



Mid-Atlantic Fishery Management Council
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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman
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MEMORANDUM

Date: January 24, 2018
To: Council
From: Brandon Muffley, Staff
Subject: Review of February 2018 black sea bass fishery and potential implications for LOA Framework

Introduction:

Over a number of meetings in 2017, the Council and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup and Black Sea Bass Management Board (Board) have considered a variety of options to open the wave 1 (January-February) recreational black sea bass fishery in 2018. The Council and Board considered opening the wave 1 fishery under a Letter of Authorization (LOA) program which would allow any vessel owner to participate in the wave 1 fishery provided they obtain and abide by all requirements contained within an LOA. However, due to the Council's timeline and the regulatory process in which this program could be implemented, a recreational wave 1 fishery administered through an LOA was not feasible in 2018. Therefore, the Council and Board recommended opening the 2018 wave 1 fishery to all anglers through the regular specification process with the following management measures: a season of February 1 – 28, a 15 fish possession limit and a 12.5 inch minimum size. These measures were recommended only for 2018, while the details of the LOA program were developed and considered by the Council and Board for potential implementation in 2019.

This memo provides a quick review of the February 2018 recreational black sea bass fishery and an overview of the LOA program considerations and alternatives. This information is provided to generate Council discussion and feedback to determine the future direction of the recreational wave 1 black sea bass fishery in 2019 and beyond.

Review of February 2018 fishery:

In addition to the management measures described above, the Council and Board also implemented a specific allocation of 100,000 pounds to this fishery and stipulated that adjustments to management measures in the rest of the recreational season were only required by those states that participated in the February fishery. At their joint meeting in December 2017, the Council and Board further stipulated that the 100,000 pounds would be allocated to the states based on their

historical (1996-2010 and 2013) proportion of wave 1 black sea bass catch. Those states that participated in the February fishery would then make adjustments to their management measures for the rest of the year based on their specified allocation (Table 1). If interested in participating in the February fishery, states were required to submit memos to Council and ASMFC staff by January 15, 2018 with the following information: declaration of their states participation in the fishery, proposed management measures for the rest of the recreational season to account for their allocation (and any supporting documentation/analysis regarding the proposed measures) and information regarding any proposed biological and/or monitoring programs (note: this was not a requirement to participate in the fishery).

Table 1. Proportion of recreational wave 1 total black sea bass catch by state from 1996 – 2010 and 2013 and the associated state allocation of the 100,000 pounds allocated to the February 2018 fishery.

State	Proportion of Catch	Allocation of Wave 1 100,000 lb
RI	0.29%	288
CT	0.06%	57
NY	9.41%	9,410
NJ	82.85%	82,850
DE	1.30%	1,297
MD	0.54%	541
VA	5.50%	5,496
NC	0.06%	62
TOTAL	100%	100,000

Of the nine states eligible to participate in the fishery, seven states (MA, RI, CT, NY, NJ, DE, MD) indicated they were not going to participate; while two states (VA, NC) submitted memos declaring their participation in the February fishery. Virginia and North Carolina account for slightly more than 5.5% of the historical total wave 1 recreational black sea bass catch and approximately 5.5% of the total coastwide recreational black sea bass catch in 2016-2017. Virginia has proposed to adjust their recreational season for the rest of the year from 11-14 days, depending upon wave, to account for their February 2018 allocation; while North Carolina has proposed adjustments of 3-5 days in their recreational season (see Appendix A for VA and NC memos). In addition, the states have also proposed to implement a variety of monitoring and reporting requirements and plan to conduct biological sampling from vessels participating in the fishery.

The seven states not participating in the February fishery provided a variety of reasons as to why they decided not to participate. The reasons provided were as follows, in no particular order:

- Implications of a declining RHL and unknown coastwide payback requirements
- Limited number of vessels would realize the benefit of the fishery
- Limited interest from fishermen/vessels in participating in the fishery
- Concerns about cutting the remaining recreational season to account for harvest
 - Loss of days would impact all fishermen

- Regulations in rest of season are already constraining
- Inability to accurately and cost-effectively monitor the catch
 - Implications, particularly if high harvest, for both participating and non-participating states in future years
- General lack of support for fishery and the process to implement the fishery
- Allocation to wave 1 fishery impacts all states through reduction in RHL
- Discard mortality of non-target species
- Greater inequities and disparities in management measures among the states

Overview of the LOA draft alternatives:

The Council and Board supported the development of an LOA program because of its potential to expand participation to any vessel owner, the potential to monitor black sea bass harvest, the anticipated lower administrative demands (when compared to an Exempted Fishing Permit program initially considered) and the ability to collect black sea bass catch and biological information during this time period. The motion passed by the Council and Board to begin the development a framework to consider the implementation of an LOA program specified the following: management measures (i.e. size and possession limits), notification and reporting requirements, an allocation and the ability to close the fishery once an allocation is reached.

A variety of draft alternatives were devised to provide the Council and Board with some flexibility to craft a LOA to meet their goals and objectives outlined in their motion. Alternatives were grouped into six major categories which are provided below followed by summary text to describe the category and alternatives.

1. **Participation and Enrollment** – alternatives to help determine the total number of participating vessels
2. **Reporting Requirements** – alternatives to define reporting methods and frequency, notification requirements and biological data collection requirements
3. **Management Measures** – alternatives to specify the size, season and possession limits
4. **Monitoring and Accountability** – alternatives to monitor fishery and account (through management adjustments) for the wave 1 catch and harvest
5. **Allocation** – alternatives to allocate a pre-determined amount of harvest to the wave 1 fishery
6. **Pre/Post Conditions** – alternatives that would evaluate minimum participation and an LOA program review or sunset

The Council and Board reviewed and provided feedback regarding the draft alternatives for the LOA program at their joint meeting in December¹. A small group of Council, ASMFC and GARFO staff are currently working on evaluating and further developing the draft alternatives for future consideration and approval.

¹ See December 1, 2017 staff memo regarding Black Sea Bass Wave 1 Letter of Authorization Program Framework Discussion Document. Available at: http://mafmc.org/s/Tab13_BSB-LOA-Framework-Dec2017.pdf

Future direction of a wave 1 fishery:

The LOA program being considered by the Council and Board offers a number of potential advantages to the current February fishery. For example, the opportunity to collect data on wave 1 participation, effort, catch and harvest; the ability to collect biological samples from the fishery; and increased accountability and monitoring capabilities to minimize overages and negative impacts to the rest of the fishery. However, many of the concerns and reasons raised by the states for not participating in the February 2018 fishery will remain under an LOA program. Concerns such as allocation, equity, accountability and implications, and overall perceived benefits, while considered in a more robust way within the LOA framework, would remain simply because implementing a wave 1 fishery requires accountability of the harvest and the trade-offs associated with that harvest. In addition, there will likely be a significant cost in implementing an LOA program when compared to opening the wave 1 fishery through the specification process as done in 2018. This increased cost is not only financial, but also includes greater staff time and resources, increased administrative demands at the state and federal level and increased time and effort for the recreational community.

Given these continued concerns and associated costs, the Council and Board should evaluate if an LOA program is the most appropriate approach if future participation in the wave 1 fishery remains low. If the Council and Board remain interested and committed to pursuing a wave 1 fishery in 2019 and beyond, considering trade-offs and benefits of both options may be warranted. As mentioned above, the implementation of an LOA program may provide a variety of potential benefits. Continuing to open the wave 1 fishery through specifications, as done in 2018, also has a number of potential benefits. This option would allow for maximum participation in the fishery, minimize angler requirements, only holds those states participating accountable for the harvest while requiring the least amount of fiscal and staff resources. In addition, developing voluntary monitoring and sampling approaches as part of the specification process, similar to those implemented by VA and NC in 2018, may still provide for the ability to collect participation, effort, catch and biological information that is currently unavailable.

In addition to the LOA framework/addendum, the Council and Board initiated another framework/addendum for development in 2018 that would consider a number of recreational issues such as conservation equivalency for black sea bass, slot limits for summer flounder and black sea bass and federal water transit provisions for summer flounder, scup and black sea bass. Commercial quota and recreational harvest limit black sea bass specifications for 2019 will also need to be considered by the Council and Board in 2018. Differing regulatory timing requirements between the Council and Board, alignment of Council and Board meeting schedules to accommodate the various Council and Board priorities, and staffing commitments add to the potential complexity of implementing a future wave 1 recreational black sea bass fishery.

The Council and Board should discuss the benefits and trade-offs of both options and consider the most appropriate path forward for the future of a wave 1 black sea bass fishery. Consideration should also be given to Council and Board priorities and staffing resources and commitments for 2018. If the determination is to continue pursuing a wave 1 fishery, draft alternatives and/or management measures that are different from the Framework meeting 1 memo¹ or the existing February 2018 measures, respectively, should be considered to address concerns raised by the states and to make it more advantageous for states and fishermen to participate in the fishery. At

this time, staff does not have any specific alternatives or management measures to offer, particularly as it pertains to the issue identified by all states of allocating a portion of the RHL to the wave 1 fishery and making management adjustments later in the year for the benefit of a limited number of vessels or states. This is one area of focus the Council and Board should consider when discussing possible new or different alternatives to evaluate.



COMMONWEALTH of VIRGINIA

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Molly Joseph Ward
Secretary of Natural Resources

John M.R. Bull
Commissioner

December 29, 2017

TO: Caitlin Starks, FMP Coordinator

**FROM: Joe Cimino, Deputy Chief
Fisheries Management Division, Virginia Marine Resources Commission**

SUBJECT: Intent to Participate in 2018 Black Sea Bass February Recreational Season

The Virginia Marine Resources Commission held a public hearing on December 12, 2017 to implement new management measures to comply with the ASMFC requirements to participate in the February 2018 recreational black sea bass fishery. The applicable section of Virginia Chapter 4 VAC 20-950-10 et seq. is included with this memorandum. In order for an individual to participate in the February 2018 season, Virginia has implemented requirements to: 1) obtain a free permit; 2) hail-in prior to a return to shore when a black sea bass trip is taken; and, 3) report all catch to VMRC or use federal vessel trip reporting. The VMRC will also collect biological samples from head boats using APAIS staff, and collect private angler donations from freezer locations. This regulatory changes state that any participant in the February fishery shall allow VMRC to sample recreational catch. However, staff intends most sampling to be voluntary. Using the 5,496 pounds of recreational harvest in February 2018 projected by MAFMC staff, VMRC will adjust the remainder of the 2018 to lower harvest to account for this projection. VMRC will hold a public hearing to amend the season using options approved by the ASMFC technical committee. Preliminary work suggests Virginia can account for this harvest by closing an additional two weeks during the July-August timeframe.

4VAC20-950-45. Recreational possession limits and seasons.

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally licensed to fish, multiplied by 15. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

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B. Possession of any quantity of black sea bass that exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

C. The open recreational fishing season shall be from February 1 through February 28, May 15 through September 21, and October 22 through December 31.

D. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

E. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, from February 1 through February 28, without first having obtained a Recreational Black Sea Bass Permit from the Marine Resources Commission. It shall be unlawful for any permittee to fail to contact the Marine Resources Commission Operation Station before returning to shore at the end of the fishing trip. The permittee shall provide the Operations Station with his name, MRC ID number, the point of landing, a description of the vessel, and an estimated return to shore time. Any such permittee shall submit a report, for any recreational black sea bass fishing trips, which includes that permittee's MRC ID number; the date of fishing; the mode of fishing; and the number of black sea bass kept or released. That report shall be submitted to the Commission or to the Standard Atlantic Fisheries Information System no later than March 15 of the current calendar year. Any authorized permittee shall allow VMRC staff to sample catch to obtain biological information for scientific and management purposes only.

Projected 'savings' from closed days in Wave 3 or 4, based on average 2015-16 black sea bass recreational landings.

Daily harvest rate (lbs) and savings (lbs) for the 2018 fishing season using 2015-16' wave 3 and wave 4 avg. landings			
Wave	Daily Harvest Rate (lbs)	Count of Days (Savings >= 5,500 pounds)	Total Savings (lbs)
Wave 3	530	11	5,828
Wave 4	448	14	5,820



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STEPHEN W. MURPHEY
Director

To: Brandon Muffley, MAFMC
From: Chris Batsavage and T.D. VanMiddlesworth, NCDMF
Date: January 11, 2018
Subject: February 2018 Recreational Black Sea Bass Season Participation, Monitoring, and Mitigation Measures

The North Carolina Division of Marine Fisheries (NCDMF) intends to open the recreational black sea bass fishery north of Cape Hatteras from February 1-28, 2018 with a 12.5-inch minimum size limit and a 15-fish bag limit. The NCDMF has four options for additional closed fishing days later in the year to account for the expected harvest during February (62 pounds):

- Option 1: 3 additional days in Wave 3 and 1 additional day in Wave 5
- Option 2: 2 additional days in Wave 3 and 2 additional days in Wave 5
- Option 3: 3 additional days in Wave 5
- Option 4: 5 additional days in Wave 3 (if the mid-season closure is eliminated in 2018)

The NCDMF will consult with the recreational industry on a preferred option.

The season closure calculations were based on the average harvest in numbers of fish in North Carolina (north of Cape Hatteras) in 2015 and 2016 (1,415 fish) and applied the daily harvest rates per wave from 2015 and 2016 that are found in the Council Staff memo to the Summer Flounder, Scup and Black Sea Bass Monitoring Committee (Table 2b in the memo). Harvest in 2015 and 2016 was much lower than in 2017, which results in more conservative measures (more closed days) than using projected harvest in 2017 (~17,000 fish). To convert the expected harvest during February (62 pounds) into numbers of fish, the average weight of black sea bass harvested in North Carolina (north of Cape Hatteras) in 2015 and 2016 (1.71 pounds) was used. This average weight is lower than the coastwide (MA-NC) average weight, but it is more representative of the size of fish available to anglers in the state and results in more conservative measures (lower average weight results in a greater number of fish, which requires more closed days). These conservative steps were taken to mitigate against harvest in February that is higher than expected.

The NCDMF will rely on Marine Recreational Information Program (MRIP) intercepts to collect length and weight data on black sea bass harvested in February as well as information on reported releases, catch/harvest per angler, and fishing locations. NCDMF staff responsible for MRIP sampling assignments are aware that this fishery will be open in February. In addition, NCDMF staff will work with charter boat captains who target black sea bass north of Cape Hatteras to collect black sea bass carcasses for age and growth samples.

