



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 26, 2017
To: Chris Moore, Executive Director
From: Kiley Dancy, Staff
Subject: Summer Flounder Amendment Commercial Alternatives and July 2017 Demersal Committee Recommendations

On August 8, the Council and Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) are scheduled to review and approve a range of alternatives for commercial fishery issues within the Summer Flounder Amendment, for inclusion in a public hearing document to be developed this fall. The Council and Board will review recommendations on commercial alternatives from the Council's Demersal Committee, which met with a subset of the Board in Linthicum, MD on July 11-12, 2017.

Materials Included for Council and Board Consideration

The following materials are included for the Council and Board's consideration of this subject:

1. Summary of Demersal Committee recommendations and amendment next steps (this document)
2. July 2017 commercial issues discussion document with draft range of alternatives (version reviewed by Committee on July 11-12)
3. Advisory Panel comments on draft range of alternatives (from June 28, 2017 Advisory Panel meeting) and additional written comments relevant to summer flounder amendment

Supplemental materials will also be posted to the meeting materials website, including any additional analyses completed prior to the August Council meeting and any additional comments received.

July 11-12 Demersal Committee Meeting Summary and Motions

Permits and Latent Effort: The Committee discussed moving forward with analysis of federal single-tier permit requalification options, suggesting several specific options for requalification timeframes and landings thresholds, as described below. Although there were no formal motions on consideration of state level permits, the general Committee direction regarding state permits was that they should be addressed at the state level and/or by Commission action. Committee members had mixed opinions on how to define "latent effort" for federal permit analysis and what

levels of effort or participation in the fishery should be considered as cutoff points for requalification (i.e., whether the goal of permit alternatives should be eliminating only permits that are not used at all, vs. determining a broader definition of latent effort). The Committee also discussed analyzing the number of *trips* for summer flounder instead of poundage thresholds. However, all thresholds ultimately recommended by the Committee for exploration include a 1-pound landings qualifier (within different time frames and number of years of qualification required), such that analysis of the number of trips would yield the same results as pounds, if a summer flounder trip is defined as “any trip with landings of summer flounder.” Ultimately, to get at varying levels of participation, the Committee recommended exploring different timeframes, and varying numbers of years that summer flounder landings would be required in order to meet the requalifying criteria (see motions and Table 2).

Commercial Allocation: After providing feedback on some of the commercial allocation options, the Committee considered a motion to remove commercial allocation options from consideration in this action. That motion was tabled until after discussion of landings flexibility alternatives, but after returning to the motion, the Committee voted 9/6/1 to recommend to the Council and Board to postpone indefinitely analysis of all commercial allocation options in the document.

Landings Flexibility: The Council and Board discussed elements of various landings flexibility policies and how they would work in practice, with mixed opinions from members on whether such policies are feasible or desirable. The group discussed whether and how the Council and Board might encourage states to come up with their own multi-state agreements for landings flexibility and/or multiple possession limit allowances, without making such policies a mandatory element of the joint FMP. Some Committee members wanted to maintain the option of exploring such policies in the joint FMP in the future, if pursuing state agreements did not achieve the Council and Board’s goals. Thus, the Committee recommended removing landings flexibility as an immediate option in the Summer Flounder Amendment in favor of encouraging states to develop their own policies; however, the Committee also recommended including landings flexibility as a frameworkable issue in the Council’s FMP so that if desired in the future, such a policy could be implemented through a more efficient framework action.

July 11, 2017 Motions

Move to accept staff recommendation for single tier requalification timeframes, and add third timeframe of August 1, 2009-August 1, 2014.

DiLernia/deFur (14/1/0) - Motion carries

Move to include analysis of requalification timeframe of August 1, 1994 through the control date of August 1, 2014.

Hughes/Reid (15/0/0) - Motion carries

Move to ask staff to analyze threshold criteria of 1 lb, or 500 lb, or 1,000 lb, or 2,500 lb cumulative over the various timeframes.

DiLernia/Batsavage

Move to substitute to analyze threshold criteria of 1 lb in any one year, in 20% of the years, in 40% of the years, and in 60% of the years in the applicable time series.

Alexander/Reid

Move to amend to analyze threshold criteria of 1lb and 1,000 lb in any one year, in 20% of the years, in 40% of the years, and in 60% of the years in the applicable time series.

Nolan/McMurray (4/12/0) - Motion fails

Back to substitute motion:

Move to substitute to analyze threshold criteria of 1 lb in any one year, in 20% of the years, in 40% of the years, and in 60% of the years in the applicable time series.

Alexander/Reid (9/7/0) - Motion carries

Substitute becomes main motion:

Move to analyze threshold criteria of 1 lb in any one year, in 20% of the years, in 40% of the years, and in 60% of the years in the applicable time series.

Alexander/Reid (10/6/0) - Motion carries

Move to considered but rejected alternatives 1C and 1D in the document.

Hughes/deFur (16/0/0) - Motion carries

July 12, 2017 Motions

Move to recommend that the Council postpone indefinitely all further action on commercial allocation issues within this amendment.

Reid/Hughes

Move to table motion until after landings flexibility discussion today.

Nowalsky/Michels (10/6/0) - Motion carries

Move to recommend that the Council remove landings flexibility as an option but include landings flexibility as a frameworkable option in the FMP, and send a letter to ASMFC encouraging further development of landings flexibility policies and agreements at the state level including allowing multiple state possession limits with appropriate permits.

Nowalsky/Reid (12/4/0) - Motion carries

Move to recommend that the Council postpone indefinitely all further action on commercial allocation issues within this amendment.

Reid/Hughes (9/6/1) - Motion carries

Table 1: Summary of Draft Range of Alternatives Reviewed by Committee

1. Permits/Latent Effort	
1A	No action/ <i>status quo</i> (existing moratorium permits)
1B	Requalification of federal single-tier moratorium permits (qualifying criteria TBD; may have various sub-options or be split into several separate alternatives)
1C	Create tiered federal permit system based on landings and/or effort criteria (TBD; could have multiple sub-options)
1D	Create tiered federal permit system based on gear type (exact gear breakdowns and restrictions TBD)
2. Commercial Allocation	
2A	No action/ <i>status quo</i> (existing state allocations based on 1980-1989 landings)
2B	Revised state-by-state allocations (see sub-options)
2B-1	Revised base year period for landings and/or effort (years TBD; could be expanded into multiple options)
2B-2	"Best years" of landings/effort over a given time period (years TBD; could be expanded into multiple options)
2B-3	Combination of current allocation and recent distribution of summer flounder (e.g., 50% current allocation, 50% recent distribution)
2C	Coastwide quota with seasonal periods (see sub-options)
2C-1	Trimester quota system
2C-2	Bimonthly quota system
2D	Scup quota model (coastwide quota in 2 winter periods; state by state quota in the summer; see sub-options)
2D-1	Allocation between quota periods based on recent landings by period (e.g., last 20 years)
2D-2	Summer period state allocations based on current state allocations
2D-3	Summer period state allocations based on revised set of base years (landings and/or effort qualifiers TBD)
2E	Regional quota system; similar to current state system but with multi-state regions
2F	Allocations by permit category (by gear type or other tiers; would require creation of new permit tiers under alternative set 1)
3. Landings Flexibility	
3A	No action/ <i>status quo</i> (no landings flexibility)
3B	Adopt coastwide landings flexibility (see sub-options)
3B-1	Allow landing in any port; allow sale of summer flounder in landing state
3B-2	Allow landing in any port; require transport by land to permit state (trucking)
3C	Allow multiple state possession limits on board with appropriate permits

Table 2: Committee-Recommended Refined Range of Alternatives

1. Permits/Latent Effort	
1A	No action/ <i>status quo</i> (maintain existing federal moratorium permits with no requalification)
1B	<p>Requalification of existing federal single-tier moratorium permits (only currently moratorium permit holders, including those in CPH, could requalify). The Committee recommended initial consideration of the following requalification criteria:</p> <p>Time periods:</p> <ul style="list-style-type: none"> • August 1, 1994 through August 1, 2014 (20 years) • August 1, 1999 through August 1, 2014 (15 years) • August 1, 2004 through August 1, 2014 (10 years) • August 1, 2009 through August 1, 2014 (5 years) <p>Landings thresholds:</p> <ul style="list-style-type: none"> • Landed at least 1 lb of summer flounder in any one year in the time period • Landed at least 1 lb of summer flounder in 20% of the years in the time period • Landed at least 1 lb of summer flounder in 40% of the years in the time period • Landed at least 1 lb of summer flounder in 60% of the years in the time period <p>Given the August 1 start and end dates of the time periods, individual years are defined as “August 1 Year X through July 31 Year X+1.” The combinations of time and landings thresholds in theory yields 16 options, however, for the 5-year time frame, the “any one year” = “20% of the years.” The full list of options to analyze requested by the Committee are thus:</p> <ol style="list-style-type: none"> a. Landed at least 1 lb of summer flounder in any one year in the time period August 1, 1994 through August 1, 2014 b. Landed at least 1 lb of summer flounder in at least 4 years during the time period August 1, 1994 through August 1, 2014 c. Landed at least 1 lb of summer flounder in at least 8 years during the time period August 1, 1994 through August 1, 2014 d. Landed at least 1 lb of summer flounder in at least 12 years during the time period August 1, 1994 through August 1, 2014 e. Landed at least 1 lb of summer flounder in any one year in the time period August 1, 1999 through August 1, 2014 f. Landed at least 1 lb of summer flounder in at least 3 years during the time period August 1, 1999 through August 1, 2014 g. Landed at least 1 lb of summer flounder in at least 6 years during the time period August 1, 1999 through August 1, 2014 h. Landed at least 1 lb of summer flounder in at least 9 years during the time period August 1, 1999 through August 1, 2014 i. Landed at least 1 lb of summer flounder in any one year in the time period August 1, 2004 through August 1, 2014 j. Landed at least 1 lb of summer flounder in at least 2 years during the time period August 1, 2004 through August 1, 2014 k. Landed at least 1 lb of summer flounder in at least 4 years during the time period August 1, 2004 through August 1, 2014 l. Landed at least 1 lb of summer flounder in at least 6 years during the time period August 1, 2004 through August 1, 2014 m. Landed at least 1 lb of summer flounder in any one year in the time period August 1, 2009 through August 1, 2014 n. Landed at least 1 lb of summer flounder in at least 2 years during the time period August 1, 2004 through August 1, 2014 o. Landed at least 1 lb of summer flounder in at least 3 years during the time period August 1, 2004 through August 1, 2014

2. Landings Flexibility	
2A	No action/ <i>status quo</i> (no landings flexibility)
2B	<p>Add a coastwide landings flexibility policy as a frameworkable issue in the Summer Flounder, Scup, and Black Sea Bass FMP</p> <ul style="list-style-type: none"> • Such a policy would require states to allow commercial landings of summer flounder in any port; allow sale of summer flounder in landing state <ul style="list-style-type: none"> ○ This option would almost certainly require subsequent quota transfers between states (or regions) under a state-by-state (or regional) quota system for timely and accurate quota monitoring. ○ Note that requiring land transport (trucking) to permit state is unlikely to be feasible/enforceable. • Such a policy could also allow multiple state possession limits on board with appropriate permits. <ul style="list-style-type: none"> ○ This may require a distinction in state regulations between landings limits and possession limits (for states that do not currently have this distinction). ○ Note that states have differing definitions of what constitutes “landing” fish, which may present enforcement issues if regulations are not designed around this.

Next Steps

- **Staff will convene the commercial working group and Fishery Management Action Team (FMAT)** to further develop and analyze the range of alternatives approved by the Council and Board at the joint August meeting.
- If the full Council and Board determine that the amendment should consider commercial allocation options, additional Committee and Board work may be required to refine specific options.
- **Staff will begin developing a public hearing document.** Depending on the number and complexity of options, a public hearing document could be developed by December. If additional alternatives are included beyond the Committee recommendations, additional time may be required for refining and analyzing alternatives.
- **Staff will continue developing a draft Environmental Impact Statement (DEIS).** A DEIS must be developed and approved by the Council prior to public hearings. Typically, a DEIS also goes through preliminary NMFS review prior to Council approval. Council approval of a DEIS is tentatively scheduled for February 2018 (if the Council and Board approve a public hearing document in December). However, depending on the complexity of analysis required, this step may require additional time.