



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

DATE: December 11, 2025

MEMORANDUM FOR: Michael Pentony
Regional Administrator

FROM: Marianne Randall
National Environmental Policy Act Analyst

THROUGH: Timothy Cardiasmenos
National Environmental Policy Act Coordinator

SUBJECT: Final Clearance of the Environmental Assessment
(EA) for Framework Adjustment 18 to the Summer
Flounder, Scup, and Black Sea Bass Fishery
Management Plan

Thank you for the opportunity to review the subject documents. All comments provided on the subject EA have been adequately addressed. National Environmental Policy Act (NEPA) staff reviewed the Finding of No Significant Impact (FONSI) for the subject EA. We have determined that it complies with the requirements of NEPA and recommend you concur by signing below. We have no further comment on the EA or FONSI statement.

1. I concur. _____ Date

2. I do not concur. _____ Date

cc: John Almeida, GCNE
Jay Hermsen, SFD
Laura Deighan, SFD
Matt Rigdon, SFD

Attachment



Attachment

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

To Implement Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass
Fishery Management Plan
EAXX-006-48-1GA-1748358432

December 11, 2025

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 (NAO 216-6A CM, Appendix A-2). 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 (NAO 216-6A CM Appendix A-2 - A-3), 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 Finding of no Significant Impact (FONSI), we reviewed **Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) Environmental Assessment (EA)**, 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 their magnitude). The EA is hereby incorporated by reference.

II. Approach to Analysis:

The Mid-Atlantic Fishery Management Council (Council) submitted Framework Adjustment 18 to the Summer Flounder, Scup, and Black Sea Bass FMP to NOAA's National Marine Fisheries Service (NMFS). Framework 18 has three sets of alternatives: (1) To revise the area associated with the summer flounder Small Mesh Exemption Program (SMEP); (2) to revise the annual review criteria associated with the SMEP; and (3) to modify the definition of flynet gear within the summer flounder regulations. Framework 18 is intended to expand access to the exemptions and to modernize the exemptions to be consistent with current gear use and fishing practices.

Table 1: Alternatives considered in Framework 18. The Council's preferred alternatives are emphasized in bold text.

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| <ul style="list-style-type: none">● <u>Alternative Set 1: Small Mesh Exemption Area Boundaries</u><ul style="list-style-type: none">○ Alternative 1A: No Action○ Alternative 1B: Increase the SMEP area by moving the westward boundary west for a portion of the area South of Long Island Sound (Preferred)● <u>Alternative Set 2: Small Mesh Exemption Area Review Criteria</u><ul style="list-style-type: none">○ Alternative 2A: No Action (SMEP termination trigger is an average of 10 percent, by weight, of summer flounder catch discarded on SMEP trips)○ Alternative 2B: Increase the SMEP termination trigger from 10 percent to 25 percent, by weight, of summer flounder catch discarded on SMEP trips○ Alternative 2C: Increase the SMEP termination trigger from 10 percent to 25 percent, by weight, of summer flounder catch discarded on SMEP trips and add a review of the SMEP discards when the trigger is reached (Preferred)● <u>Alternative Set 3: Flynet Exemption</u><ul style="list-style-type: none">○ Alternative 3A: No Action (the definition of a flynet includes a limit on seams, maximum mesh sizes, and a specific count of large mesh in the body)○ Alternative 3B: The definition of a flynet is updated to remove references to the number of seams and the maximum mesh size and to require a specific length of large mesh in the body (Preferred) |
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The proposed action includes the preferred alternatives for all sets of alternatives in Framework 18. In addition, we plan to implement three administrative changes under the Secretarial rulemaking authority of Magnuson-Stevens Act section 305(d): (1) Allow for a minimum LOA period of less than 7 days to provide added flexibility to the industry; (2) implement the use of a flynet vessel trip report (VTR) code for ease of tracking fishing activity under the flynet exemption; and, (3) revise the criterion used to evaluate termination of the flynet exemption to align with the original FMP amendment and its intent. These administrative changes support implementation of the Council's proposed changes, alleviate an administrative constraint that is no longer necessary, and correct an error in the regulations. This FONSI only makes a finding related to NMFS' approved measures, and references to "the action" in this document refer exclusively to those measures.

The EA includes analysis of the proposed action for its impacts on five valued ecosystem components (VEC), individually and collectively. The five components are: 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 action on the VECs and associated analyses are described throughout the EA and specifically in section 7.

The summer flounder fishery is cooperatively managed by the Council and the Atlantic States Marine Fisheries Commission. Federal measures are designed to meet the established management goals and objectives in the FMP. The proposed action is expected to have: (1) no impact to slight positive effects on the summer flounder stock; (2) slight negative to slight

positive impacts on non-target species; (3) no impact to slight moderate negative impacts of protected species; (4) no impact to slight negative impacts on habitat; and (5) negligible 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 to the resources in the affected area. There is then 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 U.S. Exclusive Economic Zone from the Atlantic coasts of Maine to North Carolina. The resources present throughout this region that may be impacted by the summer flounder fishery are described in Section 6 of the EA. The EA also describes and considers the typical distribution of effort in this fishery to varying extents throughout the year and throughout the region. The fishery and its 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 summer flounder 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 substantial¹ changes to any VECs or specific geographic areas.

IV. 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.

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 proposed action was developed to be consistent with the Magnuson-Stevens Fishery Conservation and Management Act. 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 proposed action is not expected to change the manner in which participants conduct fishery activities or substantially affect fishing communities. The proposed action modernizes and expands access to the exemptions to summer flounder minimum mesh size requirements. They would allow a small number of vessels to convert some summer flounder regulatory discards into landings. Therefore, no changes in fishing behavior that would affect safety are anticipated. The overall effect of the proposed action on this fishery, including the communities in which it operates, is consistent with previously analyzed measures used since the FMP was adopted, and is not expected to adversely affect public health or safety.

¹ 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.

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 Sections 7.1.2, 7.1.3, 7.2.2, 7.2.3, 7.3.2, 7.3.3, and 7.4.3 of the EA.

On May 27, 2021, the NMFS completed formal consultation pursuant to section 7 of the ESA of 1973, as amended, and issued a Biological Opinion on the authorization of eight Federal FMPs, two interstate fishery management plans (ISFMP), and the implementation of the New England Fishery Management Council's Omnibus Essential Fish Habitat (EFH) Amendment 2.² 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 our 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.

The 2021 Opinion was reinitiated on September 13, 2023. 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 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, 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.

² 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.

Given the information provided above, it has been determined that the proposed action does not entail making any changes to the summer flounder fishery during the 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' January 8, 2025, memorandum. Therefore, the proposed action is consistent with NMFS' January 8, 2025, 7(a)(2) and 7(d) determination.

b. stocks of marine mammals as defined in the Marine Mammal Protection Act (MMPA);

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) significantly alter the spatial and/or temporal distribution of current fishing effort. Considering this and the information provided in Sections 7.1.3, 7.2.3, 7.3.3, and 7.4.3 of the EA, 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 (EFH) 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 fishery primarily uses bottom otter trawls (section 6.5 of the EA). Bottom otter trawls can adversely impact EFH. However, as described in Section 7.1.2, 7.2.2, and 7.3.2, the areas fished for summer flounder have been fished for many years and are unlikely to be degraded further as the 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. Commercial summer flounder fishing effort is expected to continue to be driven by the coastwide quota. Further, these exemptions are intended to allow marginal increases in summer flounder landings by vessels participating in other small-mesh fisheries. It is expected that the choice of where to fish will continue to be primarily driven by the availability of and regulatory considerations for the main small mesh target species. The impacts of the summer flounder commercial quota and other FMPs' management are analyzed separately. This proposed action is expected to result in no impact to 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 fishery in the past. The proposed action is 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 fishery 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 action, 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. 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 action is 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 proposed action is 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 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 fishing activity typically does not occur in these protected areas. The proposed action is not expected to alter summer flounder 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 fishery on biodiversity and ecosystem function has 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 proposed action is not expected to substantially alter fishing methods or activities, 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 proposed action is 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 action on the human environment are described in Section 7.1.4 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 commercial summer flounder fishery (*i.e.*, predominantly bottom otter trawl) can negatively impact physical habitat. The proposed action is 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 fishery occurs, 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.

F. 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 fishery has ever resulted in the introduction or spread of noxious weeds or non-native invasive species. As described in Section 7 of the EA, the proposed action is not expected to change fishing effort substantially or alter the manner in which the fishery operates. Nor will it substantially change the spatial and/or temporal distribution of current fishing effort. Therefore, it is highly unlikely that the proposed action would result in any effects that promote the introduction, growth, or expansion of these species.

*G. 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, to substantially increase fishing effort, or to substantially alter 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 proposed action is comparable to previous measures developed under the Summer Flounder, Scup, and Black Sea Bass FMP, which have been in place for many years. Fishing conducted under the FMP has been monitored and analyzed in the Council process for many years; thus, risks from the summer flounder fishery are relatively well known. The current regulations exempt vessels participating in the SMEP or using flynet gear from the summer flounder minimum mesh size requirements. This proposed action would modernize the current exemptions and expand access to their use, allowing increased retention of summer flounder on a small number of trips. The use of these exemptions is monitored, and the summer flounder regulations include provisions for their temporary termination if they lead to significant increases of summer flounder discards by SMEP vessels or of summer flounder catch by flynet vessels.

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 fishery would be developed, analyzed, and implemented independently of the proposed action in accordance with the FMP, the Magnuson-Stevens Act, and other applicable laws. The Cumulative Effects Analysis in Section 7.4 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 Framework 18, it is hereby determined that this action will not significantly impact the quality of the human environment. The EA for Framework 18 is hereby incorporated by reference. In addition, all 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.

Michael Pentony
Regional Administrator

Date

Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service