

**FINDING OF NO SIGNIFICANT IMPACT  
Under the National Environmental Policy Act**

To Implement the 2026 and Projected 2027 Specifications for Summer Flounder, Scup, and  
Black Sea Bass Fisheries

EAXX-006-1GA-1761104280

January 2026

**I. Purpose of Finding of No Significant Impact (FONSI):** The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for a major Federal action significantly affecting the quality of the human environment (42 U.S.C. § 4332(C)). The NOAA Administrative Order 216-6A Companion Manual (NAO 216-6A CM, June 30, 2025) directs NOAA agencies to evaluate whether a significant impact on the human environment is likely, and to analyze the potentially affected environment and the degree of the effects of the proposed action. In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional, or local), the resources located in the affected area, and whether the project is considered minor or small-scale. In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment, and the magnitude of the effect (e.g., negligible, minor, moderate, major). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the **Environmental Assessment (EA) for the 2026 - 2027 Summer Flounder, Scup, and Black Sea Bass Specifications** which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference.

**II. Approach to Analysis:**

The proposed action was analyzed for its impacts on five valued ecosystem components (VEC), individually and collectively. The five components are the following: Target species; non-target species; protected resources; physical environment; and human communities. These effects were also analyzed in the context of past and potential future actions as part of a consideration of cumulative effects. The impacts of the proposed action on the VECs and associated analyses are described throughout the EA, and specifically in Section 7. The proposed action establishes 2026 and projected 2027 summer flounder, scup, and black sea bass specifications. This action would set the acceptable biological catch (ABC) limits, as well as the recreational and commercial annual catch limits (ACL), annual catch targets (ACT), commercial quotas, and recreational harvest limits (RHL) for each species.

The summer flounder ABC is 30.01 million lb for 2026 and 2027. This represents a 55-percent increase compared to the 2025 ABC; however, the specifications include 12-percent management uncertainty buffers for both the commercial and recreational sectors, which results

in a commercial quota and an RHL equal to what the quota and RHL would have been using the 5-year average ABC from 2021-2025 and no management uncertainty buffers. Therefore, these specifications are expected to maintain summer flounder catch at a level similar to recent years. The 2026 and 2027 scup ABCs are 42.09 million lb and 37.01 million lb. These represent a 2-percent increase and a 10-percent decrease, respectively, compared to the 2025 ABC. The black sea bass ABC is 21.34 million lb for 2026 and 2027. This represents a 28-percent increase compared to the 2025 ABC. The black sea bass specifications do not include additional uncertainty buffers, which results in the highest commercial quotas (7.83 million lb) and RHLs (8.14 million lb) since the implementation of the FMP. However, commercial landings are not expected to increase notably under higher quotas due to other factors such as market demand and prices. The RHL is only one of multiple factors used to determine whether recreational measures may be set to maintain status quo recreational catch or to achieve a reduction or liberalization. The rulemaking process for the 2026-2027 recreational measures will occur in late 2025 and early 2026. Given the current biomass level for black sea bass, the outcome is expected to range from status quo measures to a potential liberalization.

Overall, this proposed action is expected to have: (1) Moderate positive effects on the summer flounder, scup, and black sea bass stocks; (2) slight negative to slight positive impacts on non-target species; (3) moderate negative to slight positive impacts on protected species; (4) slight negative impacts on habitat; and (5) slight to moderate positive impacts on human communities. None of these conclusions, when considered together, is expected to result in any overall significant impact. The proposed action is not connected to other actions that have caused or may cause effects on the resources in the affected area. There is no potential for the effects of the proposed action to add to the effects of other projects, such that the effects taken together could be significant.

### **III. Geographic Extent and Scale of the Proposed Action:**

The proposed action is regional in its geographic extent in the EEZ from the Atlantic coasts of Labrador to North Carolina. The resources present throughout this region that may be impacted by the summer flounder, scup, and black sea bass commercial and recreational fisheries are described in Section 6 of the EA. The EA also describes and considers the typical distribution of effort in these fisheries to varying extents throughout the year and throughout the region. The fisheries and their impacts are spread across a broad region throughout the year. In part due to the wide geographic range of fishing activity, in the context of these species and other VECs concerned in this action, the environmental effects analyzed in the EA would be dispersed throughout the region and not expected to result in substantial<sup>1</sup> changes to any VECs or specific geographic areas.

### **V. Degree of Effect:**

#### *A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

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<sup>1</sup> A high impact or considerable change from a baseline condition or to an important environmental or socio-economic aspect of an action indicating the potential for a significant impact under NEPA.

The proposed action is not expected to alter fishing methods or activities such that they violate any Federal, state, or local law or other requirements imposed for environmental protection. The preferred alternatives were developed to be consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The proposed action has been found to be consistent with other applicable laws as described in Section 8 of the EA.

*B. The degree to which the proposed action is expected to affect public health or safety.*

As described in the EA, the preferred alternatives are not expected to change the manner in which participants conduct fishery activities or substantially affect fishing communities. The proposed action sets 2026 and projected 2027 specifications within the fishery management plans' overall structures. Therefore, no changes in fishing behavior that would affect safety are anticipated. The overall effect of the proposed actions on these fisheries, including the communities in which they operate, is consistent with previously analyzed measures used since the fishery management plans (FMP) were adopted, and is not expected to adversely affect public health or safety.

*C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:*

*a. Federal threatened or endangered species and critical habitat;*

Impacts to ESA-listed species and critical habitat are discussed in Section 7.5 of the EA.

On May 27, 2021, the National Marine Fisheries Service's (NMFS) completed formal consultation pursuant to section 7 of the ESA of 1973, as amended, and issued a biological opinion ([2021 Opinion](#)) on the authorization of eight FMPs, two interstate fishery management plans (ISFMP), and the implementation of the New England Fishery Management Council's Omnibus Essential Fish Habitat (EFH) Amendment 2.<sup>2</sup> The 2021 Opinion considered the effects of the authorization of these FMPs, ISFMPs, and the implementation of the Omnibus EFH Amendment on ESA-listed species and designated critical habitat, and determined that those actions were not likely to jeopardize the continued existence of any ESA-listed species or destroy or adversely modify designated critical habitats of such species under NMFS jurisdiction. An Incidental Take Statement (ITS) was issued in the 2021 Opinion. The ITS includes reasonable and prudent measures and their implementing terms and conditions, which NMFS determined are necessary or appropriate to minimize impacts of the incidental take in the fisheries assessed in the 2021 Opinion.

On September 13, 2023, NMFS issued a 7(a)(2)/7(d) memorandum that reinitiated consultation on the 2021 Opinion. The Federal actions to be addressed in this reinitiation of consultation include the authorization of the Federal fisheries conducted under the aforementioned eight Federal FMPs (see footnote 2). The reinitiated consultation will not include the American

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<sup>2</sup> The eight Federal FMPs considered in the May 27, 2021, Biological Opinion include: (1) Atlantic Bluefish; (2) Atlantic Deep-Sea Red Crab; (3) Mackerel, Squid, and Butterfish; (4) Monkfish; (5) Northeast Multispecies; (6) Northeast Skate Complex; (7) Spiny Dogfish; and (8) Summer Flounder, Scup, and Black Sea Bass. The two ISFMPs are American Lobster and Jonah Crab.

lobster and Jonah crab fisheries, which are authorized under ISFMPs. On December 29, 2022, President Biden signed the Consolidated Appropriations Act (CAA), 2023, which included the following provision specific to NMFS' regulation of the American lobster and Jonah crab fishery to protect right whales, "Notwithstanding any other provision of law ... for the period beginning on the date of enactment of this Act and ending on December 31, 2028, the Final Rule ... shall be deemed sufficient to ensure that the continued Federal and State authorizations of the American lobster and Jonah crab fisheries are in full compliance with the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)." Given this, the American lobster and Jonah crab fisheries remain in compliance with the ESA through December 31, 2028.

On January 8, 2025, and amended on November 25, 2025, NMFS issued a memorandum titled, "Section 7(a)(2) and 7(d) Determinations for the Extended Reinitiation Period for Endangered Species Act Section 7 Consultation on Eight Fishery Management Plans." This reinitiation memorandum determined that the authorization of these fisheries during the extended reinitiation period would not violate section 7(d) of the ESA and would not be likely to jeopardize the continued existence of ESA-listed large whales, sea turtles, Atlantic sturgeon, Atlantic salmon, or giant manta rays, or adversely modify designated critical habitat.

Given the information provided above, it has been determined that the proposed action does not entail making any changes to the summer flounder, scup, and black sea bass fisheries during the extended reinitiation period that would cause an increase in interactions with or effects to ESA-listed species or their critical habitat beyond those considered in NMFS' amended January 8, 2025, reinitiation memorandum. Therefore, the proposed action is consistent with NMFS' 7(a)(2) and 7(d) determinations.

*b. stocks of marine mammals as defined in the Marine Mammal Protection Act;*

As described in Section 7 of the EA, the proposed action is not expected to: (1) alter overall fishing operations; (2) substantially increase fishing effort; or, (3) alter the spatial and/or temporal distribution of current fishing effort. Summer flounder and scup fishing effort is expected to be similar to or lower than recent levels. Due to the higher 2026 and 2027 commercial quotas, increased commercial black sea bass effort using pot/trap gear is possible. However, commercial fishing effort is not expected to increase to the full allowable extent due to other factors such as prices and market demand. The black sea bass recreational measures will be considered in a later rulemaking, but are not expected to change substantially due to the use of the Percent Change Approach, which is designed to allow for gradual changes and prevent significant swings in recreational measures. Taking this into consideration, along with the information provided in Section 7.5, the proposed action is not expected to introduce new or elevated interaction risks to MMPA-protected species. Given this, it has been determined that the proposed action is not expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act.

*c. essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

The proposed action is not expected to cause substantial damage to EFH as EFH is defined under the MSA and identified in the FMP. The commercial fisheries use bottom-trawl, pot, and gillnet gear, and the recreational fisheries use rod and reel and handline gear (section 6.1 of the EA). These gear types, particularly bottom otter trawls, can adversely impact EFH. However, as described in Section 7.4, the areas fished for summer flounder, scup, and black sea bass have been fished for many years and are unlikely to be degraded further as a result of the levels of fishing effort that are expected under the proposed action, which are not expected to be substantially different from past levels of effort. The proposed action is expected to result in slight negative impacts to habitat as a result of continued fishing.

*d. bird species protected under the Migratory Bird Treaty Act;*

Information about seabird interactions with this fishery is limited. However, there is no known evidence of substantial impacts to bird species, including those protected under the Migratory Bird Treaty Act, from the summer flounder, scup, and black sea bass fisheries in the past. The preferred alternatives are not expected to result in substantial changes to the spatial and/or temporal distribution of current fishing effort, or substantially alter fishing methods. As a result, it is not expected that this action would have any new effect on these species.

*e. national marine sanctuaries or monuments;*

There are National Marine Sanctuaries and Marine National Monuments established in the broader region covered by the summer flounder, scup, and black sea bass fisheries; and considered in the EA. However, as described in Section 6, the areas fished for these species have been fished for many years and are unlikely to be degraded further as a result of the levels of fishing effort that are expected under the proposed actions, which are not expected to be substantially different from past levels of effort. This action is generally not expected to change the typical manner in which fishing is conducted. As described above, no significant impacts to other VECs that may be found within these monuments or sanctuaries are expected. Fishery participants would also be required to continue to comply with any rules or regulations concerning fishing activity within these areas. As a result, the proposed specifications are not expected to have any substantial effects on national marine sanctuaries or monuments.

*f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;*

The proposed action is not expected to have significant impacts on the natural or physical environment, including vulnerable marine or coastal ecosystems. The current fishery operations do not adversely affect these areas, and the preferred alternatives are not expected to alter fishing methods or activities or to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. The areas fished for summer flounder, scup, and black sea bass have been fished for many years, and this action is not expected to change the core locations or nature of any fishing activity. Much of the area in the Mid-Atlantic near the continental slope/shelf break where deep sea corals can be found in and around the submarine canyons is now protected by a prohibition on bottom-tending gear in the Frank R. Lautenberg Deep Sea Coral Protection Area (81 Federal Register 90246; December 14, 2016). On the outer

continental shelf in New England waters, the Georges Bank Deep Sea Coral Protection Area (86 Federal Register 33553; June 25, 2021) designated coral protection areas on Georges Bank and in the Gulf of Maine and prohibited the use of certain bottom-tending gears in those areas. The majority of summer flounder, scup, and black sea bass fishing activity typically does not occur in these protected areas. The preferred alternatives are not expected to alter summer flounder, scup, or black sea bass fishing patterns relative to this protected area or in any other manner that would lead to adverse impacts on deep sea coral or other vulnerable marine or coastal ecosystems.

*g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

The impacts of the summer flounder, scup, and black sea bass commercial and recreational fisheries on biodiversity and ecosystem functioning have not been assessed; however, the impacts to components of the ecosystem (*i.e.*, non-target species, habitat, and protected species) have been considered. As described in Section 7, the preferred alternatives are not expected to alter fishing methods or activities or fishing effort or the spatial and/or temporal distribution of current fishing effort. As described in the EA, expected levels of effort are not likely to negatively impact the stock status of non-target species, they are not likely to cause additional habitat damage beyond that previously caused by a variety of fisheries, and they are not expected to substantially increase interaction risk with any protected species. They are not, however, expected to contribute to the recovery of any damaged habitats or endangered or threatened species. For these reasons, the preferred alternatives are not expected to have a substantial impact on biodiversity and ecosystem function within the affected area.

*D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

The impacts of the proposed measures on the human environment are described in Section 7.1 of the EA. No significant impacts are expected to occur in any of the above areas. The proposed action would not affect historic properties and archeological resources. The gear types used in the summer flounder, scup, and black sea bass fisheries (*i.e.*, predominantly bottom otter trawl and pots/traps in the commercial fisheries and hook and line in the recreational fishery) can negatively impact physical habitat. The hook and line gear used in the recreational fishery generally has a lesser impact on habitat than the dominant commercial gear types. The preferred alternatives are not expected to result in substantial changes to the spatial and/or temporal distribution of current fishing effort, or substantially alter fishing methods. Therefore, minimal disturbing impacts are expected to result from the proposed action. Although historical or cultural resources, such as shipwrecks, may be present in the area where the summer flounder, scup, and black sea bass fisheries occur, including some registered on the National Register of Historic Places, vessels typically try to avoid fishing too close to wrecks due to the possible loss or entanglement of gear. Therefore, it is unlikely that the proposed action would result in substantial impacts to unique areas.

*E. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

There is no evidence or indication that the summer flounder, scup, or black sea bass fisheries have ever resulted in the introduction or spread of noxious weeds or nonnative invasive species. As described in Section 7 of the EA, the preferred alternatives proposed in this action are not expected to change fishing effort substantially or alter the manner in which the fishery operates. Nor will it change the spatial and/or temporal distribution of current fishing effort. Therefore, it is highly unlikely that the preferred alternatives would result in any effects that promote the introduction, growth, or expansion of these species.

*F. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

The proposed action is not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed action. The proposed action is not expected to substantially alter fishing methods or activities and is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. The measures contained in this action are not expected to have highly uncertain, unique, or unknown risks on the human environment. The preferred alternatives are comparable to previous measures developed under the Summer Flounder, Scup, and Black Sea Bass FMP, which has been in place for many years. Fishing conducted under this FMP has been monitored and analyzed in the Council process for many years and, thus, risks from these fisheries are relatively well known. There is some uncertainty involved in projecting stock abundance in a given year; however, uncertainty around these projections is, in part, addressed in the Council's Risk Policy and the SSC's development of recommendations and in the specifications setting process within both the recreational and commercial ACTs, as described in Section 4 of the EA.

## **V. Other Actions Including Connected Actions:**

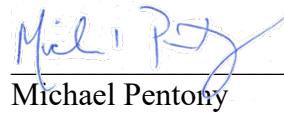
There are no other connected actions where the combined effects may be significant. Any other future actions within the summer flounder, scup, and black sea bass fisheries, would be developed, analyzed, and implemented independently of the proposed action according to the respective FMP, and the MSA. The Cumulative Effects Analysis in Section 7.6 of the EA discusses other beneficial and adverse actions that are occurring or reasonably certain to occur, and that affect the same resources as the proposed action. This section of the EA demonstrates that the effects of these collective actions, for each resource analyzed, do not result in synergistically significant impacts, either positive or negative.

## **VI. Mitigation and Monitoring:**

NMFS does not anticipate any high or significant impact from the proposed action. Therefore, NMFS is not proposing or adopting any mitigation measures or monitoring plans.

## **DETERMINATION**

NEPA directs an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines that the preparation of an EIS is unnecessary because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for the summer flounder, scup, and black sea bass specifications, it is hereby determined that this action will not significantly impact the quality of the human environment. The Environmental Assessment for the proposed specifications is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action, as well as mitigation measures, have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

  
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Michael Pentony  
Regional Administrator  
Greater Atlantic Regional Fisheries Office  
National Marine Fisheries Service

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January 13, 2026  
Date