Mid-Atlantic Fishery Management Council
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P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: March 27, 2026

To: Council and ASMFC Policy Board

From: Julia Beaty (Council staff), Tracey Bauer (ASMFC staff), Chelsea Tuohy (ASMFC staff)

Subject: Final action on the Recreational Measures Setting Process Framework/Addenda

The Mid-Atlantic Fishery Management Council (Council) will meet with the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Program Policy Board (Policy Board) on April 9, 2025 to consider taking final action on the Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process Framework/Addenda.

The following briefing materials are provided behind this tab. Materials are listed in reverse chronological order.

1) Council staff memo dated March 27, 2025, with recommendations for final action

2) Summary of March 13, 2025 Advisory Panel meeting

3) Summary of March 10, 2025 Fishery Management Action Team/Plan Development Team (FMAT/PDT) meeting

4) Summary of comments received during ASMFC public comment period

5) Draft Addenda

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MEMORANDUM

Date: March 27, 2025

To: Chris Moore, Executive Director

From: Julia Beaty, staff

Subject: Council staff recommendation for final action on the Recreational Measures Setting Process Framework/Addenda

Summary

On April 9, 2025, the Mid-Atlantic Fishery Management Council (Council) will meet with the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Program Policy Board (Policy Board) to consider taking final action on the Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process Framework/Addenda. This action considers the appropriate process for setting recreational bag, size, and season limits (i.e., recreational measures) for these species for 2026 and beyond. The current process, the Percent Change Approach, will sunset at the end of this year. Final action on the framework/addenda must take place during the April 2025 Council and Policy Board meeting to allow sufficient time for rulemaking and implementation of the selected alternative(s) for use in setting 2026 measures.

For the reasons described below, **Council staff recommend Option D and Sub-Option D-2** for all four species. Option D would make several improvements to the currently implemented Percent Change Approach, including giving greater consideration to the impact of recreational measures on discards. Sub-Option D-2 would modify the accountability measures (AMs) to give greater consideration to if recreational annual catch limit (ACL) overages contributed to overfishing when determining the appropriate recreational AM response.

Council staff recommend these changes have a **delayed effective date for bluefish** until the 2028-2029 specifications cycle. The intent of this delay is to allow more time to develop methods for predicting the impact of measures on bluefish harvest and discards. For 2026-2027, bluefish measures would continue to be set based on the No Action Option, including adherence to the rebuilding plan if biomass remains below the target level.

A delayed effective date is not necessary for summer flounder, scup, and black sea bass as the Recreation Demand Model is already established as the best scientific information available for

setting measures for those species.[1] This model is expected to continue to be used for these three species under all options in the framework/addenda. Therefore, changes implemented through this action for summer flounder, scup, and black sea bass would be effective starting with the 2026 measures.

In addition, Council staff recommend that the process selected through final action be **reviewed 5 years after implementation** (i.e., starting in late 2030 or early 2031). This review would not necessarily trigger a new management action. Rather, it would give the Council and the Policy Board the opportunity to review the performance of the process and determine if a new action should be initiated to consider further changes. This review can be accomplished without a sunset date for the process selected through this action. Council staff advise against a sunset date as this can limit flexibility and the amount of analysis that can be done.

Council staff recommendation for Option D and comparison to Option C

This section outlines the rationale for the Council staff recommendation of Option D, which was also recommended by the FMAT/PDT. As described in more detail in the Draft Addenda, Option D would make several improvements to the currently implemented Percent Change Approach, including adding an "around the target" biomass category, treating overfished stocks separately, and allowing more status quo outcomes. Option C makes all these same modifications. The only difference between Options C and D is that Option D would consider total recreational removals (i.e., harvest plus dead discards, also referred to as dead catch) rather than harvest alone when determining if measures should change. In addition, the resulting target for setting measures would be a specified percent change in expected total removals rather than in harvest alone. Table 1 illustrates Option D, with yellow highlighting to indicate the differences between Options C and D.

The differences between Options C and Option D are highlighted here because the majority of comments received during the recent ASMFC public comment period supported Option C. About two thirds of advisors who provided input during the March 13, 2025 Advisory Panel meeting also supported Option C. As noted above, the Fishery Management Action Team/Plan Development Team (FMAT/PDT) recommended Option D.

A summary of key pros and cons of Options C and D is shown in Table 2. Each of these considerations are described in more detail below.

[1] More information on the Recreation Demand Model is available in a December 2023 memo to the Council (available here) and in NOAA Technical Memorandum NMFS-NE-320 (available here).

Table 1: Summary of Option D, the modified Percent Change Approach using the recreational annual catch target (ACT) and total recreational dead catch. Yellow highlighting indicates differences between Option D and Option C.[2] Wherever Option D says "ACT," Option C says "RHL" (referring to the recreational harvest limit). Wherever Option D says "catch," Option C says "harvest." All other aspects of the table below are the same across Options C and D.

Future ACT vs estimated catch	**Biomass vs. target level**	**Change in catch**
2-yr avg ACT is **greater than** the upper bound of catch estimate CI (catch expected to be lower than the ACT)	**Very high** (≥ 150%)	**Liberalization** %= difference between catch estimate and 2-yr avg. ACT, **not to exceed 40%**
	High (≥ 110% & < 150%)	**Liberalization** %= difference between catch estimate and 2-yr avg. ACT, **not to exceed 20%**
	Around the target (≥ 90% & < 110%)	**Liberalization: 10%**
	Low (≥ 50% & < 90%)	**No liberalization or reduction**: 0%
2-yr avg ACT is **within** catch estimate CI (catch expected to be close to the ACT)	**Very high to low** (< 50%)	**No liberalization or reduction**: 0%
2-yr avg ACT is **less than** the lower bound of catch estimate CI (catch is expected to exceed the ACT)	**Very high** (≥ 150%)	**No liberalization or reduction**: 0% (unless AM triggered)
	High (≥ 110% & < 150%)	**Reduction: 10%**
	Around the target (≥ 90% & < 110%)	**Reduction** %= difference between catch estimate and 2-yr avg. ACT, **not to exceed 20%**
	Low (≥ 50% & < 90%)	**Reduction** %= difference between catch estimate and 2-yr avg. ACT, **not to exceed 40%**

Overfished (<50% of target)	No liberalizations allowed. Reduction % = difference between catch estimate and 2-yr avg. ACT. To be replaced with rebuilding plan measures as soon as possible

[2] Option C is described in Section 3.3 of the Draft Addenda.

Table 2: Summary of key pros and cons for Option C vs. Option D. The table below summarizes only the differences between the two options and does not include considerations that are the same across the two options.

	Option C	Option D
Pros	• Familiarity with harvest-based targets. • May result in more moderate changes in measures than Option D when changes are needed (more stability in measures).	• Requires consideration of how measures impact both harvest and discards. • Does not require an assumption that discards are unchanged by measures when setting the catch-based target.
Cons	• Would not require consideration of how measures impact discards. • Requires an assumption that discards are unchanged by measures when setting the harvest-based target.	• Less familiarity with catch-based targets. • May result in greater changes in measures than Option C when changes are needed (less stability in measures).

Nothing about the Recreation Demand Model would need to change under any option in this action

As described in more detail in Appendix 1, nothing about the Recreation Demand Model that is currently used for setting summer flounder, scup, and black sea bass measures would need to change under any of the options in the framework/addenda. The model would use the same information under all options. The model would not give greater emphasis to certain types of information (e.g., discards) under some options but not others. Therefore, uncertainty of the input data and the ability to determine appropriate measures are not relevant concerns when selecting from the management options in the framework/addenda.

The Recreation Demand Model is not available for bluefish. The methods for setting bluefish measures under any management option will be considered by the Monitoring and Technical Committees in the future. The recommended delayed effective date for bluefish would allow time to develop an appropriate method for bluefish, which would be beneficial under all options in the framework/addenda.

Option D more comprehensively considers the impacts of measures on the stock than Option C

Council staff agree with the FMAT/PDT's rationale that Option D allows for a more comprehensive consideration of the impacts of measures on the stock compared to Option C. This is because under Option D, managers must consider how measures are expected to impact both harvest and dead discards. In contrast, under Option C, managers would not be required to consider the impact of measures on discards.

Discards are an important component of total removals and are also an important aspect of the angling experience. In addition, under all options, discards would continue to be accounted for in the stock assessment and would continue to be considered when determining if AMs are triggered. Requiring consideration of both dead discards and harvest when setting recreational measures under Option D would better align the measures setting process with these other aspects of the management process.

Option D does not require an assumption that discards are constant regardless of the measures
The FMAT/PDT expressed concerns that the harvest-based target informed by the recreational harvest limit (RHL) under Option C is problematic because the RHL requires an assumption that discards will be constant regardless of the measures implemented. The RHL is calculated by subtracting expected dead discards in the upcoming year from the annual catch target (ACT). The RHL must be set before the measures are set. However, the actual discards will vary based on the measures. The RHL cannot be revised after the measures are set because the RHL is needed to determine the measures. This is not a concern when the ACT is used to define the target for measures, as under Option D, because the ACT does not require an assumption about discards in the upcoming year(s). Additional information on the methods used to predict discards when setting the RHL is provided in Appendix 2.

40% is an appropriate maximum percent change under Option D
Council staff support implementation of Option D as written in the Draft Addenda, including maintaining 40% as the upper limit on liberalizations and reductions.

The 10%, 20%, and 40% thresholds under Option D were carried forward from the currently implemented Percent Change Approach, which uses a harvest-based target. These thresholds were loosely based on an analysis that compared a time series of Marine Recreational Information Program (MRIP) harvest estimates to the following year's RHL. This analysis was updated in 2024, as described in more detail in the summary of the April 1, 2024 FMAT/PDT meeting.

Further updates to this analysis using catch estimates compared to a time series of ACTs were discussed during the March 10, 2025 FMAT/PDT meeting. The updated analysis using catch supported the 10% and 20% thresholds but suggested 40% may be too high and instead a lower value of around 32% may be more appropriate. However, Council staff caution that this analysis is not robust enough to be the sole justification for the upper limit on liberalizations and reductions under Option D.

The harvest-based analysis was intended as a proxy for liberalizations and reductions that were used in the past. This is only a rough approximation because the methods varied each specifications cycle and the changes were often not framed as a desired percent change in harvest. Using this same method to determine proxies for catch-based changes is even less accurate because the measures for these species were never set with the goal of constraining total dead catch to specified levels. The measures were always focused on the RHL. In addition, the

catch-based analysis uses a much shorter time series than the harvest-based analysis as the process of using ACLs and ACTs has only been in place since 2012, while RHLs have been used for much longer (e.g., since 1993 for summer flounder and 1998 for black sea bass, the two species used in this analysis[3]). It is also important to note that 40% is not outside the range of results from the catch-based analysis, representing approximately the 91st and 95th percentiles of the results for summer flounder and black sea bass respectively.

Lowering the maximum percent change under Option D below 40% also raises concerns for tradeoffs regarding sustainability of the stocks and optimum yield. If a stock is close to the overfished threshold (i.e., 50% of the biomass target) and a large ACT overage is expected under status quo measures, it may be appropriate to take a reduction of up to 40% (Table 1), rather than a lower reduction such as 32%, to prevent the stock from becoming overfished. Alternatively, when biomass is very high and a notable ACT underage is expected, it may be more appropriate to allow a larger liberalization of up to 40%, compared to a lower value such as 32%, to allow the fishery to achieve optimum yield under good stock conditions. For these reasons, Council staff support Option D as written without changing 40% to a lower value.

Tradeoffs regarding stability in measures

Although Council staff support Option D, it is important to consider tradeoffs related to stability in measures. An analysis using the Recreation Demand Model suggests that when liberalizations or reductions are required, more drastic modifications to measures are needed to achieve the same percent change in total removals (e.g., under Option D) compared to if the same percent change needed to be achieved in harvest alone (e.g., under Option C).[4] Eight different management measure examples were examined for summer flounder (four restrictions and four liberalizations) and six for scup (four restrictions and two liberalizations). Across all scenarios, the same measures always achieved a lesser percent change in total removals than in harvest alone. This was true for both liberalizations and reductions.

Some advisors raised concerns that this analysis focused on alternative scenarios only for 2024 and did not include black sea bass. However, the conclusion that the same measures always achieve a lesser percent change in total removals than in harvest alone would be the same if additional years or species were included. The specific percent changes would vary based on the measures implemented, the species, and the year; however, the expectation that measures would always result in a lesser percent change (liberalization or reduction) in total removals compared to harvest alone is not impacted by the species or year of the analysis. The reason for this is due to the discard mortality rates. Measures have a lesser impact on dead discards than on harvest

[3] The rationale for excluding scup and bluefish from this analysis is described in the summary of the April 1, 2024 FMAT/PDT meeting.

[4] This analysis is summarized in an appendix to the summary of the March 10, 2025 FMAT/PDT meeting.

because most fish released in these recreational fisheries survive.[5] Released fish that survive do not count against total removals.

Table 3 shows a simple example to illustrate this concept using a 10% discard mortality rate. This example is not based on a modeling exercise. It is a theoretical example. Under the restriction example in Table 3, harvest decreased by 50% but total removals decreased by 41%. Under the liberalization example, harvest increased by 50% but total removals increased by 40%.

Put another way, when changes are needed, the catch-based target under Option D would be expected to require greater changes in the bag, size, and season limits, in both directions (i.e., greater liberalizations in measures and greater restrictions in measures) compared to the harvest-based target under Option C. This is an important consideration because a goal of the Recreational Reform Initiative (of which the Recreational Measures Setting Process Framework/Addenda is one component) is to provide stability in the recreational bag, size, and season limits.

The Council and Policy Board should consider if the potential for greater changes in measures when changes are needed is an acceptable tradeoff for giving greater consideration to discards when setting measures under Option D. Council staff believe this tradeoff is appropriate as discards are an important component of total removals, and therefore impacts to the stocks.

Table 3: Simple example provided by NEFSC staff of percent changes in harvest and total removals relative to a status quo example.

Status quo example Angler keeps 2 fish, discards 2 fish	**Restriction example** Angler now keeps 1 fish and discards 3 fish	**Liberalization example** Angler now keeps 3 fish and discards 1 fish
2 fish are harvested	1 harvested fish = **50% decrease in harvest** compared to status quo	3 harvested fish = **50% increase in harvest** compared to status quo
Under a 10% discard mortality rate, dead discards are 0.2 fish	Dead discards are 0.3 fish, a **50% increase in dead discards** compared to status quo	Dead discards are 0.1 fish, a **50% decrease in dead discards** from status quo
Total removals = 2.2 fish	Total removals = 1.3 fish, a **41% decrease in total removals** from status quo	Total removals = 3.1 fish, a **40% increase in total removals** from status quo

[5] The currently assumed recreational discard mortality rates are 10% for summer flounder, 15% for scup, 15% for black sea bass, and 9.4% for bluefish. These rates are typically reviewed through the research track assessments.

It could take 7-9 years before additional changes are made through a future action
Council staff recognize that stakeholders and managers are familiar with harvest-based targets for these four species and may feel uncertain about how a transition to catch-based targets could impact management. In addition, much of the analysis summarized above was not available during the public hearings for this action. This new information was first presented during the March 10, 2025 FMAT/PDT meeting. It was also summarized during the March 13, 2025 Advisory Panel meeting. The new information was intended to help address concerns raised during the public hearings and to help better inform the Council and Policy Board for final action.

Council staff support the recommendation made in several public comments to review the process 5 years after implementation and consider if further changes are needed after that review. Council staff support that recommendation regardless of which option(s) are implemented through this action. However, it is important to note that frameworks and addenda typically take 1-3 years to complete. For example, this action took 3 years. Therefore, if a review takes place 5 years after implementation of this action and a new action is initiated based on that review, it could be 2032-2034 before any further changes to the process are implemented. Therefore, the Council and Policy Board should consider if any remaining uncertainty in the impacts of catch-based targets warrant maintaining harvest-based targets for potentially 7-9 more years before catch-based targets could be used.

Council staff recommendation for Sub-Option D-2 for AMs

This section summarizes the Council staff recommendation for Sub-Option D-2, which is shown in Table 4. A more detailed comparison to the current AMs is included in Section 3.4 of the Draft Addenda.

Under all options in the framework/addenda, there would be no or minimal changes to how the recreational AMs are triggered compared to the current requirements. Recreational AMs would still be triggered when the most recent three-year average recreational ACL is exceeded for summer flounder, scup, and black sea bass. For bluefish, this would continue to be based on the single most recent ACL. However, (with the exception of Options A and B) a three-year comparison would also be used for bluefish when a transfer between the commercial and recreational sectors did not occur in those years.

The primary change to the recreational AMs under Sub-Option D-2 is to give greater consideration to if recreational ACL overages contributed to overfishing when determining the appropriate AM response. Sub-Option D-2 would not require an AM response when ACL overages did not contribute to overfishing and the stock is not overfished or under a rebuilding plan. When the stock is overfished or under a rebuilding plan, recreational ACL overages would still be paid back pound for pound. When the stock is not overfished and not under a rebuilding plan, but overfishing occurred, either a scaled payback would be required, or measures may need to be modified, depending on the biomass level (Table 4).

Sub-Option D-2 provides virtually the same level of conservation for overfished stocks, stocks under a rebuilding plan, and stocks experiencing overfishing as the current AMs. The most notable changes under Sub-Option D-2 are for stocks that are not experiencing overfishing and are not overfished or under a rebuilding plan. Sub-Option D-2 seeks to balance consideration of stock status with the desire to achieve more stability in measures and achieve optimum yield.

Table 4: Reactive recreational accountability measures under Sub-Option D-2.

Biomass level	AM response
Overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points are unknown	The exact amount, in pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL[6] will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.
At least 50% but less than 90% of the biomass target and not in a rebuilding plan	If overfishing did not occur[7] in the most recent year, then no AM response is needed. If overfishing occurred in the most recent year,[5] then a single year deduction will be made as a payback, scaled based on stock biomass. The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years.
At least 90% of the biomass target and not in a rebuilding plan	If overfishing did not occur[5] in the most recent year, then no AM response is needed. If overfishing occurred in the most recent year,[5] adjustments to the measures may be made for the following year, or as soon as possible once catch data are available. The intent of the word "may" is to allow the flexibility for status quo measures, if appropriate, as an AM when a liberalization is otherwise allowed. These adjustments will take into account the performance of the measures and conditions that precipitated the overage. If a liberalization is allowed, the scale of the liberalization may be reduced to account for the AM. The Monitoring Committee will recommend the appropriate adjustment.

[6] For bluefish, this would be based on the single most recent year when a transfer between the commercial and recreational sectors occurred during the most recent three years.

[7] If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch limit (ABC) will be used.

Interaction of AMs with process for setting measures

When considering among the AM sub-options in the framework/addenda, it is useful to consider how they would interact with the process for setting measures. The examples below focus on the interaction between Option D and Sub-Option D-2 as these are the staff recommended options.

As one example, if a stock is above 150% of its biomass target and status quo measures are expected to result in a recreational ACT overage (i.e., the upcoming ACT is below the confidence interval for expected dead catch under status quo measures), Option D would allow the measures to remain unchanged (Table 1). If overfishing is not occurring based on the most recent information, Sub-Option D-2 would not require an AM response (Table 4). This would also allow measures to remain unchanged. However, if overfishing was occurring, Sub-Option D-2 would require an AM response. Given that an ACT overage is expected in this example, a liberalization would not be allowed and the language in Table 4 stating that measures "may" be adjusted would not be relevant; the measures would need to be adjusted.

In this example, if measures remain unchanged despite an expected ACT overage because biomass was at least 150% of the target level and overfishing was not occurring, status quo measures could remain in place until one of those circumstances changed. If a future assessment update determines that overfishing was occurring, then future changes in measures would be required due to the AMs (Table 4). If biomass fell below 150% of the target level due to continued recreational ACT overages or for other reasons, then measures would need to be restricted due to the Percent Change Approach (Table 1).

As another example, Sub-Option D-2 would not require an AM response when the stock is between 50% and 90% of the target level and overfishing is not occurring. Under the Percent Change Approach as defined in Option D, liberalizations would only be allowed in this circumstance if status quo measures were expected to result in notable ACT underages (i.e., the upcoming ACT is above the upper bound of the confidence interval for expected dead catch under status quo measures). In this example, measures in the recent past resulted in ACL overages, but the current measures would not be expected to result in overages. There are a few reasons why this may have occurred. The current measures could be more restrictive than the recent past measures. Or the assessment could have changed in a way that increased the catch limits. In such cases, it may be appropriate to set measures without requiring specific changes due to AMs that were triggered based on past ACLs.

It is also important to note that, as stated in the Draft Addenda, under Option D "and all other options in the addenda, the Board and Council may choose to implement more restrictive measures than would otherwise be required to address management uncertainty or concerns about the long-term sustainability of the stock." Therefore, the Council and Board may restrict measures even if status quo is allowed under Option D and Sub-Option D-2. This allows the flexibility to consider the specific circumstances and determine if more caution is warranted.

These examples help illustrate that ACT overages would not be allowed to continue unchecked under the combination of Option D and Sub-Option D-2; status quo measures despite expected ACT overages (i.e., the upcoming ACT is below the confidence interval for expected catch under status quo measures) would only be allowed if overfishing was not occurring and the stock remained above 150% of the biomass target.

Sub-Option D-2 is similar to the summer flounder, scup, and black sea bass commercial AMs when discards contribute to an ACL overage

The changes proposed through Sub-Option D-2 are similar in intent to the current summer flounder, scup, and black sea bass commercial fishery AMs when commercial discards contributed to an ACL overage.[8] Overages of the stock-wide commercial quota must always be repaid, pound for pound, regardless of whether the commercial ACL was also exceeded. However, if discards contributed to a commercial ACL overage, the appropriate AM response varies based on stock status and if the most recent ABC was exceeded.

For these commercial fisheries, if the stock is overfished, under a rebuilding plan, or stock status is unknown, the exact amount of the ACL overage must be repaid. This is the same as the recreational AMs under all options in the framework/addenda.

For these commercial fisheries, if discards contributed to an ACL overage, biomass is above 50% of the target level, the stock is not under a rebuilding plan, and the most recent ABC was not exceeded, then no AM response is needed. This has the same intent as Sub-Option D-2. Sub-Option D-2 uses the most recent estimate of overfishing rather than the ABC. The most recent estimate of overfishing is a more appropriate consideration than the ABC because it can incorporate more recent information than was available when the ABC was set. This can provide a more accurate understanding of the impacts of overages on the stock and can help account for issues like retrospective patterns in assessments (e.g., model results after adding new years of data suggest the previous ABCs may have been set too high or too low).

For these commercial fisheries, if discards contributed to an ACL overage and biomass is above the target level, then no AM response is needed, regardless of whether or not overfishing occurred or the overall ABC was exceeded. This is less conservative than Sub-Option D-2 which would require consideration of the appropriate change in measures when biomass is at least 90% of the target level and overfishing occurred in the most recent year.

Sub-Option D-2 is in line with how GARFO has approached the AMs for scup and black sea bass in recent years

Sub-Option D-2 is in line with how the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) has been treating the recreational AMs for scup and black sea bass in recent years. The current regulations state that when a recreational AM is triggered and biomass is

[8] 50 CFR 648.103(b)(3) for summer flounder, 50 CFR 648.123(b) for scup, and 50 CFR 648.143(b) for black sea bass.

above the target level, "adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, ***will*** be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment" (emphasis added). However, in 2023[9] and 2024,[10] GARFO sent letters to the Council stating that no AM responses were needed for scup and black sea bass even though recreational AMs were triggered. In each case, the rationale was partially based on the fact that biomass was well above the target level and overfishing was not occurring for either stock.

The current regulations do not allow status quo measures when recreational AMs have been triggered; however, GARFO allowed status quo measures to remain in place in 2024 and 2025 for black sea bass even though AMs had been triggered. Changes were made to the 2024 scup measures that were not the result of AMs; however, scup measures were able to remain unchanged in 2025 despite the AMs. The changes under Sub-Option D-2 would better align the regulations with this recent practice.

[9] Letter from Michael Pentony to Christopher Moore, dated October 30, 2023.

[10] Letter from Michael Pentony to Christopher Moore, dated October 28, 2024. Note that the black sea bass recreational landings and discards estimates were corrected in a subsequent December 18, 2024 letter. These corrections did not change the relevant points above regarding AMs.

Appendix 1: The Recreation Demand Model does not give more emphasis to discards under catch-based targets compared to harvest-based targets

Several public comments and Advisory Panel comments expressed concerns about how uncertainty in the recreational discard estimates would impact Options D and E, which use catch-based targets. Options A-C use harvest-based targets. Some of these comments expressed concerns that by giving greater consideration to discards, catch-based targets would introduce more uncertainty into the management process than harvest-based targets. However, as described in more detail below, this is not the case given how the data are used to inform the targets and to set measures.

The MRIP estimates of discards, referred to as the B2 estimates, are not observed by MRIP samplers and are self-reported by anglers. This means the B2 estimates are subject to more recall bias than the harvest estimates. The MRIP harvest estimates include harvest that is observed by MRIP samplers (A) and harvest that is not observed by MRIP samplers but is reported by anglers (B1).

An analysis presented to the FMAT/PDT on March 10, 2025[11] illustrates that the MRIP discard estimates in fact have lower statistical uncertainty than the harvest estimates, which, as stated in the summary of the analysis, "could be due to there being more variability in reported harvest versus discards, harvest being highly zero-inflated leading to more variability in the non-zero observations, and other factors related to MRIP sampling weights and stratification." However, some advisors remained concerned that the metrics of statistical uncertainty presented in this analysis do not address the issue of recall bias.

Council staff acknowledge these concerns, but it is important to consider that discard estimates are used in the Recreation Demand Model under both harvest and catch-based targets. The model does not give greater emphasis to discards when the target for setting measures is based on total removals vs. harvest.

This model has been used in the process of setting recreational measures for summer flounder, scup, and black sea bass starting with the 2023 measures. It has greatly improved the ability of managers to predict the impacts of measures on recreational harvest and discards. None of the options in the framework/addenda require use of this model. However, it is expected to continue to be used for the foreseeable future.

Figure 1 illustrates the inputs to and outputs of the model. The configuration of the model will not change based on the options selected through this management action. The model already provides all the information needed for all management options. For example, the model already produces estimates of the impacts of measures on both harvest and discards.

[11] This analysis is summarized in the appendix to the summary of the March 10, 2025 FMAT/PDT meeting.

As shown in Figure 1, the model uses MRIP information on catch per trip, which includes both harvest and discards. This information is necessary for both harvest and catch-based targets because information about discards helps inform predictions of how both harvest and discards may change under different measures. In this way, the issue of recall bias is "baked into" the model regardless of whether the target for setting measures is based on harvest (Options A, B, and C) or total removals (Options D and E). The degree of recall bias in the model predictions does not vary across options because the configuration of the model does not vary across options.

Recall bias is not a flaw in the model. The model accounts for uncertainty in all the input data when predicting the impacts of measures on harvest, discards, number of trips, and angler welfare. The model has been reviewed by the Council's Scientific and Statistical Committee as well as the Council's Monitoring Committee and the Commission's Technical Committee. GARFO stated that this model is the best available science for setting recreational measures for summer flounder, scup, and black sea bass.

The Recreation Demand Model is not available for bluefish. Bluefish recreational measures have changed much less frequently than the summer flounder, scup, and black sea bass measures and there is not an established method for determining the appropriate measures for bluefish. The appropriate method is considered by the Monitoring and Technical Committees each time a change is needed. Therefore, the considerations in this appendix are focused on summer flounder, scup, and black sea bass. These considerations may or may not differ for bluefish depending on the methodology used for bluefish. As previously noted, Council staff recommend a delayed implementation of Option D for bluefish to allow time to consider the appropriate methodology for setting bluefish measures.

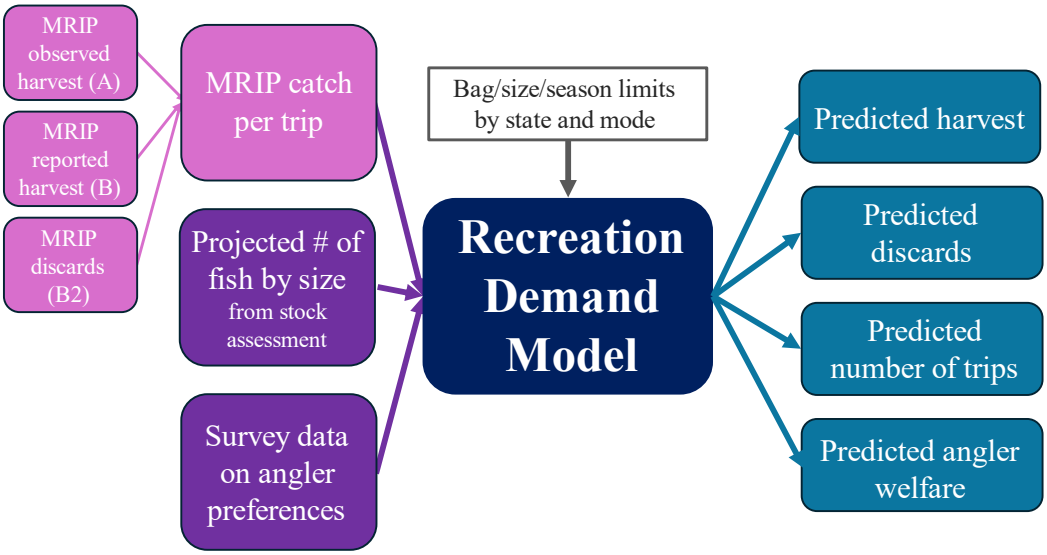

Figure 1: Illustration of the Recreation Demand Model inputs and outputs. This configuration is not impacted by the management options considered in the Recreational Measures Setting Process Framework/Addenda. The model uses the same information regardless of the management option chosen.

Appendix 2: Harvest-based targets require an assumption that discards are not impacted by the bag/size/season limits

As previously described, Option C uses a harvest-based target for setting recreational measures. This target is informed by the RHL. Option D uses a catch-based target which is informed by the ACT.

The RHL is calculated by subtracting expected dead discards from the ACT (Figure 2). The calculation of expected discards when setting the RHL is not intended to serve as an additional buffer to prevent overages of the ACL, the acceptable biological catch limit, or the overfishing limit. Rather, it is intended to accurately predict discards in the upcoming year(s).

The Monitoring Committees consider and can modify the method for calculating expected recreational dead discards when setting the RHL each specifications cycle. A recent example of the methodology for each species is shown in Table 5.

The methods used to date for predicting discards when setting the RHLs have generally not accurately predicted discards. For example, consistent under-estimation of black sea bass recreational dead discards contributed to many ACL overages (Table 6). Conversely, the recreational dead discards for summer flounder have been consistently over-estimated (Table 7). The recreational dead discards for scup have been both over and under-estimated (Table 8).[12]

The FMAT/PDT noted it is problematic for measures to be set based on the RHL because the RHL requires an assumption that discards will be constant regardless of the measures implemented. The RHL must be set before the measures are set. However, the actual discards will vary based on the measures. Therefore, the assumption of discards used when setting the RHL may no longer be accurate once the measures are set. The RHL cannot be revised after the measures are set because the RHL is needed to determine the measures. This is not a concern when the ACT is used to define the target for measures because the ACT does not require an assumption about discards in the upcoming year(s).

Improvements to the methodology for predicting discards when setting the RHL can be considered through future specifications cycles. However, even under improved methods, targets for setting measures which are informed by the RHL would still be problematic because discards would still need to be predicted prior to determining the recreational measures.

[12] A comparison for bluefish is not included in this memo because a time series of the recreational dead discard estimates used in management for bluefish is not readily available due to changes in the estimates over time.

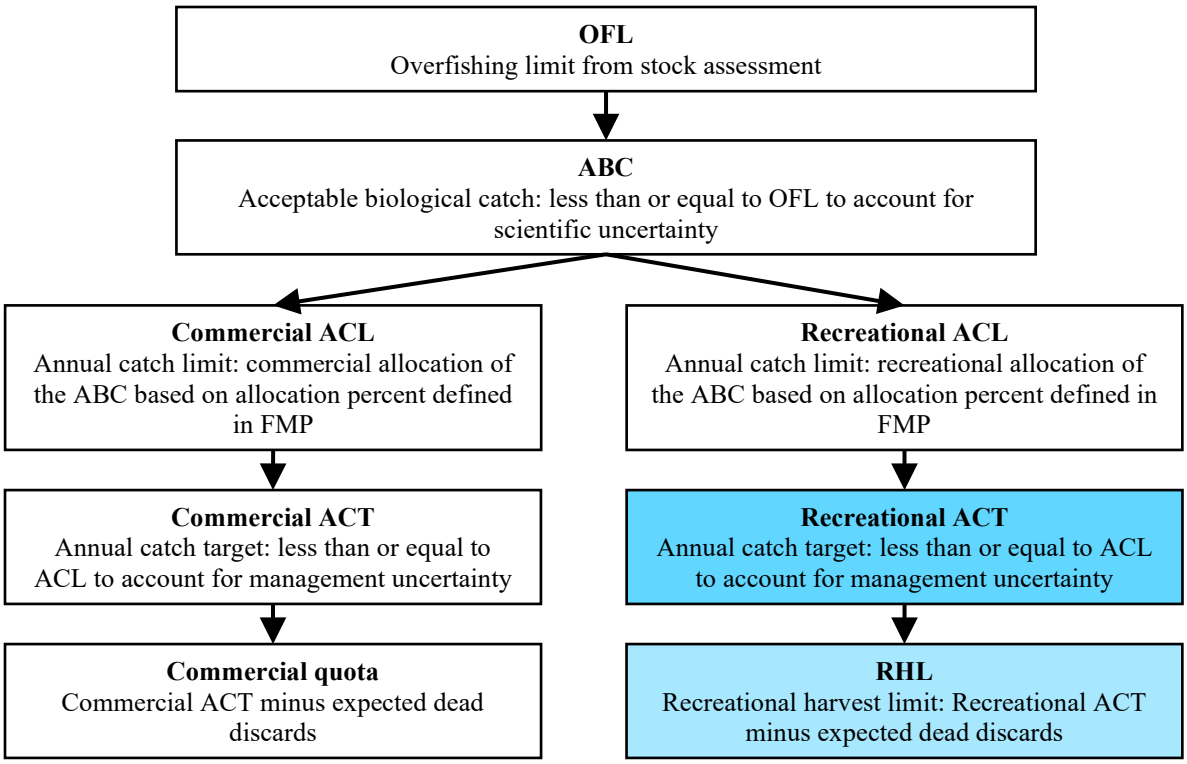

Figure 2: Example flowchart for the process for defining recreational and commercial catch and landings limits for summer flounder, scup, black sea bass, and bluefish. The specific requirements for each species are defined in the FMPs.

Table 5: Methodology for calculating predicted dead discards for use in setting the RHLs for summer flounder, scup, black sea bass, and bluefish for 2024. The Monitoring Committee can modify this methodology with each specifications cycle.

Summer flounder & scup	Black sea bass	Bluefish
Stock assessment projections predict the amount of the ABC that will come from landings vs. dead discards. These projected dead discards are divided into commercial and recreational components based on the most recent three-year average proportion of total dead catch that came from each sector. The resulting recreational amount is subtracted from the RHL.	Average of the following: • The recreational ACT multiplied by the most recent three-year average proportion of total recreational dead catch that came from discards. • The most recent 3-year average recreational dead discards.	Most recent 2-year average recreational dead discards.

Table 6: Black sea bass recreational dead discards compared to the assumption for discards used when setting the RHL, 2012-2023, including an indication of if the recreational ACL was exceeded. Major revisions to the MRIP data were factored into the RHLs and ACLs starting in 2020. Therefore, comparisons prior to 2020 are based in the "old" MRIP units. All values are in millions of pounds.

Black sea bass					
Year	MRIP units	Discards assumed when setting RHL	Final discards	Difference	Was ACL exceeded?
2012	Old	0.54	0.80	+33%	Y
2013	Old	0.64	0.65	+2%	Y
2014	Old	0.64	0.84	+24%	Y
2015	Old	0.57	0.82	+30%	Y
2016	Old	0.70	1.21	+42%	Y
2017	Old	1.09	1.27	+14%	Y
2018	Old	0.93	1.10	+15%	Y
2019	Old	0.93	0.50	-86%	N
2020	New	2.28	3.05	+25%	Y
2021	New	1.59	3.55	+55%	Y
2022	New	2.02	3.69	+45%	Y
2023	New	2.59	3.52	+26%	Y

Table 7: Summer flounder recreational dead discards compared to the assumption for discards used when setting the RHL, 2012-2023, including an indication of if the recreational ACL was exceeded. Major revisions to the MRIP data were factored into the RHLs and ACLs starting in 2019. Therefore, comparisons prior to 2019 are based in the "old" MRIP units. All values are in millions of pounds.

Summer flounder					
Year	MRIP units	Discards assumed when setting RHL	Final discards	Difference	Was ACL exceeded?
2012	Old	3.09	1.80	-72%	N
2013	Old	2.60	1.67	-56%	N
2014	Old	2.06	2.05	0%	Y
2015	Old	2.06	1.24	-66%	N
2016	Old	1.42	1.48	+4%	Y
2017	Old	0.95	0.94	-1%	N
2018	Old	1.11	0.97	-14%	N
2019	New	3.82	3.04	-26%	N
2020	New	3.82	2.52	-52%	Y
2021	New	4.16	2.20	-89%	N
2022	New	4.28	2.95	-45%	N
2023	New	4.28	2.57	-67%	N

Table 8: Scup recreational dead discards compared to the assumption for discards used when setting the RHL, 2012-2023, including an indication of if the recreational ACL was exceeded. Major revisions to the MRIP data were factored into the RHLs and ACLs starting in 2020. Therefore, comparisons prior to 2020 are based in the "old" MRIP units. All values are in millions of pounds.

		Scup			
Year	MRIP units	Discards assumed when setting RHL	Final discards	Difference	Was ACL exceeded?
2012	Old	0.54	0.51	-6%	N
2013	Old	0.97	0.49	-98%	N
2014	Old	0.89	0.50	-78%	N
2015	Old	0.63	0.50	-26%	N
2016	Old	0.75	0.78	+4%	N
2017	Old	0.75	0.90	+17%	Y
2018	Old	0.64	0.60	-7%	N
2019	Old	0.64	1.23	+48%	N
2020	New	1.36	1.19	-14%	Y
2021	New	1.59	1.44	-10%	Y
2022	New	0.98	1.63	+40%	Y
2023	New	1.12	1.24	+10%	Y

Summer Flounder, Scup, Black Sea Bass, and Bluefish
Recreational Measures Setting Process Framework/Addenda

Advisory Panels Webinar Meeting Summary
March 13, 2025

The Mid-Atlantic Fishery Management Council's (Council's) Summer Flounder, Scup, and Black Sea Bass and Bluefish Advisory Panels (APs) met jointly with the Atlantic States Marine Fisheries Commission's (Commission's) Summer Flounder, Scup, and Black Sea Bass and Bluefish APs on March 13, 2025 to review public comment, review a summary of the recent Fishery Management Action Team/Plan Development Team (FMAT/PDT) meeting, and to provide input as advisors on the Recreational Measures Setting Process Framework/Draft Addenda. This report summarizes input from advisors regarding the options presented in the Framework/Draft Addenda and will be considered by the Council and the Commission's Interstate Fisheries Management Program Policy Board (Policy Board) when taking final action on the Framework/Draft Addenda in April 2025.

Please note: Advisor comments are not necessarily consensus or majority statements.

Council Advisors Present: Katie Almeida, Joseph Beneventine, Carl Bensen, Joan Berko, Frank Blount*, Eleanor Bochenek, Howard Bogan, Bonnie Brady, Eric Burnley, Jeff Deem, Gregory Didomenico*, James Dopkin, James Fletcher, Jameson Gregg, Jeremy Hancher, Victor Hartley, Steve Heins, TJ Karbowski*, William Mandulak, John Mannix, Bryan Mindte, Michael Pirri, Will Poston, Bob Pride, Matthew Seeley, Philip Simon, Mark Sterling, George Topping, Michael Waine, Kyle White, Charles Witek, Steven Witthuhn, Harvey Yenkinson

Commission Advisors Present: Frank Blount*, Scot Calitri, Jack Conway, Greg Didomenico*, Peter Fallon, Ray Jarvis, TJ Karbowski*, Ken Neill

Other Attendees: Chris Batsavage, Tracey Bauer, Julia Beaty, Lou Carr-Harris, Mike Celestino, Kiley Dancy, Laura Deighan, Michelle Duval, Corrin Flora, Travis Ford, Alexa Galvan, Hannah Hart, Jesse Hornstein, Raymond Kane, Elise Koob, Meghan Lapp, Nichola Meserve, José Montañez, Adam Nowalsky, Kenneth Ochse, Scott Steinback, Kristen Thiebault, Chelsea Tuohy, Kate Wilke

*Members of both Commission and Council Advisory Panels

Summary
As described in more detail below, of the advisors who spoke during the meeting, three Advisors spoke in favor of Option A, eight advisors spoke in favor of Option C, three advisors spoke in favor of Option D, two advisors spoke in support of Sub-Option D-2, and one advisor spoke in support of Option E.

Multiple advisors provided written input after the meeting (see appendix). Based on these additional written comments, two additional advisors expressed support for Option D, one

additional advisor expressed support for Sub-Option D-2, one additional advisor expressed support for Sub-Option C-1, and one additional advisor expressed support for Sub-Option C-2.

Option	Advisors expressing support during the meeting or via email
A	3
B	0
C	8
C-1	1
C-2	1
D	5
D-1	0
D-2	3
E	1

The following sections summarize the comments provided during the meeting. The email comments are included in the appendix but are not summarized in the sections below.

Questions
One advisor asked how recreational catch and discards are calculated without the number of recreational fishermen along the Atlantic coast. This advisor sought additional information about how recreational catch and discards are estimated and used in management and expressed distrust in the numbers.

One advisor asked if the Recreation Demand Model could be used in the process of setting the recreational harvest limit (RHL) in the future, and specifically asked if it could be used to inform the prediction of dead discards that is used to derive the RHL from the recreational annual catch target (ACT). This advisor asked if this could be done even if Option D were not selected for implementation. Staff noted this could be considered. However, it would not address the FMAT/PDT's concerns about the RHL assuming a specified amount of discards which is unchanged regardless of the bag, size, and season limits that are later set in part based on that RHL.

AP Discussion of Council Staff and Northeast Fisheries Science Center Analysis
One advisor expressed frustration with the timing of the additional analysis of catch-based targets by Council staff and Northeast Fisheries Science Center (NEFSC) staff. This analysis was discussed as part of the FMAT/PDT meeting summary. This advisor said the process feels rushed and there hasn't been enough time to review the analysis. In addition, the analysis should have considered more years than just 2024 and should have included black sea bass. This advisor believes the analysis does not provide support for catch-based options just because the variances are not different.

Another advisor supported these comments and added that the analysis was limited and challenging to understand. This advisor did not disagree with the use of catch-based options, but wanted to see additional analysis, and be more comfortable with the analysis before selecting these approaches for use in management.

One advisor said the additional information provided on the variance of the Recreation Demand Model estimates of harvest vs. total removals did not sufficiently address the public comments about uncertainty in the discard estimates. This advisor remained concerned about the issue of recall bias that is more prevalent for the discard estimates than the harvest estimates.

AP Discussion of Option A - No Action

Three advisors expressed support for Option A, the no action option. These advisors expressed support for going back to the previous method of setting recreation measures due to concerns with recreational data not being as accurate as commercial data and concerns about the commercial sector being penalized for potential recreational overages. One advisor expressed frustration that the commercial sector is held to the commercial quota and pound for pound paybacks are required when overages occur while the recreational sector is not held to the same standard. One of these advisors also suggested waiting to make changes to the process for setting recreational measures until after it has been decided through a separate ongoing amendment if the for-hire sector will be managed separately from the private recreational sector.

AP Discussion of Option C - Modified Percent Change Approach Using the RHL and Harvest

Eight advisors expressed support for Option C, the modified Percent Change Approach using the RHL and harvest, with one advisor also supporting Sub-Option C-2 for accountability measures. Three advisors believed there was not enough information and/or analysis to support Option D. Additionally, one advisor noted a large majority of the public comment received was in favor of Option C.

Some advisors in support of Option C were concerned that the new Council staff and NEFSC staff analysis did not include black sea bass. Additionally, while favoring Option C, one advisor expressed support for any option that provides the Commission, Council, and NOAA Fisheries with flexibility when setting recreational management measures each specifications cycle.

AP Discussion of Option D - Modified Percent Change Approach Using the ACT and Catch

Three advisors expressed support for Option D, the modified Percent Change Approach using the ACT and catch, with two of those three also supporting Sub-Option D-2 for accountability measures. One advisor emphasized it is important to consider discards when setting recreational management measures because discard mortality can be substantial in these fisheries given the current recreational management measures. Another advisor echoed this comment and supported including consideration of discards in the recreational measures setting process due to discard mortality rates and mishandling of fish.

One advisor opposed using discards in management approaches for setting recreational measures under Options D and E due to the high degree of uncertainty, specifically recall bias, that exists when estimating recreational discards. Another advisor agreed.

AP Discussion of Option E - Biomass and Fishing Mortality Matrix Approach

One advisor supported Option E, the Biomass and Fishing Mortality Matrix Approach, and thought no restrictions should be applied to healthy stocks.

Other Comments
Two advisors expressed support for the recommendation expressed in some public comments to review the process for setting recreational measures every five years.

One advisor pointed out that management uncertainty buffers have not been applied in the past for these species. This is relevant for how the ACTs and RHLs are set.

Another advisor expressed concern regarding the timing of this action and the ongoing efforts to improve the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES). This advisor expressed a distrust in the MRIP estimates, was frustrated with current black sea bass management, and thought greater liberalizations should be allowed due to the stock being over 200% of the biomass target level. This advisor stated a mistrust in the management process, except for the stock assessment process which he believes is reflective of what is seen on the water. This advisor expressed support for the Commission's and Council's ongoing efforts to address recreational sector separation and data collection. This advisor said fisheries management is making it very hard for for-hire vessels to stay in business.

One advisor noted the first priority of management should be to rebuild stocks, specifically noting the current status of summer flounder. This advisor believed the status of the summer flounder stock needs to be immediately addressed, and discards in the recreational summer flounder fishery should be reduced and could be done through returning to a 13-inch minimum size limit.

Another advisor noted frustration with how management measures result in targeting large female fish and expressed support for targeting smaller fish and letting the larger, older fish survive and reproduce.

An advisor expressed concern with the configuration of the Recreation Demand Model used in the process for setting recreational management measures. This advisor specifically noted concern with the survey that is used to inform angler behavior and how the results are used in the model to estimate angler preference and welfare. The advisor thought this survey showed similar concerns to the FES in terms of recall bias and thought the questions in the survey were not a realistic representation of the decisions anglers consider when deciding to take a fishing trip or not. This advisor supported exploring the accuracy of estimates, not just the precision.

Another advisor expressed hesitation with Options B-E's reliance on timely stock assessments every two years, especially after the black sea bass research track stock assessment was delayed in 2023. This advisor also noted that recent cut backs in various federal agencies could pose challenges for the stock assessments in the future.

Public Comment
A member of the public asked about the 5% overfishing buffer used for stocks above 90% of the target biomass level in Option E. This individual expressed concern with allowing status quo management measures in situations where overfishing is occurring and thought this is contrary to the Magnuson Stevens Act's requirements to prevent overfishing. Additionally, this individual thought none of the options would prevent overfishing.

Appendix: Written Comments from AP members received by March 26

Joseph Beneventine additional comments provided via email – 03/13/2025

Hi Julia,

I saw my email - attached below - was already included in the Public comment Summary - but here it is again for inclusion with AP member input.

I'm a little bit confused about the sequence of the meetings and calls.

The FMAT/PDT considers Public Comment and then reaches a final recommendation before the AP member's call and consideration of AP member input ? Are the AP members in some way supposed to take into consideration the FMAT/PDT's final recommendation ?

It seems as if the FMAT/PDT is interested in general Public comment they make their decision and then the AP comments are considered by the Council and Board together with the FMAT/PDT's final recommendation. Is that how it works ?

I would think the FMAT/PDT's input and recommendation to the Council and Board has more influence than our AP member input.

So anyway, I'm glad I submitted my comments so that the FMAT/PDT may have had a chance to consider my remarks.

P.S. I second everything Charles Witek and Ray Jarvis said on today's call. And I disagree with what some had to say about needing several years of data and needing data on every species - including BSB - to know that we need to include dead discards 'the catch' in the model. Especially since BSB are even more impacted by release mortality than SF and SCUP.

On Jan 26, 2025, at 2:35 PM, Joseph beneventine <joseph.beneventine@verizon.net> wrote:

To Whom It May Concern,

After careful consideration of the proposed options, I wish to express my support for Option D: Modified Percent Change Approach Using the Recreational ACT and Catch sub option D-2.

Option D offers a forward-looking, adaptive, and sustainable framework that directly addresses the problems identified in Section 2 of the draft Addenda.

Key Reasons for Supporting Option D:

- **Addressing Uncertainty and Variability in Recreational Catch Estimates**
  Option D incorporates the Annual Catch Target (ACT) and total recreational catch (harvest + dead releases), which provides a more comprehensive and stable metric than relying solely on the Recreational Harvest Limit (RHL). This framework reduces the impact of variability and uncertainty in MRIP data, which has historically made management reactive and unpredictable. By accounting for release mortality, Option D

addresses the full scope of recreational fishing impacts, ensuring that data uncertainties do not undermine sustainable management.

- **Reducing the Issue of "Chasing the RHL"**
  Shifting focus from the RHL to the ACT mitigates the challenges associated with frequent adjustments to meet RHL-based limits. By considering broader metrics of total mortality Option D reduces regulatory instability and enhances the predictability of recreational measures.
- Incorporating **ACT and total catch** Option D ensures a holistic management approach, addressing uncertainties in recreational data while maintaining alignment with stock health.

How the Current System Results in 'Chasing the RHL':

- **Reactive Adjustments Based on MRIP Data Variability:** The current system heavily relies on Marine Recreational Information Program (MRIP) data to estimate harvest. However, MRIP data is often subject to significant variability and uncertainty. Year-to-year fluctuations in these estimates can lead to sudden and frequent changes to management measures (e a.. bag limits, size limits, and season lengths). Managers are effectively reacting to these swings, trying to bring harvest levels back in line with the RHL. This reactive approach can result in a cycle of overcorrection-tightening regulations one year and loosening them the next, depending on whether harvest exceeds or falls short of the RHL.
- **Disconnect Between RHL and Total Mortality:** The RHL focuses solely on harvest, excluding dead releases (release mortality). This narrow scope creates an incomplete picture of total fishing impact. When release mortality increases (e.g., due to stricter size limits, unlimited 'catch & release' fishing - even allowing targeting of fish out of season - and longer fishing seasons), total removals may still exceed sustainable levels even if harvest is within the RHL. This disconnect forces managers to continually adjust measures to stay within the RHL, without fully addressing total fishing mortality. The result is a feedback loop where measures are adjusted without resolving the root causes of overages.
- **Regulatory Instability for Stakeholders:** For anglers and other stakeholders, the constant shifts in regulations tied to RHL adherence create unpredictability. This regulatory instability undermines stakeholder confidence in the management system and reduces compliance and support for conservation measures.

By moving away from an RHL-centric system to one like Option D, which incorporates both the ACT and total catch (harvest + dead releases), management becomes more proactive and stable. This approach reduces the likelihood of 'chasing the RHL' because it addresses the broader picture of total removals reducing the need for reactive adjustments.

Conclusion:

As stated above, Option D offers a forward-looking, adaptive, and sustainable framework that directly addresses the problems identified in Section 2 of the draft Addenda. Its integration of ACT and total catch ensures that management measures are ecologically sound, data-driven, and responsive to stock conditions. This approach also promotes regulatory stability and aligns with

the long-term goals of conserving fisheries while maintaining equitable access for recreational stakeholders.

I urge the Council and the Atlantic States Marine Fisheries Commission to adopt Option D (sub option D-2) as the preferred management framework for 2026 and beyond. This approach provides the best pathway to achieving sustainable, predictable, and effective fisheries management for summer flounder, scup, black sea bass, and bluefish. Recognizing its ability to balance conservation goals with practical management needs.

Thank you for considering my comments.

Joseph Beneventine

(MAFMC AP SFSBSB - NY Recreational)

Scot Calitri additional comments provided via email – 3/18/2025

Hi Chelsea and thank you for what you do!

In general, the key for me and my constituents is that we conserve as aggressively as possible. This means trusting science, overages have penalties, no kicking the can down the road and our best chance for success is taking conservative action now. Almost every species that we collectively help manage is in trouble. Almost zero true success stories. Winter flounder is not a success as they "moved the goalposts".

We need to change our approach. There is no penalty for abundance (which we're far from) and a recreational fish derives way more economic value than a commercial fish.

Thanks!

James Fletcher additional comments provided via email – 3/19/2025

WHY DID ADVISORS NOT DISCUSS IN DEPTH TOTAL LENGTH RETENTION NO RECREATIONAL DISCARDS?
WHY DID ADVISORS NOT DISCUSS ****RECREATIONAL SALTWATER REGISTRY AS IN MAGNUSON FISHERIES ACT ?**** IF YOU OR ANY STAFF CAN FIND A STATE THAT A SALTWATER REGISTRY CAN BE PRODUCE A DEFINITE NUMBER FOR PERSONS FISHING IN EEZ ***PLEASE PLEASE FORWARD**** Time has come for a definite number for recreational fishers in EEZ and EACH STATE!
AKA Bluefin Data APP!

Jameson Gregg additional comments provided via email – 3/25/2025

Good afternoon Julia,

I apologize for the later comments, but I wanted to get these into the meeting summary.

I have to echo the support for Option D and the sub-option for the accountability measures. Discard mortality is extremely important to consider. While we are "stuck" with MRIP as the best available data, discards are critical to a data set that might be widely ignored in the recreational sector, whether that is intentional (cheating, high grading, etc) or truly recall bias. While this may create uncertainty, supporting Option D coupled with sector separation could hold the recreational anglers more accountable, just as commercial fishers and head boat VTR monitoring. The only way to tighten recreational uncertainty is to hold all participants accountable, including mandatory reporting.

Thank you,

Jameson

Jameson Gregg
Marine Scientist Senior | Multispecies Research Group
William & Mary's Batten School for Coastal & Marine Sciences & VIMS

Bill Mandulak additional comments provided via email – 3/14/2025

Julia, I am sorry I had to leave the call early. As a member of the Bluefish AP, I vote for having all four species on the same measures and framework for setting catch / harvest limits. Explaining how this is done to the general public will be a challenge though. I found all the options with their associated charts to be difficult to keep straight given the multiple questions about setting RHLs and AMs. However, as best I could sort through all the options, I vote for option C1.

Bill Mandulak

Mike Waine additional comments provided via email – 3/18/2025

Hi Julia,

Did you have me down for supporting C2 in addition to C? I think I forgot to mention that, but maybe not. Also, I don't understand this sentence "However, it would not address the FMAT/PDT's concerns about the RHL assuming a specified amount of discards which is unchanged regardless of the bag, size, and season limits that are later set in part based on that RHL." Can you clarify?

Thanks,
MW

Summary of FMAT/PDT Discussion
The Fishery Management Action Team/Plan Development Team (FMAT/PDT) met via webinar to review a summary of public comments and provide recommendations to the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Program Policy Board (Policy Board) for final action on the Recreational Measures Setting Process Framework/Addenda. The FMAT/PDT also reviewed the additional analysis summarized below.

For the reasons described below, **the FMAT/PDT recommended implementation of Option D. They also supported the Council and Policy Board reviewing the process every five years; however, they strongly opposed using a sunset period.**

Additional Analysis on Catch-Based Targets
Council staff worked with Northeast Fisheries Science Center staff on additional analysis using the Recreation Demand Model to 1) evaluate if the model's estimates of total removals are more uncertain than the harvest estimates and to 2) evaluate if targets based on total removals vs harvest would be expected to have different impacts on the measures. This analysis was intended to address concerns raised during the recent public comment period. The Recreation Demand Model has been used in the process for setting recreational measures (bag, size, and season limits) for summer flounder, scup, and black sea bass starting with the 2023 measures. A full summary of the analysis is included as an appendix to this document.

The following is an abbreviated version of the key points included in the summary of the analysis:

1) Recreation Demand Model predictions of total removals seem to have lower relative uncertainty than the harvest predictions.

2) The Recreation Demand Model uses the same data to predict both harvest and discards in the upcoming year. The model would not use different data for catch-based targets compared to harvest-based targets.

3) To achieve the same percent reduction, measures would need to be more restrictive if the target were based on total removals compared to if the target were based on harvest. Conversely, to achieve the same percent liberalization, measures could be liberalized to a greater extent if the target were based on total removals compared to if it were based on harvest.

4) The harvest-based targets contemplated in the framework/addenda use the recreational harvest limit (RHL) to define the target. The RHL is set based on an assumption of discards in the upcoming year. This assumption does not vary based on the measures that are implemented. This is problematic because discards are influenced by the measures. Using a catch-based target would not require an assumption about discards in the upcoming year when setting the target. Therefore, discards would be allowed to vary based on the measures implemented. This would better account for the full effect of the measures on the stock.

Updated Percentiles Analysis for 10%, 20%, 40% caps on Liberalizations/Reductions

Council staff also summarized an updated analysis informing the 10%, 20%, and 40% caps on liberalizations and reductions under Option D. These values were carried over from a previous analysis that informed development of the current Percent Change Approach (Option B). The previous analysis used a comparison of individual years of MRIP harvest estimates to the following year's RHL. This served as a proxy for the intended implemented percent change in harvest in past years. Determining the actual intended percent change in most years was not possible because it was often not stated in the relevant specifications documents. This analysis focused on summer flounder and black sea bass because scup and bluefish both had several past years of expected recreational underages that did not lead to liberalizations in measures. Therefore, this comparison was not believed to be an accurate proxy for the intended percent change in harvest that scup and bluefish measures aimed to achieve.

The 10%, 20%, and 40% values were loosely based on the 25th, 50th, and 75th percentiles of the comparisons of MRIP data to RHLs for summer flounder and black sea bass (Table 1). Council staff updated this analysis using catch data for 2012-2023 compared to the recreational annual catch targets (ACTs) for 2012-2024. ACTs were first used in 2012 for these species. The intent of this analysis was to help the FMAT/PDT consider if 10%, 20%, and 40% are appropriate for Option D, which uses a catch-based target rather than a harvest-based target. The intent was not to consider modifications to Option D. The option has already been taken out to public comment and final action is scheduled for next month. Changing the options could require taking the draft addenda out to public comment a second time, which is not possible given the timeline needed for completion prior to the sunset for the currently implemented Percent Change Approach. Rather, the intent was to help the FMAT/PDT think about the appropriateness of implementing Option D as currently specified.

The results of the updated percentiles analysis are shown in the table below.

Table 1: Percentiles analysis informing the 10%, 20%, and 40% caps on liberalizations and reductions under Options B and C (harvest-based targets), and D (catch-based target). The harvest values are unchanged from the analysis described in the April 1, 2024 FMAT/PDT meeting summary.

Percentile	Summer flounder		Black sea bass		Avg. of both species	
	Harvest	Catch	Harvest	Catch	Harvest	Catch
25th	15%	4%	13%	16%	14%	**10%**
50th	21%	22%	26%	23%	24%	**23%**
75th	39%	31%	42%	33%	41%	**32%**

FMAT/PDT Recommendations for Final Action

The FMAT/PDT supported Option D for final action. Option D would make several improvements upon the currently implemented Percent Change Approach and would use a catch-based target to set measures, rather than a harvest-based target.

The FMAT/PDT agreed that a catch-based target using the ACT would allow for a more comprehensive consideration of the impact of measures on the stock, compared to harvest-based targets.

The FMAT/PDT also agreed it is more straightforward and less problematic to use the ACT to inform the target, rather than the RHL, because the ACT does not require an assumption that discards will be constant regardless of the measures implemented. Although there will still be uncertainty in the predictions, this would represent an improvement and the analysis presented by the Recreation Demand Model team shows that the estimates of total removals would not be more uncertain than the estimates of harvest.

The FMAT/PDT noted concerns with the predictions of discards used for setting the RHL. To date, these predictions have not used the Recreation Demand Model and have relied on recent past multi-year averages of discards. These projections have tended to over-predict summer flounder discards, under-predict black sea bass discards, and both under and over-predict scup discards.

Multiple FMAT/PDT members noted that the Recreation Demand Model analysis summarized in the appendix to this document provides additional support for Option D. However, they noted that this analysis was not available during the recent public comment period. The vast majority of public comments supported Option C over Option D. It is unknown if this analysis would have impacted any of the public comments if it had been available earlier. However, FMAT/PDT members also noted that the analysis will be presented to the Advisory Panels on March 13 and will be presented during the April 9 Council and Policy Board meeting. This will allow for some additional input on the new analysis.

One FMAT/PDT member expressed concern that the updated analysis shown in Table 1 does not support 40% as the upper bound on liberalizations/reductions under a catch-based target. Instead, it suggests a lower value of around 32% may be more appropriate. Another FMAT/PDT

member said the Recreation Demand Model analysis also supports this as it shows that changing measures has a more muted impact on total removals than harvest.

One FMAT/PDT member noted that the difference in the 75th percentiles for catch (32% on average across summer flounder and black sea bass) and harvest (41% on average) could be due to the shorter time series of using ACTs (i.e., 2012 through present) compared to the RHLs (i.e., 1993-2022 for summer flounder and 1998-2022 for black sea bass). There may have been bigger differences in the earlier years of the harvest vs. RHL time series.

During the meeting, one FMAT/PDT member re-examined the data used for the updated percentiles analysis and noted that 40% was between the 90th and 91st percentiles for summer flounder and represented the 95th percentile for black sea bass. The FMAT/PDT member who expressed concern with 40% said this additional information helped him be less concerned about 40% as the highest cap and noted that these values can be modified through future frameworks/addenda if needed.

The FMAT/PDT supported the recommendation from public comments to review the process for setting recreational measures every five years. For example, after the Percent Change Approach was used to set measures, it became clear that some changes would be beneficial. Those changes were considered through this action. If a new process is implemented, additional potential improvements may come to light after the new process is used for a few measures setting cycles. However, the FMAT/PDT strongly opposed a sunset period. The three year sunset provision for the Percent Change Approach severely limited the analysis the FMAT/PDT was able to carry out and consider in support of this management action.

The FMAT/PDT was asked to comment on the accountability measure (AM) sub-options associated with Option D. One FMAT/PDT member expressed support for sub-option D-2 noting it better aligns the AMs with the process used to set measures. For example, Option D allows measures to remain unchanged when biomass is very high but an ACT overage is expected. Requiring an AM response in that circumstance feels counter to the rationale for why Option D would otherwise allow measures to remain unchanged.

Another FMAT/PDT member said the choice between sub-options D-1 and D-2 could be a policy call left to the Council and Policy Board. This FMAT/PDT member did not see a strong technical reason for choosing one sub-option over the other.

Public Comment

One member of the public asked why the models cannot be run for a management approach that would require total retention of all fish and no discards to show the total amount of inches that could be allowed as a cumulative harvest limit for each species. Council staff noted the Recreation Demand Model would need to be re-configured to analyze this type of approach.

One member of the public expressed concern that the new analysis presented today was not available during the public comment period and was only provided to the FMAT/PDT shortly before this meeting. This member of the public questioned whether the analysis would have impacted the public comment received for this management action.

Another member of the public asked if the 2024 MRIP estimates would be used to analyze how Options C and D would have performed. Council staff noted there is essentially no time left to do additional analysis. However, a summary of the 2024 MRIP estimates could be made available.

RDM predictions of total harvest versus total removals
Lou Carr-Harris, Kim Bastille, Scott Steinback
3/7/2025

Purpose

The Council and other stakeholders are interested in better understanding how regulatory alternatives might differ if the target metric under the Percent Change Approach (PCA) was total removals (i.e., harvest plus dead discards), rather than harvest, which is the current target. This approach is Option D in Draft Addenda XXXVI.

Some specific questions and concerns raised by stakeholders were:

1. Are the RDM estimates of total removals more uncertain than the harvest estimates?
2. Would it even make a difference if the target were based on total removals vs harvest?

Methods

We ran the RDM as it was configured for the 2024 management cycle under different regulatory configurations: status-quo (2023) regulations, the 2024 regulations that were actually chosen, and a few hypothetical 2024 coastwide scenarios for fluke and scup. The hypothetical scenarios adjusted the regulations for one species while holding regulations for the other species at 2023 status quo levels. The hypothetical coastwide regulations included bag or size limit changes relative to each state's bag or size limit in 2023.

For each scenario, we computed harvest weight and total removal weight at the state or coastwide levels, as well as the percent difference between these outcomes relative to the outcomes under status-quo regulations. The RDM was run 100 times for each regulatory scenario, each time drawing from new distributions of MRIP and other input data to account for the statistical uncertainty associated with these data.

To address question 1, we compared coefficients of variation (CV; standard deviation/mean) and percentile-based CV's (CV-P; [90^{th} percentile – 10^{th} percentile]/50^{th} percentile) between model predictions of harvest versus total removals. Additionally, we tested for differences in variances between predicted distributions of harvest (as a proportion of the 2024 RHL) and predicted distributions of total removals (as a proportion of by the 2024 ACL).

To address question 2, we computed for each regulatory scenario the predicted percent difference in harvest and total removals relative to these outcomes under status quo 2023 regulations. This allowed us to see whether the regulations actually chosen in 2024 would have achieved a total removals-based management target, in addition to the harvest-based management target that was in effect for 2024. From this exercise we were also able to identify general trends in the response of harvest and total removals to regulatory changes.

Background information

The RDM was used within the PCA to help determine recreational regulations for fluke, black sea bass, and scup during the 2024 management cycle. The first step was to compare each species' RHL (Table 1) to the RDM's harvest prediction. Because the RHL was lower than the lower bound of the RDM harvest prediction for each species, and given each species' biomass status, harvest reductions were triggered (Figure 1). The Council ultimately opted to maintain status quo black sea bass regulations given delays in the stock assessment data. The PCA required a 28% reduction in harvest for summer flounder and 10% reduction for scup. The second step was to use the RDM to identify regulations for each state that would collectively meet the required harvest reductions.

Table 1. 2024 ACLs, projected rec. dead discards, RHLs, and B/B_{msy} for each species.

	Summer flounder	Scup	BSB
ACL and ACT	8.69 mil. lbs	15.34 mil. lbs	9.16 mil. lbs
Proj. rec. dead discards	2.35 mil. lbs	2.15 mil. lbs	2.89 mil. lbs
RHL	6.35 mil. lbs	13.18 mil. lbs	6.27 mil. lbs
Basis for rec. dead discard projection	56% of ABC dead discards portion, based on 2020-2022 average % dead discards by sector	22.7% of the ABC discards (avg. % of dead discards from rec. fishery, 2020- 2022)	Avg. of two methods recommended by MC in 2022, uses 2020-2022 discards data for 2024
B/B_{msy} (2022)	40,994/49,561 = 0.83	193,087/78,593 = 2.45	N/A

RHL vs Harvest Estimate	B/B_{MSY}	Change in Harvest
Future 2-year avg RHL > upper bound of harvest estimate CI (harvest expected to be lower than RHL)	Very high (>= 150%)	Liberalization % = difference between harvest estimate and 2-yr avg RHL, not to exceed 40%
	High (100 – 150%)	Liberalization % = difference between harvest estimate and 2-yr avg RHL, not to exceed 20%
	Low (< 100%)	10% liberalization
Future 2-year avg RHL within harvest estimate CI (harvest expected to be close to RHL)	Very high (>= 150%)	10% liberalization
	High (100 – 150%)	No change
	Low (< 100%)	10% reduction
Future 2-year avg RHL < lower bound of harvest estimate CI (harvest expected to exceed RHL)	Very high (>= 150%)	10% reduction
	High (100 – 150%)	Reduction % = difference between harvest estimate and 2-yr avg RHL, not to exceed 20%
	Low (< 100%)	Reduction % = difference between harvest estimate and 2-yr avg RHL, not to exceed 40%

Figure 1. Percent change approach bins for 2024 management cycle.

Appendix C of Addendum XXXVI provides an example of percent changes that would have been required for FY 2024 under different PCA options, including the option that was in place for FY 2024 (Option B), a modified PCA using total removals and an ACT (Option D), and an additional option we added to the table that is the currently implemented PCA but uses total removals and an ACT (Option B2). The table is replicated below:

Table 2. Example percent change in harvest or catch (i.e., harvest plus dead releases) that recreational measures should aim to achieve for each species under each option. These are examples to allow for comparisons across the options and are not intended to predict measures in future years. Note that harvest and catch-based percentages are not directly comparable.

Species	Option A (No Action)	Option B (Currently Implemented PCA)	Option B2 (Currently Implemented PCA but using ACT and Catch)	Option C (Modified PCA Using RHL and Harvest)	Option D (Modified PCA Using ACT and Catch)
Summer Flounder	-28% (harvest)	-28% (harvest)	-26% (catch)	-28% (harvest)	-26% (catch)
Scup	-14% (harvest)	-10% (harvest)	-10% (catch)	0% (status quo; harvest)	0% (status quo; catch)
Black Sea Bass	-25% (harvest)	-10% (harvest)	-10% (catch)	0% (status quo; harvest)	0% (status quo; catch)

Results

Table 3 shows RDM status quo predictions for 2024 after re-running the model for this analysis. Note that discards + harvest does not equal the total because values are medians across 100 iterations of the model, and median(a) + median(b) ≠ median(a+b).

Table 3. RDM predictions for 2024 under status-quo regulations.

	Summer flounder	Scup	Black sea bass
Discard mortality lbs.	2,908,143	1,907,199	4,023,114
Harvest lbs.	8,817,552	15,353,993	8,451,947
Total removals lbs.	11,736,034	17,247,624	12,450,604

Question 1. Are the RDM discard estimates more uncertain than the harvest estimates?

In general, MRIP point estimates of total or per-trip harvest are less certain (i.e., higher standard errors) than point estimates of total discards. This could be due to there being more variability in reported harvest versus discards, harvest being highly zero-inflated leading to more variability in the non-zero observations, and other factors related to MRIP sampling weights and stratification. However, the RDM does not incorporate MRIP estimates of total or per-trip harvest and discards separately. It instead relies on estimates of catch-per-trip, which include statistical uncertainty from both reported harvest and reported discards. To assess whether this translates to differences in uncertainty around RDM predictions of coastwide harvest versus total removals, we compared uncertainty in harvest versus total removals across the regulatory alternatives. For each distribution of outcomes, we computed coefficients of variation (CV; standard deviation/mean), which assume normality of the distribution of outcomes, and percentile-based CV's (CV-P; [90^{th} percentile – 10^{th} percentile]/50^{th} percentile), which are more robust to skewed distributions of outcomes. These measures focus on uncertainty relative to mean or median and allow for comparisons across the two distributions of outcomes. Absolute uncertainty, which can be assessed by comparing standard deviations or widths of 80% percentile-based confidence intervals, will always be larger for total removals compared to harvest and is therefore uninformative in this context.

We also tested for the equality of variances of outcomes measured as *proportions of the RHL or ACL.* Specifically, for a given regulation, we divided each of the 100 simulated harvest outcomes by the RHL and each of the 100 simulated total removals outcomes by the ACL. With these two normalized series, we performed the Brown-Forsythe test of equal variance. This test computes deviations in outcomes from the median value and tests whether those deviations differ significantly between the two groups. Normalizing each series by its respective RHL or ACL accounts for the magnitude of these different catch targets when making comparisons between groups.

Results for summer flounder are shown in Table 4 and results for scup are shown in Table 5. Across all simulated regulations and for both species, relative uncertainty as measured by both CV and CV-P is about the same for total removals and harvest, and generally lower for total removals. The Brown-Forsythe tests suggest that there is no significant difference in variance between normalized harvest and normalized total removals under the actual 2024 regulations as well as most of the hypothetical 2024 regulations.

Table 4. Uncertainty around RDM median estimates, **summer flounder**

	CV		CV-P		Brown-Forsythe test of equal variances (p<.05 = variances are significantly different)[1]
regulation	harvest	total removals	harvest	total removals	Pr > F
a. actual 2024	0.045	0.043	0.102	0.097	0.456
b. SF min. size +1	0.046	0.043	0.111	0.099	0.304
c. SF min. size +2	0.053	0.044	0.136	0.108	0.015
d. SF bag -1	0.050	0.050	0.121	0.119	0.395
f. SF min. size -1	0.045	0.044	0.102	0.100	0.134
g. SF min. size -2	0.045	0.044	0.109	0.106	0.044
h. SF bag +1	0.044	0.043	0.113	0.102	0.542
i. SF bag +2	0.045	0.043	0.115	0.104	0.485

[1]This test was performed between the distribution of harvest normalized by the RHL and the distribution of total removals normalized by the ACL.

Table 5. Uncertainty around RDM median estimates, **scup**

	CV		CV-P		Brown-Forsythe test of equal variances (p<.05 = variances are significantly different) [1]
regulation	harvest	total removals	harvest	total removals	Pr > F
a. actual 2024	0.057	0.054	0.152	0.149	0.056
b. SCUP min. size +1	0.062	0.057	0.171	0.156	0.084
d. SCUP bag -10	0.052	0.051	0.137	0.133	0.063
e. SCUP bag -20	0.050	0.049	0.130	0.127	0.119
f. SCUP min. size -1	0.048	0.047	0.124	0.120	0.032
g. SCUP min. size -2	0.046	0.046	0.115	0.114	0.020

[1]This test was performed between the distribution of harvest normalized by the RHL and the distribution of total removals normalized by the ACL.

Question 2. Would it even make a difference if the target were based on total removals vs harvest?

If during FY 2024 the target was based on total removals instead of harvest (option B2 of Table 2), the PCA approach would have required a 26% reduction in total summer flounder removals and a 10% reduction in total scup removals (Table 1, Figures 2 and 3).

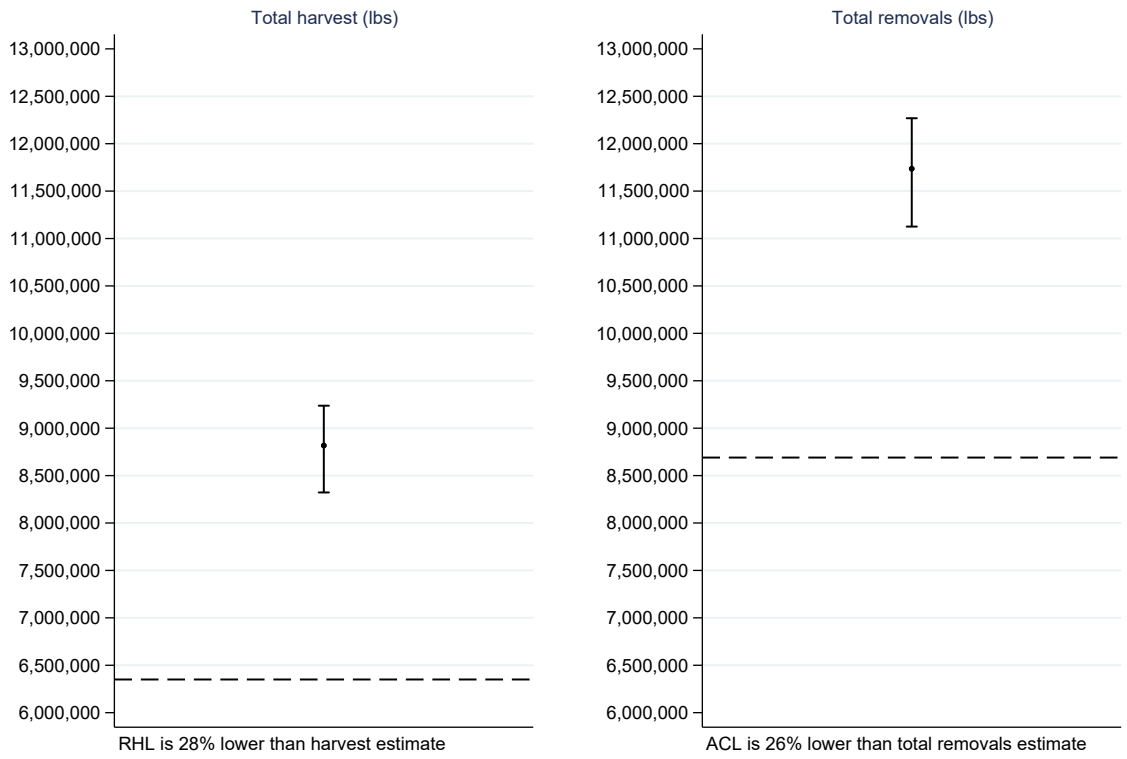

Figure 2. RDM predictions of 2024 **fluke** harvest (left) and total removals (right).

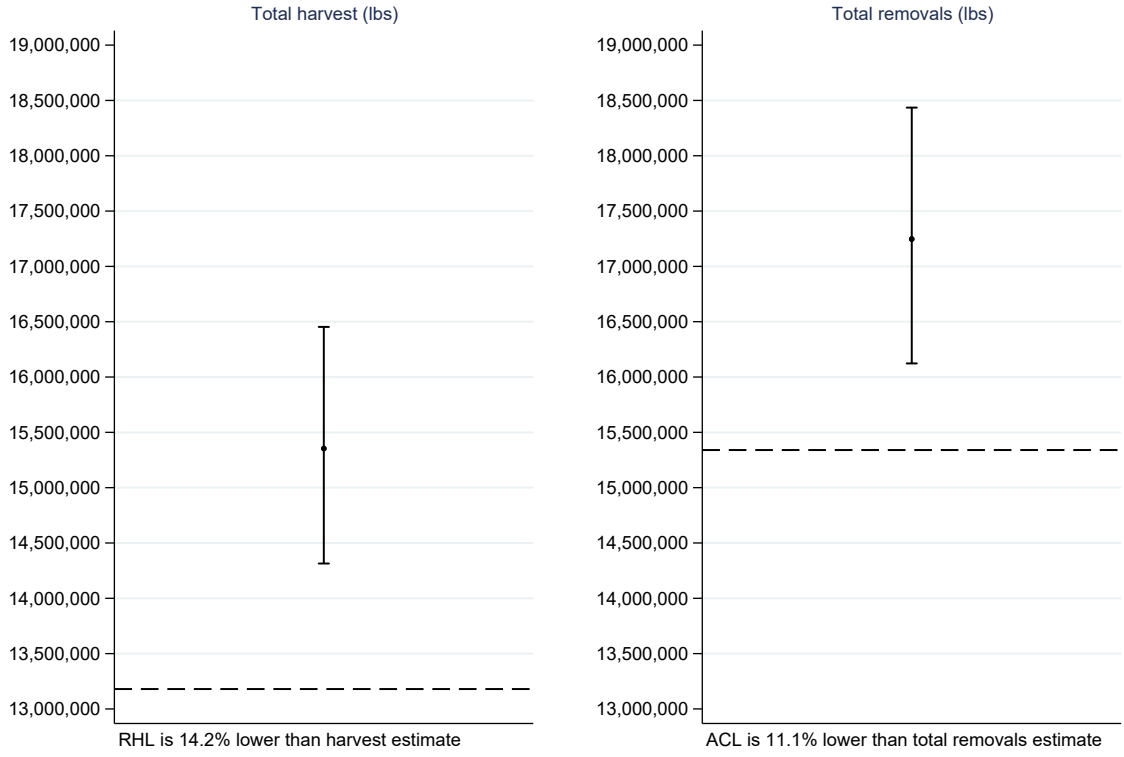

Figure 3. RDM predictions of 2024 **scup** harvest (left) and total removals (right).

As seen in Figures 4 and 5, the regulations actually chosen in 2024 resulted in a predicted 34% reduction in coastwide summer flounder harvest relative to the status quo, a 23% reduction in coastwide summer flounder total removals relative to the status quo, an 11% reduction in coastwide scup harvest relative to the status quo, and an 8% reduction in coastwide scup total removals relative to the status quo. Based on these predictions, the coastwide target in terms of total removals would not have been met and additional restrictions would have been required. Looking at the results state-by-state shows that NJ and RI would have met the 26% reduction in summer flounder total removals, and NY would have met the 10% reduction in scup total removals.

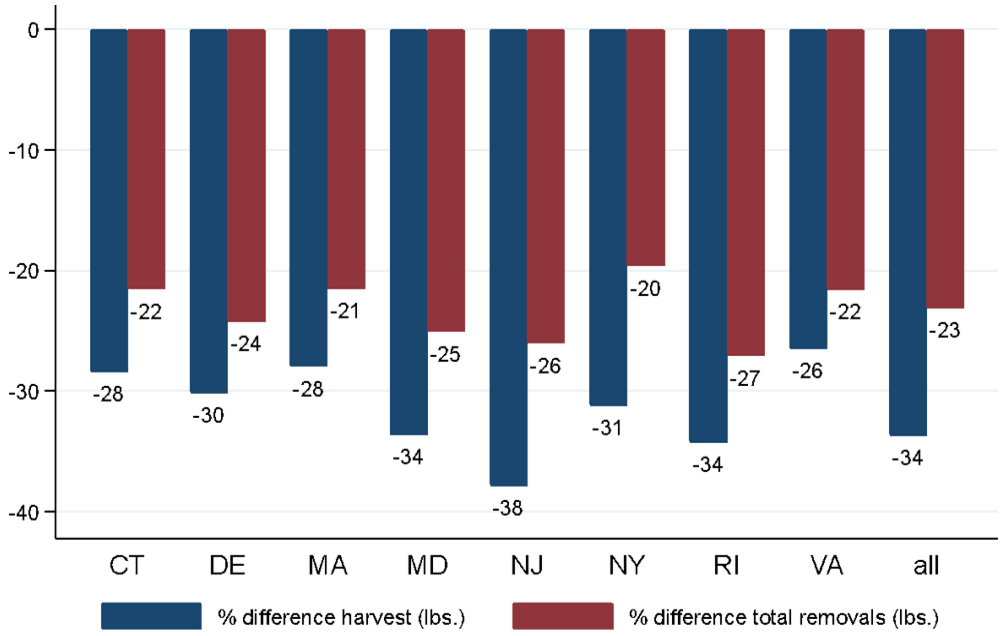

Figure 4. Predicted percent differences in **fluke** harvest and total removals under the chosen 2024 recreational regulations relative to status quo.

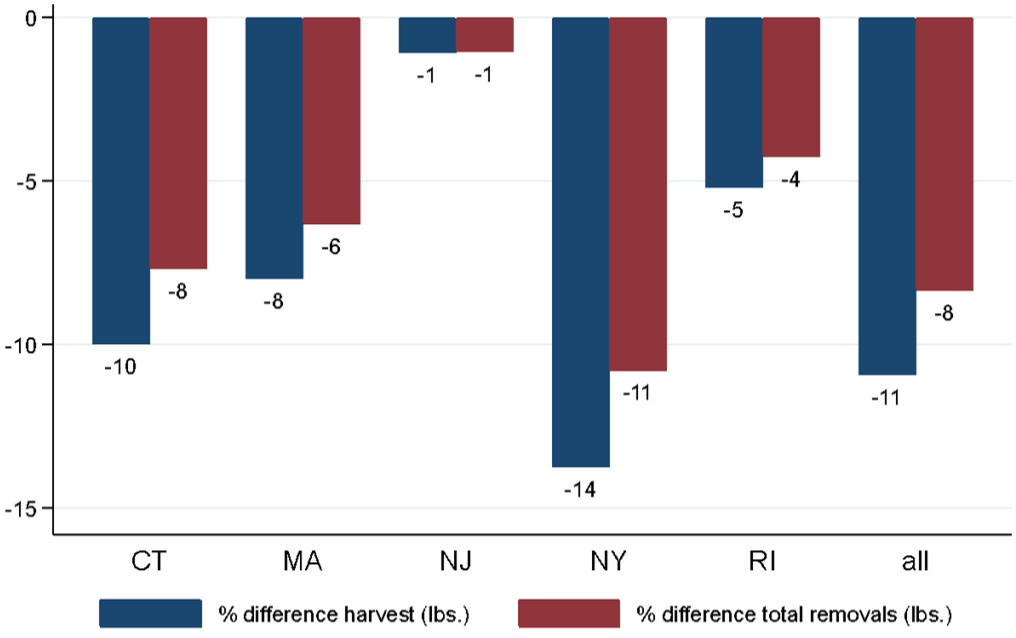

Figure 5. Predicted percent differences in **scup** harvest and total removals under the chosen 2024 recreational regulations relative to status quo.

Comparing predicted differences in harvest versus total removals across alternative 2024 regulations sheds light on how fishery outcomes respond to regulatory change. In Figures 6 and 7, we show predicted differences in coastwide harvest and total removals relative to their status quo values across all the regulatory scenarios. The key takeaway from these figures is that under restrictive regulatory scenarios, relative reductions in harvest are greater than relative reductions in total removals. Conversely, under liberalization scenarios, relative increases in total removals are lower than relative increases in harvest. Put differently, if reductions are required, additional restrictions would be needed if the management target is total removals instead of harvest. And if regulations are to be liberalized, they could be further liberalized if the management target is total removals rather than harvest.

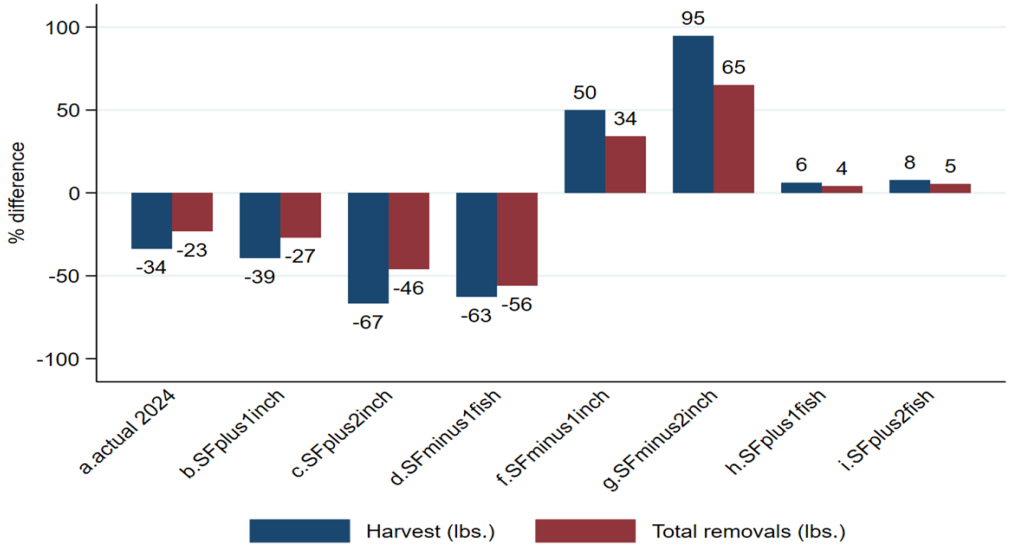

Figure 6. Predicted percent differences in coastwide **fluke** harvest and total removals under the chosen and hypothetical 2024 recreational regulations relative to status quo.

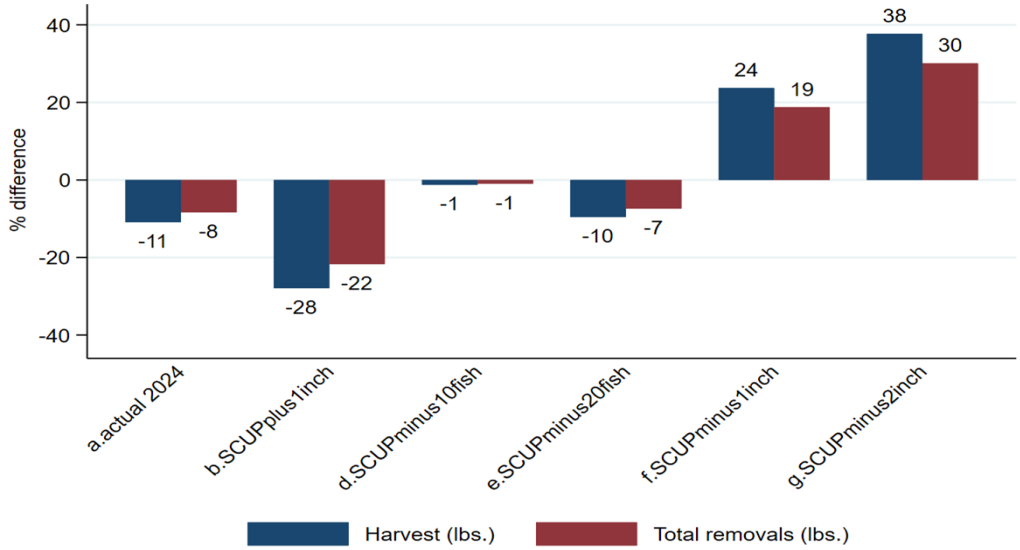

Figure 7. Predicted percent differences in coastwide **scup** harvest and total removals under the chosen and hypothetical 2024 recreational regulations relative to status quo.

A simple example may help with the intuition behind these results. Table 6 shows a single trip's outcomes under a status quo scenario, a restriction scenario, and a liberalization scenario. Under the restriction scenario, harvest decreases by 50% relative to the status quo while total removals decrease by only 41%. Under the liberalization scenario, harvest increases by 50% relative to the status quo while total removals increase by only 40%. Changes in total removals relative to the status quo will generally be more muted than changes in total removals. This is because relative changes in total removals are based on a larger baseline value (2.2 versus 2 fish in this example) and in a restriction scenario, the increase in dead discards relative to the baseline will offset some of the reduction in fishing mortality that occurs from reduced harvest. Similarly, in a liberalization scenario, the reduction in dead discards relative to the baseline will offset some of the increase in fishing mortality that occurs from increased harvest.

Table 6. Simple example of percent changes in harvest and total removals relative to a status quo scenario.

Status quo scenario	Restriction scenario	Liberalization scenario
Angler keeps 2 fish and discards 2 fish	Angler now keeps 1 fish and discards 3 fish	Angler now keeps 3 fish and discards 1 fish
harvest = 2 fish	harvest = 1 fish, a 50% decrease from SQ	harvest = 3 fish, a 50% increase from SQ
discard mortality = 0.2 fish	discard mortality = 0.3 fish, a 50% increase from SQ	discard mortality = 0.1 fish, a 50% decrease from SQ
total removals (harvest + 0.1*discards) = 2.2 fish	total removals =1.3 fish, a 41% decrease from SQ	total removals = 3.1 fish, a 40% increase from SQ

Summary of findings and conclusions

1. We find no evidence that RDM predictions of harvest are more certain compared to RDM predictions of total removals. In fact, RDM predictions of total removals seem to have a lower degree of relative uncertainty.
2. The fact that MRIP point estimates of total or per-trip harvest may contain more or less statistical uncertainty than MRIP point estimates of total or per-trip discards should have no bearing on the level of uncertainty in RDM predictions of harvest versus total removals. This is because the RDM does not integrate MRIP estimates of harvest or discards separately, but rather relies on MRIP estimates of catch-per-trip which include statistical uncertainty from both series.
3. Percent differences between RDM predictions of harvest relative to status quo will generally be larger than RDM predictions of total removals relative to status quo. To achieve the same percent reduction in harvest and total removals relative to status quo predictions, regulations would likely need to be more restrictive if the target was total removals. Conversely, to achieve the same percent liberalization in harvest and total removals relative to status quo predictions, regulations could likely be more liberalized if the target was total removals.
4. We have two concerns with using an RHL target rather than an ACL target. First, the RHL target requires an estimate of projected dead discards that is generally based on discard information from two and three years prior to the projection year. These projections tend to systematically over predict summer flounder discards, systematically underpredict black sea bass discards, and both under- and overpredict scup discards. Nonetheless, the second concern is that using an RHL based on these projections assumes that discards will remain the same across all proposed regulatory scenarios, which is unrealistic. Comparing total removals to an ACL solves this problem because dead discards would not just be taken off the top and assumed constant, but rather would be allowed to vary with the proposed regulatory scenario. This approach would account for the full effect of regulations on the health of the stock.

Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: **Interstate Fisheries Management Program Policy Board and Mid-Atlantic Fishery Management Council**

FROM: **Chelsea Tuohy and Tracey Bauer, Fishery Management Plan Coordinators**

DATE: **March 4, 2025**

SUBJECT: **Public Comment on Recreational Measures Setting Process Draft Addenda to the Bluefish and Summer Flounder, Scup and Black Sea Bass Fishery Management Plans**

Background

The following pages represent a draft summary of all public comments received by the Atlantic States Marine Fisheries Commission (Commission) on the Recreational Measures Setting Process Draft Addenda to the Bluefish and Summer Flounder, Scup, and Black Sea Bass Fishery Management Plans (FMPs) as of 11:59 PM (EST) on February 15, 2025 (closing deadline).

Comment totals for the Draft Addendum are provided in the table below, followed by summaries of the state public hearings, and written comments sent by organizations and individuals. A total of 228 written comments were received. These included 9 letters from organizations, a total of 204 comments received through two form letters, and the remainder (15 comments) from individual stakeholders. Five public hearings were held either virtually or in a hybrid format. The total public attendance across the hearings was 98, although some individuals attended multiple public hearings. 20 public comments were provided during the public hearings.

The following tables are provided to give the Interstate Fisheries Management Program Policy Board (Policy Board) and Mid-Atlantic Fishery Management Council (Council) an overview of the support for or opposition to the proposed options included in the Recreational Measures Setting Process Draft Addenda. Additional comments that did not specify the position of the commenter are included in the public hearing summaries and written comments. Other comments unrelated to this action are counted in a separate “other” category. Prevailing themes from the comments are highlighted below, including general considerations and rationales for support or opposition.

Public Comment Summary Tables

Table 1. All public comment received by individuals and organizations and number of people who provided comments during the public hearings.

Written Public Comment Received		
Organization Letters		9
Form Letters		204
Individual Comments		15
Total Written Comment		*228*
Public Hearing	**# Public Attendees***	**# Commentors**
Maine, New Hampshire, and Massachusetts (January 14, Webinar)	11	2
New York (January 22, Hybrid)	37	7
Rhode Island (January 23, Hybrid)	7	4
New Jersey and Connecticut (January 28, Webinar)	38	6
Delaware, Maryland, Potomac River Fisheries Commission, Virginia, and North Carolina (January 29, Webinar)	5	1
Total	*98*	*20*

*****Some people attended multiple hearings. Public attendees do not include state staff, ASMFC or Council staff, Council members or Commissioners/Proxies.

Table 2. Comments in support of each option outlined in the Recreational Measures Setting Process Draft Addenda.

Management Options	**Public Hearings**	**Organization Letters***	**Form Letters**	**Individual Comments**	**Total**
Option A: No Action	1	3	-	-	**4**
Option B: Percent Change Approach as Currently Implemented	-	-	-	-	**-**
Option C: Modified Percent Change Approach Using the RHL and Harvest	13	6	204	5	**228**
Sub-Option C-1 (Accountability Measures)	-	-	-	-	**-**
Sub-Option C-2 (Accountability Measures)	11	3	204	1	**219**
Option D: Modified Percent Change Approach Using the ACT and Catch	-	1	-	1	**2**

Sub-Option D-1 (Accountability Measures)	-	-	-	-	**-**
Sub-Option D-2 (Accountability Measures)	-	-	-	1	**1**
Option E: Biomass and Fishing Mortality Matrix Approach	-	-	-	1	**1**

*Some organization letters supported multiple options.

Public Comment Summary

Most commenters favored Option C (Modified Percent Change Approach Using the RHL and Harvest). Commenters noted Option C incorporates additional information besides recreational harvest data to establish bag, size, and season limits, to better reflect the status of the stock. In addition, Option C builds on the stability of Option B, the currently implemented Percent Change Approach. Compared to Options A and B, Option C should be more responsive to stock status and, by providing additional status quo options, should result in increased stability in recreational management.

In addition, most commenters who favored Option C also favored Sub-Option C-2 (Accountability Measures). Commenters noted Sub-Option C-2 aligns the accountability measures categories to the proposed biomass categories in Option C, while continuing to keep the recreational sector accountable. It provides a more sensible approach to accountability while considering the uncertainty of recreational data. A commenter also noted that Sub-Option C-2 considers the best scientific information available by incorporating consideration of whether overfishing is occurring from the most recent stock assessment when determining whether accountability measures are needed.

Three organizations and one individual supported Option A (No Action – Revert Back to Management Based on the RHL). Commenters noted that if the Council and Commission revert to managing based on the RHL, measures will be set to meet but not exceed the RHL, which should prevent overfishing. These commenters expressed strong concern for the remaining options (Options B, C, D, and E) in the document because they all allow recreational harvest to exceed harvest and catch limits of these four species. Commenters were also concerned that allowing harvest to exceed catch limits is a violation of the Magnuson-Stevens Act's requirement to prevent overfishing. Finally, commenters expressed concern that if the Council and Commission continue to manage to a target other than the RHL, it will negatively impact the commercial fisheries for these species and ultimately lower the commercial quota. Several commentors also strongly opposed Sub-Options C-1, D-1, C-2, or D-2 (Accountability Measures). They were concerned these sub-options would make accountability measures for recreational overages optional and/or effectively eliminate them. The commenters also expressed concern that these sub-options could allow overfishing to continue unchecked for stocks with higher biomass, contrary to the Magnuson-Stevens Act and other established guidelines.

One organization supported a modified version of Option C (Modified Percent Change Approach Using the RHL and Harvest) or Option D (Modified Percent Change Approach using the Recreational ACT and Catch). This organization noted that the public was highly supportive of Option C, and agreed both Options C and D could be viable, with one important change: a reduction should always be required when harvest is expected to exceed the 2-year average RHL, even if the stock is at very high biomass. Currently, in Options C and D, no liberalization or reduction is allowed in this situation unless an AM has been triggered. The commenter noted that the option therefore suggests that catch limits do not matter at very high biomass, and that it would be irresponsible to ignore the Council's Scientific and Statistical Committee (SSC) process and components other than biomass just because biomass is high.

One commenter supported Option D (Modified Percent Change Approach using the Recreational ACT and Catch), as described in the draft framework/addenda. The commenter stresses the benefits of this option's incorporation of the Annual Catch Target (ACT), which is a more comprehensive and stable metric than relying solely on the Recreational Harvest Limit (RHL). It also accounts for release mortality, allowing Option D to address the full scope of recreational fishing impacts. This commenter believes that incorporating the ACT and total catch ensures a holistic management approach, will reduce regulatory instability, and increase the predictability of recreational measures.

One commenter supported Option E (Biomass and Fishing Mortality Matrix Approach). The commenter notes that Option E uses a matrix based on stock biomass and fishing mortality, which are both outputs of the most recent stock assessment. Stock assessments integrate multiple data sources, including fishery-independent surveys, commercial landings, and biological data, in addition to Marine Recreational Information Program (MRIP) data. Therefore, this option would be less sensitive to the variability and uncertainty inherent in MRIP, compared to Options A through D.

Many comments regarding Option E (Biomass and Fishing Mortality Matrix Approach) noted the approach is challenging to understand and expressed frustration with the 10% cap on liberalization. Additionally comments not in favor of Option D (Modified Percent Change Approach using the Recreational ACT and Catch) expressed apprehension with using this approach due to the high uncertainty of recreational release data.
Several commenters did not support any of the options.

Other Comments

- Support for revisiting the recreational measure setting process every 5 years to evaluate its effectiveness in providing stability in recreational measures while ensuring measures align with stock status. This proposed "revisit" provision would not be a sunset period, but a review of the process.
- Recommendation that the Council and Commission should use a single species, like black sea bass, as a trial to pursue changes to the recreational measures setting process.

- General support for any management approach that brings more stability to recreational measures.
- Concern about the complexity of options, which are beyond the understanding of even informed individuals. Future public comment sessions on these management options should include results from plugging in data from that year into each option to show the results produced by each management choice.
- Lack of attendance and potential lack of comment on this action may be due to the complicated nature of the process. A lot of industry members lean on the organizations that have been closely following the development of this action.
- Concern expressed about the high uncertainty in the current recreational catch and discard data used to make decisions in fisheries management.
- Recommendation that the Council and Commission support efforts to create improvements in recreational data, which is a more appropriate way to get at the issue of high uncertainty in recreational data compared to the options in this document.
- Dissatisfaction with current black sea bass management, including the low harvest limits, high minimum size limit in their state(s), and discrepancies in regulations between neighboring states.
- Recommendation that the SSC review the implications of frequent Allowable Biological Catch (ABC) and Overfishing Limit (OFL) overages on the specifications setting process.
- Concern that the Council is pursuing such significant changes to federal management via a framework action rather than a full FMP amendment.

Public Hearing Summaries

Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process
Draft Addenda Public Hearing

Webinar Hearing – Maine, New Hampshire, and Massachusetts
January 14, 2025
11 Public Participants

Commissioners, Proxies, & Council Members: Chris Batsavage (NC), Joseph Cimino (NJ), Michelle Duval (PA), Adam Nowalsky (NJ), Cheri Patterson (NH), Renee Zobel (NH), Nicola Meserve (MA), Daniel McKiernan (MA), Greg Hueth (NJ)

Commission, Federal, & State Staff: Julia Beaty (MAFMC), Chelsea Tuohy (ASMFC), Tracey Bauer (ASMFC), Jeffery Brust (NJ), Michael Celestino (NJ), Elise Koob (MA), Savannah Lewis (ASMFC), David Martins (MA), Kristen Thiebault (MA), Chris Wright (NOAA), Jose Montanez (MAFMC), Corrin Flora (ME)

Hearing Overview

- Two comments were provided
- Two comments supported Option C and Sub-Option C-2

Summary of Comments

Mike Waine (American Sportfishing Association)

- The American Sportfish Association (ASA) supports Option C and Sub-Option C-2 for accountability measures (AMs).
- Sub-Option C-2 incorporates fishing mortality into the AMs. Fishing mortality is a more reliable metric than annual catch limit (ACL) projections due to assessments every two years providing updated estimates of fishing mortality. This will yield better outcomes because the assessments are considered best available science. The ASA also recommends adding a provision to the framework/addenda to revisit the document every five years so the options can be reevaluated on a continuous basis. This would not be a sunset provision.

John DePersenaire (NJ; Viking Marine Group)

- Supports Option C and Sub-Option C-2.
- The Percent Change Approach has been helpful in addressing recreational angler and business concerns, and he is appreciative that the Board and Council are revisiting it and trying to make improvements.

Maine, New Hampshire, and Massachusetts Public Hearing Attendance (Online)		
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Summary of Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process Draft Addenda Public Hearing

Hybrid Hearing – New York
January 22, 2025
37 Public Participants

Commissioners, Proxies, & Council Members: Jim Gilmore (NY), Marty Gary (NY), John Maniscalco (NY), Michelle Duval (PA), Jesse Hornstein (NY), Nichola Meserve (MA), Adam Nowalsky (NJ)

Commission, Federal, & State Staff: Julia Beaty (MAFMC), Chelsea Tuohy (ASMFC), Tracey Bauer (ASMFC), Savanna Lewis (NOAA), Jose Montanez (MAFMC), Toni Kerns (ASMFC), Samantha Rosen (NY), Michael Celestino (NJ), Maureen Davidson (NY), Travis Ford (NOAA)

Hearing Overview

- Seven comments were provided
- Seven comments supported Option C and Sub-Option C-2

Summary of Comments

Mark Dejong (For-Hire Industry)

- Supports Option C and Sub-Option C2.
- Sees no reason for recreational fishermen to have to take cuts on extremely robust stocks like they have in the past for black sea bass and scup. If Option C had been implemented 15 years ago, the black sea bass size limit wouldn't be 16 ½ inches right now.

James Schneider (For-Hire Industry)

- Supports Option C and Sub-Option C-2.

Nick Marchetti

- Supports Option C and Sub-Option C-2.

Pete Lauda (For-Hire Industry)

- Supports Option C and Sub-Option C-2.

Patrick Gillan (For-Hire Industry)

- Supports Option C and Sub-Option C-2. They provide a more sensible approach to accountability while considering uncertainty in recreational data.

Joe DeVito (Captree Boatman's Association)

- Supports Option C and Sub-Option C-2.

Brendan Lorino (For-Hire Industry)

- Supports Option C and Sub-Option C-2.

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Summary Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process
Draft Addenda Public Hearing
Hybrid Hearing – Rhode Island
January 23, 2025
7 Public Participants

Commissioners, Proxies, & Council Members: Adam Nowalsky (NJ), Nichola Meserve (MA), Michelle Duval (PA), Jason McNamee (RI)

Commission, Federal, & State Staff: Julia Beaty (MAFMC), Chelsea Tuohy (ASMFC), Tracey Bauer (ASMFC), Daniel Costa (RI), Chris Wright (NOAA), Michael Celestino (NJ), John Lake (RI), Kurt Blanchard (ASMFC), Corinne Truesdale (RI), Nicole Lengyel Costa (RI)

Hearing Overview

- Four comments were provided
- One comment supported Option A
- Two comments opposed Option A, supported Option C (one supported Sub-Option C-2), and were concerned with Option E's limited ability for liberalization

Summary of Comments

Rick Bellavance (President, Rhode Island Party and Charter Boat Association)

- Opposes Option A, No Action, because the old process was not good for the recreational industry.
- Supports Option C, Modified Percent Change Approach using the RHL and Harvest and Sub-Option C-2.
- Stated Option B, Percent Change Approach as Currently Implemented, has been working better than the old process but needs some tweaks.
- Concerned with the catch-based options (Options D-E) due to discards being more uncertain.
- Concerned with the limited ability for liberalization in Option E, Biomass and Fishing Mortality Matrix Approach, but thinks this option could have potential with some more work.
- Stated the lack of attendance and potential lack of comment on this action may be due to the heavy and complicated nature of the process, but a lot of industry members will lean on the organizations that have been closely following the development of this action.

Frank Blount (For-Hire Industry)

- Opposes Option A, No Action, and Option E, Biomass and Fishing Mortality Matrix Approach.
- Supports Option C, Modified Percent Change Approach using the RHL and Harvest.

- Stated Option B, Percent Change Approach as Currently Implemented, has been working better than the old process but needs some tweaks.

Meghan Lapp (SeaFreeze Ltd.)

- Supports Option A, No Action because the commercial industry is held to quota set by the Council's Scientific and Statistical Committee (SSC) and shared stocks should require equal treatment.
- Opposes Options B-E due to the approaches allowing for overfishing at times
- SeaFreeze Ltd. has invested a lot of time and money into the scup fishery for certifications, and recreational overages and overfishing puts the certification in jeopardy.
- Concerned with the SSC report and the potential for the SSC to assume acceptable biological catch overages in the future thus potentially leading to the commercial fishery taking reductions as a result of these assumptions.
- Options B-E do not specifically go back and change the allocations but de facto alters the allocations if there are targets set that are not the recreational harvest limit (RHL).

Molly Masterton (Natural Resources Defense Council)

- The position of NRDC and NRDC's conservation group partners on the MSA overall is that the annual catch limit (ACL) is intended to provide a limit on catch ideally annually. ACLs and accountability measures (AMs) are supposed to serve as independent functions to prevent overfishing in the short term and the long term and wanting to avoid any outcome that renders that meaningless.
- Sub-Option C-2 and D-2 and Option E raise the most flags, in particular the piece that would appear to make accountability measures optional for highest biomass stocks. Even in instances where a stock may be subject to overfishing, the "may" language allowing status quo measures to continue is concerning and we recommend against those options.
- Urges further analysis of the effectiveness of AMs in these fisheries. The SSC did not have a chance to review the AM aspect of this action and I think it would be really good for them to revisit. We are not confident that the AMs are working as intended and the performance of the scup fishery is a good example.
- I think it is important that the decision document be more explicit about the likelihood of overages with these proposed systems and explain how the AM and ACL framework might be adjusted to ensure through the AM process that catch can get closer to the ACL over time and encourages the SSC to weigh in.

Rhode Island Public Hearing Attendance (Online)		
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Rhode Island Public Hearing Attendance (In-Person)

Name	Company/Organization	City, State
Rick Bellavance	RIPCBA	NK RI
Frank Blount	Frances Fleet	Newp R.I.

Summary of Public Hearing Comments
Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process
Draft Addenda Public Hearing

Webinar Hearing – New Jersey and Connecticut
January 28, 2025
38 Public Participants

Commissioners, Proxies, & Council Members: Adam Nowalsky (NJ), Matt Gates (CT), Joseph Cimino (NJ), Greg Hueth (NJ)

Commission, Federal, & State Staff: Julia Beaty (MAFMC), Chelsea Tuohy (ASMFC), Tracey Bauer (ASMFC), Brendan Harrison (NJ), Savannah Lewis (NOAA), Nicholas Velseboer (CT), Peter Clarke (NJ), Jeffery Brust (NJ), Maryellen Gordon (NJ), Jessica Gorzo (NJ), Michael Celestino (NJ), Heather Corbett (NJ)

Hearing Overview

- Five comments were provided
- Two individuals supported Option C, and one also supported Sub-Option C-2
- Two individuals did not support any of the options

Summary of Comments

Michael Pirri (CT; For-Hire Industry)

- Supports Option C.
- Expressed frustration with the Percent Change Approach and how restrictive current management measures are. Specifically, frustrated with high biomass stocks like black sea bass and scup not being liberalized and believes the Percent Change Approach is not working.
- Does not believe the same approach is appropriate for all four species.
- Stressed the importance of being able to fish for scup and black sea bass, since many other fisheries are also being restricted (e.g., striped bass, makos, Atlantic cod).

Phil Simon (NJ; For-Hire Industry)

- Supports Option C and Sub-Option C-2.
- Does not believe the incorporation of fishing mortality in Option E, the Biomass and Fishing Mortality Matrix Approach, is ready for prime time yet, due to risks and unknowns.

TJ Karbowski (CT; For-Hire Industry)

- Does not support any of the options.
- Would prefer an option that would allow for large liberalizations for high biomass stocks.

Marc Berger (CT; For-Hire Industry)

- Does not support any of the options.
- Supports previous comments from Michael Pirri and TJ Karbowski.
- Agrees that it doesn't seem appropriate to use the same approach for all four species.

Doug Taylor (NJ)

- Requested that the approaches consider historical biomass, as adjusted to the biomass cycle that the fish stock is currently undergoing. A lot of variables are being considered when setting the biomass, without consideration of past history.

New Jersey and Connecticut Public Hearing Attendance (Online)		
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Summary of Public Hearing Comments

Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process Draft Addenda Public Hearing

Webinar Hearing – Delaware, Maryland, Potomac River Fisheries Commission, Virginia, and North Carolina

January 29, 2025

5 Public Participants

Commissioners, Proxies, & Council Members: Chris Batsavage (NC), Anna Beckwith (NC), John Clark (DE), Roy Miller (DE), Michelle Duval (PA), Pat Geer (VA), Carrie Kennedy (MD), Michael Luisi (MD), Adam Nowalsky (NJ)

Commission, Federal, & State Staff: Julia Beaty (MAFMC), Chelsea Tuohy (ASMFC), Tracey Bauer (ASMFC), Matt Rigdon (NOAA), Alexa Galvan (VA), Savannah Lewis (NOAA), Angel Willey (MD), Lorena de la Garza (NC)

Hearing Overview

- One individual provided comments and supported Option C and Sub-Option C-2.

Summary of Comments

Mike Waine (American Sportfishing Association)

- Supports Option C and Sub-Option C-2.
- Believes modifications of the existing Percent Change Approach in Option C are improvements.
- The incorporation of fishing mortality in Sub-Option C-2 is also an improvement. For example, for some of these species, there have been cases where even though the OFL was exceeded, estimates of fishing mortality from the most recent stock assessment for those same years were below F_{MSY}. These stock assessments represent best available science.
- Also supports the Council and Policy Board revisiting the recreational measures setting process every five years to evaluate its effectiveness in not only providing stability but ensuring measures align with stock status. This would not be a sunset. The Council and Policy Board would have the opportunity to take action only if needed.

Delaware, Maryland, PRFC, Virginia, and North Carolina Public Hearing Attendance (Online)		
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Written Comments

Written comments were submitted by the following groups and organizations:

Jersey Coast Anglers Association
Stellwagen Bank Charter Boat Association
Hi-Mar Striper Club
Center for Sportfishing Policy
American Sportfishing Association
Coastal Conservation Association
Congressional Sportsmen's Foundation
National Marine Manufacturers Association
Seafreeze Ltd.
The Nature Conservancy
Conservation Law Foundation
Natural Resources Defense Council
Ocean Conservancy
American Saltwater Guides Association
Viking Marine Group

Written comments were submitted via the following form letters:

American Sportfishing Association
Form Letter 1 of unknown origin

American Sportfishing Association Form Letter submitted by 163 individuals

From:

To: Comments

Subject: [External] Support Recreational Management Reform for Fluke, Scup, Black Sea Bass, and Bluefish

Date: Monday, January 13, 2025 2:07:33 PM

Dear Ms. Tuohy,

As an avid angler who values catching summer flounder, scup, black sea bass and bluefish, I support ongoing reform to the recreational measures setting process using additional information besides recreational harvest data to establish bag, size and seasons that better reflect the status of the resource.

Therefore, I do not support the NO ACTION alternative and urge managers to continue to implement alternatives that use more than just recreational harvest data for determining measures.

Of the remaining alternatives, I support Option C: Modified Percent Change Approach. This option builds on the stability brought forward by the current Percent Change Approach, but is both more responsive to stock status and provides additional status quo options in keeping with the goal of management stability of recreational reform.

Furthermore, I support Sub-Option: C-2 for its alignment of biomass categories and acknowledgement of changing recreational measures is meant to keep the recreational sector accountable.

I also support revisiting the recreational measure setting process every 5 years to evaluate its effectiveness in providing stability in recreational measures while ensuring measures align with stock status.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Form Letter 1 of unknown origin submitted by 41 individuals (primarily from the New York for-hire industry)

From:

To: Comments

Subject: [External] Recreational Measures Setting Process

Date: Tuesday, January 21, 2025 5:18:21 PM

Hi. My name is [NAME]. I live in [STATE] and I am in the [INDUSTRY]. I am writing to support Option C for setting recreational regulations. The current percent change approach does a much better job at stabilizing regs and reflecting realistic regulations. The old way (Option A) was very inconsistent and was far too susceptible to errors produced by MRIP.

I also would like to support Sub-Option C-2 for AMs. Again, this option provides a more sensible approach to accountability when considering the uncertainty of recreational data.

Thank You,

From:	Steve Doctor -DNR-
To:	Comments; Julia Beaty; Chelsea Tuohy
Subject:	[External] ADDENDUM XXXVI TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN AND ADDENDUM III TO THE BLUEFISH FISHERY MANAGEMENT PLAN
Date:	Wednesday, December 18, 2024 2:06:08 PM

Here are my first blush comments.

It appears most of the changes in the percent change approach may be useful.

However, I would recommend not supporting any sections that use accountability measures in the calculations. With each stock assessment the stock biomass and recommended rhl changes. Recently the updated stock assessments are a great example where the estimated biomass and recommended catch levels in the past are very different from the new estimates and retrospective stock sizes and concurrent allowable catch levels. So in effect with the new stock assessments we find the recommended catch and biomass levels were not correct in the past. Therefore we should not hold 'accountable' the fishery to these catch levels that were incorrect in retrospect. I hope you get the just of what I am saying, if not please contact me and I will try and clarify.

Also this is probably not the place to put this but it is important. The dead discard levels used in the ACL's for the recreational fishery are super sketchy. We need to find a way to improve them- which is beyond comprehension at this point, or find a way where we do not have to use them in our analysis and harvest limit determinations.

I will most likely have more comments as I attend some of the webinars explaining this document further

Thanks for the work that has gone into this and the opportunity to comment!

Steve Doctor
Fisheries Biologist
Ocean City,
Maryland

Maryland Department of Natural Resources
12917 Harbor Rd. Ocean City, MD 21842
443-365-0243

steve.doctor@Maryland.gov

MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

From:	Marc Chiappini
To:	Comments
Subject:	[External] Recreational Measures Setting Process)
Date:	Tuesday, January 21, 2025 4:18:32 PM

To whom it may concern:

I have been hooked on fishing for 6 decades. I've fished Delaware Bay for the last 40 years by boat and surf.
I spend $4000.00 to $6000.00 on slip, maintenance, and fuel per year to boat Delaware Bay and fish.
Last year, 2024, we brought in only one summer flounder for the entire season while watching Delaware registered boats going home with their limit. Blue fish at three per day limit saved the day often for dinner.
I'm beginning to think that the expense of a boat is not worth it for the commission continues to restrict fishing so much with size and bag limits. So, keep up the restrictions and explain to the owner of the marina I've been at for 20 years why I have decided to sell the boat and he loses a slip owner.
Delaware Bay should be moved south to the Delaware and Virginia commission so as to be treated as one body of water. And, why close the flounder season, Delaware does not. And, then the Striped Bass rules hurt also. I'd rather be able to take a 20-30 inch fish and go home, instead of throwing back dozens of huge fish like last year. I fish to eat them; while fun I don't care about sport fishing, I want dinner fresh.

Sincerely,
Marc E. Chiappini
557 Elmer Rd.
Bridgeton, NJ 08302

From: Matthew Siegal
To: Comments
Subject: [External] Public Comment re Addendum XXXVI
Date: Wednesday, January 22, 2025 1:24:44 PM

I advocating for Option C and sub option C-2

This option provides the most flexibility to conform the rules to the most current data.

Matthew W. Siegal, Esq. Dilworth
& Barrese, LLP

48 South Service Road, Suite 200 Melville,
New York 11747

(516) 228-8484 (Main) (Unchanged)

(516) 224-1621 (Direct) (Unchanged)
MSiegal@DilworthBarrese.com

From:	Davidjkimsey
To:	Comments
Subject:	[External] January 28 summer flounder,scup,seabass and bluefish
Date:	Wednesday, January 22, 2025 4:56:52 PM

I have been a recreational fisherman for 60 years. I recognize the importance of the conservation of our coastal resources. I am oftentimes surprised by the decisions made by the regulatory powers to be concerning size and bag limits , as well as open seasons. Particularly when there are considerable differences in these regulations between states when dealing with species that migrate.

The size limit on summer flounder at times has seemed punitive in nature and the on / off seasons for black seabass has left me scratching my head if I forgot to look at the playbook before leaving the dock. With the high cost of fuel and ever increasing restrictions on size and seasons it becomes harder to justify the sport.

The elephant in the room that nobody seems to acknowledge is the commercial fishing industry. I fully support their right to make a living but let's not pretend that recreational fishing is at the same caliber as commercial fishing when discussing catch quotas. A commercial fishing vessel brings in more fish in one haul than all the recreational boats do in a season. Also all the fish in that haul are killed and the unwanted by catch is thrown overboard.

To summarize, the 2024 recreational fishing season had the seabass season severely restricted or closed for most of the summer. The summer flounder size was increased from the summer before making it more difficult to catch a legal fish. Once plentiful bluefish seem to have disappeared over night and scup are nowhere's near as plentiful as they were. It doesn't make sense to increase a bag limit if you make the size limit so large you can't fill it anyway.

Why not coordinate size and bag limits with Delaware on these species so we could fish the bay without worrying if we're breaking the law? Why not have one open season in the summer for recreational fishing for sea- bass at the current size limit and a reasonable catch quota ?

A few more concerns are the impact of all the dredging done to replace beaches. Dredging up large area of the sea floor must have a grave impact on the fish population. Also how about increasing the size of our reefs. More structure means more fish. The fishing reefs should also be off limits to commercial vessels except for charter fishing vessels.

In conclusion I would like to think that the sport of recreational fishing is not the target of politics. That would truly be a shame. As a grandfather I would like to take my grand children out fishing and have a decent chance of bringing home a few fish for the table. Passing on the wonderful sport of fishing and being a part of a multi million dollar industry is something I want to continue and share with future generations.

Sent from my iPhone

From:	Joseph beneventine
To:	Comments
Cc:	Chelsea Tuohy
Subject:	[External] Recreational Measures Setting Process
Date:	Sunday, January 26, 2025 2:36:04 PM

To Whom It May Concern,

After careful consideration of the proposed options, I wish to express my support for Option D: Modified Percent Change Approach Using the Recreational ACT and Catch sub option D-2.

Option D offers a forward-looking, adaptive, and sustainable framework that directly addresses the problems identified in Section 2 of the draft Addenda.

Key Reasons for Supporting Option D:

- **Addressing Uncertainty and Variability in Recreational Catch Estimates**

  Option D incorporates the Annual Catch Target (ACT) and total recreational catch (harvest + dead releases), which provides a more comprehensive and stable metric than relying solely on the Recreational Harvest Limit (RHL). This framework reduces the impact of variability and uncertainty in MRIP data, which has historically made management reactive and unpredictable. By accounting for release mortality, Option D addresses the full scope of recreational fishing impacts, ensuring that data uncertainties do not undermine sustainable management.

- **Reducing the Issue of "Chasing the RHL"**
  Shifting focus from the RHL to the ACT mitigates the challenges associated with frequent adjustments to meet RHL-based limits. By considering broader metrics of total mortality Option D reduces

regulatory instability and enhances the predictability of recreational measures.

- Incorporating **ACT and total catch** Option D ensures a holistic management approach, addressing uncertainties in recreational data while maintaining alignment with stock health.

How the Current System Results in 'Chasing the RHL':

- **Reactive Adjustments Based on MRIP Data Variability:**

The current system heavily relies on Marine Recreational Information Program (MRIP) data to estimate harvest. However, MRIP data is often subject to significant variability and uncertainty. Year-to-year fluctuations in these estimates can lead to sudden and frequent changes to management measures (e a.. bag limits, size limits, and season lengths). Managers are effectively reacting to these swings, trying to bring harvest levels back in line with the RHL. This reactive approach can result in a cycle of overcorrection-tightening regulations one year and loosening them the next, depending on whether harvest exceeds or falls short of the RHL.

- **Disconnect Between RHL and Total Mortality:**

The RHL focuses solely on harvest, excluding dead releases (release mortality). This narrow scope creates an incomplete picture of total fishing impact. When release mortality increases (e.g., due to stricter size limits, unlimited 'catch & release' fishing - even allowing targeting of fish out of season - and longer fishing seasons), total removals may still exceed sustainable levels even if harvest is within the RHL. This disconnect forces managers to continually adjust measures to stay within the RHL, without fully addressing total

fishing mortality. The result is a feedback loop where measures are adjusted without resolving the root causes of overages.

- **Regulatory Instability for Stakeholders:**

For anglers and other stakeholders, the constant shifts in regulations tied to RHL adherence create unpredictability. This regulatory instability undermines stakeholder confidence in the management system and reduces compliance and support for conservation measures.

By moving away from an RHL-centric system to one like Option D, which incorporates both the ACT and total catch (harvest + dead releases), management becomes more proactive and stable. This approach reduces the likelihood of 'chasing the RHL' because it addresses the broader picture of total removals reducing the need for reactive adjustments.

Conclusion:

As stated above, Option D offers a forward-looking, adaptive, and sustainable framework that directly addresses the problems identified in Section 2 of the draft Addenda. Its integration of ACT and total catch ensures that management measures are ecologically sound, data-driven, and responsive to stock conditions. This approach also promotes regulatory stability and aligns with the long-term goals of conserving fisheries while maintaining equitable access for recreational stakeholders.

I urge the Council and the Atlantic States Marine Fisheries Commission to adopt Option D (sub option D-2) as the preferred management framework for 2026 and beyond. This approach provides the best

pathway to achieving sustainable, predictable, and effective fisheries management for summer flounder, scup, black sea bass, and bluefish. Recognizing its ability to balance conservation goals with practical management needs.

Thank you for considering my comments.

Joseph Beneventine
(MAFMC AP SFSBSB - NY Recreational)
Sent from my iPad

From:	G2W2
To:	Chelsea Tuohy; Tracey Bauer
Subject:	[External] Public Comment for Scup, summer flounder
Date:	Monday, January 27, 2025 12:41:20 PM

From: Matt Gilbert

Sent: Thursday, January 23, 2025 8:25 PM

To: G2W2

Subject: [External] Public Comment for Scup, summer flounder

Good evening

Last night I attended the NYS meeting discussing the 2026 season for Scup, SeaBASS , summer flounder and blue fish.

The presentation was very good and I have one takeaway from the discussion and that is how the BioMass number is attained.

As a recreational fisherman and now for hire Captain I can count on one hand how often I have participated in a fishing survey. I don't not believe a true and accurate level of fishing is attainable.

There are 1000's of people up and down our coast line. How can anyone take a quantitative measure of how many fish that is harvested.

System of measurement needs to be addressed before any size limit or reduction in fishing can be implemented.

Given the three options present. I choose C. Matt

Gilbert

Captain

15 Harbor Oaks Dr, Kings Park, NY 11754

From: G2W2
To: Chelsea Tuohy; Tracey Bauer
Subject: [External] Public Comment for Scup, summer flounder
Date: Monday, January 27, 2025 12:41:20 PM

From: HARVEY YENKINSON <vetcraft@aol.com>
Sent: Wednesday, January 29, 2025 8:44 PM
To: G2W2 <G2W2@asmfc.org>
Subject: [External] Re: Thank you for attending Recreational Measures Setting Process Draft Addenda Public Hearings

As an AP MAFMC member, I listened to the public webinar as I was curious to how the public would be able to comment on such a complex process. My thinking is that fishery management is well beyond the understanding of even informed individuals. I suggest that any future public comment sessions on these management scenario options include an understandable presentation by including an example by plugging in data from that year and show the results each management choice would produce. Without this type of presentation this public comment period will yield little other than complying with the procedural requirements of these matters. Dr Harvey Yenkinson
Sent from my iPhone

From: Anglerpmh
To: Comments
Subject: [External] Recreational Measures Setting Process
Date: Thursday, February 6, 2025 4:34:12 PM

ASMFC and MAFMC,

Thank you for this opportunity to comment on the Recreational Measures Setting Process. I have fished for all of the affected species for over 50 years. I don't want to go back to the old way we managed these fisheries for many years, with quotas and regulations changing almost every year. Option B was an improvement but I believe option C will be even better as it should result in sustainable stocks and stable regulations. Options D and E have too many unknown variables. Therefore, **I support Option C** and urge you to do the same.

Sincerely,

Paul Haertel

From: cnplanners@optonline.net

To: Comments

Subject: [External] Recreational Addendum Comments

Date: Saturday, February 8, 2025 12:06:12 PM

To Whom It May Concern.

All the data used for recreational catch statistics to make critical decisions in fisheries management is covered by “best available science”. This is a polite way of saying we have no idea what the correct information is, so all we can do is work with the inaccurate information we have. For example, the recreational catch has already been admitted to being flawed by 40 percent. How is recreational discard mortally quantified. In addition, the weight assigned to the same age class of fish between the commercial and recreational sectors as well as from state to state needs to be the same. It’s time to update the tables. If you take the number of fish landed times the annual weight values assigned to the recreational sector, it does not add up annually. Resulting in the recreational catch to be overestimated.

It is my recommendation that the data used in the recreational fisheries logarithms be replaced by a random numbers chart. We all know the current recreational data used are guesses at best. The use of a random number chart could not yield a more inaccurate estimate and perhaps a more accurate estimate.

Thank you in advance for your time and consideration

Timothy Anfuso

50 Society Hill Way

Tinton Falls, NJ 07724

From: Tom Borkowski
To: Comments
Subject: [External] Recreational Measures Setting Process
Date: Saturday, February 8, 2025 3:04:35 PM

ASMFC and MAFMC,

With regard to the Recreational Measures Setting Process, I support option C and ask you to support that option too. Option C seems to be the best option to support sustainable fishing stocks.

Thank you for your consideration.

Regards
Tom Borkowski
Sandy Hook Bay Anglers

From: Joe Albanese

To: Comments

Subject: [External] ASMFC/MAFMC Recreational Measures Setting Process for Fluke, Scup, Sea Bass, and Bluefish

Date: Thursday, February 13, 2025 6:16:42 PM

ASMFC and MAFMC,

The implementation of the current Option B eliminated the mandated annual change of quotas & regulations stipulated in Option A. That was a welcomed improvement. However, I believe Option C with the additional data analysis should result in sustainable stocks and stable regulations. Options D and E have too many unknown variables. Therefore, I hope you will support Option C.

Best regards,
Joe
Joseph Albanese
2025 President HRFA
president@thehrfa.org
Editor *River Views*
editorriverviews@thehrfa.org
Mobile: (908) 456-2968

From: ROD MCLENNAN

To: Comments

Subject: [External] Recreational Measures SettingProcess

Date: Wednesday, February 12, 2025 3:26:13 PM

I would like to offer comments regarding the black sea bass stock in Connecticut and New York, Long Island Sound. I currently fish recreationally but have been licensed for commercial finfish and lobster. I have been Dockmaster for the town of Guilford, Ct for 14 years and interact with recreational and commercial fishermen on a daily basis.

At least in Long Island Sound, Connecticut and New York should share the same regulations.

- All reports I have received indicate that the SSB has never been higher.
- Fish caught in the 2024 season rarely regurgitated stomach contents when landed, perhaps indicating markedly less forage.
- It is difficult to get through the juvenile fish in order to target keepers.
- ACL and RHL should both be increased.

Thank you.

Rod McLennan

Recreational Measures Setting Process Framework/Addenda

Action Title

Recreational Measures Setting Process Framework/Addenda

Action URL

https://asmfc.org/actions/recreational-measures-setting-process-framework-addenda/

Name

john wallace

Email

jaw33depot@gmail.com

State

Connecticut

Comment

To whom it may concern:

We need to change the way we regulate the recreational fisheries. Black seabass populations are exploding. The size and creel limits have caused the fish to become so abundant that they are out competing themselves for food. Also they are affecting fluke, bluefish, and striped bass.
We had plenty of snapper blues before the sea bass invasion. Also, I have caught several sea bass with baby fluke in their bellies. Please let's try something new. I hope the stability of regulations in 2026 brings some change.

Thanking you in advance for your consideration.

Sincerely,

John Wallace
2008 CT Saltwater Angler of the Year.

From: RomanAround5246

To: G2W2

Subject: [External] Recreational Measures Setting Process Draft Addenda Public Hearings

Date: Friday, February 7, 2025 10:24:12 AM

Hi,

I would like to voice my opinion for option c. It will be nice for change it up a bit and have the same regulations for two years instead of each year. Thank You.

Sincerely,

Roman Dudus

Comments regarding recreational measures setting process.

I support **Option E. Biomass and Fishing Mortality Matrix Approach** because it is likely the *least* sensitive to MRIP data, although no option is entirely insensitive.

Key takeaway: Option E relies on stock assessments, which are more holistic evaluations of fish populations than MRIP data alone. While MRIP data is *a part* of stock assessments, the influence of MRIP is diluted by the inclusion of other data sources. Therefore, Option E is the *least* sensitive of the options to fluctuations or potential inaccuracies in MRIP data.

Here's why:

- **Option A (No Action):** I do not support this option because it explicitly aims to manage based on the RHL, which is *directly* derived from MRIP data. It's therefore highly sensitive.

- **Option B (Percent Change Approach):** I do not support this option because while this approach uses a "harvest target" that can deviate from the RHL, it still relies heavily on MRIP data to estimate expected harvest under current measures and to calculate the confidence interval around that estimate. So, it is still sensitive to MRIP data, but the confidence interval provides some buffer.

- **Option C (Modified Percent Change Approach Using the RHL and Harvest):** I do not support this option because similar to Option B, this option uses the RHL (MRIP-derived) and recent harvest estimates (also MRIP-derived). It's still quite sensitive to MRIP.

- **Option D (Modified Percent Change Approach Using the Recreational ACT and Catch):** I do not support this option because it uses the recreational ACT and catch, both of which are informed by MRIP data. It remains sensitive to MRIP, though the ACT may incorporate other factors.

- **Option E (Biomass and Fishing Mortality Matrix Approach):** I support this option because it uses a matrix based on *stock biomass* and *fishing mortality*. While *fishing mortality* can be *informed* by MRIP data (recreational catch is a component of total fishing mortality), the matrix approach likely relies more heavily on *stock assessments* which integrate multiple data sources, including fishery-independent surveys, commercial landings, and biological data, in addition to MRIP. Biomass estimates are also derived from stock assessments. Therefore, this approach is likely *less* sensitive than options A through D to the *variability* and *uncertainty* inherent in MRIP data alone, as it considers a broader range of information.

Craig A. McIlrath
NJ Private Recreational Saltwater Fisherman
38 Mill Park Lane, Marlton, NJ 08053
856-905-1711
blandmail@comcast.net

February 14, 2025

Chelsea Tuohy, FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street
Suite 200 A-N
Arlington, VA 22201

Dear Ms. Tuohy,

Thank you for the opportunity to provide input on the Recreational Measures Setting Draft Addenda/Framework for summer flounder, scup, black sea bass and bluefish. Our organizations represent the recreational fishing and boating industry and our nation's anglers, and we appreciate the continued efforts by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid Atlantic Fishery Management Council (MAFMC) to find solutions that are better suited for managing the recreational fishery.

The Recreational Measures Setting (RMS) alternatives aim to address ongoing challenges in recreational fishery management, including uncertainty in MRIP data, the frequent need to adjust measures (sometimes annually) based on that data, and the misalignment of recreational measures (such as bag limits, size limits, and seasons) with stock status. Framework 17 and the Percent Change Approach Harvest Control Rule (HCR) marked a significant step forward, replacing a process that had been in place for nearly two decades.

Additionally, as outlined in the attached letter, Judge Beryl Howell of the U.S. District Court for the District of Columbia ruled that Framework 17 and the Percent Change Approach HCR comply with the legal requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Given this progress, ASMFC and MAFMC must not revert to the previous process and should avoid selecting the No Action alternative. Accordingly, we provide the following input on the RMS alternatives.

Section 3.0 Proposed Management Options

We support 3.3 Option C: the Modified Percent Change Approach Using the Recreational Harvest Limit and Harvest. This option builds on the significant improvements made to the FMP regarding recreational measures via Framework 17's harvest control rule percent change approach implemented in 2023. It takes an iterative approach to achieve the recreational harvest limit while reducing the risk of overreacting and overcorrecting to variability in yearly harvest estimates. Option C adds additional spawning stock biomass bins to the existing Framework 17 percent change approach and includes more status quo alternatives helping to achieve the goal of recreational management reform of more stability in measures. Option C also takes a more conservative approach by prohibiting liberalizations for stocks declared overfished but not yet in a rebuilding plan.

We support Sub-Option C-2: Recreational Accountability Measures (AMs) with Modified Biomass Categories and Greater Consideration of Overfishing. This option logically aligns AMs with the spawning stock biomass bins contained in option C. It also directly incorporates the consideration of overfishing which better aligns AMs with best scientific information available from the most recent F/Fmsy estimate.

Considered but Rejected Options

At this time, we oppose Option D, using an annual catch target instead of a recreational harvest limit for two reasons. First, it relies too heavily on recreational catch data regarding releases. Release data has a magnitude of error (range within the upper and lower bounds of the confidence interval) that is likely greater than harvest data making it inferior because it compounds the recreational fishery data concerns instead of mitigating them. Additionally, to date, there has been no analysis of performance of the Recreational Demand Model using changes to the annual catch target instead of the recreational harvest limit. While a single year analysis of the comparison would be informative, we still find this dataset insufficient for decision making at this time.

While we are intrigued by Option E which focuses on biomass and fishing mortality, it is difficult at this time to evaluate how bag, size and season would change with the implementation of this approach without the Recreational Demand Model analysis of the annual catch target changes as noted above. Additionally, we are concerned that this option is not symmetrical meaning the catch reductions are uncapped, while liberalizations are capped at 10%. Uncapped reductions in particular oppose the goal of more stability in measures under recreational reform and returns to the "management whiplash" that was present under the No Action alternative.

Adding Revisit Provision

We also support revisiting the recreational measure setting process every 5 years to evaluate its effectiveness in providing stability in recreational measures while ensuring measures align with stock status. This periodic review does not mean the recreational measure setting process sunsets, but instead, ensures that the ASMFC Policy Board and Council formally evaluate it and consider any necessary adjustments every five years.

Thank you for considering our input. We appreciate the ASMFC Policy Board and Council for their continued support of the recreational management reform initiative.

Sincerely,

Michael Waine
Atlantic Fisheries Policy Director
American Sportfishing Association

Jeff Angers
President
Center for Sportfishing Policy

Ted Venker
Conservation Director
Coastal Conservation Association

Chris Horton
Senior Director of Fisheries Policy
Congressional Sportsmen's Foundation

Clay Crabtree
Senior Director, Public Policy
National Marine Manufacturers Association

September 30, 2024

Wes Townsend, Chair
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, Delaware 19901

Joseph Cimino, Chair
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200
Arlington, Virginia 22201

Dear Chairman Townsend and Chairman Cimino,

In a decision issued on September 5, 2024, Judge Beryl Howell of the U.S. District Court for the District of Columbia ruled that Framework 17 and the Percent Change Approach Harvest Control Rule (HCR) comply with the legal requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Framework 17, implemented in 2023 by the Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission (ASMFC), addresses ongoing challenges in managing recreational fisheries for summer flounder, scup, and black sea bass. This letter summarizes the court's key findings regarding the Framework 17 lawsuit decision.

The American Sportfishing Association (ASA) requests that these findings be shared with the MAFMC's Scientific and Statistical Committee and Monitoring Committee for Summer Flounder, Scup and Black Sea Bass. ASA also requests that these findings be presented to the MAFMC, and ASMFC's Policy Board at their October 2024 joint meeting to be included in the public record.

Framework 17 and the HCR Do Not Violate the MSA

The court confirmed that Framework 17 does not violate the MSA in a 64-page memorandum opinion. It explained that the HCR "still turns on the [Recreational Harvest Limit] RHL," while also incorporating other factors, such as stock biomass and uncertainty in recreational fishing data. The court stated, "the introduction of the [Recreational Harvest Target] RHT changes neither the 'mechanism for specifying annual catch limits'... nor the existence or trigger of 'measures to ensure accountability'" (pages 63-64). Thus, the court concluded that the inclusion of the RHT does not violate the MSA.

The court further elaborated that the MSA's Annual Catch Limit (ACL) provisions in Section 1853(a)(15) do not require a specific relationship between the ACL and seasonal management measures. It pointed to National Standard 1 (NS1), which sets broader objectives for fishery management: "[c]onservation and management measures shall prevent overfishing while

achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry" (16 U.S.C. § 1851(a)(1)). Judge Howell stated, "By its terms, rather than mandate that management measures exclusively target the ACL, NS1 sets different targets for management measures: (1) to prevent overfishing, and (2) to achieve optimum yield, on a continuing basis" (page 37). Therefore, "the ACL is not the exclusive guidepost in assessing the adequacy of management measures" (page 37), meaning recreational management measures are not required to be solely calibrated to the ACL or the RHL.

Iterative Approach of the HCR

The court explained that the HCR uses an incremental approach to achieve the RHL. Rather than making abrupt changes, it caps the percentage change year-to-year to ensure stability, relying on two years of data to guide adjustments. This method reduces the risk of overreacting to variability in recreational harvest estimates. Specifically, the court stated, "the HCR also reduces the risk of overreacting and overcorrecting to variability in yearly harvest estimates, while keeping as its goal to reach the RHL" (page 46). Additionally, the HCR considers the uncertainty of recreational data by employing an 80-percent confidence interval and adopting a more conservative approach for species with low biomass. This balancing of caution and adaptability ensures that management measures are responsive to changing stock conditions and data uncertainty, while still aligning with the MSA's conservation objectives.

MSA Explicitly Allows for Management to be Adapted to the Characteristics of Each Fishing Sector

The court emphasized that Framework 17 recognizes the inherent differences between recreational and commercial fishing and the appropriateness of tailoring management to each sector. The MSA expressly acknowledges that "recreational fishing and commercial fishing are different activities" and that "science-based conservation and management approaches should be adapted to the characteristics of each sector" (16 U.S.C. § 1801(a)(13); page 48). The court noted that "in other parts of fishery management, the Mid-Atlantic Council has drawn distinctions between the recreational and commercial sectors, in light of the difficulties of predicting recreational catch" (page 48).

For example, Judge Howell referenced the different Accountability Measures (AMs) applied to the two sectors, explaining, "The AMs evaluate the recreational ACL 'based on a 3-year moving average comparison of total catch,'" whereas "[t]he commercial sector ACL [is] evaluated based on a single-year examination of total catch" (50 C.F.R. §§ 648.103(c), 648.123(c), 648.143(c); page 48). These sector-specific measures reflect the fact that recreational fisheries data are more variable and imprecise than commercial fisheries data, justifying different management approaches.

Commercial Borrowing

The court also rejected claims that Framework 17 allows the recreational sector to borrow from the commercial sector. When determining whether overfishing has occurred, it is true that fishing mortality looks at the overall state of the fishery because stock status is best determined on the totality of information given overall uncertainty in fishery population models and their

underlying data. However, under Framework 17, each sector still has its own quota, and accountability measures are still imposed on each sector independently.

Conclusion

The court's findings make it clear that the HCR under Framework 17 adheres to the legal mandates of the MSA while enhancing the management of recreational fisheries. It effectively addresses the inherent challenges of this sector, where catch is measured by survey instead of census. The introduction of the RHT reflects a forward-thinking approach that balances sustainability, data uncertainty, and the need for regulatory stability. This is not a compromise on conservation but a methodical evolution in fisheries management designed to prevent overfishing while achieving optimum yield. By distinguishing the unique dynamics of the recreational fishing sector, Framework 17 represents a necessary adaptation, reaffirming that recreational and commercial fisheries are distinct and must be managed accordingly. The court's ruling validates the progress and innovation embedded in the HCR, ensuring the long-term health of these valuable fisheries while providing predictability for the angling community.

Sincerely,

Michael Waine
Atlantic Fisheries Policy Director
American Sportfishing Association

Julia Beaty
Fishery Management Specialist
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Chelsea Tuohy
FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200 A-N
Arlington, VA 22201

RE: Recreational Harvest Control Rule and Its Impact on Overfishing Accountability

Dear Ms. Beaty and Mrs. Touhy:

I am writing on behalf of the American Saltwater Guides Association to express our serious concerns regarding the current use of the harvest control rule in setting recreational management measures for 2023 and 2024, and our opposition to the similar options in the new Draft Recreational Measures Setting Process. Recent management practices have led to repeated exceedances of the annual catch limits (ACLs) and have weakened the accountability measures required to promptly address overages. This not only runs counter to the Magnuson-Stevens Act's mandate to prevent overfishing but also increases the risk of overfishing—even for stocks that are currently abundant like black sea bass or scup.

Our key concerns are as follows:

- The current harvest control rule approach permits recreational harvest targets to exceed the recreational harvest limit (RHL). This has resulted in repeated ACL overages without triggering the necessary accountability measures to correct them as quickly as possible.

- We strongly oppose the options presented in the draft document that do not address the continuing overages or provide adequate corrective measures. We urge that the Council and NOAA **support either Option A—reverting to management based on the RHL—or the development of an interim process** that prevents and promptly corrects recreational ACL exceedances. Such an approach could be used with the Recreational Demand Model.

- We are particularly concerned about the proposed Sub-Options C-2 and D-2. These measures would either effectively eliminate or render optional the accountability measures for recreational overages, even when biomass is low (50-90% of target). These options would also allow

overfishing to continue unchecked for higher biomass stocks, directly contravening both the Magnuson-Stevens Act and the established guidelines for sustainable fisheries management.

- We request that bluefish not be included in this plan until their rebuilding process is complete. Given that bluefish remain under a rebuilding plan, including them in the current framework could compromise their recovery and further jeopardize the sustainability of the stock.

- Recent challenges experienced in applying the percent change approach for summer flounder in 2023 highlight the difficulties of implementing this framework consistently. We believe that proceeding with caution by testing an interim approach on a single fishery, such as black sea bass, would allow for improving the process before any permanent, broad-scale adoption. Furthermore, we contend that the Council should lead this process rather than delegating key decisions to the ASMFC.

- We respectfully request that NOAA review these concerns and work collaboratively with the Council, Commission, and other stakeholders to ensure that any management measures implemented are both legally compliant and scientifically robust. Our shared goal is to protect the long-term sustainability of our fisheries while maintaining strong accountability measures that prevent overfishing.

Thank you for your attention to this matter. I look forward to NOAA's leadership and collaborative effort to address these critical issues.

Tony Friedrich

President/Policy Director

tony@saltwaterguidesassociation.org

Hi-Mar Striper Club

P.O. Box 126, Middletown, New Jersey 07748

February 11, 2025

Atlantic States Marine Fisheries Council

Re: Addendum XXXVI – Recreational Measures Setting Process

The Hi-Mar Striper Club is hereby submitting its comments to the ASMFC regarding the proposed Recreational Measures Setting Process contained in Addendum XXXVI. **The Hi-Mar Striper Club, based in Middletown, Monmouth County, New Jersey and its 63 members, having discussed the options described in Addendum XXXVI, have voted to support the adoption of Option C, the Modified Percent Change Approach using the RHL and Harvest Data.**

This is actually the only reasonable and most logical choice derived after reading and reviewing the overly complex and confusing document provided by ASMFC. Option A, was the methodology used in managing fisheries approximately 20 years ago and resulted in quotas and regulations being changed every year. Option B, which is what is currently being used, was a significant improvement over Option A. Option C is an improvement over Option B and includes advances over what was used in Option B. Option C would allow regulations to be set for two years and also includes some opportunities for liberalization for species that are over target stock, or at least maintaining the status quo. Option D and E are not worthy of consideration because both include measure setting based upon speculation.

The Hi-Mar Striper Club is also advising ASMFC that additional measures need to be put into place to better manage species whose stock has repeatedly exceeded their target for many years and provide for real liberalization of the regulations for harvest of these species. Black Seabass SSB is currently at 219% of the target, as stated in the ASMFC document. It has been more than 200% over target for the last several years, and in spite of that bag limits and seasons keep getting cut and size limits increased. ASMFC must realize that the over-abundance of Black Seabass is impacting other fish species that share the same habitat and are forced to compete for the same forage, with Black Seabass usually winning out to the detriment of other species such as Summer Flounder, Weakfish and others. ASMFC must do more to address this problem.

Jose Bastos, President

Peter Brindley, Vice President

Thomas Devine, Treasurer

Nicholas Simeoli, Secretary

Jersey Coast Anglers Association

Working for Marine Recreational Anglers

PO Box 1191, Wall Branch Post Office, Wall, NJ 07719

2/3/25

ASMFC and MAFMC,

Subject: Addendum XXXVI – Recreational Measures Setting Process

JCAA is an association composed of many clubs throughout our state that represents thousands of recreational fishermen throughout our state. At our meeting on 1/28/25, representatives from various clubs thoroughly discussed Amendment XXXVI for the Summer Flounder, Scup, Black Sea Bass, and Bluefish Management Plan pertaining to the recreational measures setting process.

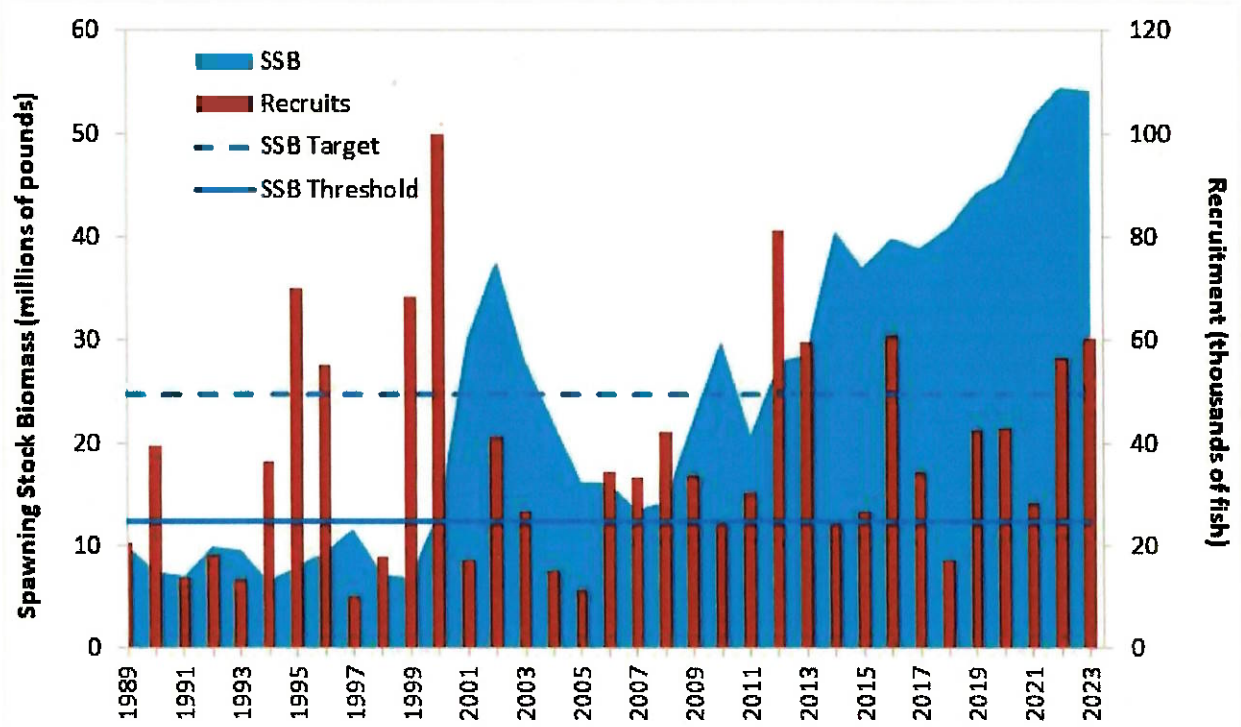
Our member clubs voted unanimously to support Option C, the Modified Percent Change Approach Using the RHL and Harvest. Option A was the way our fisheries were managed for approximately 20 years up until 2023. It resulted in our quotas and regulations being changed each year. Sometimes there were significant changes which made planning trips more difficult. We began using option B, the Percent Change Approach using RHL and Harvest in 2023. We believe it was an improvement from option A as it used confidence level and SSB. It allowed us to maintain our regulations for a period of two years. We believe that Option C would further improve Option B as it would include several modifications based on lessons learned from the Percent Change Approach. Specifically, it would add a biomass category (i.e., around the target) and treat overfished stocks separately which could possibly allow us liberalization or at least provide us with more opportunities for status quo. This option is based on harvest rather than harvest and catch. It also allows regulations to be set for two years, which is a big help to those who like to plan trips in advance, particularly the for-hire fleet. We do not like option D because it includes catch which is difficult to quantify. Option E is even worse as it not only uses catch but limits us to a 10% liberalization, while at the same time allowing for unlimited reductions.

While we do not know how many people will comment on this addendum, we do not believe that many people will do so as the addendum is very complex and difficult to understand. We would like to suggest that an interpretive statement be added to future documents if possible.

Though perhaps a little off topic we would like to comment on the situation regarding sea bass. It seems that despite overharvesting in just about every year the stock has continued to thrive due in part to above average recruitment. The SSB is currently at 219% above the target and by looking at the chart below it seems that it has been above 200% every year since 2012.

Still, we find ourselves battling to just have status quo measures each year. We are told that part of the reason for this is that data indicates a sharp decline in the SSB. Obviously, that data has been incorrect. Further, the ASMFC and MAFMC fail to consider the negative effects that the overabundance of sea bass has on other species. They are voracious feeders that are eating other desirable species such as lobsters, fluke, bluefish, etc. as well as competing with them for available forage species. Further, liberalizing regulations would take some pressure off species we are trying to rebuild such as striped bass. We believe that the SSB should be fished down to near 100% of its target before and stricter regulations are mandated. Overfishing is occurring because the ABC is too low. Specifications need to be changed. In recent years, a number of for-hire vessels and tackle stores have gone out of business due to the ever-increasing restrictions on various species. While tighter regulations may be needed for some species that is certainly not the case with sea bass.

Black Sea Bass Spawning Stock Biomass and Recruitmnet
Source: Northeast Fisheries Science Center, 2024



Sincerely,

Mark A. Taylor, JCAA President

Conservation Law Foundation * Natural Resources Defense Council * Ocean Conservancy

February 15, 2025

Julia Beaty
Fishery Management Specialist
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
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Chelsea Tuohy
FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200 A-N
Arlington, VA 22201

Re: Recreational Measures Setting Process for Summer Flounder, Scup, Black Sea Bass, and Bluefish

Submitted via email to comments@asmfc.org

Dear Ms. Beaty and Ms. Touhy:

On behalf of the organizations below, we provide these comments on the Mid-Atlantic Fishery Management Council's (Council) and Atlantic States Marine Fisheries Commission's (Commission) Draft Framework/Addendum XXXVI to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and Draft Addendum III to the Bluefish Fishery Management Plan (Draft Addenda) to establish a new process for setting recreational measures in these fisheries.[1] Our organizations oppose weakening any of the core conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act for these important species, including the requirement to prevent overfishing with annual catch limits (ACLs) and accountability measures (AMs) in this action.

NMFS's recent implementation of a new "harvest control rule" to set recreational management measures in these fisheries[2] for 2023 and 2024 reinforced our concerns regarding the potential to incentivize ACL overages, allow regular exceedances of higher specifications aimed at preventing overfishing (including the Overfishing Limit), and limit application of accountability measures for such exceedances. This approach adds up to increasing the risk of overfishing, even for currently abundant stocks, which can and do experience overfishing.

In the current Draft Addenda, we **strongly oppose Sub-Options C-2 and D-2**, which would take the Percent Change Approach even further outside of the ACL/AM framework by (1) virtually eliminating AMs for recreational exceedances in these fisheries; and (2) making AMs optional for higher biomass stocks *even if overfishing is occurring*. As described further below, this is contrary to the

[1] Atlantic States Marine Fisheries Commission, Draft Addendum XXXVI to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and Addendum III to the Bluefish Fishery Management Plan for Public Comment, Recreational Measures Setting Process ("Draft Addenda") (November 2024), https://asmfc.org/wp-content/uploads/2025/01/RecMeasuresSettingProcessDraftAddenda_PublicComment_Dec2024.pdf.
[2] This excludes Bluefish, which is still under a rebuilding plan and estimated to be at 60% of the biomass target in 2023.

requirement that conservation and management measures "shall prevent" overfishing, 16 U.S.C. § 1851(a)(1). It is also inconsistent with National Marine Fisheries Service (NMFS) guidelines on the application of AMs and recent case law.

Further, we do not support any options in the Draft Addenda that, while arguably modeled after the harvest control rule, do not address the underlying causes of frequent overages or appropriately correct for overages after they occur. We strongly recommend the Council and Commission pursue either **Option A (No Action – Revert Back to Management Based on the RHL)** or develop **another interim/trial process** that prevents such frequent exceedances from occurring and going unaddressed. Either of these approaches could be used in conjunction with the Recreational Demand Model.[3] We also recommend further review by the Council's Scientific and Statistical Committee (SSC) regarding implications of frequent Allowable Biological Catch (ABC) and Overfishing Limit (OFL) overages on the specifications setting process.

Magnuson-Stevens Act Requirements

Under the Magnuson-Stevens Act, as amended in 2006 when Congress operationalized the requirement to prevent overfishing,[4] each Council must "develop annual catch limits for each of its managed fisheries" that may not exceed recommendations of its scientific and statistical committee or the established peer review process.[5] Each fishery management plan must "establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability."[6]

Congress did not exempt any fisheries or sectors from the ACL requirement.[7] Indeed, Congress clarified in 2018 that recreational fisheries are not exempt from ACLs or accountability measures, and that these mandatory tools to prevent overfishing must be evenly applied to the recreational and commercial sectors.[8]

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[3] Draft Addenda at 11.
[4] 16 U.S.C. § 1851(a)(1) ("Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.").
[5] Id. § 1852(h)(6).
[6] Id. § 1853(a)(15).
[7] "Catch," as used generally in the Magnuson-Stevens Act and specifically in the ACL requirement, means all fish killed by fishing activity, whether the fishing is recreational or commercial in nature. *See* 50 C.F.R. 600.310(f)(1)(i); *see also* S. Rep. No. 109–229 at 23–24 ("Catch of all species, whether targeted or taken as bycatch, whether retained or discarded, count toward the annual catch limits, and fisheries are closed when these limits are reached.").
[8] *See* Modernizing Recreational Fisheries Management Act of 2018, Pub. L. No. 115–405, § 102(a)(3), 132 Stat. 5355, 5357 (codified at 16 U.S.C. § 1852(h)(8)) (stating that councils, "in addition to complying with the standards and requirements under paragraph (6), sections 301(a), 303(a)(15), and 304(e), and other applicable provisions of this Act, have the authority to use fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) . . . such as extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities in such fishery or fishery component"). *See also id.* § 301 (codified at 16 U.S.C. § 1801 note, "Construction")("Nothing in [the Modernizing Recreational Fisheries Management Act of 2018] shall be construed as modifying" the ACL requirement" or the "equal application of such requirement[] . . . to commercial, charter, and recreational fisheries, including each component of mixed-use fisheries.").

Accountability measures are defined in the National Standard 1 Guidelines as "management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur."[9] 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."[10] For co-managed stocks with federal and state harvest, the Guidelines provide that FMPs and FMP amendments "must, at a minimum, have AMs for the portion of the fishery under Federal authority. Such AMs could include closing the EEZ when the Federal portion of the ACL is reached, or the overall stock's ACL is reached, or other measures."[11] The Guidelines further include a Performance Standard provision for AMs, stating that "[i]f catch exceeds the ACL for a given stock or stock complex more than once in the last four years, the system of ACLs and [accountability measures] should be reevaluated, and modified if necessary, to improve its performance and effectiveness."[12]

The Mid-Atlantic Council's implementation of accountability measures rarely requires pound-for-pound paybacks for recreational ACL exceedances. The current process includes evaluating the recreational ACL based on a 3-year moving average comparison of total catch, and application of retroactive-only AMs based on consideration of stock biomass.[13] For higher biomass stocks such as black sea bass and scup, current regulations provide that, when the recreational ACL is exceeded, "adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment."[14]

Regulatory guidelines promulgated by NMFS further clarify that "overfishing" refers to a rate of fishing mortality or total catch that is unsustainable, i.e., a rate that "jeopardizes the capacity of a stock or stock complex to produce MSY on a continuing basis," whereas "overfished" refers to a state when a stock's biomass has fallen below a level at which it can produce the maximum sustainable yield on a continuing basis.[15] Stocks can be experiencing overfishing even when biomass is high, which can in turn result in population decline. Following a determination that overfishing is occurring, as recently occurred for summer flounder, the guidelines provide:

> [The] Council should immediately begin working with its SSC (or agency scientists or peer review processes in the case of Secretarially-managed fisheries) to ensure that the ABC is set appropriately to end overfishing. Councils should evaluate the cause of overfishing, address the issue that caused overfishing, and reevaluate their ACLs and AMs to make sure they are adequate.[16]

[9] 50 C.F.R. § 600.310(g)(1).
[10] Id.
[11] Id. § 600.310(g)(6).
[12] Id. § 600.310(g)(7).
[13] Id. §§ 648.103(c), 648.123(c), 648.143(c).
[14] Id. §§ 648.103(d)(3); 648.123(d)(3); 648.143(d)(3).
[15] Id. § 600.310(e)(2)(i).
[16] Id. § 600.310(j)(2)(i); 16 U.S.C. 1854(e)(2).

Implications of *Natural Resources Defense Council v. Raimondo* Holding

The United States District Court for the District of Columbia recently upheld NMFS's approval of the Council's recreational harvest control rule against a legal challenge based on the Magnuson-Stevens Act's annual catch limits requirement. *See Natural Resources Defense Council v. Raimondo*, No. 23-cv-982 (D.D.C. Sept. 5, 2024). The court viewed the introduction of a new "recreational harvest target" through the percent change approach as "chang[ing] neither the 'mechanism for specifying annual catch limits" nor existence or trigger of 'measures to ensure accountability,'" *id.* at 63-64 (citing 16 U.S.C. § 1853(a)(15)), and it held that the harvest control rule did not violate these requirements.

Critically, however, this holding hinges on a fact pattern wherein NMFS ultimately does conform harvest to the recreational harvest limit (RHL) and ACL through the application of meaningful accountability measures tied to the sector-ACL. Specifically, the court stated that the harvest control rule "seeks to ***achieve the RHL*** more cautiously and incrementally," *id.* at 22 (emphasis added) and "eliminat[e] extreme fluctuations in management measures and adopt[] an incremental approach to ***conforming harvest to the RHL, which remains the goal of the [harvest control rule],***" *id.* at 43 (emphasis added). This, however, has not occurred in the Council's implementation.

The court also embedded the following guidance in reviewing the black sea bass catch accounting process:

> When the 2023 season is over, the actual harvest is calculated. If actual catch exceeded the RHL, AMs will be triggered, and management measures will again have to be ***tightened until the RHL is reached.***

Id. at 62 (emphasis added). With this context, two facts regarding the recreational harvest control rule and its implementation remain highly concerning. First, the harvest control rule never stated that a primary goal was to "conform[] harvest to the RHL." While the RHL is considered as a step within the percent change approach, the Council and Commission have been very clear that RHL and ACL overages are permitted under this approach, and the goal is no longer to aim to achieve the RHL.[17] Second, accountability measures as applied have not played the role of "conforming harvest to the RHL," as demonstrated by a string of recent overages and lack of commensurate accountability measures.

We recommend further analysis on the effectiveness of accountability measures in the Draft Addenda, further review by the SSC regarding implications of frequent ABC/OFL overages on the specifications setting process, and further justification regarding how AMs will be applied consistent with the Magnuson-Stevens Act, regulatory guidelines, and the *Natural Resources Defense Council v. Raimondo* decision.

[17] Draft Addenda at 14; *See also* August 2023 Council material: July 17, 2023 staff 2024-2025 Scup Specifications Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/64c413253896672a1ba657e6/1690571558687/Tab02_Scup+2024-2025+Specs.pdf, p. 13.

Concerns Regarding Options B-E, as Informed by Recent Overages and Catch Accounting

We remain concerned that the harvest control rule's percent change approach **(Option B in the Draft Addenda**), and similar approaches **(Options C-D)** are inconsistent with the Magnuson-Stevens Act because they set recreational management measures to achieve a harvest target that can expressly exceed the recreational sector ACL.[18] Without significant underages in commercial catch—a justification that did not reflect reality for scup or black sea bass—and without AMs that conform recreational harvest to the RHL, this approach incentivizes overages with limited accountability, a recipe for overfishing in the long term. Considering ABC overages in black sea bass and scup, as well as OFL overages for scup in the most recent three years, the Council's SSC recently cautioned against this approach:

> If this pattern were to continue under a new management approach, as seems likely given the change of management focus away from achieving the RHL, the SSC may change its assumption that ABC will be caught in projections to an assumption that ABC will be exceeded in future harvests, thereby reducing catch advice.[19]

This approach should be extremely concerning to the Council, and its fishing stakeholders across sectors, and the SSC's analysis speaks to the need for a broader discussion regarding the underlying causes of these frequent overages. NMFS's 2023 catch accounting letter states that the 2023 overages of both the ABC and the OFL for Scup can be largely attributed to high recreational landings.[20] In addition, commercial underages did not play out as predicted in the scup fishery, so the higher recreational harvest targets led to exceedances of the overall ACL, ABC, and OFL.

Regarding accountability measures, which the Council and Commission are correct to include as part of any measures setting action, we are concerned that AMs are not working as intended and urge application of the AM Performance Standard to improve their performance and effectiveness.[21] As a specific illustration of this, the 2023 catch accounting letter shows that the 3-year recreational catch average for Scup was *double* the recreational ACL[22]:

Table 5: Scup Three-Year Average Recreational Catch vs. Recreational ACL (2021-2023), in mt

Fishing Year	Landings	Discards	Total Catch	ACL
2021	7,539	653	8,192	3,474
2022	7,875	738	8,613	3,205
2023	5,403	560	5,963	4,713
		Average	**7,589**	**3,797**

[18] We believe we lack sufficient information and applied examples to appropriately assess Option E - the Biomass and Fishing Mortality Matrix Approach - but we are very concerned about the presence of bins that dictate maintaining status quo measures even when overfishing is occurring, and the use of a pre-set 10% cap on reductions for the first time a higher biomass stock enters the "overfishing occurring by more than 5% and most recent Rec. ACL exceeded" bin. *See* Draft Addenda at 27.

[19] SSC Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish, Executive Summary, at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66abf3b7acc5401dc6a9fd03/1722545082095/Tab14_Rec-Measures-Setting-FW_2024-08.pdf, p. 2.

[20] NOAA Fisheries, 2023 year-end catch accounting and accountability measures letter from GARFO (October 28, 2024), https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/674755f846e791454569703f/1732728312681/01_2025+SF+Rec+Measures.pdf, PDF p. 34.

[21] 50 CFR 600.310(g)(7).

[22] 2023 year-end catch accounting and accountability measures letter, p. 3.

Yet, the Percent Change Approach has resulted in only a *ten-percent* harvest reduction in the scup fishery built into the 2024 season. This 10% is the level at which the percent change approach caps reductions for "very high" biomass stocks, such as scup (current Option B).[23] NMFS determined that this was a sufficient reduction to address the conditions that precipitated the overage, with *no additional AMs* required in 2025.[24] This amounts, put charitably, to partial accountability measures, but it only gets the recreational sector one-fifth of the way to conforming to its RHL.

In this respect, while we are not supporting any of the draft options, we strongly urge against **Sub-Options C-2 and D-2**. Both sub-options would exacerbate current problems with recreational accountability in two ways:

- Sub-Options C-2 and D-2 would virtually eliminate AMs for recreational exceedances in these fisheries, where if biomass is even at 50% of the target or higher and if the recreational ACL has been exceeded, no AMs would be required at all for the recreational sector of that fishery.[25] This violates legal requirements to provide AMs that ensure accountability to the ACL; rather than addressing and minimizing ACL overages "in as short a time as possible,"[26] this standard would allow them to go unchecked for these stocks.

- Sub-Options C-2 and D-2, as currently drafted, appear to make AMs optional for higher biomass stocks (biomass 90% of the target or higher) *even if overfishing is occurring* ("If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, adjustments to the recreational measures **may** be made for the following year, or as soon as possible once catch data are available.")[27] This runs wholly counter to the Magnuson-Stevens Act's overarching requirement to *prevent* overfishing, which requires the Council to work immediately to address underlying issues to end overfishing.[28]

Procedural Recommendations

Similar to Framework Adjustment 17 establishing the original recreational harvest control rule, we remain concerned that the Council is pursuing such significant changes to federal management via a framework action rather than a full FMP amendment. Framework actions or adjustments are intended for "minor changes and modifications to existing measures,"[29] while "issues that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of an FMP instead of a framework adjustment."[30] This draft action is not a minor change or

[23] Draft Addenda at 13-14.
[24] 2023 year-end catch accounting and accountability measures letter, p. 3.
[25] Draft Addenda at 19-20, 24-25.
[26] 16 U.S.C. § 1853(a)(15); 50 C.F.R. § 600.310(g)(1).
[27] Draft Addenda at 19-20, 24-25.
[28] 16 U.S.C. §§ 1851(a)(1); 1853(a)(15); 50 C.F.R. 600.310(j)(2)(i).
[29] Mid-Atlantic Fishery Management Council, "Council Actions" at https://www.mafmc.org/council-actions
[30] Mid-Atlantic Fishery Management Council, Framework Actions Summary (May 2014), available at: https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/589e07cfdb29d65cd8f551bc/1486751696154/Frameworks.pdf.

modification, and the impact of recreational catch and corresponding input controls on the health of these four fisheries warrant a full amendment process.

Lastly, we suggest that it is not too late to pursue changes to the recreational measures setting process on a trial basis with one fishery, e.g., black sea bass. All four of the stocks affected by the proposed action have once been overfished and subsequently rebuilt. Bluefish is still under its second rebuilding plan, and summer flounder is now both subject to overfishing[31] and at 83% of its biomass target.[32] Additionally, we have already seen instances in 2023 and 2024 where the Council and Commission struggled to apply the harvest control rule's prescriptive reduction/liberalization scheme to some stocks. This occurred for summer flounder in 2023, where the percent change approach dictated a ten-percent reduction based on NMFS's preferred model and time scale producing a recreational harvest estimate that exceeded the RHL; however, the Council ultimately applied status quo measures.[33] Recognizing the array of challenges managers face in conserving these commercially and recreationally important stocks, it is advisable here to proceed with caution and fine-tune an approach that the Council and Commission can actually follow, rather than immediately and indefinitely committing to a new approach for all four stocks.

* * * *

We oppose the range of options in the Draft Addenda as weakening core conservation requirements in the Magnuson-Stevens Act, and we therefore recommend either **Option A/No Action** or **another interim/trial process** that prevents frequent exceedances from occurring and going unaddressed. Thank you for the opportunity to comment on these important issues. Please do not hesitate to contact us if you have any questions.

Sincerely,

Molly Masterton
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Natural Resources Defense Council
(646) 823-2371

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[31] Determination of Overfishing or an Overfished Condition, 88 Fed. Reg. 76,188, 76,188 (Nov. 6, 2023).
[32] Draft Addenda at 6.
[33] Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2023, 88 Fed. Reg. 55,411, 415 (Aug. 15, 2023).

6 Resnik Road, Suite 208
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February 10, 2025

Chelsea Tuohy, FMP Coordinator
1050 N. Highland Street
Suite 200 A-N
Arlington, Virginia 22201

RE: Recreational Measures Setting Process

Dear Chelsea Tuohy:

On behalf of the Stellwagen Bank Charter Boat Association (SBCBA) whose membership includes the for hire fleet and recreational anglers who target the species associated with the Recreational Measures Setting Process we offer the following comments:

- The SBCBA recommends Option C: The Modified Percent Change Approach Using the RHL and Harvest. This option improves upon the percent change approach by adding a biomass category and creates more outcomes for status quo management which achieves the overarching goal of regulatory stability.
- The SBCBA also recommends Sub-Option C-2 for accountability measures because it considers if overfishing is occurring based on best scientific information available.
- Finally, the SBCA recommends the review of this approach at a minimum of every five years as a result of changing environmental conditions, shifting stocks and the constantly evolving need to improve recreational fisheries management.
- These selections maximize the scientific benefits of frequent stock assessments for these species.

We thank you for the opportunity to comment on this important matter. If you have any questions or comments, please contact the SBCBA at the email below.

Very truly yours,

Capt Mike Pierdinock

Capt. Mike Pierdinock

SBCBA, President
sbcbaofficers@gmail.com

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cc: Mike Pentony, GARFO
Travis Ford, GARFO
Russ Dunn, NMFS
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Ray Kane, MassFAC

February 15, 2025

Chelsea Tuohy, FMP Coordinator
1050 N. Highland Street Suite 200 A-N
Arlington, Virginia 22201
Via email: comments@asmfc.org

RE: DRAFT Recreational Measures Setting Process

Dear Chelsea Tuohy:

The Viking Marine Group (Viking) appreciates the opportunity to provide the following comments on the draft recreational measures setting process as presented in Addendum XXXVI to the summer flounder, scup, and black sea bass fishery management plan and Addendum III to the bluefish fishery management plan. The Viking Marine Group includes brands that build, outfit and service boats that are specifically designed for fishing and support over 2,000 employees. The Viking Marine Group has a vested interest in the responsible and equitable management of the recreational fisheries as many of our customers engage in the summer flounder, scup, black sea bass and bluefish fisheries. It's under this context and interest that we offer the following comments specific to the recreational measures setting process for these important recreational species.

First, Viking acknowledges and appreciates recent actions by the ASMFC and the Mid Atlantic Fishery Management Council to address shortcomings in recreational fisheries management. These shortcomings are the product of provisions in the federal law coupled with an imperfect data collection program that relies on angler recall which has been found to be inherently inaccurate. In a practical sense, these shortcomings resulted in recreational measures that could vary significantly from year to year and in many cases, were inconsistent with the status of the stock. This led to frustration for anglers and challenges for business owners. The implementation of the harvest control rule represented a forward thinking and adaptive approach that resulted in greater stability and angler satisfaction. Furthermore, it fostered greater utilization of these important natural resources and better alignment between stock status and public access. Viking appreciates the management bodies taking this action and encourages them to continue exploring alternative management approaches that better suit the nuances of the recreational fisheries.

Specific to the options presented in the addendum(s), Viking recommends the following options.

- Option C: The Modified Percent Change Approach Using the RHL and Harvest. This option improves upon the percent change approach by adding a biomass category and creates more outcomes for status quo management which achieves the overarching goal of regulatory stability.
- Sub-Option C-2 regarding accountability measures. Viking supports this sub-option because it would consider and use the best scientific information available in making determinations of overfishing.

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- Finally, Viking recommends the review of the recreational measures setting process approved under this addendum, a minimum of every five years. We believe this interval of review is necessary to account for changing environmental conditions, shifting stocks and the constantly evolving need to improve recreational fisheries management.

Viking appreciates the opportunity to comment on this important action. We are confident these measures will improve management of these important recreational fisheries without compromising long term conservation objectives for the species.

Sincerely,

John DePersenaire
Director of Government Affairs and Sustainability
Viking Marine Group

Marine Marine Group
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New Gretna, NJ 08224

February 14, 2025

Submitted via electronic mail to comments@asmfc.org; cmoore@mafmc.org; Jbeaty@mafmc.org

RE: Recreational Measures Setting Process Framework/Addendum

Dear Council and Policy Board Members,

Please accept The Nature Conservancy's (TNC) comments on the Recreational Measures Setting Process Framework/Addendum.

TNC's mission is to conserve the lands and waters on which all life depends. We work in more than 70 countries and all 50 states and the territories in the U.S.. TNC has been working to conserve, protect, and restore coastal and marine habitats and species for over four decades. We are known for our science-based, collaborative approach to developing creative solutions to conservation challenges. Our work in the ocean has been focused on conserving habitats and marine species and improving and sharing science that enables solution-oriented decision-making. We are deeply invested in promoting sustainable fisheries management and have partnered with NOAA on many science, restoration, and management initiatives through cooperative agreements and service on various agency advisory bodies. In addition, we have a long-standing history of service and engagement on various Council and Commission Committees, APs, and working groups.

For fisheries with a significant recreational component, setting regulations that effectively keep total harvest within scientifically determined limits is challenging. Yet effective management of recreational fisheries is critical to overall stock health and sustainability. For this reason, the Recreational Measures Setting Process will be an important tool for managing summer flounder, scup, black sea bass, and bluefish fisheries and it must set measures that constrain harvest to scientifically determined limits. The Nature Conservancy opposes weakening any of the core conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act for these species, including the requirement to prevent overfishing with annual catch limits (ACLs) and accountability measures (AMs) in this action. Our comments attempt to modify existing options with this in mind.

This complex action (and the previous version, the Harvest Control Rule) has required years of time investment from staff, Council and Commission members, and stakeholders; it therefore exceeds the scope of an action suitable for a Framework/Addendum and it should have been an Amendment. Nevertheless, The Nature Conservancy provides the following comments for consideration during final action:

There seems to be a lot of support for Option C from public. The addition of "around the target" biomass level in both options C and D makes sense. **We believe that either Option C or D could be viable, with an important change**: a reduction should be required when catch is expected to exceed the 2-yr avg RHL, even though the stock is at very high biomass (Figure 1 below).

Future 2-year average RHL is **less than** the lower bound of the harvest estimate CI (harvest is expected to exceed the RHL)	**Very high** (greater than or equal to 150% of target)	**No liberalization or reduction**: 0% Unless an AM is triggered[1]
	High (greater than or equal to 110% but less than 150%)	**Reduction:** 10%
	Around the target (greater than or equal to 90% but less than 110%)	**Reduction** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 20%
	Low (greater than or equal to 50% but less than 90%)	**Reduction** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 40%

This option suggests that catch limits don't matter at very high biomass. Biomass is only one component of stock dynamics and there are additional elements that scientists factor in when setting catch limits. The existing system on page 4 of the public comment document depicts how catch limits are derived. The stock assessment process that determines the OFL considers stock biomass AND additional components of stock dynamics including stock structure and recruitment. Subsequently, the Science and Statistical Committee (SSC) uses control rules and a list of decision criteria (including data quality and trends in recruitment) to recommend an Acceptable Biological Catch level, based on the OFL, as required by the Magnuson Act. It is irresponsible to simply ignore the additional components of stock dynamics and the SSC process, just because biomass is high. As currently presented, this option would codify the practice of disregarding SSC recommended catch limits when biomass is at very high levels; TNC does not support that. **The change we suggest is that some percent reduction in "expected harvest" (last column) be required at very high biomass.**

Our second concern is related to the proposed changes that weaken Accountability Measures. AMs related to sub-options C-1/D-1 allow some flexibility for the uncertainty in recreational data by using 3yr averages to determine if AMs are triggered. Beyond that flexibility, changing the "will" to "may" weakens this language such that it may become ineffective. Adopting this language would be tantamount to saying that AMs aren't required (i.e., recreational measures

don't have to be changed) for stocks with highish biomass, so exceeding the harvest limits is permissible.

Sub-option C-2/D-2 is unacceptable and non-sensical. This section states that when the most recent three-year average recreational catch has exceeded the most recent three-year average recreational ACL, an AM is triggered. Looking down the list to the AM response, Bullet 2 (a) and 3) state " … no AM response is needed." No Response for stocks with biomass "at least 50% of the target" or "at least 90% of the target" is not acceptable. The recreational sector must be subject to reactive Accountability Measures when exceeding the ACL, as would be any other sector.

Finally, the need for these unconventional measure-setting guidelines essentially stems from the high uncertainty of recreational data. The Policy Board and Council are forced to invent complex frameworks that apply dubious guardrails to a sector that makes up a substantial component of fishing mortality on stocks yet remains uncertain in terms of their most basic metrics: catch and effort. TNC implores the Board and Council to support efforts to create improvements in recreational data and to improve and streamline its use in fisheries management.

Thank you for considering our comments. We look forward to continuing to engage with the Council and the Policy Board in their efforts to improve recreational data and management through future Actions.

Sincerely,

Kate Wilke
Mid-Atlantic Seascape Director
The Nature Conservancy
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February 14, 2025

Chris Moore, Executive Director
Wes Townsend, Chairman
Mid Atlantic Fishery Management Council
800 North State Street, Suite 20
Dover, DE 19901

Comment Re: Recreational Measures Setting Process Framework/Addenda

Dear Dr. Moore and Chairman Townsend,

I am writing to express my support for Option A, No Action, as the preferred alternative for the Recreational Measures Setting Process Framework/Addenda, letting the current Percent Change Approach sunset, and returning to management that adheres to the RHL. The MAFMC SSC has been very clear throughout the development of both the current Harvest Control Rule/Percent Change Approach and the alternatives being considered in the Recreational Measures Setting Process Framework/Addenda that if the Council continues to manage to a target other than the RHL, it will result in the SSC reducing catch advice for both the commercial and recreational sectors.[1] This is simply unacceptable, and we cannot afford to lose commercial quota simply due to the desire to liberalize recreational harvest levels.

Additionally, without going into detail concerning the defects with each of the proposed Framework/Addenda measures, we continue to raise and hereby incorporate all our previous comments to the Council about this Framework/current HCR, additional written comments attached. The current and proposed management approaches specifically allow for overages of the recreational ACL in various situations, a fact acknowledged by Council staff throughout the development of this Framework. The ACL is the full measure of the allowable recreational catch, including discards, (1) scientifically permissible as determined by the Magnuson Act and the MAFMC SSC, and (2) represents the entire recreational allocation per the Council's Allocation Amendment.

Setting any recreational harvest targets above the ACL (1) is a violation of the Magnuson Act requirement to "prevent overfishing"- not just "fix" overfishing if/when it occurs, but the legal mandate to prevent overfishing, since it deliberately seeks to achieve harvest above the

[1] See SSC Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish, Executive Summary, at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66abf3b7acc5401dc6a9fd03/1722545082095/Tab14_Rec-Measures-Setting-FW_2024-08.pdf, p. 2.

scientifically approved levels for sustainable species removals and (2) represents a clear defacto, if not intentional, change in allocation between the commercial and recreational sectors. We deal with each of these issues in detail below:

(1) The Magnuson Act states very clearly: "**Each Council shall, in accordance with the provisions of this Act—develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g).**" The measures considered in the Framework will exceed the SSC's approved ACL. This is a violation of the Magnuson Act. It is not a one-time spec setting process; it is the establishment of a perpetual management mechanism that violates federal law. For example, Sub Option C-2, which allegedly gives a "greater consideration of overfishing" states that if the stock is only between 50-90% of Bmsy and the recreational ACL is exceeded there is no AM response needed.[2] Similarly, if the stock is at 90% of Bmsy, and the recreational ACL is exceeded, no AM response is needed. The Council cannot fulfill its Magnuson legislative mandate to prevent overfishing by setting harvest targets higher than the ACL and allowing ACL overages to continue in perpetuity with no Accountability Measures when stocks are below Bmsy, even at levels only 50% Bmsy. It is astonishing that the Council could even consider such approaches. The proposed Framework measures, all of which explicitly allow recreational harvest targets to exceed the SSC's fishing level recommendations for these stocks is precisely the reason that the above Magnuson Act language exists- to prevent Councils from approving measures due to political or public pressure that would put our nation's natural resources in jeopardy. Yet this is precisely what is occurring. These proposed Framework measures are not minimal "tweaks" to the SSC's RHL and recreational ACL advice- they wildly contravene not only those numbers but also all SSC advice on this topic to date.

(2) By deliberately allowing recreational ACL overages and even managing to targets purposely set above the recreational ACL- which staff has repeatedly acknowledged would be the case in some years under the approaches considered in the Framework- the Council is also violating the Allocation Amendment. The Commission's summary document states that this action "does not modify the commercial/recreational allocations."[3] This claim is false. By deliberately choosing recreational management measures that exceed the recreational ACL and allowing for overages of the recreational ACL without payback or Accountability Measures, the Council and Commission are altering the commercial/recreational allocations established by the Allocation Amendment. The overall ABC is split into a commercial ACL and a recreational ACL, with each sector specific ACL receiving the percentage of the overall ABC allocated to that sector by the FMP (the Allocation Amendment). For example, for black sea bass, 45% of the overall ABC is allocated to the commercial sector (commercial ACL) and 55% of the overall ABC is allocated to the recreational

[2] See RecMeasuresSettingProcessDraftAddenda_PublicComment_Dec2024.pdf, p. 19.
[3] See ISFMP_PolicyBoard_MAFMC_Supplemental_Oct2024-1.pdf.

sector (recreational ACL). Setting the recreational harvest target, per any of the alternatives in the Recreational Measures Setting process, above the recreational ACL is a change to these allocations. It is very simple. We have reproduced the flowchart below. Additionally, allowing for recreational overages of the recreational ACL with no pound for pound paybacks or AM's when a stock is 50% of Bmsy, for example, will only drive the stock into the ground and will result in more restrictive commercial measures- all while the commercial sector is given no such consideration or mirror measures on the commercial side of the math equation. This entire issue is a clear violation of the Magnuson Act National Standard 4, which states that allocations between the commercial and recreational sectors must be "fair and equitable". Allowing one sector to have its harvest targets set above the SSC advice, above the ACL and its allocation percentage of the stock, and to be exempt from Accountability Measures when the stock is below Bmsy- as far as 50% below Bmsy- all while the other sector must adhere to SSC advice, stay below not only the commercial ACL but also the commercial ACT and commercial quota, and be held to Accountability Measures when that same stock is below Bmsy is not fair or equitable. And it certainly is a change in allocation, which simply defined is the amount of the stock that each sector is designated for harvest. It is very simple: this Framework is a reallocation. The only way to rectify that reallocation would be to manage the commercial sector in the same way as the recreational sector: setting commercial harvest targets above the commercial ACL at the same percentages that recreational harvest targets are set above the recreational ACL. Because the ACLs are the allocations. See below.

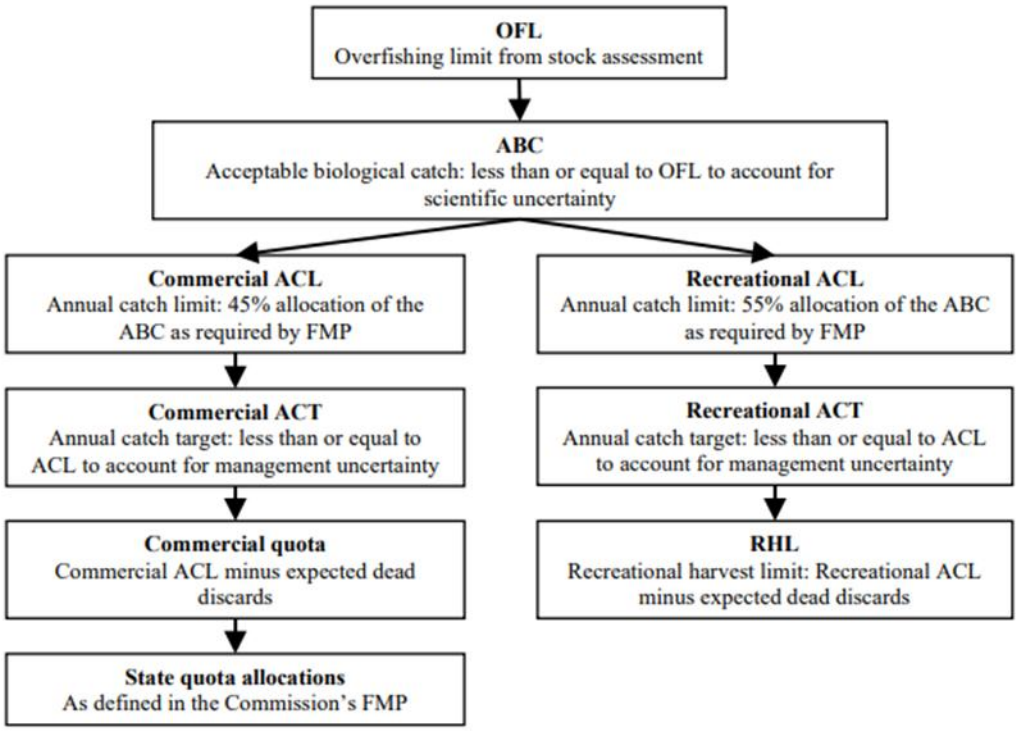

Figure 4: Black sea bass catch and landings limits, reflecting the revised commercial/ recreational allocations which became effective in 2023.

We continue to raise, as we have raised for over a year, the problem of proposed Framework's management approaches with regards to scup. The SSC noted in its review of this action that the scup OFL was exceeded for three years in a row due to the mismanagement created by the current Percent Change Approach and not managing to the RHL.[4] In one year alone the recreational fishery exceeded the RHL by 186%, the recreational RHL by 169%, which caused the OFL to be exceeded by 12%.[5] This mismanagement of the stock would only continue under the proposed Framework measures. Perpetual overages allowed by these approaches will result in a reduction in stock size (or we wouldn't have quotas in the first place), overfishing, and subsequent restrictive management measures. And, based on the Framework document, the commercial sector would be the only sector subject to Accountability Measures when the stock is between 50-90% of Bmsy. Yet, the conservation effects of the commercial Accountability Measures would be meaningless since the recreational sector could simultaneously continue to exceed the recreational ACL, and do so without AMs. The reason that quotas and AMs exist is to ensure sustainable harvest; throwing these to the wind results in unsustainable harvest levels, which will have consequences. This approach is unacceptable for shared stocks, where both sectors are impacted by the other sector's harvest levels. Shared stocks should receive equal treatment under law and regulation; indeed, this is the point of National Standard 4. Seafreeze has invested heavily in the scup fishery via Marine Stewardship Council (MSC) certification.[6] Allowing the unsustainable recreational harvest levels contained in the current Percent Change Approach and all alternatives in the proposed Framework could jeopardize this certification. The Council cannot, as the Commission document implies, state that there are no measurable impacts on the commercial sector as a result of these measures. Rather, the investments we have made in this fishery and the accountability to which we are subject for what is a shared stock are being ignored and minimized.

The Council has allowed the ASMFC to take the lead in the development of this Framework/Addenda, even to the point that the public is instructed to make comments to the ASMFC, not the Council. However, the ASMFC is not subject to Magnuson. During the development of this action, during an FMAT meeting, we asked about how the action would prevent overfishing. The answer from ASMFC staff leading the FMAT was that the ASMFC doesn't deal with overfishing and that the question would need to be addressed to GARFO or Council staff. The Council cannot abandon its Magnuson responsibilities to both prevent overfishing and maintain fair and equitable National Standard 4 allocations between sectors of shared stocks when it allows a non-Magnuson entity to drive the bus.

We request the Council vote for No Action on this Framework and go back to the drawing board to rethink recreational management within the context of these Magnuson standards.

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[4] See SSC Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish, Executive Summary, at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66abf3b7acc5401dc6a9fd03/1722545082095/Tab14_Rec-Measures-Setting-FW_2024-08.pdf, p. 2.

[5] See Tab12_Scup-2025Specs_2024-08.pdf, p. 9, 6.

[6] US Atlantic scup bottom-trawl fishery achieves MSC certification | SeafoodSource.

Sincerely,
Meghan Lapp
Fisheries Liaison, Seafreeze Ltd./Seafreeze Shoreside

Seafreeze Ltd.

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November 26, 2024

Chris Moore, Executive Director
Wes Townsend, Chairman
Mid Atlantic Fishery Management Council
800 North State Street, Suite 20
Dover, DE 19901

Dear Dr. Moore and Chairman Townsend,

I am writing to reiterate our request for separate commercial and recreational OFLs and ABCs for demersal stocks, and request that a Separate Commercial/Recreational OFL and ABC Framework be included in the Council Priorities for 2025.

As the Council is no longer managing to the RHL for demersal stocks under the existing Percent Change Approach, and the alternatives under consideration in the ongoing Council/Commission Recreational Measures Setting Process similarly would not manage to the RHL, the MAFMC SSC has been very clear that moving the management focus away from achieving the RHL will lead to the SSC being forced to assume that the ABC will be exceeded in future harvests, thereby reducing catch advice for not only the recreational but also the commercial sector.[1]

Since the Council is now managing to a recreational harvest target, often a number set significantly higher than the RHL (with similar approaches being considered for future management) but without including this recreational harvest target (RHT) in the math formula of OFLs, ABCs, and resulting ACLs and commercial quota/RHL/expected harvest levels- the directed recreational harvest levels forming the basis of recreational management in the Mid Atlantic are deliberately omitted from any catch accounting. The math problem that supposedly accounts for fishing mortality does not account for the level of recreational fishing mortality being targeted by the Council's management plan.

Furthermore, the Monitoring Committee has never imposed any recreational management uncertainty into the formula to account for continual overages of not only the ABC but in at least one case the OFL due to recreational harvest levels. The SSC has discussed this uncertainty arising from the current form of recreational management at multiple meetings, and the potential resulting

[1] See SSC Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish, Executive Summary, at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66abf3b7acc5401dc6a9fd03/1722545082095/Tab14_Rec-Measures-Setting-FW_2024-08.pdf, p. 2.

need to reduce overall ABCs to account for the Council's lack of accounting for recreational overages/RHTs that exceed the RHL.

The commercial sector cannot afford to operate under joint science and management in this way. As we have stated in previous correspondence to the Council, the lack of accounting for the RHT violates the commercial/recreational allocations established by the Council's Summer Flounder, Scup and Black Sea Bass Commercial/Recreational Allocation Amendment by setting an RHT higher than the allocations established in that action. That is a management violation. However, the lack of direct accounting in the specification setting process for fishing mortality associated with the RHT – which has resulted in regular recreational overages and increased scientific uncertainty in stock status- we now are faced with scientific "violations" that make fishing mortality impossible to quantify when setting OFLs/ABCs. This will lead to the lowering of the -current- all sector ABC, according to the SSC.

The commercial sector, which is subject to both vessel and dealer catch accounting, observer coverage, dockside enforcement, in season monitoring, in season adjustments to ensure that quotas are not exceeded, etc., and is fully accountable for targeted harvest levels of these same stocks, cannot afford to have the overall ABC reduced to account for the RHT that the Council has failed to account for in its management math formula.

Therefore, I am writing to request that the Council initiate a Framework to create separate OFLs/ABCs for the commercial and recreational sectors. Each sector should be responsible for its own impact on the stock. The overall ABC should not be lowered for the commercial sector simply because the directed RHT exceeds the RHL and is not accounted for. The overall ABC should not be lowered and the commercial sector penalized when the recreational sector's harvest levels exceed the ABC and OFL for a given stock. The commercial sector has invested heavily into sustainability certificates and markets for the demersal fisheries, which stand to undergo decline due to continual recreational overages if no further action is taken. Our investments and commitments to sustainability should not be voided simply because the Council's recreational management focus has shifted from achieving the RHL to achieving the RHT, but without accounting for the RHT when setting specifications measures or providing information to the SSC.

By creating separate OFLs and ABCs for the commercial and recreational sectors, based on each sector's allocation of the demersal stocks, the commercial sector can continue to operate and held accountable for its own harvest levels, but be detached from the stock impacts of the RHT and associated recreational harvest levels. Separate OFLs and ABCs will preserve the allocations established in the Summer Flounder, Scup and Black Sea Bass Commercial/Recreational Allocation Amendment by holding each sector accountable to its own allocation percentage, without overlap and without uncertainty introduced by the other.

I request that a Framework for establishing sector specific demersal OFLs/ABCs according to the allocation percentages established by the Allocation Amendment included in the Council Priorities for 2025. Thank you for your consideration.

Sincerely,
Meghan Lapp
Fisheries Liaison
Seafreeze Ltd, Seafreeze Shoreside

Seafreeze Ltd.

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September 10, 2024

RE: Council Discussion on managing to the RHL

Dear Chris,

Although unable to attend the Council's August meeting in Philadelphia in person, I was able to listen to some of the Council discussion on recreational management measures. Curiously, I heard one Council member and subsequent discussion on how the Council currently utilizes the RHL for recreational management under the Percent Change Approach- specifically I heard Council comments denying that the Council no longer manages to the RHL under this approach.

I am concerned that Council members may not have fully read the briefing materials or attended the SSC meetings on the subject, and I would like to correct the record here. The Council's current Percent Change Approach for setting recreational measures does not manage to the RHL; in fact, it specifically allows for recreational harvest overages above the RHL. This is spelled out in the Council briefing materials over the past two years.

The Council's August 2023 briefing materials for both scup and black sea bass specification setting state: "The Percent Change Approach considers the RHL in the upcoming year(s) as well as biomass compared to the target level when setting measures. In some cases, RHL and ACL overages are permitted under this approach."[1]

The Council's August 2024 briefing materials for both scup and black sea bass specification setting specifically state that Council policy and management no longer manages to the RHL: "2023 recreational measures were set based on a new process called the Percent Change Approach. Unlike the previous process, recreational measures no longer aim to achieve but not exceed the RHL. Instead, measures aim to achieve a different level of harvest…"[2]

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[1] See August 2023 Council material: July 17, 2023 staff 2024-2025 Scup Specifications Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/64c413253896672a1ba657e6/1690571558687/Tab02_Scup+2024-2025+Specs.pdf, p. 13. See also August 2023 Council material: July 18, 2023 staff 2024 Black Sea Bass Specification Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/64c4133026bcba3002d5f5a9/1690571568534/Tab04_BSB+2024+Specs.pdf, p. 12.

[2] See August 2024 Council material: July 16, 2024 staff 2025 Scup Specifications Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66ac090b3e2a0539d67126ff/1722550540812/Tab12_Scup-2025Specs_2024-08.pdf, p. 7. See also August 2024 Council material, July 16, 2024 staff 2025 Black Sea Bass Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66ac08f9840b7a1a88e0cc93/1722550522472/Tab13_BSB-2025-Specs_2024-08.pdf , p. 8.

The 2024 August Council meeting materials actually describe how the 2023 recreational harvest target was set intentionally above the RHL for both scup and black sea bass:

"Following the Percent Change Approach, for 2023, state waters measures were restricted with the goal of achieving 12.88 million pounds of coastwide harvest. The final 2023 MRIP landings estimate is 11.91 million pounds, about 7% less than the target of 12.88 million pounds. Despite 2023 landings being about 28% higher than the RHL, it is important to note that under the Percent Change Approach, measures do not aim to achieve the RHL, they instead aimed to achieve the 2023 target of 12.88 million pounds of harvest…"[3] [i.e. a recreational harvest target about 35% higher than the RHL].

And again: "The final 2023 MRIP harvest estimate is 7.49 million pounds, about 5% higher than the target of 7.14 million pounds. Harvest in 2023 was about 14% higher than the RHL; however, it is important to note that under the Percent Change Approach, measures did not aim to achieve the RHL, they instead aimed to achieve 7.14 million pounds of harvest."[4] [i.e., a recreational harvest target approximately 9% over the RHL; however, realized estimates are 14% over the RHL].

While proponents of this approach may say that the RHL is still used as a number in the formulation of setting a recreational harvest target, and thereby the Council is still "managing to the RHL", this is incorrect in practice. The RHL is no longer the target the Council is trying to achieve, and it is no longer managing *to* the RHL. The Council is now managing to a recreational harvest target that is often set significantly *above* the RHL.

The Council's 2024 briefing materials for the Recreational Measures Setting Process Framework/Addenda contain a MAFMC SSC "Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish" dated July 25, 2024. The SSC specifically states that the Council is no longer managing to the RHL numerous times in this document and discusses why this is problematic:

" [T]he SSC notes evidence that ABCs have been exceeded recently in Black Sea Bass and Scup. Scup has even exceeded the OFL catch in the three most recent years. If this pattern were to continue under a new management approach, as seems likely given the change of management focus away from achieving the RHL, the SSC may change its assumption that ABC will be caught in projections to an assumption that ABC will be exceeded in future harvests, thereby reducing catch advice."[5]

The SSC goes on further to discuss how none of the options being presented to the Council in the alternatives under consideration for recreational management are designed to achieve the RHL:

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[3] See August 2024 Council material: July 16, 2024 staff 2025 Scup Specifications Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66ac090b3e2a0539d67126ff/1722550540812/Tab12_Scup-2025Specs_2024-08.pdf, p. 8.

[4] See also August 2024 Council material, July 16, 2024 staff 2025 Black Sea Bass Memorandum at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66ac08f9840b7a1a88e0cc93/1722550522472/Tab13_BSB-2025-Specs_2024-08.pdf, p. 8.

[5] See SSC Report on Proposed Approaches to Setting Recreational Measures in the Mid-Atlantic Fisheries for Summer Flounder, Black Sea Bass, Scup and Bluefish, Executive Summary, at https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66abf3b7acc5401dc6a9fd03/1722545082095/Tab14_Rec-Measures-Setting-FW_2024-08.pdf, p. 2.

"The three alternatives shift the objective of management away from achieving the RHL to changing the recreational catch by specific amounts based on observed stock characteristics….This changes the goal of management from focusing on achieving RHL to achieving a given level of change in recreational catch. The SSC expresses concern that the binning approach and the change in focus increases the likelihood that the ABC will be exceeded for stocks that are close to, or above their maximum sustainable yield as the Council's risk policy allows for little uncertainty for stocks at these levels, and no management uncertainty is recognized in determination of either ACLs or ACTs."[6]

The SSC's report highlights two important facts: (1) the current Percent Change Approach is not preventing OFL overages, in fact, recreational overages have led to the scup OFL being exceeded the last three years in a row, and (2) the Council's movement away from managing to the RHL is likely to lead to ABC overages, which will force the SSC in the future to lower their catch advice for all sectors.

The Magnuson Stevens Act requires that the Council "prevent overfishing". This means constraining catch to set numbers, determined by a sector's allocation. The Council's math formula for such numbers begins at the OFL/ABC and results in a corresponding commercial quota and RHL as the numbers for management. The math formula does not account for RHL overages allowable under the Percent Change Approach. See below for the math formula for black sea bass:

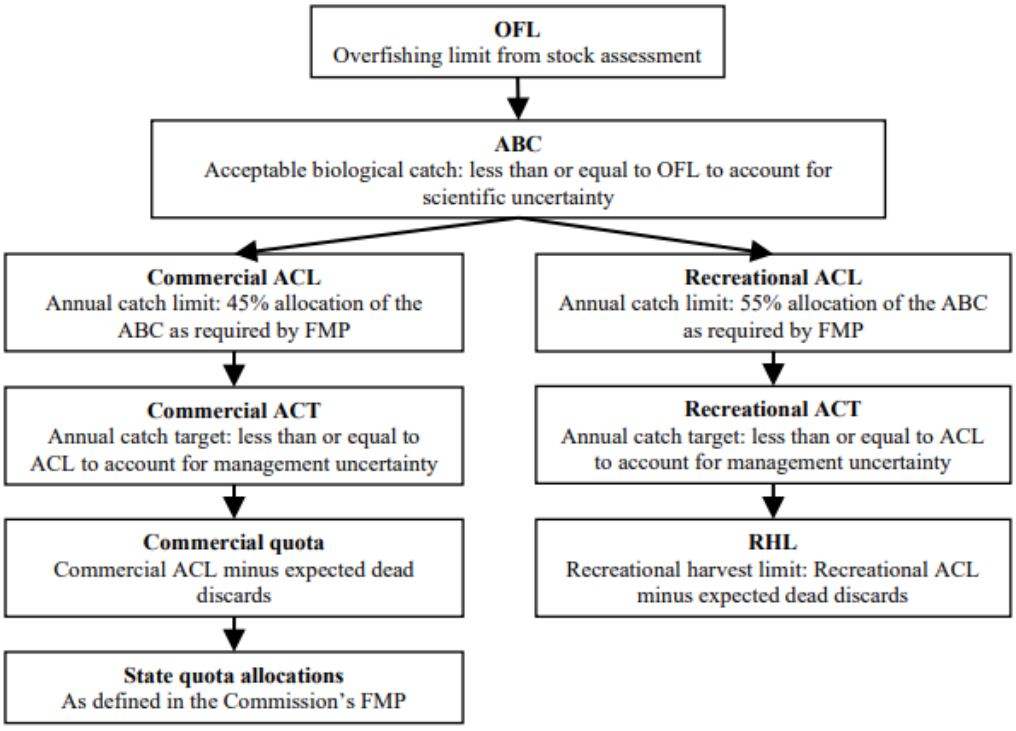


Figure 4: Black sea bass catch and landings limits, reflecting the revised commercial/ recreational allocations which became effective in 2023.

[7]

[6] Ibid.

[7] See Tab13_BSB-2025-Specs_2024-08.pdf (squarespace.com), p. 13.

If allowable overages are not incorporated into the math problem, which is leading to continual ABC and even OFL overages as noted by the SSC, then the Council is not abiding by its mandate to *prevent* overfishing. The MSA does not say to address overfishing once it occurs- it mandates prevention.

Furthermore, the Council is not abiding by its National Standard 4 requirement to ensure that allocations between the commercial and recreational sectors be "fair and equitable". The commercial sector is not allowed to exceed the commercial quota, regardless of stock condition. But the recreational sector is allowed to exceed the RHL, based on stock condition. However, the commercial quota and RHL are both directly derived from allocation percentages. To manage one sector to its allocation percentage but not manage another sector to its allocation percentage effectively changes the allocation. It is a de facto reallocation, contrary to the allocation percentages established in the Council's Summer Flounder, Scup and Black Sea Bass Commercial/Recreational Allocation Amendment.[8] That Amendment went through the legal process of assessing the impact of different allocation percentages on each sector; annual allowable ad hoc recreational overages do not. On top of this, the SSC has noted that moving recreational management away from achieving the RHL to achieving a different number has led to ABC overages and these overages will likely result in the SSC lowering its catch advice in the future. If this comes in the form of lowering the ABC as a whole, the commercial sector will be put at an even further disadvantage.

We respectfully, therefore, request that the Council task the SSC with investigating the implementation of a new math problem for fisheries management: separate commercial and recreational OFLS and separate commercial and recreational ABCs derived from each sector's allocation percentage. This would hold each sector fully accountable for its own harvest levels and impact on the resource, and ensure that one sector is not penalized for the actions of another.

Until this can be accomplished, we request that the Council initiate a Framework to manage commercial fisheries to the commercial ACL in the same manner being developed/proposed for managing recreational fisheries to the recreational ACL in the Summer Flounder, Scup, Black Sea Bass, and Bluefish Recreational Measures Setting Process Framework/Addenda, to ensure that the allocations established under the Allocation Amendment are achieved in an equitable manner.

Sincerely,

Meghan Lapp
Fisheries Liaison, Seafreeze Shoreside and Seafreeze Ltd.

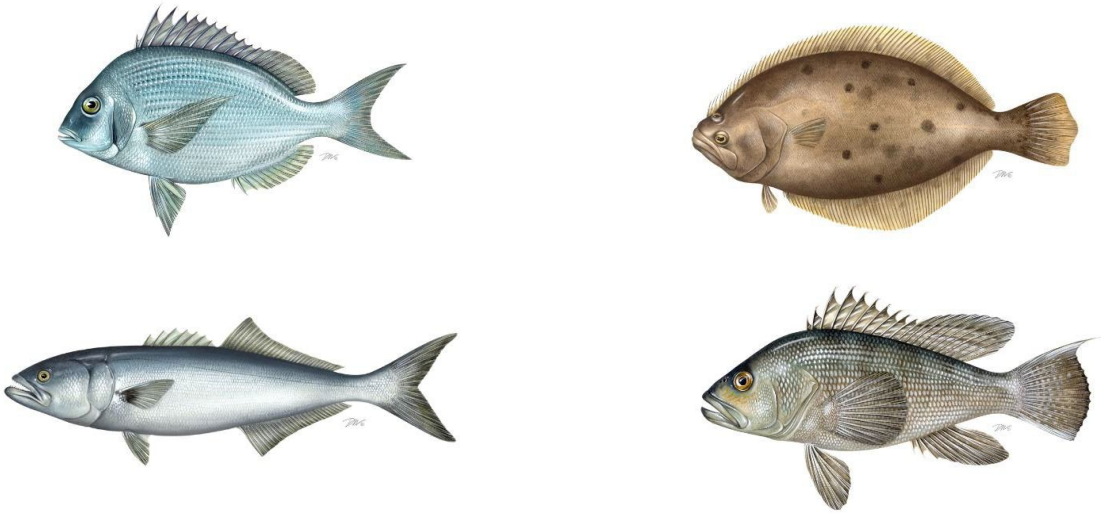
[8] See https://www.mafmc.org/actions/sfsbsb-allocation-amendment.

Draft Document for Public Comment

Atlantic States Marine Fisheries Commission

ADDENDUM XXXVI TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN AND ADDENDUM III TO THE BLUEFISH FISHERY MANAGEMENT PLAN

Recreational Measures Setting Process for Summer Flounder, Scup, Black Sea Bass, and Bluefish



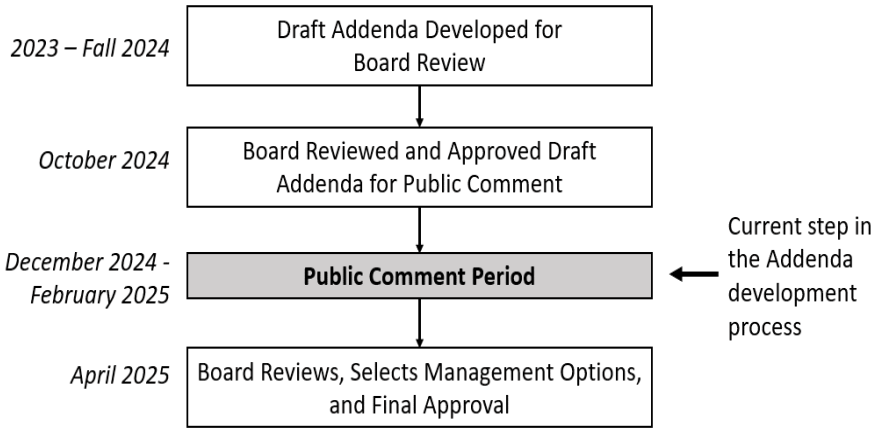
November 2024

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

Draft Document for Public Comment

Public Comment Process and Proposed Timeline

In June 2022, the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fisheries Management Policy Board (Policy Board) and the Mid-Atlantic Fishery Management Council (Council) initiated these draft addenda (for the Commission) and a framework action (for the Council) to address management of the summer flounder, scup, black sea bass, and bluefish recreational fisheries. This document, Draft Addendum XXXVI to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP) and Draft Addendum III to the Bluefish FMP, herein referred to as the Draft Addenda, and the Council's framework consider modifications to the process for setting recreational bag, size, and season limits (i.e., "recreational measures") for all four species. The Draft Addenda and the Council's framework action consider an identical set of options and the Policy Board and Council will select the same management options for implementation. This document presents background on recreational management for these species and a range of options to set recreational measures for public consideration and comment. The addenda process and expected timeline are summarized in the flowchart to the right.



Public comment may be submitted via public hearings or through written comment and will be accepted until **February 15 at 11:59 p.m.** If you have any questions or would like to submit a comment, please use the contact information below. **All comments will be made available to both the Commission and Council for consideration; duplicate comments do not need to be submitted to both bodies.**

Tips for Providing Public Comment

We value your input. To be most effective, please include specific details as to why you support or oppose a particular proposed management option. Specifically, please address the following:

- Which proposed options do you support, and which options do you oppose? Why?
- Is there any additional information you think should be considered?

Submit Comments to:

Mail: Chelsea Tuohy, FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200 A-N
Arlington, VA 22201

Email: comments@asmfc.org
(Subject: Recreational Measures Setting Process)

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1.0 Introduction

The summer flounder, scup, black sea bass, and bluefish fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (ASMFC or Commission) in state waters (0-3 miles) and by the Mid-Atlantic Fishery Management Council (MAFMC or Council) and NOAA Fisheries in federal waters (3-200 miles). Summer flounder, scup, and black sea bass are managed under one fishery management plan (FMP) and bluefish is managed under a separate FMP. The management unit for summer flounder is US waters from the southern border of North Carolina northward to the US-Canadian border. The management unit for scup and black sea bass is US waters from Cape Hatteras, North Carolina northward to the Canadian border. Bluefish are managed in US waters along the entire eastern seaboard, from Maine through Florida.

The Council and Commission jointly agree to recreational annual catch limits (ACLs), annual catch targets (ACTs), and recreational harvest limits (RHLs) for all four species, which apply throughout the management units. They also jointly agree to the overall approach to setting recreational bag, size, and season limits (i.e., recreational measures).

The current process for setting recreational measures for these species, referred to as the Percent Change Approach, was implemented through the Harvest Control Rule Framework/Addenda in 2023. The goal of the Harvest Control Rule Framework/Addenda was to establish a process such that recreational measures aim to prevent overfishing, are reflective of stock status, appropriately account for uncertainty in the recreational data, take into consideration angler preferences, and provide an appropriate level of stability and predictability in changes from year to year.

The Council and the Commission agreed that the Percent Change Approach should sunset by the end of 2025 with the goal of implementing an improved long-term process for setting recreational measures, starting with the 2026 measures.

The goal of the Recreational Measures Setting Process Addenda is to consider the process for setting recreational measures for summer flounder, scup, black sea bass, and bluefish for 2026 and beyond.

2.0 Overview

2.1 Statement of Problem

As described in more detail in Section 2.2, the Commission and Council have faced a number of challenges in setting recreational management measures for summer flounder, scup, black sea bass, and bluefish. These challenges included concerns related to uncertainty and variability in the recreational fishery catch estimates and the need to frequently change measures based on those data, especially in a direction often perceived as contrary to stock status. The interim approach to address these challenges (i.e., the Percent Change Approach) will expire at the end of 2025.

2.2 Background

As stated above, the Commission's species management boards and the Council jointly set recreational ACLs, recreational ACTs, and RHLs for all four species (Figure 1). The recreational ACLs account for landings and dead discards and are set based on the recreational allocation percentages defined in the FMPs. The ACTs are set less than or equal to the ACLs to account for management uncertainty. The RHL for each species is set equal to the ACT minus expected recreational dead discards. None of the options in this document would change the process for setting the ACLs, ACTs, and RHLs.

The ACLs, ACTs, and RHLs are revised when new stock assessment information becomes available. For the foreseeable future, updated stock assessments are expected to be available every other year for these four species.

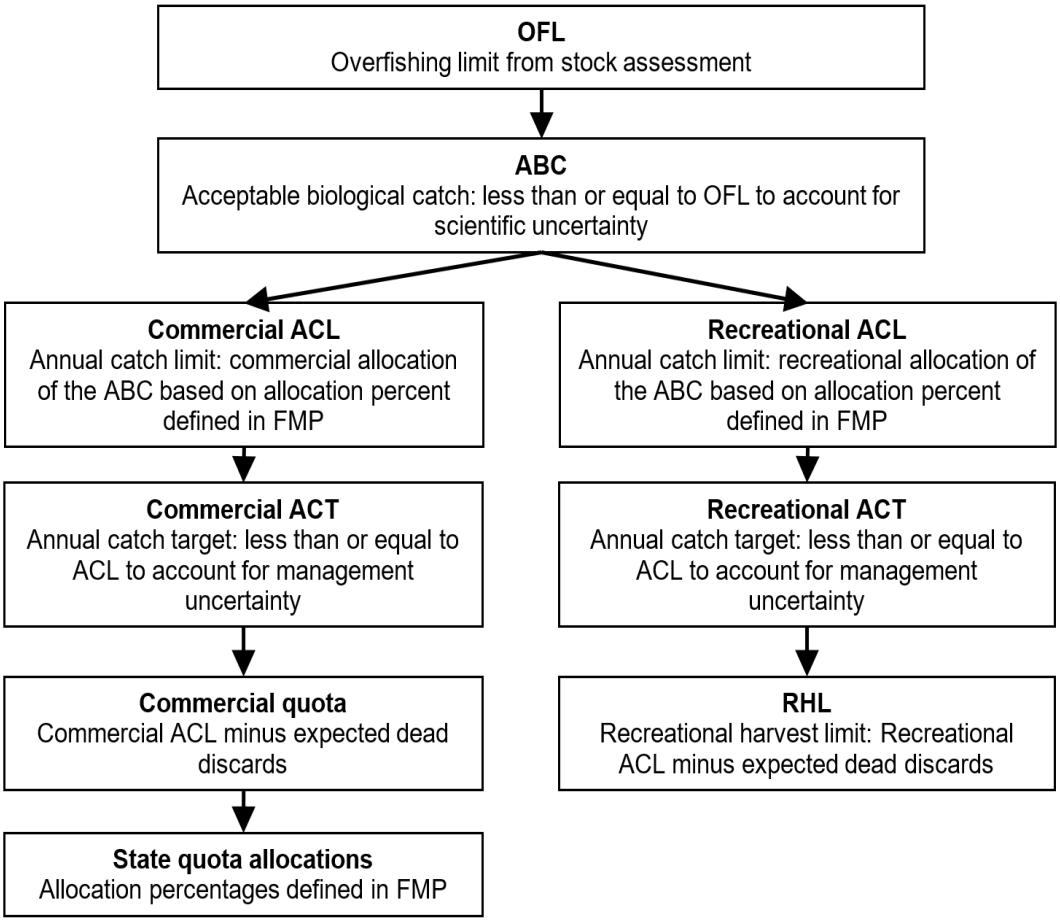


Figure 1. Example flowchart for the process for defining recreational and commercial catch and landings limits for summer flounder, scup, black sea bass, and bluefish. The specific requirements for each species are defined in the FMPs.

The Commission's species management boards and Council determine whether measures should remain status quo, or if there should be an overall percentage liberalization or reduction in harvest. These bodies jointly set federal waters measures and state waters measures are subsequently approved by the Boards.

Prior to the Harvest Control Rule Addenda/Framework, recreational measures (i.e., bag, size, and season limits) were set with the goal of allowing harvest to meet, but not exceed the RHL. In preventing RHL overages, recreational measures also aimed to prevent ACL overages and overfishing.

Of the four species' fisheries, those that tend to meet or exceed their RHL required frequent changes to the recreational bag, size, and season limits aimed at preventing future RHL overages. This has not only been frustrating for stakeholders, but also can lead to issues with the enforceability of the management measures and can increase the likelihood of unintentional violations (ASMFC 2024a). In some cases, the required changes in measures appear to have responded to variability in recreational catch and uncertainty in the Marine Recreational Information Program (MRIP) estimates rather than a clear conservation need. This challenge has been referred to as "chasing the RHL." In addition, many recreational stakeholders expressed frustration that measures for these species did not appear reflective of stock status. For example, black sea bass measures have been more restrictive in recent years when the stock is more than double the target level compared to when the stock was under a rebuilding plan.

The Percent Change Approach, which was implemented through the Harvest Control Rule Framework/Addenda in 2023, aimed to address these issues by setting measures for two years at a time, requiring consideration of uncertainty in the MRIP harvest estimates through use of confidence intervals, and adding additional considerations for stock status. As described in more detail in Section 3.2, the Percent Change Approach uses the RHL and other information to define a harvest target for setting recreational measures. This harvest target can be higher than, lower than, or equal to the RHL. The harvest target is based on two factors: 1) Comparison of a confidence interval around an estimate of expected harvest under status quo measures to the average RHL for the upcoming two years and 2) Biomass compared to the target level, as defined by the most recent stock assessment.

Through the Recreational Measures Setting Process Addenda/Framework, the Commission and Council wish to further evaluate the Percent Change Approach and other possible approaches to determine the appropriate long-term process for setting recreational measures for all four species.

The FMPs for the four species do not specify what methods should be used to determine which recreational management measures are expected to meet the relevant target (i.e., the RHL prior to 2023 or the level of harvest required by the Percent Change Approach since 2023). The methods can differ based on recommendations from the Council's Monitoring Committees and the Commission's Technical Committees. Since 2023, a tool referred to as the Recreation Demand Model has been used to set recreational measures for summer flounder, scup, and black sea bass (Carr-Harris et al. 2024). The model produces estimates of recreational harvest and discards given a suite of proposed regulatory measures for each state. The Recreation Demand Model incorporates data on recent recreational harvest and discards from MRIP, as well as information on angler behavior from a survey administered to anglers who recently

fished for summer flounder, scup, or black sea bass. The Recreation Demand Model also incorporates information from the stock assessments on availability of the three species. The Recreation Demand Model is not available for bluefish. Therefore, bluefish measures are set based on an analysis of MRIP data only, as was also done for summer flounder, scup, and black sea bass prior to 2023. Improved analysis or modeling approaches for setting bluefish measures can be considered in the future without requiring a change to the FMP.

The Draft Addenda include special considerations for stocks in a rebuilding plan. The potential management programs outlined in this document are not meant to replace any species rebuilding measures. The bluefish stock was declared overfished in 2019, triggering the development of a rebuilding plan and a need for more restrictive management measures than had previously been in place. Any measures implemented for bluefish must comply with the rebuilding plan.

2.3 Status of the Stocks

2.3.1 Summer Flounder

The most recent summer flounder management track stock assessment was completed in June 2023, using data through 2022 (NEFSC 2023a). The assessment approach is a statistical catch-at-age model incorporating a broad array of fishery and survey data. Results from the 2023 assessment indicated that the summer flounder stock was not overfished, but overfishing was occurring in 2022 with fishing mortality estimated at 103% of the overfishing threshold proxy (Figure 2). Spawning stock biomass (SSB) was estimated to be 83% of the biomass target and stock recruitment has been below average since 2011.

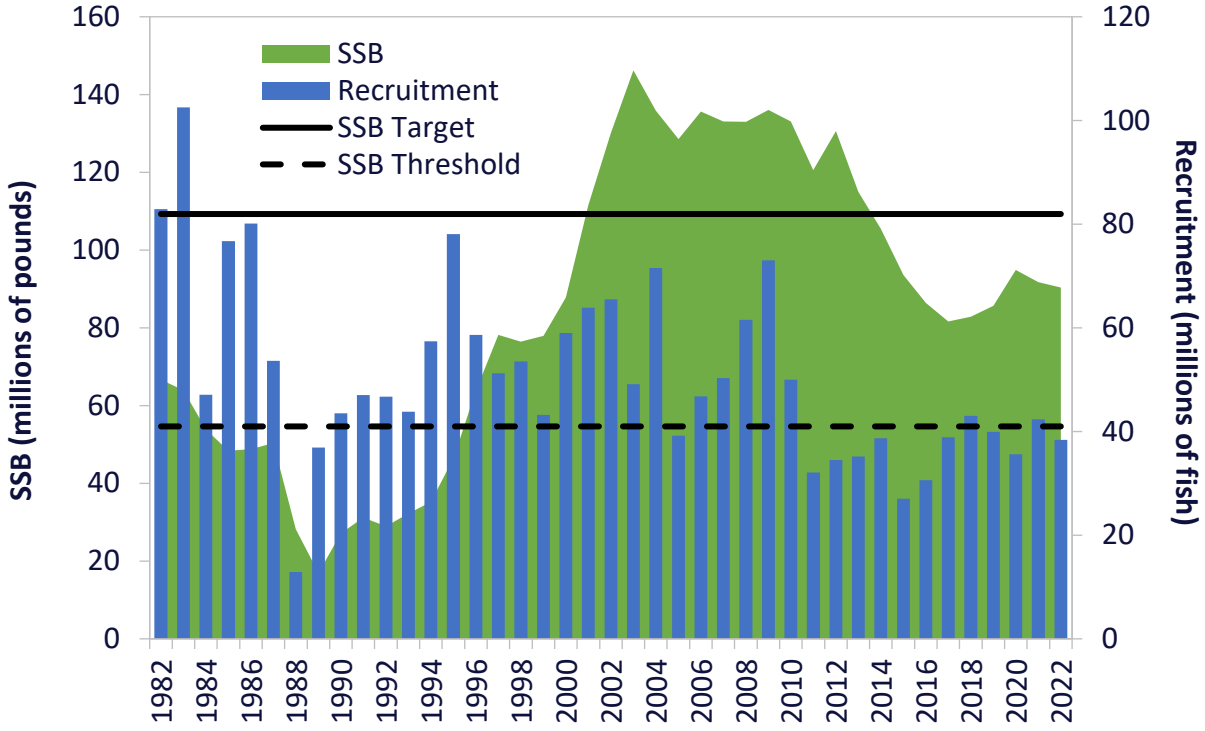


Figure 2. Summer flounder spawning stock biomass and recruitment. Source: 2023 Management Track Assessment Report, Northeast Fisheries Science Center.

2.3.2 Scup

The most recent scup management track stock assessment was completed in June 2023, using data through 2022 (NEFSC 2023b). The assessment approach is a statistical catch-at-age model incorporating a broad array of fishery and survey data. Results from the 2023 assessment indicated that the scup stock was not overfished, with biomass 246% of the biomass target, and overfishing was not occurring in 2022 (Figure 3). Fishing mortality was 52% of the overfishing threshold proxy.

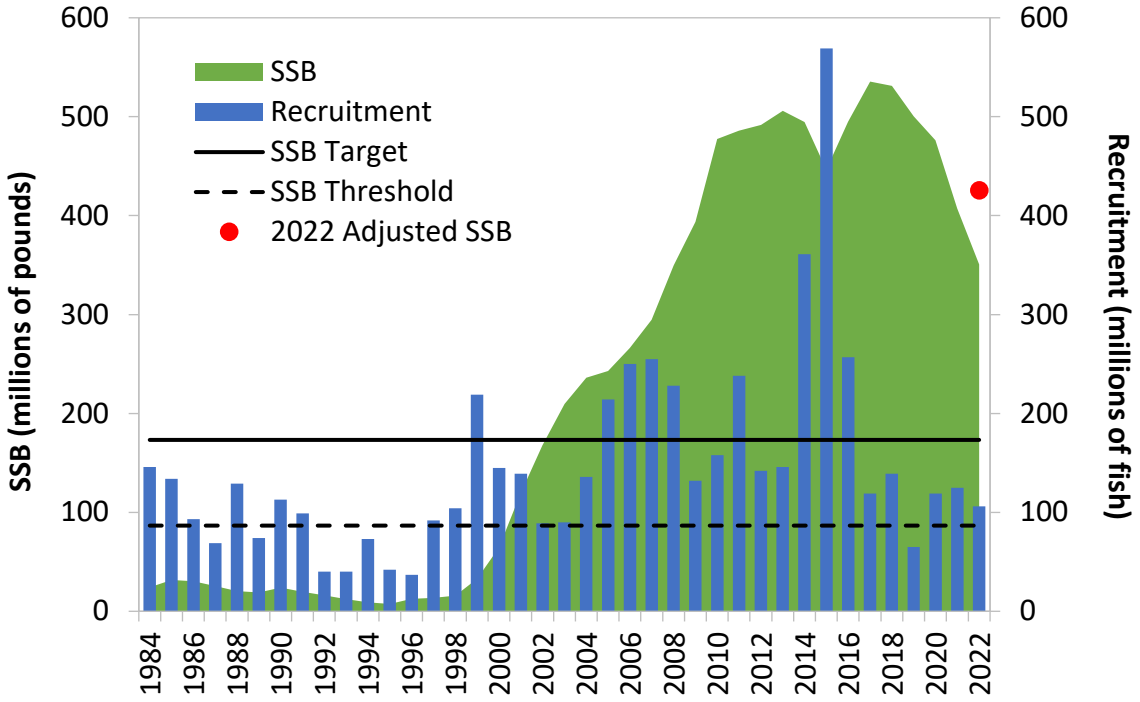


Figure 3. Scup spawning stock biomass and recruitment. 2022 spawning stock biomass was adjusted for a retrospective pattern with both the unadjusted and adjusted values shown above. The adjusted value was used in management. Source: 2023 Management Track Assessment Report, Northeast Fisheries Science Center.

2.3.3 Black Sea Bass

The most recent black sea bass stock assessment update was completed in June 2024, using data through 2023 (NEFSC 2024). The assessment used a combined-sex age-structured approach that modeled the stock as two sub-units, divided at Hudson Canyon, with mixing between the northern and southern sub-units. Results from the 2024 assessment indicated that the black sea bass stock was not overfished and overfishing was not occurring during 2023. SSB in 2023 was estimated to be 219% of the biomass target (Figure 4), and fishing mortality was 77% of the overfishing threshold.

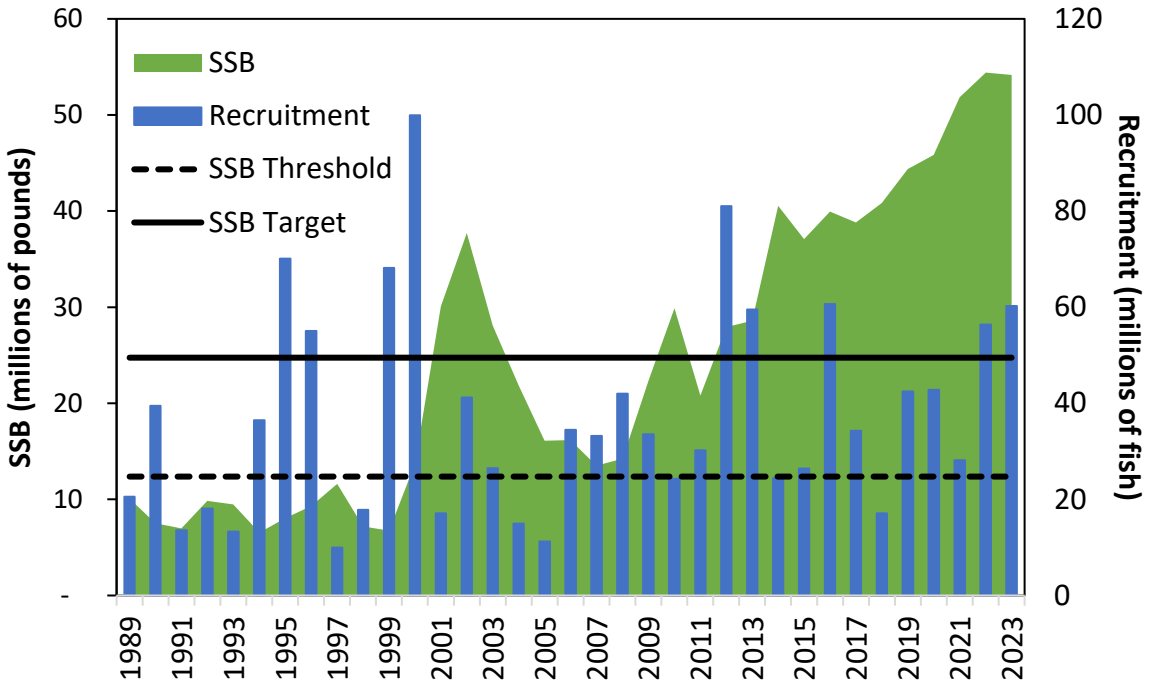


Figure 4. Black sea bass spawning stock biomass and recruitment. Source: 2024 Management Track Assessment Report, Northeast Fisheries Science Center.

2.3.4 Bluefish

The most recent bluefish management track stock assessment was completed in June 2023, using data through 2022 (NEFSC 2023c). The assessment approach is an analytical state-space

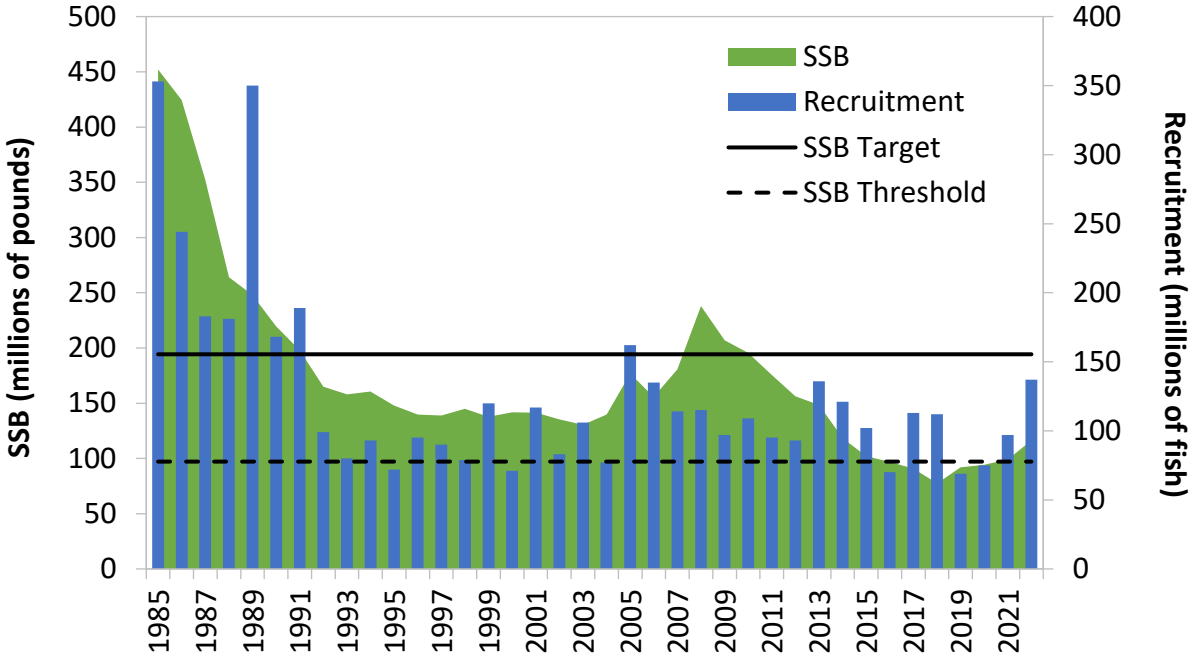


Figure 5. Bluefish spawning stock biomass and recruitment. Source: 2023 Management Track Assessment Report, Northeast Fisheries Science Center.

model incorporating a broad array of fishery and survey data. Results from the 2023 assessment indicated that the bluefish stock was not overfished and overfishing was not occurring in 2022 (Figure 5). While the bluefish stock is not considered overfished based on the 2023 assessment, bluefish will remain in a rebuilding plan until SSB reaches the target level. In 2023, SSB was estimated to be 60% of the biomass target and fishing mortality was 64% of the overfishing threshold.

2.4 Status of the Fisheries

Note: Since the addenda consider management of the recreational fisheries for summer flounder, scup, black sea bass, and bluefish, the following information focuses on those recreational fisheries. For information on the commercial fisheries, see the Reviews of the FMPs for Summer Flounder, Scup, Black Sea Bass, and Bluefish for the 2023 Fishing Year (ASMFC 2024b-e). MRIP data reported below were queried in July of 2024.

2.4.1 Summer Flounder

From 2014 through 2023, MRIP estimates indicate that recreational summer flounder harvest was highest in 2014, with 5.36 million fish landed, totaling 16.23 million pounds. Recreational harvest reached a low in 2021 with 2.32 million fish landed (6.82 million pounds). Over the same time period, recreational catch (harvest plus live and dead discards) was highest in 2014 with 44.57 million fish caught, and was lowest in 2018 with 22.67 million fish caught.

In 2023, 934 vessels held summer flounder federal party/charter permits. Many of these vessels also hold party/charter permits for scup and black sea bass. On average, an estimated 77% of the recreational landings (in numbers of fish) occurred in state waters over the past ten years. Most summer flounder are typically landed in New York and New Jersey. About 80% of recreational summer flounder harvest between 2021 and 2023 was from anglers who fished on private or rental boats. About 5% was from party or charter boats, and about 15% was from anglers fishing from shore.

2.4.2 Scup

From 2014 through 2023, MRIP estimates indicate that recreational catch of scup (in number of fish) was highest in 2017 at 41.20 million scup and harvest was highest in 2022 with an estimated 17.71 million scup landed by recreational fishermen from Maine through North Carolina. Recreational catch was lowest in 2014 when an estimated 20.88 million scup were caught, and harvest was lowest in 2016 with 9.14 million fish landed.

In 2023, 748 vessels held scup federal party/charter permits. Many of these vessels also held party/charter permits for summer flounder and black sea bass. Between 2021 and 2023, on average 96% of recreational scup catch (in numbers of fish) occurred in state waters and about 4% occurred in federal waters. New York, Connecticut, Rhode Island, Massachusetts, and New Jersey accounted for over 99% of recreational scup harvest in 2023. About 53% of recreational scup landings (in numbers of fish) in 2023 were from anglers who fished on private or rental boats and about 36% were from anglers fishing from shore. Additionally, about 12% were from anglers fishing on party or charter boats.

2.4.3 Black Sea Bass

From 2014 through 2023, MRIP estimates indicate that recreational harvest of black sea bass has remained relatively stable, with a high in 2021 at 6.43 million fish, or 11.96 million pounds. During this same period, recreational harvest was lowest in 2014, at 3.97 million fish, or 7.24 million pounds. Total recreational black sea bass catch (i.e., harvest plus live and dead releases) from Maine through Cape Hatteras, North Carolina has exceeded 40 million fish each year for the most recent three years, peaking in 2021 at 42.67 million fish. Due to fishery regulations and other factors, most of these fish are released.

In 2023, 36% of black sea bass harvested by recreational fishermen from Maine through Cape Hatteras, North Carolina (in numbers of fish) were caught in state waters and 64% in federal waters. Most of the recreational harvest in numbers of fish in 2023 was landed in New Jersey (36%), followed by New York (18%). In 2023, 942 vessels held a federal party/charter black sea bass permit. About 90% of the recreational black sea bass harvest in numbers of fish in 2023 came from anglers fishing on private or rental boats, about 9% from anglers aboard party or charter boats, and 1% from anglers fishing from shore.

2.4.4 Bluefish

From 2014 through 2023, recreational catch averaged 36.45 million fish annually. Over those 10 years, catch has declined by 60%. In 2023, recreational catch was estimated at 22.01 million fish. In 2023, recreational anglers harvested an estimated 4.55 million fish weighing 11.03 million pounds. Harvest since 2018 has been exceptionally low compared to the performance of the fishery prior to 2018. The 2023 average weight of landed fish was 2.4 pounds, which is the heaviest since 2008. This higher average weight is likely due to the majority of landings (by weight) occurring in northern states in 2023, which typically harvest a larger fish (relative to states south of Virginia). In 2023, the states with the highest recreational harvest (pounds) were New York (28%), North Carolina (14%), and Massachusetts (13%). Fish from southern states (North Carolina through Florida) made up 27% of the landings and are typically smaller on average than fish caught in northern states (Maine through Virginia). In 2023, recreational dead releases (9.4% of released alive fish) were estimated at 1.64 million fish. The qualitative trend in dead releases has been declining since about 2010.

3.0 Proposed Management Options

The Commission and Council are considering changes to the process of setting recreational management measures for summer flounder, scup, black sea bass, and bluefish. The Council is bound by the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including requirements for ACLs, accountability measures (AMs), and prevention of overfishing. NOAA Fisheries, which has final approval authority for Council management documents, will not approve measures that are inconsistent with the MSA. NOAA Fisheries provides guidance throughout development of Council actions to ensure that the preferred options selected for implementation are consistent with the MSA and other applicable laws. When the Board takes final action on the addenda, they may select any measure within the range of options that went out for public comment, including combining options across issues.

3.1 Option A. No Action (Revert Back to Managing Based on the RHL)

If the Commission and Council take no action through the Recreational Measures Setting Process Framework/Addenda, the Percent Change Approach will sunset at the end of 2025 and the process for setting recreational measures, starting with 2026 measures, would revert back to the requirements of the FMPs prior to implementation of the Harvest Control Rule Framework/Addenda. Specifically, measures would be set with the primary goal of allowing harvest to meet but not exceed the RHL. Specific methodologies for setting measures to meet but not exceed the RHL are not codified in the FMP. The Monitoring and Technical Committees can provide advice on the preferred methods for setting measures to achieve this goal for each specifications cycle. The Recreation Demand Model, described in more detail in Section 2.2, could be used under this or any other option. Unlike the other options under consideration, under this option, recreational measures would be set for one year at a time. However, the stock assessments would be updated every other year and the full suite of catch and landings limits summarized in Figure 1 would be set during the same years as the assessment updates.

Additional details on how state measures would be set are outlined in Addendum XXXII for summer flounder and black sea bass, Addendum XI for scup, and Amendment 1 for bluefish. However, the bluefish stock will remain in the seven-year rebuilding plan outlined in Amendment 2 until the stock reaches the target level of spawning stock biomass.

Recreational Accountability Measures Under the No Action Option (Option A)

The Magnuson-Stevens Fishery Conservation and Management Act requires that Council 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)).

AMs are included in the Council's FMP. They are not included in the Commission's FMP; however, any changes to the AMs considered through this action will be considered by both the Council and Commission.

The current recreational AMs would remain in place under the No Action Option. The current recreational AMs for these species are described in more detail in the federal regulations at 50 CFR 648.103 for summer flounder, 50 CFR 648.123 for scup, 50 CFR 648.143 for black sea bass, and 50 CFR 648.163 for bluefish. Key aspects of these AMs are summarized below.

Summer Flounder, Scup, and Black Sea Bass Recreational AMs

Reactive AMs for the summer flounder, scup, and black sea bass recreational fisheries are triggered when the most recent three-year average recreational catch has exceeded the three-year average recreational ACL. The required AM response varies based on stock status, as described below.

1) If the stock is overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points (B or B_{MSY}) are unknown: The exact amount, in pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

2) If biomass is at least 50% of the target, but less than 100% of the target, and the stock is not under a rebuilding plan:
    a) If only the recreational ACL has been exceeded, then adjustments to the recreational measures will be made in the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage.

    b) If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, then a single year deduction will be made as a payback, scaled based on stock biomass.

    The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch (ABC) will be used.

3) If biomass is above the target: Adjustments to the recreational measures will be made for the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage.

Bluefish Recreational AMs

Reactive recreational AMs for the bluefish recreational fishery are very similar to the process described above for summer flounder, scup, and black sea bass with a few key differences. First, bluefish recreational ACL overages are evaluated, and associated paybacks are calculated, on a 1-year basis as opposed to a 3-year average. Second, if a transfer between the commercial and recreational sectors caused the transferring sector to register an ACL overage, then instead of applying an overage payback to the transferring sector, a transfer in a subsequent year would be reduced by the amount of the ACL overage. These differences are due to the fact that the bluefish FMP allows for transfers of quota between the commercial and recreational sectors (in either direction), while the Summer Flounder, Scup, and Black Sea Bass FMP does not.

3.2 Option B. Percent Change Approach as adopted by the Harvest Control Rule Framework/Addenda

Under this option, the currently implemented Percent Change Approach would be maintained for 2026 and beyond without a sunset. The current Percent Change Approach sunset cannot be extended or removed without management action through a framework/addenda.

Under the Percent Change Approach as currently implemented, measures must aim to achieve a specified percent change in harvest compared to the expectation of harvest in the upcoming two years under current measures. The resulting value of harvest in pounds is referred to as the harvest target.

The harvest target can be equal to, less than, or higher than the RHL. It varies based on the following two factors:

1. A confidence interval (CI) around an estimate of expected harvest in the upcoming two years under current measures compared to the average RHL for the upcoming two years
2. Spawning stock biomass (SSB) compared to the target level (SSB_{MSY}), as defined by the most recent stock assessment.

The resulting percent change in expected harvest that measures should aim to achieve is summarized in Table 1.

Table 1. Process for determining the appropriate percent change in harvest when developing management measures under the currently implemented Percent Change Approach (Option B) (continued on next page).

Future RHL vs Estimated Harvest	Spawning stock biomass compared to target level (SSB/SSB_{MSY})	Change in Expected Harvest
Future 2-year average RHL is **greater than** the upper bound of the harvest estimate CI (harvest expected to be lower than the RHL)	**Very high** (greater than 150% of target)	**Liberalization** percent equal to difference between harvest estimate and 2-year avg. RHL, not to exceed 40%
	High (at least the target, but no higher than 150% of target)	**Liberalization** percent equal to difference between harvest estimate and 2-year avg. RHL, not to exceed 20%
	Low (below target stock size)	**Liberalization:** 10%
Future 2-year average RHL is **within** harvest estimate CI (harvest expected to be close to the RHL)	**Very high** (greater than 150% of target)	**Liberalization:** 10%
	High (at least the target, but no higher than 150% of target)	**No liberalization or reduction:** 0%
	Low (below target stock size)	**Reduction:** 10%

Future 2-year average RHL is **less than** the lower bound of the harvest estimate CI (harvest is expected to exceed the RHL)	**Very high** (greater than 150% of target)	**Reduction:** 10%
	High (at least the target, but no higher than 150% of target)	**Reduction** percent equal to difference between harvest estimate and 2-year avg. RHL, not to exceed 20%
	Low (below target stock size)	**Reduction** percent equal to difference between harvest estimate and 2-year avg. RHL, not to exceed 40%

Under this option, recreational measures would be set during the same year as catch and landings limits in response to updated stock assessment information. It is anticipated that updated stock assessments will be available every other year for all four species; therefore, measures would be set for two years at a time. In interim years, measures would be reviewed and may be modified if new data suggest a major change in the expected impacts of those measures on the stock or the fishery.

This option would not require specific methods for calculating the estimate of harvest under status quo measures and the associated confidence interval. The Monitoring and Technical Committees would provide advice each specifications cycle on the most appropriate methods. Since 2023, the harvest estimates and associated confidence intervals have been calculated using the Recreation Demand Model for summer flounder, scup, and black sea bass. The Recreation Demand Model is described in more detail in Section 2.2.

Although the Percent Change Approach allows harvest to exceed the RHL in some cases, recreational ACL overages can trigger accountability measures (AMs). As previously stated, the RHL is a harvest limit and is derived from the Recreational ACL, which accounts for recreational harvest and dead releases (Figure 1). The current AMs, which are described in Section 3.1, would be maintained under this option. As described in Section 3.1, the response required by the AMs varies based on stock status. Paybacks of ACL overages are required in some circumstances, which would reduce the RHL and possibly the harvest target in future years. In other cases, a payback is not required but measures must be modified.

In addition, under this and all other options in the addenda, the Board and Council may choose to implement more restrictive measures than would otherwise be required in order to address management uncertainty or concerns about the long-term sustainability of the stock.

Under this option, stocks under an approved rebuilding plan would be subject to the measures of that rebuilding plan. This option would not replace any rebuilding plan measures. For example, bluefish has been under a rebuilding plan since 2022. This option cannot be used for bluefish until the stock is no longer in a rebuilding plan (i.e., until biomass reaches the target level). In cases where a stock is declared overfished but a rebuilding plan has not yet been implemented, this option may be used to set temporary measures to be replaced with

rebuilding plan measures as soon as possible. It can take up to two years for a rebuilding plan to be developed, approved, and implemented after a stock is declared overfished.

3.3 Option C: Modified Percent Change Approach Using the RHL and Harvest

This option is similar to the currently implemented Percent Change Approach (Option B). It includes several modifications based on lessons learned from using the Percent Change Approach for setting 2023-2025 recreational measures for summer flounder, scup, and black sea bass. Specifically, this option adds an additional biomass category (i.e., around the target), treats overfished stocks separately, and adds more opportunities for status quo harvest levels.

As with the currently implemented Percent Change Approach, recreational measures under this option must aim to achieve a specified percent change in harvest compared to the expectation of harvest in the upcoming two years under current measures. The resulting value of harvest in pounds is referred to as the harvest target.

The harvest target can be equal to, less than, or higher than the RHL. It varies based on the following two factors:

1) A confidence interval (CI) around an estimate of expected harvest in the upcoming two years under current measures compared to the average RHL for the upcoming two years
2) Spawning stock biomass (SSB) compared to the target level (SSB_{MSY}), as defined by the most recent stock assessment.

The resulting percent change in expected harvest that measures should aim to achieve is summarized in Table 2.

Table 2: Option C - Modified Percent Change Approach using the RHL and harvest (continued on next page).

Future RHL vs Estimated Harvest	**Spawning stock biomass compared to target level** (SSB/SSB_{MSY})	**Change in Expected Harvest**
Future 2-year average RHL is **greater than** the upper bound of the harvest estimate CI (harvest expected to be lower than the RHL)	**Very high** (greater than or equal to 150% of target)	**Liberalization** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 40%
	High (greater than or equal to 110% but less than 150%)	**Liberalization** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 20%
	Around the target (greater than or equal to 90% but less than 110%)	**Liberalization**: 10%
	Low (greater than or equal to 50% but less than 90%)	**No liberalization or reduction**: 0%

Future 2-year average RHL is **within** harvest estimate CI (harvest expected to be close to the RHL)	**Very high to low** (greater than 50%)	**No liberalization or reduction**: 0%
Future 2-year average RHL is **less than** the lower bound of the harvest estimate CI (harvest is expected to exceed the RHL)	**Very high** (greater than or equal to 150% of target)	**No liberalization or reduction**: 0% Unless an AM is triggered[1]
	High (greater than or equal to 110% but less than 150%)	**Reduction:** 10%
	Around the target (greater than or equal to 90% but less than 110%)	**Reduction** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 20%
	Low (greater than or equal to 50% but less than 90%)	**Reduction** %= difference between harvest estimate and 2-year avg. RHL, not to exceed 40%
Biomass compared to target (SSB/SSB_{MSY})	**Change in Harvest**	
Overfished (less than 50% of target)	No liberalizations allowed. Reduction %= difference between harvest estimate and 2-year avg. RHL. To be replaced with rebuilding plan measures as soon as possible	

Under this option, recreational measures would be set in sync with the setting of catch and landings limits in response to updated stock assessment information. It is anticipated that updated stock assessments will be available every other year for all four species; therefore, measures would be set for two years at a time. In interim years, measures would be reviewed and may be modified if new data suggest a major change in the expected impacts of those measures on the stock or the fishery.

As with Option B, this option would not require specific methods for calculating the estimate of harvest under status quo measures and the associated confidence interval. The Monitoring and Technical Committees would provide advice each specifications cycle on the most appropriate methods. Since 2023, the harvest estimates and associated confidence intervals have been calculated using the Recreation Demand Model for summer flounder, scup, and black sea bass. The Recreation Demand Model is described in more detail in Section 2.2.

[1] AMs are highlighted here given that an RHL overage would be expected in this scenario; however, as described in more detail below, AMs apply under all outcomes illustrated in this table.

Under this and all other options in the addenda, the Board and Council may choose to implement more restrictive measures than would otherwise be required to address management uncertainty or concerns about the long-term sustainability of the stock.

Under this option, stocks under an approved rebuilding plan would be subject to the measures of that rebuilding plan. This option would not replace any rebuilding plan measures. As previously stated, bluefish has been under a rebuilding plan since 2022. This option cannot be used for bluefish until the stock is no longer in a rebuilding plan (i.e., until biomass reaches the target level). In cases where a stock is declared overfished but a rebuilding plan has not yet been implemented, this option may be used to set temporary measures to be replaced with rebuilding plan measures as soon as possible. It can take up to two years for a rebuilding plan to be developed, approved, and implemented after a stock is declared overfished.

Recreational Accountability Measures Under Modified Percent Change Approach Using the RHL and Harvest (Option C)

Option C would allow the harvest target to exceed the RHL in some cases. However, accountability measures (AMs) would still be triggered by overages of the recreational ACL. Background information on AMs is provided in Section 3.1. Two sub-options are under consideration for modified recreational AMs under this alternative. Sub-option C-1 would modify the current AMs to better align with the structure of the Modified Percent Change Approach. Sub-option C-1 would also modify the bluefish AMs to align them with the summer flounder, scup, and black sea bass AMs when a transfer between the commercial and recreational sectors has not taken place in the most recent three complete years. Sub-option C-2 would make all the same modifications as sub-option C-1 and would also make additional modifications to give greater consideration to whether overfishing is occurring based on the most recent information.

Sub-Option C-1: Recreational AMs With Modified Biomass Categories

This sub-option would maintain the current recreational AMs as described in Section 3.1 with the modifications and clarification shown below. **Bold** indicates an addition to the current AMs. ~~Strikethrough text~~ indicates a deletion. Note that the language below summarizes but is not identical to the regulatory text.

Under this sub-option, reactive AMs for the summer flounder, scup, and black sea bass recreational fisheries would continue to be triggered when the most recent three-year average recreational catch (i.e., harvest and dead discards) has exceeded the most recent three-year average recreational ACL. For bluefish, this AM would be triggered if recreational catch exceeded the recreational ACL in the most recent single complete year. **However, if there were no transfers between the commercial and recreational bluefish sectors in the most recent three complete years, then the AM for bluefish would be triggered based on an average of the most recent three complete years.** The required AM response varies based on stock status, as described below.

1) If the stock is overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points (B or B_{MSY}) are unknown: The exact amount, in

pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL[2] will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

2) If biomass is at least 50% of the target, but less than ~~100%~~ **90%** of the target, and the stock is not under a rebuilding plan:
    a) If only the recreational ACL has been exceeded, then adjustments to the recreational measures will be made in the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage.

    b) If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, then a single year deduction will be made as a payback, scaled based on stock biomass.

    The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch (ABC) will be used.

3) If biomass is ~~above~~ **at least 90% of** the target: Adjustments to the recreational measures ~~will~~ **may**[3] be made for the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage. **If a liberalization is allowed, the scale of the liberalization may be reduced to account for the AM. The Monitoring Committee will recommend the appropriate adjustment.**

<u>Sub-Option C-2: Recreational AMs with Modified Biomass Categories and Greater Consideration of Overfishing</u>

This sub-option would make the same modifications as summarized above for Option C-1. It would also make additional modifications to give greater consideration to if overfishing is occurring based on the most recent information. **Bold text** below indicates an addition to the current AMs. ~~Strikethrough text~~ indicates a deletion. Note that the language below summarizes but is not identical to the regulatory text.

[2] This is based on the most recent three years for summer flounder, scup, and black sea bass. It is based on the most recent single year for bluefish **unless no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years. In that case, a three-year average would also be used for bluefish**.

[3] The intent of this change is to allow the flexibility for status quo measures, if appropriate, as an AM when a liberalization is otherwise allowed. Under the current regulations, measures must always be changed when an AM is triggered and the stock is above the biomass target.

Reactive AMs for the summer flounder, scup, and black sea bass recreational fisheries would continue to be triggered when the most recent three-year average recreational catch (i.e., harvest and dead discards) has exceeded the most recent three-year average recreational ACL. For bluefish, this AM would be triggered if recreational catch exceeded the recreational ACL in the most recent single complete year. **However, if there were no transfers between the commercial and recreational bluefish sectors in the most recent three complete years, then the AM for bluefish would be triggered based on an average of the most recent three complete years.** The required AM response varies based on stock status, as described below.

1) If the stock is overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points (B or B_{MSY}) are unknown: The exact amount, in pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL[4] will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

2) If biomass is at least 50% of the target, but less than ~~100%~~ **90%** of the target, and the stock is not under a rebuilding plan:
    a) If only the recreational ACL has been exceeded, then~~ adjustments to the recreational measures will be made in the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage~~ **no AM response is needed**.

    b) If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, then a single year deduction will be made as a payback, scaled based on stock biomass.

    The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch (ABC) will be used.

3) If biomass is ~~above~~ **at least 90% of** the target:
    a) **If only the recreational ACL has been exceeded, no AM response is needed.**

[4] This is based on the most recent three years for summer flounder, scup, and black sea bass. It is based on the most recent single year for bluefish **unless no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years. In that case, a three year average would also be used for bluefish** .

b) **If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage,** ~~A~~**a**djustments to the recreational measures ~~will~~ **may**[5] be made for the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage. **If a liberalization is allowed, the scale of the liberalization may be reduced to account for the AM. The Monitoring Committee will recommend the appropriate adjustment.**

3.4 Option D. Modified Percent Change Approach Using the Recreational ACT and Catch

This option is the same as Option C except instead of using the RHL and harvest, it uses the Recreational ACT and recreational dead catch (i.e., recreational harvest plus dead releases). This would allow for greater consideration of release mortality when setting measures compared to options which aim to achieve a specified level of harvest.

The Recreation Demand Model, which has been used in the process for setting summer flounder, scup, and black sea bass measures since 2023, produces estimates of releases as well as harvest. As previously stated, this model is not available for bluefish; therefore, if this method were to be used for bluefish once the stock is no longer in a rebuilding plan, different methods would be used for bluefish (e.g., an analysis of MRIP data alone or a new modeling approach to be developed for bluefish).

Recreational measures under this option must aim to achieve a specified percent change in recreational catch (i.e., recreational harvest plus dead releases) compared to the expectation of recreational catch in the upcoming two years under current measures. The resulting value of catch in pounds is referred to as the recreational catch target.

The recreational catch target can be equal to, less than, or higher than the ACT. It varies based on the following two factors:

1) A confidence interval (CI) around an estimate of expected catch in the upcoming two years under current measures compared to the average recreational ACT for the upcoming two years and
2) Spawning stock biomass (SSB) compared to the target level (SSB_{MSY}), as defined by the most recent stock assessment.

These two factors are the same as under Options B and C except that the RHL is replaced with the recreational ACT and recreational harvest is replaced with recreational dead catch. The resulting percent change in expected catch that measures should aim to achieve is summarized in Table 3.

[5] The intent of this change is to allow the flexibility for status quo measures, if appropriate, as an AM when a liberalization is otherwise allowed. Under the current regulations, measures must always be changed when an AM is triggered and the stock is above the biomass target.

Table 3: Option D - Modified Percent Change Approach using the recreational ACT and catch.

Future ACT vs Estimated Catch	**Spawning stock biomass compared to target level** (SSB/SSB_{MSY})	**Change in Expected Catch**
Future 2-year average ACT is **greater than** the upper bound of the catch estimate CI (catch expected to be lower than the ACT)	**Very high** (greater than or equal to 150% of target)	**Liberalization** %= difference between catch estimate and 2-year avg. ACT, not to exceed 40%
	High (greater than or equal to 110% but less than 150%)	**Liberalization** %= difference between catch estimate and 2-year avg. ACT, not to exceed 20%
	Around the target (greater than or equal to 90% but less than 110%)	**Liberalization**: 10%
	Low (greater than or equal to 50% but less than 90%)	**No liberalization or reduction**: 0%
Future 2-year average ACT is **within** catch estimate CI (catch expected to be close to the ACT)	**Very high to low** (greater than 50%)	**No liberalization or reduction**: 0%
Future 2-year average ACT is **less than** the lower bound of the catch estimate CI (catch is expected to exceed the ACT)	**Very high** (greater than or equal to 150% of target)	**No liberalization or reduction**: 0% Unless an AM is triggered[6]
	High (greater than or equal to 110% but less than 150%)	**Reduction:** 10%
	Around the target (greater than or equal to 90% but less than 110%)	**Reduction** %= difference between catch estimate and 2-year avg. ACT, not to exceed 20%
	Low (greater than or equal to 50% but less than 90%)	**Reduction** %= difference between catch estimate and 2-year avg. ACT, not to exceed 40%
Biomass compared to target (SSB/SSB_{MSY})	**Change in Harvest**	
Overfished (less than 50% of target)	No liberalizations allowed. Reduction %= difference between harvest estimate and 2-year avg. ACT. To be replaced with rebuilding plan measures as soon as possible	

[6] AMs are highlighted here given that an ACT overage would be expected in this scenario; however, as described in more detail below, AMs apply under all outcomes illustrated in this table.

Under this option, recreational measures would be set in sync with the setting of catch and landings limits in response to updated stock assessment information. It is anticipated that updated stock assessments will be available every other year for all four species; therefore, measures would be set for two years at a time. In interim years, measures would be reviewed and may be modified if new data suggest a major change in the expected impacts of those measures on the stock or the fishery.

Under this and all other options in the addenda, the Board and Council may choose to implement more restrictive measures than would otherwise be required to address management uncertainty or concerns about the long-term sustainability of the stock.

Under this option, stocks under an approved rebuilding plan would be subject to the measures of that rebuilding plan. This option would not replace any rebuilding plan measures. As previously stated, bluefish has been under a rebuilding plan since 2022. This option cannot be used for bluefish until the stock is no longer in a rebuilding plan (i.e., until biomass reaches the target level). In cases where a stock is declared overfished but a rebuilding plan has not yet been implemented, this option may be used to set temporary measures to be replaced with rebuilding plan measures as soon as possible. It can take up to two years for a rebuilding plan to be developed, approved, and implemented after a stock is declared overfished.

Recreational Accountability Measures Under Modified Percent Change Approach Using the ACT and Catch (Option D)

Option D would allow catch to exceed the ACT in some cases. However, accountability measures (AMs) would still be triggered by overages of the recreational ACL. Background information on AMs is provided in Section 3.1. Two sub-options are under consideration for modified recreational AMs under this alternative. Sub-option D-1 would modify the current AMs to better align with the structure of the Modified Percent Change Approach. Sub-option D-1 would also modify the bluefish AMs to align them with the summer flounder, scup, and black sea bass AMs when a transfer between the commercial and recreational sectors has not taken place in the most recent three complete years. Sub-option D-2 would make all the same modifications as sub-option D-1 and would also make additional modifications to give greater consideration to if overfishing is occurring based on the most recent information. These two sub-options are the same as the reactive AM sub-options under consideration for Option C (Modified Percent Change Approach Using the RHL and Harvest) as described in the previous section.

Sub-Option D-1: Recreational AMs With Modified Biomass Categories

This sub-option would maintain the current recreational AMs as described in Section 3.1 with the modification and clarification shown below. **Bold text** indicates an addition to the current AMs. ~~Strikethrough text~~ indicates a deletion. Note that the language below summarizes but is not identical to the regulatory text.

Reactive AMs for the summer flounder, scup, and black sea bass recreational fisheries would continue to be triggered when the most recent three-year average recreational catch (i.e.,

harvest and dead discards) has exceeded the most recent three-year average recreational ACL. For bluefish, this AM would be triggered if recreational catch exceeded the recreational ACL in the most recent single complete year. **However, if there were no transfers between the commercial and recreational bluefish sectors in the most recent three complete years, then the AM for bluefish would be triggered based on an average of the most recent three complete years.** The required AM response varies based on stock status, as described below.

1) If the stock is overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points (B or B_{MSY}) are unknown: TThe exact amount, in pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL[7] will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

2) If biomass is at least 50% of the target, but less than ~~100%~~ **90%** of the target, and the stock is not under a rebuilding plan:

    a) If only the recreational ACL has been exceeded, then adjustments to the recreational measures will be made in the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage.

    b) If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, then a single year deduction will be made as a payback, scaled based on stock biomass.

    The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch (ABC) will be used.

3) If biomass is ~~above~~ **at least 90% of** the target: Adjustments to the recreational measures ~~will~~ **may**[8] be made for the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures

[7] This is based on the most recent three years for summer flounder, scup, and black sea bass. It is based on the most recent single year for bluefish **unless no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years. In that case, a three year average would also be used for bluefish**.

[8] The intent of this change is to allow the flexibility for status quo measures, if appropriate, as an AM when a liberalization is otherwise allowed. Under the current regulations, measures must always be changed when an AM is triggered and the stock is above the biomass target.

and conditions that precipitated the overage. **If a liberalization is allowed, the scale of the liberalization may be reduced to account for the AM. The Monitoring Committee will recommend the appropriate adjustment.**

Sub-Option D-2: Recreational AMs with Modified Biomass Categories and Greater Consideration of Overfishing

This sub-option would make the same modifications as summarized above for Option C-1. It would also make additional modifications to give greater consideration to if overfishing is occurring based on the most recent information. **Bold text** below indicates an addition to the current AMs. ~~Strikethrough text~~ indicates a deletion. Note that the language below summarizes but is not identical to the regulatory text.

Reactive AMs for the summer flounder, scup, and black sea bass recreational fisheries would continue to be triggered when the most recent three-year average recreational catch (i.e., harvest and dead discards) has exceeded the most recent three-year average recreational ACL. For bluefish, this AM would be triggered if recreational catch exceeded the recreational ACL in the most recent single complete year. **However, if there were no transfers between the commercial and recreational bluefish sectors in the most recent three complete years, then the AM for bluefish would be triggered based on an average of the most recent three complete years.** The required AM response varies based on stock status, as described below.

1) If the stock is overfished (i.e., biomass is less than 50% of the target), under a rebuilding plan, or biological reference points (B or B_{MSY}) are unknown: The exact amount, in pounds, by which the most recent three-year average recreational catch has exceeded the three-year average recreational ACL[9] will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

2) If biomass is at least 50% of the target, but less than ~~100%~~ **90%** of the target, and the stock is not under a rebuilding plan:
    a) If only the recreational ACL has been exceeded, then~~ adjustments to the recreational measures will be made in the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage~~ **no AM response is needed**.

[9] This is based on the most recent three years for summer flounder, scup, and black sea bass. It is based on the most recent single year for bluefish **unless no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years. In that case, a three year average would also be used for bluefish**.

b) If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, then a single year deduction will be made as a payback, scaled based on stock biomass.

The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback may be evenly spread over 2 years if doing so allows for identical recreational measures across the upcoming 2 years. If an estimate of total fishing mortality is not available for the most recent complete year of catch data, then a comparison of total catch relative to the acceptable biological catch (ABC) will be used.

3) If biomass is ~~above~~ **at least 90% of** the target:
   a) **If only the recreational ACL has been exceeded, no AM response is needed.**

   b) **If overfishing occurred in the most recent year, in addition to the three-year average recreational ACL overage, ~~A~~a**djustments to the recreational measures ~~will~~ **may**[10] be made for the following year, or as soon as possible once catch data are available. These adjustments will take into account the performance of the measures and conditions that precipitated the overage. **If a liberalization is allowed, the scale of the liberalization may be reduced to account for the AM. The Monitoring Committee will recommend the appropriate adjustment.**

3.5 Option E. Biomass and Fishing Mortality Matrix Approach

This option uses the following factors to determine if measures should be modified to achieve a specified liberalization or reduction in expected recreational catch (i.e., harvest and dead releases), or if expected catch should remain status quo:

1) Spawning stock biomass (SSB) compared to the target level (SSB_{MSY}), as defined by the most recent stock assessment,
2) Fishing mortality (F) compared to the threshold that defines overfishing (F_{MSY}), as defined by the most recent stock assessment
3) Recreational catch (i.e., harvest and dead releases) compared to the recreational ACL in the prior year (this is only considered when the most recent fishing mortality rate estimate is greater than 105% of F_{MSY}).

The resulting percent change in expected catch that measures should aim to achieve is summarized in Table 4.

Under this option, recreational measures would be set in sync with the setting of catch and landings limits in response to updated stock assessment information. It is anticipated that

[10] The intent of this change is to allow the flexibility for status quo measures, if appropriate, as an AM when a liberalization is otherwise allowed. Under the current regulations, measures must always be changed when an AM is triggered and the stock is above the biomass target.

updated stock assessments will be available every other year for all four species; therefore, measures would be set for two years at a time. In interim years, measures would be reviewed and may be modified if new data suggest a major change in the expected impacts of those measures on the stock or the fishery.

Background information on Accountability Measures (AMs) is included in Section 3.1. Specific responses to recreational ACL overages and overfishing have been incorporated directly into this option, as summarized in the table below. Therefore, additional recreational AMs are not needed.

Under this and all other options in the addenda, the Board and Council may choose to implement more restrictive measures than would otherwise be required to address management uncertainty or concerns about the long-term sustainability of the stock.

Under this option, stocks under an approved rebuilding plan would be subject to the measures of that rebuilding plan. This option would not replace any rebuilding plan measures. As previously stated, bluefish has been under a rebuilding plan since 2022. This option cannot be used for bluefish until the stock is no longer in a rebuilding plan (i.e., until biomass reaches the target level). In cases where a stock is declared overfished but a rebuilding plan has not yet been implemented, this option may be used to set temporary measures to be replaced with rebuilding plan measures as soon as possible. It can take up to two years for a rebuilding plan to be developed, approved, and implemented after a stock is declared overfished.

Table 4: Process for determining if and how measures should be modified to achieve a specified liberalization or reduction of expected catch, or expected catch should remain status quo under the Biomass and Fishing Mortality Matrix Approach.

<table>
<tr><td rowspan="2">Biomass
(SSB/SSB_{MSY})</td><td colspan="4">Fishing mortality compared to F_{MSY}</td></tr>
<tr><td>Overfishing not occurring
(F is less than F_{MSY})</td><td>Overfishing occurring by up to 5% (F exceeds F_{MSY} by up to 5%)</td><td>Overfishing occurring by more than 5% (F exceeds F_{MSY} by more than 5%) and most recent Rec ACL NOT exceeded</td><td>Overfishing occurring by more than 5% and most recent Rec. ACL exceeded</td></tr>
<tr><td>Above the target
(greater than or equal to 110%)</td><td>10% liberalization</td><td colspan="2" rowspan="2">Status quo unless an AM has been triggered[11]</td><td><u>First time a stock falls into this bin</u>: 10% reduction
<u>If stock remains in this bin</u>: reduce catch to achieve Rec. ACT (minimum 10% reduction)</td></tr>
<tr><td>Around the target
(greater than or equal to 90% but less than 110%)</td><td>Status quo</td><td>Reduce catch to achieve Rec. ACT (minimum 10% reduction)</td></tr>
<tr><td>Low
(greater than or equal to 60% but less than 90%)</td><td colspan="4">Reduce catch to achieve Rec. ACT (minimum 10% reduction)
If an AM has been triggered, a scaled overage payback will be deducted from the ACT.[12]</td></tr>
<tr><td>Near overfished
(greater than or equal to 50% but less than 60%)</td><td colspan="4">Reduce catch to achieve Rec. ACT (minimum 20% reduction)
If an AM has been triggered, a scaled overage payback will be deducted from the ACT.[12]</td></tr>
<tr><td>Overfished (less than 50%)</td><td colspan="4">No liberalizations allowed. Reductions as needed to achieve the Rec. ACT. To be replaced with rebuilding plan measures as soon as possible. If an AM has been triggered, a pound-for-pound overage payback will be deducted from the ACT.[13]</td></tr>
</table>

[11]Consistent with the current AMs (see Section 3.1), an AM for summer flounder, scup, and black sea bass would be triggered when the most recent three-year average recreational ACL is exceeded. A recreational AM for bluefish would be triggered based on an overage of the most recent single year recreational ACL. However, if no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years, then a three year average would also be used for bluefish. Taking into account the performance of the measures and conditions that precipitated the overage, adjustments to the recreational measures may be made for the following year, or as soon as possible once catch data are available. The Monitoring Committee will recommend the appropriate adjustment.

[12]Consistent with the current AMs (see Section 3.1), an AM for summer flounder, scup, and black sea bass would be triggered when the most recent three-year average recreational ACL is exceeded. A recreational AM for bluefish would be triggered based on an overage of the most recent single year recreational ACL. However, if no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years, then a three year average would also be used for bluefish. The overage amount would be based on this three-year average for summer flounder, scup, and black sea bass and the single year or three year average for bluefish. The payback amount will scale based on stock biomass. The calculation for the payback amount is: (overage amount) * (B_{MSY} - B) / ½ B_{MSY}. This payback will be applied in a single year unless spreading it evenly over 2 years if doing so allows for identical recreational measures across the upcoming 2 years.

[13]Consistent with the current AMs (see Section 3.1), an AM for summer flounder, scup, and black sea bass would be triggered when the most recent three-year average recreational ACL is exceeded. A recreational AM for bluefish would be triggered based on an overage of the most recent single year recreational ACL. However, if no transfers between the commercial and recreational sectors have occurred for bluefish in the most recent three complete years, then a three year average would also be used for bluefish. The overage amount would be based on this three-year average for summer flounder, scup, and black sea bass and the single year or three year average for bluefish. The payback will be deducted in the following fishing year, or as soon as possible once catch data are available. This payback may be evenly spread over 2 years if doing so allows for use of identical recreational measures across the upcoming 2 years.

4.0 Compliance

These Addenda do not implement any changes to current compliance requirements.

5.0 Literature Cited

Atlantic States Marine Fisheries Commission. 2024a. Guidelines for Resource Managers on the Enforceability of Fishery Management Measures; https://asmfc.org/files/LEC/Guidelines_on_Enforceability_May2024.pdf

Atlantic States Marine Fisheries Commission. 2024b. Review of the Interstate Fishery Management Plan for Summer Flounder, 2023 Fishing Year; https://asmfc.org/uploads/file/66c5e9e5SummerFlounder_FMPReview_FY2023.pdf

Atlantic States Marine Fisheries Commission. 2024c. Review of the Interstate Fishery Management Plan for Scup, 2023 Fishing Year; https://asmfc.org/uploads/file/66c5ea58Scup_FMPReview_FY2023.pdf

Atlantic States Marine Fisheries Commission. 2024d. Review of the Interstate Fishery Management Plan for Black Sea Bass, 2023 Fishing Year; https://asmfc.org/uploads/file/66c5eb09BlackSeaBass_FMPReview_FY2023.pdf

Atlantic States Marine Fisheries Commission. 2024e. Review of the Interstate Fishery Management Plan for Bluefish, 2023 Fishing Year; https://asmfc.org/uploads/file/66c5eabeBluefish_FMPReview_FY2023.pdf

Carr-Harris A, Bastille K, Steinback S. 2024. Developing and applying a decision support tool for recreational fishery management of Atlantic summer flounder, black sea bass, and scup.

US Dept Commerce Northeast Fish Sci Cent Tech Memo 320. 48 p. https://doi.org/10.25923/76jb-ck50

NEFSC. 2023a. Summer Flounder Management Track Assessment Report for 2023; https://asmfc.org/uploads/file/65c38bffSF_Management_Track_Assessment_2023.pdf

NEFSC. 2023b. Scup Management Track Assessment Report for 2023; https://asmfc.org/uploads/file/65c38ccbScup_Managment_Track_Assessment_2023.pdf

NEFSC. 2023c. Atlantic Bluefish Management Track Assessment for 2023; https://asmfc.org/uploads/file/65c38974BF_2023_Management_Track_Assessment.pdf

NEFSC. 2024. Black Sea Bass 2024 Management Track Assessment Report; https://asmfc.org/uploads/file/670024522024_BSB_UNIT_REPORT-3.pdf

Appendices

Appendix A - List of Acronyms and Abbreviations

ACL	Annual Catch Limit
ACT	Annual Catch Target
AM	Accountability Measure
ASMFC	Atlantic States Marine Fisheries Commission
B	Biomass
B_{MSY}	Biomass at maximum sustainable yield (biomass target)
CI	Confidence interval
Commission	Atlantic States Marine Fisheries Commission
Council	Mid-Atlantic Fishery Management Council
FMP	Fishery Management Plan
MAFMC	Mid-Atlantic Fishery Management Council
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act
RHL	Recreational Harvest Limit
SSB	Spawning stock biomass
SSB_{MSY}	Spawning stock biomass at maximum sustainable yield (biomass target)

Appendix B - Decision Trees for Options B-E

This Appendix provides decision trees to aid readers in moving through how recreational measures would be changed under each of the proposed approaches and the questions asked through each step of the process.

Figure 6. Option B – Percent Change Approach as adopted by the Harvest Control Rule Framework/Addenda. For more information on this option, please refer to section 3.2.

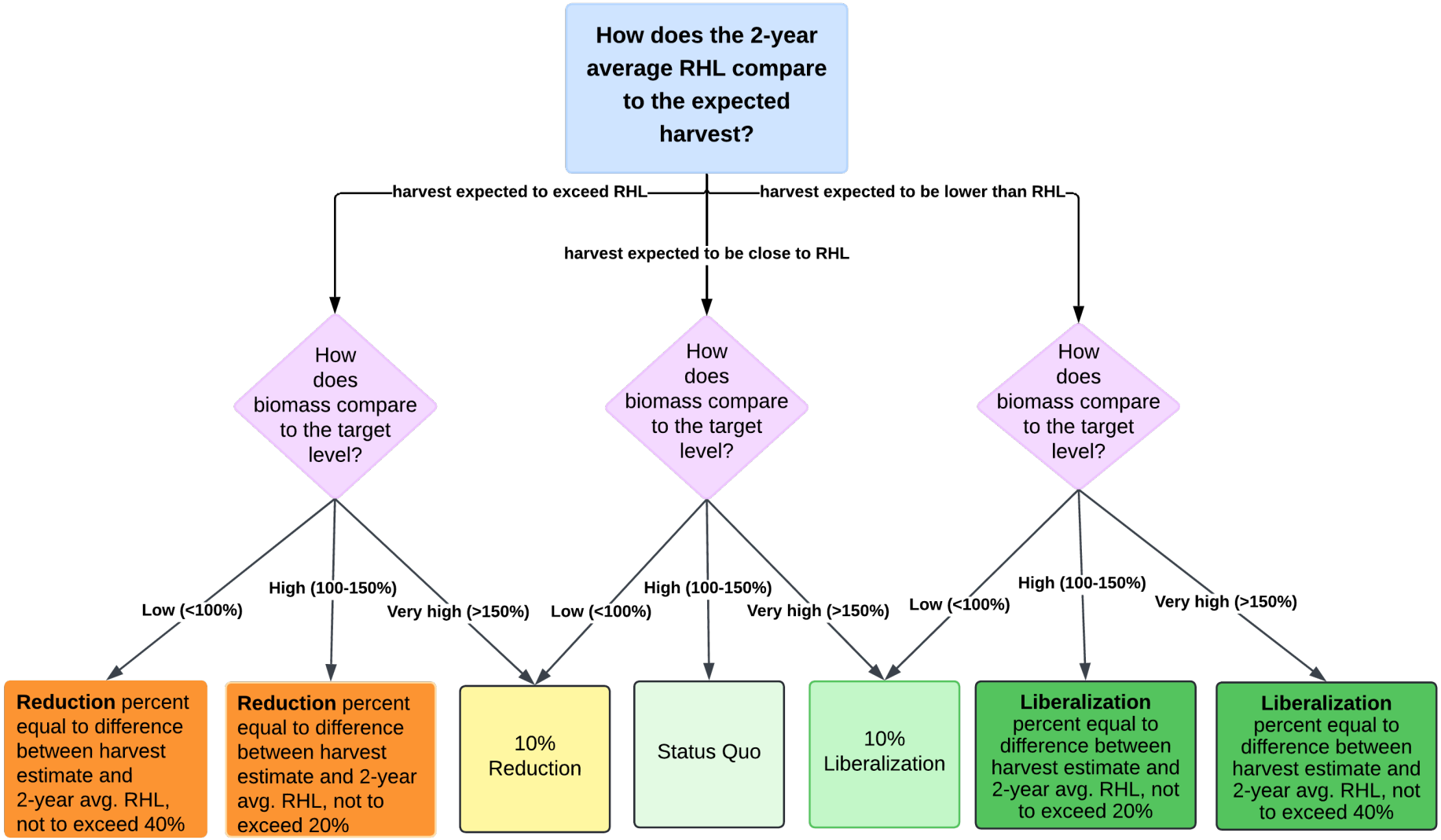


Figure 7. Option C – Modified Percent Change Approach Using the RHL and Harvest. For more information on this option, please refer to Section 3.3.

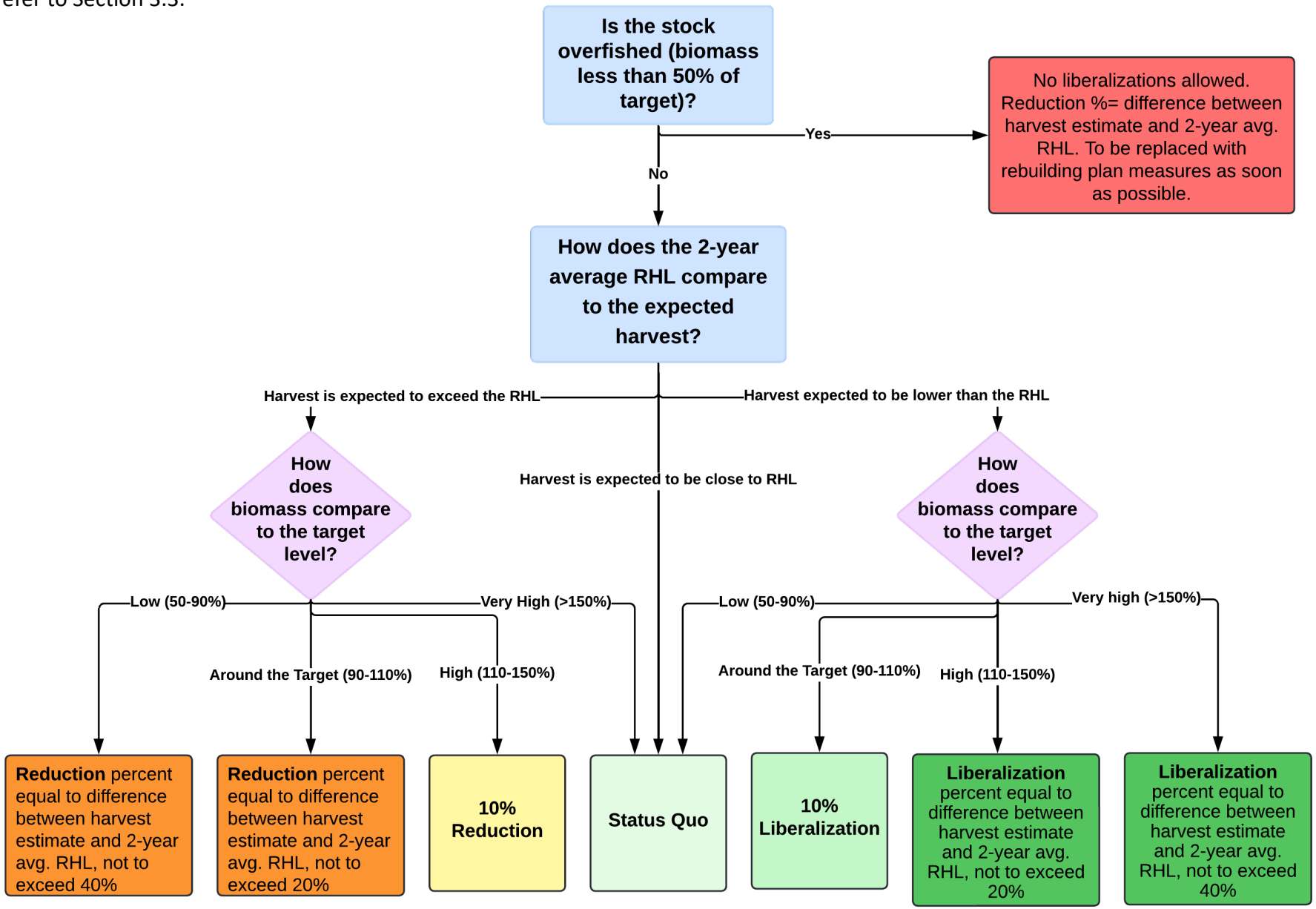


Figure 8. Option D – Modified Percent Change Approach Using the Recreational ACT and Catch. For more information on this option, please refer to Section 3.4.

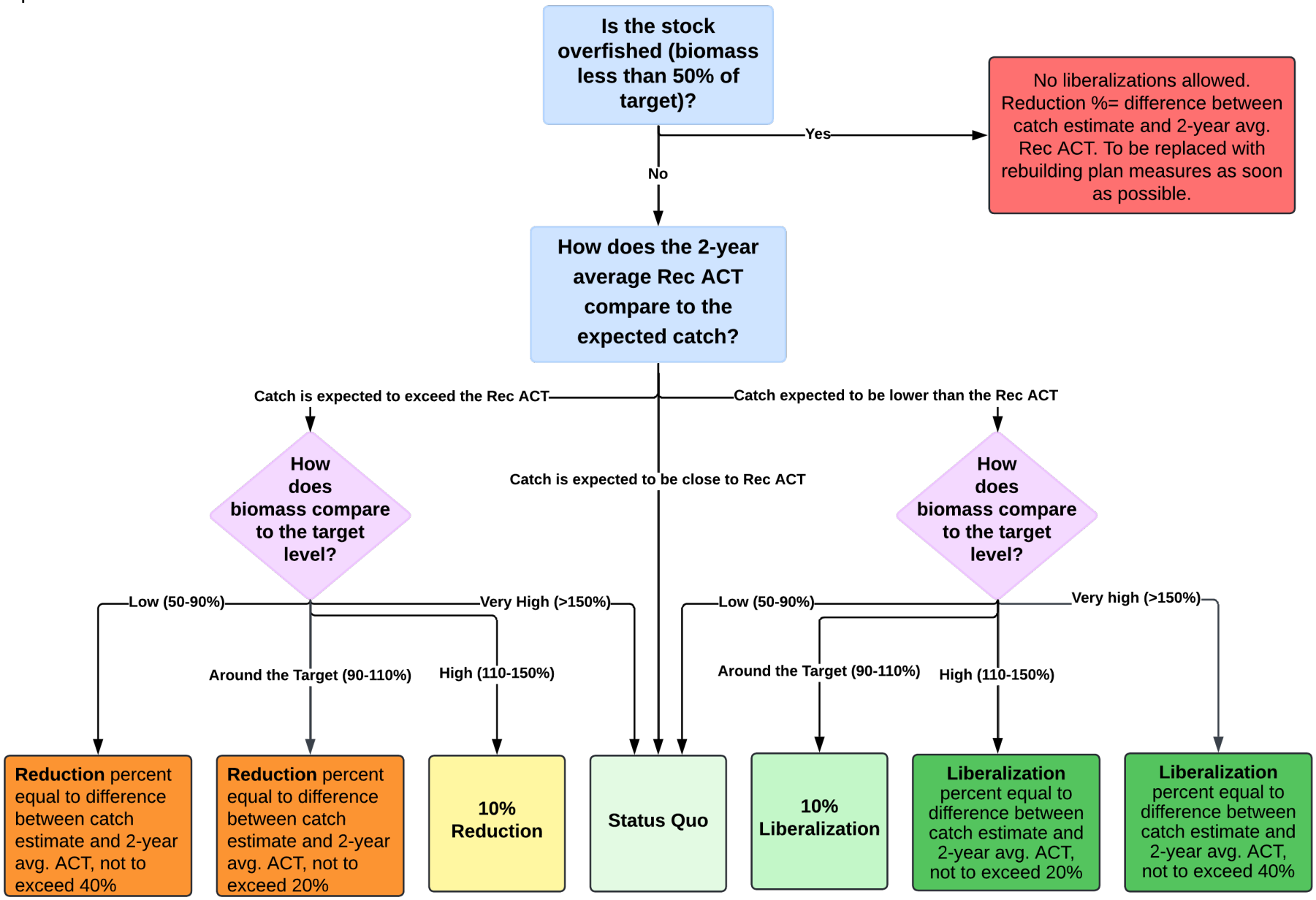
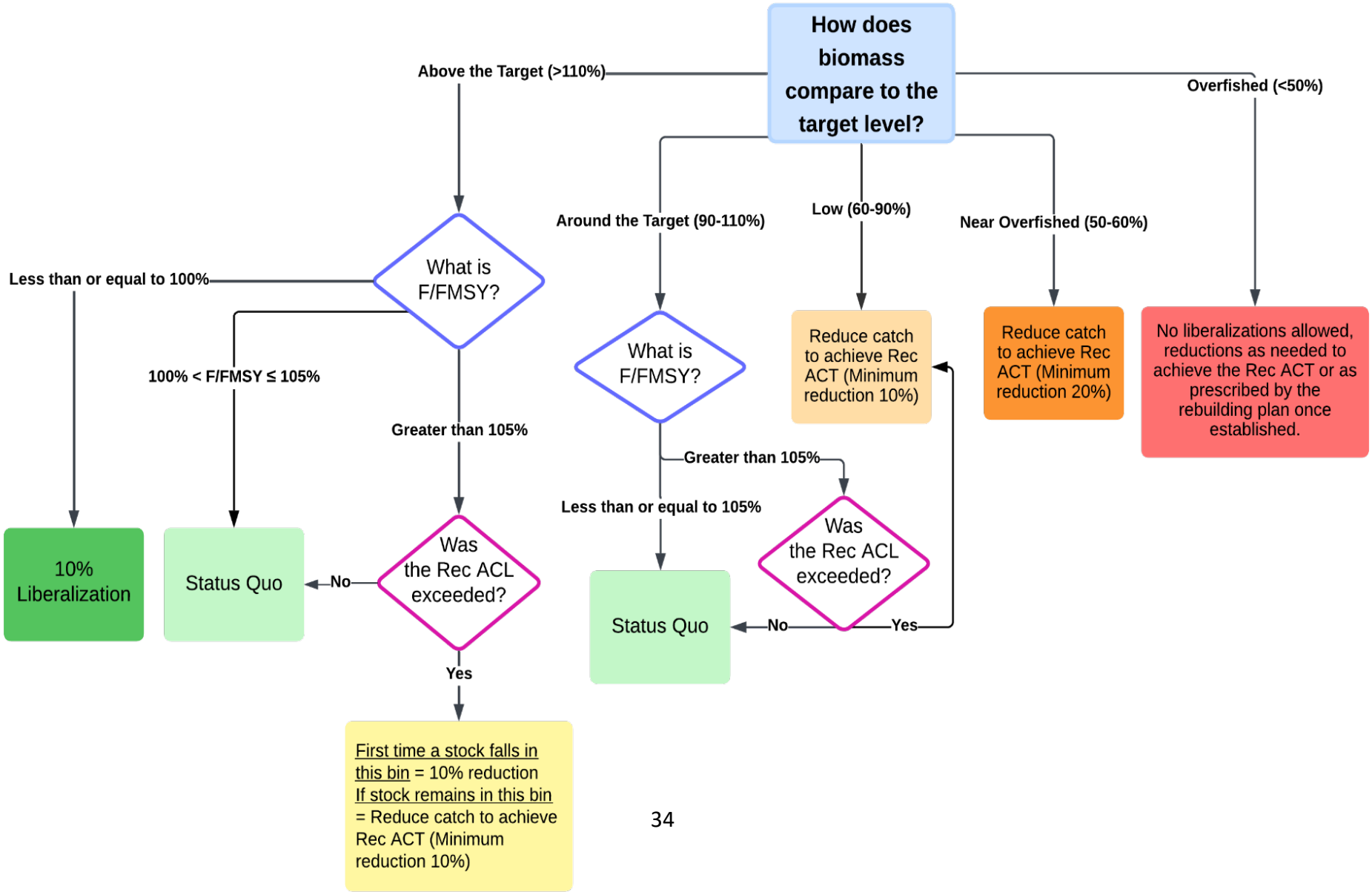


Figure 9. Option E – Biomass and Fishing Mortality Matrix Approach. For information on how AMs interact with this option, please refer to Section 3.5, Table 4.



Appendix C - Example resulting percent change for summer flounder, scup, black sea bass, and bluefish under each option using recent data

This table below provides *example* percent changes in harvest or catch for each species under each option in these addenda. The examples for summer flounder, scup, and black sea bass are based on estimates of 2024 recreational harvest or dead catch (i.e., harvest plus dead releases) under 2023 measures from the Recreation Demand Model (see Section 2.2 for a description of the Recreation Demand Model). These examples do not necessarily reflect the outcome of the process that was used for setting 2024 measures. These examples are intended to help allow for comparisons across the options. They are not intended to predict future changes in recreational measures. The resulting percent changes implemented in future years are expected to differ from those shown below based on updated information.

As previously described, while bluefish remains in a rebuilding plan, bluefish measures will be set based on that rebuilding plan and not based on the options considered in this document. In addition, the Recreation Demand Model is not available for bluefish.

Table 5. *Example* percent change in harvest or catch (i.e., harvest plus dead releases) that recreational measures should aim to achieve for each species under each option. These are examples to allow for comparisons across the options and are not intended to predict measures in future years. Note that harvest and catch-based percentages are not directly comparable.

Species	**Option A** (No Action)	**Option B** (Currently Implemented Percent Change Approach)	**Option C** (Modified Percent Change Approach Using RHL and Harvest)	**Option D** (Modified Percent Change Approach Using ACT and Catch)	**Option E** (Biomass and Fishing Mortality Matrix Approach)
Summer Flounder	-28% (harvest)	-28% (harvest)	-28% (harvest)	-26% (catch)	-26% (catch)
Scup	-14% (harvest)	-10% (harvest)	0% (status quo; harvest)	0% (status quo; catch)	0% (status quo; catch)
Black Sea Bass	-25% (harvest)	-10% (harvest)	0% (status quo; harvest)	0% (status quo; catch)	0% (status quo; catch)
Bluefish	Subject to Amendment 2 rebuilding plan				