



Mid-Atlantic Fishery Management Council

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MEMORANDUM

Date: December 2, 2022
To: Council and ASMFC Policy Board
From: Kiley Dancy, Julia Beaty, and Hannah Hart, Staff
Subject: Previously Initiated Recreational Reform Items

Overview

This document provides background information to assist the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Program Policy Board (Policy Board) in discussing next steps, including the priority level, for two previously initiated Recreational Reform Initiative topics. This includes an **amendment** to consider options for managing for-hire recreational fisheries separately from other recreational fishing modes (referred to as sector separation), as well as options related to recreational catch accounting, such as private angler reporting and enhanced vessel trip report (VTR) requirements. It also includes a **technical guidance document** to consider developing guidelines for best practices for identifying and smoothing Marine Recreational Information Program (MRIP) outlier estimates, use of preliminary current year MRIP data, and guidelines for maintaining status quo recreational measures. These topics are summarized below.

Background

In recent years, the Council and Commission have faced several challenges when setting recreational management measures (i.e., recreational bag, size, and season limits) for summer flounder, scup, black sea bass, and bluefish, including concerns related to uncertainty and variability in the recreational fishery data provided by MRIP, the need to change measures (sometimes annually) based on those data, as well as the perception that measures are not reflective of stock status. In addition, management measures have not always had their intended effect on overall harvest.

In October 2020, the Council and Policy Board initiated two management actions (a framework/addenda and an amendment) to address several recreational issues for all four species. The full list of prioritized topics is shown in Table 1. These actions are collectively referred to as the [Recreational Reform Initiative](#). The goals of the Recreational Reform Initiative are to (1) provide **stability** in the recreational bag, size, and season limits, (2) develop strategies to increase management **flexibility**, and (3) achieve **accessibility** aligned with availability/stock status for all four species.

In December 2020, staff recommended addressing some of the prioritized topics through a technical guidance document, rather than a framework/addenda or amendment (as reflected in Table 1).

In February 2021, the Council and Policy Board agreed to prioritize the [Recreational Harvest Control Rule Framework/Addenda](#) before further developing the remaining topics. The Council and Policy Board took final action on the framework/addenda in June 2022, selecting a new approach for setting recreational measures called the Percent Change Approach. This action is currently pending federal implementation.

The Council and Policy Board agreed that the Percent Change Approach should be used to set recreational management measures starting in 2023 and should sunset no later than the end of 2025, with the goal of implementing a new and improved approach in time for setting 2026 measures. Therefore, although many Recreational Reform Initiative topics were addressed through the Recreational Harvest Control Rule Framework/Addenda (e.g., setting multi-year recreational measures, considering uncertainty when determining if measures should change), these topics will be revisited in the upcoming years as the Council and Commission further consider the appropriate replacement for the Percent Change Approach after the sunset period.

During their December 2022 meeting, the Council and Policy Board will discuss next steps for the previously initiated Recreational Sector Separation and Catch Accounting Amendment, as well as the technical guidance document. If the Council and Policy Board agree that these are priority topics for 2023, in early 2023 staff will draft action plans and timelines for development of these actions.

Table 1: Topics identified by the Council and Policy Board in October 2020 as priority Recreational Reform Initiative topics. To date, only the Recreational Harvest Control Rule has been fully developed. The remaining topics will be considered through separate, future management actions and guidance document development if they remain priorities of the Council and Policy Board.

Technical Guidance Document	Framework/Addenda	Amendment
<ul style="list-style-type: none"> • Process for identifying and smoothing outlier MRIP estimates. • Evaluate the pros and cons of using preliminary current year MRIP data. • Develop guidelines for maintaining status quo measures. 	<ul style="list-style-type: none"> • Envelope of uncertainty approach for determining if changes to recreational management measures are needed.* • Develop process for setting multi-year recreational management measures.* • Consider changes to the timing of recommending federal waters measures. • Recreational Harvest Control Rule.* 	<ul style="list-style-type: none"> • Recreational sector separation. • Recreational catch accounting.

*These topics were considered through the Recreational Harvest Control Rule Framework/Addenda and are incorporated into the alternative selected for implementation (i.e., the Percent Change Approach). However, the Council and Policy Board agreed that the Percent Change Approach will sunset no later than the end of 2025, with a goal of implementing a new approach in time for setting 2026 measures. Therefore, these topics may warrant further consideration by the Council and Policy Board when developing the replacement for the Percent Change Approach after the sunset period.

Technical Guidance Document

As previously stated, the Council and Policy Board agreed that some Recreational Reform Initiative topics should be developed through a technical guidance document, rather than a framework/addenda or amendment. Some topics are highly technical in nature and may not require changes to the FMPs, depending on the specific changes desired by the Council and Policy Board. Previously considered topics are summarized below. Additional topics may also be considered, if desired by the Council and Policy Board. For example, some topics which were partially developed through the Recreational Harvest Control Rule Framework/Addenda (e.g., use of confidence intervals) may warrant further development through a technical guidance document.

Guidelines for Identifying and Smoothing Outlier MRIP Estimates

In recent years, several MRIP estimates of black sea bass harvest were identified as outliers and treated differently in the management process. The first instance occurred when the black sea bass recreational harvest estimate for wave 6 in New York in 2016 (all modes combined) was identified as an outlier by the Commission's Technical Committee. A revised estimate was used when states developed 2018 recreational measures through the Commission process. This outlier estimate was also one of multiple pieces of information used by the Council's Scientific and Statistical Committee when determining the appropriate uncertainty buffer between the overfishing limit and the acceptable biological catch (ABC) limit starting in September 2019.

The Technical Committee also identified the 2017 New Jersey wave 3 private/rental mode black sea bass harvest estimate as an outlier. A modified value was used when setting New Jersey's 2018 management measures.

The 2019 black sea bass operational stock assessment and the subsequent 2021 management track assessment increased the coefficient of variation (CV) on the component of catch data which includes recreational catch for 2015-2017 in acknowledgement of the 2016 and 2017 outliers.

In early 2022, the Commission's Technical Committee performed an analysis of black sea bass harvest estimates at the state/wave/mode/year level for 2018-2021. This analysis identified over 30 potential outliers. This analysis was used by the Council and the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) to recommend a smaller reduction in coastwide harvest in 2022 than would have been required if the outliers had not been adjusted.

In all cases described above, the specific methods used for identifying and modifying outlier MRIP estimates, as well as how those estimates were used in the management process, varied.

The Council and Policy Board agreed that it would be beneficial to adopt a standardized process for identifying and adjusting (if needed) outlier MRIP estimates. This process should be applied to **both high and low outlier estimates as appropriate** and could be used for all four species. If guidelines are adopted for standardizing the process of identifying and smoothing outlier estimates, it will be important for the Monitoring and Technical Committees to maintain the discretion to deviate from this process if they provide justification for doing so as it may not be possible to select a single process which would be most appropriate in all circumstances.

The process currently used by the Monitoring and Technical Committees to recommend recreational management measures is not codified in the FMPs; therefore, development of guidelines for use of the data when setting measure would not necessarily require an FMP framework/addendum or amendment. However, if the Council and Policy Board wish to place

restrictions on how outliers are identified, modified, and considered in the management process, then an FMP framework/addendum may be necessary.

Evaluate the Pros and Cons of Using Preliminary Current Year Data

Prior to availability of improved analysis tools in 2022 (i.e., the Recreational Demand Model and the Recreational Fleet Dynamics Model),¹ Council staff typically developed projections of recreational summer flounder, scup, and black sea bass harvest late in the current year to compare against the upcoming year's recreational harvest limit (RHL). These projections typically combined preliminary current year harvest estimates through wave 4 (i.e., through August) with the proportion of harvest by wave in one or more past years.² The Monitoring Committee would review these projections and recommend revisions or an alternative methodology as appropriate. The specific data used (e.g., one or multiple previous years) varied on a case-by-case basis.

A different process has typically been used for bluefish. Historically, expected bluefish recreational harvest has been evaluated when considering a recreational to commercial transfer. Expected bluefish harvest was typically based on the previous year or a multiple year average and did not account for preliminary current year data.

These different methodologies were developed based on the recommendations of the Monitoring Committees. The FMPs do not prescribe which data should be used to develop recreational management measures, beyond requiring use of the best scientific information available. The new statistical analysis tools now available for summer flounder, scup, and black sea bass (i.e., the Recreational Demand Model and the Recreational Fleet Dynamics Model) do not require use of the preliminary current year data. However, they could consider these data if appropriate.

The Council and Policy Board previously indicated a desire to evaluate the appropriateness of using preliminary current year data when setting measures for the upcoming year. If there is a desire to establish guidelines on which data to use, this could be considered through a technical guidance document. However, if the Council and Policy Board wish to place restrictions on the use of certain types of data (e.g., preliminary current year data), then an FMP framework/addendum may be necessary.

Develop Guidelines for Maintaining Status Quo Recreational Management Measures

The Council and Policy Board previously indicated a desire to consider standardized guidelines for comparing both recreational harvest data (all considerations described above related to outliers and preliminary data could apply) and multiple stock status metrics (e.g., biomass, fishing mortality, recruitment) when deciding if measures should remain unchanged. For example, poor or declining stock status indicators could require changes when status quo would otherwise be preferred. This topic was considered through several alternatives in the

¹ For more information, see the Tab 5 briefing materials available at <https://www.mafmc.org/briefing/december-2022>. These models are not currently available for bluefish.

² In December 2020, MRIP announced new standards related to the dissemination of recreational catch and harvest estimates. Starting in early 2023, instead of publishing wave-level estimates, the estimates will be published as cumulative estimates every two months. Wave-level estimates will continue to be available by request; therefore, this may not require a change to how the Monitoring Committee has typically projected current year harvest for summer flounder, scup, and black sea bass; however, it would require additional steps to obtain wave-level data. More information is available at <https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-establishes-recreational-fishing-survey-and-data-standards>.

Recreational Harvest Control Rule Framework/Addenda and is partially incorporated into the Percent Change Approach which was selected for implementation through that action.

The idea behind this concept was to establish a pre-determined, standardized checklist of metrics to evaluate when determining if recreational management measures can remain unchanged, should be more restrictive, or can be liberalized. For example, if projected harvest falls within a pre-defined range above or below the next year's RHL, if recruitment and biomass trends are stable or increasing, if fishing mortality trends are stable or decreasing, and if fishing effort trends are stable or decreasing, then status quo measures could be justified. Alternatively, if projected harvest exceeds a pre-determined range above and below the RHL, if recruitment or biomass trends are declining, if fishing mortality is above the target level, or if fishing effort shows increasing trends, then more restrictive management measures may be needed. Decisions related to future management measures would be more complicated when these indicators show a mix of positive and negative signals. Therefore, it may be desirable for the Monitoring and Technical Committees to maintain the discretion to deviate from the pre-determined guidelines based on annual considerations.

As previously noted, the FMPs do not prescribe which data should be used to develop recreational measures, beyond requiring use of the best scientific information available. If the Council and Policy Board wish to adopt guidelines on how to evaluate the available data, then this could be considered through a technical guidance document. However, if the Council and Policy Board wish to establish requirements, this would require a framework/addendum or amendment.

Recreational Sector Separation and Catch Accounting Amendment

Recreational Sector Separation

Recreational sector separation would entail managing the for-hire components of the recreational fisheries separately from anglers fishing on private or rental boats and from shore. This could be considered through either separate allocations to the for-hire sector and private anglers (including anglers fishing from private or rental boats and from shore), or as separate management measures for the two recreational sectors without a fully separate allocation, as summarized below.

Sub-Allocation of the Recreational Annual Catch Limit or RHL

The Council and Policy Board could consider options to specify within the FMP a percentage allocation to the for-hire sector. This allocation could be a percentage of either the ABC, the recreational annual catch limit (ACL), or the RHL. There are several potential ways to create a separate allocation as described below and illustrated in Figure 1. The differences between some options are nuanced, and the pros and cons of each approach should be further explored.

- A. Current FMPs:** The ABC is allocated into a recreational ACL and a commercial ACL for all four species. Projected recreational discards are removed from the recreational annual catch targets (ACTs) to derive the RHLs. Both the private and for-hire recreational sectors are held to a single combined recreational ACL, recreational ACT, and RHL. Evaluation of potential overages, and consequences for those overages, are considered for all recreational modes combined.
- B. Separate ACLs:** Under this approach, the ABC would be allocated three ways: into a private recreational ACL, a for-hire recreational ACL, and a commercial ACL.

- C. Recreational Sub-ACLs:** Under this approach, the ABC would remain divided into the recreational ACL and commercial ACL. The recreational ACL would be further allocated into private and for-hire sub-ACLs.
- D. Separate RHLs:** Under this approach, the private and for-hire sectors would remain managed under a single recreational ACL. Separate RHLs would be developed for each sector for the purposes of determining management measures. This approach would include separate management of harvest only as dead discards are not included in RHLs and would be accounted for at the ACL level. Separation at the RHL level does not represent full separation and would need to include joint accountability to a combined recreational ACL.

Note that any approach creating separate ACLs or sub-ACLs would require the development of corresponding separate AMs.

For all approaches listed above, consideration would need to be given to the data and methods to use, including:

- How to use MRIP and/or VTR data in the allocations;
- Whether to allocate using catch (landings and dead discards) or harvest (related to the question of whether to allocate at the ACL or RHL level);
- Whether to allocate in numbers of fish or pounds;
- The base years or other method of evaluating this recreational sector data.

Many scoping comments on the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment expressed an interest in sector separation to make better use of for-hire VTR data, which some stakeholders perceive as being more accurate than the MRIP for-hire estimates. Vessels with federal for-hire permits are required to submit VTRs for every trip. However, there are also concerns about the accuracy of self-reported VTR data. In addition, VTR data include estimates of numbers of fish, but not weight of fish, so incorporating VTR data into allocations would require either establishing allocations in numbers of fish, developing a method to estimate weights of harvested and discarded fish from the numbers reported on VTRs, or adding a required data field for weight to VTRs.

Most states do not require state-only permitted vessels to submit VTRs. Therefore, data from for-hire vessels without federal permits would be missing if VTRs were used to determine for-hire allocations. Data from some state-specific VTR programs (e.g., New York) are incorporated into the MRIP estimates of for-hire effort; however, they are not incorporated into the MRIP estimates of catch as they have not been validated.

Uncertainty in the MRIP data increases as it is broken down by wave, state, and mode. Therefore, the Council and Board would need to consider whether the benefits of sector separation outweigh the drawback of increased uncertainty when using mode-specific data to set and evaluate catch limits, harvest limits, and/or recreational measures. Considerations related to identifying and smoothing outlier MRIP estimates, as described earlier in this document, could also apply to this topic.

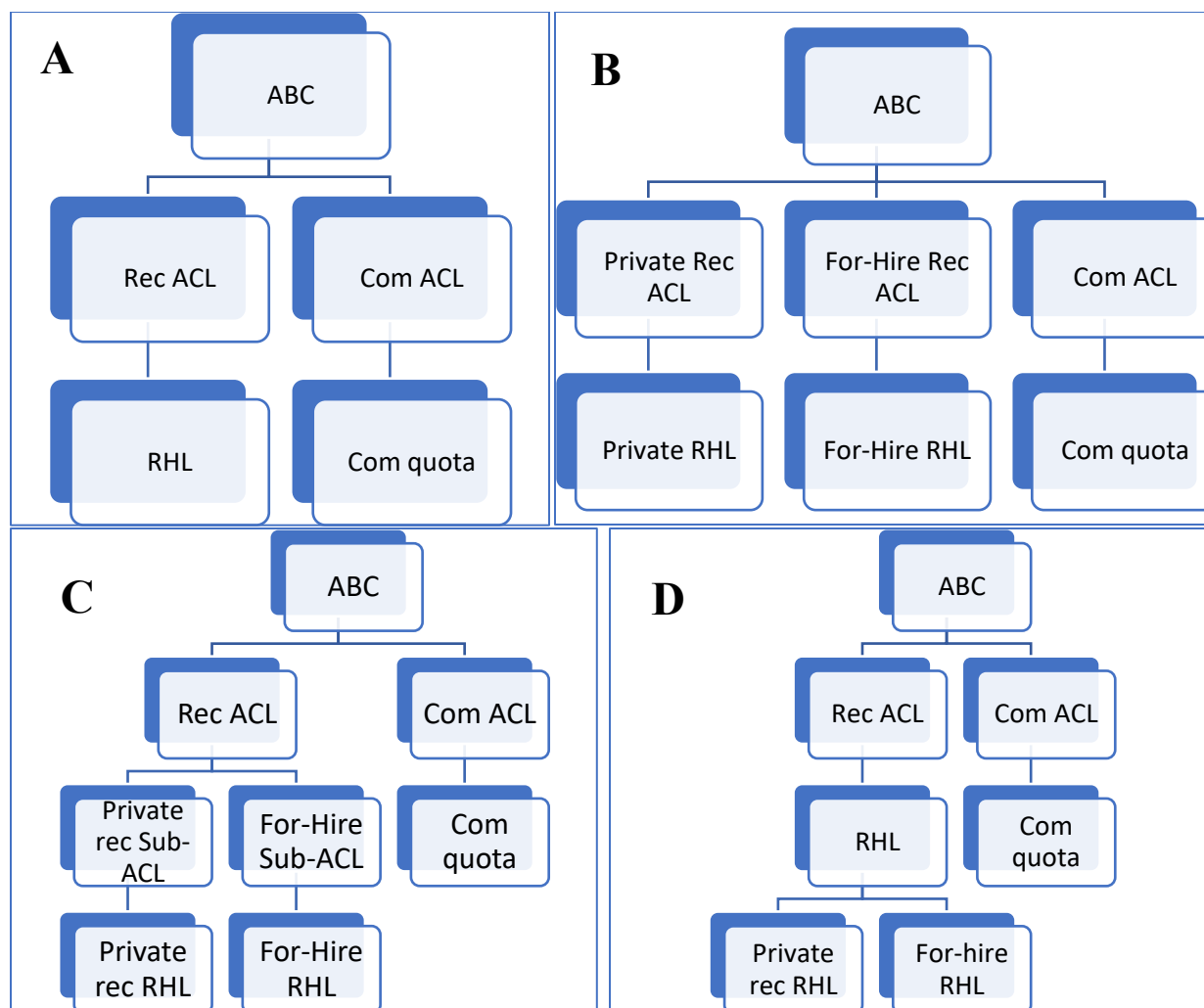


Figure 1: Conceptual flowcharts of potential recreational sector separation configurations including A) status quo, B) separate ACL allocations, C) sub-ACL allocations, and D) separate RHLs.

Separate Management Measures for For-Hire vs. Private/Rental and Shore Modes Without Separate Allocations

Rather than creating a separate allocation for the for-hire sector, a degree of sector separation could be achieved by setting different management measures to account for the differing priorities and data for for-hire vs. private anglers (including the private/rental and shore modes).

Separate management measures by recreational sector are currently used in the bluefish fishery in federal and state waters and in some state waters for scup and black sea bass.

It could be beneficial to develop a policy for how sector-specific measures should be developed, how accountability should be evaluated, and how adjustments would be applied to both recreational sectors. Such a policy could clarify the process for stakeholders and managers, reducing process uncertainty and increasing transparency when setting recreational measures.

Creating a policy for separate measures for for-hire vs private anglers does not require an amendment. This could possibly be done through specifications, or if not, through a

framework/addendum. If separate allocations were created (see previous section), describing the process for setting separate recreational measures may be an inherent part of that option.

Recreational Catch Accounting

The theme of improved recreational catch accounting was prominent in many scoping comments for the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment. Examples of changes recommended through scoping are listed below. The intent behind these recommendations is to reduce uncertainty in the recreational data. It is worth noting that MRIP is currently considered the best scientific information available for the recreational fisheries and will continue to be used for stock assessments and catch limit evaluations for the foreseeable future. MRIP is a national-level program and the Council and Commission have a very limited ability to influence changes to the MRIP estimates.

- **Private angler reporting:** Private angler reporting has been explored in specific fisheries in other regions, and as of August 2020 is required for blueline and golden tilefish north of the North Carolina/Virginia border. The Council and Policy Board should consider the feasibility of private angler reporting for summer flounder, scup, black sea bass, and bluefish given that these fisheries take place in state and federal waters, from shore and from private and for-hire vessels, and that there are millions of directed trips per year for each species (e.g., an estimated 8.7 million angler trips for which summer flounder was the primary target, 2.7 million for which scup was the primary target, 1.4 million for which black sea bass was the primary target, and 5.3 million for which bluefish was the primary target in 2019). Given the scale of these recreational fisheries, mandatory private angler reporting may be a challenge to implement. Thorough consideration should be given to the potential levels of non-compliance and how this may impact the resulting data. Lessons learned from other private angler reporting programs should be evaluated and considered.
- **Tagging programs:** A few scoping comments suggested that anglers be issued tags for a specific number of fish each year. Tagging programs are used in some recreational fisheries, but they may be more appropriate for species with much lower harvest levels than summer flounder, scup, black sea bass, and bluefish. Consideration should be given to the pros and cons of moving forward with this approach compared to a traditional possession limit, especially considering the millions of targeted recreational trips for these species. Ensuring that the program is fair and equitable is a challenge. For example, consideration would need to be given to how many tags can be issued, who receives tags, how they are distributed, and how the program is administered.
- **Mandatory tournament reporting:** A few scoping comments recommended mandatory catch reporting for recreational fishing tournaments. Others have questioned the value of mandatory reporting for tournaments given that tournament catch likely constitutes a very small percentage of total recreational catch. An evaluation of catch of these four species in tournaments has not been performed and may be complicated by the lack of a centralized list of tournaments which would catch these species. Tournament catch of these species is included in the MRIP estimates, but is not specifically designated as tournament catch.
- **Enhanced VTR requirements:** A few scoping comments recommended additional VTR requirements, such as requiring VTRs for for-hire vessels that do not have federal permits

and reinstating “did not fish” reports for federal permit holders to better understand fishing effort.