



**From:** Louis Daniel <sclaeops1@gmail.com>  
**Date:** February 23, 2022 at 3:44:43 PM EST  
**To:** "Rawls, Kathy" <kathy.rawls@ncdenr.gov>  
**Cc:** "Biser, Elizabeth" <Elizabeth.Biser@ncdenr.gov>, "Lane, Bill F" <Bill.Lane@ncdenr.gov>, Tim Gestwicki <tim@ncwf.org>, Louis Daniel <sclaeops1@gmail.com>  
**Subject:** [External] Re: Southern Flounder meeting

Dear Kat,

Thank you for your response to our letter. From your explanation, and reference to the Sustainable Harvest definition in GS 113-182.1, it appears that you are interpreting Sustainable Harvest to be the not overfished condition that corresponds to the 25% SPR.

The legislative action that changed the MSY/OY targets of the original FRA 1997 to Sustainable Harvest was done during the

Ross administration. Elizabeth may remember that. We argued to the GA that a specific definition of Sustainable Harvest would be virtually impossible because of all the different species and life history characteristics inherent in marine fisheries.

As a result, it was determined that Sustainable Harvest would be determined based on various life history traits and adopted by the MFC with a threshold to define the overfished condition and a management target at a higher biomass level.

Since then, FMPs have established target and threshold values to achieve sustainable harvest. It has never been interpreted, from my experience, that simply not being overfished (achieving the threshold), met the statutory definition of Sustainable Harvest. The statute says that sustainable harvest provides a biomass that would prevent the fishery from becoming overfished. Not that not being overfished meets the statutory definition.

In the case of southern flounder, the stock is severely overfished. The goal of the plan has always, presumably, been to reach the target of 35% SPR in order to provide a conservation buffer to ensure that the stock does not fall back below the overfished, threshold level.

Sustainable harvest, as you point out, is the target. The target, however, is 35% SPR, that now requires far more than a 72% reduction to achieve as a result of significant overages in the fishery since 2019.

If Sustainable Harvest is now being interpreted as simply not being overfished, we need to know when this change was made and whether any MFC or public discussion preceded this interpretation.

There appears to be a serious disconnect between the MFC selected target and the interpretation of Sustainable Harvest. They were intended to be the same thing, now they are very different.

**Does the State define Sustainable Harvest as achieving the overfished threshold of 25% SPR?**

Sent from my iPhone

On Feb 22, 2022, at 9:14 AM, Rawls, Kathy <kathy.rawls@ncdenr.gov> wrote:

Hey Louis – Thank you for your email and input. As you are aware, the DMF recommendation is to manage to the target 72% reduction. The goal of Amendment 3 is “to manage the southern flounder fishery to achieve a self-sustaining population that provides sustainable harvest...”.

The statute (G.S. 113-182.1 (b)(6)) speaks to sustainable harvest, but does not speak to the level required. A stock biomass level above the threshold would not be considered overfished.

Thanks again for your comments.

Kat

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**From:** Louis Daniel <[sciaenops1@gmail.com](mailto:sciaenops1@gmail.com)>  
**Sent:** Monday, February 21, 2022 9:38 AM  
**To:** Biser, Elizabeth <[Elizabeth.Biser@ncdenr.gov](mailto:Elizabeth.Biser@ncdenr.gov)>; Lane, Bill F <[Bill.Lane@ncdenr.gov](mailto:Bill.Lane@ncdenr.gov)>; Rawls, Kathy <[kathy.rawls@ncdenr.gov](mailto:kathy.rawls@ncdenr.gov)>  
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**Subject:** [External] Re: Southern Flounder meeting

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Good Morning,

I am resending our letter, below, that requested clarification on the goal of the Flounder FMP Amendment 3. As you know, the MFC meets this week to decide management actions and we have gotten no response to our letter. MFC members and fisheries scientists we have talked with are as confounded as we are with the apparent position that the threshold is the target for management and we are concerned that this confusion could delay action or result in risk prone management actions. A recent article in Fisheries Research by Ault et al., 2022 emphasizes the importance of setting more precautionary target measures to achieve sustainability. The current position that the threshold biomass is the management target is contrary to the peer-reviewed literature.

If you all have a recommendation on how we could better approach this issue and get an answer prior to the MFC meeting we would appreciate the advice.

Thanks in advance for your reply,

Louis Sent from my iPad

On Feb 9, 2022, at 1:05 PM, Louis Daniel <[sciaenops1@gmail.com](mailto:sciaenops1@gmail.com)> wrote:

Dear Elizabeth and Kat,

The purpose of this message is to let you know that Steve Poland, Mike Loeffler, and I had a very good discussion regarding issues related to the southern flounder plan. The discussion was cordial and professional and a good start to better communication. One specific issue came up that needs to be clarified as quickly as possible.

The statutory requirement and goal of an FMP in the case of overfished stocks like southern flounder, is to rebuild the stock to a recommended, sustainable target. NCGS 113-182.1 states that a plan must achieve a sustainable harvest within 10 years of adoption of the plan. Amendment 2, however, is contrary and states that the goal of the plan is to end the overfished condition. The statute is silent on ending the overfished state, an expected step towards the goal of rebuilding to sustainable harvest.

Amendment 3 states that 62% and 72% reductions in Amendment 2 were *"more conservative than the 52% reductions that were required"*. Here is where we have a critical difference of opinion.

The PowerPoint presentation given to the MFC at their November 2021 meeting states that a minimum of 52% reduction is required to rebuild. This statement is inconsistent with the statute by suggesting that the threshold is the goal of the plan, and explains the disconnect between our comments stating that a 72% reduction is needed to achieve the sustainable target while DMF states that a 52% reduction is sufficient.

The minimum threshold is simply the measure of whether the stock is overfished, or not, based on the selected, sustainable target. The sustainable target provides an abundance buffer that the minimum threshold does not and provides for a margin of error.

On page 68 of Amendment 3, the document states that an F rate *"that falls between the identified threshold and target meets the statutory requirements"*. We disagree.

We believe that the statutorily mandated target or goal of the FMP is the management selected target of 35% SSB and requires a minimum 72% reduction. The 52% reduction, deemed appropriate by Amendment 3, is insufficient, risk prone, and inconsistent with the statute.

By having a target at the threshold, any variability in environmental factors or year class strength to the negative will drop the fishery back into an overfished state. The approved Sustainable Harvest target of 35% SSB properly recognizes and allows for that variability and greatly reduces the management ramifications of a future determination of overfished or overfishing.

From our review, this interpretation by DMF is inconsistent with NC statutes, federal Council and ASMFC plans and best management practices. Amendment 2, page 6, states that a 51% reduction is not enough to end the overfished status. We agree. Amendment 2 also states that *"a 72% reduction in total removals is necessary to allow the SSB to increase to the target within the required 10-year time period"*. We agree, yet the management recommendations in the Decision Document are contrary.

A disconnect in the goal within the plan is a first order problem. It is critical that this issue be resolved prior to the MFC taking final action.

If you have any questions or would like to discuss our concerns, please let me know. We would greatly appreciate a response as soon as possible.

Thank you,  
Louis

Sent from my iPhone