



## Accountability Measures for Summer Flounder, Scup, and Black Sea Bass

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The Magnuson-Stevens Fishery Conservation and Management Act requires that Council Fishery Management Plans (FMPs) contain provisions for annual catch limits (ACLs) and “measures to ensure accountability.” The National Standards Guidelines state that accountability measures (AMs) “are management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur. AMs should address and minimize both the frequency and magnitude of overages and correct the problems that caused the overage in as short a time as possible.” (50 CFR 600.310 (g)).

The current summer flounder, scup, and black sea bass AMs (as of December 2020) were established for the recreational fishery through Amendment 19 to the Summer Flounder, Scup, and Black Sea Bass FMP (2013),<sup>1</sup> and for the commercial fishery through Framework 13 to the FMP (2018).<sup>2</sup> A summary of accountability in these fisheries is provided below.

All three species are jointly managed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). Some aspects of these AMs are included both FMPs, while others are included only in the Council or Commission’s FMP.

### Recreational Accountability Measures

Federal regulations include reactive AMs to be applied when the recreational summer flounder, scup, or black sea bass ACL is exceeded as well as proactive AMs to help prevent the ACL from being exceeded.

**Proactive recreational AMs** include adjustments to the management measures (bag limits, size limits, and season) for the upcoming fishing year, if necessary, to prevent the Recreational Harvest Limit (RHL, a landings-only limit) and recreational ACL (which includes landings and dead discards) from being exceeded. Measures to prevent the RHL from being exceeded are ultimately intended to also prevent ACL overages, which in turn prevents overfishing. Considerations for whether to adjust measures in the upcoming year include projected harvest estimates for the current year, including whether the RHL in the current year is projected to be exceeded.

In-season closures are used as a proactive AM in other fisheries, including the commercial fisheries for these three species. However, the regulations do not allow for in-season closure of the recreational fishery if the RHL or ACL is expected to be exceeded. Therefore, measures must be set in a manner that is reasonably expected to constrain harvest to the RHL.

**Reactive recreational AMs** include a set of possible responses to exceeding the recreational ACL, depending on stock status and which limits are exceeded. Paybacks of ACL overages may be required in a subsequent fishing year, depending on stock status and the scale of the overage, as described below. ACL overages in the recreational fishery are evaluated by comparing the most recent 3-year average

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<sup>1</sup> See the amendment action page at <https://www.mafmc.org/actions/omnibus-recreational> and the amendment document at [https://www.mafmc.org/s/Recreational-AM-Amendment-EA\\_September-2013.pdf](https://www.mafmc.org/s/Recreational-AM-Amendment-EA_September-2013.pdf).

<sup>2</sup> See the framework action page at <https://www.mafmc.org/actions/sfsbsb-commercial-am-framework> and the amendment document at [http://www.mafmc.org/s/SFSCBSB-Commercial-AM-EA-document\\_Final-with-signed-FONSI.pdf](http://www.mafmc.org/s/SFSCBSB-Commercial-AM-EA-document_Final-with-signed-FONSI.pdf).

recreational ACL against the most recent 3-year average of recreational 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:
  - a. 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 measure and conditions that precipitated the overage.
  - b. If the acceptable biological catch (ABC) 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 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 conditions that precipitated the overage.

### Commercial Accountability Measures

The commercial fisheries have AMs to prevent overages of the commercial quota and the commercial ACL, as well as mechanisms for paybacks under certain circumstances if these limits are exceeded.

**Proactive commercial fishery AMs** include in-season monitoring and closure mechanisms at various levels depending on the species and the circumstances:

- For summer flounder, the Council and Commission's FMPs specify that individual state fisheries must close if that state's commercial harvest reaches their state allocation for that year. The National Marine Fisheries Service's Greater Atlantic Regional Fisheries Office (GARFO) may close the fishery at the coastwide or state level. At a coastwide level, GARFO may close the fishery, for the remainder of the calendar (fishing) year, to federally permitted vessels if they determine that "the inaction of one or more states will cause the commercial sector ACL to be exceeded, or if the commercial fisheries in all states have been closed." GARFO may reopen the fishery if earlier inaction by a state has been remedied by that state, or if commercial fisheries in one or more states have been reopened without causing the sector ACL to be exceeded. GARFO monitors state commercial quotas based on dealer reports and other available information. As a state approaches its quota, GARFO will estimate the date when that state's commercial quota will be fully harvested. Based on this GARFO will publish notification in the Federal Register advising a state that, effective upon a specific date, its commercial quota has been harvested and notifying vessel and dealer permit holders that no commercial quota is available for landing summer flounder in that state.
- For scup, the commercial fishery is closed for federally permitted vessels for the remainder of the quota period if the quota allocated to the Winter I, Summer, or Winter II quota period is reached or exceeded. During the summer quota period, the Commission's FMP specifies that

states must close their fisheries if their summer period commercial harvest reaches their state allocation for that period.

- For black sea bass, the Commission's FMP specifies that states must close their fisheries if their annual quota is reached or exceeded. The federal regulations specify that GARFO will close the fishery to federally permitted vessels if the coastwide commercial quota is projected to be harvested.
- In all cases, during a federal closure, federally permitted fish dealers may not purchase the species affected by the closure.

**Reactive commercial AMs** include potential paybacks for landings and/or discards overages, depending on the circumstances:

Landings (i.e., quota) overages must be repaid, pound for pound in a following year.

- For summer flounder, this is done at the state level. States that exceed their allocations pay back their own overages, regardless of whether the coastwide quota was exceeded.
- For scup, any current year landings overages of a specified commercial quota period (Winter I, Summer, or Winter II) are deducted from the corresponding period's quota in a following year. Under the Commission's FMP, overages at the state level for the Summer period (the only period with state-by-state allocations) are deducted from that state's summer quota in the following year only if the coastwide quota was exceeded.
- For black sea bass, coastwide landings in excess of the annual coastwide quota will be deducted from the quota in a following year. Under the Commission's FMP, overages at the state level are deducted from that state's quota in the following year only if the coastwide quota was exceeded.

Commercial ACL overages are evaluated based on a single year comparison of dead commercial catch to the commercial ACL in that year. If the ACL is exceeded due to estimated dead discards, the AMs are similar to those described above for the recreational fishery in that the need for a payback and the payback amount is determined based on stock status and other factors. When the commercial ACL is exceeded due to discards, the following system is used to determine the appropriate response:

1. If the current biomass is above the target ( $B > B_{MSY}$ ): no overage payback is required.
2. If biomass is above the threshold, but below the target ( $\frac{1}{2} BMSY < B < BMSY$ ), and the stock is not under a rebuilding plan: then one of the following non-landings paybacks are applied:
  - a. If discards cause the commercial ACL, but not the ABC, to be exceeded, no overage repayment is required.
  - b. If discards cause both the commercial ACL and ABC to be exceeded, a scaled, single-year adjustment to the commercial annual catch target (ACT) will be made. The adjustment would be scaled based on stock biomass, so that the adjustment is larger the closer the biomass is to the threshold.
3. If the stock is overfished, under a rebuilding plan, or the biological reference points (i.e., stock status) are unknown, then a pound-for-pound payback is required for any non-landings overage.