

Atlantic States Marine Fisheries Commission

**ADDENDUM XXVIII TO THE SUMMER FLOUNDER, SCUP, BLACK SEA BASS
FISHERY MANAGEMENT PLAN**

Summer Flounder Recreational Management in 2017



Approved February 2, 2017

Sustainably Managing Atlantic Coastal Fisheries

1.0 Introduction

Addendum XXVIII is adopted under the adaptive management/framework procedures of Amendment 12 and Framework 2 that are a part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Summer flounder, scup, and black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles), and through the Mid-Atlantic Fishery Management Council (Council) and the NOAA Fisheries in federal waters (3-200 miles). The management unit for summer flounder in US waters is the western Atlantic Ocean from the southern border of North Carolina northward to the US-Canadian border.

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on October 25, 2016:

Move to initiate an addendum to consider adaptive management, including regional approaches, for the 2017 summer flounder recreational fishery.

This Addendum establishes management of the 2017 recreational summer flounder fishery.

2.0 Overview

2.1 Statement of the Problem

A fundamental goal of Commission FMPs is to provide recreational anglers with fair and equitable access to shared fishery resources throughout the range of each managed species. The Commission's ISFMP Charter establishes fairness and equity as guiding principles for the conservation and management programs set forth in the Commission's FMPs. While the current FMP for summer flounder does not include a goal pertaining to this concept, the Board and Council are considering a new goal for inclusion in the forthcoming Comprehensive Summer Flounder Amendment: "Provide reasonable access to the fishery throughout the management unit." With these principles and goals in mind, the challenges facing the Board (and Council) involve determining what is meant by fair/equitable/reasonable access, and how to achieve it.

Complicating the access issue for 2017 is the significant reduction to the coastwide recreational harvest limit (RHL) set by the Board and Council in August 2016 in response to the most recent Stock Assessment Update. The 2017 RHL is 3.77 million pounds, an all-time low. By way of comparison, the RHL for 2017 is approximately 30% less than 2016, 48% less than 2015, and 68% less than 2011, when it peaked at 11.68 million pounds. Using a projected recreational harvest in 2016 of 6.38 million pounds (subject to change), harvest in 2017 must be reduced by roughly 2.6 million pounds to not exceed the 2017 RHL.

This Addendum addresses the issue that available management approaches are not viewed as providing a fair and reasonable way to constrain the 2017 recreational summer flounder fishery harvest to the RHL. The Board recognizes the management program within this addendum will also

have shortcomings with regards to addressing this problem, and thus intends for it to be an interim program while focusing on the development of a more comprehensive solution for the future.

2.2 Background

Amendment 2 (1993) initially required each state (Massachusetts through North Carolina) to adopt the same minimum size, possession limit, and season length as established in federal waters for the recreational fishery, allowing only for different timing of open seasons. The consistent measures were intended to uniformly impact the resource and stakeholders in all state and federal waters throughout the management unit. However, the states later determined one set of management measures applied coastwide did not provide equitable access to the resource due to the significant geographic differences in summer flounder abundance and size composition.

To address this disparity, the FMP was amended in 2001 (Framework Adjustment 2) to allow for the use of state-specific “conservation equivalent” management, through which recreational harvest would be constrained the same as under coastwide management. The Board and Council would engage in an annual process of determining whether to manage the fishery with coastwide measures or state-specific conservation equivalency; if the latter, the Board would have the lead in approving state-specific regulations. Concurrently, the Board adopted a series of addenda (Addenda III and IV in 2001, and Addendum VIII in 2004) implementing state-based conservation equivalency. Estimates of state recreational landings in 1998 were established as the basis for state recreational allocations- this is outlined in Addendum VIII (see Table 1) upon which state-by-state regulations could be developed. From 2001-2013, the Board and Council opted to use state-specific conservation equivalency tied to the proportion of each state’s estimated 1998 recreational landings. This provided states with the flexibility to tailor their regulations—i.e., minimum size, possession, and season limits—to meet the needs and interests of their fishery, provided their targets were not exceeded.

Table 1. State summer flounder harvest in 1998 and the proportion of harvest conservation equivalency state-by-state harvest targets are based on (Addendum VIII)

State	1998 estimated harvest (thousands)	Percent of the 1998 harvest
MA	383	5.5%
RI	395	5.7%
CT	261	3.7%
NY	1,230	17.6%
NJ	2,728	39.1%
DE	219	3.1%
MD	206	3.0%
VA	1,165	16.7%
NC	391	5.6%

The Board also adopted Addendum XVII in 2005, enabling the states to voluntarily opt into multi-state regions that would set regulations based on a pooling of their 1998-based allocations. The Council followed suit with the adoption of Framework Adjustment 6 in 2006, complementing the regional approach set forth by Addendum XVII. However, no states used this optional regional conservation equivalency approach.

Re-assessing in the Face of Changing Conditions:

The use of state-by-state regulations based on estimated state harvests in 1998 succeeded, initially, in mitigating the disparity in conservation burden among states, but later became viewed as an inadequate long-term solution, given changes in resource status and fishery performance.

As 2013 came to an end, the Board identified the following problems with the use of state allocations based on estimates of recreational harvest in 1998:

- 1) Substantial variation in stock dynamics since 1998. These included a six-fold increase in spawning stock biomass and expansion of the age structure from including 2–3 age classes to 7 or more. These changes led to geographic shifts in the distribution of the resource; as the stock rebuilt, its range expanded. Climate change was also identified as possibly contributing to shifts in migratory patterns, spatially and temporally.
- 2) Substantial changes in socio-economic patterns since 1998, particularly with regard to the number and distribution of anglers along the coast. For example, estimated angler participation increased significantly, and a growing percentage of harvest was attributed to private/rental vessels in contrast to shore-based and party/charter vessel harvest. Industry advisors indicated the rising costs of fuel, bait, and other trip expenditures were impacting angler effort.
- 3) Possible error in the estimates of harvest for 1998. Measuring recreational catch and effort, particularly on a state-by-state basis, is challenging and not without uncertainty in the estimates. The methods used to estimate recreational catch and effort are continually evolving, resulting in more accurate and precise estimates in more recent years.
- 4) Major disparities in the regulatory programs among the states; for example, as recently as 2012 and 2013, no two states had the same regulations, and several neighboring states had regulations that differed significantly. A case in point was New York, whose regulations were more restrictive than any other state, and that contrasted markedly with those of New Jersey, Connecticut, and Rhode Island.

To address these concerns, the Board adopted Addendum XXV, which implemented conservation equivalency on a regional basis for 2014. Five¹ regions were established: 1) Massachusetts; 2) Rhode Island; 3) Connecticut, New York, and New Jersey; 4) Delaware, Maryland, and Virginia; and 5) North Carolina. All states within each region were required to have the same possession limit, size limit, and season length.

¹ Initially, in February 2014, the Board established four regions, one being Massachusetts and Rhode Island combined. Subsequently, in March 2014, the Board approved a request from Massachusetts and Rhode Island to split its region into individual state regions to account for the significantly different recreational fisheries of the two states.

Although the precursors to Addendum XXV (Addendum XVII and Framework Adjustment 6) envisioned a regional approach based on regional harvest limits set as the sum of the harvest limits for all the states in each region, with accountability based on the performance of each region relative to its regional limit, Addendum XXV implemented an alternative approach. Based on analysis provided by the Board's Technical Committee, the Board focused on developing regulations for each region that would lead to projected regional harvests that would collectively achieve, but not exceed, the coastwide recreational harvest limit. The projected regional harvests did not constitute the sum of the harvest limits for all the states in each region. As such, the approach constituted a de facto reallocation of recreational harvest opportunities. Nonetheless, the Board emphasized that:

The new approach is not intended to implement new state allocations and is not intended to set a precedent for new state allocations. Under the adaptive regional approach, states would not give up their (1998-based) allocated portion of the Recreational Harvest Limit (RHL), would not be held accountable for anything other than their allocated portion of the RHL, and would retain the future opportunity (depending on what management approach is adopted for 2015) to continue managing their fisheries in accordance with their allocated portion of the RHL.

To achieve regulatory uniformity within each region, and to meet the coastwide harvest target, regulatory revisions were enacted for CT, NY, NJ, DE, and MD in 2014 (Table 7).

For 2015, the Board continued regional management, with the same regions, via Addendum XXVI. For all states, the same regulations in effect for 2014 were maintained for 2015 (Table 7).

For 2016, the Board again continued regional management via Addendum XXVII, with one adjustment to provide more equity in recreational opportunities for anglers in the Delaware Bay. That adjustment involved establishing New Jersey as a stand-alone region, with the caveat that New Jersey would enact separate management measures for the New Jersey portion of Delaware Bay, while maintaining regulations for the rest of its waters consistent with those of New York and Connecticut. New Jersey complied by enacting regulations for Delaware Bay that were closer to those of Delaware. For all other states the same regulations in effect for 2014 and 2015 were maintained for 2016 (Table 6).

Beginning 2017, the Board continues to have the same concern about disproportionate impacts among states from the use of 1998-based allocations and state-by-state management measures. A return to coastwide management measures is also unlikely to provide equitable access.

2.3 Description of the Fishery

In practice, the recreational fishery for summer flounder is managed on a "target quota" basis. A set portion (40%) of the total allowable landings is established as a recreational harvest limit (RHL), and management measures are established by the states that can reasonably be expected to constrain recreational harvest to this limit each year. It has historically been deemed impractical, because of the limitations of producing timely landing estimates, to try to manage the recreational fishery based on a real-time quota.

Over the past nine years, the coastwide landings exceeded the annual coastwide RHL three times: 2007, 2008, and 2014 (Table 2). The most recent overage in 2014 was by approximately 5% (approximately 380,000 pounds). Based on preliminary harvest estimates through August 2016, coastwide landings have already exceeded the 2016 RHL. The 2016 harvest estimates are subject to change as many states seasons remain open and data for wave 6 (November-December) are not yet available. Projected harvest through the end of 2016—based on state harvest trends in 2015—indicated the final harvest may be approximately 6.38 million pounds (Table 3).

Table 2. Coastwide Harvest Relative to Coastwide RHL: 2007-2016

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Coastwide Harvest (mil. lb)	9.34	8.15	6.03	5.11	5.96	6.49	7.36	7.39	4.72	6.38
Coastwide RHL (mil. lb)	6.68	6.21	7.16	8.59	11.58	8.49	7.63	7.01	7.38	5.42
Percent of RHL harvested	139.77%	131.25	84.22%	59.47%	51.43%	76.44%	96.40%	105.41%	63.97%	117.00%

*2016 Harvest is preliminary, through October only, and subject to change.

Table 3. Projected Coastwide Harvest for 2016 by states

State	Jan-Aug Estimate		Sep-Dec Projection		Projected Total Harvest	
	Weight	Numbers	Weight	Numbers	Weight	Numbers
MA	121,791	53,294	4,860	3,348	126,651	56,642
RI	278,682	89,988	6,927	2,833	285,610	92,821
CT	690,786	218,019	3,875	1,352	694,661	219,371
NY	2,238,513	712,643	55,118	18,164	2,293,630	730,807
NJ	1,904,113	609,878	573,966	181,181	2,478,080	791,059
DE	206,558	82,097	18,075	7,432	224,634	89,229
MD	42,574	18,537	9,123	4,538	51,697	23,075
VA	188,576	75,029	12,460	5,093	201,037	79,332
NC	16,870	9,605	12,152	7,469	29,021	17,074
Total	5,688,463	1,869,090	696,557	230,320	6,385,020	2,099,410

*September-December harvest are projected using proportion of landings by two-month wave by state in 2015.

**Total Projected Harvest is based on preliminary information and is subject to change as new information is made available.

Recreational Survey Estimates

The Marine Recreational Information Program, or MRIP, is a program under NOAA Fisheries which counts and reports marine recreational catch and effort. MRIP is driven by data provided by anglers and captains. MRIP replaced the Marine Recreational Fisheries Statistics Survey, or MRFSS, in 2008, which had been in place since 1979. MRIP is designed to meet two critical needs: (1) provide the detailed, timely, scientifically sound estimates that fisheries managers, stock assessors, and marine scientists need to ensure the sustainability of ocean resources and (2) address head-on stakeholder concerns about the reliability and credibility of recreational fishing catch and effort estimates. MRIP is an evolving program with ongoing improvements. Detailed information on MRIP and the improvements can be found at <http://www.st.nmfs.noaa.gov/recreational-fisheries/index>. All recreational catch and effort data considered in this document are derived from MRIP.

2.4 Status of the Stock

The most recent peer-reviewed benchmark assessment for summer flounder (Northeast Regional Stock Assessment Workshop 57, NEFSC 2013) was updated in July 2016. The assessment utilizes an age-structured assessment model called ASAP. Results of the assessment update indicate the summer flounder stock was not overfished but overfishing was occurring in 2015 relative to the updated biological reference points established in the 2013 SAW 57 assessment. The fishing mortality rate has been below 1.0 since 1997, but was estimated to be 0.390 in 2015, above the threshold fishing mortality reference point $F_{MSY} = 0.309$ (Figure 1). Spawning stock biomass (SSB) was estimated to be 88.9 million pounds (36,240 mt) in 2015, about 58% of the biomass target $SSB_{MSY} = 137.555$ million pounds (62,394 mt) and 16% above the biomass threshold (Figure 2). The 2015 year class is estimated to be about 23 million fish at age 0, continuing the trend of below-average year classes for the past six years (2010-2015).

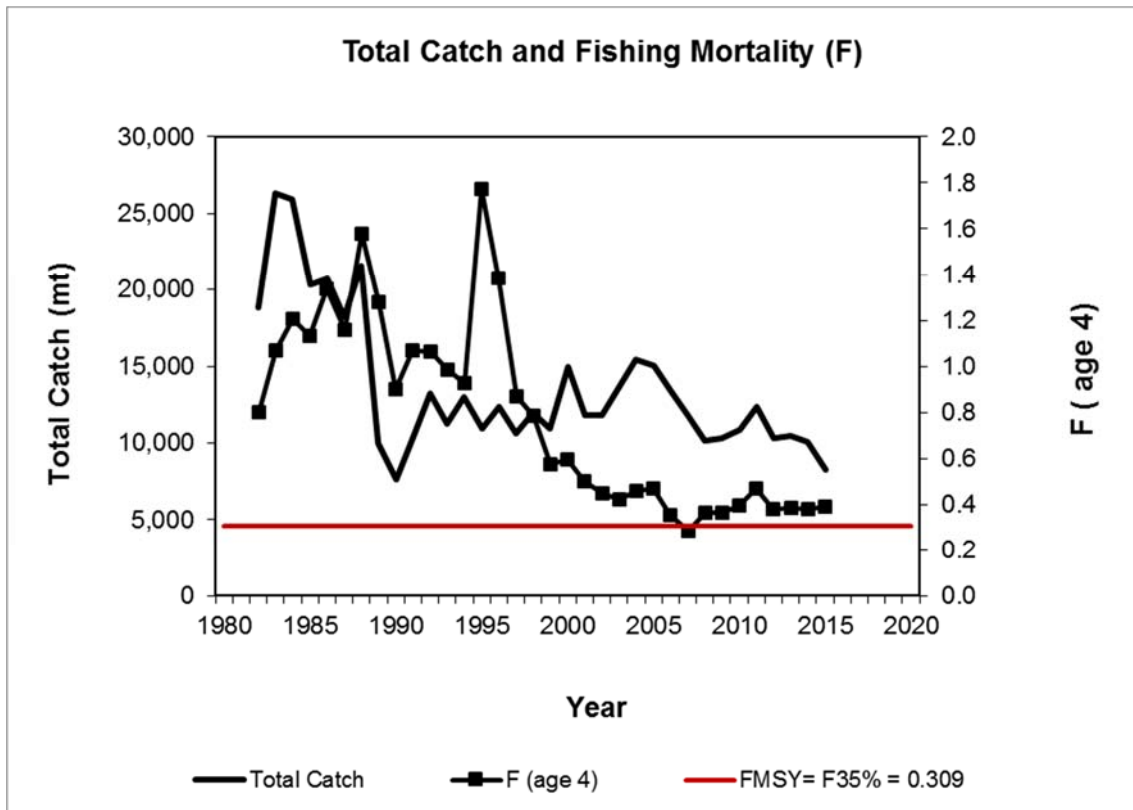


Figure 1. Total fishery catch and fully-recruited fishing mortality (F, peak at age 4) of summer flounder. The horizontal red line is the 2013 SAW 57 fishing mortality threshold reference point proxy. Source: NEFSC Summer Flounder Stock Assessment Update for 2016 (June 2016).

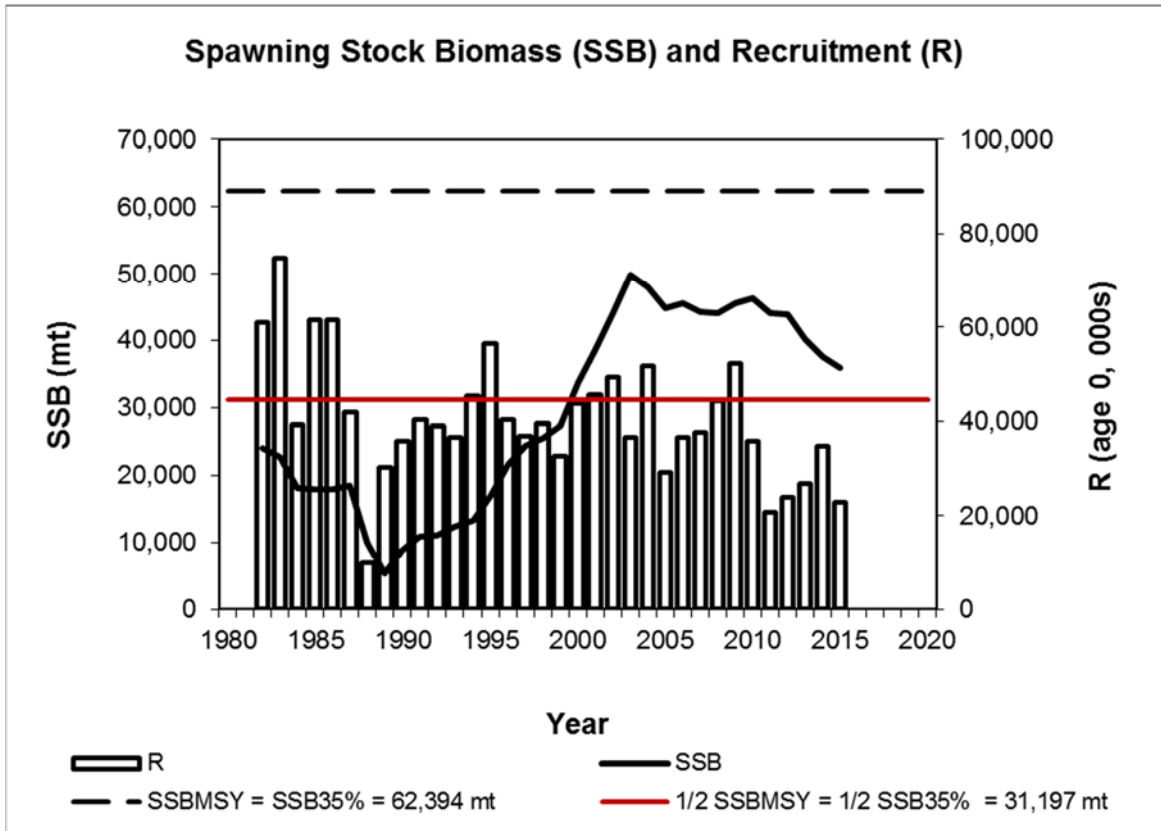


Figure 2. Summer flounder spawning stock biomass (SSB) and recruitment at age 0 (R) by calendar year. The horizontal dashed line is the 2013 SAW 57 biomass target reference point proxy; the horizontal red line is the biomass threshold reference point proxy. Source: NEFSC Summer Flounder Stock Assessment Update for 2016 (June 2016).

A breakdown of the 2017 Overfishing Limit (OFL), Acceptable Biological Catch Limit (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), and subsequent coastwide RHL based on the 2016 stock assessment update is included in Table 4. The 2017 proposed harvest limit is a time series low as the result of the biomass projections from the 2016 stock assessment update.

Table 4. Basis for 2017 summer flounder catch and landings limits. Numbers may not add precisely due to unit conversions and rounding.

Management Specifications	2016		2017		Basis for 2017 Limits
	mil lb.	mt	mil lb.	mt	
OFL	18.06	8,194	16.76	7,600	Stock assessment projections
ABC	16.26	7,375	11.30	5,125	Stock assessment projections/ SSC recommendation
Commercial ACL	9.42	4,275	6.57	2,982	60% of ABC landings portion (per FMP allocation) + 49% of ABC discards portion
Commercial ACT	9.42	4,275	6.57	2,982	Monitoring Committee recommendation: no deduction from ACL for management uncertainty
Commercial Quota	8.12	3,685	5.66	2,567	Commercial ACT, less projected commercial discards
Recreational ACL	6.84	3,100	4.72	2,143	40% of ABC landings portion (per FMP allocation) + 51% of ABC discards portion
Recreational ACT	6.84	3,100	4.72	2,143	Monitoring Committee recommendation; no deduction from ACL for management uncertainty
Recreational Harvest Limit	5.42	2,457	3.77	1,711	Recreational ACT, less projected recreational discards

3.0 Management Program

The 2017 summer flounder recreational fishery will divide the coast into six management regions (similar to 2016): 1) Massachusetts 2) Rhode Island 3) Connecticut-New York 4) New Jersey 5) Delaware-Virginia and 6) North Carolina. The combined management program of all 6 regions is designed to not exceed the 2017 recreational harvest limit.

Each region, except for North Carolina, is required to increase the minimum size by one inch from the 2016 size limit (Note: North Carolina is exempt as long as the state’s harvest remains low because its fishery is confounded by three species of similar flatfish for which consistency in regulations is ideal). Each Region is required to have a possession limit of 4 fish or less.

This approach moves away from using the 1998-based allocations to set regional targets, based on the concerns listed in Section 2.2 Background (page 2). Additionally, the past three years have shown how variable annual harvest at the coastal (50%), regional (>60%), and state (>100%) level can be despite consistent measures across the years, underscoring the difficulty of using prior year harvest to predict future year harvest. The Commission recognizes the confidence intervals around the harvest estimates limit the ability to precisely project the impacts of differing management measures. The approach thus applies broad action across all states to reduce harvest and provide for more coastwide consistency in regulations.

Table 5. Example 2017 Regional Management Measures

STATE	2016 Projected Harvest	Example Size Limit	Example Possession Limit	Example Season (# of days)
MASSACHUSETTS	56,642	17"	4 fish	125
RHODE ISLAND	92,821	19"	4 fish	245
CONNECTICUT NEW YORK	950,178	19"	3 fish	128
NEW JERSEY*	782,142	19"	3 fish	128
NEW JERSEY/ DELAWARE BAY COLREGS**	8,916	18"	3 fish	
DELAWARE MARYLAND VIRGINIA	191,636	17"	4 fish	365
NORTH CAROLINA	17,074	15"	4 fish	365

*New Jersey east of the COLREGS line at Cape May, NJ will have management measures consistent with the northern region of Connecticut – New York.

**New Jersey west of the COLREGS line at Cape May, NJ inside Delaware Bay will have a similar size limit to the southern region (DE-VA), the same possession limit and the same season length as the northern region of Connecticut – New York.

Management for 2018

If the Board chooses to continue this management program for 2018, the following outlines the process for setting harvest targets:

The TC will use harvest estimates and fishery performance from 2017 to evaluate the 2018 regional management approach. **If the coastwide RHL is exceeded, then region specific harvest will be evaluated, with the understanding that more restrictive management measures will be needed to constrain regional harvest in 2018. If the predicted 2018 combined regional harvest is higher than the 2018 RHL, regions will have to adjust their management measures in 2018.** The TC will develop proposed measures for each region that, when combined, will constrain the coastwide harvest to the 2018 RHL. Any number of size, possession, and season combinations can be evaluated when looking at regional management.

3.1.1 Timeframe for Summer Flounder Measures

For 2017 and ability to extend through 2018 (One year extension)

The management program outlined in section 3.0 will be in place for 2017. The Board could take action, through a Board vote, to extend the addendum for one year, expiring at the end of 2018. After 2018 (or for 2018 if the Board does not extend the Addendum into 2018), measures would revert back to the FMP status quo coastwide/conservation equivalency measures.

4.0 Compliance:

The management program for summer flounder contained in Section 3.0 of Addendum XXVIII are effective immediately upon its approval (February 2, 2017). States will go through their administrative procedure to implement regional management measures to cumulatively achieve the needed coastwide reduction for 2017. Once management measures are finalized, the states must notify the Board of their final 2017 management measures by March 1, 2017. If a state or region does not implement management measures to cumulatively achieve across the regions the needed 2017 reduction, that state or region must implement the precautionary default management measures. The Board and Council approved in December 2016 precautionary default measures for 2017 that include a minimum size of 20 inches total length, a possession limit of 2 fish, and a season of July 1–August 31. These measures would be in place for both state and federal waters of the state or region in question. If a state or region does not implement either sets of measures, that state or group of states may be found out of compliance. States measures will made available to the public as soon as they are finalized.

Tables and Figures

Table 6. 2016 Summer Flounder Recreational Management Measures. Color blocking indicates regions

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	16	5 fish	May 22-September 23
Rhode Island	18	8 fish	May 1-December 31
Connecticut	18	5 fish	May 17- September 21
CT Shore Program (46 designed shore sites)	16		
New York	18	5 fish	May 17- September 21
New Jersey*	18	5 fish	May 21- September 25
NJ Shore program (1 designated site)	16	2 fish	
New Jersey/Delaware Bay COLREGS**	17	4 fish	
Delaware	16	4 fish	January 1- December 31
Maryland	16	4 fish	January 1- December 31
PRFC	16	4 fish	January 1- December 31
Virginia	16	4 fish	January 1- December 31
North Carolina	15	6 fish	January 1- December 31

*New Jersey east of the COLREGS line at Cape May has management measures consistent with the northern region of Connecticut – New York.

**New Jersey west of the COLREGS line at Cape May, NJ inside Delaware Bay has a similar size limit to the southern region (DE-VA), the same possession limit as the southern region (DE-VA), and the same season length as the northern region of Connecticut – New York.

Table 7. State regulations, 2013–2016. 2013 represents the last year state-by-state regulations applied; regional management applies 2014–2016. Color blocking indicates regions. Red font indicates change from prior year.

	2013	2014	2015	2016
MA	16" 5 fish May 22-Sep 30	16" 5 fish May 22-Sep 30	16" 5 fish May 22-Sep23*	16" 5 fish May 22-Sep 23 (125 day season)
RI	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31 (245 day season)
CT	17.5"*** 5 fish May 15-Oct 31	18"*** 5 fish May 17-Sep 21	18"*** 5 fish May 17-Sep21	18"*** 5 fish May 17-Sep21 (128 day season)
NY	19" 4 fish May 1-Sep 29	18" 5 fish May 17-Sep 21	18" 5 fish May 17-Sep21	18" 5 fish May 17-Sep21 (128 day season)
NJ Coast	17.5" 5 fish May 18-Sep16	18"**** 5 fish May 23-Sep 27	18"**** 5 fish May 23-Sep 26	18"**** 5 fish May 21-Sep 25 (128 day season)
NJ Delaware Bay	17.5" 5 fish May 18-Sep16	18" 5 fish May 23-Sep 27	18" 5 fish May 23-Sep 26	17" 4 fish May 21-Sep 25 (128 day season)
DE	17" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
MD	16" 4 fish Mar 28-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
VA	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
NC	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31 (365 day season)

*MA change in season not due to cut, but correction of error from prior year

**CT has 45 designated coastal sites where minimum size is 16" for the 5-fish limit, 2013–2016

***NJ has 1 designated coastal site where 2 fish at 16" can be taken, 2014–2016 (another 3 at 18" can be taken outside of the designated site)