however, the unprecedented nature of this situation in which only one mode was closed by factors external to fisheries management outweighs these concerns and provides our rationale for responding with a mode-specific recoupment. A recreational black sea bass mode split currently exists elsewhere along the coast and they have been authorized for other species as well.

The analysis of conservation equivalency included in this proposal applies standard, previously approved methods and data for evaluating conservation equivalency. It relies on prior year harvest data to project harvest under proposed regulatory changes in the current year. For this reason, coupled with it being an evaluation for a complete closure of the for-hire fishery during May 18-24, 2020, the analysis is not impacted by the lack of MRIP APAIS conduct caused by COVID-19 during that time (which was resumed in Massachusetts on May 20) or the pending availability of Wave 3 MRIP catch and effort estimates. As a mode-specific proposal, consideration is not given to any changes in private angler recreational harvest that may have occurred this spring; it is our position that this would not be expected of a conservation equivalency proposal submitted in advance of the fishery's season. Complete MRIP surveying and sampling is expected to occur throughout the for-hire black sea season in Massachusetts providing an estimate of for-hire harvest in 2020 to compare to 2019 for an evaluation of the impacts of this conservation equivalency proposal.

### **Proposal Timeline**

The ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board discussed the potential for states to make regulatory adjustments in response to COVID-19 impacts at its May 6 meeting. The first version of this proposal was submitted to the ASMFC on May 26 with a request for Board consideration at its June 16 meeting. This aggressive timeline was pursued in hopes of providing the for-hire industry the most benefit in terms of lead-time from an approved proposal. A second version, adding the Option B approach following review by the Technical Committee, was submitted to ASMFC on June 8. The second version and the TC's review were included in the Board's briefing materials for June 16; however, action was deferred to await guidance from the Commission's Executive Committee on conservation equivalency proposals of this nature. The Board did agree at that time to consider the Massachusetts proposal (and any others) no later than the August 2020 meeting. The ISFMP Policy Board did not adopt the Executive Committee's eventual guidance, but had it, the MA propose would have met the narrow criteria intended to limit the precedence setting nature of allowing states to

modify in-season regulations to address lost fishing opportunity. The Policy Board did conclude that states could still submit proposed changes to their recreational measures following the guidelines outlined in the Commission's Conservation Equivalency Policy and Technical Guidance Document. This third version of the proposal, submitted July 17, does not alter the analysis but provides additional information to meet that document's standards for state conservation equivalency proposals, and adds the compromise approach of Option C. Given this history and that the submission of this third version meets the two-week cut-off for consideration prior to the next Board meeting, DMF is requesting that the Board chair use his discretion to allow its review and consideration for approval at the August 6 meeting of the Summer Flounder, Scup, and Black Sea Bass Management Board.

### **Analysis**

On December 10, 2019, the Summer Flounder, Scup, and Black Sea Bass Management Board approved status quo recreational black sea bass management measures in state and federal waters for 2020. This meant a May 18–September 8 open season, 5 fish limit, and 15" minimum size limit for Massachusetts. As a consequence of the Governor's for-hire fishery closure, the Massachusetts for-hire fishery missed seven open fishing days of the 2020 recreational black sea bass season (i.e., May 18–May 24).

MRIP data for the past two years were used to estimate lost for-hire harvest due to the fishery closure and determine the conservationally equivalent number of days that could be added to the end of the season for for-hire activity (Tables 2–3). The average daily harvests per wave were calculated for both the most recent year (2019) and a two-year average (2018–2019). The premise of the analysis was to add an equivalent of seven Wave 3 days (the number of days lost) to the end of the season during Wave 5. Notably, Wave 3 had the highest daily catch rates, meaning that the equivalent number of Wave 5 days was larger than seven in all cases. Note that 2018 and 2019 are the only recent years in which the fishery was open during Wave 5 to provide harvest data. Less than a quarter of Wave 5 was open in either year which helps explain the high PSE values. During Wave 5 in 2018, 47 intercepts encountered black sea bass and 19 intercepts encountered black sea bass during 2019.

### **Option A**

This option compares daily harvest rates in Wave 3 to rates in Wave 5 to determine the number of equivalent Wave 5 days to add at the end of the season (Tables 2–3). Using the 2-year average approach, closing seven days in Wave 3 provides for opening 65 days at Wave 5 harvest. This is more than the number of days that could possibly be opened in Wave 5 (53 days remaining). Massachusetts has no Wave 6 data with which to produce a daily harvest rate, but it can be assumed to be—at most—equal to Wave 5 given declining seasonal availability of black sea bass and fishing effort. Extending equally into Wave 6 would result in a conservationally equivalent season of May 25–November 12. Using 2019 data alone, closing seven days in Wave 3 provides for opening 39 days at Wave 5 harvest. This would result in a conservationally equivalent season of May 25–October 17.

Under Option A, DMF is proposing a season extension until October 31 only. This is mid-way between the 2-year and 1-year approaches' results. The Technical Committee has in recent years supported an averaging approach for seasonal revisions through conservation equivalency (which would provide for additional open days). However, opening in Wave 6 is not anticipated to provide much benefit to the industry and could provide for spurious MRIP harvest estimates with few intercepts. This choice also recognized the high PSE values for the Wave 5 harvest estimates used for analysis. Extending the season further into Wave 5 should help improve the precision of the estimates.

While the Wave 3:5 exchange rates are substantial, differential harvest between the waves is not unexpected. The commencement of the recreational black sea bass season in Massachusetts in mid-May



is much anticipated, with large aggregations of fish available in shallow waters nearshore and favorable weather producing high effort and high catch rates. Delayed season openings in several other northeast states until mid-June further drives for-hire business in May and early June in Massachusetts.

Harvest rates in Wave 5 are also not anticipated to be constant throughout the proposed season extension, but rather drop off steeply with declining local availability of fish and fishing effort at the onset of fall. While there are no data that explicitly describe the expected harvest rates through the end of Wave 5 (the fishery has not been open during this time due to regulations), weekly harvest rates across modes are typically near annual lows at the beginning of Wave 5 (Figure 1). Also of note is that for-hire activity contributes less than 15% to the state's total recreational black sea bass harvest on average for 2017–2019.

#### Option B

An alternative approach is also proposed as a strategy to satisfy Technical Committee concerns to avoid using the Wave 5 data with high PSEs. The assumption under this conservative approach is that Wave 4 daily catch rates during 2018 and 2019 could serve as representative proxies for the Wave 5 rates during 2020. The Wave 4 data had lower PSEs than Wave 5 (55.2 in 2018 and 34.1 in 2019; Table 2). The Option B analysis estimated that 13 additional days could be added to the end of the season using the average 2018-2019 daily harvest rates and 8 days could be added using the 2019 rates alone (Table 3). Under this proposal, 13 additional days would be added to the end of the season, representing the average daily harvest rate from 2018 and 2019; in the past, averaging years has been supported by the TC. The Option A proposed extension of 53 days was between the 2018/2019 average daily harvest rate and the 2019 rate alone (Tables 2 and 3). Option A did not propose to use the 2018/2019 average because there was little benefit to the fishery of remaining open into November and because the end of a wave was a convenient marker for closing the fishery; these factors did not apply to the Option B proposal.

#### Option C

DMF requests the Board approve a preferred Option C that is not based on a specific analysis but falls between Options A and B in the length of the season extension. DMF appreciates the concerns of the Technical Committee about the use of high PSE catch data, but it is reasonable to assume that given the seasonal pattern of declining landings after Labor Day caused by offshore migrations of black sea bass, decreasing catch rates, decreasing angler participation, and decaying weather conditions, Wave 5 landings will invariably be lower than Wave 4. DMF's Option C is a compromise option that falls in between the two disparate Options: A (53 days) and B (13 days). This option would extend the fishery for just 30 days through October 9, the last open fishing day for summer flounder, thereby resulting in for-hire anglers being able to enjoy the retention of two species that are commonly targeted and retained together.

#### **Summary**

Options A and B represent two disparate outcomes with Option B being sensitive to the comfort level of the Technical Committee. DMF has presented these and highlighted their challenges and has recommended a compromise option for Board consideration for extending Massachusetts' for-hire fishing season during Wave 5 for 30 days to accommodate for-hire vessel operators and anglers who were closed out of the fishery due to the COVID-19 pandemic in May when sea bass fishing is at its peak in the Commonwealth.

Table 2. Massachusetts wave-specific daily for-hire harvest rates, # of fish (MRIP query date 5/18/20)

	Wave 3	Wave 4	Wave 5
2018 For-hire Harvest, # fish (PSE)	36,083 (22.2)	13,659 (55.2)	455 (80)
# Open Days (May 19–Sep 12)	43	62	12
Daily Harvest Rate	839	220	38
2019 For-hire Harvest, # fish (PSE)	30,685 (24.1)	34,040 (34.1)	1,001 (106)
# Open Days (May 18–Sep 8)	44	62	8
Daily Harvest Rate	697	549	125
2018–2019 Avg. Daily For-hire Harvest	768	385	82
2019 Avg. Daily For-hire Harvest	697	549	125

Table 3. Calculation of conservationally equivalent for-hire season lengths for Options A and B.

	Exchange Rate	Days added in Wave 5 to account for 7 fewer days in Wave 3	Resulting Season Length
<i>Option A (Waves 3:5 Exchange Rate)</i>			
Two-year Average	9.424	65	May 25 – November 12
Most Recent Year	5.574	39	May 25 – October 17
Proposed	-	53	May 25 – October 31
<i>Option B (Waves 3:4 Exchange Rate)</i>			
Two-year Average	2.00	13	May 25 – Sep 21
Most Recent Year	1.27	8	May 25 – Sep 16
Proposed	-	13	May 25 – Sep 21

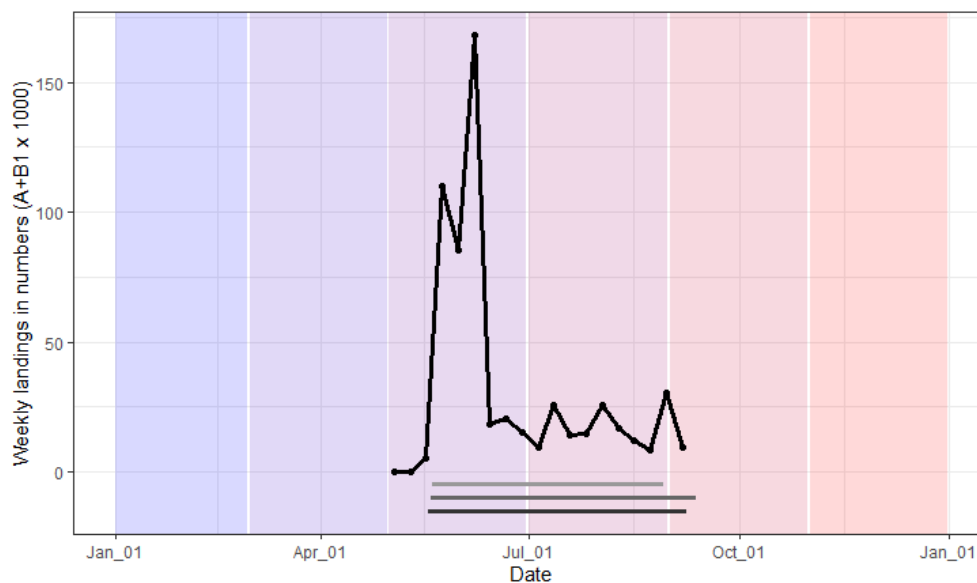


Figure 1. Average black sea bass harvest in numbers (given in thousands) by week over 2017-2019. Horizontal lines at the bottom of the figure indicate the season length in 2017 (top), 2018 and 2019 (bottom). Vertical rectangles indicate waves. Note that the harvest quantities provided are across all modes to increase the sample size.

## **Appendix 1.**

**Methods.** The steps below outline the methodology used in this proposal for calculations leading to a conservationally equivalent season extension. Subscripts in the table below refer to the Option A approach; for Option B the reference to Wave 5 can be replaced with Wave 4.

Steps	Equation		Definitions
(1) Calculate the average daily harvest rate by wave for each year by dividing the total harvest in numbers in each year and wave by the number of days that were open in that year and wave.	$r_{w,y} = \frac{h_{w,y}}{d_{w,y}}$	$r_{w,y}$ $w$ $y$ $h_{w,y}$ $d_{w,y}$	Average daily harvest rate by wave and year. wave. Year. Total harvest in numbers during wave $w$ of year $y$ . Number of open days during wave $w$ of year $y$ .
(2) Calculate the average of the average daily harvest rates by wave across all years in the set.	$\bar{r}_w = \frac{1}{Y} \sum_{y=1}^Y r_{w,y}$	$\bar{r}_w$ $Y$	Average harvest rate by wave over all $y$ years Total number of years
(3) Calculate the exchange rate – the ratio of average daily harvest rate in wave 3 to average daily harvest rate in wave 5.	$x_{w3w5} = \frac{\bar{r}_{w=3}}{\bar{r}_{w=5}}$	$x_{w3w5}$	Exchange rate ratio (waves 3:5)
(4) Determine the number of additional days in wave 5 that account for the days lost during wave 3 (7 days were lost).	$\tilde{d}_{w5} = 7x_{w3w5}$	$\tilde{d}_{w5}$	Number of additional days during wave 5



# Atlantic States Marine Fisheries Commission

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703.842.0740 • 703.842.0741 (fax) • [www.asmfc.org](http://www.asmfc.org)

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## MEMORANDUM

**TO:** Summer Flounder, Scup, and Black Sea Bass Management Board

**FROM:** Summer Flounder, Scup, and Black Sea Bass Technical Committee

**DATE:** June 11, 2020

**SUBJECT:** TC Recommendations on Massachusetts Conservation Equivalency Proposal for Black Sea Bass Recreational For-Hire Fishery

The Technical Committee (TC) received a conservation equivalency proposal from Massachusetts to adjust the 2020 for-hire black sea bass season to account for days closed to for-hire fishing at the beginning of the season due to the COVID-19 pandemic. The proposal was reviewed and discussed by the TC via email. Below is a summary of the Massachusetts proposal as well as TC comments and recommendations.

### Summary of Massachusetts CE Proposal

The premise of the proposal was to add additional days to the end of the season during Wave 5, with the number of days being conservatively equivalent to seven Wave 3 days (the number of days closed). To accomplish this, the daily harvest rates during Wave 3 and Wave 5 were compared using 2018 and 2019 MRIP for-hire mode harvest in numbers from Waves 3-5. The proposal had two options. Option A compared Wave 3 daily harvest rates to Wave 5 rates and resulted in 65 additional Wave 5 days (based on 2018-2019 data) or 39 additional days (based on 2019 only). Under Option A Massachusetts proposed opening 53 additional days in Wave 5. The PSEs associated with the Wave 5 data used in Option A were high (>80); thus an alternative approach was also presented. Option B assumed Wave 4 daily harvest rates were a representative proxy for Wave 5 rates. Wave 4 harvest estimates had lower PSEs (55.2 in 2018 and 34.1 in 2019). Option B resulted in 13 additional Wave 5 days (based on 2018-2019 data) or 8 additional days (based on 2019 only). Under Option B Massachusetts proposed 13 additional days. See the attached proposal for additional details on methodology and calculations.

### TC Discussion and Recommendations

While the TC agreed that the methods used to calculate the proposed season adjustment were mathematically correct, several members were concerned with the data used under Option A. In particular, the MRIP estimates used to calculate the wave 5 for-hire daily harvest rates had very high PSEs (>80). The TC recommended validating the magnitude of the Wave 5 harvest estimates by comparing them with available VTR or logbook data, but MA does not have any for-hire VTR or logbook reporting after 2014.

In addition to data concerns, the TC noted that recreational harvest was projected to exceed the RHL and ABC in 2020. The final 2019 MRIP harvest estimate is 8.61 million lb, 48% higher than the 2020-2021 RHL of 5.82 mil lb. While incomplete MRIP sampling due to COVID-19 has created substantial uncertainty for 2020 recreational harvest estimates, private fishing effort was likely only slightly impacted by COVID-19. Because the private mode accounts for most black sea bass harvest (e.g., 88% during 2016-2019) under the current MRIP methodology, the 2020 RHL is still likely to be exceeded even with COVID-19 impacts.

M20-64

Considering these factors, the TC was more comfortable with the method proposed under Option B of using the most recent two-year average of the Wave 4 for-hire daily harvest rates as a proxy for the Wave 5 rates. Wave 4 estimates for black sea bass harvest in MA are generally more reliable due to more available trip-level data and lower PSEs. The TC found it reasonable to assume that the Wave 5 harvest rate would be similar to the Wave 4 rate based on typical declining effort (due to a combination of weather and behavioral changes at onset of fall), and possible decrease in availability as fish redistribute to the south. The TC recommends using the average of the 2018-2019 Wave 4 for-hire harvest estimates as a proxy for Wave 5 to calculate the daily harvest rate and resulting season modification to achieve conservation equivalency. This provides for opening 13 additional days in Wave 5, 2020. The TC agreed this is a more conservative approach that addresses concerns about data uncertainty and reduces the risk of producing higher than expected harvest in Wave 5; however, the group notes that a significant amount of uncertainty is still involved.

## Dustin C. Leaning

---

**To:** Steve Beer  
**Subject:** RE: [External] Flounder regulations

-----Original Message-----

From: Steve Beer [mailto:beerplumbing91@gmail.com]  
Sent: Friday, July 10, 2020 6:52 PM  
To: Comments <comments@asmfc.org>  
Subject: [External] Flounder regulations

Sent from my iPhone. I believe that the size limit is causing us anglers to release to many fish that will not survive. Make it 2 fish 14 to 18 inches and one fish over 18". Thanks.

## Dustin C. Leaning

---

**To:** David Doebley  
**Subject:** RE: [External] SUMMER FLOUNDER COMMENTS

**From:** David Doebley [mailto:david.nevermoor@gmail.com]  
**Sent:** Friday, July 10, 2020 7:14 PM  
**To:** Comments <comments@asmfc.org>  
**Subject:** [External] SUMMER FLOUNDER COMMENTS

Please, please stop the killing of breeding female flounder by setting regulations that force us to keep only female fluke. I keep a record of all my fish that I keep and clean. It has been years since I have harvested a male fluke. As your regulations increase the minimum size the stock goes down.

There is also the problem of waste since most fishermen in this area of South Jersey only catch one keeper for every 10 to 14 fish they catch. That means that more fish die from release than go home for the plate.

We need a slot limit to allow fishermen to harvest fish without killing breeders. You have the numbers. Design a slot that stops the waste from dead discards and turns those fish in to keepers. Something like 15-18 and one fish over 24".

Sincerely,  
David Doebley

## Dustin C. Leaning

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**From:** Eugene J. Doebley  
**Sent:** Friday, July 10, 2020 6:37 PM  
**To:** Comments  
**Subject:** [External] SUMMER FLOUNDER COMMENTS

Please, please stop the killing of breeding female flounder by setting regulations that force us to keep only female fluke. I keep a record of all my fish that I keep and clean. It has been years since I have harvested a male fluke. As your regulations increase the minimum size the stock goes down.

There is also the problem of waste since most fishermen in this area of South Jersey only catch one keeper for every 10 to 14 fish they catch. That means that more fish die from release than go home for the plate.

We need a slot limit to allow fishermen to harvest fish without killing breeders. You have the numbers. Design a slot that stops the waste from dead discards and turns those fish in to keepers. Something like 15-18 and one fish over 24".

Sincerely,

Gene Doebley



## Dustin C. Leaning

---

**To:** outlook\_4DED777E41A67605@outlook.com  
**Subject:** RE: flounder regulations

---

**From:** outlook\_4DED777E41A67605@outlook.com [mailto:outlook\_4DED777E41A67605@outlook.com]  
**Sent:** Sunday, July 12, 2020 10:51 AM  
**To:** Comments <comments@asmfc.org>  
**Subject:** [External] flounder regulations

Dear Sir/Madam:

Current flounder regulations are depleting the stock of breeding females. Please consider reducing the limits to smaller fish & protect the larger breeding females. Thanks! Bill Garrity

104 Sherman Ave  
Strathmere NJ 08248

Sent from [Mail](#) for Windows 10

## Dustin C. Leaning

---

**To:** Don Mace  
**Subject:** RE: [External] Summer Flounder Comments

-----Original Message-----

From: Don Mace [mailto:don.mace@verizon.net]  
Sent: Sunday, July 12, 2020 10:39 PM  
To: Comments <comments@asmfc.org>  
Subject: [External] Summer Flounder Comments

We need to stop taking all the female flounder out of the population. I'm in favor of a slot in the 14-17.99" range and allowing one additional keeper 18" or larger.

Thank you.

Don Mace  
Ocean City, NJ

Sent from my iPhone

## Dustin C. Leaning

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**To:** RAY SCOTT'S DOCK  
**Subject:** RE: [External] Summer flounder regs

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**From:** RAY SCOTT'S DOCK [mailto:raycottsdock@comcast.net]  
**Sent:** Sunday, July 12, 2020 6:27 PM  
**To:** Comments <comments@asmfc.org>  
**Subject:** [External] Summer flounder regs

It continues to be RIDICULOUS to target the 18 inch female breeding stock of summer flounder while expecting to grow the fishery. In addition, the mortality rate of “throwbacks” during the summer months with water temps at 75 degrees is estimated at 60%. We need to drop the size limit to 16.5 inches to relieve the pressure off the females. Summer flounder stocks were growing steadily up until the 18 inch size limit was implemented. It has been in a state of decline since. Fewer throwbacks dramatically reduces the overage tonnage of fish caught and wasted which has not been factored into the fishery. Recreational angler effort will be greatly reduced as a bag limit of four fish at sixteen and a half inches can be readily achieved with a massive reduction in waste. Summer flounder are a dinner fish, not a trophy fish. They feed families. Regards, Robin Scott

## Dustin C. Leaning

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**To:** BILL SHILLINGFORD  
**Subject:** RE: [External] : 2021 summer flounder regulations

**From:** bucktail [<mailto:bucktail8@aol.com>]  
**Sent:** Wednesday, July 8, 2020 11:31 PM  
**To:** Comments <[comments@asmfc.org](mailto:comments@asmfc.org)>  
**Subject:** [External] : 2021 summer flounder regulations

---

### **ASMFC comments on SUMMER FLOUNDER for August meeting**

**REGULATORS need to lower the size on summer flounder, as under current regulations of 18" we are only removing females from population and if this continues the population will never have a chance to grow....There also needs to be different seasons for inshore waters and outside waters..Summer flounder arrive in South Jersey and other areas with shallow bays as early as April and stay in the inshore waters for 8-12 weeks depending on water temps.Once water temps settle into 70's majority of fluke over 18" quickly leave for off shore cooler waters leaving mostly under 18" fish which also increases mortality on thrown back fish..An inshore season of April 15th to August 1 and a 17" size would result in a quick population growth as there would be a better male to female ratio..Give offshore fishermen a season from Mid-July -mid Oct. The current methods being used to determine summer flounder season,size and bag limit has been ineffective for past 6-10 years and decreasing population is all the evidence you need to prove that current recreational regulations are ineffective..If the Commercial guys can keep 14"fish and take them during the prime spawning in late /fall and winter surely you can relax the recreational size to 17"**  
**thank you for listening**  
**Bill Shillingford**  
**21 Pinewood Ct\**  
**Swainton,NJ 08210**  
**email [bucktail8@aol.com](mailto:bucktail8@aol.com)**

## Dustin C. Leaning

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**To:** nverducci@icloud.com  
**Subject:** RE: [External] Summer Flounder Management

-----Original Message-----

From: Nick Verducci [mailto:nverducci@icloud.com]  
Sent: Thursday, July 9, 2020 3:35 PM  
To: Comments <comments@asmfc.org>  
Subject: [External] Summer Flounder Management

As a lifelong angler and one who has been advising a fishing club for students at my school in Ocean City, NJ for 17 years I implore that you take a new look on how to manage the summer flounder stock. The fishery is in dire need for a new approach. Through these years it is more and more difficult to find decent numbers with flounder. These 18" requirements has decimated the female population. It is time for a slot limit, similar to what Bill Shillingford has mentioned in many of his posts. I hope you all finally say it's time for something new that benefits not only the fishermen, but the flounder population as well.

Thank you  
Nick Verducci

Sent from my iPhone

## Dustin C. Leaning

---

**To:** J Webster  
**Subject:** RE: [External] summer flounder comments

**From:** J Webster [mailto:yardbird721@verizon.net]  
**Sent:** Sunday, July 12, 2020 12:45 PM  
**To:** Comments <comments@asmfc.org>  
**Subject:** [External] summer flounder comments

we would like to see a slot limit on fluke something like 2 @ 15 1/2" to under 18" and 1 over 20" per angler a day as most of the fluke over 18" are females could try for a year or 2 and reassess. thanks john c. webster

## Dustin C. Leaning

---

**To:** Scott Wilson  
**Subject:** RE: [External] Fluke regs

-----Original Message-----

From: Scott Wilson [mailto:cornhill@netzero.net]  
Sent: Saturday, July 11, 2020 8:33 PM  
To: Comments <comments@asmfc.org>  
Subject: [External] Fluke regs

I think the current regs of 3 fish @18" is not the way to rebuild the stock. Every fish I fillet over 18" is female. That is not the way to build and keep a sustainable fishery. I would propose 2 fish 14-16" and one trophy 18" or greater. Please think about all the dead fish released while trying to catch an 18" fish. This is not the way to rebuild a stock and fishery.

Thanks  
Scott Wilson

Sent from my iPhone

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Trump Wears a Mask for the First Time

<http://thirdpartyoffers.netzero.net/TGL3241/5f0a5a33ad07c5a3238f2st02vuc1>

Widow: Face-Mask Killing 'Destroyed' My Family

<http://thirdpartyoffers.netzero.net/TGL3241/5f0a5a33c7bc65a3238f2st02vuc2>

FDA: These Hand Sanitizers Have Possibly Fatal Ingredient

<http://thirdpartyoffers.netzero.net/TGL3241/5f0a5a33e6ff95a3238f2st02vuc3>