



Atlantic States Marine Fisheries Commission

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MEMORANDUM

May 18, 2017

To: Summer Flounder, Scup, and Black Sea Bass Management Board
From: Summer Flounder, Scup, and Black Sea Bass Technical Committee
RE: Review of New Jersey Proposal for 2017 Summer Flounder Recreational Management

List of Participants

John Maniscalco (NY)	Tiffany Vidal (MA)	Peter Clarke (NJ)
T.D. VanMiddlesworth (NC)	Bob Glenn (MA)	Jeff Kipp (ASMFC)
Brandon Muffley (MAFMC)	Toni Kerns (ASMFC)	Justin Davis (CT)
Katie May Laumann (VA)	Emily Gilbert (NMFS)	Steve Doctor (MD)
Kirby Rootes-Murdy (ASMFC)	Kiley Dancy (MAFMC)	
Jason McNamee (RI)	Mark Terceiro (NEFSC)	
Rich Wong (DE)	Jeff Brust (NJ)	

The following memo contains the Summer Flounder, Scup, and Black Sea Bass Technical Committee (TC) Review of the New Jersey Proposal for 2017 Summer Flounder Recreational Management.

New Jersey Proposal

At the ASFMC Spring Meeting in May 2017, the Summer Flounder, Scup, and Black Sea Bass Board moved to approve proposed 2017 summer flounder recreational measures that were subject to review and approval of the TC and subsequent Board consideration and approval. Those measures were as follows:

- Shore mode for Island Beach State Park only: 16-inch minimum size limit; 2-fish possession limit and 104-day open season (May 25-Sept 5)
- Delaware Bay only (west of the COLREGS line): 17-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)
- All other marine waters: 18-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)

The proposed measures for New Jersey (NJ) differed from the Addendum XXVIII measures, which specified that all states within the management unit (with the exception of North Carolina) would increase their size limit by 1 inch and decrease their possession limit to no more than 4 fish from 2016 measures. In tasking the TC with reviewing the proposed measures, the Board requested that the TC evaluate the proposal under conservation equivalency and determine whether the harvest reduction from the proposed measures were equivalent to those required under

Addendum XXVIII. NJ staff sent the TC their proposal on Friday, May 12th. The proposal noted that proposed measures would reduce New Jersey's harvest in 2017 by 24% from 2016 levels and reduce total fish removals (harvest + dead discards) by 30% relative to the 2016 NJ state measures. The calculations in the proposal used preliminary 2016 MRIP harvest information through wave 5 (September/October) as well as the harvest to discard ratio derived from the NJ Volunteer Angler Survey (VAS).

The TC met via conference call on Tuesday, May 16th to review the proposal and provide comments for the Board's consideration. Below are summary points provided by the TC:

- TC members considered the NJ proposal specifically with regards to whether the proposed measures were conservationally equivalent to the harvest reductions prescribed in Addendum XXVIII. The TC found that when comparing the harvest reduction derived from the standard methodology using final 2016 MRIP harvest in numbers of fish, the reductions were not equivalent; there was a greater reduction in harvest under the Addendum XXVIII measures than the NJ proposed measures. NJ evaluated the proposed measures for the entire NJ coast, and did not break out reductions associated with proposed measures to Island Beach State Park nor for NJ waters in the Delaware Bay. The NJ proposal indicated the proposed measures, using preliminary MRIP data through wave 5, would result in a decrease of 24% in the NJ projected harvest in 2017; under the Addendum XXVIII measures NJ's projected harvest would decrease by 33%. The TC acknowledges that additional harvest from Delaware Bay and Island Beach State Park are likely to be minimal. During the call, the TC asked to evaluate the reductions from the two sets of measures using final 2016 MRIP harvest as it was the best available information. In using the final harvest estimates, the reduction from the NJ proposed measures decreased to 20.6% while the reduction associated with Addendum XXVIII measures remained 33% (see below, Table 1). Given that final 2016 MRIP harvest estimates are available and it does impact the reduction associated NJ proposed measures, the TC indicated that final MRIP harvest estimates should be used.

Table 1. New Jersey Projected 2017 Harvest (A+B1) under different scenarios

Approach	Area specific	Management Measures	Projected Harvest in numbers of fish (MRIP data A+B1)	Percentage Reduction
2016 Status quo measures	New Jersey*	18" 5 fish 128 days	754,706	0%
	NJ/DE Bay COLREGS**	17" 4 fish 128 days		
NJ 2017 Proposed measures	New Jersey	18" 3 fish 104 days	599,032	20.6%
	NJ/DE Bay COLREGS	17" 3 fish 104 days		
ASMFC Addendum XXVIII Measures	New Jersey*	19" 3 fish 128 days	505,201	33.1%
	NJ/DE Bay COLREGS**	18" 3 fish 128 days		

*New Jersey east of the COLREGS line at Cape May, NJ will have management measures consistent with the northern region of Connecticut – New York.

**New Jersey west of the COLREGS line at Cape May, NJ inside Delaware Bay will have a similar size limit to DE-VA, the same possession limit and the same season length as Connecticut – New York.

- The TC also reviewed whether the NJ proposal would reduce total fish removals (harvest + dead discards), a key argument of the proposal in conserving the summer flounder resource. The proposal outlined a methodology that incorporated NJ VAS data to calculate a harvest to discard ratio and through an outreach and education program, the number of fish killed through recreational harvest and discarding would be less than under the Addendum XXVIII measures. This was considered a new approach relative to previous analysis conducted by the TC, and the TC indicated some interest in further evaluating a harvest to discard ratio in developing measures. While the NJ VAS data was noted to have an adequate sample size, given concerns on how representative this data was of NJ anglers, the TC noted that the harvest to discard ratio should come from MRIP data to be consistent with data used to calculate harvest reductions, rather than the combination of NJ VAS and MRIP data in the proposal. After reviewing the NJ proposal using final MRIP estimates and a 10% discard mortality rate and prior to evaluating discards during the closed season, the NJ option achieved a 21% total fishing mortality savings compared to the 18% total fishing mortality observed in Addendum XXVIII (Table 2).
- The second step in evaluating reduction in total fish removals, was the application of a new discard mortality rate. The NJ proposal offered that through outreach and education, the recreational discard mortality rate of 10%- currently used in the peer reviewed 2013 stock assessment and subsequent updates, would be reduced by 2% to 8%. In considering the proposal's methodology for achieving a reduced recreational fishing discard mortality, the TC took issue with this assertion, most notably in the lack of data or peer-reviewed literature to support

the assertion that the discard mortality rate would decrease by specifically 2%. Furthermore, NJ staff did not indicate how the 2% reduction in the recreational discard mortality rate could or would be quantifiable. When total fish removals under the measures specified in the NJ proposal were re-analyzed assuming only the 10% discard mortality rate, the difference between total recreational removal reductions under Addendum XXVIII and the NJ Option was decreased. Additional modifications were to incorporate the final 2016 MRIP estimates and use harvest: discard ratios developed from MRIP data as opposed to NJ VAS data in addition to reverting back to a 10% discard mortality; the results under these scenarios of different data and assumptions are included in Table 2 below.

Table 2. Reduction in Total Recreational Fishing Removals (based on MRIP harvest in number of fish)

	Recreational Discard mortality rate	Measures	Total Harvested	Total Dead (Harvested + Dead Discards)	Total Recreational Fishing Removals Compared to 2016 Regulations	Total Recreational Fishing Removals Compared to ASMFC Addendum XXVIII
Preliminary 2016 MRIP data through Wave 5 (Sept/Oct)*	10%*	Addendum XXVIII Measures	526,898	1,159,176	-14%	0%
	8%*	NJ 2017 Proposed	605,256	944,199	-30%	-19%
Final 2016 MRIP data**	10%	Addendum XXVIII Measures	505,201	1,115,438	-18%	0%
	10%**	NJ 2017 Proposed	599,032	1,083,843	-21%	-3%

*These data and assumptions were presented in the NJ proposal.

**These data and assumptions were inputted and adjusted during the TC conference call.

Note: Harvest to discard ratios were derived for final 2016 MRIP data analysis using MRIP data; the NJ proposal ratio were derived from NJ VAS data. Additionally, NJ proposed measures do not account for changes in discard mortality due to a shorter season in 2017.

- The point was made by members of the TC that the NJ proposal ignores the discards that would occur when the fishery was closed. This is problematic as it creates a logical inconsistency in the proposal, in that the crux of the proposal is that the new methodology accounts for all fishing removals, not just harvest. There was a discussion about the magnitude of these discards, and an alternate calculation was performed to try and account for these missing discards. There were different results presented from these additional analyses, resulting in the TC being unable to determine whether the NJ proposal would result in equivalent or reduced total recreational fishing removals relative to the Addendum XXVIII measures. As such, the TC did not agree with the NJ proposal that total recreational fishing removals would be reduced to a greater level under the NJ

proposed measures than under the Addendum XXVIII measures given the uncertainty associated with the assumptions of no discarding of summer flounder once the fishing season is closed and reduced discard mortality through outreach efforts. Additionally, given the new analyses conducted on the call showed a range from increasing discard mortality to reducing discard mortality in the NJ proposal, it was impossible to make a judgement on equivalency without additional work being done on the proposal.

- Members of the TC also noted concern about the timing of the proposal relative to the current fishing season. TC members made clear that all other states had implemented 2017 measures per Addendum XXVIII requirements and that considering a radically different conservation equivalency proposal after other states regulations had been promulgated was problematic as the other states would not have an opportunity to apply this new methodology to their data.
- The TC considered the new methodology from the proposal used to develop NJ's proposed measures as well as the stated objective (reducing total recreational fishing removals rather than harvest alone). This approach was unique and different from the standard methodology for developing measures as well as the FMP requirement of constraining harvest to the annual coastwide Recreational Harvest Limit (RHL). The TC noted this would effectively set different standards for evaluating New Jersey measures relative to the other states resulting in a logical discrepancy between the various approaches creating issues of inequity. The TC also noted that the increased harvest by NJ under their proposal threatens the ability of the states to constrain harvest to the RHL.
- In considering the proposed objective in the NJ proposal of reducing total recreational fishing removals, the TC was in agreement that this was a concept that was a potential improvement to the current approach of constraining coastwide harvest to the RHL, but believes the NJ method warrants further refinement before it can be incorporated into recreational management. It should be noted that currently as part of the Summer Flounder FMP, the annual catch limit (ACL) takes into account both harvest and discards in setting the RHL, and that further evaluation of reducing discards should consider the ACL. The TC did commend the NJ staff for providing a novel approach to incorporating discards and discard mortality into consideration for setting recreational measures. The TC has argued in favor of using a fishing mortality based approach for managing recreational fisheries, including taking into account the status of the resource. For summer flounder, with the stock assessment indicating that the resource is experiencing overfishing, reducing mortality associated with discarding may provide additional conservation benefits in helping the stock. The TC is interested in pursuing more of a fishing mortality based approach to recreational management relative to the current harvest limit-based management; it was noted that the Mid-Atlantic Fishery Management Council is current accepting proposals on this concept specifically for summer flounder.

- Lastly, the TC was in favor and supportive of NJ's proposal of conducting more angler education and outreach to help reduce recreational discard mortality, despite the inability to quantify the benefits specifically.

In summary, the TC noted that in the standard comparison of harvest, the NJ proposal was not conservationally equivalent to the Addendum XXVIII measures. It is important to understand that this standard is a component of the Summer Flounder FMP as the recreational fishery performance is evaluated against the RHL. When examining the new and separate comparison of total recreational fishing removals (harvest and discard mortality in total), there was too much uncertainty to determine equivalency between the NJ proposal and the Addendum XXVIII measures due to unquantifiable reductions in discard mortality in the proposal and the unaccounted for discards during the closed seasons. Therefore, this work on total recreational fishing removals needs additional refinement before a determination can be made.

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MEMORANDUM

TO: Bob Martin
Commissioner

THROUGH: Ray Cantor
Chief Advisor to the Commissioner

Janis Hoagland, Director
Office of Legal Affairs

FROM: Ryan Knapick
Office of Legal Affairs

SUBJECT: For signature as soon as possible
Notice of Administrative Change
Division of Fish and Wildlife Rules, N.J.A.C. 7:25-18.1
Modification of Recreational Summer Flounder Possession Limits and Seasons

DATE: May 18, 2017

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Attached for your review and signature is a notice of administrative change amending the Division of Fish and Wildlife Rules. As discussed in more detail below, the notice modifies, with the approval of the New Jersey Marine Fisheries Council (Council) at its May 17, 2017, meeting, recreational possession limits and seasons for summer flounder. These actions have been taken to be consistent with the Atlantic States Marine Fisheries Commission (ASMFC) management plan for summer flounder.

The program seeks to file this notice as soon as possible to implement changes to requirements for the recreational summer flounder fishery before the 2017 season, which begins on May 25, 2017. If filed on or before noon, Thursday, May 25, 2017, the notice will be published in the June 19, 2017, New Jersey Register. The changes made by the notice will be effective on filing.

Pursuant to N.J.A.C. 7:25-18.1(p), the Commissioner of the Department of Environmental Protection, with the approval of the Council, may modify fishing seasons and trip limits, among other things, in order to maintain compliance with fishery management plans approved by the ASMFC and to achieve optimal utilization of available quotas.

At its February 2017 meeting, the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board approved Addendum XXVIII to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, which continues the use of regional management for the 2017 summer flounder recreational fisheries. New Jersey has developed conservationally equivalent management measures that modify possession limits and the recreational fishing seasons. For the Delaware Bay and its tributaries, the possession limit is modified from four fish in 2016 to three fish in 2017. With the exception of shore mode fishing at Island Beach State Park, which remains subject to the limitations specified at N.J.A.C. 7:25-18.1(c)5iv, in all other marine water of the State, the possession limit is modified from five fish in 2016 to three fish in 2017. The summer recreational open season of all marine waters of the State is modified from May 21 to September 25 in 2016 to May 25 to September 5 in 2017.

ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Notice of Administrative Change

Marine Fisheries

Modification of Recreational Summer Flounder Season and Possession Limits

N.J.A.C. 7:25-18.1

Take notice that, pursuant to N.J.A.C. 7:25-18.1(p), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its May 17, 2017 meeting, has modified the possession limits and recreational seasons for summer flounder. The actions taken for summer flounder are consistent with the Atlantic States Marine Fisheries Commission (ASMFC) Management Plan (Plan) and provide for the optimal utilization of the available summer flounder resource while constraining landings to prevent harvest that exceeds the available recreational harvest limit (RHL).

At a joint meeting in August 2016, the Mid-Atlantic Fishery Management Council (MAFMC) and the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved an approximate 30 percent reduction in catch limits for both the commercial and recreational fisheries in response to the 2016 stock assessment update, which indicated the resource is experiencing overfishing but is not overfished. The recent stock assessment indicates that the resource is declining in abundance and that associated management changes are needed to address this issue.

At its February 2017 meeting, the Board approved Addendum XXVIII to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan (Plan), which continues the use of regional management for the 2017 summer flounder recreational fisheries. New Jersey has developed conservationally equivalent management measures that modify possession limits and modify the recreational seasons. For the Delaware Bay and its tributaries, the possession limit is modified from four fish in 2016 to three fish in 2017. With the exception of shore mode fishing at Island Beach State Park, which remains subject to the limitations specified in N.J.A.C. 7:25-18.1(c)5iv, in all other marine waters of the State, the possession limit is modified from five fish in 2016 to three fish in 2017. The summer flounder recreational open season for all marine waters of the State is modified from May 21 to September 25 in 2016 to May 25 to September 5 in 2017.

These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.1(c). As required in N.J.A.C. 7:25-18.1(p), changes to N.J.A.C. 7:25-18.1(c) will be published in the New Jersey Register, the New Jersey Fish and Wildlife Digest and via a news release submitted to individuals on the Division's outdoor writers mailing list.

In addition, the Department, in conjunction with the Council, the ASMFC and the National Oceanic and Atmospheric Administration (NOAA), will develop an outreach and education program to inform New Jersey fishermen of fishing practices that are intended to reduce discard mortality of summer flounder. This program may include the promotion of NOAA's FishSmart outreach and education program and information available at www.takemefishing.org; creating a New Jersey-specific video illustrating catch and release techniques to be promoted within the for-hire fleet, on social media, and in public service announcements; creating illustrated brochures to distribute to bait and tackle shops and the for-

hire fleet, with brochures to be additionally posted on social media and other relevant websites; creating 30-second radio public service announcements for distribution to shore-based radio stations; creating signage for posting near popular surf fishing locations that illustrate best practices for returning undersized fish to the water; and promote the use of hooks that are less likely to cause fatal damage to an undersized fish. The Department estimates that the program will reduce discard mortality of summer flounder from 10 percent to approximately eight percent.

Full text of the changed rule follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

7:25-18.1 Size, season, and possession limits

(a) – (b) (No change.)

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

<u>Species</u>	<u>Minimum Size In Inches</u>	<u>Open Season</u>	<u>Possession Limit</u>
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Summer Flounder (Fluke)

Delaware Bay and tributaries	17	May 25[1] – Sept [2]5	3[4]
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Island Beach State Park	16	May 25 – Sept 5	2
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(shore mode fishing only

as provided at (c)5iv

below)

All other marine waters	18	May 25[1] – Sept [2]5	3[5]
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1. – 4. (No change.)

5. The following provisions are applicable to the recreational harvest of summer flounder.

i. In Delaware Bay, which includes all New Jersey waters within Delaware Bay and tributaries west of the COLREGS line from Cape May Point Light to Cape Henlopen, a person shall not take, or possess, more than **three**[four] summer flounder greater than or equal to 17 inches, total length, during the summer flounder recreational open season. The Cape May Canal is not considered a tributary of the Delaware Bay. Therefore, the authorization to take or possess summer flounder

meeting the 17-inch size limit and **three**[four] fish possession limit is inapplicable to the Cape May Canal beginning at its confluence with the Delaware Bay at the Cape May Ferry Terminal; the waters of Cape May Canal are instead subject to limits specified in (c)5ii below.


ii. In all other waters of the State, a person shall not take, or possess, more than **three**[five] summer flounder greater than or equal to 18 inches, total length, during the summer flounder recreational open season.

iii. – v. (No change.)

6. (No change.)

(d) – (r) (No Change.)

5/18/2017
Date



Bob Martin, Commissioner
Department of Environmental Protection