



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 27, 2020
To: Chris Moore, Executive Director
From: Julia Beaty, staff
Subject: Recreational Reform Initiative

During their August 2020 joint meeting, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) will discuss next steps for the Recreational Reform Initiative. The goal of this discussion is to determine if a framework/addendum or amendment should be initiated to address any management options considered through the Recreational Reform Initiative.

The following documents are included behind this tab for Council and Board consideration:

- Draft outline of the Recreational Reform Initiative developed by the Recreational Reform Steering Committee
- Summary of May 28, 2020 Monitoring Committee discussion of the Recreational Reform Initiative
- Summary of topics removed from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment, including FMAT recommendations for those topics
- Summer flounder, scup, and black sea bass regulations regarding framework adjustments (regulations are identical for all three species)
- Summary of July 14, 2020 Recreational Reform Steering Committee call
- Staff memo on which options currently under consideration could likely be pursued through an FMP framework/addendum and which would likely require an FMP amendment
- Additional comments on Harvest Control Rule from Adam Nowalsky

Recreational Management Reform

Joint initiative of the Mid-Atlantic Fishery Management Council (MAFMC), Atlantic States Marine Fisheries Commission (ASMFC), and the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) addressing recreational management of black sea bass, summer flounder, scup, and bluefish

Draft initiative outline developed by the Recreational Management Reform Steering Committee
This document is intended for discussion purposes by the Monitoring and Technical Committees.
It has not been approved by the MAFMC and ASMFC for other purposes.

4/27/2020

Goal/Vision

- **Stability** in recreational management measures (bag/size/season)
- **Flexibility** in the management process
- **Accessibility** aligned with availability/stock status*

* This component of the goal/vision is meant to address the perception from some stakeholders that management measures are not aligned with stock status (e.g., restrictive black sea bass measures when spawning stock biomass is more than double the target level). The intent is not to circumvent the requirement to constrain recreational catch to the annual catch limit, nor is the intent to change the current method for deriving catch and landings limits as defined in the fishery management plans (FMPs).

Objective 1: Better incorporate uncertainty in the MRIP data into the management process

- This is not a standalone objective. Everything listed below could be used in conjunction with all other objectives.
- Adopt a process for **identifying and smoothing outlier estimates**, to be applied to both high and low outlier estimates as appropriate. Develop a standard, repeatable process to be used each year. The Monitoring and Technical Committees would maintain the discretion to deviate from this process if they provide justification for doing so. The process currently used by the Monitoring and Technical Committees is not codified in the FMPs; therefore, it is not anticipated that a change to this method would require an FMP framework/addendum or amendment. However, it would be beneficial to include an approved process in a technical statement of organization, practices, and procedures (SOPPs) document for the development of recreational measures.
 - *Status*: Starting in 2018, the Summer Flounder, Scup, Black Sea Bass Technical Committee recommended using the Modified Thompson's Tau approach to identify outlier MRIP estimates. They used two different approaches to smooth two black sea bass outlier estimates (i.e., New York 2016 wave 6 for all modes and New Jersey 2017 wave 3 private/rental mode only). They agreed that the appropriate smoothing method may vary on a case by case basis.
 - *Potential next steps*: Establish a process to be used for all four species to identify and smooth outlier MRIP estimates, as appropriate. The process described above

for black sea bass could be used for this purpose. Discuss whether smoothed estimates should be used in other parts of the process, in addition to determining if changes to recreational management measures are needed (e.g., ACL evaluation and discards, should low estimates also be smoothed). Guidelines for how these smoothed estimates will be used should also be established. Monitoring/Technical Committee input would be beneficial.

- *Suggested immediate next step*: Task the Monitoring/Technical Committees with developing a draft process for identifying and smoothing outlier MRIP estimates for all four species.
- Use an **envelope of uncertainty approach** when determining if changes in recreational management measures are needed. Under this approach, a certain range above and below the projected harvest estimate (e.g., based on percent standard error) would be defined to be compared against the upcoming year's RHL. If the RHL falls within the pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures. The intent is to develop a standard, repeatable, and transparent process to be used each year. The Monitoring and Technical Committees would maintain the discretion to deviate from this process if they saw sufficient justification to do so. The process currently used by the Monitoring and Technical Committees to determine if changes are needed to recreational management measures is not codified in the FMPs; therefore, a change to this method may not require an FMP framework/addendum or amendment. However, it would be beneficial to include an approved process in a technical SOPPs document for the development of recreational measures.
- *Status*: The 2013 Omnibus Recreational Accountability Measures Amendment considered a similar approach using confidence intervals around catch estimates to determine if the recreational ACL had been exceeded; however, that amendment proposed using only the lower bound of the confidence interval, rather than the upper and lower bounds. For this reason, that portion of the amendment was disapproved by NOAA Fisheries. In some recent years, the Monitoring and Technical Committees have made arguments for maintaining *status quo* measures for black sea bass and summer flounder based on percent standard error (PSE) values associated with MRIP estimates.
 - *Potential next steps*: Work with the Monitoring/Technical Committee to define the most appropriate confidence interval around the projected harvest estimate for comparison against the upcoming year's RHL (e.g., +/- 1 PSE). Technical analysis (e.g., simulations) may also be needed to evaluate the impacts of maintaining *status quo* recreational management measures when small to moderate restrictions or liberalizations would otherwise be required or allowed.
 - *Suggested immediate next step*: Task the Monitoring/Technical Committee with developing recommendations for this approach.
- **Evaluate the pros and cons of using preliminary current year data** combined with data from a single previous year, or multiple previous years, to project harvest for comparison against the upcoming year's RHL. The FMPs do not currently prescribe which data should be used to develop recreational management measures, beyond requiring use of the best scientific information available. If the Council and Board wish to provide guidance to the Monitoring and Technical Committees on which data to use, or if they wish to place restrictions on the use of certain types of data (e.g., preliminary

current year data), then a technical SOPPS document or an FMP framework/addendum or amendment may be necessary

- *Status:* Each year MAFMC staff develop initial projections of recreational harvest of summer flounder, scup, and black sea bass in the current year to compare against the upcoming year's RHL. These projections combine preliminary current year harvest estimates through wave 4 with the proportion of harvest by wave in one or more past years. The Monitoring Committee provides recommendations on the appropriate methodology in any given year and the data used (e.g., one or multiple previous years) varies on a case by case basis. A different process is used for bluefish. Historically, expected bluefish recreational harvest has been evaluated when considering a recreational to commercial transfer. Expected bluefish harvest was typically based on the previous year or a multiple year average and did not account for preliminary current year data. These different methodologies were developed based on Monitoring Committee guidance and are not prescribed in the FMP. The Recreational Reform Steering Committee has suggested that consideration should be given to the appropriateness of using preliminary current year data and data from one or multiple previous years. No progress has been made on this topic beyond preliminary discussions at the steering committee level.
- *Potential next steps:* Evaluate the various methodologies that have been used to project recreational harvest of the four species in the past and how this intersects with other changes under consideration (e.g., setting measures for two years at a time, objective 3). Discuss if changes should be considered and if analysis is needed.
- *Suggested immediate next step:* Seek Monitoring/Technical Committee input on whether changes to the current process for calculating expected recreational harvest are needed.

Objective 2: Develop guidelines for maintaining *status quo* measures

- This is not a standalone objective. It could be used in conjunction with objectives 1, 3 (with the exception of the interim year, as described under objective 3), and 5.
- Develop a process for considering both recreational harvest data (all considerations under objective 1 could apply) and multiple stock status metrics (biomass, fishing mortality, recruitment) when deciding if measures should remain unchanged. For example, poor or declining stock status indicators could require changes when *status quo* would otherwise be preferred. Depending on the specific changes under consideration, an FMP framework/addendum or amendment may be necessary, or a technical SOPPS document could be developed.
 - *Status:* The steering committee drafted a preliminary example which was discussed at the [October 2019 joint Council/Board meeting](#).
 - *Potential next steps:* Recommend draft guidelines for maintaining *status quo* measures and consider which, if any, types of technical analysis are needed to consider the potential impacts. Consider if socioeconomic factors (e.g., trends in fishing effort) should also be included in these guidelines.
 - *Suggested immediate next step:* Seek Monitoring/Technical Committee input on the initial draft guidelines developed by the steering committee.

Objective 3: Develop process for setting multi-year recreational management measures

- This is not a standalone objective. It could be used in conjunction with objectives 1, 2, and 5.
- Develop a process for setting recreational management measures for two years at a time with a commitment to making no changes in the interim year. This would include not reacting to new data that would otherwise allow for liberalizations or require restrictions. Objective 2 (control rules for maintaining *status quo* measures) would not apply in the interim year. Everything under objective 1 (incorporate uncertainty in the MRIP data) could also apply here. An FMP framework/addendum may be needed to make this change. For example, changes to the current accountability measure regulations may be needed. Additional discussions with GARFO are needed regarding Magnuson-Stevens Act requirements.
 - *Status:* The steering committee drafted a preliminary example process which was discussed at the [October 2019 joint Council/Board meeting](#). Previous steering committee discussions indicated that this is a high priority topic and it is central to the draft mission statement previously proposed by the steering committee (i.e., allow for more regulatory stability and flexibility in the recreational management programs for summer flounder, scup, black sea bass, and bluefish by revising the current annual timeframe for evaluating fishery performance and setting recreational specifications to a new multi-year process.)
 - *Potential next steps:* Consider if changes are needed to the draft timeline included in the [October 2019 joint meeting briefing materials](#). Further evaluate how the Magnuson-Stevens Act requirement for annual evaluation of annual catch limit overages and accountability would factor into this approach.
 - *Suggested immediate next step:* Work with GARFO to determine if there are major impediments to this potential change based on Magnuson-Stevens Act requirements.

Objective 4: Consider improvements to the process used to make changes to state and federal recreational management measures

- This is not a standalone objective. It could be used in conjunction with objectives 1, 3 (with the exception of the interim year, as described under objective 3), and 5.
- The steering committee has discussed various considerations related to maintaining *status quo* management measures; however, they have not discussed the process that should be used when changes are needed. In recent years, federal waters measures have been adjusted at the coastwide level and state waters measures have been adjusted at the state/region and wave level. Improvements to various aspects of the current process for changing measures may warrant consideration. Topics which could be addressed could include state by state versus regional management measures, the federal conservation equivalency process, guidelines for using MRIP data at coastwide/regional/state/wave/mode levels, using data sources other than MRIP, and other topics. Depending on the specific changes desired, this may require an FMP framework/addendum or amendment.
 - *Status:* Not currently identified as a priority by the steering committee.

- *Suggested immediate next step*: Clarify if this is a priority for the Council and Board and which specific topics should be addressed.

Objective 5: Consider making recommendations for federal waters recreational management measures earlier in the year

- This is not a standalone objective. Everything listed below could be used in conjunction with all other objectives.
- The steering committee has discussed the idea of recommending federal waters recreational management measures in August or October rather than December of each year (or every other year, see objective 3). The current process of recommending federal waters measures for the upcoming year in December can pose challenges for implementing needed changes in both federal and state waters in a timely and coordinated manner. It also limits how far in advance for-hire businesses can plan their trips for the upcoming year. In recent years, changes to the federal recreational measures for summer flounder, scup, and/or black sea bass have not been implemented until May-July of the year in which the changes are needed. Adopting recommendations for federal waters measures in August or October could allow for changes to be implemented earlier in the year; however, fewer data on current year fishery performance would be available for consideration. If there is a significant change in the process to establish measures, an FMP framework/addendum or amendment may be necessary.
 - *Status*: Has been identified by steering committee as a potential priority, but the pros and cons have not yet been given thorough consideration.
 - *Potential next steps*: Evaluate the pros and cons of this change and how it would intersect with other changes under consideration (e.g., setting measures for two years at a time, objective 3). Discuss if analysis is needed. Monitoring/Technical Committee input could be beneficial, especially regarding implications related to the timing of data availability.
 - *Suggested immediate next step*: Seek Monitoring/Technical Committee input on the pros and cons of recommending federal waters recreational management measures for the following year in August, October, or December of the current year.

Steering Committee membership (in alphabetical order):

Julia Beaty (MAFMC staff)
 Joe Cimino (MAFMC Summer Flounder, Scup, Black Sea Bass Committee Vice Chair)
 Justin Davis (ASMFC Summer Flounder, Scup, Black Sea Bass Management Board Vice Chair)
 Tony DiLernia (MAFMC Summer Flounder, Scup, Black Sea Bass Committee Chair)
 Emily Keiley (GARFO staff)
 Toni Kerns (ASMFC staff)
 Mike Luisi (MAFMC chair)
 Adam Nowalsky (ASMFC Summer Flounder, Scup, Black Sea Bass Management Board Chair)
 Mike Ruccio (GARFO staff)
 Caitlin Starks (ASMFC staff)



**Summer Flounder, Scup, and Black Sea Bass Monitoring Committee
Webinar Meeting
May 28, 2020
Partial Meeting Summary (Recreational Reform Initiative Only)**

Monitoring Committee Attendees: Julia Beaty (MAFMC staff), Peter Clarke (NJ DEP), Dustin Colson Leaning (ASMFC staff), Karson Coutré (MAFMC staff), Kiley Dancy (MAFMC staff), Steve Doctor (MD DNR), Emily Keiley (GARFO), Alexa Kretsch (VMRC), John Maniscalco (NY DEC), Lee Paramore (NC DMF), Caitlin Starks (ASFMC staff), Rachel Sysak (NY DEC), Mark Terceiro (NEFSC), Corinne Truesdale (RI DEM), Sam Truesdell (MA DMF), Greg Wojcik (CT DEP), Rich Wong (DNREC), Tony Wood (NEFSC)

Additional Attendees: Annie, Steve Cannizzo (NY RFFA), Mike Celestino (NJ DEP, Bluefish MC), Nicole Lengyel Costa (RI DEM, Bluefish MC), Maureen Davidson (NY DEC, Council/Board member), Greg DiDomenico (Lund's Fisheries), Tony DiLernia (Council member), Cynthia Ferrio (GARFO, Bluefish MC), James Fletcher (United National Fishermen's Association), Jeff Kaelin (Lund's Fisheries), Joseph Munyandorero (FL FWC, Bluefish MC), Adam Nowalsky (Council/Board member), Eric Reid (Council member), SRW, Mike Waine (ASA), Kate Wilke (Council member), Amy Zimney (SC DNR, Bluefish MC)

Meeting Summary

The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee met via webinar on Thursday May 28, 2020 to discuss several topics. The Bluefish Monitoring Committee was invited to participate in the discussion of the Recreational Reform Initiative as this initiative also addresses bluefish.

Briefing materials considered by the Monitoring Committee are available at:
<https://www.mafmc.org/council-events/2020/sfsbsb-mc-may28>.

Note: This document summarizes only the Monitoring Committee's discussion of the Recreational Reform Initiative. A more complete summary addressing all topics discussed by the Monitoring Committee will be compiled at a later date.

Recreational Reform Initiative

Council staff summarized a draft outline of the Recreational Reform Initiative developed by the Recreational Reform Steering Committee. The Monitoring Committee was generally supportive of continued development of all approaches in the Steering Committee outline. Comments on each objective in the outline are summarized below.

Objective 1: Better incorporate uncertainty in the MRIP data into the management process

Objective 1 in the Steering Committee outline contains three specific suggestions for better considering uncertainty in the MRIP data. The first suggestion is to adopt a standardized process for identifying and smoothing outlier MRIP estimates to be applied to both high and low outliers. The Monitoring Committee agreed that it would be very beneficial to adopt such a process.

The group agreed that outliers could be identified using the Modified Thompson Tau approach used in the past for some black sea bass outliers, or other methods. One Monitoring Committee member said there are multiple potentially appropriate methods for identifying outliers and consideration should be given to which methods are most appropriate for different circumstances. For example, a multi-faceted approach could be considered. Another Monitoring Committee member said consideration should be given to the appropriate level at which the estimates are examined for outliers, for example, at the state/wave/mode/year level or the coastwide annual level.

MRIP estimates are used in many parts of the management process, including in the stock assessment, development of annual catch and landings limits, comparison of catch to the annual catch limit (ACL) to determine if accountability measures are triggered, and development of recreational management measures. To date, smoothed outliers have only been used in a few instances to develop recreational management measures for black sea bass. They have not been used for other purposes for summer flounder, scup, and black sea bass. For example, the smoothed black sea bass estimates for 2016 and 2017 were not used in the 2019 operational stock assessment due to concerns about the appropriateness of smoothing only two high estimates in recent years without examining the entire time series for both high and low outliers. Several Monitoring Committee members noted that this creates a potentially problematic disconnect with other parts of the management process. The group agreed that adoption of a standardized method for identifying and smoothing both high and low outliers would increase the likelihood of being able to use smoothed estimates in all parts of the management process. The group agreed that it would be very important to identify and smooth both high and low outliers and to have a standardized process.

One Monitoring Committee member noted that even if smoothed estimates are used in management, no change would be made to the official MRIP estimates. The group agreed that it could be beneficial to have MRIP staff provide feedback on the process to identify and smooth outliers to help increase buy-in for using smoothed estimates in multiple parts of the management process. The intent would not be to have MRIP staff approve the smoothed estimates, but rather to provide feedback on the appropriateness of any methods developed.

The second specific suggestion under objective 1 is to use an “envelope of uncertainty” approach to determine if changes to recreational management measures are needed. Under this approach, a certain range above and below the projected harvest estimate (e.g., based on percent standard error) would be defined for comparison against the upcoming year’s recreational harvest limit (RHL). If the RHL falls within the pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures. The Monitoring Committee agreed that this is worth pursuing and that further discussion is needed on defining the appropriate envelope. One Monitoring Committee member noted that the group has struggled to define similar metrics in the past and asked if the Council and Board would determine how to define the envelope or if it would be a Monitoring Committee decision. One Monitoring

Committee member said that, given their technical expertise, it may be more appropriate for the Monitoring Committee to recommend the appropriate envelope, rather than the Council and Board.

The third specific suggestion under objective 1 is to consider the appropriateness of using preliminary current year MRIP data in the management process. The Monitoring Committee agreed that this may warrant further consideration. One member noted that MRIP has changed the timing of when they incorporate for-hire data into their estimates. In the past, preliminary estimates were sometimes released without the incorporation of for-hire vessel trip report (VTR) data. VTR data were incorporated into the final estimates. Under the current process, VTRs are incorporated into the preliminary estimates, so the differences between the preliminary and final estimates may not be as great as they were in the past. He recommended an evaluation of the scale of the change from preliminary to final estimates under the current MRIP estimation methodology. He also noted that final data may be appropriate for longer-term decisions including development of management measures that are intended to be in place for multiple years. However, he cautioned that if only final data are used for annual adjustments to measures, there will be a greater disconnect between the data used and current operating conditions than if preliminary current year data were also considered. A few Monitoring Committee members agreed that there are certain situations in which it is beneficial to use preliminary current year data, including making annual adjustments to measures and considering how variation in harvest might be influenced by factors such as year class strength.

One Steering Committee member said the Steering Committee's intent for all three suggestions under objective 1 was not to ask the Monitoring Committee to second-guess and revise the MRIP estimates, but rather to think about the impact outliers can have on recreational management. For example, outlier estimates can lead to significant changes in management measures from year to year which may not be reflective of a true conservation need.

Objective 2: Develop guidelines for maintaining status quo measures

The second objective in the Steering Committee outline is to develop a process for considering both recreational harvest data (all considerations under objective 1 could apply) and multiple stock status metrics (biomass, fishing mortality, recruitment) when deciding if measures should remain unchanged. The Monitoring Committee was generally supportive of this approach.

One Monitoring Committee member said it would be helpful to give greater consideration to how expected catch (i.e., landings and dead discards) compares to the ACL, rather than focusing on the RHL as the primary management target when setting management measures for the following year. She questioned whether the Fishery Management Plan would need to be modified to provide more flexibility in this regard.

Another Monitoring Committee member said the group tends to be most comfortable with estimates of expected landings and dead discards when they are based on assessment data. He thought it could be helpful to give stock status metrics from the assessments greater consideration in the process of determining how to change management measures. For example, he feels more confident in the need for more restrictive measures in response to a stock assessment rather than in response to recreational harvest estimates alone, which can be quite variable.

Objective 3: Develop process for setting multi-year recreational management measures

The third objective in the Steering Committee outline is to develop a process for setting recreational management measures for two years at a time with a commitment to making no changes in the interim year. This would include not reacting to new data that would otherwise allow for liberalizations or require restrictions. The Monitoring Committee was very supportive of this approach.

The Monitoring Committee agreed that this approach could lead to compounding overages or underages of catch and harvest limits. However, this could represent just as much of a conservation benefit as a conservation risk.

Multiple Monitoring Committee members said maintaining the same measures for at least two years can allow for better evaluation of the effectiveness of the measures at constraining harvest. The group discussed how harvest can fluctuate widely under constant management measures. Having more years of constant measures would allow for a better understanding of the variations in harvest.

One member clarified that the proposal was for two years and not a longer time period because it is anticipated that updated stock assessment information will be available every two years. This would allow management to react to updated stock assessment information.

One Monitoring Committee member said this approach could pull together many aspects of the other approaches in the Steering Committee outline and it could be a good way to move forward with the goal of stability in management measures. For example, it could allow for use of final MRIP estimates (see objective 1), would allow for consideration of the timing of the management measures recommendation (see objective 5), would allow for changes to be considered in response to updated stock assessment information, and would allow for year-to-year stability in recreational management measures.

Another Monitoring Committee member said this approach would work best if the RHL is the same across the two years.

The group discussed how state conservation equivalency could work under this approach. There was a general consensus that the approach would work best with a strong commitment to no changes at the federal or state level during the two years, including no changes made through conservation equivalency.

One Monitoring Committee member noted that it could be difficult to explain to stakeholders why they may have to forego potential liberalizations in the interim year under this approach. She recommended that this approach be evaluated from a socioeconomic perspective. Another Monitoring Committee member recommended consideration of the benefits of this approach in terms of compliance with and enforcement of the management measures.

Objective 4: Consider improvements to the process used to make changes to state and federal recreational management measures

The fourth objective in the Steering Committee outline relates to improvements to the process used to make changes to state and federal waters recreational management measures. The Steering Committee has not discussed this objective in great detail.

A few Monitoring Committee members said it would be beneficial to have guidelines on how to best use MRIP data at the state/mode/wave levels. The group agreed that additional analysis is

needed to better understand the limitations of the MRIP data for any given species before recommendations can be made for how to best use the MRIP data. For example, one Monitoring Committee member said it may be challenging to develop robust guidelines that could be applied uniformly across all states as MRIP sampling is not consistent across states and states with more frequent intercepts of the species in question may be put at an advantage. Other Monitoring Committee members agreed.

One bluefish Monitoring Committee member said regional measures, especially for shared water bodies, are worth considering and can help address concerns about using MRIP data at too fine of a scale.

Objective 5: Consider making recommendations for federal waters recreational management measures earlier in the year

The Steering Committee has discussed the idea of recommending federal waters recreational management measures in August or October rather than December of each year. The Monitoring Committee supported further consideration of this approach. Many members noted that it has been challenging for states to develop measures and for the Technical Committee to review proposals under the tight deadlines that are needed under the current process. Moving some of the decision making to earlier in the year could allow more time for robust review of proposals. However, the group also noted that earlier decision making would not allow for consideration of preliminary current year data when developing recreational management measures for the following year. This may be acceptable when measures are intended to be in place for multiple years (e.g., see objective 3).

General comments on the Recreational Reform outline

The group noted that the Council and Board may wish to include additional topics in the Recreational Reform Initiative after discussing the ongoing commercial/recreational allocation amendment during their next meeting.

Several Monitoring Committee members supported consideration of an additional approach that would more explicitly tie changes in management measures to the stock assessment, for example by considering changes only when new stock assessment information is available. This may be feasible under the anticipated every other year timeline for stock assessment updates in the future.

One member of the public asked how the Recreational Reform Initiative complies with the recent executive order to produce seafood. One Steering Committee member emphasized that the initiative relates to recreational fishing only and not commercial fishing. Another Steering Committee member said the initiative would help ensure a supply of seafood by maintaining harvest at sustainable levels.

Summer Flounder, Scup, Black Sea Bass Commercial/Recreational Allocation Amendment Partial Summary of May 2020 FMAT Meetings

This document summarizes input from the Fishery Management Action Team (FMAT) on three topics which the Council and Board agreed to remove from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment and consider pursuing through a separate action (i.e., a “harvest control rule” proposal, recreational accountability, and recreational catch accounting). A full summary of the May 2020 FMAT meetings is available here: https://www.mafmc.org/s/Tab03_SFSBSB-ComRecAllocationAmd_2020-06.pdf.

1. "Harvest control rule" based approaches

Under this approach, proposed by six recreational organizations (see pages 147-152 of [this document](#) for the full proposal), recreational “allocation” would not be defined as a set percentage of the total catch limit but as a specific combination of bag/size/season limits preferred by recreational fishermen in each state, which would become more restrictive when estimated biomass changes declines below the target level. The restrictions would occur in a pre-determined, stepwise manner. The commercial “allocation” would be the commercial quota preferred by the commercial industry when biomass is high and it would be reduced as biomass declines below the target level in proportion with the restrictions on the recreational fishery. This approach is largely conceptual at this stage and is not yet associated with specific proposed measures.

The FMAT and Council/Board previously discussed that this approach as currently configured may be less directly related to the allocation of catch between the commercial and recreational sectors and more related to how measures are determined for each sector. The FMAT previously recommended exploring how this proposal could be tied in more directly with allocation and whether it would be feasible under our current management system and legal constraints.

FMAT Comments and Recommendations:

The FMAT recommended removing this approach from consideration in this amendment and considering similar concepts through a separate action, likely the ongoing recreational reform initiative. The FMAT recognized that there is interest in further pursuing this approach from members of the public as well as Council/Board members; however, the FMAT still had a number of concerns about the applicability and feasibility of this proposal. Ultimately, for the reasons described below, the FMAT determined that a) this approach would likely not be consistent with the Magnuson-Stevens Act (MSA) without substantially revising its intent and design; b) this approach as currently conceptualized still does not have a strong connection to commercial/recreational allocations, and c) concepts from this proposal seem well-suited to consideration for the recreational management process, such as the ongoing recreational reform initiative. In addition, the FMAT discussed the potential for exploring ways to apply the tiered management concept from this approach to the dynamic allocation mechanisms category.

Magnuson-Stevens Act Compliance

The FMAT previously questioned whether this approach could be designed to comply with existing MSA requirements for catch limits and accountability measures. The MSA requires that

ACLs be set each year in pounds or numbers of fish, and that each ACL have associated AMs to prevent exceeding the ACL and to trigger a management response if an ACL is exceeded. At this meeting, the FMAT reiterated that under the MSA, the FMP needs to define a way to measure total removals (total dead catch) and to evaluate performance relative to an ACL set in numbers of fish or pounds. This does not mean it's impossible to start with preferred measures and translate those into catch, but managers are still required to demonstrate that catch associated with the measures is not expected to exceed each sector's ACL, and collectively not expected to exceed the ABC. Ultimately, managers must demonstrate that measures are expected to prevent overfishing.

This proposal as currently described does not appear consistent with these MSA requirements, unless each set of recreational measures and commercial quotas could be clearly associated with projected catch levels and the uncertainty and variability in that process could be appropriately accounted for. A major concern with this approach is the feasibility of accurately predicting catch levels at each of the various management measure thresholds, particularly for the recreational fishery. The FMAT has previously noted that even when recreational measures have remained similar across years, the resulting MRIP estimates can vary significantly. For both fisheries, total dead catch can vary substantially with external factors such as changing total and regional availability, recruitment events, or changing effort based on factors other than measures.

In addition, there could be substantial uncertainty with projecting discards for both sectors based on the commercial quotas and recreational management measures associated with each threshold. All these factors would pose challenges for justifying how this approach could constrain catch to the ACLs and ABC without additional management uncertainty buffers.

Process/Analysis Considerations and Connection to Allocation

The proposal suggests that there is a limit to how much access each sector “needs” (e.g., there is a range and maximum amount of fish that recreational anglers will want to take home, and there is a limit to where profit will be maximized for the commercial fishery). The proposal also suggests that measures or quotas under each threshold should consider state or regional variation in fishery needs. The FMAT noted that determining the needs of each sector under various threshold levels is likely to be a very involved and potentially political process, with heavy analysis and stakeholder input needs.

While some suggestions have been made for how to analyze and determine optimal commercial and recreational access levels at each biomass threshold, expertise outside of the FMAT and Council/Board would likely be required, particularly for establishing an economic basis for the commercial quota levels. In addition, it is still unclear how the balance of access for each sector would be negotiated. The discussion of measures at each threshold for each fishery would also need to reconcile those separate levels of access to ensure that overall catch/removals are still expected to be constrained to the ABC. For some species, such as black sea bass, it is unlikely that both sectors could operate at their preferred levels of access even under positive stock conditions without exceeding the ABC and/or OFL. A process for balancing/negotiating preferred levels of access between the commercial and recreational sectors could be very time and work intensive in terms of analysis and gathering stakeholder input and would potentially delay this action.

The FMAT also discussed that the step-wise approach proposes that higher levels of biomass correspond to higher levels of access, which could allow for liberalization of recreational measures. However, the very large recreational fishery capacity means that effort and catch also typically scales with biomass and availability, in some cases even under highly restrictive recreational measures. This complicates the assumption that recreational measures can liberalize when biomass increases. In addition, changes in the recreational fishery over the years (general effort increases, species-specific effort changes, legal/policy constraints, and improved technology for targeting fish) further complicate the assumption that past recreational measures can be used to estimate expected future catch. The FMAT also noted that it could be easier to agree on measures associated with good stock biomass conditions, but setting measures for lower biomass thresholds may be much more difficult.

Potential Application of Ideas Through a Separate Action

The FMAT agreed that there are several concepts in this proposal that would be worthwhile to explore in terms of application to the process of setting recreational measures. For example, the FMAT noted benefits of the transparency provided by a tiered management approach with clearly defined measures at each level. Additional exploration of the relationship between the effectiveness of recreational management measures and estimated biomass would also be worthwhile. Recreational reform is currently identified as a priority for the Council and Board, and an action to address recreational management is listed on the Council's 2020 implementation plan. The FMAT felt comfortable recommending removal of this option from this action given that there is a pre-existing process that appears to be more appropriate for its discussion.

The FMAT also suggested the possibility of creating a tiered allocation approach under "dynamic allocation approaches" (section 8). While this would not necessarily have the same basis and intent as this approach, some of the ideas discussed under this proposal could be transferable to an allocation framework where thresholds for different allocations could be created. This differs from a trigger-based allocation approach (section 8.2) given that it would not involve completely separate allocation tiers as opposed to a baseline allocation up to a certain point with excess quota allocated differently.

Public Comments:

One member of the public stated that this feels like an apples to oranges conversation, and that if both sectors are not held to the same standards, the commercial sector will get penalized. She stated that the recreational sector has gone way over their limits in recent years. When this happens, stock biomass can go down which impacts both sectors. She stated that this option seems likely to negatively impact the commercial fishery.

Another member of the public stated that although this approach would require difficult in-depth analysis, he supported its further evaluation.

2. Recreational accountability alternatives

The theme of increased recreational accountability was prominent in many scoping comments. For example, some comments suggested more frequent recreational overage paybacks and bringing back recreational in-season closures. The FMAT previously noted that large scale revisions to

recreational accountability may be outside the intended scope of this action as the FMAT understands it.

At the May joint meeting, the Council and Board discussed this issue and agreed to leave it in the range of alternatives until it becomes more clear what types of allocation alternatives will be considered. Some Board and Council members suggested that while the current AMs may be appropriate for the current allocations, alternatives that would drastically change the management approach may require modified or additional AMs.

Current Recreational Accountability Measures

Federal regulations include proactive AMs to prevent the recreational ACL from being exceeded and reactive AMs to respond when an ACL is exceeded. Proactive recreational accountability measures include **adjusting management measures (bag limits, size limits, and season) for the upcoming fishing year** that are designed to prevent the RHL and ACL from being exceeded. The NMFS Regional Administrator no longer has in-season closure authority for the recreational fishery if the RHL or ACL is expected to be exceeded. For reactive AMs, **paybacks of ACL overages may be required in a subsequent fishing year, depending on stock status and the magnitude of the overage**, as described below. ACL overages in the recreational fishery are evaluated by comparing the most recent 3-year average recreational ACL against the most recent 3-year average of recreational dead catch (i.e., landings and dead discards). If average catch exceeds the average ACL, then the appropriate AM is determined based on the following criteria:

1. If the stock is overfished ($B < \frac{1}{2} B_{MSY}$), under a rebuilding plan, or the stock status is unknown: The exact amount, in pounds, by which the most recent year's recreational ACL has been exceeded, will be deducted in the following fishing year, or as soon as possible once catch data are available.
2. If biomass is above the threshold, but below the target ($\frac{1}{2} B_{MSY} < B < B_{MSY}$), and the stock is not under a rebuilding plan:
 - If only the recreational ACL has been exceeded, then adjustments to the recreational management measures (bag, size, and seasonal limits) would be made in the following year, or as soon as possible once catch data are available. These adjustments would take into account the performance of the measures and the conditions that precipitated the overage.
 - If the Acceptable Biological Catch ($ABC = \text{recreational ACL} + \text{commercial ACL}$) is exceeded in addition to the recreational ACL, then a single year deduction will be made as a payback, scaled based on stock biomass. The calculation for the payback amount in this case is: $(\text{overage amount}) * (B_{msy} - B) / \frac{1}{2} B_{msy}$.
3. If biomass is above the target ($B > B_{MSY}$): Adjustments to the recreational management measures (bag, size, and seasonal limits) would be considered for the following year, or as soon as possible once catch data are available. These adjustments would take into account the performance of the measures and the conditions that precipitated the overage.

FMAT Comments and Recommendations:

The FMAT recommended removing recreational AMs as a separate alternative and felt that recreational accountability could be considered within this action as it relates to other management alternatives being considered. For example, if the sector separation approach is pursued, different AMs may need to be developed as a part of that alternative. The current AMs were established through the Omnibus Recreational Accountability Amendment (Amendment 19 to this FMP, adopted in 2013). This amendment removed the in-season closure authority held by the NMFS regional administrator, which allowed for coastwide closures of the recreational fisheries if they were projected to exceed the RHL based on preliminary data. Amendment 19 also increased the flexibility in evaluation and response to recreational overages given the uncertainty associated with the MRIP data and tied overage responses to stock status as described above. The FMAT felt that much of the rationale for the changes made through Amendment 19 remains valid. For example, the timing of recreational data availability and the potential for revisions between preliminary and final estimates still pose challenges for in-season closures. One potential avenue for reconsideration of recreational AMs is through the recreational reform initiative.

Public Comments:

One member of the public commented that in-season closures or changes are tough on the for-hire industry and did not support bringing that back as an AM.

3. Recreational catch accounting alternatives

Examples of changes to recreational catch accounting recommended through scoping are listed below. The intent behind these recommendations is to reduce uncertainty in the recreational data. It is worth keeping in mind that MRIP is currently considered the best scientific information available for the recreational fisheries and will continue to be used for stock assessments and catch limit evaluations for the foreseeable future. MRIP is a national-level program and the Council and Commission have a very limited ability to influence changes to the MRIP estimates.

- **Mandatory private angler reporting:** Private angler reporting through smart phone apps has been explored in specific fisheries in other regions, and will soon be required in this region for blueline tilefish. Consideration could be given to the feasibility of private angler reporting for summer flounder, scup, and black sea bass given that these fisheries take place in state and federal waters, from shore and from private and for-hire vessels, and that there are millions of directed trips per year for each species (e.g., an estimated 8.7 angler trips for which summer flounder was the primary target, 2.7 million for which scup was the primary target, and 1.4 million for which black sea bass was the primary target in 2019). Given the scale of these recreational fisheries, mandatory private angler reporting may be a challenge to implement. Thorough consideration should be given to the potential levels of non-compliance and how this may impact the resulting data.
- **Tagging programs:** A few scoping comments suggested that anglers be issued tags for a specific number of fish each year. Tagging programs are used in some recreational fisheries, but they may be more appropriate for species with much lower harvest levels than summer flounder, scup, and black sea bass. The FMAT should consider the pros and cons of moving forward with this approach compared to a traditional possession limit, especially

considering the millions of participating anglers in the fisheries for these species. Ensuring that the program is fair and equitable is a challenge. For example, consideration would need to be given to who receives tags, how they are distributed, and how the program is administered.

- **Mandatory tournament reporting:** A few scoping comments recommended mandatory catch reporting for recreational fishing tournaments. During the May 2020 joint meeting, one Council/Board member questioned the value of mandatory reporting for tournaments given that tournament catch likely constitutes a very small percentage of total catch. An evaluation of summer flounder, scup, and black sea bass catch in tournaments has not been performed and may not be possible given that there does not seem to be a central list of non-HMS tournaments. Recreational catch from tournaments for summer flounder, scup, and black sea bass should be included in MRIP estimates but is not specifically designated as tournament catch.
- **Enhanced VTR requirements:** A few scoping comments recommended additional VTR requirements, such as requiring VTRs for for-hire vessels that do not have federal permits and reinstating “did not fish” reports for federal permit holders to better understand fishing effort.

FMAT Comments and Recommendations:

The FMAT recommended removing this issue from the amendment but supported the continued exploration of improving recreational data through other avenues. Although the FMAT felt that this alternative was outside of the scope of this allocation action, especially with implementation timeline concerns, they recognized that these recreational catch accounting and accountability topics were important issues. The FMAT also noted that recreational catch accounting is an issue that fisheries outside of this FMP are addressing so it may be more appropriate to pursue for multiple species outside of this amendment. One FMAT member asked about scoping comments related to this topic and whether the general sentiment was to address recreational catch accounting before considering changes to the allocations. Staff responded that several scoping comments suggested this, while other scoping comments voiced a general mistrust or need to improve MRIP with no additional comments regarding allocation.

Public Comments:

One member of the public is currently involved in helping with private angler reporting for blueline tilefish and noted that although it is a relatively small group of anglers, the process is already a large undertaking and felt that for summer flounder, scup and black sea bass, this concept should be held off for a later time.

A Council and Board member noted that since the FMAT recommended the removal of some alternatives it would be helpful if there were time allocated to have a specific discussion with the Council and Board to understand what potential management actions would be appropriate for those issues.

One member of the public commented that he had mentioned mandatory reporting for tournaments during scoping because he believes it would be important to have more information on that. He

added that less than 50% of permit holders are reporting in some cases. Because of this, he feels it is very important to either reinstate did not fish reports or attempt to determine for-hire effort in state waters. One FMAT member agreed that it would be worth exploring ways to identify or quantify tournament catch in the future, separate from this action. A Council and Board member wondered why it was important to estimate tournament catch separately from the current MRIP surveys or if there is evidence that tournament catch is not being captured adequately.

§ 648.110 Summer flounder framework adjustments to management measures.

- a *Within season management action.* The MAFMC may, at any time, initiate action to add or adjust management measures within the Summer Flounder, Scup, and Black Sea Bass FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the FMP.
- 1 *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limit; specification quota setting process; FMP Monitoring Committee composition and process; description and identification of essential fish habitat (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research. Issues that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.
- 2 *MAFMC recommendation.* After developing management actions and receiving public testimony, the MAFMC shall make a recommendation to the Regional Administrator. The MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the MAFMC recommends that the management measures should be issued as a final rule, it must consider at least

the following factors and provide support and analysis for each factor considered:

- i Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season;
 - ii Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures;
 - iii Whether there is an immediate need to protect the resource; and
 - iv Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.
 - 3 *NMFS action.* If the MAFMC's recommendation includes adjustments or additions to management measures and, if after reviewing the MAFMC's recommendation and supporting information:
 - i NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors in paragraph (a)(2) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.
 - ii If NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the MAFMC recommendation, the measures will be published as a final rule in the FEDERAL REGISTER.
 - iii If NMFS does not concur, the MAFMC will be notified in writing of the reasons for the non-concurrence.
 - 4 *Emergency actions.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.
- b [Reserved]

[76 FR 60630, Sept. 29, 2011, as amended at 76 FR 1849, Dec.. 29, 2011; 80 FR 37196, June 30, 2015]



Recreational Management Reform Initiative Steering Committee Meeting Summary

July 14, 2020

Steering Committee Attendees (in alphabetical order): Julia Beaty (MAFMC staff), Joe Cimino (MAFMC Summer Flounder, Scup, and Black Sea Bass Committee Vice Chair), Tony DiLernia (MAFMC Summer Flounder, Scup, and Black Sea Bass Committee Chair), Toni Kerns (ASMFC staff), Mike Luisi (MAFMC Chair), Adam Nowalsky (ASMFC Summer Flounder, Scup, and Black Sea Bass Board Chair), Mike Ruccio (GARFO staff), Caitlin Starks (ASMFC staff)

Background

The Recreational Management Reform Steering Committee met via teleconference to discuss next steps for the Recreational Management Reform Initiative. More information on this initiative is available at: <https://www.mafmc.org/actions/recreational-reform-initiative>.

Identifying and Smoothing Outlier MRIP Estimates

The Steering Committee briefly discussed their previous recommendation to develop a standardized process to identify and, if necessary, adjust (or “smooth”) outlier estimates from the Marine Recreational Information Program (MRIP).¹ They agreed that it would be appropriate for the Monitoring and Technical Committees to build off their past work and move forward with further developing this approach.

Harvest Control Rule Proposal

The Steering Committee discussed a proposal put forward by six recreational organizations through scoping for the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment (see pages 147-152 of [this document](#) for the full proposal). This proposal, referred to as a “harvest control rule,” recommended defining recreational “allocation” not as a set percentage of a total catch limit, but as a specific combination of bag/size/season limits preferred by recreational fishermen in each state, which would become more restrictive when estimated biomass declines below the target level. The restrictions would occur in a pre-determined, stepwise manner. The commercial “allocation” would be the commercial quota preferred by the commercial industry when biomass is high and it would be reduced as biomass declines below the target level in proportion with the restrictions on the recreational fishery. This approach is largely conceptual at this stage and is not yet associated with specific proposed measures.

Based on the recommendations of the Fishery Management Action Team (FMAT), the Council and Board agreed not to further consider this proposal through the Commercial/Recreational

¹ See the draft initiative outline developed by the Steering Committee in April 2020 for more information: https://www.mafmc.org/s/2Rec_reform_outline_v6.pdf

Allocation Amendment; however, they expressed a desire to further evaluate certain aspects of it through other avenues. They agreed that the allocation aspects of the proposal are not feasible given current Magnuson-Stevens Act requirements. For example, the Magnuson-Stevens Act requires the use of annual catch limits set in pounds or numbers of fish. Management measures must be expected to prevent those limits from being exceeded. In addition, it is not clear how this approach would ensure that overfishing does not occur or how it would function if a specific fishing mortality target had to be achieved in a rebuilding scenario. For these reasons, it is not possible to define a recreational allocation as a preferred set of management measures independent from an annual catch limit.

The Recreational Reform Steering Committee agreed that the proposal's recommendation for pre-determined recreational management measure "steps" associated with different biomass levels warrants further consideration and could be feasible under current Magnuson-Stevens Act and FMP requirements. A few Steering Committee members asked if the management measure step approach would be desired by stakeholders if separated from the allocation aspects of the original proposal. The group generally agreed that pre-defined management measures at different biomass levels would provide an additional level of predictability to the management process, which would be beneficial to recreational fishery stakeholders.

One Steering Committee member suggested comparing past management measures to harvest as a starting point for determining which measures might be appropriate at each biomass level "step." Other Steering Committee members cautioned that harvest is impacted by many factors in addition to management measures, such as availability and fishing effort. As past experience managing these recreational fisheries has shown, it can be very difficult to predict future harvest under a given set of management measures even when focused only on the upcoming year. The intent of this approach is to provide stability and predictability by pre-determining management measures which could be used beyond just the upcoming year. One Steering Committee member also noted that, in addition to changes in biomass levels, the distribution of the stocks has changed over time, which would pose additional challenges for predicting future harvest based on the past performance of management measures, depending on the time frame of past measures examined. For these reasons, the Steering Committee agreed that any pre-determined measures would be a starting point for consideration and must be regularly re-evaluated.

The Steering Committee agreed that the proposal's suggestion of pre-defined upper and lower bounds for the most liberal and most restrictive measures could be retained; however, like the management measure steps, they would be a starting point for consideration and the Council and Board may have to use measures outside of those bounds in any given year. They agreed that extensive input from the recreational fishing community is needed to help define the preferred upper and lower bounds of management measures. As described by one Steering Committee member, the upper bound would represent the highest desired level of access and any liberalizations beyond that would not be beneficial to or "needed" by the recreational community. On the other hand, as described by this Steering Committee member, the most restrictive set of potential measures would be so restrictive that there may not be a conservation benefit to making them even more restrictive. They would also represent the most extreme restriction which could be tolerated without causing severe negative economic impacts such as widespread loss of businesses (e.g., for-hire vessels and bait and tackle shops). It is important to note that the desired

potential upper and lower bounds have not yet been determined or evaluated. It has not been determined if this concept will be feasible in practice.

All Steering Committee members agreed that further analysis should be done to evaluate the potential management measures which could be used at different biomass levels. This analysis may suggest that it is not appropriate to associate a predicted harvest level in years beyond the upcoming year with a given set of management measures. However, even if this is the case, it would still be beneficial to do the analysis to evaluate our ability (or inability) to predict future harvest.

Other Topics Removed from Commercial/Recreational Allocation Amendment

During their June 2020 joint meeting, the Council and Board passed a motion to “consider initiating an action by the end of 2020 to develop a recreational accountability and accounting joint action.”

The Steering Committee briefly discussed recreational accountability and accounting in relation to the Recreational Reform Initiative. They did not discuss these topics in detail as they felt that they are outside the formal mission and charge of this group.

Multiple Steering Committee members recommended that the Council and Board gain a better understanding of private angler reporting efforts in other regions before initiating an action to consider improvements to recreational catch accounting in this region. They agreed that it would be important to understand what has worked well in these other efforts, as well as the challenges and levels of compliance. In addition, the Council and Board have discussed if this topic may be more appropriately considered for all Council and Commission managed recreational species, rather than just a few species.

A few Steering Committee members said past discussions of recreational catch accounting and recreational accountability have sometimes confused the two subjects. A better understanding of the intent of the recommendations for considering changes to accountability measures (e.g., in-season closures, more frequent repayments of RHL overages) would be beneficial.

Role of Steering Committee

The Steering Committee agreed that they have fulfilled their mission and should disband. Further discussions of this action should occur at the level of the Board and the full Council or the Council’s committees. They recommended that the Council and Board initiate a management action such as a framework/addendum to further develop priority approaches considered through the Recreational Reform Initiative. Further development would follow the standard process with involvement by a technical group (e.g., an FMAT, the Monitoring and Technical Committees, or a different group), Council committees or the full Council and Board, as appropriate.

Next Steps

In summary, the Steering Committee recommended that the Council and Board initiate a management action to pursue priority topics and that a technical group (e.g., the Monitoring/Technical Committee or a separate group) move forward with further developing and

analyzing topics such as identifying and smoothing outlier MRIP estimates and the stepped approach to recreational management measures proposed through the Harvest Control Rule.



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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: July 27, 2020
To: Chris Moore, Executive Director
From: Julia Beaty, staff
Subject: Recreational Reform Initiative - Topics Requiring an FMP Amendment vs. Framework/Addendum

During their June 2020 joint meeting, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) asked for clarification on which topics currently under consideration through the Recreational Reform Initiative, as well as topics removed from the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment could be pursued through an FMP framework/addendum and which would require a full FMP amendment.

The federal regulations describe the framework process and list the types of management changes which may be pursued through a framework action. The associated regulations for summer flounder are found at 50 CFR § 648.110 and are also included in the briefing materials for the August 6, 2020 joint meeting of the Council and the Board. The corresponding regulations for scup, black sea bass, and bluefish are very similar. These regulations list the types of management changes which may be considered through a framework as opposed to a full FMP amendment. Of note for the Recreational Reform Initiative and related discussions, the list of frameworkable items includes introduction of new accountability measures, permitting restrictions, recreational possession limits, recreational seasons, recreational harvest limits (RHLs), specifications quota setting process, any other recreational management measures, and any other measures currently included in the FMP.

It is important to emphasize that a framework may not always be appropriate even if the type of change falls within a category listed in the framework regulations. If the specific proposed action represents a significant departure from previously contemplated measures or otherwise introduces new concepts, an amendment may be more appropriate than a framework. This is expressly stated in the framework regulations for summer flounder, black sea bass, and bluefish.

The federal regulations and discussions with the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) staff suggest that the following topics discussed through the Recreational Reform Initiative and/or the Commercial/Recreational Allocation Amendment

could potentially be considered through a joint FMP framework/addendum, depending on the details of the specific change considered:

- Everything listed in the Recreational Reform Initiative outline developed by the Steering Committee, including:¹
 - Adopting a standardized process for identifying and smoothing outlier MRIP estimates.
 - Using an “envelope of uncertainty” approach when determining if changes in recreational management measures are needed (i.e., if next year’s RHL falls within a pre-defined range above and below the projected harvest estimate, then no changes would be made to management measures).
 - Evaluating the pros and cons of using preliminary current year MRIP data.
 - Developing guidelines for maintaining status quo measures.
 - Setting recreational management measures for two years at a time with a commitment to making no changes in the interim year unless required due to poor stock status.
 - Considering improvements to the process used to make changes to state and federal recreational management measures.
 - Changing the timing of the recommendation for federal waters recreational management measures from December of the previous year to October or August.
- Changes to recreational accountability measures, such as changes to requirements for payback of overages and in-season closures (a topic removed from the Commercial/Recreational Allocation Amendment).
- The pre-determined management measure step approach described in the Harvest Control Rule proposal put forward by 6 recreational fishing organizations through scoping for the Commercial/Recreational Allocation Amendment.²
- Changes to the data reported through VTRs (depending on the specifics of the change), assuming no changes are made to who is required to submit VTRs.

The following topics discussed through the Recreational Reform Initiative and/or the Commercial/Recreational Allocation Amendment would likely require an FMP Amendment:

- Private angler reporting - This has not been previously contemplated through the FMPs for summer flounder, scup, black sea bass, and bluefish. In addition, if private angler reporting for these species were to be managed at the federal level, it would require private anglers to obtain federal permits.
- Tagging programs for the recreational fisheries - This would likely require an amendment for similar reasons to those described above for private angler reporting.
- Mandatory tournament reporting - This would likely require an amendment for similar reasons to those described above for private angler reporting.

¹ Some items in the Steering Committee outline may not require an FMP change, but could be pursued through an FMP framework/addendum if desired by the Council and Board. See the Steering Committee outline for more details (https://www.mafmc.org/s/2Rec_reform_outline_v6.pdf).

² See the summary of July 14, 2020 Steering Committee meeting for more information (available in the [briefing materials](#) for the August 6, 2020 joint meeting of the Council and Board).

- Requiring additional entities to submit federal VTRs. For example, requiring private anglers and/or for-hire vessels which only operate in state waters to submit VTRs under the joint FMP would likely require an amendment as this has not been previously contemplated through the FMP and it would represent a notable change from current reporting requirements.

Additional comments from Adam Nowalsky on the Harvest Control Rule Proposal
Emailed 7/24/2020

1) Regarding the question about how to establish what the measures would be at each step in the HCR, here are two ways to attempt this -

- Pull the management history and look at the state specific measures under various stock conditions as explained in the HCR write up.
- Reach out to the states to ask for assistance. State directors could request input from their TC/MC members with whom the HCR concept has been shared so that they understand the context of trying to recommend measures across the spectrum (i.e., least restrictive to most restrictive based on stock condition).

2) Translate measures from step 1 into predicted coastwide harvest based on past performance and other analysis. Input from the Regional Office/Science Center staff on how best to approach this is welcome, but the idea at a high level is to develop a set of measures that has a predictive amount of catch (the state TC/MC members may even be able to provide estimates especially considering their experience with the CE process). That catch does not have to be a point estimate, it can be a range. Steps 3, 4, and 5 are intended to be used to help satisfy MSA requirements.

3) A multi-year average with static measures to generate a "rolling" annual catch estimate could be used. If this rolling estimate is outside of the range of catch associated with step 2 then perhaps there is a management response (just as an example).

4) Use F as a sign post to guide performance. For example, if the rolling annual catch estimates from step 3 is outside of the range of catch in step 2, and F is above its target then management action must be considered. If F is below its target, no management action is necessary.

5) Moving forward on a fixed timeframe (every 5 years?) the performance of measures would be reviewed relative to expected harvest and consider modification to measures if needed.