



**Mid-Atlantic Fishery Management Council**  
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## MEMORANDUM

**Date:** December 1, 2016  
**To:** Council  
**From:** Kiley Dancy, Staff  
**Subject:** Summer Flounder Amendment Timelines and Next Steps

On December 14, the Council and Board are scheduled to discuss the Comprehensive Summer Flounder Amendment. Staff will provide a progress update, and ask the Council and Board to consider timeline options and priorities for issues to address. The first part of this memo describes the issues currently under consideration, along with related timeline considerations and status updates, while the second part describes timeline implications under different amendment development scenarios.

### Amendment Issues and Status

The Council and Board have identified four major categories of issues to be explored through the amendment process, listed below. Several of these categories have associated sub-issues that have been raised as possible areas of focus for amendment alternatives.

#### **1. Fishery Management Plan (FMP) Goals and Objectives**

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The Council and Board have discussed potential modifications to the current FMP objectives for summer flounder. The Council and Board provided feedback in December 2015 on draft revised goals and objectives, as proposed by the Fishery Management Action Team (FMAT). The FMAT has discussed this feedback and will incorporate it into a revised draft for the Council and Board to approve for inclusion in a public hearing document. This will occur when additional draft alternatives on other issues are ready for the Council and Board to approve for public hearings.

#### **2. Commercial/Recreational Allocation**

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The Council and Board may consider revisions to the 60% commercial/40% recreational landings allocation for summer flounder. There are two issues impacting the timing of this analysis: the ongoing development of revised Marine Recreational Information Program (MRIP) catch estimations based on new effort estimation methodology, and the finalization of an economic model to examine economic benefits of different allocation scenarios.

As described in previous briefing documents for this amendment, major ongoing changes to the MRIP effort estimation methodology are expected to eventually result in revised time series of estimated recreational catch, landings, and effort, which will have major implications for analyzing alternatives for commercial/recreational allocation and several recreational management sub-

issues. The current Coastal Household Telephone Survey (CHTS) and the new methodology (Fishing Effort Survey or FES) are currently running side-by-side from 2015 to 2017, with full use of revised estimates and termination of the current method expected no earlier than 2018. Re-estimation of historical time series is expected sometime in mid-2017.

Preliminary results from the FES studies suggest that fishing effort estimates for shore and private/rental boat fishing have been underestimated in recent years under the existing CHTS. A recent MRIP progress update<sup>1</sup> states that in 2015, the side-by-side comparison suggests results similar to the earlier pilot studies, with overall FES effort estimates for private and shore mode combined 4.7 times higher than those derived using the CHTS. By mode, the FES estimates were 6.2 times higher than CHTS for shore mode, and 3.3 times higher for private/rental mode.

In addition to the MRIP considerations, the Council contracted a project to develop an economic allocation model for summer flounder to inform the discussion of this issue, to be presented to the Council and Board on Tuesday, December 13. The model aims to determine which allocations would maximize marginal economic benefits to the commercial and recreational sectors. The model has been developed such that it can easily incorporate a new MRIP time series once the new time series becomes available. Once the revised MRIP time series become available, likely sometime near the end of 2017, additional work by the model developers will be needed to incorporate the new data into the model and update the model results.

As described in the peer review report, the review panel found that the results from the current version of the model “do not suggest that the existing allocation is inefficient, or that a reallocation would result in an increase in net benefits based on equi-marginal principles. Moreover, the model results do not provide a strong basis for arguing for or against any specific allocation. With the exception of very large changes in allocation, the confidence intervals for both the estimated recreational and commercial marginal benefits overlap. This means that for a wide range of summer flounder allocation options, the sector and total economic value to commercial fishermen and recreational anglers would be largely unchanged, based on the models and their associated data.” In other words, the model results alone do not provide an economic justification for an allocation shift based on marginal benefits to each sector. However, the Council and Board could base their policy decision on other factors other than economic benefits.

In summary, given that the results of the allocation model could change with revised MRIP estimates, staff and the FMAT have advised waiting until these new estimates can be incorporated before developing any alternatives or analysis for the commercial/recreational allocation issue. This development likely could not begin until late 2017 at the earliest (when the revised MRIP estimates are expected to become available).

### **3. Recreational Measures and Strategies**

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Several sub-issues have been suggested relative to the recreational fishery. These include:

- a. Recreational Process, Conservation Equivalency Framework, and Recreational Allocations
- b. Recreational Sector Separation (For-Hire and/or Shore Mode)
- c. Alternative Recreational Strategies (allow for alternatives to minimum size, bag limit, and season restrictions; e.g., slot limits)
- d. Recreational Gear Requirements or Restrictions
- e. Recreational Data Collection Requirements and Protocols

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<sup>1</sup> [http://www.st.nmfs.noaa.gov/Assets/recreational/pdf/2015\\_FES\\_Progress\\_Report.pdf](http://www.st.nmfs.noaa.gov/Assets/recreational/pdf/2015_FES_Progress_Report.pdf)

The recreational working group has not yet begun developing alternatives for recreational issues, in part due to the uncertainty surrounding the MRIP revisions. Analysis of several issues would be impacted by the modifications to the MRIP estimation methodology described above. Specifically, the MRIP changes would impact analysis of:

- **Recreational allocation.** MRIP estimates will change by mode, state, and perhaps wave.
- **Sector separation (for-hire and/or shore mode strategies).** MRIP estimates will change for shore and private boat modes, impacting the proportions of landings by recreational sector. Estimates of shore and private boat effort are expected to be several times higher than under the current methodology.

Recreational issues that could possibly be addressed *without* revised MRIP data include:

- **Some recreational process issues.** Some improvements could be made to the process for setting recreational measures (e.g., administrative and management process, timing, methods of evaluating measures for reductions or liberalizations, etc.). The framework for conservation equivalency vs. coastwide measures could also be reconsidered. However, the FMAT has noted that some of these issues (in particular the details of conservation equivalency) are tied to recreational allocation decisions. It is also possible that some of these process improvements could be made without an FMP amendment.
- **Alternative management strategies (e.g., slot limits, cumulative length limits).** Under the current FMP, a slot limit could not be developed under coastwide measures during the specifications process. The federal regulations for specifications refer only to *minimum* sizes, not *maximum* sizes. Maximum sizes are, however, listed as a frameworkable item in the FMP. An FMP modification to allow maximum sizes to be set during specifications would be relatively straightforward to consider. Similarly, any other options for size-related measures that deviate from the minimum size could be considered through a modification to the FMP.
- **Recreational gear restrictions or recommendations.** Such measures, intended to reduce discard mortality, are unlikely to require supporting MRIP data, unless updated recreational effort information is desired to analyze potential impacts.
- **Recreational data collection** (depending on direction taken with this issue). This issue does not currently have strong directional guidance from the Council and Board. While recreational data collection is based primarily on the MRIP program at present, the Council and Board's apparent intention with this sub-issue is to consider measures/programs that may supplement or enhance the MRIP program, which would not likely conflict with or require revised MRIP effort estimates.

#### 4. Commercial Measures and Strategies

Several sub-issues have been suggested relative to the commercial fishery. These include:

- a. Commercial Allocation Strategies
- b. Permit Capacity and Latent Effort
- c. Commercial Landings Flexibility and Safe Harbor Provisions
- d. Commercial Discard and Bycatch Reduction or Avoidance Strategies
- e. Data Collection Requirements and Protocols
- f. Accountability Measures for NEFMC sub-Annual Catch Limits (ACLs)

Staff and the FMAT have created an initial tasks list to begin addressing the above commercial issues. Staff has begun compiling related background information and data, including context and rationale for past decision-making, commercial fishery status and trends relative to each issue, and problem statements relative to each issue. Staff from GARFO’s Analysis and Program Support division have been added to the commercial working group to facilitate pulling and analyzing commercial fishery data. Commission staff has also requested permit information from each state to begin assessing state permits relative to the issues of permit capacity and landings flexibility/safe harbor. Staff will continue to work with the working group and FMAT to address the commercial tasks list with increasing intensity in early 2017.

**Timelines for Amendment Development**

The timelines below provide an estimate of the development schedule under a few different assumptions regarding when and where each issue category should be addressed. As additional information has become available regarding the MRIP transition, and as Council staff has had recent discussions regarding timelines for major actions, it has become clear that the previously provided timelines for the Comprehensive Summer Flounder Amendment are likely to be unrealistic. Options below are presented based on a “modular approach,” or splitting amendment issues or bundles or issues into separate actions. A single timeline to address all issues together is also presented.

***Goals and Objectives ONLY:***

If the Council and Board wished to complete revisions to the FMP objectives as a separate action (Framework action/addendum or short amendment), this could be done relatively quickly, depending on the joint Council/Board meeting schedule. If additional joint meetings were held prior to August, this action could likely be completed on a faster timeline. If the joint meetings remain February and August, a tentative timeline would be:

<b>January 2017</b>	FMAT refines draft alternatives for goals and objectives
<b>February 2017</b>	Council and Board consider and approve draft alternatives and public hearing document for Goals and Objectives action
<b>March-July 2017</b>	Public hearings and summarization of comments; preparation of documents for final action
<b>August 2017</b>	Final action on revisions to Goals and Objectives
<b>September-October 2017</b>	Staff finalizes and submits package/NEPA analysis (EA?)
<b>Late 2017/Early 2018</b>	Final rule effective

### ***Goals and Objectives AND Commercial Issues:***

If bundling revisions to the FMP objectives and commercial issues into one amendment (separating out recreational issues and commercial/recreational allocation), the timeline would be longer than for goals and objectives alone, but the exact timeline length would depend on the scope of issues to be addressed.

Timeline assumptions:

- All issues under “commercial issues” section above are addressed
- EIS is needed for NEPA analysis
- Minimal or no work is completed on recreational issues and commercial/recreational allocation while addressing commercial issues and goals and objectives
- Current schedule for joint Council/Board meetings used (with perhaps additional webinar meetings if needed)

This timeline would be similar if the Council and Board considered commercial issues only (without goals and objectives). A tentative timeline would be:

<b>January-July 2017</b>	Commercial working group and FMAT develop draft commercial range of alternatives and initial analyses/background for Council and Board consideration; FMAT refines draft alternatives for goals and objectives; staff begins Draft EIS; interim Committee/Board/AP meetings where necessary
<b>August 2017</b>	Council and Board consider and approve range of alternatives on commercial issues and goals and objectives
<b>September 2017</b>	Staff, FMAT and working groups refine analyses and develop public hearing document; continued work on Draft EIS
<b>September-November 2017</b>	Draft EIS submitted to NMFS for preliminary review
<b>December 2017</b>	Council and Board approve public hearing document and Draft EIS (Council must approve Draft EIS prior to public hearings)
<b>January-April 2018</b>	DEIS final submission; Notice of public hearings; Public hearings and summarization of comments; 60-day NEPA/MSA comment periods
<b>May-June 2018</b>	Council/Board consideration of public comments; Staff prepare documents for final action
<b>July-August 2018</b>	Final action
<b>September-November 2018</b>	Final Environmental Impact Statement finalized and submitted; NMFS and other agencies review; final edits completed
<b>~November 2018- May 2019</b>	Rulemaking and comment periods (4-7 months from after EIS finalized)
<b>~Spring 2019</b>	Final rule effective

\*Note: the Board and Council could potentially consider a range of alternatives in May 2017, if the Board and Council met jointly and the development of issues is progressing well. The Commission’s quarterly meeting in Spring 2017 is scheduled for May 8-11, 2017 at the Westin Hotel in Alexandria, VA.

***ALL Issues (Goals and Objectives, Commercial/Recreational Allocation, Commercial Issues, Recreational Issues):***

A timeline including all issues listed above in this document would likely take several years to complete, depending on the range of alternatives ultimately approved for analysis and public hearings.

Timeline assumptions:

- All proposed issues are addressed
- EIS is needed for NEPA analysis
- Revised MRIP estimates become available as scheduled (late 2017)
- Bulk of work on commercial issues is completed in 2017; bulk of recreational issues in 2018
- Current schedule for joint Council/Board meetings used, likely with additional webinar meetings

A tentative timeline would be:

<b>January-July 2017</b>	Commercial working group and FMAT develop draft commercial range of alternatives and initial analyses/background for Council and Board consideration; FMAT refines draft alternatives for goals and objectives; staff begins Draft EIS; interim Committee/Board/AP meetings where necessary
<b>August 2017</b>	Council and Board review progress on commercial issues and goals and objectives
<b>Fall 2017</b>	Recreational working group begins developing draft recreational range of alternatives and initial analyses/background; Commercial working group and FMAT continue to refine commercial analyses
<b>Late 2017</b>	Revised MRIP time series become available for management use
<b>January-July 2018</b>	Recreational working group and FMAT continue to develop draft recreational range of alternatives and initial analyses/background based on revised MRIP information; commercial/recreational allocation model is updated with new MRIP time series
<b>August 2018</b>	Council and Board consider and approve range of alternatives for all issues
<b>September 2018</b>	Staff, FMAT and working groups refine analyses and develop public hearing document; continued work on Draft EIS
<b>September- November 2018</b>	Draft EIS submitted to NMFS for preliminary review
<b>December 2018</b>	Council and Board approve public hearing document and Draft EIS (Council must approve Draft EIS prior to public hearings)
<b>January-April 2019</b>	DEIS final submission; Notice of public hearings; Public hearings and summarization of comments; 60-day NEPA/MSA comment periods
<b>May-June 2019</b>	Council/Board consideration of public comments; Staff prepare documents for final action
<b>July-August 2019</b>	Final action
<b>September- November 2019</b>	Final Environmental Impact Statement finalized and submitted; NMFS and other agencies review; final edits completed
<b>~November 2019- May 2020</b>	Rulemaking and comment periods (4-7 months from after EIS finalized)
<b>~Spring 2020</b>	Final rule effective