



Mid-Atlantic Fishery Management Council
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Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman
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MEMORANDUM

Date: March 24, 2023
To: Council
From: Hannah Hart, Staff
Subject: Scup Federal Recreational Season

On Wednesday, April 5, the Council will receive an update on a recommendation made by the Atlantic States Marine Fisheries Commission (ASMFC) Summer Flounder, Scup, and Black Sea Bass Board (Board) during their March 2, 2023 meeting. During this meeting the Board reviewed proposed state recreational measures for scup and black sea bass. As part of that discussion, the Board moved to request that NOAA Fisheries reconsider the January 1 – April 30 scup federal waters closure adopted during the Joint Council/Board December 2022 meeting. The Council should consider whether they wish to comment on this issue prior to the publication of a final rule this spring.

In addition to this cover memo, materials listed below are provided for the Council’s consideration of this agenda item.

- 1) March 2023 Atlantic States Marine Fisheries Commission Summer Flounder, Scup, Black Sea Bass Board meeting summary and motions.
- 2) Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Technical Committee memorandum on proposed 2023 regional recreational management measure for scup and black sea bass.

Background

In December 2022, the Council and Board met jointly to consider scup recreational measures for 2023. This was the first time setting recreational management measures using the new Percent Change Approach in conjunction with results from the Recreational Demand Model (RDM). Using the RDM, the Percent Change Approach required a 10% reduction in recreational harvest of scup in 2023. The Council and Board agreed to reduce the federal recreational possession limit from 50 to 40 fish and shorten the federal-waters season from a year-round open season to a May 1 – December 31 open season. These measures did not achieve the full 10% reduction in harvest required; therefore, the Council and Board also agreed that the states would further modify state measures through the Commission process to achieve the full 10% coastwide harvest reduction. Note that given the timing of the rulemaking process, the modifications to the federal season would not be fully effective in 2023 and would primarily impact 2024.

At the December meeting, although the Council and Board approved the modified federal scup season, there was some discussion about how the May 1 – December 31 open season may disproportionately impact some states. Specifically, members from some southern states like New Jersey voiced concern about federal waters being closed at the start of the year given the importance of waves 1 and 2 (January – April) to the for-hire sector. Northern states however, expressed the need for the modified season since those states would take the bulk of the required reduction in state waters and there was a desire to maintain some consistency between state and federal waters regulations. There was also concern about the accuracy of wave 1¹ and 2 Marine Recreational Information Program (MRIP) data and how in past years a single trip has greatly inflated harvest estimates for those waves.

March 2023 ASMFC Board meeting discussion

At the March 2023 Board meeting, the Board reviewed a range of options for state scup regulations that are intended to achieve the bulk of the required 10% reduction in harvest. Details about the proposed regional regulations can be found below in the “ASMFC Technical Committee Memorandum.” Collectively, the proposed regulations in state waters would achieve a 9.6% reduction in harvest. It is difficult to accurately predict the impacts of state measures in combination with federal measures. However, due to the minimal amount of harvest that occurs in federal waters, federal measures are expected to have a low impact on the overall reduction.

Following the presentation there was continued discussion related to the modified federal scup season. Some Board members as well as for-hire captains from New Jersey spoke against the previously approved May 1 – December 31 open season. It was noted that due to the timing of federal rule making the modified federal season would not go into effect until 2024, therefore having no impact on 2023 harvest. The Board ultimately agreed that because the proposed state adjustments meet virtually the full 10% reduction in coastwide harvest, and because the Council and Board also recommended a decrease in the federal possession limit, that it would be appropriate to recommend to NOAA Fisheries to reconsider the scup federal waters closure (January 1 – April 30). The Board also expressed interest in the Council discussing this issue at the April Council meeting.

Council objective

The Council should consider whether they wish to comment on this issue prior to publication of the final rule this spring. The Greater Atlantic Regional Office (GARFO) will consider all public comments and any recommendations made by the Council and Board during the public comment period on the proposed rule before publication of the final rule.

¹ Within the scup management unit wave 1 (January – February) Marine Recreational Information Program (MRIP) data is only available for North Carolina due to survey coverage.



Atlantic States Marine Fisheries Commission

ASMFC Summer Flounder, Scup and Black Sea Bass Board

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

ASMFC Summer Flounder, Scup and Black Sea Board
March 2, 2023

For more information, please
contact Toni Kerns, ISFMP,
Tina Berger, Communications or
the identified individual at
703.842.0740

Meeting Summaries, Press Releases and Motions

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SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD (March 2, 2023)

Meeting Summary

The Summer Flounder, Scup and Black Sea Bass Board (Board) met via webinar to consider black sea bass and scup recreational regulations for the 2023 fishery.

Background

In December 2022, the Board and the Mid-Atlantic Fishery Management Council (Council) met jointly to set recreational measures for 2023. The Percent Change Approach, as implemented under Addendum XXXIV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), was used in conjunction with the Recreational Demand Model (RDM) to determine that both scup and black sea bass require a 10% reduction in recreational harvest in 2023.

For black sea bass, the Board and Council decided to proceed with the regional conservation equivalency process as outlined in Addendum XXXII, which requires each region (MA-NY, NJ, DE-NC) to implement black sea bass regulations that will achieve a cumulative 10% harvest reduction by weight. For scup, the Board and Council recommended reducing the federal possession limit to 40 fish and shortening the season to May 1 – December 31. Given these measures would not achieve the full 10% reduction, the Board and Council agreed that states would further modify their measures through the Commission process to achieve the full 10% coastwide harvest reduction.

In January and February 2023, the Summer Flounder, Scup, and Black Sea Bass Technical Committee used the RDM to recommend options for 2023 recreational measures for black sea bass and scup which achieve a 10% reduction for both species.

2023 Black Sea Bass and Scup Recreational Measures

At its webinar meeting on March 2, the Board reviewed and approved the presented range of state/regional options for 2023 scup and black sea bass measures as developed by the RDM, which can be found [here](#). Following this meeting, the states will need to select and inform the Commission of their final 2023 state waters measures for both scup and black sea bass, which will be included in a letter to NOAA Fisheries. 2023 summer flounder recreational measures will be the same as the 2022 measures.

In response to submitted public comment and concerns raised by a few Board members, the Board discussed the merits of whether the scup recreational fishery should remain open in federal waters from January 1-April 30, 2024. Given the selected state measures will achieve the required reduction, the Board will recommend to NOAA Fisheries that it reconsider the scup federal waters closure as described above.

For more information on black sea bass, please contact Tracey Bauer, Fishery Management Plan Coordinator, at tbauer@asmfc.org, and for more information on scup and summer flounder, contact Chelsea Tuohy, Fishery Management Plan Coordinator, at ctuohy@asmfc.org.

Motions

Move to approve the range of state/regional options for 2023 black sea bass recreational measures developed using the Recreational Demand Model as presented today.

Motion made by Ms. Meserve and seconded by Dr. McNamee. Motion approved with one abstention from NOAA Fisheries.

Main Motion

Move to approve the use of the Recreational Demand Model to establish 2023 scup recreational measures to achieve a 10% reduction of the RDM's estimated 2023 harvest under 2022 measures, and recommend NOAA Fisheries reconsider the federal waters closure based on the reduction achieved by the state regulations.

Motion made by Mr. Cimino and seconded by Mr. Borden. Main motion divided.

Motion to divide the question.

Motion made by Mr. Nowalsky and seconded by Mr. Batsavage. Motion passes by consent with two abstentions.

Divided Main Motion #1

Move to approve the use of the Recreational Demand Model to establish 2023 scup recreational measures to achieve a 10% reduction of the RDM's estimated 2023 harvest under 2022 measures.

Motion substituted.

Motion to Substitute

Move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today.

Motion made by Ms. Meserve and seconded by Dr. McNamee. Motion passes (8 in favor, 1 opposed, 2 abstentions).

Divided Main Motion #1 as Substituted

Move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today.

Motion passes. Roll Call: In Favor - MA, RI, CT, NY, DE, MD, VA, NC; Opposed - NJ; Abstentions - NH, NOAA.

Divided Main Motion #2

Move to recommend NOAA Fisheries reconsider the federal waters closure based on the reduction achieved by the state regulations.

Motion passes (6 in favor, 3 opposed, 2 abstentions).



Atlantic States Marine Fisheries Commission

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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: February 15, 2023
SUBJECT: Proposed 2023 Regional Recreational Management Measures for Scup and Black Sea Bass

Background

In December, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and the Mid-Atlantic Fishery Management Council (Council) met jointly to set recreational measures for 2023. The Percent Change Approach, as implemented under Addendum XXXIV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), was used in conjunction with the Recreational Demand Model (RDM) to determine that both scup and black sea bass require a 10% reduction in recreational harvest in 2023.

For black sea bass, the Board and Council opted to proceed with the regional conservation equivalency processes as outlined in Addendum XXXII, as opposed to implementing uniform coastwide measures. Addendum XXXII requires each region (MA-NY, NJ, DE-NC) to implement black sea bass regulations that will collectively achieve but not exceed the recreational harvest limit. Additionally, each region is expected to achieve a cumulative 10% harvest reduction by weight.

For scup, the Board and Council agreed at the December joint meeting to reduce the federal possession limit to 40 fish and shorten the season to May 1 – December 31. Because this did not achieve the full 10% reduction, the Board and Council also agreed that states would further modify state measures through the Commission process to achieve the full 10% coastwide harvest reduction.

Regional Proposals

The Summer Flounder, Scup, and Black Sea Bass Technical Committee used the RDM to recommend options for 2023 recreational measures for black sea bass and scup which achieve a 10% reduction for both species. There are specific black sea bass and scup measures associated with each option, as the model relies on inputs of measures from both species to calculate estimates of 2023 harvest. Options are organized by region (MA-NY, NJ, DE-NC) for both species. Please note that when final options are selected, some states may make minor adjustments to the season dates to achieve as close to a 10% reduction as possible.

The states from Delaware to North Carolina have proposed to reduce the scup bag limit to 40 fish to match the 2023 federal possession limit, but no additional reductions were taken. The Technical Committee focused on achieving the 10% reduction in scup recreational harvest from the states of New Jersey through Massachusetts because 1) a majority of scup harvest (99%) occurs from these states and any reduction in the states south of Delaware would likely have a negligible effect on coastwide scup harvest; and 2) the RDM's median estimate of harvest in Maryland was always zero due to high PSEs in the MRIP estimates of catch-per-trip, and therefore harvest reductions were unable to be calculated.

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Table 1 details the proposed options for black sea bass and scup recreational measures for Massachusetts to New York. The regional percent reduction was not calculated by the RDM for every single possible combination of options from each state, but from one set of measures selected by each state. Table 2 provides the percent reductions of scup and black sea bass for the entire northern region (MA-NY) based on the example set of measures selected by each state.

Table 3 details the proposed options and associated percent reduction for each species for New Jersey.

Table 4 details the proposed options and associated percent reduction for each species for the southern region, Delaware through North Carolina (north of Cape Hatteras). Each state may select one of the two options as long as the 10% black sea bass reduction is met by the region.

Table 1. Proposed recreational management measures for the northern region, from Massachusetts to New York.

State	Options	Black Sea Bass Measures				Percent Reduction in Black Sea Bass Harvest	Scup Measures				Percent Reduction in Scup Harvest	
		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		
MA	Option 1	All	16.5"	4	5/20 - 9/7	-10.4	Private	10.5"	30	5/1 - 12/31	-7.6	
							Shore	9.5"				
							For-hire	10.5"	40	5/1 - 6/30		
	30	7/1 - 12/31										
	Option 2	All	16"	3	5/20 - 9/2	-10.3	Private	10.5"	30	5/1 - 12/31		-7.6
							Shore	9.5"				
							For-hire	10.5"	40	5/1 - 6/30		
	30	7/1 - 12/31										
	Option 3	All	16"	4	5/20 - 6/30	-10.3	Private	10.5"	30	5/1 - 12/31	-7.8	
				2	7/1 - 9/11		Shore	9.5"				
							For-hire	10.5"	40	5/1 - 6/30		
				30	7/1 - 12/31							
	Option 4	Private/Shore	16"	3	5/20 - 8/31	-10.3	Private	10.5"	30	5/1 - 12/31		-7.6
		For-hire		4			Shore	9.5"				
							For-hire	10.5"	40	5/1 - 6/30		
	30	7/1 - 12/31										
	Option 5	Private/Shore	16"	2	5/20 - 10/24	-10.0	Private	10.5"	30	5/1 - 12/31	-7.5	
		For-hire		4	5/20 - 9/4		Shore	9.5"				
For-hire							10.5"	40	5/1 - 6/30			
	30	7/1 - 12/31										
Option 6	Private/Shore	16"	3	5/20 - 6/30	-10.1	Private	10.5"	30	5/1 - 12/31	-7.5		
	For-hire		4	5/20 - 9/4		Shore	9.5"					
						1	7/1 - 8/31	40	5/1 - 6/30			
						3	9/1 - 10/23					
For-hire	4	5/20 - 9/4	For-hire	10.5"	30	7/1 - 12/31						
RI	Option 1		16.5"	2	5/22 - 8/26	-10.3	Shore	9.5"	30		5/1 - 12/31	-3.1

State	Options	Black Sea Bass Measures				Percent Reduction in Black Sea Bass Harvest	Scup Measures				Percent Reduction in Scup Harvest		
		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season			
CT		Private/shore	16"	3	8/27 - 12/31		Private	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
		For-hire		2	6/18 - 8/31		For-hire	10.5"				40	9/1 - 10/31
				6	9/1 - 12/31								
	Option 2	Private/shore	16.5"	2	5/22 - 8/26	-10.1	Shore	9.5"	30	5/1 - 12/31	-3.7		
				3	8/27 - 11/30		Private	10.5"					
		For-hire		2	6/17 - 8/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
				6	9/1 - 11/30				40	9/1 - 10/31			
	Option 3	Private/shore	16.5"	2	5/22 - 8/31	-11.7	Shore	9.5"	30	5/1 - 12/31	-3.0		
				3	9/1 - 12/31		Private	10.5"					
		For-hire		2	6/18 - 8/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
				6	9/1 - 12/31				40	9/1 - 10/31			
	Option 4	Private/shore	16.5"	2	5/22 - 8/31	-11.0	Private/shore	10.5"	30	1/1 - 12/31	-14.0		
				3	9/1 - 12/31								
		For-hire		2	6/18 - 8/31		For-hire	10.5"	30	1/1 - 8/31, 11/1 - 12/31			
				6	9/1 - 12/31				50	9/1 - 10/31			
	CT	Option 1	Private/shore	16.5"	5	5/19 - 12/1	-11.9	Shore	9.5"	30	5/1 - 12/31	-1.6	
5					5/19 - 8/31	Private		10.5"					
For-hire			7		9/1 - 12/31	For-hire		10.5"	30	5/1 - 8/31, 11/1 - 12/31			
Option 2		Private/shore	16"	2	5/19 - 12/1	-14.5	Shore	9.5"	30	5/1 - 12/31	-5.1		
				5	5/19 - 8/31		Private	10.5"					
		For-hire		7	9/1 - 12/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
				40	9/1 - 10/31								
Option 3		Private/shore	16"	5	5/19 - 6/23	-10.1	Shore	9.5"	30	5/1 - 12/31	-5.0		
				7/8 - 12/1	Private		10.5"						
		For-hire		5	5/19 - 8/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
				7	9/1 - 12/31				40	9/1 - 10/31			
Option 4		Private/shore	16"	5	5/19 - 9/30	-10.1	Shore	9.5"	30	5/1 - 12/31	-5.3		
				2	10/1 - 10/23		Private	10.5"					
		For-hire		5	5/19 - 8/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31			
				7	9/1 - 12/31				40	9/1 - 10/31			
NY		Option 1	All	16.5"	3	6/23 - 8/31	-11.7	Shore	9.5"	30	5/1 - 12/31	-15.0	
Private	10.5"												

State	Options	Black Sea Bass Measures				Percent Reduction in Black Sea Bass Harvest	Scup Measures				Percent Reduction in Scup Harvest	
		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		
				6	9/1/ - 12/31		For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31		
				40	9/1 - 10/31							
	Option 2	All	16"	3	7/1 - 8/31	-10.8		Shore	9.5"	30	5/1 - 12/31	-14.9
								Private	10.5"			
				6	9/1 - 12/31			For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31	
										40	9/1 - 10/31	
	Option 3	All	16"	2	6/28 - 8/31	-10.8		Shore	9.5"	30	5/1 - 12/31	-14.9
								Private	10.5"			
				6	9/1 - 12/31			For-hire	10.5"	30	5/1 - 8/31, 11/1 - 12/31	
										40	9/1 - 10/31	

Table 2. The percent reduction of black sea bass and scup harvest for the northern region (MA-NY) achieved by the combination of measures that the states selected for this memo, by state and for the region as a whole.

State	Option from Table 1	Percent Reduction in Black Sea Bass Harvest	Percent Reduction in Scup Harvest
MA	Option 1	-10.4	-7.6
RI	Option 2	-10.1	-3.7
CT	Option 3	-10.1	-5.0
NY	Option 1	-11.7	-15.0
Total Northern Region Reduction		-10.6	-9.7

Table 3. Proposed recreational management measures for New Jersey, and associated percent reduction.

State	Options	Black Sea Bass Measures				Percent Reduction in Black Sea Bass Harvest	Scup Measures				Percent Reduction in Scup Harvest
		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season	
NJ	Option 1	All	12.5"	10	5/17 - 6/19	-10.6	All	10"	30	8/1 - 12/31	-10.3
				1	7/1 - 8/31						
				10	10/1 - 10/31						
				15	11/1 - 12/31						
	Option 2	All	12.5"	10	5/17 - 6/19	-10.6	All	10"	30	1/1 - 10/15	-12.6
				1	7/1 - 8/31						
				10	10/1 - 10/31						
				15	11/1 - 12/31						
	Option 3	All	12.5"	10	5/17 - 6/19	-10.3	All	10"	30	8/1 - 12/31	-12.6
				2	7/1 - 8/7						
				10	10/1 - 10/31						
				15	11/1 - 12/31						
	Option 4	All	12.5"	10	5/17 - 6/19	-10.9	All	10"	30	8/1 - 12/31	-10.1
				2	7/20 - 8/31						
				10	10/1 - 10/31						
				15	11/1 - 12/31						

Table 4. Proposed recreational management measures for the southern region, from Delaware to North Carolina (north of Cape Hatteras), and associated percent reduction.

State	Options	Black Sea Bass Measures				Percent Reduction in Black Sea Bass Harvest	Scup Measures				Percent Reduction in Scup Harvest
		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season		Mode	Minimum Size Limit	Bag Limit	Dates of Open Season	
DE-NC	Option 1	All	13"	15	5/15 - 7/15, 7/27 - 12/31	-10.8	All	9"	40 (30 in VA)	1/1 - 12/31	1.0
	Option 2	All	13"	15	5/15 - 9/30, 10/10 - 12/31	-11.5	All	9"	40 (30 in VA)	1/1 - 12/31	0.5