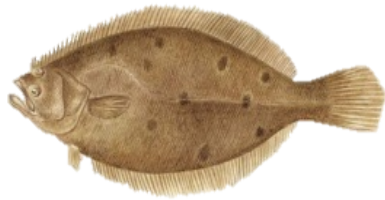


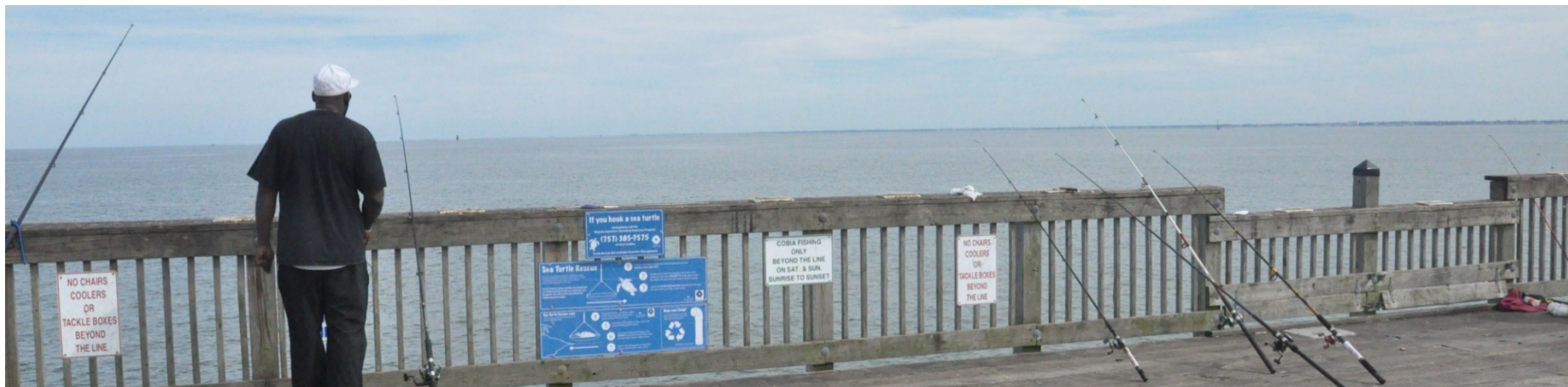
# Summer Flounder, Scup, Black Sea Bass Commercial/Recreational Allocation Amendment



## Scoping Comment Summary & AP Report

May 6, 2020

- Amendment purpose & timeline
- Public comment summary
- Advisory panel report
- FMAT/PDT recommendations
- Council/Board discussion: recommend types of alternatives for further development



Consider potential modifications to the allocations of catch or landings between the commercial and recreational sectors for summer flounder, scup and black sea bass.



# Amendment Timeline



<b>April 2020</b>	Advisory Panel met to discuss comments from scoping period
<b>May 2020</b>	Council/Commission review scoping comments and identify potential categories of alternatives to consider
<b>May-July 2020</b>	Initial development of draft management alternatives
<b>August 2020</b>	Council/Commission approve a range of alternatives for inclusion in public hearing document
<b>Winter 2020-2021</b>	Council/Commission approve public hearing document; <b>public hearings</b>
<b>Spring 2021</b>	Advisory Panel meets to discuss comments received from public hearings
<b>Spring/ Summer 2021</b>	Council/Commission consider public comments; final action; rulemaking

- Scoping hearings
  - 11 hearings
  - Approximately 280 people attended in total
  - Not all attendees provided comments
- 98 individuals and 14 organizations provided written comments
  - Some also provided comments at hearings
- YouTube scoping presentation received 644 views

Date and Time	Location
Thursday, February 13	Buzzards Bay, Massachusetts
Wednesday, February 19	Dover, Delaware
Monday, February 24	Belmar, NJ
Tuesday, February 25	Berlin, MD
Tuesday, February 25	Galloway, NJ
Tuesday, February 25	Washington, NC
Wednesday, February 26	Narragansett, RI
Wednesday, February 26	Old Lyme, CT
Thursday, February 27	Stony Brook, NY
Monday, March 2	Fort Monroe, VA
Tuesday, March 3	Internet Webinar

# Scoping Comments

Primary sector	Number of individuals/organizations	Percent of total
Recreational		
Private angler	94	
For-hire	43	74%
Multiple modes, other, or unknown	14	
Commercial	45	22%
Other	7	3%
Unknown	2	1%
<b>Total</b>	<b>205</b>	<b>100%</b>



- Comments made by three or fewer people that don't pertain to allocation issues were not included in the following summary tables.
- The % (of 205) shown is the percent of individuals or organizations expressing that opinion

Comment Topic/Theme	Number of individuals/ organizations	% of total
<b>Support Allocation Changes vs. Support No Changes/Status Quo</b>		
<b>Support modifying the allocations in some manner</b>	96	47%
<b>Do not change the allocations</b> (common rationale included do not revise until data issues are resolved)	48	23%

<b>Improved Recreational Accounting and Accountability</b>		
<b>Strong concerns with MRIP data:</b> unbelievable/unreliable estimates, new MRIP data should not be used for management, concerns with specific aspects of rec. data collection	80	39%
<b>The recreational sector should have increased accountability to their limits</b> (overage paybacks, in-season closures, overages put stock at risk)	32	16%
<b>Additional or improved recreational data should be used in management,</b> e.g., mandatory private angler reporting, tagging systems, mandatory tournament reporting, improved accounting for private dock catch, improve timeliness of rec. data	20	10%



<b>Improved Recreational Accounting and Accountability</b>		
<b>VTR data is more reliable; increase the use of VTRs in MRIP or use VTRs instead of MRIP for the for-hire fleet</b>	15	7%
<b>The for-hire sector should have additional requirements (e.g., requirement for VTRs for non-federal vessels, VMS, reinstate "did not fish" reporting)</b>	6	3%
<b>Recreational effort has increased (though some said it has not increased as much as MRIP suggests)</b>	4	2%



<b>Considerations for Reallocation Approaches</b>		
<b>Don't update the allocation base years with new data</b>	16	8%
<b>Management should more thoroughly consider socioeconomics</b>	13	6%
<b>Support or want to learn more about non-traditional allocation approaches such as a needs-based approach or harvest control rule</b>	12	6%
<b>Do not support current/status quo allocations</b> (reasons or preferred reallocation approach unspecified)	11	5%
<b>Should update the allocations using the same base years and new data</b>	10	5%

<b>Considerations for Reallocation Approaches</b>		
<b>Should decrease the commercial allocations</b>	9	4%
<b>Support revised allocation base years</b> (using years of good stock health/post-rebuilding years; use long time period; use most recent 5 years; use a recent time period; using moving 10-year or 15-year average)	8	4%
<b>Should increase commercial allocations</b>	4	2%
<b>Need to do something for 2021 to prevent drastic restrictions on recreational fisheries</b>	4	2%
<b>Allocations should be catch-based</b>	4	2%

<b>Recreational Sector Separation</b>		
<b>Sector separation should be used, either as separate allocations for for-hire vs. private anglers or separate management measures</b> (most common rationale was that the for-hire sector has better catch accounting and accountability due to use of VTRs)	37	18%
<b>Do not use sector separation</b>	9	4%

<b>Dynamic Allocations or More Frequent Review of Allocations</b>		
<b>Support making future allocation changes through frameworks/addenda</b>	6	3%
<b>Should reconsider allocations on a regular basis and/or have dynamic allocations</b>	4	2%
<b>Should not make future allocation changes through frameworks/addenda</b>	2	1%

<b>Allocation Transfers or Set-Asides</b>		
<b>Support allocation transfers under certain conditions</b>	9	4%
<b>Support allocation set asides</b>	5	2%
<b>Consider allowing one sector to buy from the other, at least at state level</b>	2	1%
<b>Don't allow sectors to buy allocation</b>	1	<0.5%
<b>Do not allow transfers of allocation between sectors</b>	1	<0.5%



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## Other Allocation Related Comments

<b>The commercial fishery is well controlled and monitored</b>	12	6%
<b>Should have option of basing allocations in pounds or numbers of fish</b>	8	4%
<b>Different sectors (com/rec, for-hire/private) need to work together</b>	7	3%
<b>Concerns about commercial data (e.g., discards in general, landings in 1980s)</b>	5	2%
<b>More people eat fish than fish recreationally - allocation/management should account for that</b>	4	2%
<b>Should not have allowed the recent commercial quota increases for summer flounder and black sea bass which were driven by MRIP</b>	3	1%

# Issues not directly related to this action



## Recreational Management Measures and General Recreational Fishery Concerns

<b>Discards are too high or are a concern; concerns with recreational discard mortality rate estimates</b>	31	15%
<b>Dissatisfaction with recreational measures specific to summer flounder</b>	27	13%
<b>Dissatisfaction with recreational management measures and approaches in general</b> (measures should be liberalized, neighboring states should have more similar measures, enforceability is an issue, gear or release behavior should be regulated, too many species restricted at once)	20	10%
<b>Management has caused a loss of recreational fishing businesses and a loss of access/opportunities for private anglers</b>	13	6%

# Issues not directly related to this action



<b>General Commercial Fishery Concerns</b>		
<b>Commercial vessels are creating the most harm (by catching too many fish, damaging habitat, or creating too many discards)</b>	15	7%
<b>Management has caused a loss of commercial businesses (boats, docks, packing houses)</b>	4	2%
<b>Other Issues</b>		
<b>Summer flounder availability has decreased</b>	11	5%
<b>Differences in commercial vs. rec regulations are a concern</b>	11	5%
<b>Habitat/pollution/ecosystem/climate change concerns regarding stock health</b>	11	5%
<b>Management hasn't improved the fisheries</b>	10	5%
<b>Availability of black sea bass is high</b>	4	2%
<b>Need more stability management measures/measures are too complex or confusing</b>	3	1%





# Advisory Panel Report

# AP Report



- Advisory Panel met via conference call on April 2<sup>nd</sup>
- 27 members in attendance
- Purpose: to review the scoping comments received and provide recommendations to the Council and Board on issues that should be addressed in this action

# AP Comments on MRIP & Allocations



- Many advisors have no confidence in MRIP estimates
  - One advisor recommended that NMFS re-examine MRIP and improve its estimation methodology before any action on allocations is taken
- Three advisors spoke in favor of status quo allocations for all three species
- One advisor proposed updating the base years with new MRIP data for summer flounder
- One advisor supported catch accounting that doesn't penalize recreational sector overages so long as the ABC is not exceeded.

# AP Comments on Dynamic Allocation Approaches



- Several advisors recommended further development of the recreational management reform harvest control rule
- One advisor stated that future allocation changes should not be done through a framework or addendum
  - Too important and political
  - Doesn't sufficiently involve the public
- One advisor supported the use of allocation transfers
- One advisor voiced opposition to allocation transfers because they increase fishing pressure on stocks and jeopardize their ability to remain at the target level

# AP Comments on For-Hire & Private Angler Sector Separation



- Feedback mixed: 2 support, 3 opposed
- Comments in support:
  - Current recreational measures are not working for the for-hire fleet
  - Bag limits must be high enough to be able to sell trips
- Comments in opposition:
  - VTR data is not always accurate
  - In the for-hire captain's best interest to underreport catch
  - MRIP is not accurate enough to develop allocations for the recreational sectors

# Other AP Comments

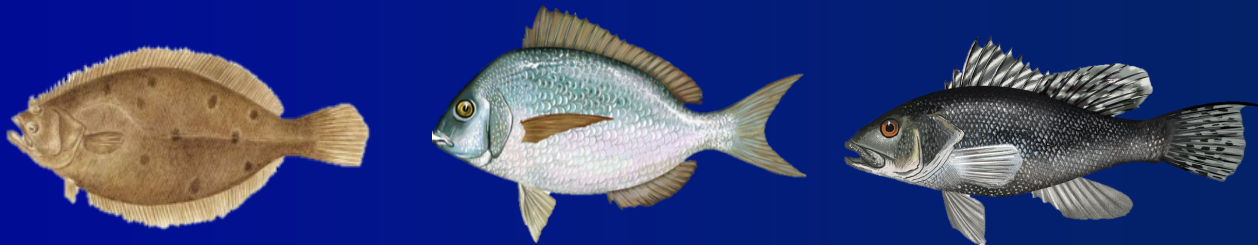


- Three advisors supported mandatory reporting at all recreational fishing tournaments
- One AP member commented that recreational anglers are still fishing primarily on mature female fluke and not males and that minimum size limits need to be liberalized
- One advisor requested that managers pay greater attention to regional depletion
- AP members were concerned about the effect Covid-19 and social distancing is having on the recreational and commercial fisheries.
  - Several members called for action from NOAA Fisheries



# Fishery Management Action Team (FMAT) Meeting Summary

Joint Council and Board Meeting  
May 6, 2020



# General comments

- Need to consider alignment of draft alternatives with National Standard 4 (fairness and equity)
  - Consider court finding on Gulf Council Red Snapper reallocation lawsuit
- Catch vs Landings based allocations:
  - Catch based: dead discards are included directly in the allocation
  - Incentivize reducing dead discards within each sector in order to increase allowable landings
  - **FMAT supports exploring both approaches**



# Broad alternative categories

1. No Action
2. Revised percentages based on different data or time series
3. Allocations attempting to maintain roughly status quo harvest by sector from the most recent year prior to last assessment update
4. Recreational sector separation
5. Harvest control rule-based approaches
6. Recreational accountability alternatives
7. Recreational catch accounting alternatives
8. Dynamic allocation approaches and options for future revisions
9. Allocation transfers and set-asides

# 1. No Action

FMAT discussion:

- Revised MRIP resulted in much higher rec. catch estimates than those used to develop the current allocations
- Status quo allocation percentages does not equal status quo management measures for each sector, particularly rec. sector
  - Challenges for constraining the fisheries to their catch and landings limits

## **2. Revised percentages based on different data or time series**

- 2.1 Existing base years with revised data
- 2.2 Revised base years based on recent landings/catch
- 2.3 Revised base years: post rebuilding years
- 2.4 Socioeconomic basis
- 2.5 Allocate in numbers instead of pounds

## 2.1 Keep existing base years but update with the most recent recreational and commercial data

### FMAT discussion:

- Due to lack of reliable discard estimates in early years, may not be able to do catch-based allocation using the existing base years
- Would move 5% of summer flounder, 13% of scup, and 4% of black sea bass allocation to the rec. sector
- May not prevent need for restrictions to rec sector
- Acknowledged scoping comments noting that fisheries were very different in 80s and early 90s
- **Keep for further development**

## 2.2 Revised base years based on recent landings/catch

- Last 5, 10, or 15 years of catch or landings

FMAT discussion:

- Substantial shift in allocation to the recreational sector for all 3 species
- Uses years fisheries were theoretically constrained by current allocations
  - However, rec fishery performance relative to rec limits has been more variable than commercial fishery performance

## 2.2 Revised base years based on recent landings/catch

FMAT discussion continued:

- Should be evaluated for bias toward recreational sector, as suggested during scoping
- **Keep for further development**
- Public comment: example recent base years seem arbitrary; should consider the different management histories of these species when considering base years

## 2.3 Revised base years based on time period after rebuilding (e.g. 5 years)

FMAT discussion:

- Similar concerns to previous approach re: fishery constraints and potential bias
- Outcome of using post-rebuilding years doesn't appear to be substantially different than recent years approach (may not need both)
- BSB catch limits from this time did not adequately reflect biomass, lack of accepted assessment
- Explore variations on this concept, combination of high and low availability years, look at trends in biomass pre- and post-rebuilding for each species
- **Keep for further development**

## 2.4 Allocations based on socioeconomic considerations

FMAT discussion:

- Contract for summer flounder: economic model to maximize marginal benefits to the commercial and recreational sectors
  - Results expected summer 2020
  - Not currently being developed for BSB and scup
- NEFSC input/output model for the commercial fishery, NEFSC FMAT member will explore what options are available for the rec sector
- **Keep for further development**



## 2.5 Allocations in numbers instead of pounds

FMAT discussion:

- Overall biomass estimates and catch limits are in pounds; conversion from pounds to numbers could introduce additional uncertainty
  - Not clear how allocation in numbers of fish would work and whether it would have any advantages over allocating in pounds
- Process for developing rec. measures can already involve converting RHL into numbers of fish
- **Recommend removing from consideration in this action**

### **3. Allocations to maintain roughly status quo harvest by sector from the most recent year prior to last assessment update**

- Can allocations be modified such that both sectors could maintain approximate landings levels from the last year(s) prior to recent catch limit revisions (2018-2019)?
  - Would modify allocation % going forward and would not guarantee status quo landings long term
- Preliminary analysis suggests possible for summer flounder; close, but not quite for scup and black sea bass.
- After most recent assessments:
  - SF and BSB ABCs increased by more than 50%, but rec. sector could not liberalize
  - Scup ABC decreased. Com. scup sector has under-harvested since 2007

### **3. Allocations to maintain roughly status quo harvest by sector from the most recent year prior to last assessment update**

FMAT discussion:

- Preliminary example resulting percentages are substantial modifications
- Potential as a short-term approach?
- Member of the public: almost the same as saying only the recreational sector should get an increase, could not support this approach. What would happen to each sector if catch limits were to decrease in the future?
- **Keep for further development**

## 4.1 Recreational sector separation: separate allocations to for-hire vs private

FMAT discussion:

- Different potential data for private vs. for-hire
- Some stakeholders may not support if MRIP is used for both sectors to set measures
- Only catch and harvest in numbers of fish available from VTRs, while MRIP also provides harvest (but not catch) estimates in weight
- Depending on approach, could require development of sector-specific accountability measures
- **Keep for further development**

## 4.2 Recreational sector separation: separate management measures

FMAT discussion:

- Already used in a limited manner
- Beneficial to develop a policy on how separate measures are developed, accountability, etc.
- Some stakeholders may not support if MRIP is used for both sectors to set measures
- **Keep for further development**
  - This could also be done through FW/Addendum or specifications

## 5. "Harvest control rule" based approaches

- Proposal submitted by 6 recreational orgs
- Rec. "allocation" not defined as set % of total catch limit but as a specific combination of bag/size/season limits preferred by rec. fishermen
  - More restrictive when biomass declines below the target level
- Commercial "allocation" would be quota preferred by the commercial industry when biomass is high
  - Reduced as biomass declines below the target level

# 5. “Harvest control rule” based approaches

FMAT discussion:

- Creative way to approach setting measures
- Not clear that this proposal is directly related to allocation between the comm. and rec. sectors
- Appears to be more relevant to recreational measures process; may be more appropriate for separate action such as rec. reform
- Unclear how it would fit within MSA requirements for catch limits and accountability measures
- Keep for further development for now; may not be feasible for allocation in current system

## 6. Recreational accountability alternatives

- More frequent overage paybacks or in-season closures

FMAT discussion:

- Would be a reversal of changes made through Amendment 19 (2013): Omnibus Recreational Accountability Amendment
- Some aspects of accountability could be incorporated into the development of allocation alternatives
- Major changes to AMs and paybacks would potentially delay development of this action



# 7. Recreational catch accounting alternatives

- Examples suggested through scoping:
  - Mandatory private angler reporting
  - Mandatory tournament reporting
  - Requiring VTRs for state for-hire vessels
  - Reinstating did not fish reports

## FMAT discussion:

- Potential to reduce uncertainties in the recreational data
- Enforceability/compliance issues

# 7. Recreational catch accounting alternatives

FMAT discussion continued:

- What is realistic within the scope of this action?
- Possibly keep for further exploration; however, major initiatives to modify current catch accounting systems are likely beyond the scope of this action or would delay the timeline
- Member of the public:
  - If a species is not overfished and total catch is below the ABC but there is an overage, the sector(s) which caused the overage is should not penalized

## 8. Dynamic allocation approaches and options for future revisions

- Moving average approaches, trigger mechanisms, and allowing for allocations to be changed via framework/addendum process

FMAT discussion:

- Add consideration of trigger approach:
  - Allocate catch up to a specified ABC level using current allocations, and allocate surplus (if any) differently
  - Could help account for difficulty in constraining the rec fishery when availability is high
  - **Keep for further development**

# 8. Dynamic allocation approaches and options for future revisions

FMAT discussion:

- Consideration of allocation changes through frameworks/addenda:
  - More expedient process, but reduced public input opportunities
  - Could consider allowing temporary adjustments if appropriate
  - Would always have option to elevate to an amendment if needed/desired
  - FW/Addenda could be useful tool for adaptive management for more minor changes
  - **Keep for further development**

# 9. Allocation transfers and set-asides

FMAT discussion:

- Transfers between sectors
  - Could reduce the chance of under-harvesting
  - **Keep for further development**
- Allow one sector to buy from another
  - E.g. for-hire vessels could buy commercial quota
  - Lack of infrastructure to manage this
  - **Do not recommend further development**

# 9. Allocation transfers and set-asides

FMAT discussion:

- Allow allocation to be set aside through specifications
  - Possible equity concerns, allocation that is set aside could be more likely to be used by the rec fishery, not as easily held to its limits
  - **Keep for further development**

# Timeline Considerations

- Tradeoff between quantity/complexity of alternatives and the action timeline
- Current number and complexity of approaches poses challenges for meeting timeline outlined in Action Plan:
  - Approve range of alternatives in August
  - Approve public hearing doc in December
  - Any changes effective January 1, 2022

# Other Considerations

- Some categories/approaches could be addressed through separate actions
  - Specifications
  - Frameworks/addenda
- Ideal allocation approaches may vary by species
- Phasing-in new allocations could be considered



# Council/Board Decision Point

- Recommend types of alternatives for further development or removal
  - Based on feedback, FMAT will begin development of draft alternatives for discussion at June joint meeting webinar

Category	Approach	Summary of FMAT Recommendation
<b>1. No Action/Status Quo</b>	Maintain current allocations	Must include in amendment.
<b>2. Revised percentages based on different data or time series</b>	2.1 Existing base years with revised data	Keep for further development. May not be viable for catch-based options for summer flounder and black sea bass.
	2.2 Revised base years based on recent landings/catch	Keep for further development; however, should be evaluated for bias toward rec. sector for some species given recent sector performance.
	2.3 Revised base years based on post-rebuilding years	Keep for further development; however, may be similar in outcome to recent base years and should be evaluated for bias toward rec. sector as with option above.
	2.4 Based on socioeconomic analyses	Keep for further development; explore possible data sources.
	2.5 Allocate in numbers instead of pounds	Recommend removing from consideration in this action.

Category	Approach	Summary of FMAT Recommendation
<b>3. Allocations to maintain status quo harvest by sector</b>		Keep for further development; additional analysis needed before FMAT can determine whether this is a fair & equitable approach.
<b>4. Recreational sector separation</b>	4.1 Separate allocations to for-hire vs. private sectors	Keep for further development.
	4.2 Separate management measures for for-hire vs. private sectors	Keep for further development.
<b>5. Harvest control rule based approaches</b>		Keep for further development; however, needs additional evaluation to determine whether it addresses amendment purpose or should be considered via a separate process.
<b>6. Recreational accountability alternatives</b>	E.g., more frequent overage paybacks or in-season closure	Additional accountability could be built into allocation options, but current suggestions may represent reversal of recent changes to accountability measures.

Category	Approach	Summary of FMAT Recommendation
<b>7. Recreational catch accounting alternatives</b>	Mandatory private angler reporting, issuing tags, mandatory tournament reporting, requiring VTRs for state for-hire vessels, reinstating did not fish reports.	Keep for further development; however, major modifications to the current catch accounting systems are likely beyond the intended scope of this action on the current timeline.
<b>8. Dynamic allocation approaches and options for future revisions</b>	Moving average approach	Keep for further development.
	Allocation changes through frameworks/addenda	Keep for further development; however, the benefits of expediency versus reduced public input need to be considered
	Trigger approach	Keep for further development.
<b>9. Allocation transfers and set-asides</b>	9.1 Transfer of allocation between sectors	Keep for further development.
	9.2 Allow one sector to buy allocation from another	Recommend removing from consideration in this action.
	9.3 Allow a certain amount of allocation to be set aside through specifications	Keep for further development. Concerns about equity considering that the recreational sector is not as easily held to its limits as the commercial sector.

# BACKUP SLIDES

# Recreational Reform Initiative

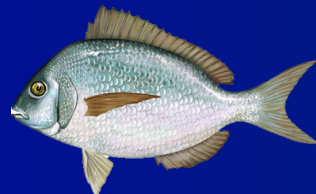
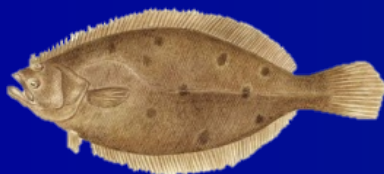
## ■ Goal/Vision

- Stability in rec. measures (bag/size/season)
- Flexibility in the mgmt. process
- Accessibility aligned with availability/stock status

## ■ Still in planning stages

## ■ Major themes:

- Better incorporation of MRIP uncertainty into mgmt. process
- Develop guidelines for maintaining status quo measures
- Develop process for setting multi-year rec. measures
- Improvements to process used to make changes to measures
- Possibility of recommending measures earlier in the year



# Implications of No Action

- Summer flounder
  - Projected 2019 harvest was very close to 2020 RHL (7.69 mil lb); rec fishery was able to stay *status quo*
- Scup
  - Final 2019 MRIP harvest estimate = 14.12 mil lb, 54% higher than the 2020 RHL of 6.51 mil lb.
- Black sea bass
  - Final 2019 MRIP harvest estimate = 8.61 mil lb, 48% higher than the 2020-2021 RHL of 5.82 mil lb.
- Maintaining status quo rec measures for BSB and scup in 2020 despite anticipated overage justified as a temporary solution – just for 2020.