

Summer Flounder, Scup, Black Sea Bass
Advisory Panel Meeting via Webinar
DE SMZ Request
November 20, 2012

The call was opened at 0900. Rich Seagraves of Council staff gave an overview of the SMZ Monitoring Team report that was presented to the Council in August 2012. The Council is seeking input from the AP concerning options to take to public hearing relative to the Delaware request for SMZ status for its five reef sites located in the EEZ under provisions of Amendment 9 to the Summer Flounder, Scup and Black Sea Bass FMP.

Harry Doernte commented that using the VTR data to estimate the commercial fishing effort on the reef sites is problematic. When he fills out his VTR for location fished he picks a section where he is focusing his effort, but that is within a 3,000 square mile area. Using the VTR data to determine location of effort and location fished is unacceptably inaccurate. He was concerned that reef site 11 was permitted by the COE and eventually constructed by Delaware in spite of opposition from the MAFMC at the time (mid-1990's). He supports keeping reef site 11 open to all gear types (i.e., no SMZ at reef site 11). If SMZs are established, he favored being consistent with the South Atlantic and using a 500 m buffer (option 5c). If the black sea bass recreational season is open, he supports option 4c; otherwise no SMZ is necessary.

Skip Feller favored options 2, 2c, 3a, 4a and 5b.

Ross Pearsall favored options 2, 2c, 3a, 4c, and 5b.

Joan Berko has spoken with most of the fishermen in the commercial sea bass pot/trap fishery and they are unanimously in favor of option 1 - no action, which would maintain the status quo. They are concerned about the buffer zone because traps may be moved involuntarily by storms which could result in pots/traps which were set legally outside an SMZ ending up inside the SMZ.

Harry Doernte raised the same issue of pots being unintentionally moved by storms (or other forces out of the control of the fishermen) into an SMZ. Fishermen should be allowed to call-in to NMFS or Coast Guard and be allowed to go into the SMZ to legally retrieve their gear if this occurs.

Adam Nowalsky favored option 2 and specifically option 2a - specification of all five reef sites as SMZs. If only a couple of the reef sites were designated as SMZs, it is likely that commercial pot/trap activity would shift to the sites that were not SMZs, thereby making the conflict worse at those sites. The Council needs to deal with this issue up front. If they don't, problems will continue to arise in the future. While he appreciates the fact that the Council opposed reef site 11 back in the 1990's, the fact is that the reef site was permitted and is no longer suitable for mobile gear due to reef material being deployed in the area. He also supports Option 3b which would restrict fishing to hook and line and spear fishing only in the SMZ. He is concerned that the reef sites can't support highly efficient gears like pots and traps. Option 4a should be taken off the table completely. The seasons for black sea bass are very volatile, both within the same year and

across different years. The current in-season closure in 2012 is a good example. He supports option 4b instead. He also noted that this is not only a black sea bass issue. For example, summer flounder and tautog are taken on these reef sites so the SMZ designation should not be linked solely to the black sea bass season. In addition, if pot/trap gear is allowed on the reef sites during certain parts of the year, lost or "ghost" gear will continue to be a problem. In terms of the buffer, he supports option 5c. He also wanted it to be clear to the Council that the opinions offered up at this meeting do not represent consensus views of the advisors; rather, they represent the views of the individuals presenting them.

The meeting adjourned at 0955.

Options for Special Management Zone Designation of Delaware Artificial Reefs in the EEZ

1. No Action

Under this option the Council would take no action and the Delaware artificial reef sites in the EEZ would remain open to all gear types. This option would deny the Delaware request to grant SMZ status for its EEZ reef sites and allegations of gear conflicts would likely continue. Delaware could potentially lose a portion or all of its funding for maintenance and construction of artificial reef sites in the EEZ under the Wallops-Breaux Sportfish Restoration Program if no action is taken.

2. Designate some or all of the Delaware permitted artificial reef sites as SMZs

2a. Designate reef sites 9, 10, 11, 13 and 14 as SMZ (i.e., all five reef sites)

Under this option all five of the Delaware reef sites would be designated as SMZs as described in Amendment 9 to the Summer Flounder, Scup and Black Sea Bass FMP. Provisions of Amendment 9 allow the Council to prohibit or restrain the use of specific types of fishing gear that are not compatible with the intent of the artificial reef or fish attraction device or other habitat modification within the SMZ. If the Council chooses this option, the specific gear(s) that would be prohibited would be determined by the Council under option 3 below. The degree of potential impact from this option on various fishing sectors would depend on which gears were prohibited within the SMZ and the duration of the SMZ designation.

2b. Designate reef sites 11, 13 and 14 as SMZs (only sites with documented potential for gear conflicts)

Little or no commercial fishing activity was documented in the vicinity of reef sites 9 and 10, so there appears to be little opportunity for gear conflicts to occur at these sites (especially for fixed pot/trap gear). Therefore, it would appear unnecessary to designate these sites as SMZs on the basis of amelioration of gear conflicts. However, commercial fishing activity on sites 11, 13 and 14 was documented at these sites based on VTR data, so the potential for gear conflicts exists at these sites. As noted above, the potential impact on various sectors of the fisheries would depend on the gears prohibited and the seasonal extent of the SMZ designation.

2c. Designate reef sites 9, 10, 13 and 14 as SMZs but not site 11

During the original permit process for reef sites 9, 10 and 11, the Council opposed the granting of a permit for reef site 11 by the COE because there were indications that considerable commercial fishing activity took place at this location. Therefore, the Council could designate reef sites 9, 10, 13, and 14 as SMZs but not site 11 based on the argument that it would remain consistent with that historical position. However, site 11 appears to be the area that has the greatest potential for gear conflicts between hook & line gear and fixed pot/trap gear and,

therefore, the Council would not be addressing the primary justification given by the state of Delaware for the SMZ designation request (i.e., amelioration of gear conflicts).

3. Gear Restrictions

3a. Prohibit use of fixed pot/trap gear on sites designated as SMZs

Under this alternative, the Council would prohibit the use of fixed pot/trap gear on reef sites designated as SMZs. This gear restriction would apply during the time periods associated with the options under alternative set 4 below. This option responds to the basis for Delaware's SMZ request which was to ameliorate gear conflicts on its artificial reef sites between hook & line and fixed pot/trap gear.

3b. Restrict fishing activities in designated SMZ sites to hook & line and spear fishing gear only

Under this alternative, the Council would prohibit the use all fishing gear on reef sites designated as SMZs, except hook & line and spear-fishing gear (during periods of SMZ designation as per the option chosen under alternative set 4) . Under this alternative, the use of commercial hook & line fishing gear within the designated boundaries of SMZs would still be permitted, however the use of all other commercial fishing gears would be prohibited (i.e., gill nets, long lines, etc.).

4. Seasonal SMZ Restrictions

4a. Designate SMZs during periods when recreational fishery for black sea bass is open

The original request by Delaware for SMZ designation was based on the stated need to reduce gear conflicts between hook & line and fixed pot/trap gear on its EEZ reef sites under provisions of Amendment 9 (black sea bass FMP amendment). Since the rationale for the SMZ request is related to the black sea bass fishery and its management, the Council could designate all or some of the Delaware EEZ reef sites as SMZs when the recreational season for black sea bass is open.

4b. Designate SMZs year round

Under this alternative the SMZ designation for any or all of the five artificial reefs would be in effect for the entire calendar year.

4c. Designate SMZs during periods peak recreational fishing effort (e.g., Memorial Day to Labor Day)

The purpose of this alternative to be to attempt to reduce gear conflicts of Delaware reefs sites by designating SMZs during periods when the chance of gear conflicts would be expected to be at a maximum (i.e., during periods of peak recreational fishing activity).

5. SMZ Buffer

5a. no buffer

5b. 1000 yard buffer (equivalent to 0.5 nautical miles)

Law enforcement personnel indicated that any SMZ designations by the Council should include a buffer around the boundaries of the artificial reef to allow for adequate enforcement. Under this alternative, the areas designated as SMZs would include the area within the published boundaries of the reef included in the COE permit plus a buffer of 1000 yards (0.5 nautical miles). This buffer was specifically recommended by personnel from the US Coast Guard and NMFS Office of Law Enforcement.

5c. 500 meter buffer (equivalent to 0.25 nautical miles)

Law enforcement personnel have indicated that any SMZ designations by the Council should include a buffer around the boundaries of the artificial reef to allow for adequate enforcement. Under this alternative, the areas designated as SMZs would include the area within the published boundaries of the reef included in the COE permit plus a buffer of 500 meters (0.25 nautical miles). The SMZ designations in the South Atlantic include a 500 meter buffer around the reef site boundaries.

6. Divide each reef site in half and establish SMZ for 50% of reef site area

If the USCG recommendation for a buffer 0.5 nautical miles were adopted, this option appears impractical/infeasible.

Public hearings

Staff recommend three public hearings be held to receive public comment on the proposed options at the following locations:

- 1) Cape May, NJ
- 2) Lewes, DE
- 3) Ocean City, MD