



Draft *De Minimis* Policy

November 2022

De minimis Guiding Documents



- *Definition: De minimis – A situation in which, under existing conditions of the stock and the scope of the fishery, conservation and enforcement actions taken by an individual state would be expected to contribute insignificantly to a coastwide conservation program required by an FMP or amendment.*
- *FMP Provisions: ... and provided that each fishery management plan shall address the extent to which States meeting de minimis criteria may be exempted from specific management requirements of the fishery management plan to the extent that action by the particular States to implement and enforce the plan is not necessary for attainment of the fishery management plan's objectives and the conservation of the fishery.*

Draft Policy



- Draft Policy outlines a set standards for all species FMPs
- Species Boards could deviate from the standards to address unique characteristics of a fishery
 - Must provide a rational
- Federal FMPs do not recognize *de minimis*, any measure implemented in a Commission FMP for a jointly managed species could result in inconsistent measures between state and federal waters

Draft Policy



- Policy do not automatically change provisions of species FMPs
- Addenda or Amendments would need to be completed

Minimum Standards



- Each FMP will establish a set of minimum standards for *de minimis* states
 - provide minimum level of conservation
 - prevent regulatory loop holes
- Measures would be for the commercial and recreational fishery, can be the same or specific for each
- Review standard measures after benchmark assessments

Fishery Designation



- How to apply *de minimis* to the commercial and recreational fishery
- Provision considered separately for commercial and recreational or combined
- If there is no coastwide commercial or recreational fishery then board can clarify there is no significant fishery; therefore a designation for the sector would not be necessary

Thresholds



- Thresholds will be based on the average landings from the previous 3 years of landings
- A state is de minimis if the average landings is less than 1% of the coastwide landings

Sampling Requirements



- *De minimis* states can be exempt from sampling requirements
 - Biological samples for outer edge states may be important for stock assessments
 - Biological samples for data poor stock assessments may be important
- Species boards shall have the stock assessment subcommittee or TC review sampling requirements for *de minimis* states to determine the appropriate level, if any



**Report to the Atlantic States Marine Fisheries
Commission**

**ISFMP Policy Board
November 10th, 2022**

Steering Committee Meeting



Met November 8-10, 2022

- Discussed plans for transition
- Presentation from TNC on funded projects
- Strategic and Action Planning
- New members: Robert Atwood (NH), Eric Schneider (RI)

FY2024 NFHP/ACFHP RFP Open



- Closes Jan. 20th, 2023
- Fish habitat conservation projects (any phase)
- No upper limit on funding request
- Must have 1:1 non-federal match (Tribes exempted)
- Similar requirements to previous year
- www.atlanticfishhabitat.org



**ACFHP would like to
thank ASMFC for your
continued operational
support**



Habitat Committee Report

Presented to ASMFC Policy Board
November 10th, 2022

Habitat Committee Meeting



- Met November 7th, 2022
- Update on Acoustic Impacts HMS, Habitat Hotline, Fish Habitats of Concern
- Presentation on aquaculture updates from NOAA GARFO and NE/MA Councils
- Presentation on Northeast Regional Habitat Assessment Data Explorer

Habitat Committee Meeting



- New members: Robert Atwood (NH), Forrest Vanderbilt (USGS)
- New chair: Russ Babb (NJ)
- New vice chair: Kate Wilke (TNC)

Fish Habitats of Concern



- Habitat Committee drafted FHOC designations for all Commission-only managed species, plus Atlantic sturgeon
 - Eventually Atl. sturgeon management will go back to Commission
 - Those jointly managed with Councils have EFH and HAPC designations
- Some species designations are specific, others less so
 - Due to species characteristics and data availability
 - Did not want to just describe all habitat – used HAPC guidelines in designations

Fish Habitats of Concern



- Considered current Commission documents (FMPs, species habitat factsheets, HMS publications, etc.)
- Considered current literature
- Draft designations shared with Technical Committees for edits
- Draft in briefing materials
- Highlight three species: lobster, sturgeon, spot

American Lobster



- Southern New England waters due to thermal stress
- Currently GoM is still within optimal temperature, but is warming so could warrant designation in the future
- Gravel, cobble, boulder, and embedded rock for YOY, juvenile, and adult life stages. Should be protected from coastal development.
- Offshore and nearshore shoal areas for egg-bearing females: Grand Manan, CAN; Monhegan Island, ME; Isles of Shoals, ME/NH; Georges Bank.

Atlantic Sturgeon



- NMFS Critical Habitat (CH) designations for the five discrete population segments.
- Finer scale information since CH designations in 2017 for Hudson (NY) and York (VA) River populations, and info is being gathered for NC rivers.
- In 2017: NMFS indicated not enough data to designate estuarine or offshore habitats

Atlantic Sturgeon



- HC believes sufficient justification and data exist to designate FHOCs where fishery-independent sampling has persistently shown juveniles to be present.
- NMFS CH designations in most cases already include the estuarine portions of many rivers, but we believe additional estuarine areas further downstream merit FHOC status, based on persistent and documented presence of juvenile sturgeon and their importance as a migratory pathway.

Atlantic Sturgeon



- FHOC recommendations:
 - Long Island Sound
 - Rockaways and Sandy Hook in spring and fall
 - Delaware Bay
 - Chesapeake Bay, including Nanticoke River-Marshyhope Creek Estuary
 - Western Albemarle Sound
 - Pamlico Sound
 - Winyah Bay
 - “Hot spots” once specific locations are identified (likely nearshore Atlantic Ocean off NC and VA)

Spot



- For larvae: brackish and saltwater marsh, SAV in mesohaline and polyhaline waters
- For juveniles from DE to FL: low salinity bays and tidal marsh creeks with mud and detrital bottoms that contain their epifaunal and infaunal prey. SAV in Chesapeake Bay and NC.
- For YOY in early spring: seagrass habitats
- For adults: tidal creeks and estuarine bays with mud and detrital substrates which support abundant prey.
- Bottom-tending fishing gear may impact spot FHOCs.

Fish Habitats of Concern



- Welcome approval of the document now, or taking additional time to review for edits and voting at the winter meeting.
- Welcome edits, questions, and feedback on these designations.