

Atlantic States Marine Fisheries Commission

CONSERVATION EQUIVALENCY: Policy and Technical Guidance Document



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Introduction

The purpose of this document is to provide policy and technical guidance on the application of conservation equivalency in interstate fisheries management programs developed by the Atlantic States Marine Fisheries Commission. The document provides specific guidance on development, submission, review and approval of conservation equivalency proposals.

Background

The Atlantic States Marine Fisheries Commission (ASMFC) employs the concept of conservation equivalency in a number of interstate fishery management programs.

Conservation equivalency allows states/jurisdictions (hereafter states) flexibility to develop alternative regulations that address specific state or regional differences while still achieving the goals and objectives of Interstate Fishery Management Plans (IFMPs). Allowing states to tailor their management programs in this way avoids the difficult task of developing one-size-fits-all management measures while still achieving equivalent conservation benefits to the resource.

Conservation equivalency is currently defined in the Interstate Fisheries Management Program (IFMP) Charter as:

“Actions taken by a state which differ from the specific requirements of the IFMP, but which achieve the same quantified level of conservation for the resource under management. One example can be, various combinations of size limits, gear restrictions, and season length can be demonstrated to achieve the same targeted level of fishing mortality. The appropriate Management Board/Section will determine conservation equivalency.” The application of conservation equivalency is described in the document Conservation Equivalency Policy and Technical Guidance Document

In practice, the ASMFC frequently uses the term “conservation equivalency” in different ways depending on the language included in the plan. Due to concerns over the lack of guidance on the use of conservation equivalency and the lack of consistency between fishery management programs, the IFMP Policy Board approved a policy guidance document on conservation equivalency in 2004. Since 2004, some of the practices of the Commission regarding conservation equivalency have changed. The revisions to this document reflect current Commission practice.

General Policy Guidance

The use of conservation equivalency is an integral part of the Commission management process. Conservation equivalency is used in 2 ways: (1) in the development of the IFMP (including implementation plans) and (2) as alternative management programs outside of the IFMP process.

During the development of a management document the Plan Development Team (PDT) should recommend if conservation equivalency should be permitted for that species. The board should provide a specific determination if conservation equivalency is an approved option for the

fishery management plan, since conservation equivalency may not be appropriate or necessary for all management programs. The PDT should consider stock status, stock structure, data availability, range of the species, socio-economic information, and the potential for more conservative management when stocks are overfished or overfishing is occurring when making a recommendation on conservation equivalency. During the approval of a management document the Board will make the final decision on the inclusion of conservation equivalency.

If conservation equivalency is determined to be appropriate, the conservation equivalency process should be clearly defined and specific guidance should be supplied in the fishery management documents. Each of the new fishery management plans, amendments, or addenda should include the details of the conservation equivalency program. The guidance should include, at a minimum, a list of management measures that can be modified through conservation equivalency, evaluation criteria, review process, and monitoring requirements. If possible, tables including the alternative management measures should be developed and included in the management documents. The development of the specific guidance is critical to the public understanding and the consistency of conservation equivalency implementation.

Conservation equivalency proposals and Board approval are not required when states adopt a single more restrictive measure than those required in the FMP (e.g., higher minimum size, lower bag limit, lower quota, lower trip limit, closed or shorter seasons). These changes to the management program should be included in a state's annual compliance report or state implementation plan. If states intend to change more than one regulation where one is more restrictive but the other is less restrictive, even if the combined impact is more restrictive, states must submit a conservation equivalency proposal due to unexpected consequences that may arise (e.g., a larger minimum size limit could increase discards).

The states have the responsibility of developing conservation equivalency proposals for submission to the Plan Review Team (see standards detailed below). Upon receiving a conservation equivalency proposal the PRT will initiate a formal review process as detailed in this guidance document. The state submitting the conservation equivalency proposal has the obligation to ensure proposed measures are enforceable. If the PRT has a concern regarding the enforceability of a proposed measure it can task the Law Enforcement Committee with reviewing the proposal. Upon approval of a conservation equivalency proposal, the implementation of the program becomes a compliance requirement for the state. Each of the approved programs should be described and evaluated in the annual compliance review and included in annual FMP Reviews.

The management programs should place a limit on the length of time that a conservation equivalency program can remain in place without re-approval by the Board. Some approved management programs may require additional data to evaluate effects of the management measures. The burden of collecting the data falls on the state that has implemented such a conservation equivalency program. Approval of a conservation equivalency program may be terminated if the state is not completing the necessary monitoring to evaluate the effects of the program.

The Plan Review Team (PRT) will serve as the “clearing house” for approval of conservation equivalency proposals. All proposals will be submitted to the PRT for review. The PRT will collect all necessary input from the technical committee, Law Enforcement Committee, Committee on Economics and Social Sciences and the Advisory Panel. The PRT will compile input from all of the groups and forward a recommendation to the management board.

Standards for state conservation equivalency proposals

Each state that is seeking to implement a conservation equivalency program must submit a proposal for review and approval. Proposals that include an excessive number of options may delay timely review by the PRT and other groups and may ultimately delay the report to the Board. The states should limit the number of options included in a proposal or prioritize the options for review.

State conservation equivalency proposals should contain the following information:

1. Rationale: Why or how an alternate management program is needed in the state. Rationale may include, but are not limited to, socio-economic grounds, fish distribution considerations, size of fish in state waters, interactions with other fisheries, protected resource issues and enforcement efficiency.
2. Description of how the alternative management program meets all relevant FMP objectives and management measures (FMP standards, targets, and reference points). States are responsible for supplying adequate detail and analysis to confirm conservation equivalency based on the most recent stock assessment.
3. A description of:
 - Available datasets used in the analysis and data collection method, including sample size and coefficient of variation.
 - Limitations of data and any data aggregation or pooling.
 - The Technical Committee (TC) should determine an acceptable level of precision for all landings data and develop data standards for other data types used. States may request (but are not required) this information prior to the submission of their proposal. (Any analyses that do not meet approved precision standards should conduct sensitivity analyses to determine the effects of the data uncertainty)
 - The length of time the state is requesting conservation equivalency and a review schedule for the length of the program. If the state does not intend to have an expiration date for the program it should be clearly stated in the proposal with justification. Proposals should identify the length of time measures are intended to be in place and the timing of the review of the specific measures.

4. Each proposal must justify any deviations from the conservation equivalency procedures detailed in the FMP. The state should conduct analyses to compare new procedures to procedures included in the plan, as appropriate, including corroborative information where available.
5. Include a plan describing the monitoring schedule, reporting requirements and documentation process of evaluating the impacts of the conservation equivalency measures.

Review Process

Implementation of new amendments/FMPs should include timelines and a review process for conservation equivalency proposals. However, the review process and timeline needs to be established for all conservation equivalency proposals that are submitted outside of the implementation of a new management document.

The following is a list of the steps and timelines for review and approval of conservation equivalency proposals. Any deviations from the following process should be included in the FMP.

1. Conservation equivalency should be approved by the Management Board and where possible implemented at the beginning of the fishing year.
2. If a state is submitting a proposal outside of an implementation plan process, it must provide the proposal two months in advance of the next board meeting to allow committees sufficient time to review the proposal and to allow states to respond to any requests for additional data or analyses. States may submit conservation equivalency proposals less than two months in advance of the next board meeting, but the review and approval at the upcoming board meeting is at the discretion of the Species Management Board Chair. Proposals submitted less than two weeks before a meeting will not be considered for approval at that meeting. The board chair will submit proposal to the Plan Review Team (PRT) for review.
3. The PRT should notify the state that the proposal is complete.
4. Upon receipt of the proposal, the PRT will determine what additional input will be needed from: the Technical Committee (TC), Law Enforcement Committee (LEC), and Committee on Economic and Social Sciences (CESS). The PRT will distribute the proposal to all necessary committees for comment. The review should include a description of the impacts on or from adjoining jurisdictions or other management entities (Councils and/or NMFS). If possible this description should include qualitative descriptions addressing enforcement, socio-economic issues and expectations from other states perspective (shifts in effort). The review should highlight efforts to make regulations consistent across waterbodies.

5. The PRT will compile all of the input and forward the proposal and comments to the Advisory Panel when possible. However, when there are time limitations, the AP may be asked for comments on a proposal prior to completion of other committee reviews. The Chair of the Advisory Panel (AP) will compile the AP Comments and provide a report to the Management Board.
6. The PRT will forward to the Board the proposal and all committee reviews, including any minority reports. The PRT will provide comment on whether the proposal is or is not equivalent to the standards within the FMP. If possible the PRT should identify potential cumulative effects of all conservation equivalency plans under individual FMPs (e.g. impacts on stock parameters).
7. The PRT reviews should address whether a state's proposal followed the CE standards outlined in this policy, and any additional specifications included in the FMP.
8. The Board will decide whether to approve the conservation equivalency proposal and will set an implementation date, taking into account the requested implementation date in the proposal. Board action should be based on the PRT recommendation as well as other factors such as impacts to adjoining states and federal management programs. When a board cannot meet in a timely manner and at the discretion of the board and Commission Chair, the boards have the option to have the ISFMP Policy Board approve the conservation equivalency plan.

Plan Review Following Approval and Implementation

1. Annually thereafter, states should describe and evaluate the approved conservation equivalency programs in their compliance reports submitted for annual FMP Reviews.
2. The PRT is responsible for evaluating all conservation equivalency programs during annual FMP reviews to determine if the conditions and goals of the FMP are maintained, unless a different timeline was established through board approval. If the state is not completing the necessary monitoring to evaluate their approved conservation equivalency program, this may be grounds for termination of the plan. The PRT will report to the Board on the performance of the conservation equivalency program, and can make recommendations to the Board if changes are deemed necessary.

Coordination Guidance

The Commission's interstate management program has a number of joint or complementary management programs with NOAA Fisheries, US Fish and Wildlife Service and the Fishery Management Councils. Conservation equivalency creates additional burden on the Commission to coordinate with our federal fishery management partners. To facilitate cooperation among partners, the Commission should observe the following considerations.

- The Commission's FMPs may include recommendations to NOAA Fisheries for complementary EEZ regulations. Conservation equivalency measures may alter some of the recommendations contained in the FMPs, which would require the Commission notify NOAA Fisheries of any changes. The Commission needs to consider the length of time that it will take for regulations to be implemented in the EEZ and try to minimize the frequency of requests to the federal government.
- The protocol for NOAA fisheries implementing changes varies for the different species managed by the Commission. The varying protocols need to be considered as conservation equivalency proposals are being developed and reviewed.
- When necessary for complementary management of the stock, the ASMFC Chair will request federal partners to consider changes to federal regulations.