



Mid-Atlantic Fishery Management Council
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Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: August 3, 2018

To: Council and ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board

From: Julia Beaty (MAFMC staff) and Caitlin Starks (ASMFC staff)

Subject: Summer flounder, scup, and black sea bass framework and addendum

During their joint meeting on August 14, 2018, the Council and the Atlantic States Marine Fisheries Commission's (ASMFC's) Summer Flounder, Scup and Black Sea Bass Management Board (Board) will consider a joint framework action and addendum (Draft Addendum XXXI) which includes alternatives for conservation equivalency for black sea bass and summer flounder, Block Island Sound transit provisions, and slot limits for all three species.

The objectives of this meeting are for the Council and Board to review and approve the range of alternatives and for the Board to approve the draft addendum for public comment.

This will be the first of two required framework meetings for the Council. The second framework meeting will take place when the Council and Board meet jointly in December 2018 to consider taking final action on this framework/addendum.

The following documents are included behind this tab for Council and Board consideration:

1. A table summarizing the alternatives under consideration in the framework and addendum
2. A memo summarizing the alternatives included in the Council's framework and a draft summary of the potential impacts of the alternatives

The Commission's Draft Addendum XXXI has been posted as a supplemental material in the online version of the briefing book (<http://www.mafmc.org/council-events/2018/august-2018-council-meeting>).

The Council received several public comments regarding summer flounder specifications which also address slot limits. These comments can be found under Tab 9 of the briefing book. Similar comments received after the briefing book deadline will be posted online as supplemental materials under the agenda item for summer flounder 2019 specifications.

Options and alternatives included in Draft Addendum XXXI (ASMFC) and complementary Council Framework (MAFMC)

Under each issue or alternative set, only one option or alternative can be selected, unless otherwise noted.

Addendum	Framework	Option/Alternative Header
Issue/Alternative Set 1: Black Sea Bass Conservation Equivalency		
Option 1A	Alternative 1A	Status Quo/No Action (conservation equivalency cannot be used for black sea bass)
Option 1B	Alternative 1B	Update FMPs to allow Black Sea Bass Conservation Equivalency using the Current Summer Flounder Conservation Equivalency Process
Option 1C	Alternative 1C	Black Sea Bass Conservation Equivalency using the Current Summer Flounder Process and Allowing Conservation Equivalency to Roll Over from One Year to the Next (when appropriate)
Issue/Alternative Set 2: Summer Flounder Conservation Equivalency Rollover		
Option 2A	Alternative 2A	Status Quo/No Action
Option 2B	Alternative 2B	Allow Summer Flounder Conservation Equivalency to Roll Over from One Year to the Next (when appropriate)
Issue/Alternative Set 3: Block Island Sound Transit Provisions		
Option 3A	Alternative 3A	Status Quo/No Action
Option 3B	Alternative 3B	Block Island Sound Transit Provisions for Summer Flounder, Scup, and Black Sea Bass Apply in a Defined Transit Corridor for Rhode Island Commercial and Recreational State-Only Permit Holders
Option 3C	Alternative 3C	Transiting Allowed for RI, CT, NY, and MA Permit Holders in the Same Area as the Striped Bass Transit Area
<i>Sub-Options/Alternatives for Permit Holders Subject to Transit Provisions under Option/Alternative 3C</i>		
<i>Sub-option 3C-1</i>	<i>Alternative 3C-1</i>	Only Recreational Permit Holders
<i>Sub-option 3C-2</i>	<i>Alternative 3C-2</i>	Recreational and Commercial Permit Holders
<i>Sub-Options/Alternatives for Measures Addressed by Transit Provisions under Option/Alternative 3C (one or more sub-alternatives could be selected)</i>		
<i>Sub-option 3C-3</i>	<i>Alternative 3C-3</i>	Differences in State and Federal Fishing Seasons
<i>Sub-option 3C-4</i>	<i>Alternative 3C-4</i>	Differences in State and Federal Possession Limits
<i>Sub-option 3C-5</i>	<i>Alternative 3C-5</i>	Differences in State and Federal Minimum Fish Sizes
Issue/Alternative Set 4: Slot Limits		
N/A	Alternative 4A	No Action (slot limits cannot be used in federal recreational summer flounder, scup, or black sea bass fisheries)
N/A	Alternative 4B	Modify the Council's FMP to allow use of a maximum size limit for recreational summer flounder, scup, and black sea bass fisheries



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MEMORANDUM

Date: August 3, 2018
To: Council
From: Julia Beaty
Subject: Alternatives and draft impacts analysis for summer flounder, scup, and black sea bass framework on conservation equivalency, Block Island Sound transit, and slot limits

1. INTRODUCTION

This document summarizes the alternatives under consideration through a framework adjustment to the Mid-Atlantic Fishery Management Council's (Council's) Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The Atlantic States Marine Fisheries Commission (Commission) is developing a complementary addendum to their Summer Flounder, Scup, and Black Sea Bass FMP. Fisheries for these three species are managed cooperatively by the Council and the National Marine Fisheries Service (NMFS) in federal waters (3-200 miles) and the Commission in state waters (0-3 miles).

The alternatives considered through this action address recreational black sea bass conservation equivalency, conservation equivalency rollover for black sea bass and summer flounder, transit in Block Island Sound, and slot limits for all three species. A summary of the potential impacts of these alternatives is included in this document.

Note: This action does not consider implementing black sea bass conservation equivalency or slot limits for any of the three species in 2019. Rather, the alternatives would update the FMPs to allow these management tools to be used in future years.

2. MANAGEMENT ALTERNATIVES

2.1. Alternative Set 1: Black sea bass conservation equivalency

2.1.1. Alternative 1.A: No action (conservation equivalency cannot be used for black sea bass)

The Council and Commission FMPs require uniform coastwide measures (applying to state and federal waters) for the recreational black sea bass fishery. From 1996 to 2010, uniform coastwide minimum fish size, season, and bag limits were used by the Council and Commission to

constrain the recreational fishery to the annual recreational harvest limit (RHL). In recent years, the Commission implemented addenda to allow temporary deviations from this requirement in state waters. These addenda allowed for state-by-state flexibility – first through state shares in 2011 and then through an ad-hoc regional management approach from 2012–2018.

Under the ad-hoc process used for 2012-2018, the Council and Board agreed to coastwide federal waters measures each year. Individual states or regions then worked through the Commission process to develop measures for state waters that would constrain harvest to the RHL. In recent years, the states of New Jersey north implemented management measures in state waters that differed from the federal waters measures.

Under alternative 1.A, the recreational black sea bass fishery would continue to be managed with uniform coastwide measures in federal waters. The Commission could continue to use ad-hoc regional management to set recreational measures in state waters through addenda. The details of how this is carried out may vary year to year. The Board would also have the option of discontinuing ad-hoc regional management and reverting to uniform coastwide measures, or adopting an alternative approach.

2.1.2. Alternative set 1.B: Allow black sea bass conservation equivalency using the current summer flounder conservation equivalency process

This alternative proposes updating the Council and Commission FMPs to allow conservation equivalency to be used for the recreational black sea bass fishery in future years based on the process currently used for summer flounder.

Under this process, the Council and Board decide each year whether to use coastwide measures or conservation equivalency. If they agree to conservation equivalency, they must agree on a set of non-preferred coastwide measures consisting of a minimum fish size, possession limit, and season that, if implemented on a coastwide basis, would constrain harvest to the RHL. They also agree to a set of precautionary default measures. The precautionary default measures are intended to be restrictive enough to deter states/regions from implementing measures which are not approved through the conservation equivalency process.

Individual states or regions develop proposed measures that, when taken as a whole, are the conservation equivalent of the non-preferred coastwide measures (i.e. would be expected to result in the same level of harvest as the non-preferred coastwide measures). An agreed upon management scheme forms the basis for the state or regional measures. For example, early in summer flounder management, the Commission's FMP designated state-by-state measures based on each state's proportion of total harvest in 1998. Recent addenda have deviated from these state-by-state measures, and currently regional (as opposed to state) measures are set to achieve the RHL. If alternative 1.B is selected, the Board would determine the management program to implement conservation equivalency for black sea bass through a separate action. The Board could agree to develop state or regional measures using a different approach than that used for summer flounder (e.g. different regional alignment or data used to set measures).

The Commission's Technical Committee reviews the state/regional proposals to determine if, as a whole, they are expected to constrain harvest to the RHL. The Board then considers the proposals for approval, taking into account the Technical Committee's recommendations. If the Board does not approve an individual proposal, that state or region may submit a revised

proposal. If a state or region implements measures which are not approved by the Board, then the precautionary default measures would be enforced in that state or region.

After reviewing and approving the state/regional proposals, the Board submits a letter to NMFS certifying that the combination of state and regional measures is expected to constrain harvest to the RHL. NMFS then either approves or rejects the combination of proposals. If approved, NMFS waives the federal waters measures (i.e. the non-preferred coastwide measures) for the remainder of the calendar year in favor of the state or regional conservation equivalency measures. Federally-permitted vessels and vessels fishing in federal waters are then subject to the regulations in the states where they land their catch.

Appendix A outlines a potential timeline for black sea bass conservation equivalency based on the typical timeline for the summer flounder process.

2.1.3. Alternative 1.C: Black sea bass conservation equivalency using the current summer flounder process and allowing conservation equivalency to roll over from one year to the next (when appropriate)

This alternative proposes updating the FMPs to allow conservation equivalency to be used for the recreational black sea bass fishery in future years. It proposes establishing a process for black sea bass conservation equivalency based on the process currently used for summer flounder, and would also allow conservation equivalency to roll over from one year to the next with Board and Council approval.

Under the current process for summer flounder, conservation equivalency expires at the end of the year, but the federal waters measures are not waived until the spring, after NMFS receives a letter from the Commission certifying that the combination of state and regional measures is expected to constrain harvest to the RHL. Thus, from January 1 until NMFS completes the rulemaking process to waive the federal waters measures, the non-preferred coastwide measures from the previous year are technically in place in federal waters. This not only creates the potential for confusion, but can also result in federal waters measures that are more restrictive than state waters measures.

If conservation equivalency rolled over from one year to the next, a federal recreational specifications package would not need to be developed annually and NMFS would not need to go through the rulemaking process to waive the federal waters measures each year. However, the Council and Board would still review the non-preferred coastwide and precautionary default measures each year to ensure the fishery would be constrained to the RHL. Given the timing of data availability from MRIP, the Council and Board would continue to review projected fishery performance in December and final recreational estimates early in the next year.

For conservation equivalency to roll over from one year to the next, the non-preferred coastwide and precautionary default measures would need to be appropriate for the RHL in both years. The non-preferred coastwide and precautionary default measures could be crafted with this flexibility in mind.

2.2. Alternative Set 2: Summer flounder conservation equivalency rollover

2.2.1. Alternative 2.A: No action (conservation equivalency for summer flounder cannot roll over from one year to the next)

Under the current process for summer flounder, conservation equivalency expires at the end of each year, and a federal rule must be made each year to implement conservation equivalency and waive the federal waters measures, as described above. Under alternative 2.A, there would be no change to the current summer flounder conservation equivalency process.

2.2.2. Alternative 2.B: Allow summer flounder conservation equivalency to roll over from one year to the next (when appropriate)

Under alternative 2.B, the conservation equivalency process for summer flounder would be modified so that conservation equivalency could roll over from one year to the next. As described in the previous section for black sea bass, if conservation equivalency rolled over from one year to the next, a federal recreational specifications package would not need to be developed annually and NMFS would not need to go through the rulemaking process to waive the federal waters measures each year. However, the Council and Board would still review the non-preferred coastwide and precautionary default measures each year to ensure that the fishery would be constrained to the RHL.

For conservation equivalency to roll over from one year to the next, the non-preferred coastwide and precautionary default measures would need to be appropriate for the RHL in both years. The non-preferred coastwide and precautionary default measures could be crafted with this flexibility in mind.

2.3. Alternative Set 3: Block Island Sound transit provisions

2.3.1. Alternative 3.A: No action

Under current regulations, when summer flounder, scup, or black sea bass fisheries are closed in federal waters but open in state waters, vessels may not transit federal waters with summer flounder, scup, or black sea bass. This has been problematic in Block Island Sound during the fall closure in federal waters for recreational black sea bass in recent years (Table 1). In most recent years, state waters in Rhode Island, Connecticut, and/or New York (depending on the year) have been open to black sea bass fishing during that time. Anglers fishing in state waters around Block Island must pass through federal waters to return to the mainland. Therefore, if they retain any black sea bass during the federal waters closure, they are in violation of the federal regulations while transiting federal waters, even if those fish were legally caught in state waters.

This has not been an issue for the recreational summer flounder fishery for several years as federal recreational regulations have been waived under conservation equivalency. It has not been an issue for the recreational scup fishery in recent years, as the federal waters scup season has been open year-round since 2012.

Under alternative 3.A, no change would be made to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive. It would be unlawful for state-only permit holders to transit through federal waters while in possession of any summer

flounder, scup, or black sea bass, including federal waters around Block Island, when federal waters are closed to fishing for those species.

Table 1: Federal recreational measures for black sea bass, north of Cape Hatteras, NC, 2007 - 2018.

Years	Minimum size (inches, total length)	Possession limit	Open season
2007-2008	12	25	1/1-12/31
2009	12.5	25	1/1-10/5
2010-2011	12.5	25	5/22-10/11 and 11/1-12/31
2012	12.5	25	5/19-10/14 and 11/1-12/31
2013	12.5	20	5/19-10/14 and 11/1-12/31
2014	12.5	15	5/19-9/18 and 10/18-12/31
2015-2017	12.5	15	5/15-9/21 and 10/22-12/31
2018	12.5	15	5/15-12/31

2.3.2. Alternative 3.B: Block Island Sound transit provisions for summer flounder, scup, and black sea bass in a defined transit corridor for Rhode Island commercial and recreational state-only permit holders

Under this alternative, any vessel or individual legally permitted to fish in Rhode Island state waters (including individuals fishing under reciprocity agreements with other states), either commercially or recreationally, would be allowed to transit through a defined corridor between Rhode Island state waters adjacent to Block Island and Rhode Island state waters adjacent to the Rhode Island mainland. State-only permit holders transiting this area would be subject to the state waters measures for season, possession limit, and minimum size for summer flounder, scup, and black sea bass. Proposed regulatory language and geographic area where transit would be allowed is provided in Appendix B. If selected, the final regulations would be determined by NMFS and may differ in details, compared to Appendix B, but should be similar in intent.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

2.3.3. Alternative 3.C: Transiting allowed for RI, CT, NY, and MA permit holders in the same area as the striped bass transit area

Note: If alternative 3.C is selected, sub-alternatives should also be selected to define permit holders subject to transit provisions (sub-alternatives 3.C.1 and 3.C.2) and measures addressed by transit provisions (sub-options 3.C.3 - 3.C.5).

In situations where federal waters measures for summer flounder, scup, or black sea bass are more restrictive than measures in the state where catch will be landed, state-only permit holders may transit through a defined area while complying with the state regulations. The transit area would be identical to the area of the exclusive economic zone (EEZ) where transit is allowed for striped bass. This area is defined as follows: “The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI” (50 CFR 697.7 (b); Figure 1).

This alternative defines only the transit area. This alternative could apply to state-only recreational permit holders, or state-only recreational and commercial permit holders, depending on if sub-alternative 3.C.1 or 3.C.2 is selected. It would apply to regulations for fishing seasons, minimum fish size limits, and/or possession limits, depending on the sub-alternative(s) selected from sub-alternatives 3.C.3 - 3.C.5.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

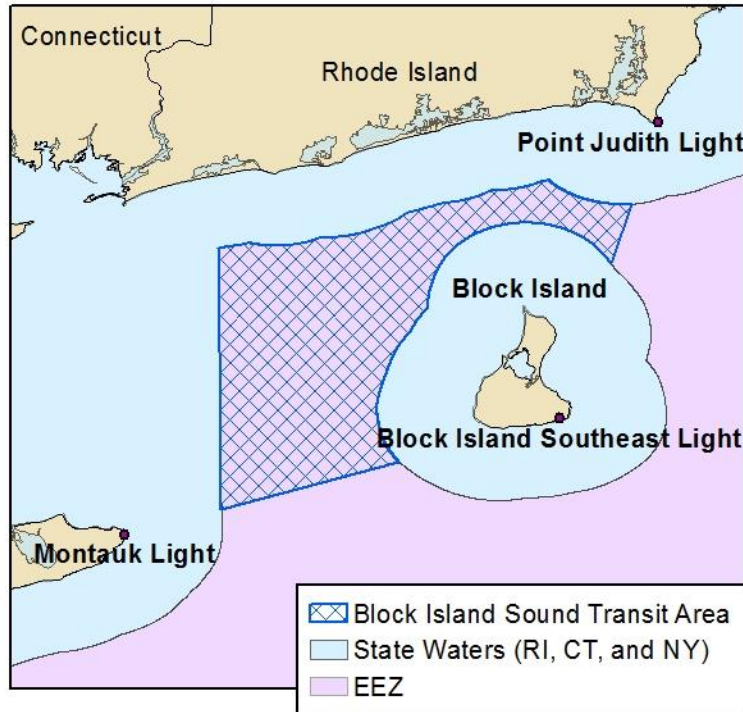


Figure 1: Striped bass transit area in Block Island Sound (blue hatched area).

2.3.3.1. Alternative 3.C.1: Transiting allowed for RI, CT, NY, and MA recreational permit holders in the same area as the striped bass transit area

This alternative would allow state-only recreational permit holders to transit through the transit area shown in **Figure 1** while complying with the state regulations for summer flounder, scup, and black sea bass seasons, minimum fish sizes, and/or possession limits, depending on the sub-alternative(s) selected from sub-alternatives 3.C.3 - 3.C.5.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

2.3.3.2. Alternative 3.C.2: Transiting allowed for RI, CT, NY, and MA recreational and commercial permit holders in the same area as the striped bass transit area

This alternative would allow state-only commercial and recreational permit holders to transit through the area shown in **Figure 1** while complying with the state regulations for summer

flounder, scup, and black sea bass seasons, minimum fish sizes, and/or possession limits, depending on the alternative(s) selected from alternatives 3.C.3-3.C.5.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

Commercial black sea bass and summer flounder fisheries are managed on a state-by-state basis with no federal seasons or possession limits; thus, conflicting regulations are generally not an issue for individuals fishing commercially under federal permits. However, state-only commercial permit holders are currently not permitted to transit federal waters in Block Island Sound with summer flounder, scup, or black sea bass in excess of the recreational possession limit on board.

2.3.3.3. Alternative 3.C.3: Transit provisions under alternative 3.C address differences in state and federal fishing seasons

This alternative would allow state-only permit holders (either recreational or recreational and commercial depending on the other alternatives selected) to transit through the area shown in **Figure 1** while in possession of summer flounder, scup, and/or black sea bass when federal waters are closed to fishing for those species but state waters are open. State-only permit holders would be subject to the regulations of the state in which they land their catch.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

This alternative could be used in combination with alternatives 3.C.4 and 3.C.5.

2.3.3.4. Alternative 3.C.4: Transit provisions under alternative 3.C address differences in state and federal possession limits

This alternative would allow state-only permit holders (either recreational or recreational and commercial depending on the other alternatives selected) to transit through the area shown in **Figure 1** while abiding by the state-waters possession limits for summer flounder, scup, and/or black sea bass. That is, when the possession limit in federal waters is lower than the possession limit in state waters, state-only permit holders could transit through the defined transit zone with fish in excess of the federal waters possession limit. State-only permit holders would be subject to the regulations of the state in which they land their catch.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

This alternative could be used in combination with alternatives 3.C.3 and 3.C.5.

2.3.3.5. Alternative 3.C.5: Transit provisions under alternative 3.C address differences in state and federal minimum fish sizes

This alternative would allow state-only permit holders (either recreational or recreational and commercial depending on the other alternatives selected) to transit through the area shown in **Figure 1** while abiding by the state-waters minimum fish sizes for summer flounder, scup, and/or black sea bass. That is, when the minimum size limit in federal waters is greater than the

size limit in state waters, state-only permit holders could transit through the defined transit zone while in possession of fish smaller than the minimum size in federal waters. State-only permit holders would be subject to the regulations of the state in which they land their catch.

There would be no change to the current regulations requiring all dual (i.e. state and federal) permit holders to abide by the measures of the state in which they land their catch, or the federal waters measures, whichever are more restrictive.

This alternative could be used in combination with alternatives 3.C.3 and 3.C.4.

2.4. Alternative Set 4: Recreational slot limits

2.4.1. Alternative 4.A: No action (slot limits cannot be used in federal recreational summer flounder, scup, or black sea bass fisheries)

Currently, the Council's FMP does not allow for specification of a maximum size limit for summer flounder, scup, or black sea bass. Therefore, slot limits may not be used as a management tool for these fisheries in federal waters. Under this alternative, there will be no change to the Council's FMP and maximum size limits could not be used in federal waters. Slot limits can currently be implemented through the Commission process without a change to the Commission's FMP; (i.e. for summer flounder through conservation equivalency, and for black sea bass and scup for state waters measures only). For this reason, the complementary addendum being developed by the Commission does not include slot limit alternatives.

2.4.2. Alternative 4.B: Modify the Council's FMP to allow use of a maximum size limit for recreational summer flounder, scup, and black sea Bass fisheries in federal waters

Under this alternative, the Council's FMP would be modified to allow specification of a maximum fish size. This would allow for use of regular slot limits, split slot limits, and trophy fish. A complementary change is not needed to the Commission's FMP as slot limits can already be used through the Commission process. For this reason, the complementary addendum being developed by the Commission does not include slot limit alternatives.

3. POTENTIAL BIOLOGICAL AND SOCIO-ECONOMIC IMPACTS OF ALTERNATIVES

This section summarizes the potential impacts of the alternatives on summer flounder, scup, and/or black sea bass (depending on the alternative) as well as the potential socio-economic impacts of each alternative. This impacts analysis is preliminary. A full impacts analysis will be included in a future Council Environmental Assessment. The conclusions summarized below may be modified after additional consideration by Council and Commission staff, the Monitoring Committee, the Board, the Council, and stakeholder input.

The impacts are summarized in Table 2 and described in more detail in the following sections.

Table 2: Summary of expected impacts of the alternatives considered in this framework. A minus sign (–) signifies a negative impact, a plus sign (+) signifies a positive impact, and zero (0) indicates no impact or negligible impacts.

Alternative(s)		Impacts to summer flounder, scup, and/or black sea bass	Socio-economic impacts
Conservation Equivalency	1.A No action	+*	-*
	1.B and 1.C Black sea bass conservation equivalency	+	+
	1.C and 2.B Conservation equivalency rollover for black sea bass and summer flounder, respectively	0	+
Block Island Sound Transit	3.A No action	+*	-*
	3.B Transiting allowed in a defined transit corridor for RI commercial and recreational state-only permit holders		
	3.C: Transiting allowed in the same area as the striped bass transit area for RI, CT, NY, and MA recreational permit holders (3.C.1) or commercial and recreational permit holders (3.C.2). May address differences in state and federal fishing seasons (3.C.3), possession limits (3.C.4), and/or minimum fish size limits (3.C.5)	+	Mostly +
Slot Limits	4.A No action	+*	Mostly -*
	4.B Update Council’s FMP to allow slot limits to be used in recreational summer flounder, scup, and black sea bass fisheries	-	+ and -

*The impacts of all no action alternatives are expected to be similar to current impacts. For example, + would indicate continued positive impacts, not impacts that are more positive than current impacts.

3.1. Potential impacts black sea bass conservation equivalency

3.1.1. Potential impacts of conservation equivalency on black sea bass

Under all black sea bass conservation equivalency alternatives (i.e. alternatives 1.A - 1.C), fishing effort and fishing mortality will continue to primarily be constrained by the RHL. Therefore, the impacts of these alternatives on black sea bass are not expected to be different than the impacts of the annual RHL. The expected impacts of the RHL are analyzed in a specifications document prepared by the Council each time an RHL is implemented or revised (e.g. MAFMC 2017). The RHL is based on the best available science and is intended to prevent overfishing. As such, the RHL is expected to have positive impacts on black sea bass. These positive impacts are expected to be maintained under all black sea bass conservation equivalency alternatives, including the no action alternative. These impacts are not expected to be different (i.e. not more positive) than the impacts of recreational management measures on the stock in recent years.

3.1.2. Potential socio-economic impacts of black sea bass conservation equivalency

Over the past 5 years (i.e. 2013-2017), about 38% of the annual recreational harvest of black sea bass (in numbers of fish) from Maine through North Carolina occurred in federal waters, according to marine recreational information program (MRIP) estimates.¹ The proportion of harvest from state and federal waters varied by state (

Table 3: Percentage of black sea bass harvest (in numbers of fish) from state and federal waters by state during 2013-2015 according to MRIP data.

State	State waters	Federal waters
NH	100%	0%
MA	92%	8%
RI	79%	21%
CT	93%	7%
NY	61%	39%
NJ	29%	71%
DE	6%	94%
MD	17%	83%
VA	19%	81%
NC	11%	89%
Overall	62%	38%

3.2. Potential impacts of conservation equivalency rollover for black sea bass and/or summer flounder

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As described above, under current regulations (represented by the no action alternative, alternative 1.A), uniform coast-wide measures are required in federal waters. In recent years, the states of Maine through New Jersey have implemented state waters measures that differed from the federal waters measures. In some cases, the differences between state and federal waters measures resulted in angler confusion and noncompliance and state/federal water transit issues (e.g. Block Island Sound). These could be considered negative socio-economic impacts. The no action alternative would represent a continuation of these negative impacts.

If conservation equivalency were to be used for the black sea bass recreational fishery (alternatives 1.B and 1.C), then the federal waters measures could be waived in favor of the measures of the state where anglers land their catch. This would alleviate many of the issues associated with different state and federal waters measures (e.g. angler confusion and noncompliance, state/federal water transit issues). In addition, conservation equivalency would allow anglers in both state and federal waters to fish under regulations that are tailored to the relevant characteristics of the fishery in their area. This could result in socioeconomic benefits due to increased angler satisfaction and decreased noncompliance.

¹ All MRIP data referenced in this document are based on recreational catch and/or harvest estimates obtained prior to the July 2018 release of re-calibrated data.

Table 3: Percentage of black sea bass harvest (in numbers of fish) from state and federal waters by state during 2013-2015 according to MRIP data.

State	State waters	Federal waters
NH	100%	0%
MA	92%	8%
RI	79%	21%
CT	93%	7%
NY	61%	39%
NJ	29%	71%
DE	6%	94%
MD	17%	83%
VA	19%	81%
NC	11%	89%
Overall	62%	38%

3.3. Potential impacts of conservation equivalency rollover for black sea bass and/or summer flounder

Alternative 1.C considers allowing conservation equivalency for black sea bass to rollover from one year to the next (if appropriate). Alternative 2.B considers allowing conservation equivalency for summer flounder to rollover from one year to the next (if appropriate). The impacts of these alternatives are not expected to be different for black sea bass and summer flounder; therefore, the conservation equivalency rollover alternatives for the two species are considered together in the following sections.

3.3.1. Potential impacts of conservation equivalency rollover on black sea bass and summer flounder

When considered separately from the use of conservation equivalency itself, the alternatives for conservation equivalency rollover for black sea bass (alternative 1.C) and summer flounder (alternative 2.B) are both administrative in nature. As such, they are not expected to result in any changes in fishing effort or fishing mortality and are not expected to have any direct or indirect impacts on black sea bass or summer flounder.

3.3.2. Potential socio-economic impacts of conservation equivalency rollover

If conservation equivalency rolled over from one year to the next, NMFS would not need to go through the rule-making process each year to waive the federal waters recreational measures. This would reduce the time and cost burden on NMFS for managing these fisheries. Under the current process for summer flounder (alternative 2.A), conservation equivalency expires at the end of the year, but the federal waters measures are not waived until the spring, after NMFS receives a letter from the Commission certifying that the combination of state and regional measures will constrain harvest to the RHL. Thus, from January 1 until NMFS completes the rule-making process to waive the federal waters measures, the non-preferred coastwide measures from the previous year are technically in place in federal waters. This not only creates the potential for confusion, but can also create a situation where federal waters measures are more restrictive than state waters measures. These could be considered negative socio-economic

impacts. Conservation equivalency rollover (alternatives 1.C and 2.B) could be beneficial for recreational fishermen as it would resolve these issues.

3.4. Potential impacts of Block Island Sound transit provisions

3.4.1. Potential impacts of Block Island Sound transit provisions on summer flounder, scup, and black sea bass

Compared to the no action alternative (alternative 3.A), all the Block Island Sound transit alternatives (i.e. alternatives 3.B, 3.C, and 3.C.1 through 3.C.5) are expected to lead to a slight increase in fishing effort for summer flounder, scup, and black sea bass in Rhode Island state waters off Block Island. Under these alternatives, in situations where federal waters measures are more restrictive than state waters measures (i.e. open seasons, possession limits, and/or minimum fish sizes, depending on the alternatives chosen), state-only permit holders would be able to fish in state waters off Block Island and return to the mainland in a defined transit area while complying with the state regulations. Under current regulations, fishermen must comply with the federal waters measures when they are in federal waters, including the federal waters that separate Rhode Island state waters around Block Island from state waters adjacent to the mainland.

The degree of the potential increase in fishing effort varies depending on the sub-alternatives chosen. For example, the combination of alternative 3.C.2 - 3.C.5 (i.e. transit allowed in the striped bass transit area for both commercial and recreational permit holders, and for differences in state and federal seasons, possession limits, and minimum fish size limits) would result in the greatest potential increase in fishing effort because it would apply to the greatest area, the greatest number of fishermen, and the greatest number of regulations of all the possible combinations of alternatives considered.

Although a slight increase in fishing effort is expected under these alternatives, fishing effort will continue to be primarily constrained by the annual RHL and commercial quota, which are set based on the best available science and are intended to prevent overfishing. Therefore, the impacts of these alternatives on summer flounder, scup, and black sea bass are not expected to be different than the impacts of the RHL and commercial quota, which are analyzed in a specifications document prepared by the Council each time an RHL or quota is implemented or revised (e.g. MAFMC 2017). Because these measures are based on the best available science and are intended to prevent overfishing, they are generally expected to have positive impacts on summer flounder, scup, and black sea bass. The Block Island Sound transit alternatives are not expected to change these impacts. These positive impacts are expected to be maintained under all Block Island Sound transit alternatives, including the no action alternative.

3.4.2. Potential socio-economic impacts of Block Island Sound transit provisions

With the exception of the no action alternative (alternative 3.A), all the Block Island Sound transit alternatives would allow state-only recreational and/or commercial permit holders to transit federal waters in a defined area while complying with the state waters season, minimum fish size, and/or possession limits (depending on the alternative) for summer flounder, scup, and black sea bass. In situations where the federal waters measures are more restrictive than the state waters measures, this could allow for a slight increase in fishing effort for and harvest of these species in the state waters around Block Island. As such, it could lead to increased revenues for commercial fishermen, for-hire operations, and associated industries, as well as increased fishing

opportunities for commercial and/or recreational fishermen (depending on the alternative). For these reasons, all Block Island Sound transit alternatives are expected to have positive socio-economic impacts, compared to the no action alternative. When conservation equivalency is used (e.g. as with summer flounder in recent years), the Block Island Sound transit alternatives would result in neutral socio-economic impacts since the federal waters measures would be waived.

The no action alternative could be considered to have negative socio-economic impacts because, in certain situations, it can require fishermen to comply with federal measures which are more restrictive than state waters measures simply because vessels must pass through federal waters to return to the mainland from Rhode Island state waters around Block Island. For example, as previously described, in most recent years, state waters in Rhode Island, Connecticut, and/or New York (depending on the year) have been open to recreational black sea bass fishing during a period of time when federal waters were closed. Therefore, if anglers retained any black sea bass during the federal waters closure, they would be in violation of the federal regulations while transiting federal waters, even if those fish were legally caught in state waters. The no action alternative can have similar implications for situations where the federal waters minimum fish size limit and/or possession limit is more restrictive than the state waters measures. For these reasons, the no action alternative can have negative socio-economic impacts.

Enforcement of some Block Island Sound transit alternatives will be more challenging than others. The transit provisions are essentially exceptions to federal regulations. The more regulations and permits that are subject to that exception, the more challenging it will be to enforce, as opposed to if the exception applied to a smaller number of permit holders (e.g. recreational only) and a smaller number of regulations (e.g. only situations where federal waters are closed and state waters are open). Increased enforcement challenges could be considered a negative socioeconomic impact if associated costs increase.

In addition, although both the Rhode Island specific transit area (alternative 3.B) and the larger striped bass transit area (alternative 3.C) could be used, enforcement could be challenging if the regulations were different in the two areas—for example, if transit provisions in one area applied to differences in state and federal seasons, possession limits, and minimum fish sizes and in the other area they addressed only differences in seasons. For the same reasons, use of two transit areas, as opposed to a single area, could increase enforcement costs and/or increase the potential for confusion and unintentional noncompliance.

3.5. Potential impacts of recreational slot limits

As previously stated, this framework does not consider implementing any specific slot limits. Rather, it proposes updating the Council's FMP to allow slot limits to be used in future years. The potential impacts of slot limits are summarized below, but will vary depending on the particular slot limit used.

3.5.1. Potential impacts of slot limits on summer flounder, scup and black sea bass

Slot limits are intended to reduce fishing mortality on larger fish. For some species, females reach larger sizes than males and bigger, older females tend to produce more offspring than younger fish. Thus, in theory, slot limits could have positive impacts on recruitment for some species by reducing fishing mortality on large females. The following sections summarize the potential impacts of slot limits on summer flounder, scup, and black sea bass based on past

analyses and the life history of each species. However, it should be noted that actual impacts to these species would depend on the specific slot limits implemented.

Impacts to summer flounder

In 2009, the Monitoring Committee analyzed a range of slot limit options for the recreational summer flounder fishery using for-hire catch data from 2008. The analysis also considered a range of bag limits and options for trophy fish in combination with slot limits. The results indicated that, compared to a standard minimum size limit, the slot limit options considered would “certainly result in greatly increased numbers of fish harvested” due to the higher availability of smaller fish compared to larger fish. Although discards may decrease under certain slot limits, total removals (i.e. harvest and discards) would likely increase due to the increase in harvest. An increase in removals in numbers of fish would increase the fishing mortality rate. Under some slot limit options, marginal benefits to spawning stock biomass (SSB) were predicted; however, these benefits were eliminated when a trophy class was considered in combination with slot limits (Wong 2009).

A management strategy evaluation analysis by Wiedenmann et al. (2013) also found that slot limits could result in an increase in the number of summer flounder harvested per angler, as well as a small reduction in the total number of female summer flounder harvested. They found that slot limits generally resulted in lower harvest and more discards by weight, and higher and more frequent annual catch limit (ACL) overages, compared to minimum size limits.

In summary, these two studies suggest that total removals in numbers of fish may increase under slot limits, the fishing mortality rate may increase, and any increases in SSB may be minor. For these reasons, slot limits could have negative impacts on the summer flounder stock, especially under current conditions (i.e. overfishing is occurring and SSB is below the target level).

Impacts to scup

An analysis of slot limits for scup has not been performed. Female and male scup have similar growth rates (NEFSC 2015); therefore, unlike summer flounder, slot limits would not have disproportionate impacts on females compared to males.

Scup reach a maximum length of at least 46 cm (18 inches; NEFSC 2015). Scup reach a maximum age of at least 14 years; however, few scup older than 7 years are caught in the mid-Atlantic (Northeast Data Poor Stocks Working Group 2009, NEFSC 2015). In theory, slot limits should be most beneficial for longer-lived species and scup are not a particularly long-lived species.

For all these reasons, the scup stock may not benefit from slot limits. In addition, if slot limits lead to increased harvest in numbers of fish, as suggested by Wong (2009) and Wiedenmann et al. (2013) for summer flounder, then slot limits could lead to an increased fishing mortality rate, compared to a traditional minimum size limit. Given that the biomass of scup is currently estimated at more than double the target and overfishing is not occurring, an increased fishing mortality rate may not have major negative impacts on the stock, depending on the degree of the increase. In summary, the impacts of slot limits on the scup stock could be negligible or slightly negative.

Impacts to black sea bass

An analysis of slot limits for black sea bass has not been performed. Most black sea bass transition from female to male when they reach about 7.5 inches in length; thus, larger, older fish tend to be males and slot limits could disproportionately impact males compared to females.

Multiple studies have suggested that the black sea bass stock is somewhat resilient to the removal of large males due to the contribution of smaller, secondary males (i.e. mature males without the bright coloration or nuchal humps of dominant males) to spawning (NEFSC 2017). For example, Blaylock and Shepherd (2016) concluded the black sea bass stock from Maine through Cape Hatteras, North Carolina is more resilient to exploitation than a typical protogynous hermaphrodite species because not all larger individuals are males and secondary males contribute to spawning.

Some Council, Board, Monitoring and Technical Committee, and Advisory Panel members have expressed concerns that larger, compared to smaller, black sea bass may experience higher mortality rates due to barotrauma. Consequently, they have said the use of slot limits for black sea bass could lead to an increase in discard mortality because slot limits would increase discards of larger fish compared to traditional minimum size limits.

In addition, if slot limits lead to increased harvest in numbers of fish, as suggested by Wong (2009) and Wiedenmann et al. (2013) for summer flounder, then slot limits could lead to an increased fishing mortality rate, compared to a traditional minimum size limit. Given the current high biomass of black sea bass (more than double the biomass target), and given that overfishing is not currently occurring, an increased fishing mortality rate may not have major negative impacts on the stock, depending on the degree of the increase. In summary, the impacts of slot limits on the black sea bass stock could be negligible or negative.

Impacts of standard minimum size limits

The Monitoring Committee has concluded in the past that standard minimum fish size limits are one of the most powerful tools to constrain recreational harvest to the RHL. In years when a decrease in harvest is needed, increasing the minimum size limit can have a greater impact on harvest than decreasing the season or possession limit. For this reason, use of a standard minimum size limit can have positive impacts on the summer flounder, scup, and black sea bass stocks as it can be an effective tool to constrain harvest and prevent overfishing. Some negative impacts are possible due to the potential to concentrate fishing effort on larger, older fish which may have greater contributions to spawning than smaller fish; however, in general, the impacts of traditional minimum size limits on summer flounder, scup, and black sea bass are mostly positive. The no action alternative (alternative 4.A) would represent a continuation of these positive impacts.

3.5.2. Potential socio-economic impacts of slot limits

To the extent that traditional minimum fish size limits are an effective tool to prevent overfishing, they could be considered to have positive socio-economic impacts. However, as described above, compared to slot limits, traditional minimum fish sizes can result in both higher discards and lower harvest in numbers of fish (Wong 2009, Wiedenmann et al. 2013). These could be considered negative socio-economic impacts. The no action alternative (alternative 4.A) would represent a continuation of these negative impacts.

As summarized above, Wong (2009) and Wiedenmann et al. (2013) suggested that total summer flounder removals in numbers of fish may increase under slot limits, compared to traditional minimum size limits. The same may be true for scup and black sea bass; however, slot limits have not been analyzed for these species. This could result in socio-economic benefits as it could allow anglers to retain more fish and would increase angler satisfaction. However, if the increase in removals is great enough to negatively impact the stock and significantly increase the risk of overfishing, this could result in longer-term negative socio-economic impacts if it leads to reduced availability or requires more restrictive management measures to be implemented in future years.

An analysis by the Monitoring Committee suggested that, given differences in availability of smaller summer flounder, slot limits could result in a disproportionate increase in harvest from shore, compared to for-hire and private/rental boats, assuming other regulations were unchanged (Wong 2009). Due to this increase in harvest, slot limits could have greater positive impacts for anglers fishing from shore than anglers fishing from boats. The same may be true for scup. A very small percentage of recreational black sea bass harvest comes from the shore mode.

The impacts of slot limits depend, in part, on the particular slot implemented. For example, slot limits that allow retention of smaller fish could allow greater harvest from shore, compared to other modes, and in certain states (e.g. Maryland and North Carolina where bays are important recreational fishing areas), compared to others. Slot limits at larger sizes could disadvantage the shore mode and those states compared to others (Wong 2009). Over the past 10 years (i.e. 2008-2017), the shore mode generally accounted for less than 10% of the summer flounder harvest in each state. North Carolina is a notable exception, where it accounted for about 26% of the summer flounder harvest in numbers of fish.

Based on Wong 2009, the Monitoring Committee concluded that a very narrow slot limit would be necessary to constrain summer flounder harvest to the RHL. Narrow slot limits could be more challenging to enforce and could lead to greater noncompliance than wider slot limits or a standard minimum size. For these reasons, slot limits could have some negative socio-economic impacts in years when RHLs are low and harvest must be constrained. Wider slots could be possible under higher RHLs.

In addition, slot limits would require anglers to discard fish above a certain size. This could be unappealing to some anglers, which could decrease angler satisfaction and may increase the potential for noncompliance, compared to a traditional minimum size limit. These would be considered negative socio-economic impacts. Allowance of a trophy fish in combination with a slot limit could address these concerns.

In summary, the socio-economic impacts of slot limits could be mixed (i.e. both positive and negative) and would depend on the particular slot limits used.

4. LITERATURE CITED

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APPENDIX A: TIMELINE OF SUMMER FLOUNDER CONSERVATION EQUIVALENCY PROCESS

This timeline reflects current practice for summer flounder conservation equivalency in recent years. The timeline can vary year to year. In years when the Commission develops an addendum to modify summer flounder conservation equivalency, the timeline can be delayed and additional steps are added to the Board’s process.

<p>August Council/Board recommend Recreational Harvest Limit (RHL) to NMFS and Board takes final action on RHL for state waters.</p> <p>October Preliminary MRIP data available for waves 1-4 (i.e. January - August) of current year.</p> <p>November Monitoring Committee reviews MRIP data through wave 4 and develops recommendations on overall % reduction required (if applicable) and use of coastwide measures or conservation equivalency (including the non-preferred coastwide and precautionary default measures).</p> <p>December Council/Board recommend either conservation equivalency OR coastwide measures. If conservation equivalency, they also recommend non-preferred coastwide and precautionary default measures. NMFS publishes final rule announcing subsequent year’s RHL.</p>	
<p style="text-align: center;"><u>State Conservation Equivalency Measures</u></p> <p style="text-align: center;">January</p> <ul style="list-style-type: none"> • States/regions submit conservation equivalency proposals to Commission staff. • Technical Committee meets to evaluate proposals. <p style="text-align: center;">February</p> <ul style="list-style-type: none"> • Board meeting to approve/disapprove proposals. <p style="text-align: center;">March</p> <ul style="list-style-type: none"> • Council staff submits recreational measure package to NMFS. Package includes: <ul style="list-style-type: none"> ○ Overall % reduction required (if applicable); ○ Non-preferred coastwide and precautionary default measures; and ○ Recommendation to implement conservation equivalency. <p style="text-align: center;">April</p> <ul style="list-style-type: none"> • NMFS publishes proposed rule for recreational measures announcing the overall % reduction required (if applicable) and the non-preferred coastwide and precautionary default measures to be used under conservation equivalency. • Board submits a letter to NMFS certifying that the combination of state/regional measures is expected to constrain harvest to the RHL. <p style="text-align: center;">May</p> <ul style="list-style-type: none"> • NMFS publishes final rule announcing overall % reduction required (if applicable) and one of the following scenarios: <ul style="list-style-type: none"> ○ Approval of conservation equivalency; or ○ Coastwide measures 	<p style="text-align: center;"><u>Coastwide Measures</u></p> <p style="text-align: center;">February</p> <ul style="list-style-type: none"> • Council staff submits recreational measure package to NMFS. Package includes: <ul style="list-style-type: none"> ○ Overall % reduction required (if applicable); and ○ Coastwide measures. <p style="text-align: center;">April</p> <ul style="list-style-type: none"> • NMFS publishes proposed rule for recreational measures announcing the overall % reduction required (if applicable) and coastwide measures. <p style="text-align: center;">May</p> <ul style="list-style-type: none"> • NMFS publishes final rule announcing overall % reduction required (if applicable) and coastwide measures.

APPENDIX B: PROPOSED LANGUAGE FOR TRANSITING THE EEZ BETWEEN RHODE ISLAND STATE WATERS ADJACENT TO BLOCK ISLAND AND RHODE ISLAND STATE WATERS ADJACENT TO THE RHODE ISLAND MAINLAND

- (a) A vessel in possession of a regulated species legally harvested in Rhode Island state waters in accordance with all applicable Rhode Island laws and regulations may transit a portion of the EEZ, as specified in subsection (b), for the purpose of landing said species, provided (1) the operator of the vessel has a valid fishing license; (2) the vessel is in continuous transit; (3) no fishing takes place from the vessel while in the EEZ; (4) if previously fishing with nets, the nets are stowed as specified in subsection (c); and (5) if previously fishing with hook and line gear, the poles are secured in holders with all bait removed from all hooks.
- (b) The transit corridor that shown on NOAA chart 13218 (cable area) and bound by NW (41°18'50"N, -71°32'56"W); NE (41°18'20"N, -71°31'27"W); SE (41°17'01"N, -71°32'25"W); SW (41°17'19"N, -71°33'19"W) (figures on next page).
- (c) Stowage of nets: Vessels possessing trawl devices, gill nets, or other nets used to harvest regulated species may have those nets on board while transiting, provided that the nets are stowed and not available for immediate use in accordance with one of the following specifications.
- (1) A net stowed below deck, provided:
- i. It is located below the main working deck from which the net is deployed and retrieved;
 - ii. The towing wires, including the leg wires, are detached from the net; and
 - iii. It is fan folded (flaked) and bound around its circumference.
- (2) A net stowed and lashed down on deck, provided:
- i. It is fan folded (flaked) and bound around its circumference;
 - ii. It is securely fastened to the deck or rail of the vessel; and
 - iii. The towing wires, including the leg wires, are detached from the net.
- (3) A net that is on a reel and is covered and secured, provided:
- i. The entire surface of the net is covered with canvas or other similar material that is securely bound;
 - ii. The towing wires, including the leg wires, are detached from the net; and
 - iii. The cod end is removed from the net and stored below deck.

