

***Atlantic States Marine Fisheries Commission***

**DRAFT ADDENDUM XXXII TO THE SUMMER FLOUNDER, SCUP, BLACK  
SEA BASS FISHERY MANAGEMENT PLAN FOR BOARD REVIEW**

*Summer Flounder and Black Sea Bass Recreational Management*



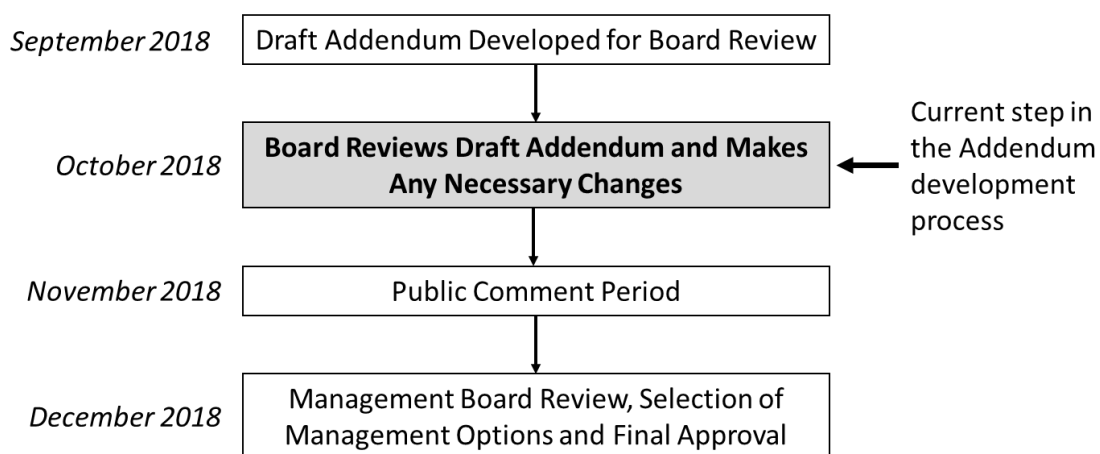
**October 2018**

***ASMFC Vision:***

**Sustainably Managing Atlantic Coastal Fisheries**

## Public Comment Process and Proposed Timeline

In May 2018, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) initiated development of an addendum to the Interstate Fishery Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass. The Draft Addendum addresses recreational management of summer flounder and black sea bass for 2019 and future years. This document presents background on summer flounder and black sea bass management; the addendum process and timeline; and a statement of the problem. It also provides management options for public consideration and comment.



The public is encouraged to submit comments regarding this document at any time during the public comment period. The final date comments will be accepted is November 29, 2018 at 5:00 p.m. Comments may be submitted at state public hearings or by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

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## Draft Addendum for Public Comment

### 1.0 Introduction

Draft Addendum XXXII proposes alternative approaches for state management of the recreational summer flounder and black sea bass fisheries for the 2019 fishing year and beyond. 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 management unit for black sea bass in US waters is the western Atlantic Ocean from Cape Hatteras, North Carolina northward to the US-Canadian border.

Summer flounder 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 NOAA Fisheries in federal waters (3-200 miles). This draft addendum is proposed under the adaptive management and 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).

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on May 3, 2018:

*Move to...develop a new action for the 2019 recreational fishery to address the changes in black sea bass abundance and distribution that consider management based on the distribution of the resources, along with any other options recommended by the Management Board.*

On August 8, 2018 the Board also agreed to add recreational management for summer flounder to the issues to consider in Draft Addendum XXXII.

### 2.0 Overview

#### 2.1 Statement of Problem

The Commission is currently facing a number of challenges with regard to recreational management for black sea bass and summer flounder. Among these are: the FMP does not provide an appropriate management program for the current distribution of the resources and fisheries along the coast; harvest estimates used for management are highly variable (leading to regulatory instability), and the availability of recreational data is not concurrent with management timelines.

The FMP strategies for managing the summer flounder and black sea bass recreational fisheries include coastwide measures (the same minimum size, possession limit, and season length) for both species, and in the case of summer flounder, state-by-state or regional measures based on achieving harvest targets derived from the proportion of each state's estimated 1998 recreational landings. Since the adoption of the FMP, the summer flounder and black sea bass resources and the recreational fisheries that utilize them have experienced shifts in abundance, distribution, and behavior. These changes render the management strategies incapable of

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achieving the overarching goals of constraining coastwide harvest to the coastwide recreational harvest limit (RHL) while providing fair and equitable access for fishery participants throughout the range of the resource.

Alternative regional approaches implemented in recent years have made progress toward reducing regulatory differences between states, but have faced other challenges related to achieving the RHL, via use of prior year recreational harvest estimates to establish regulations for the following year. The high variability of annual harvest estimates introduces uncertainty about their accuracy, makes it difficult to evaluate the effect of regulations, and often leads to annual changes in season, size, and possession limits, i.e., regulatory instability. Inherent delays in the production of recreational harvest estimates confounds the ability to gather informed public comment on proposed options and finalize regulations well in advance of each annual fishing season.

The purpose of this document is to establish a management approach that addresses several key management objectives, including: regional equity; regulatory stability; harvest opportunities commensurate with species abundance and distribution; and management measures that are responsive to late-breaking recreational harvest estimates, stock status information, and public input.

Of note, the Board intends to address all of the above-noted management challenges and objectives via comprehensive, long-term management reforms over the next several years. Those actions will draw upon improved recreational fishery data, new stock assessments, and innovative management tools. Accordingly, this document seeks to advance an interim approach that lays the foundation for broad-based, long-term management reform.

### 2.2 Background

In practice, the recreational fisheries for summer flounder and black sea bass are managed on a “target quota” basis. A set portion of the total allowable landings (40% for summer flounder and 51% for black sea bass) is established as an annual recreational harvest limit (RHL), and management measures are established that can reasonably be expected to constrain recreational harvest to this limit each year.

Specifically, recreational harvest estimates from the prior year are compared to the current year RHL to assess whether coastwide harvest needs to be reduced or can be allowed to increase. The regulations in place the prior year also serve as the basis for modeling the effect of alternative regulations on harvest in the current year.

The Marine Recreational Information Program (MRIP) is the primary source of recreational catch and effort data used to evaluate and regulate the fisheries<sup>1</sup>. MRIP catch and effort

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<sup>1</sup> MRIP is an evolving program with ongoing improvements to its methods. Several recent advancements include the transition from a telephone survey to a mail survey to estimate fishing effort have resulted in the need to

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estimates are generated by two-month “waves” (January–February is Wave 1, March–April is Wave 2, etc.), with each wave’s preliminary estimates being released roughly six weeks after its conclusion (e.g., May–June estimates released in mid-August). Full-year preliminary estimates are therefore available in mid-February of the following year. The release of final full-year estimates generally requires another two months, to allow for additional quality control checks.

The timing of recreational data releases has created challenges in developing management programs reflective of the most current recreational fishery information. For the past several years, management measures for summer flounder and black sea bass have been set through addenda. In order to come to final decision on management measures before the start of the fishing seasons (typically between February and April), draft addenda including proposed management options and example management measures were released for public comment late in the previous year (December); the Board would then review the public comments and approve the final document at the following meeting (typically in February). This timeline meant that the proposed (example) management measures in the addenda were based on the preliminary harvest data available in December (i.e., only Wave 1-5 data, coupled with a Wave 6 harvest projection based on the prior year’s Wave 6 data). However, Wave 6 harvest estimates released in February often diverged from the projected harvest, resulting in the need to adjust the proposed measures to constrain harvest to the RHL, well into the fishing season and long after public comment had been provided, creating confusion and frustration for all involved, particularly stakeholders.

### 2.2.1 Summer Flounder

Starting in 1993 under Amendment 2 and continuing through 1998, each state (Massachusetts through North Carolina) adopted the same minimum size, possession limit, and season length as established in federal waters for the recreational fishery. While these consistent measures were intended to uniformly impact the resource and stakeholders of all states, it was later determined that one set of management measures applied coastwide did not provide equitable access to the resource due to the significant geographic differences in fish abundance and size composition.

To address this disparity, the FMP was amended in 2001 (Framework Adjustment 2) to allow for the use of “conservation equivalent” management, through which state-specific measures would constrain coastwide recreational harvest the same as consistent measures. Each year, if the Council and Board opted to manage the fishery with state-specific conservation equivalency, the Board would have the lead in approving state-specific regulations, and the federal waters rules (coastwide measures) would be waived in favor of the state rules.

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calibrate estimates of recreational catch and effort for 1981–2017 for comparison to newer estimates. In addition, the MRIP harvest estimates for 2018 need to be “back-calibrated” for comparison to the 2018 and interim 2019 RHLs, because these RHLs were based on stock assessment using the pre-calibrated MRIP harvest estimates.

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Concurrently, the Board adopted a series of addenda (Addenda III and IV in 2001, and Addenda VIII and XIV in 2004) implementing state-based conservation equivalency, including the establishment of state allocations based upon recreational landings estimates from 1998 (Addendum VIII). The Board also adopted Addendum XVII in 2005 (and the Council Framework Adjustment 6 in 2006), enabling the states to voluntarily opt into multi-state regions that would set regulations based on a pooling of their 1998-based allocations.

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. (No states opted to use the voluntary regional conservation equivalency approach offered in Addendum XVII.) Conservation equivalency provided states with the flexibility to tailor their regulations to meet the needs and interests of their fishery as long as their targets were not exceeded. Several year-specific addenda (XVIII in 2006 and XXIV in 2013) provided additional flexibility to the management system by allowing harvest opportunities forgone by states to be accessed by other states facing reductions.

This approach succeeded, initially, in mitigating the inequity in conservation burden among states due to coastwide measures, but later became viewed as an inadequate long-term solution. The evolving problems largely stemmed from substantial changes in resource status, stock dynamics, and angler effort along the coast subsequent to 1998, which gave rise to major disparities in the regulatory programs among the states.

In response, the Board adopted Addendum XXV, which implemented conservation equivalency on a regional basis for 2014. Five<sup>2</sup> 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 a region were required to have the same possession limit, size limit, and season length. Regulations were approved for each region that collectively were projected to constrain harvest to the RHL, with a focus on providing more equity in recreational harvest opportunities along the coast. Under this approach, management moved away from fixed state-by-state (or regional) allocations, although the Board retained the ability to revert to the use of 1998-based allocation (or coastwide measures) in the future.

The Board maintained a regional conservation equivalency management approach, with some variation, for 2015–2018 through multiple addenda. Addendum XXVI in 2015 retained the same regions and allowed for status quo regulations in all states. For 2016, Addendum XXVII implemented one change by establishing New Jersey as its own region so that the State could enact separate management measures for its portion of the Delaware Bay that were more closely aligned with Delaware’s management measures in the Bay, while maintaining regulations for the rest of New Jersey’s waters consistent with those of New York and

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<sup>2</sup> 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 into individual regions to account for the significantly different recreational fisheries of the two states.

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Connecticut. For all other states, the same regulations in effect for 2014 and 2015 were maintained for 2016. Consequently, regional conservation equivalency provided for much more regulatory consistency over the three-year period 2014–2016, despite a 27% reduction in the RHL in 2016.

In 2017, the Board was faced with a 30% reduction in the RHL, producing a 41% harvest reduction when the preliminary 2016 harvest estimate was compared to the 2017 RHL. Estimated harvest for 2016 increased significantly from 2015 despite largely status quo measures. In fact, the previous three years showed how variable annual harvest estimates could be—at the coastal (50%), regional (>60%), and state (>100%) level—despite nearly consistent measures across the years, underscoring the difficulty of using prior year harvest estimates to predict future year harvest estimates. Given the limitations of projecting the impacts of different management measures (i.e., harvest estimate volatility and confidence intervals), the Board adopted an approach under Addendum XXVIII that applied broad action across all states/regions to reduce harvest while also providing more coastwide consistency in regulations.

Under Addendum XXVIII, each region was required to increase its minimum size by one inch, have a possession limit of four fish or less, and maintain its existing season length. North Carolina was exempted from the size limit increase because its fishery is confounded by three species of similar flatfish for which consistency in regulations is ideal. This approach continued the movement away from using the 1998-based allocations to set regional targets. Note that New Jersey implemented alternative regulations, reducing its season rather than its size limit due to expected socioeconomic effects on the fishery, arguing for conservation equivalency with regard to total removals. In response, the Board found that the alternative regulations were not conservationally equivalent, and the State was found out of compliance by the full Commission. However, the Commission's finding was not upheld by the U.S. Secretary of Commerce, and therefore, New Jersey ultimately maintained its alternative regulations for 2017.

Addendum XXVIII's regional management approach was extended into 2018, and the Board approved state regulations under a 17% harvest liberalization for each region (Table 1). The Board established a de facto harvest target for the coast that was more conservative than the 2018 RHL, based on concerns about stock status, projections of increased biomass that had not been realized, and ongoing difficulties in predicting the effects of modifications to the management measures.



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**Table 1. 2018 recreational regulations for summer flounder. Color blocking indicates regions.**

State	Minimum Size	Possession Limit	Season
MA	17"	5 fish	May 23–Oct 9
RI	19"	6 fish	May 1–Dec 31
CT	19"*	4 fish	May 4–Sep 30
NY	19"	4 fish	May 4–Sep 30
NJ Coast	18"***	3 fish	May 25–Sep 22
NJ DE Bay	17"	3 fish	May 25–Sep 22
DE	16.5"	4 fish	Jan 1–Dec 31
MD	17"***	4 fish	Jan 1–Mar 31
	16.5"	4 fish	Apr 1–Dec 31
VA	16.5"	4 fish	Jan 1–Dec 31
NC	15"	4 fish	Jan 1–Dec 31

\*CT has 45 designated coastal sites where the minimum size is 17"

\*\* NJ has 1 designated coastal site where the minimum size is 16" for 2 fish

\*\*\* MD was temporarily delayed in implementing its region's liberalization

### 2.2.2 Black Sea Bass

Under Amendment 9, the Commission and Council used uniform coastwide size, season, and bag limits to constrain the recreational fishery to the annual RHL from 1996 to 2010. Over time, the states grew concerned that the coastwide regulations disproportionately impacted states within the management unit. The effect became more dramatic as the RHL decreased in the late 2000s (including the lowest ever value in 2009), harvest overages became common, and repeated coastwide reductions were necessitated.

In response, the Board approved a series of addenda which allowed states to craft individual measures to reduce harvest to the RHL, first through state shares in 2011 (Addendum XXI) and then through ad-hoc regional management for 2012–2017 (Addenda XXII, XXIII, XXV, and XXVII). A uniform set of measures still applied in federal waters and to federal for-hire permit holders who are ultimately subject to the most restrictive rule if state measures differ from federal measures. (Conservation equivalency, like that used for summer flounder to waive the federal rules when appropriate states rules are adopted, is being considered for implementation in 2020 through Draft Addendum XXXI.) Addendum XXI's state shares of the RHL were loosely based on the proportion of each state's harvest in 2010, and resulted in state-specific percent harvest reductions for 2011.

For 2012, the Board considered continuing a state-by-state allocation approach, but had concerns about restricting future access based on past fishery performance (which had proven problematic for summer flounder) and the likelihood of divergent state and federal regulations, particularly to the south where most harvest is taken in federal waters. Instead the Board selected the ad-hoc regional management approach, through which the northern region states of Massachusetts through New Jersey individually crafted state measures aimed at changing

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harvest by the same *percent*, while the southern region states of Delaware through North Carolina set their regulations consistent with the measures set for federal waters.

Under this approach, coastwide harvest reductions were required in all years except 2012 (liberalization) and 2017 (status quo) due to final harvest estimates that exceeded the projected harvests from the implemented regulations. Because 90% or more of the coastwide harvests came from north of Delaware, the Board differentially applied the required reductions between the two regions. While DE–NC continued to match the federal rule, MA–NJ were held responsible for achieving the coastwide reduction, implementing uniform percent harvest reductions, but with state-specific regulation changes in 2013, 2014, 2015, and 2016.

Multiple factors played a role in the inability of northern state regulations to restrict harvest to projected levels during this period. The lack of an accepted peer reviewed stock assessment with which to set catch limits for 2010–2016 resulted in the use of the constant catch approach in most years, a method relying on past landings data rather than current resource condition. The 2016 benchmark stock assessment would later reveal much higher abundance than previously assumed, and that the catch limits had been overly conservative. This mismatch between RHL and stock abundance—coupled with high variability in recreational harvest estimates—resulted in regulations that repeatedly underperformed, leading to additional restrictions. Increasingly restrictive regulations in the face of an apparently growing stock understandably angered and disillusioned much of the angling public.

While the ad hoc regional management approach afforded the states flexibility in setting their measures, it created wide discrepancies in conservation measures that were not tied to any original management plan baseline or goal (e.g., state allocations). The repeated use of uniform percent harvest reductions in the northern region, with no accountability for the effectiveness of regulations or shifting resource distribution, resulted in growing disparity in regulations within the northern region, as well as between the two regions. Scientific studies and the 2016 stock assessment have evidenced a northward shift in the black sea bass resource along the Atlantic coast.

For 2018, the Board initially adopted a new approach that allocated the RHL between three regions (MA–NY, NJ, and DE–NC) based primarily on 2006–2015 exploitable biomass estimates derived from the 2016 stock assessment. This approach resulted in harvest liberalizations for NJ and DE–NC, yet a sizeable reduction for MA–NY (Table 6). The Northern Region states of MA–NY appealed the decision, citing the recent shift in the resource northward, late-breaking revisions to harvest data with significant effects on state reductions, and results that were inconsistent with the objective of providing more equitable access. Through the appeals process a solution was brokered which allowed NJ and DE–NC to maintain their liberalizations, while better meeting the needs of MA–NY based on projections of resource availability in 2018. The final outcome of Addendum XXX established regulations for one year only (Table 2).

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**Table 2. 2018 recreational regulations for black sea bass. Color blocking indicates regions.**

State	Minimum Size	Possession Limit	Open Season
MA	15"	5 fish	May 19–Sep 12
RI	15"	3 fish	Jun 24–Aug 31
		7 fish	Sep 1–Dec 31
CT	15"	5 fish (7 for authorized. for-hire vessels Sep 1-Dec 31)	May 19–Dec 31
NY	15"	3 fish	Jun 23–Aug 31
		7 fish	Sep 1–Dec 31
NJ	12.5"	10 fish	May 15–Jun 22
		2 fish	Jul 1–Aug 31
		10 fish	Oct 8–Oct 31
	13"	5 fish	Nov 1–Dec 31
DE	12.5"	15 fish	May 15–Dec 31
MD	12.5"	15 fish	May 15–Dec 31
VA	12.5"	15 fish	Feb 1–Feb 28
			May 15–Dec 31
NC	12.5"	15 fish	Feb 1–Feb 28
			May 15–Dec 31

### 2.3 Status of the Stock

#### 2.3.1 Summer Flounder

The most recent summer flounder stock assessment update was completed in July 2016, using data through 2015 (NEFSC 2016). The assessment is an update of the model from the 2013 benchmark stock assessment, which is a combined-sex, age-structured ASAP assessment model. Results from the 2016 assessment update indicate that summer flounder was not overfished, but overfishing was occurring, in 2015. More detail on the assessment update can be found in the report:

[http://www.asmfc.org/uploads/file/55d237a9Summer\\_flounder\\_2015\\_Assess\\_Update.pdf](http://www.asmfc.org/uploads/file/55d237a9Summer_flounder_2015_Assess_Update.pdf)

The 2016 stock assessment update provided the basis for setting fishery specifications for 2017–2019. Data updates for 2017 and 2018 further informed the process for the 2018 and 2019 specifications (Table 3). A new benchmark stock assessment for summer flounder is scheduled to undergo peer review in November 2018, with results expected to be available in early 2019. These results could result in revised 2019 specifications.

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**Table 3. 2017–2019 summer flounder specifications pertinent to the recreational fishery, as based on the 2016 stock assessment update.**

Management Specifications	2017	2018	2019
	mil lb.	mil lb.	mil lb.
OFL (Overfishing Limit)	16.76	18.69	20.60
ABC (Acceptable Biological Catch)	11.30	13.23	15.41
Recreational ACL (Annual Catch Limit)	4.72	5.53	6.22
Recreational ACT (Annual Catch Target)	4.72	5.53	6.22
Recreational Harvest Limit	3.77	4.42	5.15

### 2.4.2 Black Sea Bass

The most recent black sea bass stock assessment was completed in December 2016, using data through 2015 (NEFSC 2017). The assessment is a benchmark assessment, using a combined-sex, age-structured ASAP assessment model. Due to concerns regarding potential spatial structure of the stock, the assessment modeled black sea bass as two separate sub-units (North and South) divided approximately at Hudson Canyon, from which results were combined for the coastwide stock status determination. Results from the 2016 assessment indicate that black sea bass was not overfished, nor was overfishing occurring, in 2015. More detail can be found in the assessment report:

<http://www.asafc.org/uploads/file/5953f11d2016BlackSeaBassStockAssmt.pdf>

The 2016 benchmark stock assessment provided the basis for setting fishery specifications for 2017–2019. Data updates for 2017 and 2018 further informed the process for the 2018 and 2019 specifications (Table 4). A stock assessment update for black sea bass is expected to occur by April 2019. Results could result in revised 2019 specifications.

**Table 4. 2017–2019 black sea bass specifications pertinent to the recreational fishery, as based on the 2016 benchmark stock assessment.**

Management Specifications	2017	2018	2019
	mil lb.	mil lb.	mil lb.
OFL (Overfishing Limit)	12.05	10.29	9.18
ABC (Acceptable Biological Catch)	10.47	8.94	7.97
Recreational ACL (Annual Catch Limit)	5.38	4.59	4.10
Recreational ACT (Annual Catch Target)	5.38	4.59	4.10
Recreational Harvest Limit	4.29	3.66	3.27

### 3.0 Proposed Management Program

The Board needs to consider a management program for summer flounder and black sea bass for 2019 and thereafter. As a bridge toward future, broad-based management reform, the Board is considering changing the process of how recreational management measures are set annually. The Board is seeking public comment on each of the options included in the Draft Addendum.

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As proposed, the options for the two species are similar, but not exact. Both approaches involve the use of standards and guiding principles to formulate management measures that are subject to public review and input later in the process, allowing for more informed and transparent decision-making. Both approaches carry forward the basic structures of the regional management approaches developed in previous years for each species.

### 3.1 Summer Flounder Management Options

#### A) Status Quo (Coastwide or Conservation Equivalency Measures)

The Board and Council will specify coastwide measures to achieve the coastwide RHL or conservationally equivalent management measures using guidelines agreed upon by both management authorities in Framework 2 and Addenda XIV and XVII. Under conservation equivalency, the states implement state-by-state measures to achieve their individual harvest target or contiguous states voluntarily enter into an agreement forming regions to achieve their pooled harvest target. Harvest targets are based on the state allocations of the RHL established in Addendum VIII (Table 5).

**Table 5. State summer flounder recreational allocations, as established by Addendum VIII**

State	MA	RI	CT	NY	NJ	DE	MD	VA	NC
Allocation	5.5%	5.7%	3.7%	17.6%	39.1%	3.1%	3.0%	16.7%	5.6%

Note: Percentages are based on pre-calibrated MRIP data for 1998. Percentages changed slightly with the MRIP calibration and the Board would need to determine which data to use for state allocations.

#### B) Establish Recreational Management Measures through the Specifications Process

This option proposes a procedural change from the process used in recent years to establish annual recreational management programs for summer flounder. Through this change in process, the Board is not allocating shares of the RHL to states and/or regions.

If this option is selected, management measures would be set annually through a specification process, instead of being proposed and established through addenda. The process would involve the following steps:

- At the joint meeting with the Mid-Atlantic Fishery Management Council typically in December, the Board and Council would decide whether to specify coastwide measures to achieve the coastwide RHL or conservation equivalent management measures using guidelines agreed upon by both management authorities. If the latter, the Board would then be responsible for establishing recreational measures to constrain harvest to the RHL.
- The Technical Committee (TC) would continue to evaluate harvest estimates as they are released, and project how suites of possession limits, size limits and seasons might impact recreational landings in each region. In recommending adjustments to measures (reductions, liberalizations or no change), the TC would examine several factors and suggest a set of regional regulations, which when combined, would not exceed the RHL.

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These factors could include but are not limited to stock status, resource availability (based on survey and assessment data), and fishery performance (harvest, discards, effort, estimate uncertainty, inter-annual variability), as well as the standards and guiding principles set forth below. The Board would use information provided by the TC to approve a methodology for the states to use in developing regional proposals, typically at the Commission's Winter Meeting.

- The states would collaborate to develop regional proposals for the current year's recreational measures that include possession limits, size limits and season length pursuant to the Board-approved methodology. These proposals would be reviewed by the TC to ensure the data and analysis are technically sound. Public input on proposed measures would be gathered at the state level through state public processes, and brought to the Board by state commissioners for consideration when finalizing measures.
- The Board would establish final measures following the release of Wave 6 estimates in February (likely through an additional Board meeting or call). Once the Board has approved the regional measures and the states have promulgated them, the Commission would send a letter to the Regional Administrator certifying the Board-approved measures, in combination, will achieve but not exceed the RHL.

As part of this new process, the Board would also agree to a set of standards and guiding principles to structure the development of measures during specification setting (Section 3.1.1).

### **3.1.1 Standards and Guiding Principles for Establishing Management Measures for Summer Flounder**

If option B above is selected, the following set of standards will structure how measures are developed during specification setting:

1. Measures will be developed using a six-region approach, where the regions are defined as: 1) Massachusetts, 2) Rhode Island, 3) Connecticut-New York, 4) New Jersey, 5) Delaware-Virginia, and 6) North Carolina.
2. Recreational measures for all states within a region will consist of the same minimum size limit, possession limit, and season length.
3. For regions that use alternative methodology or other types of regulatory changes outside of those proposed by the TC, the Board must consider and approve those approaches first.

In addition to the standards, the setting of measures through specifications should also strive to adhere to these guiding principles in order to provide fair and equitable access to the resource:

While allowing for a reasonable amount of flexibility based on the performance of the fishery and stock availability, regional measures should be adjusted uni-directionally along

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the coast to maintain an equitable opportunity to harvest fish for all stakeholders. The intent is to establish regional measures that do not change significantly on an annual basis nor diverge significantly between bordering states over time.

### 3.2 Black Sea Bass Management Options

#### A) Status Quo (Coastwide Measures)

The Board and Council will specify coastwide measures to achieve the coastwide RHL.

NOAA Fisheries would also open federal waters during February 1–28, 2019 at a 12.5” size limit and 15 fish possession limit. States that participate in the February 2019 black sea bass recreational fishery by also adopting these rules would be required to adjust their regulations for the remainder of the 2019 fishing year to account for their projected harvest during February (up to 100,000 pounds total for all participating states, as established by the Board and Council).

#### B) Establish Recreational Management Measures through the Specifications Process

This option proposes a procedural change from the process used in recent years to establish annual recreational management programs for black sea bass. Through this change in process, the Board is not allocating shares of the RHL to states and/or regions.

If this option is selected, management measures would be set annually through the specifications process, instead of being proposed and established through addenda. The process would involve the following steps:

- At the joint meeting with the Mid-Atlantic Fishery Management Council typically in December, the Board and Council would decide whether to adopt coastwide measures or if the states would implement measures to constrain harvest to the RHL. If the latter, the Board would then be responsible for establishing recreational measures to be implemented in state waters that would constrain harvest to the RHL.
- The TC would continue to evaluate harvest estimates as they are released, and project how suites of possession limits, size limits and seasons might impact recreational landings in each region. In recommending adjustments to measures (reductions, liberalizations or no change), the TC would examine several factors and suggest a set of regulations for regions, which when combined, would not exceed the RHL. These factors can include but are not limited to stock status, resource availability (based on survey and assessment data), and fishery performance (harvest, discards, effort, estimate uncertainty, inter-annual variability), as well as the standards and guiding principles set forth below. The Board would use information provided by the TC to approve a methodology for the states to use in developing regional proposals, typically at the Commission’s Winter Meeting.

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- The states would collaborate to develop regional proposals for the current year's recreational measures that include possession limits, size limits and season length pursuant to the Board-approved methodology. These proposals would be reviewed by the TC to ensure the data and analysis are technically sound. Public input on proposed measures would be gathered at the state level through state public processes, and brought to the Board by state commissioners for consideration when finalizing measures.
- The Board would establish final measures following the release of Wave 6 estimates in February (likely through an additional Board meeting/call). Once the Board has approved the regional measures and the states had promulgated them, the Commission would send a letter to the Regional Administrator certifying the Board approved measures in combination will achieve but not exceed the RHL.

As part of this new process, the Board would also agree to a set of standards and guiding principles to structure the development of measures during specification setting (Section 3.2.1).

NOAA Fisheries would also open federal waters during February 1–28, 2019 at a 12.5" size limit and 15 fish possession limit. States that participate in the February 2019 black sea bass recreational fishery by also adopting these rules would be required to adjust their regulations for the remainder of the 2019 fishing year to account for their projected harvest during February (up to 100,000 pounds total for all participating states, as established by the Board and Council).

### **3.2.1 Standards and Guiding Principles for Establishing Management Measures for Black Sea Bass**

If option B above is selected above, a set of standards would structure how measures would be developed during specification setting, dependent on the options selected below:

1. Measures will be developed using a three-region approach, where the regions are defined as Massachusetts through New York; New Jersey; and Delaware through North Carolina (north of Cape Hatteras).
2. The Board will determine how a coastwide harvest liberalization or reduction is distributed among the regions, based on factors including (but not limited to) resource distribution and expected availability, angler effort, prior year fishery performance, and TC recommendations. This process will result in annual de facto harvest targets for each region; these targets are not allocations nor do they necessarily set a precedent for setting future allocations. The regions will then work together to develop recreational measures that achieve the coastwide RHL.



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The process for setting recreational measures within a region will be structured according to one of the following options:

**Sub-option B1)** Recreational measures within a region will be crafted using the prior year's measures as a starting point. States within the region will develop measures that collectively achieve but do not exceed the de facto harvest target set by the Board. In the event that a region is not required to reduce harvest from the prior year, no state will be required to restrict measures. In the event that a region is allowed to liberalize harvest, states will develop their measures in a manner that collectively reduces intraregional disparities (e.g. states with relatively restrictive measures, as determined by the TC based on performance, should be allowed a larger liberalization, while states with relatively liberal measures should take a smaller liberalization or remain at status quo). In the event that region must reduce harvest, states will develop measures in a manner that ensures each state takes an equitable reduction, with consideration given to prior year fishery performance, resource distribution and expected availability, angler effort, and TC recommendations.

**Sub-option B2)** Recreational measures within a region will be crafted using a regional regulatory standard as a starting point. The states within a region will establish a regulatory standard (including a minimum size limit, possession limit, and season (season could be defined using either start and end dates or number of days open)) to achieve the region's target harvest. Each state within the region would adopt the standard minimum size limit, but could implement a possession limit and season that are the conservation equivalent to the regulatory standard (based on state-specific projected harvest), provided the possession limit deviates from the standard by no more than 3 fish, and the disparity between the least and most restrictive seasons within the region does not increase (in number of open days) from the prior year.

In addition to the standards, the setting of measures through specifications should also strive to adhere to these guiding principles in order to provide fair and equitable access to the resource:

Regions should work together to limit disproportionate harvest reductions for individual states. The Board should reduce interregional differences between measures when possible, taking into account regional differences in availability.

### 4.0 Compliance

TBD

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### Literature Cited

NEFSC (Northeast Fisheries Science Center). 2016. Stock assessment of summer flounder for 2016. US Department of Commerce, Northeast Fisheries Science Center Reference Document 16-15; 117 p. Available from: <http://www.nefsc.noaa.gov/publications/>

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