



Joint Meeting of the MAFMC Demersal Committee with Subset of ASMFC Summer Flounder, Scup, and Black Sea Bass Board Meeting Summary

Attendees

MAFMC Demersal Committee members: Rob O'Reilly (Chair)*, Tony DiLernia (Vice Chair), Mark Alexander*, Chris Batsavage*, Peter deFur, Warren Elliott, Peter Hughes, Mike Luisi*, John Maniscalco*, Stew Michels, Adam Nowalsky*, Eric Reid*, Mike Ruccio, Ward Slacum, Wes Townsend, Sara Winslow

ASMFC Summer Flounder, Scup, and Black Sea Bass Board members: Bob Ballou (Chair), Chris Batsavage*, Mike Luisi*, John Maniscalco*, Nichola Meserve, Adam Nowalsky*, Rob O'Reilly*, Eric Reid*

*Committee and Board member

Others: Julia Beaty (MAFMC staff), Kiley Dancy (MAFMC staff), "Daphne", Maureen Davidson, Greg DiDomenico, Emily Gilbert (GARFO), Toni Kerns (ASMFC staff), Brandon Muffley (MAFMC staff), E.C. Newellman, Caitlin Starks (ASMFC staff), Doug Zemeckis

Meeting Summary

Council staff summarized draft alternatives (Table 1) and recommendations from the Fishery Management Action Team (FMAT) for a developing framework and addendum which will consider adding the following options to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP): 1) Conservation equivalency for the recreational black sea bass fishery, 2) Transit provisions for Block Island Sound for recreational fisheries for all three species, and, 3) Slot limits for recreational fisheries for all three species. Council staff also summarized FMAT recommendations regarding a potential shift towards evaluating recreational fishery performance and modifying recreational management measures based on the annual catch limit (ACL), as opposed to the recreational harvest limit (RHL). This potential change is not currently included in the framework/addendum, but it has implications for some alternatives under consideration.

Table 1: Draft framework/addendum alternatives as discussed by the FMAT in February 2018.

- Draft alternative set 1: black sea bass conservation equivalency
 - Draft alternative 1.A: no action (conservation equivalency may not be used for black sea bass).
 - Draft alternative set 1.B: update the FMPs to allow conservation equivalency for black sea bass
 - Alternative 1.B.i: black sea bass conservation equivalency using the same process as the current summer flounder conservation equivalency process
 - Draft alternative 1.B.ii: black sea bass conservation equivalency using a modified version of the summer flounder conservation equivalency process
- Draft alternative set 2: recreational transit provisions (potentially Council only)
 - Draft alternative 2.A: no action (no recreational transit provisions)
 - Draft alternative 2.B: Block Island Sound transit provisions
- Draft alternative set 3: recreational slot limits (Council only)
 - Draft alternative 3.A: no action (slot limits cannot be used in federal recreational summer flounder, scup, or black sea bass fisheries)
 - Draft alternative 3.B: modify the Council's FMP to allow use of a maximum size limit

General Conservation Equivalency Comments

There was general consensus among participants on the call that it would be beneficial to streamline the conservation equivalency process and decrease the amount of time needed to develop, approve, and implement state waters measures and waive federal waters measures.

The FMAT recommended that this framework and addendum not include alternatives to use conservation equivalency in 2019 and instead focus on updating the FMPs to allow conservation equivalency to be used in a future year. This recommendation was largely based on the timing of this action and the difficulty of implementing conservation equivalency in time for use in 2019. Participants on the call did not support this recommendation at this point in time. One Committee and Board member said all options should remain on the table. Another Committee member cautioned that the timeline for completion of this action is ambitious, especially given other actions currently under development for summer flounder, scup, and black sea bass.

One Committee member said he preferred a state-by-state system to a regional system for black sea bass conservation equivalency.

Conservation Equivalency Rollover

Multiple Committee and Board members supported the idea of allowing conservation equivalency to roll over from year to year, for both black sea bass and summer flounder. Under the current summer flounder process, federal waters measures are waived through the end of the year in favor of state waters measures. After the end of the year, federal measures are in place until the rule making process to waive them for the next year is completed. Rollover in this context would mean that use of conservation equivalency and the waiving of federal measures could remain in place until modified rather than expiring at the end of each year. The Council

and Board would still need to review the recreational strategy for the upcoming year to ensure that conservation equivalency rollover is appropriate for the upcoming year. This would be more administratively efficient than the process currently used for summer flounder as in theory it would not require GARFO to go through the rulemaking process each year to waive the federal waters measures. Staff clarified that given the timing of data availability from the Marine Recreational Information Program (MRIP), the Council and Board would still need to review projected fishery performance in December and final recreational estimates early in the next year. The Council and Board would still need to review the non-preferred coastwide and precautionary default measures each year to ensure that the fishery would be constrained to the appropriate management target (i.e. a single-year ACL or RHL, see pages 4-5).

For conservation equivalency to rollover from one year to the next, the non-preferred coastwide and precautionary default measures would need to be appropriate for the ACL or RHL in both years. To address this, one Committee member suggested that the non-preferred coastwide and precautionary default measures be crafted with this flexibility in mind.

One Committee and Board member noted that under the current process for summer flounder, conservation equivalency expires at the end of the year, but the federal waters measures are not waived until the spring. This means that from January 1 until NMFS completes the rule-making process to waive the federal waters measures, the non-preferred coastwide measures from the previous year are technically in place in federal waters. This not only creates the potential for confusion, but can also create a situation where federal waters measures are more restrictive than state waters measures.

Conservation Equivalency Allocations

Under summer flounder conservation equivalency, the Board determines state/regional RHL allocations without formal input from the Council. One Committee member said this framework/addendum should include an alternative for conservation equivalency allocations to be decided upon jointly by the Council and Board. Another Committee and Board member agreed with this recommendation, adding that the Council is considering commercial allocation options through the Commercial Issues Summer Flounder Amendment, thus it would be inconsistent for the Council not to consider RHL allocations for black sea bass conservation equivalency. One Committee and Board member added that allocations should be reevaluated on a regular basis, such as every five years.

Multiple other Committee and Board members disagreed with the recommendation for joint allocation decisions due to concerns about the balance of representation among the states between the Council and Commission. Massachusetts, Connecticut, and Rhode Island are not voting members of the Council. In addition, some were concerned that adding the Council to the decision-making process would add complexity to and prolong the rule-making process for allocation changes.

Multi-Year Approaches to Recreational Management

One Committee and Board member requested that options be considered to evaluate the recreational fishery based on multiple years of performance and multiple years of RHLs and/or ACLs, regardless of whether conservation equivalency is used. This could add efficiency to the process and could result in less frequent modifications of recreational management measures.

Staff noted that multiple years of data are already considered during some parts of the process. For example, the Monitoring and Technical Committees consider multiple years of data to project harvest when developing management measures for the upcoming year. In addition, three years of catch and ACLs are compared when determining if recreational accountability measures are triggered.

One Committee member said the Magnuson Stevens Fishery Conservation and Management Act and the National Standard 1 Guidelines allow some flexibility in terms of multi-year approaches to management, including allowing a single-year ACL to be exceeded in certain circumstances. For example, stock status, the reason for the overage, and other details can be considered when determining whether an ACL overage necessitates implementation of an accountability measure. However, it should be noted that the summer flounder conservation equivalency regulations require constraining harvest to a single-year RHL.

One participant on the call suggested looking into the process used by the South Atlantic Fishery Management Council and Southeast Regional Office for cobia management, which may provide a useful example of setting measures for multiple years and modifying them only if there is a significant change in circumstances (e.g. stock status or fishery performance).

Managing to the ACL

The Committee and Board members discussed the possibility of managing the recreational black sea bass fishery based on a comparison of catch to the ACL, as described in Addendum XXX to the Commission's FMP. Addendum XXX also describes a process where if there is an ACL overage, catch would be compared to a three-year moving average of the ACL to determine if modifications to management measures are needed. Staff presented Figure 1, below, which shows that in every year since 2012, recreational black sea bass catch exceeded both the ACL and the three-year moving average ACL (where the average includes the current year and the two prior years). Staff asked participants on the call to clarify the intent behind using a three-year average of the ACL when evaluating management measures. For example, Addendum XXX implies that a single year of catch would be compared to a three-year moving average of the ACL; however, it may be worth also considering a comparison of three years of catch to three years of the ACL. Staff also asked if the intent was to craft measures to achieve the ACL, or to achieve the RHL with the ACL taken into account when determining if modifications are needed.

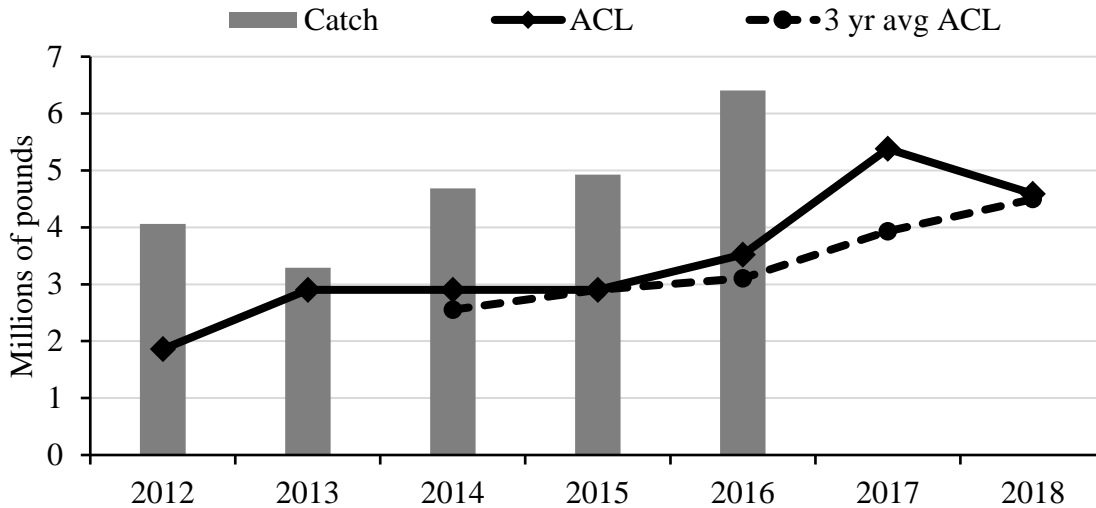


Figure 1: Recreational black sea bass catch, ACL, and three-year moving average ACL, 2012-2018. Catch values are from the 2017 data update provided by the Northeast Fisheries Science Center.

One Committee and Board member said managing the recreational fishery based on catch compared to the ACL rather than harvest compared to the RHL could help reduce discards. Another Board member agreed, saying managing to the ACL would better address total mortality compared to the current process. It could also incentivize reducing discards and converting discards to landings, which is something that certain stakeholders have been asking for.

Several participants on the call highlighted potential issues with managing to the ACL. Two Committee and Board members said managing to the ACL would disadvantage northern states, given regional differences in the availability and size distribution of black sea bass.

Two participants highlighted concerns about the accuracy and precision of recreational data used in the current process, as well as challenges with the timing of the current process. These issues would be exacerbated if measures were evaluated based on the ACL because discard information would need to be considered. Recreational discards are much more difficult than landings to accurately estimate, in part because they are largely based on self-reported angler data. In addition, dead discard data in weight for one year are typically not available until at least June of the next year. Preliminary harvest data can be used to project harvest for the full year late in that same year. Final harvest estimates for the full year are typically available the next spring. Given the data needed to estimate dead discards (i.e. MRIP live discard estimates, discard length distributions from a variety of programs, and age/weight/length relationship data from a variety of sources), dead discards in weight cannot be projected prior to the year's end as accurately as harvest.

One Committee and Board member said he had hoped that evaluating management measures based on the ACL would provide more flexibility than the current process, but given the information presented in Figure 1, it may be preferable to focus on other changes, such as moving towards a multi-year approach to management. A few other participants on the call voiced agreement.

One Committee and Board member questioned if recreational management measures for a given year could be crafted based on data from two years prior (e.g. 2019 measures based on 2017 fishery performance) and stock assessment projections of future availability. This would allow measures to be finalized earlier than the current process. Council staff noted that this is possible, but there are already concerns about assuming fishery performance in one year will be similar to the prior year. The Monitoring and Technical Committees have partly addressed this concern by using multiple years of data to project current the year's harvest when considering management measures for the following year.

One Committee member asked if information from the 2016 black sea bass benchmark stock assessment could be used to manage the northern region (north of Hudson Canyon) differently than the southern region (Hudson Canyon through Cape Hatteras). This could help address concerns about differences in availability and size distribution among the northern and southern states. Council staff said this may also require managing the commercial fishery on a regional basis because fishing mortality estimates and reference points include both commercial and recreational removals.

One Committee and Board member summarized the discussion by saying that it may be worth focusing on other priorities besides managing to the ACL; however, the group did not wish to recommend removing this item from consideration at this time. The group also did not recommend whether this issue should be pursued through this framework/addendum and if it should address other species in addition to black sea bass.

Slot Limits

Council staff clarified that updating the Council's FMP to allow use of a maximum size limit would allow for traditional slot limits, split slots, and trophy fish. Before implementing any specific slot limits in a given year, the Monitoring and Technical Committees would need to analyze the impacts of those slots. Two Committee members expressed support for adding this type of management tool to the FMP as an option for all three species.

One Committee and Board member said he did not support the use of slot limits for black sea bass because it could encourage discarding of larger fish, which are more prone to barotrauma than smaller fish. He argued that a slot limit would not result in a major change in discard mortality, adding that descending devices cannot sufficiently minimize mortality from barotrauma. He said the Council and Board should ultimately move towards elimination of the minimum size limit and a prohibition of discards, which he hoped would be tested at a small scale through a Letter of Authorization program for the wave 1 (January-February) black sea bass recreational fishery.

One Committee and Board member agreed that slot limits may not be appropriate for black sea bass given concerns about barotrauma and cautioned against mandating slot limits for the entire coast, given regional differences in the size distribution of black sea bass.

One Committee and Board member summarized past Monitoring and Technical Committee recommendations regarding slot limits for summer flounder. Given the current status of the summer flounder stock (i.e. biomass is below the biomass target and overfishing is occurring) and resulting low RHLs in recent years, a slot limit would need to be very narrow to prevent an RHL overage. Black sea bass spawning stock biomass is currently more than double the biomass

target; therefore, black sea bass may be a better candidate for slot limits than summer flounder at this point in time.

Block Island Sound Transit Provisions

No participants on the call expressed opposition to allowing recreational vessels with summer flounder, scup, or black sea bass caught in state waters to transit federal waters in Block Island Sound.

Two participants requested that similar provisions also be considered for commercial fisheries. Commercial black sea bass and summer flounder fisheries are managed on a state-by-state basis with no federal seasons or possession limits; thus, conflicting regulations are generally not an issue for individuals fishing under federal permits. However, state-only commercial permit holders are currently not permitted to transit Block Island Sound with summer flounder, scup, or black sea bass in excess of the recreational possession limit on board.

Two participants suggested that the transit provisions also consider situations where the recreational bag or minimum size limit is more restrictive in federal waters than in state waters. The FMAT advised against this as it would be more complicated for enforcement than simply addressing situations where federal waters are closed and state waters are open. One participant on the call suggested that the Commission's Law Enforcement Committee provide input on this issue.

One Board member mentioned that bills have been put forward which would allow harvest of striped bass within the Block Island Sound transit area, where currently vessels are only allowed to transit federal waters with striped bass on board.