



**Mid-Atlantic Fishery Management Council**  
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## MEMORANDUM

**Date:** December 9, 2021  
**To:** Chris Moore, Executive Director  
**From:** Julia Beaty, Staff  
**Subject:** Non-preferred coastwide and precautionary default measures for black sea bass in 2022

The Council's [Framework 14](#), the Commission's [Addendum XXXII](#), and the federal regulations at 50 CFR § 648.142 (d) state that the Council and Board will make an annual decision between implementing coastwide recreational black sea bass management measures (i.e., one set of measures that applies uniformly to federal waters and all states) or conservation equivalency (i.e., waiving the federal waters measures in favor of a set of state measures collectively designed to constrain harvest to the RHL). Under this approach, anglers are subject to the measures of the state in which they land. Under conservation equivalency, the Council and Board must also select non-preferred coastwide and precautionary default measures.

The **non-preferred coastwide** measures are a set of measures that would be expected to constrain harvest to the recreational harvest limit (RHL) if uniformly implemented on a coastwide basis (i.e., the same measures in all states and in federal waters). Under the conservation equivalency process, states follow the guidelines set forth through Addendum XXXII to develop regional management measures. The combination of these measures should be conservationally equivalent to the non-preferred coastwide measures, meaning they are expected to result in the same level of coastwide harvest as the non-preferred coastwide measures. The non-preferred coastwide measures are included in the federal regulations but are waived in favor of the regional measures approved by the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board.

The **precautionary default** measures are measures that would be implemented in any state or region that failed to develop adequate measures through the process outlined in Framework 14 and Addendum XXXII. The precautionary default measures are intended to be so unpalatable that no state/region would consider implementing them. They are used as a deterrent against individual states or regions deviating from the process outlined in Framework 14 and Addendum XXXII to ensure that the collection of regional measures has the same total expected harvest as the non-preferred coastwide measures.

If the Council and Board choose to waive federal waters measures in favor of regional measures, **neither the non-preferred coastwide measures nor the precautionary default measures are intended to be implemented**; however, they are both required to ensure that states or regions develop proposals within the guidelines agreed to by the Council and Board.

During their November 2021 meeting, the Monitoring Committee did not discuss specific recommendations of non-preferred coastwide or precautionary default measures for black sea bass. After the Monitoring Committee meeting, Council staff developed the set of recommended measures listed in Table 1. These measures were not reviewed by the Monitoring Committee; however, staff considered the Monitoring Committee's recommendation to reduce harvest by 14% in 2022, compared to the 2018-2021 average (see the [briefing materials for the December 2021 Council and Board meeting](#) for more details). A 14% reduction would not be expected to prevent an overage of the 2022 RHL; therefore, Table 1 also includes non-preferred coastwide measures to achieve the full 28% reduction the Monitoring Committee agreed would be needed to constrain harvest to the 2022 RHL. The precautionary default measures in Table 1 do not differ between these two scenarios as these measures are intended to be so strict that no state would consider implementing them. The precautionary default measures provided below are likely strict enough to achieve this purpose under either a 14% or a 28% coastwide reduction in harvest.

Although the fishery management plans (FMPs) and federal regulations have allowed the federal waters recreational black sea bass measures to be waived in favor of regional measures starting in 2020, the process outlined above has not been used to date for black sea bass given the circumstances related to the status quo approach for 2020 and 2021 recreational management (see the [December 2021 briefing materials](#) for more details). This is the first year that the Council and Board must choose non-preferred coastwide and precautionary default measures for black sea bass. The FMP and federal regulations require modifications to the management measures for 2022 because an accountability measure (AM) was triggered based on a comparison of 2018-2020 average recreational dead catch to the average annual catch limits. The NOAA Fisheries Greater Atlantic Regional Fisheries Office has indicated that because the AM was triggered, it will not be possible to maintain the recreational status quo approach for black sea bass in 2022. Because the recreational measures must be modified for 2022, the methodology for conservation equivalency as described above must be followed. Specifically, during their December 14, 2021 meeting, the Council and Board must choose between coastwide measures and conservation equivalency. If they select conservation equivalency, they must also select non-preferred coastwide and precautionary default measures.

It should be noted that the recreational black sea bass fishery has not been managed with uniform coastwide measures since 2010 and there are notable differences in the current management measures across states (Table 2). Therefore, the analysis to develop the non-preferred coastwide measures in Table 1 required major assumptions and approximations. However, it is worth emphasizing that these measures are intended to ensure that the process outlined in Framework 14 and Addendum XXXII is followed. These measures are not intended to be implemented if the Council and Board recommend waiving federal waters measures in favor of regional measures through the conservation equivalency process as outlined in the aforementioned management documents.

**Table 1:** Staff recommended non-preferred coastwide and precautionary default measures for black sea bass in 2022 based on 14% and 28% reductions in coastwide harvest compared to the 2018-2021 average.

Scenario	Non-Preferred Coastwide Measures	Precautionary Default Measures
14% coastwide reduction in harvest	14" minimum size 5 fish bag limit May 15 - October 31 open season	16" minimum size 3 fish bag limit June 24 - December 31 open season
28% coastwide reduction in harvest to prevent RHL overage	14" minimum size 5 fish bag limit May 15 - September 21 open season	

**Table 2:** State and federal waters black sea bass recreational measures in 2018-2021. Measures were the same across all years unless otherwise noted. All changes were intended to maintain similar levels of harvest.

State	Min. Size	Bag Limit	Open Season
Maine	13"	10	May 19 - Sept 21; Oct 18 - Dec 31
New Hampshire	13"	10	Jan 1 - Dec 31
Massachusetts	15"	5	2018: May 19 - Sept 12
			2019 & 2020: May 18 - Sept 8
			2021: May 18 - Sept 8
Rhode Island	15"	3	Jun 24 - Aug 31
		7	Sept 1 - Dec 31
Connecticut private & shore	15"	5	May 19 - Dec 31
CT authorized party/charter monitoring program vessels	15"	5	May 19 - Aug 31
		7	Sept 1 - Dec 31
New York	15"	3	Jun 23 - Aug 31
		7	Sept 1 - Dec 31
New Jersey	12.5"	10	May 15 - Jun 22
		2	Jul 1 - Aug 31
		10	Oct 8 - Oct 31
	13"	15	Nov 1 - Dec 31
Delaware	12.5"	15	May 15 - Dec 31
Maryland	12.5"	15	May 15 - Dec 31
Virginia	12.5"	15	2018: Feb 1 - 28; May 15 - Dec 31
			2019: Feb 1-28; May 15-31; June 22-Dec 31
			2020: Feb 1 - 29; May 29 - Dec 31
			2021: Feb 1-28; May 15-May 31; Jun 16-Dec 31
North Carolina, North of Cape Hatteras (35° 15'N)	12.5	15	2018: Feb 1 - 28; May 15 - Dec 31
			2019: Feb 1 - 28; May 17 - Dec 31
			2020: Feb 1 - 29; May 17 - Nov 30
			2021: May 15 - Dec 31
<b>Federal waters, Maine through Cape Hatteras, NC</b>	<b>12.5</b>	<b>15</b>	<b>Feb 1-28, May 15 - Dec 31</b>