Atlantic States Marine Fisheries Commission

Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council

October 24, 2024
2:15 – 3:00 p.m.

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*N. Meserve & W. Townsend*) 2:15 p.m.

2. Board Consent 2:15 p.m.
   - Approval of Agenda
   - Approval of Board Proceedings from February 2024 (Board Only)

3. Public Comment 2:20 p.m.

4. Consider Summer Flounder Commercial Mesh Size Exemptions Addendum/Framework (Addendum XXXV) for Final Approval **Final Action** 2:30 p.m.
   - Review Options and Public Comment Summary (*C. Tuohy and K. Dancy)*
   - Consider Final Approval of Addendum XXXV and Council Framework Action

5. Other Business/Adjourn 3:00 p.m.

The meeting will be held at The Westin Annapolis (100 Westgate Circle, Annapolis, MD; 888.627.8994) and via webinar; click here for details

MEETING OVERVIEW

Summer Flounder, Scup, and Black Sea Bass Management Board
and Mid-Atlantic Fishery Management Council
October 24, 2024
2:15 p.m. – 3:00 p.m.

Chair: Nichola Meserve (MA) Assumed Chairmanship: 12/23	Technical Committee Chair: Alexa Galvan (VA)	Law Enforcement Committee Representative: Snellbaker (MD)
Vice Chair: John Maniscalco (NY)	Advisory Panel Chair: Vacant	Previous Board Meeting: August 14, 2024
Voting Members: NH, MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, NMFS, USFWS (13 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Board Proceedings from February 2024 (Board Only)

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Consider Summer Flounder Commercial Mesh Size Exemptions Addendum/Framework (Addendum XXXV) for Final Approval (2:30-3:00 p.m.) Final Action

Background

- In December 2023, the Council initiated a framework action to address changes to two exemptions to the summer flounder commercial minimum mesh requirements, the Small Mesh Exemption Program (SMEP) and the flynet exemption. The Summer Flounder, Scup, and Black Sea Bass Management Board (Board) initiated a corresponding addendum in February of 2024.
- In August of 2024, the Board approved Draft Addendum XXXV for public comment. Draft Addendum XXXV considers modifications to the western boundary of the SMEP, changes to the evaluation criteria for the SMEP, and updates to the definition of a flynet (**Briefing Materials**).
- Public comment was gathered in August and September through public hearings and written comments (**Briefing Materials**).
- The Advisory Panel reviewed the draft addendum on October 3 (**Supplemental Materials**).

Presentations

- Summer Flounder Commercial Mesh Size Exemptions Addendum/Framework Options Overview, Public Comment Summary, and Advisory Panel Report by C. Tuohy and K. Dancy

Board and Council Actions for Consideration

- Select management options and implementation dates
- Final approval of Summer Flounder Commercial Mesh Size Exemptions Addendum/Framework (Addendum XXXV)

5. Other Business/Adjourn

Summer Flounder, Scup, & Black Sea Bass 2024 Technical Committee Tasks

Activity Level: High

Committee Overlap Score: High (Multi-species committees for this Board)

Committee Task List

- July 2024: Review and develop recommendations on 2025 specifications (coastwide quota and RHLs) for summer flounder, scup, and black sea bass.
- November 2024: Develop recommendations on 2025 recreational measures for summer flounder, scup, and black sea bass.

TC Members: Alexa Galvan (VA, Chair), Julia Beaty (MAFMC), Peter Clarke (NJ), Tracey Bauer (ASMFC), Chelsea Tuohy (ASMFC), Hannah Hart (MAFMC), Kiersten Curti (NOAA), Kiley Dancy (MAFMC), Lorena de la Garza (NC), Steve Doctor (MD), Emily Keiley (NOAA), Jeff Kipp (ASMFC), Rachel Sysak (NY), Corinne Truesdale (RI), Sam Truesdell (NOAA), Greg Wojcik (CT), Ben Wasserman (DE), Tony Wood (NOAA).

DRAFT PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS MANAGEMENT BOARD

Webinar

February 14, 2024

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ATTENDANCE

Board Members

Renee Zobel, NH, proxy for C. Patterson (AA)
Nichola Meserve, MA, proxy for D. McKiernan (AA)
Raymond Kane, MA (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Jason McNamee, RI (AA)
David Borden, RI (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Justin Davis, CT (AA)
Bill Hyatt, CT (GA)
Marty Gary, NY (AA)
Emerson Hasbrouck, NY (AA)
Amy Karlnowski, NY (LA)
Joe Cimino, NJ (AA)
Jeff Kaelin, NJ (GA)
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
John Clark, DE (AA)
Roy Miller, DE (GA)
Mike Luisi, MD, proxy for L. Fegley (AA, Acting)
Pat Geer, VA, proxy for J. Green (AA)
Joe Grist, VA, proxy for Sen. Mason (LA)
Chris Batsavage, NC, proxy for K. Rawls (AA)
Ron Owens, PRFC
Emily Keiley, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Alexa Galvan, Technical Committee Chair
Jason Snellbaker, Law Enforcement Representative

Staff

Bob Beal
Toni Kerns
Tina Berger
Madeline Musante
Tracey Bauer
Emilie Franke
Chelsea Tuohy
Kurt Blanchard

Guests

Galvan Alexa, VMRC
Mabaka Arthur, Stony Brook Uni.
Muffley Brandon, MAFMC
Ingrid Braun, PRFC
McDonough Chris, SC DNR
Bouffard Colleen, CT DEEP
Truesdale Corinne, RI DEM
Weedon Craig, MD DNR
Radel Dan, Gannett NJ
Koob Elise, MA DMF
DiDomenico Greg
Hart Hannah, MAFMC
Braun-Ricks Ingrid, PRFC
Conway Jack
Creighton Jack
Hermsen Jay, NOAA
Brust Jeffrey, NJ DEP
Maniscalco John, NYS DEC
Lim Jonathan, Stony Brook Uni.
Beneventine Joseph
Beaty Julia, MAFMC
Neill Ken, MSN
Dancy Kiley, MAFMC
Gillingham Lewis, VMRC
De La Garza Lorena, NC DEQ
John Maniscalco, NYS DEC
Appleman Max, NOAA
Bowen Michael, Cornell
Armstrong Mike, MA DMF
Augustine Pat
Haertel Paul
Clarke Peter, NJ DEP
Bogan Raymond
St. Amand Renee, CT DEEP
Lazo Sarah, NOAA
Curatolo-Wagemann Scott, Cornell Uni.
Madsen Shanna, VMRC
Feller Skip
Smott Somers, VMRC
Witthuhn Steven
Poston Will, Saltwater Guide Assn.

The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Wednesday, February 14, 2024, and was called to order at 1:00 p.m. by Chair Nichola Meserve.

CALL TO ORDER

CHAIR NICHOLA MESERVE: Good afternoon to everyone, welcome to the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board meeting of February 14, 2024. My name is Nichola Meserve, I'm an Administrative Proxy for Massachusetts, and serving as your Board Chair today.

First, I would just like to thank Justin Davis for doing a remarkable job as our Board Chair for the past two years. Today I am joined by Commission FMP Coordinators Tracey Bauer and Chelsea Tuohy; to help steer us through our task today, as well as Toni Kerns. I think I would like to give all three of you, kind of carte blanche to jump in whenever you need, you know if I'm missing any hands that are raised, just juggling multiple screens here.

APPROVAL OF AGENDA

CHAIR MESERVE: We have a draft agenda before us. My one addition to it is for staff under Other Business, to give us a quick outlook on this Board's meeting schedule for 2024, as it is best known right now, of course. Given the joint nature of these species management with the Mid-Atlantic Council, we often meet outside of the normal ASMFC meeting schedule, and jointly with the Mid-Atlantic Council at some of their meetings.

To help with planning purposes, staff will just give us a quick preview of the year ahead. Other than that, are there any other additions or modifications that Board members would like to make to today's draft agenda? Look for any hands on the webinar for that. Seeing none; we will consider the agenda as modified approved by the Board by consent.

APPROVAL OF PROCEEDINGS

CHAIR MESERVE: We can move on to the draft record of this Board's proceedings from March of 2023 that needs to be approved today.

Are there any modifications to those draft proceedings? Again, I'm not seeing any hands online, so we will consider those approved by Board consent as well.

PUBLIC COMMENT

CHAIR MESERVE: Up next is public comment. This is an opportunity for members of the public to comment on items that are not on the agenda. I'll note that I do plan to provide for limited public comment on the action items that are on the agenda today.

But first, at this time, if there is any public that would like to comment on items not on the agenda, this is your opportunity, and you can show your interest by raising your hand on the webinar. All right, not seeing any hands.

CONSIDER FINAL APPROVAL OF PROPOSED SUMMER FLOUNDER AND SCUP RECREATIONAL MEASURES FOR THE 2024-2025 FISHING YEARS AND BLACK SEA BASS RECREATIONAL MEASURES FOR THE 2024 FISHING YEAR (FINAL ACTION)

CHAIR MESERVE: We can move on to our first major agenda item, which is to Consider Final Approval of the Proposed Summer Flounder and Scup Recreational Measures for 2024 and 2025, and the Black Sea Bass Recreational Measures for 2024. This Board, as well as the Mid-Atlantic Council, previously approved a 28 percent coastwide recreational harvest reduction for summer flounder, a 10 percent coastwide recreational harvest reduction for scup, and status quo recreational management measures for black sea bass, with an allowance for states to request minor seasonal modifications that are not projected to increase harvest.

The Board further provided guidance for setting state and/or regional measures for summer flounder and scup, through the Commission's processes, and each state or region has used the

recreation demand model to provide a range of options for the Board's consideration today. I want to stress that the Board is approving a range of options today, and that it is the states using their own public input and rulemaking processes, that will then go through the action of selecting and implementing measures from this approved range.

Then they will need to notify the ASMFC of the selected measures.

REVIEW PROPOSED REGIONAL MEASURES

CHAIR MESERVE: We'll begin first with a presentation from Chelsea and Tracey on the range of proposals. They are going to take us through the range for all three species before we take questions. Take it away, Chelsea and Tracey.

MS. CHELSEA TUOHY: Thank you for that overview. Today I'm going to start off by talking about the summer flounder and scup recreational management measures proposals, and Tracey will then wrap up the presentation with the black sea bass recreational management measure proposals.

In the presentation, we're first going to provide some background on the decisions made at the most recent joint meeting between the Board and Council in December of 2023, and some background information on the proposed recreational management measures, such as regions and things along those lines.

We will then walk through the proposed 2024 and 2025 measures for summer flounder and scup, and 2024 season adjustment proposal for black sea bass. Lastly, the Board will consider the proposed measures for final approval, and again that is the range of options, states will not be selecting specific options today.

Just a note for the Board, we will be looking for three separate motions to approve the range of options for each of the three species. Moving into some background on summer flounder and scup. At the joint Board and Council meeting in December, based on the results of the Recreation Demand Model, and using the percent change approach, the Board and Council agreed that each summer flounder region take a 28 percent reduction in expected harvest in 2024, and those measures would remain unchanged in 2025.

The Board and Council agreed to adopt conservation equivalency for summer flounder 2024 and 2025 recreational management. As a reminder to everyone, the Board exempted North Carolina from taking a 28 percent reduction in harvest, given the rest of the coast is able to achieve the full 28 percent required reduction. That exemption is due to the fact that North Carolina manages multiple flounder species under a single set of regulations, which are currently very restrictive, in an effort to rebuild the southern flounder stock. As a result, the state's recreational summer flounder harvest estimates have remained low in recent years, compared to historic harvest. As another quick reminder, there are six summer flounder regions consisting of Massachusetts, Rhode Island, Connecticut and New York together are a region, New Jersey, the states from Delaware through Virginia are a region, and finally, North Carolina.

Each summer flounder region is required to propose recreational measures with the same minimum size limit, possession limit and season length. Moving on to some background on scup. For scup, the Board and Council agreed to a 10 percent reduction in expected harvest for 2024, with those measures remaining unchanged in 2025.

In December, the Board and Council also removed the early season federal waters closure from January 1 to April 30, in favor of the state's taking the full required 10 percent reduction through the Commission process. While scup regions are not outlined specifically in the FMP, states may work collaboratively as regions, as was done in 2023, to submit regional proposals that achieve the required reduction.

In 2023, scup regions were defined by the states as Massachusetts through New York, New Jersey, and Delaware through North Carolina. For 2024 and 2025, states submitted proposals that reflected the same scup regions that were used in 2023, so those regions that you see up on the screen there.

As was done in 2023, the Technical Committee used the Recreation Demand Model for summer flounder and scup to determine the recreational management measures that would meet the 28 percent and 10 percent reductions respectively for their state or region. Those are the proposed measures that will be put forward today.

Because of how the model is set up, summer flounder measures that are input into the model affect the scup reduction and vice versa, so summer flounder and scup measures have to be paired together, to calculate the reduction for both species. You saw those paired options in the meeting materials in the fourth memo that went around a few weeks ago.

The reductions for the options provided in the memo are only for individual states or regions, and in that memo, there is one coastwide reduction example provided. Given the number of options that we received, it wasn't possible to calculate the coastwide reductions for every combination of options between the states, and the final coastwide reduction for summer flounder and scup will be calculated once all states select their final measures later in March.

As mentioned, I'll be covering the proposed measures for summer flounder and scup for each state or region. I will not be going through all the combinations of summer flounder and scup options. I will have all of the options up on the screen, and if you know folks are interested in looking in how all those options are paired together, again, they are outlined in that Board memo that went out a few weeks ago.

The option numbers referred to for the remainder of the presentation are the numbers listed in that Board memo. I'll start off with Massachusetts, and will make my way down the coast, and I will be discussing each of the scup regions separately, and then I'll provide a few example reductions for the coast as a whole for summer flounder and scup. Although proposed summer flounder measures vary between some states in the scup region, the northern region has proposed scup options that are nearly identical, with one small difference. I'll go through, starting with scup.

For Massachusetts, Massachusetts has proposed three scup options in total, those are these three at the bottom of the screen there, and status quo is that first row. Two of the scup options have a May 1 open season start date, and one option has an April 1st start date, with all options having seasons closing on December 31st.

The first option has a 30 fish bag limit for the private and shore modes, and a bag limit that switches from 40 fish to 30 fish for the for-hire mode. Second option includes a 9-fish bag limit for the private and shore modes, and a bag limit that switches from 20 fish to 9 fish for the for-hire mode, and then that third option includes a 20-fish bag limit for the private and shore modes, and a bag limit that switches from 20 fish to 40 fish and then back to 20 fish for the for-hire mode.

Moving on to the remainder of the northern region, which is Rhode Island through New York. Their scup options are very similar, they are the same as Massachusetts, except the first two options include three for-hire bag limit changes throughout the seasons rather than two. The dates for those changing bag limits are not the same as Massachusetts, but that is the only difference.

Then in their third option, which is shown at the bottom of the screen there, the bag limits are the same for the for-hire mode, but again, those seasons are slightly different, they have the same start and end dates as Massachusetts, but the bag limits don't switch on the same dates as

Massachusetts. Nearly identical scup options for the northern region there.

Now I'm going to be moving on into these state-specific options, and specifically discussing summer flounder here. Massachusetts in total provided 42 potential options that had different combinations of 14 summer flounder options and 3 scup options that were just discussed. Massachusetts' summer flounder reductions range from 28.04 percent to 29.08 percent, and their scup options ranged from 6.74 percent to 13.69 percent.

Taking a look at the 14 summer flounder options that were proposed by Massachusetts. For a majority of those options the state kept their 16.5-inch size limit, or increased the size limit for a specific mode. Most options lowered the bag limit for the whole fishery, or for a specific mode, and options included a variety of seasons, all which are shown in that right most column.

For the state of Rhode Island, Rhode Island proposed 9 potential options that included combinations of 3 summer flounder options and those 3 scup options that were discussed earlier. Summer flounder option reductions ranged from 28.54 percent to 34.43 percent, and scup option reductions ranged from 4.69 percent to 15.66 percent.

The three proposed summer flounder options are shown in the table to the right, and included size limits from 18.5 to 19 inches, representing an increase from the current minimum size. There was a bag limit of 6 fish for that 19-inch size limit option, and a bag limit of 3 fish for both the 18.5-inch size limit options, and again a variety of seasons shown up there on the screen. It is important to note that for all options Rhode Island is proposing to maintain their 7 special shore sites, which allow for 2 fish to be kept at a minimum size of 17 inches.

There was no way to model these 7 shore sites in the recreation demand model, but Rhode Island provided MRIP estimates for all shore sites, not just those 7, compared to total harvest to demonstrate that the 7 special shore sites are likely to have a negligible impact on total harvest.

In 2022, Rhode Island estimated harvest from shore cumulative through Wave 5 was 35 pounds, compared to a total harvest of 330,908 pounds, and in 2023, the states estimated harvest from shore accumulative through Wave 5, was 11,219 pounds, compared to a total harvest of just under 300,000 pounds.

Moving down the coast from Rhode Island, we got to Connecticut and New York, which again, Connecticut and New York are represented as one summer flounder region, both of those states together. Connecticut and New York provided 18 total regional options that were a combination of 6 summer flounder options and 3 scup options.

Summer flounder reductions for the two states combined, represented reductions ranging from 28.2 percent to 36.52 percent. Then scup options for the two states combined ranged from 10.39 percent to 12.79 percent. Moving on to the Connecticut through New York regional summer flounder options.

Option size limits range from the current minimum size of 18.5 inches to 19.5 inches. Bag limits ranged from 3 to 4 fish and seasons were variable. Now we're moving out of the northern scup region into New Jersey. Overall, New Jersey provided six total options that were different combinations of summer flounder measures and scup measures.

Summer flounder reductions range from 28.02 percent to 28.98 percent, and scup reductions ranged from 10.08 percent to 12.11 percent. For summer flounder, size limits included a range of options with some options including different bag limits for different sizes or different sizes and bag limits for different modes.

Then finally, there was also some options that had different seasons for different bag limits. For scup, options maintain the 30-fish bag limit and 10-inch

minimum size, but propose two different seasonal closures over the summer. Like Rhode Island, New Jersey has also proposed to maintain special regulations.

Specifically, they would like to maintain special regulations for all options in Delaware Bay, which has a minimum size limit of 17 inches, and a bag limit of 3 fish. At the special shore site on Island Beach State Park, which has a 16-inch minimum size limit and a 2-fish bag limit. Now moving into the southern scup region.

As a reminder, that southern scup region contains the states of Delaware through North Carolina. These states proposed two potential scup options for the 2024 and 2025 fishing years. Before I get into those scup options, it's important to know that the Recreation Demand Model is currently unable to pick up scup harvest south of New Jersey, due to the low levels of harvest from that southern region. However, because the Board did not exempt the southern region from a scup reduction, the states were required to propose measures that provided some amount of potential reduction, even though it could not be modeled by the RDM. The southern scup region from Delaware through North Carolina has proposed one option that includes status quo measures.

Those status quo measures are a 40-fish bag limit, except in Virginia, which has a 30-fish bag limit, a year-round open season, and a 9-inch minimum size limit. Then the second scup option that was proposed by those southern states is a bag limit reduction of 5 fish, so a bag limit of 35 fish, again 30 fish in Virginia, a year-round open season and a 9-inch minimum size limit.

Both of these southern region scup options were discussed and supported by the Technical Committee. Again, just as a reminder, for both of those options the bag limit in Virginia would stay at 30 fish, as they are lower than the rest of that southern region there. Now moving on to the southern flounder region in the south, which is made of the states Delaware through Virginia.

The states of Delaware through Virginia again had those two scup options, and they've also proposed six summer flounder options. Summer flounder reductions range from 28.01 percent to 33.53 percent, and as just mentioned, the scup reductions were 0 percent, due to the recreation demand model's inability to pick up scup harvest in that southern region.

Taking a look at the summer flounder options here for the states of Delaware through Virginia, options included size limits ranging from 17 to 17.5 inches, and bag limits ranging from 2-4 fish, with some options considering different bag limits for different seasons. Now one thing I will note for this southern region here, Delaware through Virginia, is we did receive a new option from the region recently that was not able to be included in that Board memo, so we are presenting it here for the first time today.

This new option for summer flounder includes a 4-fish bag limit, and year-round open season, with the size limit increasing starting in June. It's a size limit increase of 16 inches to 17.5 inches starting in June. Finally, wrapping up the coast with North Carolina. As mentioned earlier, North Carolina was exempt from taking further summer flounder reductions, and proposed status quo recreational management measures for the 2024 and '25 fishing year is for summer flounder.

Those status quo measures include a size limit of 15 inches, a bag limit of 1 fish, and an open season from August 16th through September 30th. Due to the number of options submitted by the states, again it wasn't possible to calculate the coastwide summer flounder and scup reductions for every possible combination of these options. In the memo sent out to the Board as part of the meeting materials, an example set of options was selected to demonstrate what a coastwide reduction may look like.

In the following slides I will present the coastwide reductions that result from the most liberal summer

flounder reductions and the corresponding scup measures, and vice versa for scup, and the most conservative summer flounder reduction measures and corresponding scup measures. Then same thing for scup. There are four tables as the options that results in the most liberal and most conservative summer flounder harvest estimates, are not the options that result in the most liberal or most conservative scup harvest estimates.

As a reminder, because that northern region for scup has proposed the same options, when we're calculating these coastwide reductions, it was assumed that the northern region would all select the same scup options. The coastwide percent reduction is likely to change from what is shown on the following slides, depending on what options are ultimately selected by the states and regions, as each option varies in the reduction achieved.

Using the northern region's third scup option that they presented, that was at the bottom of the screen that I showed earlier for the states of Massachusetts through New York. If each state down the entire coast chose the option associated with the most liberal summer flounder harvest measures and associated scup measures, the coastwide summer flounder reduction is estimated to be 28.09 percent, and the scup reduction is estimated to be 11.46 percent.

Again, if we assume that the northern region chooses their third proposed scup option, the states of Massachusetts through New York. If each state down the coast chose their option that was associated with the most conservative summer flounder reduction and associated scup measures, the summer flounder reduction is estimated to be 32.7 percent, and the scup reduction is estimated to be 11.54 percent.

Now we're going to switch gears and look at scup here. If we use Scup Option 1 for the states of Massachusetts through New York, if each state chose their option associated with the most liberal scup harvest measures and the associated summer flounder measures, the coastwide summer flounder reduction is estimated to be 28.18 percent, and the scup reduction is estimated to be 9.96 percent.

Then finally, using northern region Scup Option 3. If each state chose the option associated with the most conservative scup harvest measures and associated summer flounder measures, the coastwide summer flounder reduction is estimated to be 32.62 percent, and the scup reduction is estimated to be 11.57 percent. Those are just some examples of what a coastwide reduction might look like, given the options put forth by the states and regions.

Looking at the next steps here. The Board's next steps following any questions will be to consider the range of proposed measures for final approval today. The states and regions will then need to notify ASMFC staff once a final set of measures has been selected by March 20th at the latest.

ASMFC staff will then submit the letter with the final summer flounder and scup recreational measures to GARFO, and once implemented, the states will keep the same summer flounder and scup recreational regulations in place for the 2024 and the 2025 fishing years. Now I'm going to pass it over to Tracey, who is going to take it away and go over some black sea bass season adjustments.

MS. TRACEY BAUER: Thanks, Chelsea. Before I present the black sea bass season adjustments that are being proposed by the states, I wanted to very briefly provide a reminder of what was previously decided at the December Board and Council meeting. The Board and Council had agreed to leave recreational black sea bass measures unchanged from 2023 in 2024.

This is due to several reasons, including the last of an updated management track assessment and its associated results, which won't be available until later this year. Some states however, did request the ability to make slight adjustments to their black

sea bass season, so that they would open on a specific day of the week, which was allowed.

After some discussion with the states, they did make the request. It was established that the recreation demand model must be used to determine how many days of the season needed to be taken off of the end of the season, to account for any additional days at the beginning of the season to maintain status quo black sea bass harvest, and to make sure we're not increasing harvest by making changes to the season.

In addition, another requirement was that the aforementioned summer flounder and scup reductions for 2024 through 2025 could not be used to account for adjustment to the 2024 black sea bass season, because in the model any changes from summer flounder and scup will have smaller changes to black sea back harvest.

Two states requested to make minor adjustments to their black sea bass season to maintain a Saturday opening. Both Massachusetts and Connecticut are requesting a May 18th opening day for their 2024 black sea bass season. Based on recreation demand model runs, have removed several days from the end of their season in 2024 to account for this extra harvest.

In addition to each state's status quo measures, the proposed minor adjustments made to each state's black sea bass season are showing red on this slide. You can see how the seasons were adjusted, by moving up the start of the season to May 18, and adjusting the end of the season to account for that extra harvest.

Then we can see the reduction, the desired reductions achieved by these changes on the far right. Lastly, just as a minor side note to update. The Summer Flounder, Scup and Black Sea Bass Board related to Black Sea Bass 2024 measures. I wanted to provide an update on Virginia's February recreational black sea bass fishery.

As a reminder, when the Board met the last day in December, as part of maintaining black sea bass measures status quo from 2023 to 2024, Virginia had the option of opening their February fishery like last year. At that time Virginia did not know if they would be opening their February fishery, as their Marine Resources Commission needed to discuss it first.

Very recently, Virginia reached out to us to let us know that their Marine Resources Commission did vote to open February fishery for February 1st through 29th this year, and as in the past they will be monitoring harvest and will reach back out to us in late March, early April, when they have the harvest data with their proposed plan to adjust their black sea bass season to account for February harvest, so stay tuned for that. With that, both Chelsea and I can take any questions on any of the species, not just black sea bass.

CHAIR MESERVE: Thank you, Chelsea and Tracey. There is a lot in that presentation to absorb, so we're going to look to the Board for questions. I have one that I'll start with before going to Justin, who I see your hand is up. That pertains to the slide that was about New Jersey's portion of the Delaware Bay staying status quo. I didn't realize from the memo that that was part of the proposal, if I've gotten that correct.

I guess I'm curious if that is part of the RDM modeling, if that Delaware Bay staying status quo is considered in achieving the 28 percent reduction. I have in my mind, it's a little foggy, a history that New Jersey was its own region, in part so that the rules in Delaware Bay could align. By staying status quo, is that the objective of that, that this area is kind of getting an exemption from the 28 percent reduction?

MS. TUOHY: Thank you for that question. Like with Rhode Island, their special shore sites, one area such as the Delaware Bay cannot be, the RDM can model different modes, you know different options for different modes, but cannot model area-specific outside of individual state harvest, so that is

something that cannot be evaluated through the RDM.

CHAIR MESERVE: Will the status quo measures, will they align with other options for the rest of Delaware Bay?

MS. TUOHY: Flip back to the slides here.

CHAIR MESERVE: We might benefit from having a better understanding of the same way that Rhode Island presented their shore harvest and how minimal it is. We might benefit from a better understanding of how significant or insignificant is the New Jersey's harvest and Delaware Bay and what this exemption really means to their overall ability to achieve 28 percent reduction. I see Joe Cimino's hand up, so if you would like to contribute, Joe, I welcome you now.

MR. JOE CIMINO: Yes. I'm not sure if they have any numbers here, but the estimated harvest has always been small, I think we were looking at like 8,000 fish a year.

CHAIR MESERVE: Okay, great, thanks for that clarification, Joe. I'll turn to other Board members now, Justin Davis and then Chris Batsavage. Go ahead, Justin.

DR. JUSTIN DAVIS: I noticed there was specific mention in the presentation of Rhode Island's shore site program, where they have a lower minimum length for summer flounder. Connecticut has a similar program, where at a limited number of sites we have a 17-inch minimum length went in place for summer flounder. Our intent was to continue that program, so I just wanted to doublecheck to make sure that was the intent or that was captured in the proposals, and that was just an oversight in the presentation.

MS. TUOHY: Let me doublecheck that, I can pull that up very quickly here. But I want to say off the top of my head, I don't know if that was captured in the proposal.

MS. TONI KERNS: Chelsea, this is Toni. I've looked at the memo that is in the meeting materials and I see shore modes for the New York and Connecticut table. I just wasn't sure what was in, I couldn't remember what was in your Power Point.

MS. TUOHY: Yes, Justin, you're talking about sites that are different from what Toni is mentioning, correct, not that scup? This is for summer flounder.

DR. DAVIS: Yes, correct, for summer flounder.

MS. TUOHY: Yes, so in the proposal there is no mention of those special sites in Connecticut for summer flounder, if they have different regulations than what was presented in the Board memo.

DR. DAVIS: Could I follow up?

CHAIR MESERVE: Please, go ahead.

DR. DAVIS: Given that I've had some offline exchanges with our TC member, and we were not under the impression that they needed to be included in the proposal, because they were site-specific measures. Would there be some way when we take action today to include that in the memo, so that we don't have to discontinue the program, I'm sorry included in the motion.

CHAIR MESERVE: I believe so, that we could work on that in the development of the motion, or have it to be part of the record here that that was the intention of Connecticut for those special summer flounder access sites, similar to Rhode Island. Does staff have any guidance on whether you would want to see that as part of the motion?

MS. KERNS: Nichola, I agree it should be part of the motion, since it wasn't something that was presented today, nor was it presented in the memo to the Board. Justin, perhaps you could, while I know that offhand that those sites have very low harvest levels, it's maybe while folks are talking but before we get the motion on the table, if you could come back to the record and you happen to have any numbers associated with those sites, so that we can have that as part of the record, similar to what

Rhode Island had done in their state proposal that would be great.

DR. DAVIS: Got it, thank you.

CHAIR MESERVE: Okay, so we'll come back to that topic. Chris Batsavage, your hand was up next.

MR. CHRIS BATSAVAGE: Chelsea, can you go back to the next steps slide on, I guess it's Number 33.

MS. TUOHY: Yes.

MR. BATSAVAGE: A question specific to North Carolina being exempt from taking a reduction. As I mentioned at the Board meeting back in December, that we have a set season statewide for our recreational flounder fishery here is from August 16 through September 30, which we included in our proposal. But we've adjusted that season almost every year to account for overages of southern flounder catches the previous year. In a lot of cases the season is shorter than that six-week period. But it can change from year to year. I know the intent of this process is to set the same regulations for two years in a row.

But if we get our proposal approved for the full six weeks, could that allow us some leeway to have different seasons that are no greater than that six-week period? For instance, it was like two weeks last year, it might be two weeks again this year, or some other amount and in '25 it might be a different amount, but it will never extend beyond the six-week period that is in the proposal. I was just wondering if that's allowable under this process.

CHAIR MESERVE: That sounds to me that it would be, Chris. We would be approving the most liberal regulations and it's always within the states ability to implement something more restrictive. If staff wants to correct anything I just said, but otherwise that would be my interpretation.

MS. KERNS: I agree, Nichola, and we can work with you, Chris, if you don't have those regulations in place before we send our letter to NOAA. We'll put some caveat in there so that it is clear to the public that North Carolina does adjust the season typically, so there is not misinformation out there when NOAA publishes their federal rule, and then North Carolina ends up having a different season. We'll make sure that is clear that you guys adjust at a certain timeframe.

MR. BATSAVAGE: Yes, we'll see if we can get things finalized by March of this year, but if not, that will be a very corrective issue.

CHAIR MESERVE: Very good, we'll go to Joe Grist next.

MR. JOSEPH GRIST: Thank you, Madam Chair, and this slide is the slide I need you to be on. Just looking at this timeline, we are already internally with our State Commission to announce this issue in April, at the time we take up black sea bass, make the adjustments to our season. Obviously, that timeline is going to put us behind.

Even if we queue this up for our March Commission, we're still not going to meet the March 20th date. You know what flexibility do we have here for notifying you as to which measures that we are going to take, especially with summer flounder? I'm just trying it so I can best guide our Commission on how we're going to act on this.

CHAIR MESERVE: Toni, could you comment on that if there is leeway to April 1st or such?

MS. KERNS: Joe, we can work with you. The reason why we have this date is so that we can get the conservation equivalency letter to NOAA Fisheries and then they can do their rulemaking. We try to work with Emilie and staff at GARFO to be as flexible with those states as possible, without being too tardy and getting the rulemaking out. We will work with you or any other state that can't make that March 20th, if we could on the side go ahead and tell us what date you think you'll have that by, and we can see how we can move forward.

MR. GRIST: Okay, thank you so much, we're going to have some internal discussion and see what we can do, if there is any way we can expedite. Thank you.

CHAIR MESERVE: Okay, we'll move on to Joe Cimino for a question. Oh, leftover hand, okay, Roy Miller, you're up.

MR. ROY W. MILLER: As we consider these proposals, could I ask a ground rule type question. Namely, are we allowed to consider any state-specific proposals that don't meet the required reduction? In other words, if a state's proposal, a specific option, doesn't meet 10 percent for scup, are we allowed to consider that in a regional perspective, or must all of our decisions be whether the state proposal meets the minimum? Can you help me out here? We probably already decided on this, if so a quick review for me would be helpful.

CHAIR MESERVE: Good question, Roy. It's on a reginal basis, where states are part of a region. When I look at the scup options that Massachusetts presented there were some that as an individual state it was 5 or 6 percent, for example. But as a region in the north, when we all implement those measures, it meets the 10 percent requirement. That's the number that we're looking for.

MR. MILLER: Okay.

CHAIR MESERVE: Then also on a coastwide basis.

MR. MILLER: The same rationale would apply to Rhode Island proposals, for instance, that were less than 10 percent for scup.

CHAIR MESERVE: Correct. For scup. But then when I come to the summer flounder using those same examples, Massachusetts is its own region, Rhode Island is its own region. In those cases, we're looking for a 20 percent reduction for that state. Mike Luisi.

MR. MICHAEL LUISI: I want to build just very quickly on what Joe Grist mentioned. For summer flounder, down in the southern region we are in a multi-jurisdictional region. We had a discussion this week about trying to find an implementation date so that we can all implement the regulation that is selected for summer flounder as a start date on the same date.

I don't know that April 1st is going to give the jurisdictions enough time to get that done. Is there an actual implementation date that you are aware of or that staff would prefer, so that we can coordinate? What we didn't want to do is have different rules in a different jurisdiction for a short period of time until it all comes together once the last state implements the measures. We wanted to find a common date that we could all implement at the same time.

CHAIR MESERVE: Thanks for the question, Mike. Thus far we haven't discussed an actual implementation deadline. You know March 20th is the deadline to tell ASMFC the measures with some flexibility as we've discussed, and April 1st is the date that ASMFC would notify GARFO of the measures. But if staff has any input, if we need to specify a deadline or if it is assumed that it will be as quick as possible in each state following April 1st. That is our way forward as well.

MS. KERNS: Nichola, I would say it would be the latter, it is as soon as possible, as these are the measures for 2024, and in order to get the reductions from the measures. They need to be in place as quickly as possible.

CHAIR MESERVE: Thank you, Toni, and so would you be looking for states to also indicate what that date will be to their best guess, and when we notify you of the measures?

MS. KERNS: Yes.

CHAIR MESERVE: Okay.

MS. KERNS: Then that way we can tell GARFO that. I think everybody knows this, but we send the

conservation equivalency letter for summer flounder and black sea bass, because NOAA is considering whether or not they are going to wave federal measures in lieu of the state plans, and those state plans have to meet the overall conservation goal, as what was agreed upon with the Board and Council back in December for that 28 percent coastwide reduction.

GARFO puts that information out for the public, and so we want to be able to provide that information to the public as soon as possible, so that the fishing public know what the regulations are. That is sort of the rationale behind all of these timelines for those that are new to this process, or just a reminder for all of us. I need them sometimes.

MR. LUISI: That is helpful, thank you for answering that for me.

CHAIR MESERVE: Okay, turning to the Board for any additional questions. Mike, your hand is still up is that a leftover hand, Mike Luisi. He's muted, so I assume it was left over. I had one question about how the RDM essentially doesn't pick up any scup harvest for the states of Delaware through North Carolina, and it can't model any associated reduction.

Did the Technical Committee make any back of the envelope guesses as to how much of a harvest reduction a 5-fish bag limit decrease would achieve, or how much reopening January through April might increase harvest? I know when we looked at the northern region's ability to achieve a 10 percent reduction through a bag limit change it required a much more significant drop in the bag than 5 fish to get to a 10 percent reduction. Did the Technical Committee discuss any alternative ways to estimate reduction than the RDM for the southern region's scup measures?

MS. TUOHY: The Technical Committee did not discuss different ways to calculate what a reduction might look like. They did look at previous MRIP estimates for the southern region. Off the top of my head, for example, in 2022 the harvest from the states of Delaware through North Carolina was about 6,000, 7,000 pounds total for all of those states. They just kind of looked at how minimal the harvest was for scup, compared to the rest of the coast. It was, I believe less than a couple of percent, 1 to 2 percent in every year that they briefly reviewed it.

CHAIR MESERVE: These states would, for the most part be de minimis if there was such a thing as a de minimis recreational fishery standard for scup.

MS. TUOHY: Exactly.

CHAIR MESERVE: Are there any additional questions from the Board? All right.

CONSIDER FINAL APPROVAL OF PROPOSED REGIONAL MEASURES

CHAIR MESERVE: As staff, we'll look to move into motions and discussion then at this point. As Chelsea said earlier, we would like to move through the species one at a time and start with summer flounder for a motion.

That would approve the range of proposals. Staff does have some draft language that a Board member could look to use if desired, to approve the range of options presented. We did discuss how Connecticut might be interested to insert into that some additional allowance for their special access shoreside rules to remain the same.

That is something that we would work into this motion to continue that. Are there any Board members that would like to start us off with a motion for summer flounder? Perhaps it would help to bring up kind of the generic motion that could be available to approve the range of proposals, and see how this could be tweaked. Jason McNamee.

DR. JASON McNAMEE: Yes, I would be happy to make that motion, Madam Chair. I'll read it just to help out here. **Move to approve the range of state and regional options for 2024 and 2025 summer flounder recreational management measures**

developed using the Recreational Demand Model as presented today.

CHAIR MESERVE: Is there a second to that motion? Joe Grist, thank you. Jay, were you interested to provide any rationale for the motion?

DR. McNAMEE: No, I think it's pretty straightforward, Madam Chair. Maybe I'll just also, I think you made a note of all the nice work, and the nice way of presenting the information that Chelsea and Tracey did, so I'll echo that sentiment. It's a lot, the different combinations become multiplicative.

I think you guys did a nice job of presenting this. I feel like all of the different combinations were rung out pretty good. It seems like no matter what ends up happening in the end, we're in a safe spot to meet our reduction goals. I'm comfortable moving forward with the motion as presented.

CHAIR MESERVE: All right, thank you, Jay. Joe, did you want to say anything as a seconder of the motion?

MR. GRIST: No, I think Jay covered it to let us move forward with what we've got and work it out, I'm sure.

CHAIR MESERVE: Very good, thank you. Justin Davis, would you like to make an amendment to this motion?

DR. DAVIS: I would, thank you, Madam Chair. I guess this could either be a formal move to amend, or I don't know if the maker and seconder of the motion would accept it as a **friendly amendment**, if that is possible. But I would like to add some language at the end of this to say something to the effect of, **with the addition of maintenance of Connecticut's enhanced shore site program for summer flounder, which includes a 17-inch minimum length limit**.

MS. TUOHY: Justin, just for my typing. Maintenance of Connecticut's shore sites for summer flounder, which includes a 17-inch minimum size limit.

DR. DAVIS: Correct, and then the rest of the measures are the same as the prevailing measures for the other modes, so the only difference is the 17-inch minimum length limit.

CHAIR MESERVE: Jason and Joe, would you be willing to accept that as a friendly amendment to the motion? I see your hand, Jason, go ahead.

DR. McNAMEE: Yes, I'm perfectly willing to have that added as a friendly if that can work.

CHAIR MESERVE: Joe, you as well?

MR. GRIST: Agreed.

CHAIR MESERVE: Thank you. I'm going to give staff a moment to get this up here, make sure, Justin that this captures your motion, your friendly amendment. Was it Connecticut's enhanced shoreside program?

DR. DAVIS: Enhanced shore sites would do it.

CHAIR MESERVE: Including maintenance of Connecticut's enhanced shore sites for summer flounder, which includes a 17-inch minimum size limit. Okay, Justin, could you just speak to that if you have any additional information about the level of harvest associated with these shore sites, if that was available to you on short notice.

DR. DAVIS: Yes, sure, thanks, happy to provide what I can. Unfortunately, we don't have something like an expanded harvest estimate for summer flounder from just these specific sites in Connecticut, where we have this allowance for a lower minimum size limit. What I can say is, you know this is a program we've had in place for over ten years.

Really quickly, our TC member was able to do some quick diving into MRIP, and in Connecticut, we

generally have statewide very few MRIP intercepts for summer flounder. You know the PSEs on our summer flounder shore mode harvest estimates on an annual basis tend to range from 55 to 91 percent. In 2023 we had an estimate of 0 pounds of summer flounder harvested from shore. In general, summer flounder not a species that are caught very commonly from shore in Connecticut. Allowing a 1 to 2-inch difference in minimum size limit at a limited number of these shore sites, I feel very comfortable saying produces a negligible increase in harvest of summer flounder overall in our state every year.

CHAIR MESERVE: Thank you, Justin, that is helpful information. Is there any discussion by the Board as to the motion as perfected?

MS. KERNS: Nichola, could you just read it before you guys vote on it, please?

CHAIR MESERVE: Certainly, certainly. Give everyone a chance to please, caucus as I'm reading the motion, if there are no other hands raised. We'll look to approve this after I've read it into the record. **Move to approve the range of state/regional options for 2024 and 2025 summer flounder recreational management measures developed using the Recreation Demand Model as presented today, including maintenance of Connecticut's enhanced shore sites for summer flounder, which includes a 17-inch minimum size limit**.

The motion was made by Dr. McNamee and seconded by Joe Grist. Again, I'll look to the Board for any comments. I don't see any. I did mention earlier that I would provide opportunity for the public to comment on the motions as they were made, so I'll look to see if there is any comment from the public to this motion. You can signify your interest to comment by raising your hand on the webinar. I'm not seeing any hands raised from the public, so we'll see if this can be done the easy way. **I'll ask if there is any objection from the Board to this motion.**

MS. KERNS: Nichola, I know that there is one abstention, so maybe you can ask for abstentions as well.

CHAIR MESERVE: Certainly. Please, identify any abstentions for the record. One from NOAA Fisheries, so the motion passes without objection and one abstention by NOAA Fisheries. Just giving Staff a moment to add that. Very good it's written down. We will now look to move on to scup. Again, we'll look to the Board to make any motion that would be approving all or part of the range of options that were presented today, and I do see a hand from Dr. McNamee. Please, go ahead, Jay.

DR. McNAMEE: I have a motion here, I think folks there have the text for this, so I'll just go ahead and start reading it. **Move to approve the range of state/regional options for 2024 and 2025 scup recreational management measures developed using the Recreational Demand Model as presented today for the states from Massachusetts through New Jersey**. **Recreational management measures for the states from Delaware through North Carolina will consist of a 30-fish bag limit, a year-round open season, and a 9-inch minimum size limit for 2024 and 2025**. If I get a second, I will give you some a little bit of reasoning for that.

CHAIR MESERVE: Is there a second to that motion? Emerson, are you seconding that? I saw that your hand went up before the motion was fully read.

MR. EMERSON HASBROUCK: Yes, I'll second that.

CHAIR MESERVE: Great, thank you, Emerson. Please, go ahead, Jay.

DR. McNAMEE: Okay, I'll keep this fairly simple. I think there was a lot of discussion about the inability to kind of make calculations for scup for this region. To go along with that, it seemed to make sense to me to have some alignment in that region, as far as the bag limit went. In addition, because there was a reduction being made, and what we saw was a reduction of 5 fish in the bag limit.

I thought as we know with bag limit as a tool, you tend to need larger steps to actually get an affect from the bag limit as a management measure. Aligning the Delaware through North Carolina at 30 fish, which aligns with New Jersey, aligns with Virginia, and under the impression that there was a desire to take some reduction in the scup management measures in this area.

I thought a 30 fish bag limit made the most sense. Coupled with that, having the year-round open season, the 10-fish bag rather than the 5-fish bag seemed like a more appropriate tradeoff to kind of keep either status quo or have a little bit of reduction, potential reduction in that region. Hopefully that made some sense to folks.

CHAIR MESERVE: Emerson, would you like to speak to the motion as the seconder?

MR. HASBROUCK: Yes, I don't have anything to add to what Jason said. I think he justified it quite well. Chelsea gave a pretty good explanation of all the different options during her presentation, so thank you.

CHAIR MESERVE: Is there further Board discussion on this motion? John Clark. John, I saw your hand go up and down, so maybe not. Any hands to discuss this motion? John Clark, your hand is back up again, please go ahead.

MR. JOHN CLARK: I just brought it up on other things. I just don't understand why we need to take an unnecessary move like this in the southern region. As was pointed out, we're barely catching any scup in this region. Any time there is a regulatory change it imposes cost and problems on the state, plus in the case like this, like I said, it just makes us look like it's just kind of ridiculous. We're not catching them.

Does it matter whether it's 30, 20, 40? It's just an additional burden on the states to put something into effect that is not going to do anything to improve the scup population. I wish we could just remove the last part of this motion, and change it to one that just accepts the whole range of state and regional options.

CHAIR MESERVE: Okay, thank you, John. That sounds in part like an argument for *de minimis* measures that the states wouldn't have to change on an annual basis. But the Board would have to determine what type of minimum standards would apply for *de minimis* states in that case. But I thank you for the comment, and do have another hand up from Joe Cimino.

MR. CIMINO: I understand where John is coming from, but I'm going to speak in favor of the motion. I think these are three species that we're regularly changing regulations. I understand that it's a more complicated process to some states than others. But we've been striving for consistency here. I think Jay's motion gets us to that. I just wanted to speak in favor.

CHAIR MESERVE: Thank you, Joe. Are there any other comments on this motion? John Clark, your hand is up, did you have something to add?

MR. CLARK: Sorry, Madam Chair, I didn't see that. I'll take it down.

CHAIR MESERVE: Okay, no worries, thank you. Last call for any other comments from the Board. If not, we'll turn to the public to see if there is any public comment on this motion. You can signify your interest to provide comment by raising your hand. Not seeing any public comment, we'll return to the motion. It's already been read into the record, do states need a moment to caucus? Let's take two minutes to caucus.

Okay, that was two minutes by my watch, maybe it's fast. But if you need any more time, throw up a hand really quick. If not, we'll go back to the motion, and I will ask if there is any objection to the motion.

MR. CLARK: We're going to be null in Delaware, Madam Chair, null.

CHAIR MESERVE: Null vote, very good. Toni, should I proceed with a full vote?

MS. KERNS: Yes, because these are roll-call, so when there are objections then we should note them.

CHAIR MESERVE: Very good. We'll return to the beginning on the motion. **All those in favor of the motion, please raise their hand, and I'll ask Toni to get the count for me.**

MS. KERNS: Thanks, Nichola, I'm just going to let the hands settle for a minute here. I have Connecticut, New York, Rhode Island, New Jersey, North Carolina, Massachusetts and Virginia. If anybody else thinks they have their hand up just call out. I will put everybody's hand down.

CHAIR MESERVE: All those opposed to the motion like sign.

MS. KERNS: Maryland. I'll put their hand down.

CHAIR MESERVE: I'll look for any null votes, N-U-L-L, null.

MS. KERNS: We have Delaware.

CHAIR MESERVE: Any abstentions, please.

MS. KERNS: We have New Hampshire, Potomac River Fisheries Commission, NOAA Fisheries, and Mike Luisi, you have your hand up again.

MR. LUISI: I made a mistake, I hit the button too late, I wanted to vote in favor.

MS. KERNS: In favor, okay, so we have Maryland is in favor. We do not have any states opposed then, the one null vote of Delaware. The abstentions, I believe are Potomac River Fisheries Commission and NOAA Fisheries. Those are the hands that I have up.

CHAIR MESERVE: And New Hampshire.

MS. KERNS: New Hampshire, sorry. Your hand went down, I had already forgotten.

CHAIR MESERVE: Okay, so the motion carries 8 in favor, 0 opposed, 1 null and 3 abstentions. We can move on to black sea bass, slightly different situation for black sea bass. We have two states that provided minor seasonal modifications, and we would be looking for the Board to approve those if that is their will. I'm not sure if staff has some guidance language for this motion. Is there anyone on the Board that would be willing to make this motion? Jason McNamee. Motion by Jason McNamee, do you mind reading it into the record, Jay?

DR. McNAMEE: Not at all, figured I would make it a hat trick here. **Move to approve the black sea bass season adjustments for Massachusetts and Connecticut for the 2024 fishing year as presented today.**

CHAIR MESERVE: Is there a second to the motion? Emerson Hasbrouck, thank you, Emerson. Anything further to add, Jay?

MR. HASBROUCK: I'm seconding Jay's motion again; I have nothing to add.

CHAIR MESERVE: Okay, thank you, I think this is pretty straightforward. I'll look to the Board for any discussion on the motion. Seeing none; **is there any objection to this motion? Any abstentions? One abstention from NOAA Fisheries, the motion carries without objection and one abstention.** I will look to Chelsea or Tracey. Is there anything further on this agenda item that you need before we move on to the commercial issue?

MS. BAUER: I don't think there is anything from us. I do see Adam's hand up.

CHAIR MESERVE: Adam Nowalsky.

MR. ADAM NOWALSKY: Yes, thanks very much. Could you remind me at what point we had

approved Virginia's black sea bass winter time fishery? I recall that we had a motion back at the December, 2022 joint meeting to approve them for 2023. I do not recall, nor did I see in the materials from the joint December meeting where we had approved that.

Just wondering, again, just a reminder. I'm sure we must have at some point. I know we had a very thorough discussion about having to wait on reopening scup at the state level until we went through this process. Just so we've got a reminder on the books here when we had approved that motion for Virginia.

CHAIR MESERVE: My recollection is that when we approved status quo for sea bass for this year, it was with the understanding that status quo for Virginia meant the option to continue that February fishery, but I will look to staff for any correction there.

MS. BAUER: That is correct, Madam Chair.

CHAIR MESERVE: Thank you, Tracey, does that answer the question for you, Adam?

MR. NOWALSKY: I think that is perfect, and just so we've got it clearly on the record here again, because there is no explicit motion for this year like we've had in past years, so thanks very much.

CHAIR MESERVE: Great, thank you for helping us get that on the record, Adam. We are doing pretty well on our schedule, and we can move on to the next agenda item at this point, which is on for the Board to Consider Initiating an Addendum to Address the Flynet Definition and Boundaries of the Small-Mesh Exemption Program; as related to the summer flounder trawl mesh requirements.

Consideration of these changes is intended to modernizes these requirements, with consideration of current fishing industry gear use and practices, and to provide additional flexibility to fishery participants, while continuing to meet the conservation objectives of the FMP. The Mid-Atlantic Council is a step ahead of the Board on this item, having already initiated a compatible framework, and forming a fishery management action team to meet an intended implementation date of November 1, 2024.

The Commission's Policy Board did add this action to the 2024 Action Plan at the winter meeting at this Board's request though. At this point, I will turn to Chelsea to provide us with some additional background on this, and then we will go from there. Okay, go ahead, Chelsea.

MS. KERNS: Chelsea, sorry to interrupt, Nichola. Before you go, Roy Miller had his hand up, and I just want to make sure it is not on the past business, before you move forward.

CHAIR MESERVE: Okay, thank you for flagging that. Roy, do you want to go ahead?

MR. MILLER: It is on the past business. If you would indulge me for just half a second, Madam Chair.

CHAIR MESERVE: Go ahead.

MR. MILLER: During the striped bass regulatory process associated with Amendment 7 there were a lot of public comment requesting simplicity when it came to state proposals for management measures. I just want to note that somehow, we've lost track of simplicity in our proposals, when we have 42, for instance, proposals from a particular region to consider.

I don't see how 42 can be considered at all, approaching simplicity. I just wondered if in the future we might take more formal action regarding limiting the number of potential proposals for consideration. Thank you, Madam Chair, just throwing that out there, not really intending any action. I just wanted it on the record that I thought it was an unspoken or unspecified goal to try to achieve some simplicity, in terms of management proposals, thank you.

CHAIR MESERVE: Thank you, Roy, I agree and can point the finger at my own state for a large number of proposals. I think part of the complication or challenge here is that states are asked to develop a range of proposals for approval, prior to any public comment process. In order to not rule out options that might come through scoping with the public, the range of options that gets approved at this Board meeting tends to be on the wider side.

I know that having spoken with staff that they did have some challenges or compiling all the options, so that there is interest to make kind of a standard template that would at least ease the burden on staff, in terms of compiling the options and getting them ready for the Board's review and approval. That is one place the we'll look to simplify things in the future, to make it less of a burden on staff, in terms of compiling the options. It's a challenge, I think, when we have this approval prior to public comment processes and states. Did you want to add more, Roy?

MR. MILLER: No, thank you, Madam Chair, for hearing me out on that.

CHAIR MESERVE: It's well taken.

CONSIDER INITIATION OF ADDENDUM TO ADDRESS FLYNET DEFINITION AND BOUNDARIES OF THE SMALL-MESH EXEMPTION PROGRAM

CHAIR MESERVE: We'll come back to Chelsea for the Summer Flounder Commercial Mesh Exemption presentation.

MS. TUOHY: The Summer Flounder Mesh Exemption Programs and the exploration into their current utilization was discussed at length at the joint Board and Council meeting in December. Today I'm going to do my best to keep this presentation short, but to give an overview here. I will first discuss the background for this potential action, followed by the background on the two exemption programs that are being considered through this potential action.

Next, I will go over a possible timeline. I'll take a pause for questions, and then the Board will consider initiating an addendum to address summer flounder commercial mesh exemption. Throughout 2023, Council staff and a Council contractor evaluated the historic and current use of a number of summer flounder commercial mesh regulations.

They collected public comment on the use of these regulations. The regulations explored included the current 5.5-inch diamond, and 6-inch square minimum mesh sizes. The Summer Flounder Small Mesh Exemption Program and the Summer Flounder Fly Net Exemption. The Board and Council received a presentation on the results of the Council staff and contractors work in December of 2023.

At that joint meeting in December, the Council and Board recommended no change to the current summer flounder minimum mesh sizes, due to the lack of sufficient evidence to suggest that a change is warranted. Those two bodies also agreed that selectivity studies should be considered as a research priority in the future.

While the Board and Council did not choose to make changes to the commercial minimum mesh size for summer flounder, the two groups did put forward a motion that read, move to consider as a potential 2024 priority a framework adjustment addendum to clarify the definition of a flynet, and to consider moving the western boundary of the small mesh exemption area. The intent of this framework addendum is for possible implementation by November 1, 2024. Following that joint Board and Council meeting in December, the Council added this framework action to their implementation plan, which replaced the potential scup gear restricted area framework from the main list of deliverables for 2024.

As mentioned before, the Council has already initiated this framework, and now we're looking for follow up Board action. In January of 2024, at the

Business Session of the Commission, the Commission's 2024 Action Plan was edited to add in an item that read; develop an addendum in collaboration with the Mid-Atlantic Fishery Management Council to address define a definition and boundaries of the Small Mesh Exemption Area.

Now I'm going to move into some background, just as a reminder for the Board, on what the Summer Flounder Small Mesh Exemption Program is, and what is included in that flynet exemption. Starting off with the Small Mesh Exemption Program. This exemption was initially developed under Amendment 2, and then modified under Amendment 3 to the fishery management plan.

The purpose of the Small Mesh Exemption Program is to allow vessels to retain some bycatch of summer flounder, while operating in other small mesh fisheries. The exemption states that vessels fishing east of the line from November 1st through April 30th, and using mesh smaller than 5.5-inch diamond or 6-inch square, may land more than 200 pounds of summer flounder.

However, it should be noted that vessels cannot fish west of the line while participating in the program. Vessel participation in the Small Mesh Exemption Program has remained stable over time, with approximately 75 letters of authorization issued annually. When soliciting stakeholder input, many participants in the fishery noted the importance of the exemption program, and proposed moving the Small Mesh Exemption Program line, approximately 5 miles westward, to align with the northeast corner of the southern scup gear restricted area.
The participants in the fishery noted that this change would allow more flexibility for those participating in multiple fisheries. Then the Summer Flounder, Scup and Black Sea Bass Technical Committee and Monitoring Committee reviewed staff work and industry feedback. Those groups recommended that additional analysis be conducted on this industry proposed change to the program area, and the potential biological impacts to summer flounder.

The TC and MC also noted that a future FMAT PDT or subgroup should explore the potential to update evaluation methods to avoid relying solely on observer data to estimate summer flounder catches using this exemption. Again, as a reminder, this map up on the screen demonstrates the industry proposed change to that exemption area, which represents an additional area of 1,901 square miles, excluding the deep-sea coral zones.

The current exemption area is displayed in green, I'm not sure that it's showing up green on your computers, it's a very light green, and the proposed changes shown in red. The scup GRAs are shown in that blue-turquoise color, and then the deep-sea coral protection area is that purple area in the bottom right-hand side of that first figure. Now moving on to the Summer Flounder Flynet Exemption Program. This program was implemented under Amendment 2 to the fishery management plan in 1993. Usual purpose of the exemption was to allow vessels fishing with a two-seam otter trawl to be exempt from the summer flounder minimum mesh size requirements.

This exemption was developed specifically to accommodate fisheries targeting other species, and catching limited amounts of summer flounder in the states of Delaware through North Carolina. However, Council staff and the contractor evaluation of the program indicated that the exemption is no longer being utilized in the way that it used to in that area or fishery.

The exemption specifically states that vessels fishing in the flynet fishery again are exempt from the minimum mesh size requirement, and defined the flynet as a two-seam otter trawl with the following configurations. A, the net has a large mesh webbing in the wings, with a stretch mesh measure of 8 inches to 64 inches.

B. the first body or belly section of the net consists of 35 meshes or more of 8-inch stretch mesh

webbing or larger. C. In the body section of the net, the stretch mesh decreases in size relative to the wings, and continues to decrease throughout the extensions to the cod end, which generally has a webbing of 2 inches stretch mesh. Industry members proposed a number of changes to the flynet definition, to better reflect current gear use and fishing practices. These proposed changes are shown up on the screen there.

They include removing the two-seam otter trawl requirement to replace the language with, at least two seams, removing the upper limit of the large mesh webbing in the wing's requirement, which is 64 inches, so that it just reads greater than 8 inches. Adding high rise to the flynet definition to incorporate regional differences in language, and removing the number of meshes requirement in the belly of the net, which currently reads 35 or more.

Like with the Small Mesh Exemption Program, the Summer Flounder, Scup and Black Sea Bass Technical Committee and Monitoring Committee reviewed staff work and the industry feedback, and commented that the exemption is not currently being used for the fishery or area that it was designed for, and that the definition may need to be updated to reflect changes in the fishery, and then also changes in gear over time.

However, the Technical Committee and Monitoring Committee noted that this definition should be examined to determine if the language would codify existing practices or expand the use of the exemption. Then finally, the TC and MC also recommended that methods for evaluation of the exemption should be explored, given that the flynet fishery off North Carolina has not been very active in recent years.

As noted, the Council has already initiated a framework for this action, to explore the issues just discussed, and has formed a Fishery Management Action Team or FMAT, and that FMAT is shown on the screen. If/when the Board decides to initiate an addendum to address summer flounder mesh exemptions, the Board can choose to form a PDT. You know if there are aspects of state regulations that the Board members think may need to get incorporated into an addendum. But a PDT is not required for this action. If the Board chooses to not form a PDT, we will rely heavily on the Council's FMAT to come up with, you know this addendum, so that it is consistent with what is being proposed in the framework. I'll reach out to Board members after this meeting, to touch base on if a PDT is needed. But if there are any thoughts at this point, you know we're happy to discuss them following the presentation.

Then finally, to wrap up the presentation, I'm just going to briefly cover the timeline for this proposed action. Starting off with today, where the Board will potentially initiate an addendum to address the summer flounder flynet definition, and the boundaries of the Summer Flounder Small Mesh Exemption Program area.

Then from February to March, the FMAT will work on developing the range of alternatives and a draft document for Meeting 1. Meeting 1 for this action will occur at the Council's April, 2024 meeting, where the Board and Council will approve the range of alternatives, and the Board will approve a draft document for public hearing.

Next, there will be a public comment period for the Commission's document from April through May, which public hearings will also take place if desired. Final action for this framework addendum will occur at the Council meeting in June, for an effective date of implemented changes on November 1, 2024.

As a note, you know you will see up on the screen here that there are some upcoming joint meetings between the Board and Council that fall outside of the typical meeting schedule, and we will cover all of those meetings shortly during the other business portion of this meeting today. That is all I have for you all, and I'm happy to take any questions.

CHAIR MESERVE: Great, thank you, Chelsea, very informative presentation. Are there questions for Chelsea about the information presented, about the need for this addendum, anything else? Hey, I'm not seeing any questions. It speaks to the quality of your presentation, Chelsea, thank you, but we'll look to the Board then for a motion that would initiate an addendum. Staff does have some language that could be used for that if it's needed. Erick Reid, I see your hand up, please go ahead.

MR. ERIC REID: I appreciate it. I **move to initiate an Addendum to address summer flounder commercial mesh exemptions, including clarifying the definition of a flynet and moving the western boundary of the small-mesh exemption area**.

CHAIR MESERVE: Thank you, Eric, is there a second to the motion? Mike Luisi. Eric, would you like to speak to the motion?

MR. REID: No, honestly, the rationale that was presented in December has not changed. This is a 31-year-old regulation that no longer applies in reality. I would prefer to turn discards into landings and reduce the regulatory burden on the commercial fishery. Taking into account the fact that gear has changed, and the majority of the squid fleet, which fishes' east of that sub-GRA in the winter, is towing rope nets now. You know the face of those nets are 8 or 10 feet long, and in the bottom belly they don't go below 8 inches until about the fifth belly panel. That is a standard net. Thank you, Madam Chair.

CHAIR MESERVE: The second was by Mike Luisi, and I'll ask him or any other members of the Board if they would like to raise their hand to provide any additional rationale for this motion. Mike Luisi.

MR. LUISI: I think it was made clear in the presentation that both the Council and the Commission have prioritized this as something that they would like to get done this year. I seconded this in that interest. Eric already made the points I was going to make, so that's it.

CHAIR MESERVE: Okay, very good. Could we get the second up on the screen, just for the record? Any further comment from the Board, any discussion from the Board on this motion? Also, look to any public input at this time, noting of course that this is just the initiation of this action. There will be a lot more time for comment. But we'll look for any comment, and I see Greg DiDomenico with your hand, please go ahead.

MR. GREG DiDOMENICO: There you go, Greg DiDomenico, Lunds Fisheries. Just wanted to say thank you for moving this along and making this a priority, thank you.

CHAIR MESERVE: Short and sweet, Greg, very good, thank you. Any other comment from the public? Seeing none; we'll move to a vote on this, and I'll ask if there is any objection to the motion from the Board. Seeing no hands**, are there any abstentions? Also seeing none; so, this motion carries unanimously.**

OTHER BUSINESS

CHAIR MESERVE: That is going to bring us back to Other Business at this time.

QUICK PREVIEW OF UPCOMING MEETING SCHEDULES THIS YEAR

CHAIR MESERVE: As Chelsea was just saying, she'll give us just a quick outlook on what the calendar looks like for the Board, given both our normally scheduled ASMFC meetings, and also a joint meeting schedule. If you're ready, Chelsea. All right, great, go ahead.

MS. TUOHY: We'll provide all of this information in an e-mail to the Board following the meeting today. But as staff, we just wanted to highlight the remainder of the joint meetings between the Summer Flounder, Scup and Black Sea Bass Board, the Policy Board, and the Mid-Atlantic Council for the remainder of 2024.

We're going to start off with that April 9 through 11, 2024 meeting in Atlantic City, New Jersey, which will be a meeting of the Summer Flounder, Scup, Black Sea Bass Board and the Mid-Atlantic Council. These two groups will meet to approve summer flounder commercial mesh exemptions framework addendum for public comment, as I just mentioned earlier. Moving on to that next Council meeting there, which falls outside of the typical meeting schedule.

That meeting is from June 4 through 6 of 2024, it will be held in Riverhead, New York, and that meeting will be between the Summer Flounder, Scup, Black Sea Bass Board and the Council, and then also between the Policy Board and the Council, and the topics for discussion are the final action on the Summer Flounder Commercial Mesh Exemptions Framework Addendum.

The Policy Board will be receiving an update on their recreational measure setting process, framework and Addendum. Then the last two Council meetings on that list are typical joint meetings. Those are in August and December. The meeting in August as always, will be between, well I guess that's always in recent years. Summer Flounder, Scup, Black Sea Bass Board and the Council, and then the Policy Board and the Council. In August, we will be setting 2025 black sea bass specifications, reviewing 2025 summer flounder and scup specifications, and approving the recreational measure setting process framework addendum for public comment.

Then finally in December of 2024, the Summer Flounder, Scup, Black Sea Bass Board will meet jointly with the Mid-Atlantic Council in Annapolis, at the Council's meeting to adopt 2025 black sea bass recreational management measures, and then review those 2025 measures for summer flounder and scup. Then just to wrap up today.

As a brief note, we anticipate that the joint aspect of the April and June meetings will take no longer than 2 hours for the April meeting and around 3 to 4 hours for the June meeting. Given the brief nature of these action items, and that these meetings fall outside of the typical meeting schedule, we encourage virtual participation, and we know it is a lot for folks to travel. Yes, I guess I'll just leave it off at that and hold for questions if there are any.

CHAIR MESERVE: We'll look forward to a lot of meetings this year. Are there any questions about the schedule? Again, it will be sent to you in an e-mail. Not seeing any.

ADJOURNMENT

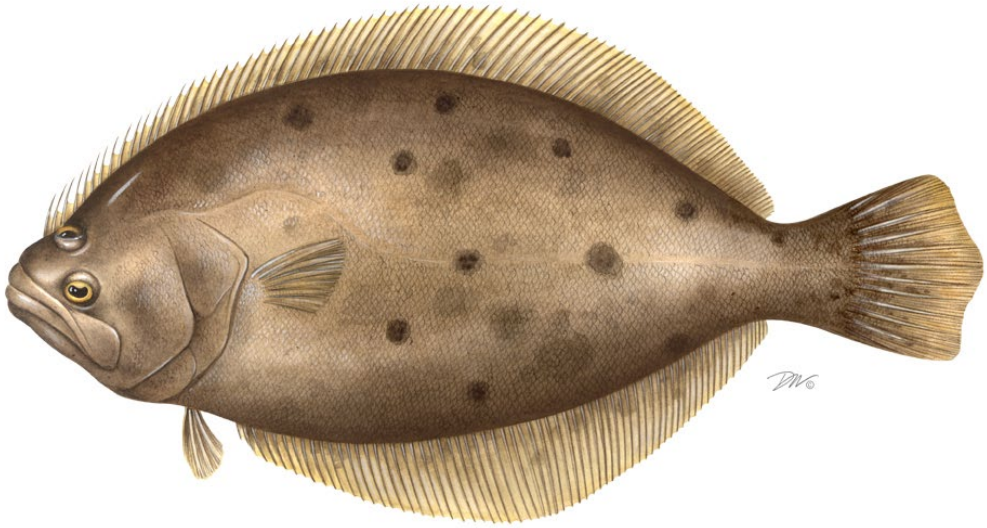
CHAIR MESERVE: Is there any other business to come before the Board today? Again, I'm not seeing any, so that brings us to the end of our agenda. We'll consider this meeting adjourned at this time. I thank everyone for their participation today, hope you have a good night and enjoy some heart shaped chocolates. Thank you!

(Whereupon the meeting adjourned at 3:30 p.m. on February 14, 2024)

Atlantic States Marine Fisheries Commission

DRAFT ADDENDUM XXXV TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS INTERSTATE FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT

Changes to Summer Flounder Commercial Mesh Exemption Programs



August 2024

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

Public Comment Process and Proposed Timeline

In February 2024, the Summer Flounder, Scup, and Black Sea Bass Management Board approved a motion to initiate the development of an addendum to the Summer Flounder, Scup, and Black Sea Bass Interstate Fishery Management Plan (FMP). The addendum will consider changes to two exemptions to the summer flounder commercial minimum mesh size requirements: the Small Mesh Exemption Program (SMEP) and the flynet exemption. This draft addendum presents background on the Atlantic States Marine Fisheries Commission's (Commission) management of the summer flounder commercial fishery, the addendum process and timeline, and a statement of the problem. This document also provides management options for public consideration and comment. This addendum is being developed in cooperation with the Mid-Atlantic Fishery Management Council (Council), which is developing a corresponding framework action. The public comment process will be conducted by the Commission, and comments received will be reviewed by both management bodies prior to final action.

The public is encouraged to submit comments regarding the proposed management options in this document at any time during the public comment period. The final date comments will be accepted is **September 28, 2024 at 11:59 p.m. (EST).** Comments may be submitted at state public hearings or by mail or email. If you have any questions or would like to submit comment, please use the contact information below. Organizations planning to release an action alert in response to this draft addendum should contact Chelsea Tuohy, Fishery Management Plan Coordinator, at ctuohy@asmfc.org or 703.842.0740.

Mail: Chelsea Tuohy
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington VA. 22201

Email: **comments@asmfc.org**
(Subject: Summer Flounder Draft Addendum XXXV)

Date	Action
February 2024	Board initiated the draft addendum
February 2024 – July 2024	Plan Development Team developed draft addendum document for public comment
August 2024	Board reviewed and approved Draft Addendum XXXV for public comment
August 2024 – September 2024	Public comment period, including public hearings; written comments accepted through **September 28, 2024**
October 2024	Board reviews public comment, selects management measures, and final approval of Addendum XXXV

Table of Contents

1.0 Introduction

Summer flounder, scup, and black sea bass fisheries are managed cooperatively by the states through the Commission in state waters (0-3 miles), and through the Council and NOAA fisheries in federal waters (3-200 miles). The management unit for summer flounder in US waters is the western Atlantic Ocean from the southern border of North Carolina northward to the US-Canadian border. States and jurisdictions with a declared interest in the fishery include all those from North Carolina through Massachusetts except Pennsylvania and the District of Columbia, as well as NOAA Fisheries and the US Fish and Wildlife Service (USFWS).

In December 2023, in response to a review of summer flounder commercial minimum mesh size exemptions, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) added to the Commission's 2024 Action Plan an addendum to clarify the definition of a flynet and to consider moving the western boundary of the Small Mesh Exemption Program. In February 2024, the Board initiated this draft addendum through the following motion:

> *Move to initiate an addendum to address summer flounder commercial mesh exemptions including clarifying the definition of a flynet and moving the western boundary of the small-mesh exemption area.*

The Council initiated their corresponding framework action in December 2023.

2.0 Overview

2.1 Statement of the Problem

The SMEP and flynet exemptions were developed under Amendment 2 to the FMP in 1993 and the SMEP was modified under Amendment 3 (1993). Both provide exemptions to the commercial minimum mesh size regulations for the summer flounder trawl fishery, which require 5.5 inch diamond or 6.0 inch square mesh to retain more than 200 pounds of summer flounder from November through April, or 100 pounds of summer flounder from May through October. In the Fall of 2023, the Council contracted a review of these exemptions. This review and subsequent discussions have identified the need to consider several changes to these exemption programs, as described below.

The SMEP and the flynet exemption are both annually reviewed by the TC and MC and the Board and Council during the specifications process for setting or reviewing catch limits. Some changes can be made through the specifications process. However, the regulations list restrictions on what types of changes to the SMEP can be recommended by the TC and MC via specifications. In addition, the typical annual review of the flynet exemption is primarily to review data on the flynet fishery in North Carolina. A redefinition of the exempted gear type(s) would fall outside the scope of what could be modified via specifications. As such, the Board and Council were advised to initiate an addendum/framework to consider the issues described below.

2.1.1 Small Mesh Exemption Program Area Revisions

The SMEP allows trawl vessels to obtain a Letter of Authorization (LOA) to land more than 200 pounds of summer flounder east of longitude 72° 30.0'W, from November 1 through April 30, using mesh smaller than the minimum summer flounder mesh sizes of 5.5 inch diamond or 6.0 inch square. This exemption is designed to allow vessels to retain some bycatch of summer flounder while operating in other small-mesh fisheries, reducing regulatory discards of summer flounder. During the Fall 2023 review of the program, feedback from the commercial fishing industry indicated the SMEP has become an important program to maintain the economic viability of their businesses. Industry representatives recommended moving the demarcation line approximately 5 miles landward to facilitate the conduct of their fishing operations in other fisheries, without negatively impacting the summer flounder stock. After reviewing the final report of the Council contracted work and public input, the Board and Council recommended additional evaluation of this industry proposal, including further exploration of appropriate boundaries and the expected biological impacts to summer flounder.

2.1.2 Small Mesh Exemption Program Review Methodology

The current regulations state the Regional Administrator may terminate the SMEP for the remainder of a season if observer data determines vessels fishing under the exemption are discarding more than 10 percent by weight, on average, of their entire catch of summer flounder per trip. Because the exemption program is intended to minimize regulatory discards in small mesh fisheries targeting other species, rescinding the exemption could lead to an overall increase in summer flounder discards among these small mesh vessels. As such, evaluation criteria should be designed to identify major concerns with the use of the exemption program that may justify suspending the exemption program until those issues can be resolved.

The current 10 percent threshold has been flagged as potentially no longer appropriate to provide meaningful information on whether discarding trends are problematic under this exemption. There are many reasons, regulatory and otherwise, summer flounder are discarded (see Figure 7 in Appendix A for discard reason analysis from observer data). Many of the regulatory constraints influencing discard rates and patterns today were different or not relevant during time periods of data used to establish this exemption and its evaluation criteria.[1] There are also now more years of data available on use patterns for the exemption program. This action considers revisions to the review methodology and the process for determining whether the exemption should be rescinded.

2.1.3 Flynet Exemption Definition Revisions

The flynet exemption program specifies that vessels fishing with a two-seam otter trawl flynet, with a specific configuration (see section 3.3, Option A), are exempt from the summer flounder minimum mesh size requirements. The original intent of this exemption was to accommodate a specific fishery, concentrated in North Carolina and extending north to Cape Henlopen,

[1] For example, discard rates using 1990-1991 data were used to partially inform this exemption, which was prior to establishment of coastwide quotas and consistent coastwide size limit requirements.

Delaware. Available data indicate the exemption is no longer being utilized in that area/fishery. However, industry feedback indicates the flynet exemption has become an important component of specific fisheries throughout the Greater Atlantic Region, although some of the net types being utilized under the flynet exemption (i.e., "high rise nets") do not comply with the specific regulatory definition of a flynet. The term "high rise" net appears to be regional terminology for flynets and similar net types. The Summer Flounder, Scup, and Black Sea Bass Technical Committee (TC) and Monitoring Committee (MC) previously identified this as a potential compliance and enforcement issue and/or indication of a potential need to revise the regulatory language. During the summer flounder mesh exemption review process, industry representatives noted very few summer flounder are caught in these net types, and proposed updating the definition of the term "flynet" to reflect modern gear configurations and use-patterns under this exemption.

2.2 Background

2.2.1 Status of the Stock

The most recent summer flounder management track stock assessment was completed in June 2023, using data through 2022 (NEFSC 2023). The FMP defines the summer flounder management unit as all summer flounder from the southern border of North Carolina to the United States-Canada border. The assessment approach is a statistical catch-at-age model (ASAP) incorporating a broad array of commercial and recreational fishery and survey data. Results from the 2023 assessment indicate the summer flounder stock was at 83% of the biomass target and so was not overfished; however, the stock was experiencing overfishing in 2022. Fishing mortality was 3% above the threshold level defining overfishing (Figure 1; Figure 2).

While the overfishing limit has not been exceeded in recent years, projections associated with the 2021 assessment, which used data through 2019, appeared to be overly optimistic given the updated information provided by the 2023 assessment. The assessment has been slightly underestimating fishing mortality and overestimating stock biomass, the effect of which was compounded by adding three years of data to the assessment model (2020-2022). In addition, stock recruitment has been below average since 2011 and the high estimate of 2018 recruitment in the 2021 assessment was revised downward to recent below-average levels with the 2023 assessment results. The 2023 management track stock assessment provided the basis for setting fishery specifications for the 2024 and 2025 fishing years.

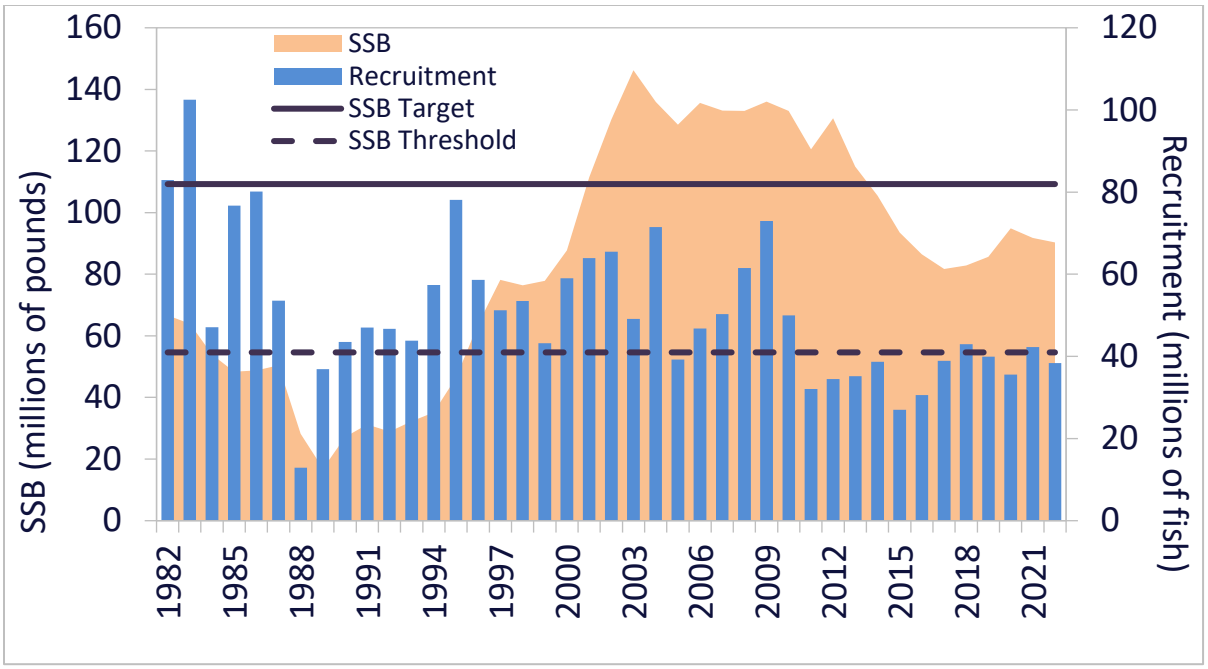


Figure 1: Summer flounder spawning stock biomass and recruitment. Source: 2023 Management Track Assessment Prepublication Report, Northeast Fisheries Science Center.

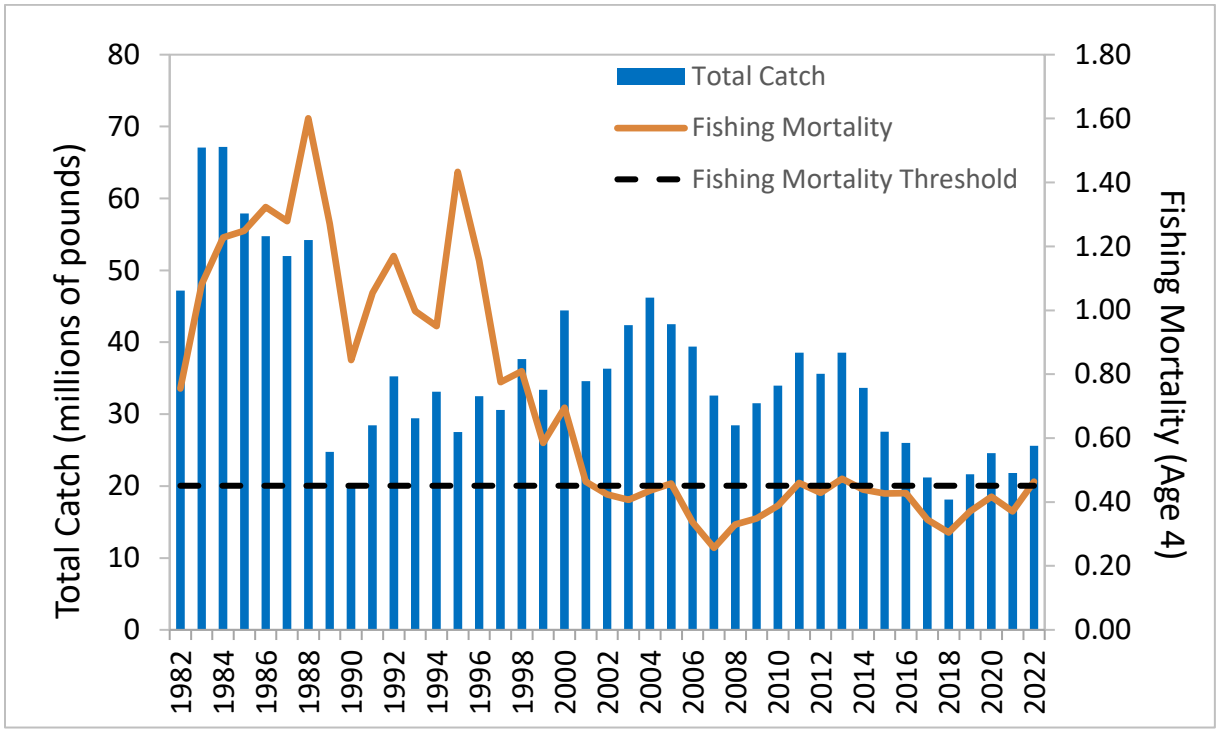


Figure 2: Summer flounder total catch and fishing mortality. Source: 2023 Management Track Assessment Prepublication Report, Northeast Fisheries Science Center.

2.2.2 Status of the Fishery and Management

Note: Since this addendum considers management of the commercial fishery, the following information focuses on commercial summer flounder fisheries and exemption programs. For information on the recreational fishery and general commercial landings trends, see the Review of the FMP for Summer Flounder: 2022 Fishing Year (ASMFC, 2023).

2.2.2.1 Small Mesh Exemption Program

Summer flounder moratorium permitted vessels fishing east of longitude 72° 30.0'W (Figure 2), from November 1 through April 30, and using mesh smaller than the required summer flounder minimum mesh sizes of 5.5-inch diamond or 6.0-inch square, may land more than 200 pounds of summer flounder under the SMEP. Participation in this program requires a LOA obtained through the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO). Vessels must be enrolled in the program for a minimum of 7 consecutive days and may not fish west (landward) of the line. This exemption program was developed under Amendment 2 to the FMP and modified via Amendment 3[2] (both in 1993). The seven-day minimum enrollment period was implemented due to the administrative capacity needed to process vessel enrollment in the program.

This exemption program was initially suggested by the New England Fishery Management Council and industry participants. It was designed to allow vessels to retain some bycatch of summer flounder while operating in other small-mesh fisheries. At the time it was determined the exemption would not pose an issue for the stock because the mesh size requirement was designed to protect smaller summer flounder, which largely were not being caught in these offshore areas in the winter months.[3] The exemption was thus viewed as consistent with the conservation goals of the FMP while reducing discard waste in the summer flounder fishery.

Over the last ten years, SMEP LOAs have been issued to an average of 68 vessels each year for the relevant November-April time periods, with a slight increasing trend over these years (Figure 3). Because vessels with an active LOA are restricted to trips east of the demarcation line, many vessels hold several LOAs for varying lengths of time throughout a given November-April period. On average over the past ten years, about 44% of vessels held the LOA for the full November-April time frame (Appendix A; Figure 6).

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[2] Amendment 3 increased the threshold possession limit for smaller mesh vessels from 100 to 200 pounds of summer flounder and simplified the SMEP area to the area east of 72° 30.0'W to resolve issues with compliance and enforcement created by the previous, irregular line (71° 30.0'W, following the yellowtail closed area). Otter trawl data showed discard rates and size distributions of summer flounder varied by these demarcations. The amendment concluded that changing the SMEP area to east of 72° 30.0'W would slightly increase discards but improve compliance and navigation and eliminate the issue of the previous line bisecting Hudson Canyon.

[3] The exemption was approved based on data (from 1985 to 1989) indicating 99.8 percent of summer flounder caught in the exemption area were equal to or greater than the size limit at the time of 13 inches, and 84.7 percent were greater than 15 in., compared to 88.6 percent and 50 percent outside the area, respectively.

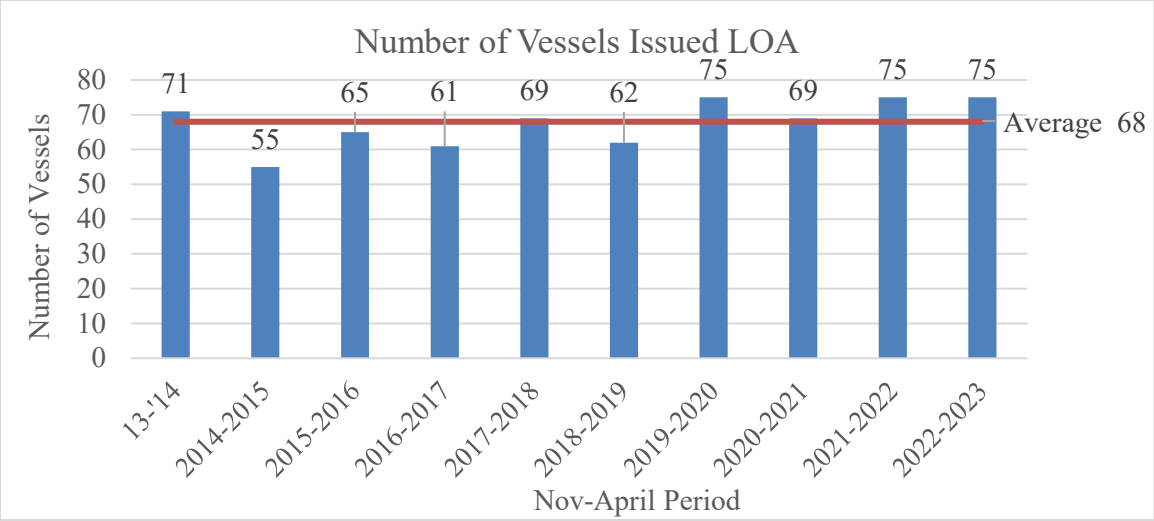

Figure 3: Number of vessels issued a SMEP LOA from November 2013 through April 2023. Some vessels held multiple LOAs within a season.

Vessel Trip Report (VTR), Catch Accounting Monitoring System (CAMS), and Northeast Fisheries Observer Program (NEFOP) data, all linked to trips where vessels held an active SMEP LOA, were used to characterize use of this exemption program.

CAMS data were used to calculate the proportion of annual summer flounder bottom trawl landings and discards originating from LOA trips vs. non-LOA trips. As shown in Table 1, based on this information, since 2018 about 14% of total annual summer flounder bottom trawl catch on average came from trips where an active LOA was held.[4]

Table 1: Proportion of annual summer flounder bottom trawl landings and discards from SMEP LOA vs. non-LOA trips, based on 2018-2022 CAMS data.

	% LOA Landings	% LOA Discards	% Non-LOA Landings	% Non-LOA Discards
2018	9%	1%	70%	20%
2019	10%	1%	75%	13%
2020	13%	1%	74%	13%
2021	16%	1%	77%	7%
2022	17%	1%	77%	5%
Average (2018-2022)	**13%**	**1%**	**74%**	**11%**

VTR data from November 1, 2022 through April 30, 2023 indicate over this period, 90% of LOA trips were using bottom otter trawl gear, with the remaining 10% utilizing other or unknown gear types (small numbers of trips for unnamed "other" gear types, other bottom trawl types,

[4] This dataset did not separate trips or hauls by mesh size used. Not all trips or hauls occurring while an LOA is held are necessarily using small mesh (in other words, some proportion of "LOA catch" is coming from trips where an LOA would not have been needed to retain more than 200 pounds of summer flounder).

scallop dredge, and sink gillnets). As some of these other gear types are non-trawl gears, these vessels would not be actively using the SMEP on every trip. Observer data for November 2013 through April 2022 indicate 100% of observed trips over this period associated with an active SMEP LOA were using bottom otter trawl gear.

On 1,246 observed trips associated with an active SMEP LOA from November 2013 through April 2022, about 40% of hauls used a mesh size at or above the summer flounder minimum diamond mesh size of 5.5 inches, while 57% used mesh smaller than 5.5 inches and/or a small mesh codend liner (Table 2). The LOA/exemption is not necessary for vessels fishing with mesh over the 5.5-inch minimum size; however, many vessels holding LOAs are using a mix of different gear configurations on different trips or portions of trips while the LOA is active.

Table 2: Trips and hauls for observed bottom otter trawl trips with an active SMEP LOA, 2013-2022, by mesh size category (above and below the summer flounder 5.5" diamond mesh requirement).

Gear Type and Mesh Size Category	% of Hauls	Number of Unique Trips[a]	Number of Unique Permits[a]
≥5.5 inch[b]	40%	637	87
<5.5 inch[b]	57%	624	92
Unknown	3%	38	25
Total	**100%**	**1,246**	**109**

[a] Number of trips and permits do not add to the total given that some trips and some permits are associated with use of multiple mesh size categories.

[b] Observer mesh size data is reported as an average of 10 individual mesh measurements, in millimeters. For this analysis, mesh size was converted to inches and rounded to the nearest tenth of an inch, so conversion and rounding error may be present for some observations.

Target species is reported for each haul in the observer data. 41% of observed hauls for active SMEP LOA holders over the November 2013 through April 2022 period using mesh smaller than 5.5-inches were reported as targeting longfin squid, followed by 25% of hauls reporting targeting summer flounder. Other common target species on observed SMEP trips using small mesh included scup and whiting, with other species accounting for 5% or less of hauls on these trips (Table 3). Of all observed hauls linked to SMEP LOAs from November 2013 through April 2022 where mesh smaller than 5.5 inches was used, 67% of hauls caught summer flounder, and 82% of observed trips caught summer flounder at some point on the trip. Of the hauls targeting summer flounder, 95% caught summer flounder (Table 4).

Table 3: Top target species on observed trips for vessels with an active SMEP LOA, using mesh smaller than 5.5 inches, 2013-2022. Table shows top species as a percent of total observed hauls for these vessels over this period, number of unique trips, and number of unique permits.

Target Species	Percent of Hauls	Number of Trips	Number of Permits
Longfin Squid	41.3%	241	71
Summer Flounder	25.2%	225	68
Scup	14.9%	148	47
Silver Hake (Whiting)	7.7%	83	35
Atlantic Herring	5.0%	66	8
Black Sea Bass	1.7%	24	20

Table 4: Observed trips, hauls, and permits for observer data linked to SMEP LOAs, for trips and hauls where mesh smaller than 5.5 inches was used, November 2013 through April 2022.

	Trips	Hauls	Permits
All Observed SMEP LOA	624	3,879	92
Caught Summer Flounder	514	2,606	89
Targeted Summer Flounder	225	977	68
Targeted & Caught Summer Flounder	223	931	68

For all observed SMEP LOA trips with summer flounder catch using mesh smaller than 5.5 inches, average summer flounder landings were 746 pounds per trip and median landings were 301 pounds per trip. Mean discards were 165 pounds of summer flounder, and median discards were 30 pounds of summer flounder (Table 5). For most observed SMEP trips using small mesh, discards of summer flounder appear to be relatively low by weight, but can still be a notable proportion of total summer flounder catch on those trips since many trips are not catching substantial amounts of summer flounder. On average, 24% of summer flounder caught were discarded per trip, with 50% of trips discarding more than 10% of their summer flounder catch (Table 6).

Table 4: Statistics for landings and discards of summer flounder on observed SMEP LOA trips with summer flounder catch using mesh smaller than 5.5 inches, November 2013 through April 2022. Landings and discard values are in pounds.

	Summer Flounder Landings		Summer Flounder Discards
Mean per trip	746	Mean per trip	165
Median per trip	301	Median per trip	30
% of trips landings >2,000 lb	10%	% of trips discards >2,000 lb	1%
% of trips landings >500 lb	42%	% of trips discards >500 lb	7%
% of trips landings >200 lb	57%	% of trips discards >200 lb	17%
% of trips no landings	8%	% of trips no discards	20%

Table 5: Statistics for percent of summer flounder discarded on observed SMEP LOA trips with summer flounder catch using mesh smaller than 5.5 inches, November 2013-April 2022.

Total observed trips with summer flounder catch	514
Avg % summer flounder discarded per trip	24%
Total % summer flounder discarded across all trips	18%
% of trips discarding more than 10% of summer flounder catch	50%

2.2.2.2 Small Mesh Exemption Program Annual Evaluation

Amendment 2 (1993) originally established the criteria for review of this exemption, specifying that "if the Regional Director determines after a review of Sea Sampling data that vessels fishing seaward of the line described above are discarding more than 10% of their summer flounder catch, the Regional Director may rescind the exemption." Though limited information is available describing the specific basis, supporting documents noted 1990-1991 NMFS sea sampling data showing otter trawl vessels fishing east of the line (at the time, 71° 30.0'W) discarded about 8.8 percent of their total summer flounder catch, while discard rates from otter trawl vessels fishing in other areas exceeded 25 percent. Documents note this difference in discard rates suggested fewer undersized[5] summer flounder were encountered in this area, so this presumably served as the basis for a 10 percent threshold intended to signal an increase in catch of smaller summer flounder.

As described in section 2.2.2.1, observer data for recent SMEP LOA trips show many trips are targeting non-summer flounder species or a combination of species (Table 3), and on average, are not catching substantial amounts of summer flounder at the trip level. Generally, discards in weight of summer flounder on these trips is low (Table 5). Relative to low total catch weights of summer flounder, the proportion of summer flounder discarded can appear high. The existing 10 percent threshold is quickly reached on many trips catching summer flounder even if the total poundage discarded is low (e.g., average discards on observed small mesh LOA trips from 2013-2022 are about 165 pounds, or ~18% of the average summer flounder catch on these trips). Additional analysis of catch and discards of summer flounder on LOA trips, based on observer data, is provided in Appendix A.

Currently the MC is responsible for reviewing observer data annually to evaluate whether vessels fishing under this exemption program are discarding more than 10% of their summer flounder catch. Historically, this analysis has relied solely on observed trips identified using a series of assumptions indicating a presumed use of the SMEP. This provides a limited snapshot due to limited observer coverage and was not based on confirmed use of the LOA. The SMEP was put in place in the 1990s, when linking disparate datasets, (e.g., vessel trip reports, observer data, permits etc.) was more difficult. Advances in data accessibility over the years

[5] At the time, coastwide requirements for minimum size limits were not yet implemented but state size limits ranged from 11 to 14 inches with the majority at 13 or 14 inches.

have created opportunities to improve analysis of this exemption, as demonstrated by analysis conducted for this action. Going forward, regardless of the option selected under section 3.2, the MC will continue to use data linked to actual use of the SMEP rather than the previous review methods.

2.2.2.3 Flynet Exemption

Since 1993, the flynet exemption in the Summer Flounder FMP, has provided an exemption to the minimum mesh size requirements for vessels fishing with a two-seam otter trawl flynet with specifications defined in regulation (see section 3.3 Option A.). No permits or special reporting are required to utilize this exemption.

The original intent of this exemption was to accommodate the use of a specifically defined gear in a specific fishery. Flynets were generally fished 10-12 feet off the bottom between September and April from North Carolina to Cape Henlopen, Delaware, and primarily targeted bluefish and sciaenids. The North Carolina Division of Marine Fisheries provided additional data to support the exemption, indicating summer flounder were landed as incidental catch in the flynet fishery and comprised only 1-3% of the total trip catch (based on 1982 through 1989 data). Comparatively, summer flounder made up 62-94% of nearshore bottom trawl total trip catch and 10-72% for deep water otter trawls. Although flynets caught a higher proportion of undersized summer flounder (58.1%) versus nearshore bottom trawls and deep-water trawls (4.5% and 8.4%, respectively), summer flounder appeared in less than half of the flynet trawls and made up 0.2-0.8% of the catch between 1985 and 1988.

Amendment 2 also proposed an exemption for four-seam, pelagic nets with large mesh of at least 32 inches in the wings, 50 feet (40 meshes) of 15 inches in the belly, decreasing in the body relative to the wings and extensions to mesh of 1.5 inches or less in the codend (referred to as “millionaire nets”). The exemption was requested primarily by New Jersey fishers who stated almost all summer flounder quickly escaped after entering these nets. This exemption was disapproved in the final rule because the record did not include sufficient information to determine its effect and because the net could be fished on the bottom by towing at a reduced speed, which could lead to increased discard mortality of undersized summer flounder.

As noted in section 2.1.3, the existing flynet exemption has historically been evaluated annually using data from the state of North Carolina trip ticket program. In recent years, North Carolina data has indicated the flynet exemption is no longer being utilized today in that area/fishery, as summer flounder are no longer caught in that fishery and flynet fishery effort in the state has generally declined. Also as noted in section 2.1.3, the mesh exemptions review highlighted flynet or “high-rise” type nets are being used by vessels outside of this North Carolina fishery, with some use of nets that may not comply with the regulatory definition of a flynet.

This action considers expanding the definition of a flynet, to cover similar net types that generally catch small amounts of summer flounder (see section 3.3.1). Evaluating this expansion requires consideration of data beyond North Carolina to evaluate the potential impacts of this change. Most states outside of North Carolina do not have the ability to break

data down by specific net type or gear configuration, and this information is also not available from VTR data. As such, analysis of the use of flynet or high-rise type nets throughout the Greater Atlantic Region is based on NEFOP observer data. Analysis of the use patterns and catch for these flynet/high-rise gear types, based on observer data, is contained Appendix B.

3.0 Proposed Management Program

Draft Addendum XXXV proposes options regarding:

- Changes to the Western boundary of the Small Mesh Exemption Program (section 3.1);
- Changes to the Small Mesh Exemption Program evaluation criteria (section 3.2);
- Updates to the definition of the term “flynet” (section 3.3).

When the Board takes final action on the addendum, there is the opportunity to select any measure within the range of options that went out for public comment, including combining options across issues.

In addition to the options provided below, there is also information in this section regarding two administrative changes to the flynet exemption program: (1) a change to future monitoring of the program and (2) a clarification to the regulatory language describing the flynet exemption evaluation. These items are not included as options as they do not alter the programs, but provide more information to the TC and MC for program monitoring via addition of a VTR code and updated language in the Federal regulations to be consistent with language in the FMP.

3.1 Small Mesh Exemption Program Western Boundary

Option A. Status Quo

This option would maintain the SMEP demarcation line at longitude 72° 30.0’W (Figure 4). Vessels issued an LOA for this program may fish east of this line from November 1 through April 30 using mesh smaller than the required summer flounder minimum mesh sizes of 5.5-inch diamond or 6.0-inch square and retain more than 200 pounds of summer flounder.

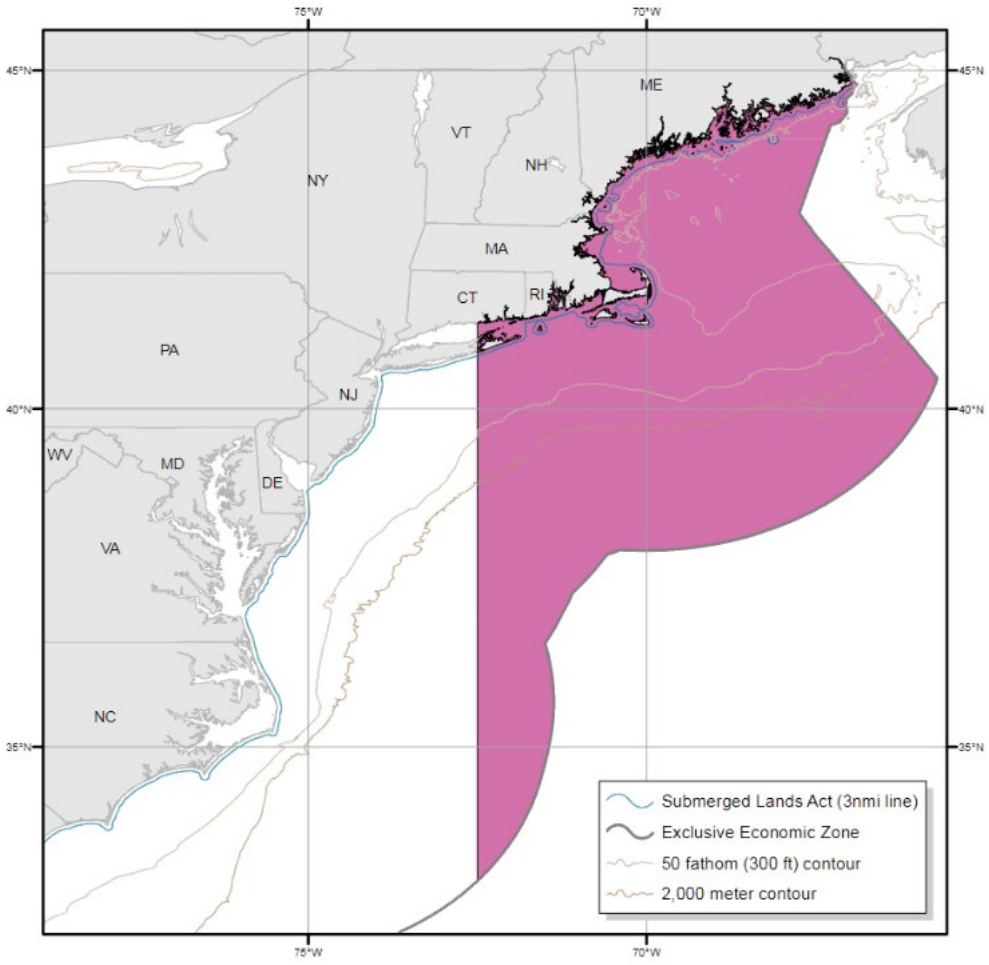

Figure 4: Status quo SMEP area (Option A).

<u>Option B. Expanded SMEP exemption area</u>

Starting south of Long Island, this option would move the westward demarcation line approximately 5 miles west to 72°37'W longitude, following this longitude south until intersection with the northeast corner of the scup Southern Gear Restricted Area (GRA) at 39°20'N and 72°37'W. The line would then follow along the eastern border of the southern scup GRA to 37°N latitude, which would form the southern boundary of the expanded area running eastward until the intersection with the current SMEP boundary at that latitude (Figure 5). Note, this option does not extend the line westward in Long Island Sound nor does it modify the southern portion of the SMEP south of the Frank R. Lautenberg deep sea coral protection area.[6]

[6] With both area options, the SMEP area overlaps portions of the Frank R. Lautenberg Deep Sea Coral Zone, where all bottom tending fishing gear is currently prohibited year-round. Vessels using the SMEP are bottom trawls, and as such the portions of the SMEP area overlapping with the coral zones are unable to be fished by these gear types regardless of possession of the LOA.

While this has the appearance of notably increasing the SMEP area size, the effective change in terms of fishery access should be calculated after excluding portions of the area overlapping with the deep sea coral zone, where bottom tending gear is prohibited. There is already substantial overlap of the SMEP and coral zone where the SMEP is not able to be used; this option would increase the area of overlap. The calculated additional area, excluding the deep-sea coral zones where bottom tending gear is prohibited, is 4,943 km^2 (1,441 nmi^2).[7] The timing of the exemption would remain unchanged (November 1-April 30).

Analysis of the presence and abundance of undersized (less than the 14-inch commercial fishery minimum size) and juvenile (less than 30 cm or 11.8 inches) summer flounder is provided in Appendix A, based on NMFS bottom trawl survey length data from the Northeast Regional Habitat Assessment from 1990-2019.

Because this option proposes connecting the SMEP area to the current southern scup GRA[8], it is important to note that modifications to the scup GRA boundaries may be considered in the next few years. The Council's 2024 Implementation Plan includes a project[9] that would build on past Council scup GRA analyses and assess if changes to the current GRAs are warranted, and if so, provided recommendations on potential changes. This project is expected to extend through 2025 and could potentially result in changes to the current boundary, timing, etc. of the southern scup GRA. However, given the expected project timeline, changes to the scup GRA boundaries are unlikely to change prior to 2026. If the GRA boundaries are modified, it would not automatically update the boundaries of the revised SMEP area unless specifically added to that action, or adjusted via a separate action.

[7] The total proposed expanded area, including the area overlapping the deep sea coral zones, is 30,880 km2 or 9,003 nmi^2.
[8] There are currently two scup GRAs intended to reduce juvenile scup discards in small-mesh fisheries. Trawl vessels may not fish for or possess longfin squid, black sea bass, or silver hake in the Northern GRA from November 1 – December 31 and in the Southern GRA from January 1 – March 15 using mesh smaller than 5 inches.
[9] https://www.mafmc.org/newsfeed/2024/request-for-proposals-collaborative-strategies-to-adapt-scup-gear-restricted-areas-gra-to-changing-ocean-conditions

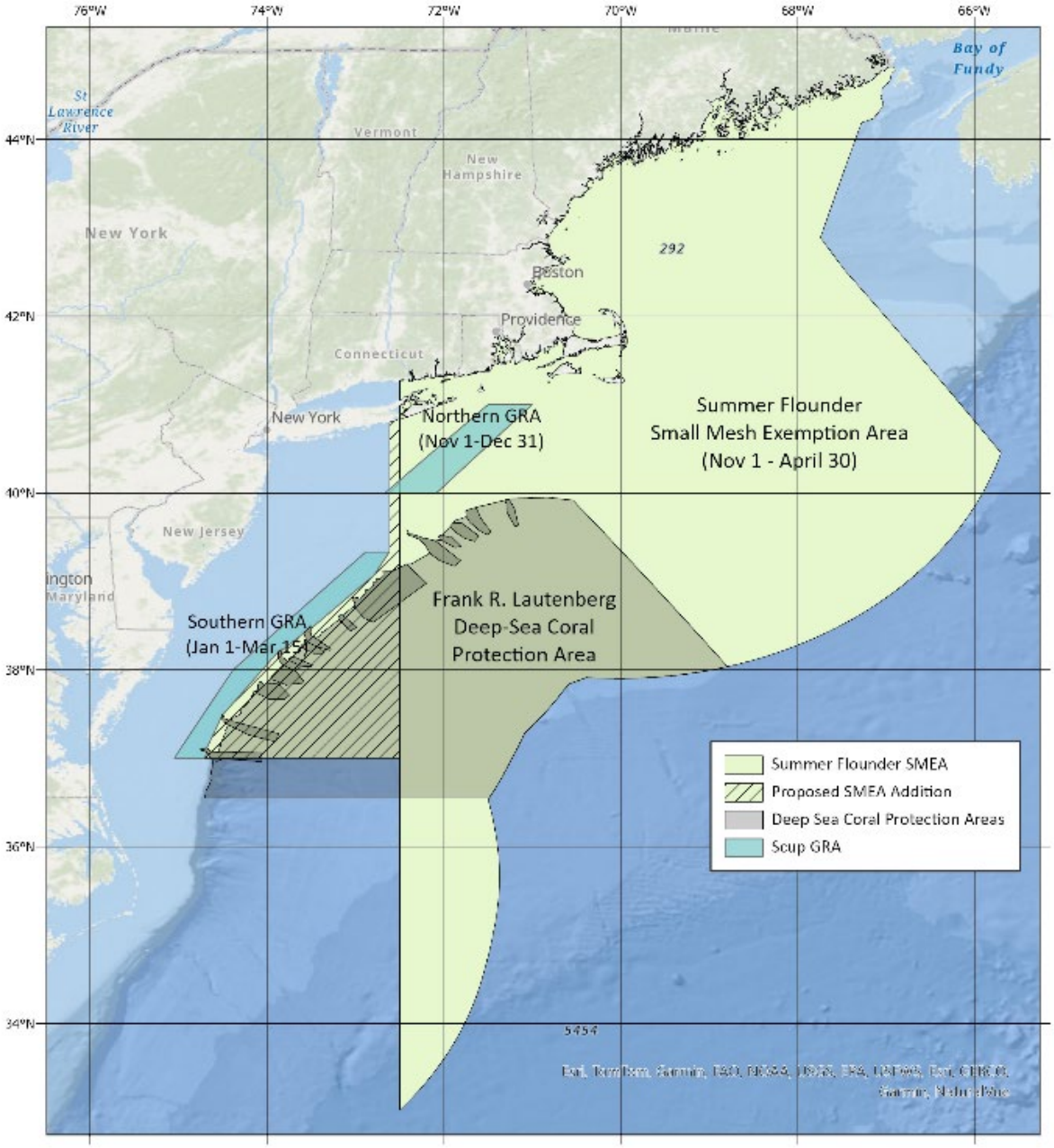

Figure 5: Option B, proposed expansion of the SMEP area.

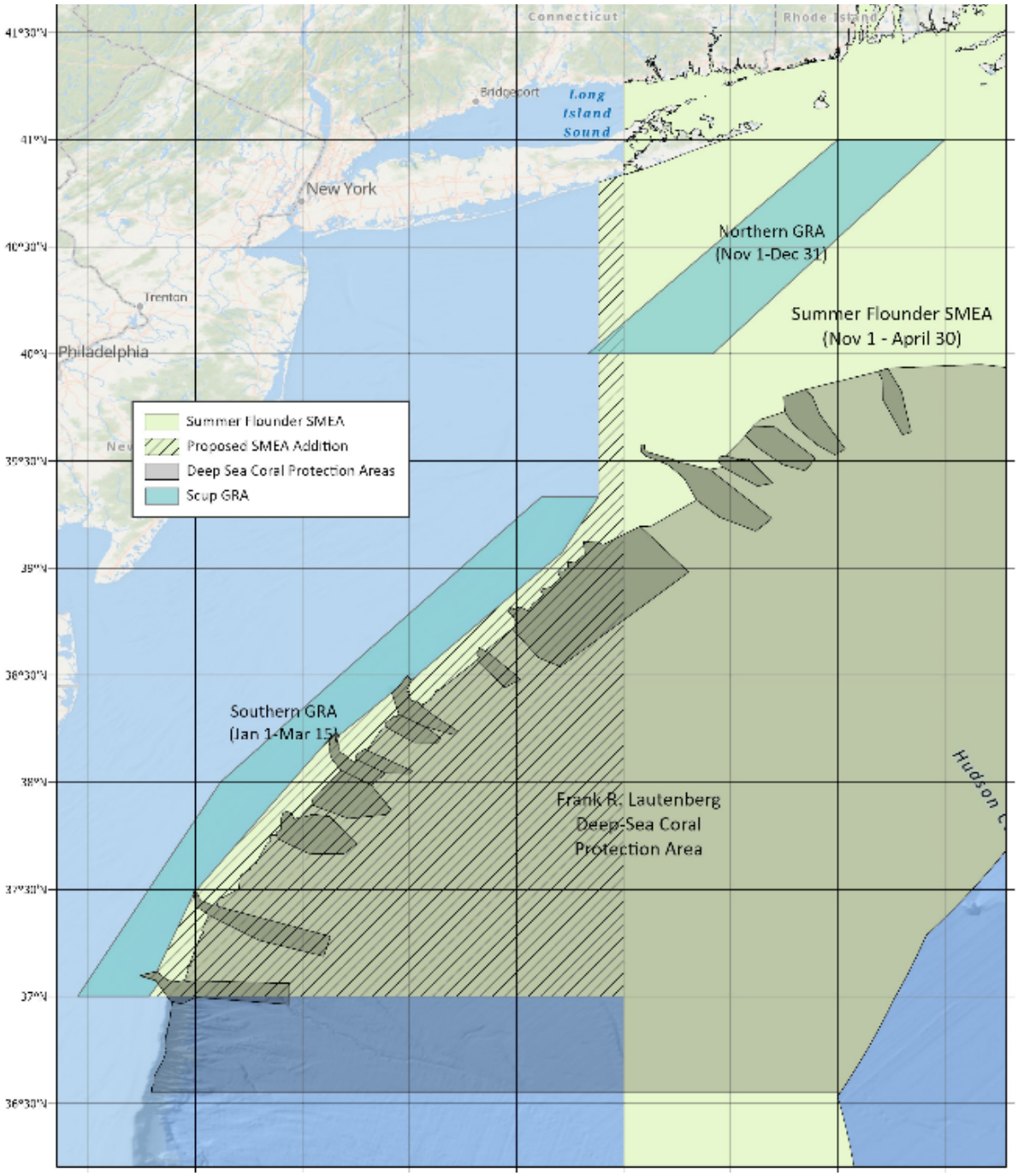

Figure 6 (continued): Option B, proposed expansion of the SMEP area.

3.2 Small Mesh Exemption Program Evaluation Criteria

<u>Option A. Status Quo</u>

This option would keep the current regulations as is such that: "The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding on average more than 10 percent, by weight, of their entire catch of summer flounder per trip. If the Regional Administrator makes such a

determination, he/she shall publish notification in the Federal Register terminating the exemption for the remainder of the exemption season."

Option B. Modified Discard Trigger

This option would increase the trigger percentage from 10 to 25 percent, meaning if vessels fishing under the exemption are on average discarding more than the 25 percent, by weight, of their entire catch of summer flounder per trip, the Regional Administrator may terminate the exemption for the upcoming or remainder of the current exemption period by publishing a notification in the Federal Register. When reviewing this issue, the Regional Administrator may consider contextual factors that may have led to changes in discarding patterns during the year(s) evaluated.

While this has the appearance of notably increasing the discard trigger, this trigger represents a more realistic percent of summer flounder expected to be discarded based on a revised and more accurate methodology for evaluating discards on LOA trips. The updated analysis uses observer data from trips known to be actively holding an SMEP LOA, whereas the previous analysis methodology used a series of assumptions to identify trips possibly participating in the SMEP. This difference in methodology, as well as a discrepancy in descriptions of the methodology between the regulations and the FMP, have led to the exemption not being rescinded despite average discards per trip exceeding the 10 percent threshold in recent years.

Based on the revised evaluation, an average of 25 percent of summer flounder discarded per trip reflects the status quo operations of observed trips using this LOA over the past 10 years (Table 5; Appendix A, Table 7), and also reflects the average percent of summer flounder discarded per trip on all bottom trawl trips year-round. As such, in practice this is not expected to increase the amount of summer flounder discarded before consideration of rescinding the exemption. When evaluating this threshold, it may be informative to use multiple years of data in a rolling average approach.

Option C. Tiered Discard Monitoring Approach

This option would also increase the trigger percentage to a 25 percent threshold, but would trigger a more in-depth review of SMEP discards rather than serving as the primary trigger for consideration of rescinding the exemption. Under this option, if vessels fishing under the exemption are on average discarding more than 25 percent, by weight, of their entire summer flounder catch, this would trigger a more detailed review, proposed to be conducted or reviewed by the Monitoring Committee.[10] This additional review would seek to highlight major issues with the exemption program that need to be addressed (e.g., high/increasing discards of undersized summer flounder, high/increased targeting behavior with small mesh, and other concerns).

[10] Federal regulations and the FMP refer to use of the Monitoring Committee to review this exemption annually, and that language is continued in these options. For the purposes of cooperatively managed MAFMC-ASMFC species, the Monitoring Committee is considered a joint committee, and includes representation nearly identical to the Commission's Technical Committee.

It is evident discard rates are variable on an annual basis (Appendix A; Table 8) and are commonly impacted by a variety of factors including but not limited to annual quotas, population structure and dynamics, market conditions, and other regulations (Appendix A; Figure 7). Updating the SMEP evaluation criteria to a 25 percent trigger in addition to including a Monitoring Committee analysis process would facilitate a more comprehensive consideration of the drivers of and response to discards. The Monitoring Committee analysis could evaluate the amounts and percentages of kept and discarded summer flounder on LOA trips compared to non-LOA trips, investigate trends in discards over time, investigate discards of undersized and/or juvenile summer flounder on LOA vs. non-LOA trips and by area, and explore any other information that could inform whether to recommend rescinding the exemption or otherwise recommend changes to improve performance.[11] This could include review of whether there is a large proportion of trips targeting and/or keeping large amounts of summer flounder using small mesh gear (i.e., whether use of the program is moving more toward a small-mesh summer flounder fishery vs. allowing retention of incidental summer flounder catch). When conducting this evaluation, it may be informative to use multiple years of data in a rolling average approach.

This review would be conducted as soon as possible but no later than the next series of specifications setting or review meetings. The evaluation would be presented to the Board and Council for these groups to provide feedback and recommendations to the Regional Administrator. The Regional Administrator, based on review of this information, would consider whether the exemption should be rescinded for the upcoming or remainder of the current exemption period, or if other modifications to the program could be made in the near term to address the concerns.

It should be noted, this approach would require additional time and staff resources for the Monitoring Committee to conduct an evaluation, and time for the Board/Council and Regional Administrator to respond. This would delay consideration of whether to rescind the exemption or whether modifications to the program may be needed, but would have the benefit of a more thorough consideration of the concerns and how they may be addressed. Because observer data are heavily relied upon during the review process, typical data lags associated with observer data processing may impact time between observed data triggering concerns and management response.

[11] If the Monitoring Committee recommended changes in addition to or instead of rescinding the exemption, those changes could be considered through either specifications or a separate future action, depending on the nature of the recommended change.

3.3 Definition of a Flynet

3.3.1 Definition Revision Options

Option A. Status Quo

This option would make no changes to the current definition of a flynet:

> Vessels fishing with a two-seam otter trawl flynet are exempt from the summer flounder minimum mesh size requirements. The regulatory definition of a fly net is a two-seam otter trawl with the following configuration:
>
> - The net has large mesh in the wings that measures 8" to 64".
> - The first body (belly) section of the net has 35 or more meshes that are at least 8".
> - The mesh decreases in size throughout the body of the net to 2 inches (5 cm) or smaller towards the terminus of the net.

Option B. Modified flynet definition to remove references to two seams and 64" upper bound of mesh in wings.

As indicated in the highlighted portions of the definition below, this option would modify the flynet definition to 1) remove the reference to two seams, 2) remove the reference to the upper range of the mesh size in the wings of 64", and 3) revise the description of the amount of large mesh required in the body of the net.

Vessels fishing with an otter trawl flynet are exempt from the summer flounder minimum mesh size requirements. The regulatory definition of a fly net is an otter trawl with the following configuration:

- The net has large mesh in the wings that measures 8"or greater.
- The first body (belly) section of the net has at least 280 inches of mesh behind the sweep where the mesh size is at least 8".
- The mesh decreases in size throughout the body of the net toward the codend.

3.3.2 Future Monitoring of the Flynet Exemption Program

Going forward, there is an expectation that observer data will need to be used to evaluate the flynet exemption as the previous methodology no longer reflects how the exemption is currently used outside of North Carolina. While the observer data captures "net type" in addition to gear type, some concerns have been raised about how this information is reported, i.e., the observer relies on what is reported by the captain, and terminology varies by fishery and region. In addition, the "net type" field is sometimes blank (on average about 2% of trips and 2% of hauls) or often recorded as an unknown trawl type (on average about 43% of trips and 41% of hauls; based on 2013-2022 observer data). In addition, observed trips represent a subset of total fishing effort, and observer coverage is variable over time and by gear category.

As such, evaluation of observer data for this exemption should ideally consider multiple years of data, and caution should be used in the interpretation of this data.

To improve monitoring going forward, the Board and Council have expressed support for adding a flynet/high-rise net type gear code to VTR data collection forms. This is not an explicit option to be considered in this addendum, but a step GARFO will take at the request of the Board and Council. This would be a separate type of bottom otter trawl gear that could be selected when filling out the VTR (similar to how a separate code was recently added for large mesh belly panel gear to better analyze the use of this gear type). Gathering useable data from this additional gear code will rely on awareness of and consistent application of this gear type terminology, which has been acknowledged as a challenge. As such, communication of this change will be critical.

3.3.3 Regulatory Language Change

While not an option explicitly under consideration in this action, the PDT/FMAT has recommended the regulatory language describing the flynet exemption evaluation be revised to reflect the original intent of the FMP. This can be done as an administrative correction to the regulations via GARFO.

The current evaluation methodology specified in the regulations is: "The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption, on average, are discarding more than **1 percent of their entire catch of summer flounder per trip**. If the Regional Administrator makes such a determination, he/she shall publish notification in the Federal Register terminating the exemption for the remainder of the calendar year."[12] This represents a disconnect from the wording of the FMP amendment that originally developed this exemption. The wording in the FMP, and what the FMAT/PDT believe was the intent, was the Regional Administrator could withdraw the exemption if the annual average summer flounder catch in the flynet fishery **exceeds 1 percent of the total flynet catch**.

This distinction has not mattered in recent years because evaluation has relied on North Carolina flynet fishery data, and in recent years, summer flounder have not been landed in that fishery (see section 2.2.2.3). However, if flynet/high-rise catch outside of North Carolina is considered, this would likely mean essentially any discards of summer flounder would exceed the 1 percent of summer flounder catch threshold reflected in the current wording of the regulations.

The PDT/FMAT recommends the regulations be clarified to reflect the language in the FMP (summer flounder catch in the flynet fishery should not exceed 1 percent of the total flynet catch). Based on the PDT/FMAT's current understanding of the flynet/high-rise net types that may be captured under a revised definition, and consideration of a 10-year observer dataset, it

[12] https://www.ecfr.gov/current/title-50/part-648#p-648.108(b)(2)(iv)

seems the original FMP language for this exemption considering whether "summer flounder catch exceeds 1% of the total catch" is still appropriate (Table 18 in Appendix B).

4.0 Compliance Schedule

TBD upon approval of Addendum XXXV.

5.0 References

MAFMC & ASMFC. 1993. Amendment 2 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan; https://www.mafmc.org/s/SFSCBSB_Amend_2.pdf

MAFMC & ASMFC. 1993. Amendment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan; https://www.mafmc.org/s/SFSCBSB_Amend_3.pdf

MAFMC. 2023. Investigation and Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynet Exemption Programs; https://www.mafmc.org/s/Summer-Flounder-Mesh-Exemptions-final-report.pdf

NEFSC. 2021. Summer Flounder Management Track Assessment for 2021; https://appsnefsc.fisheries.noaa.gov/saw/sasi/uploads/2021_summer_flounder_MTA_report.pdf

NEFSC. 2023. Summer Flounder Management Track Assessment for 2023; https://appsnefsc.fisheries.noaa.gov/saw/sasi/uploads/2021_summer_flounder_MTA_report.pdf

ASMFC. 2023. 2022 Review of the Interstate Fishery Management Plan for Summer Flounder; https://asmfc.org/uploads/file/64da731dSummerFlounder_FMPReview_FY2022.pdf

Appendix A. Small Mesh Exemption Program Analysis

This analysis provides a supplement to the information provided in sections 2.2.2.1 and 2.2.2.2.

LOA Use

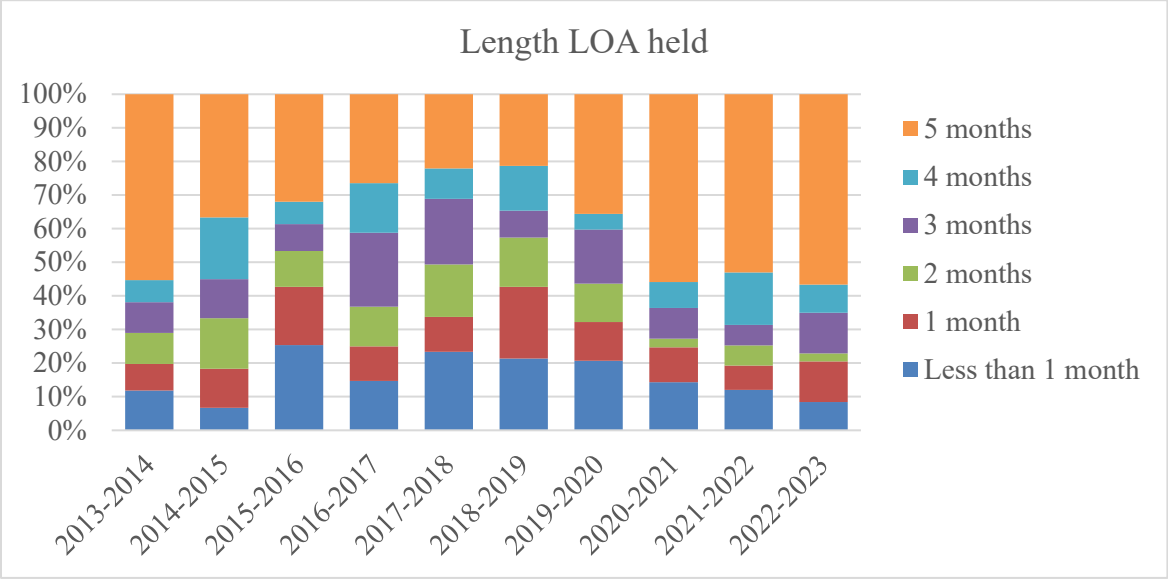

Figure 7: Active LOA length for each November-April SMEP season from November 2013-April 2023. Some vessels may be represented multiple times within the same season if they held multiple LOAs for less than 180 days.

Discard Reasons

Discard reasons for summer flounder discards on observed LOA and non-LOA trips were evaluated using observer data from 2013-2022. As shown in Figure 7, size limit regulations are the top reported discard reason (in terms of the percent of records, or hauls) over the last 10 years for both LOA and non-LOA trips. Observed LOA trips show a notably higher percentage of records in this category vs. non-LOA trips (70% vs. 49%). When evaluated by poundage, this reason represents a smaller proportion of discards due to the lower poundage associated with smaller fish.

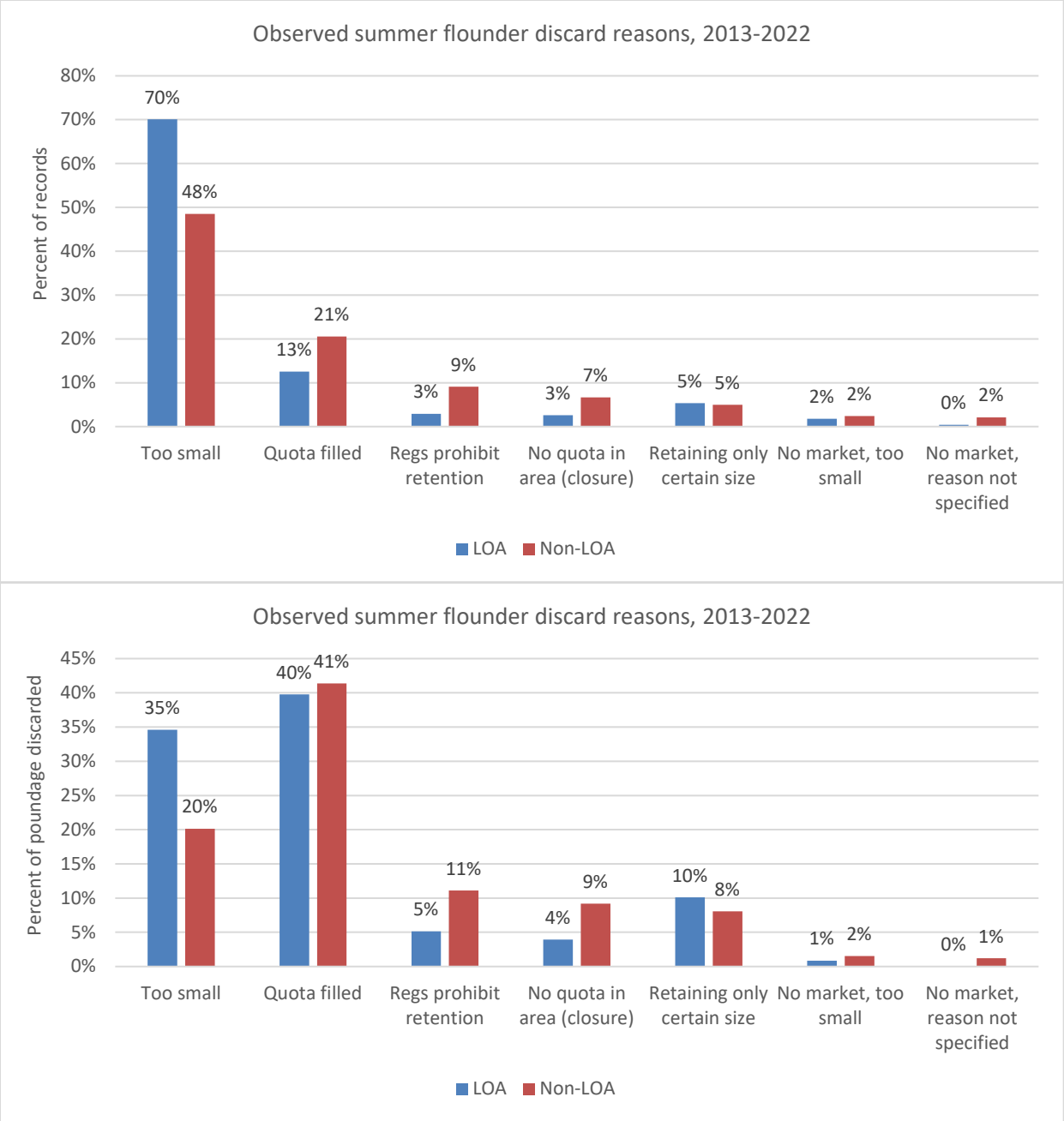

Figure 8: Observed summer flounder discard reasons for LOA and non-LOA trips by percent of records and percent of pounds discarded, 2013-2022. LOA trips are November-April; non-LOA trips are year-round.

Trip Level Discard Characterization

Although annual discards of summer flounder on observed LOA trips are variable from year to year, in terms of poundage, average, and median per trip discards appears to be low (Table 7 and Table 8). Discards on observed LOA trips also appear to be similar to all trawl trips (LOA trips not separated out; Table 7). A small percentage of observed trips have large observed discard amounts; this is true of both LOA and non-LOA trips.

Table 6: Statistics on summer flounder discards for observed bottom trawl trips, 2013-2022, comparing Small Mesh Exemption Program LOA trips using small mesh and all observed trawl trips during the specified time period.

	Discards – SMEP LOAs using small mesh (<5.5 in)	Discards- all trawl Nov-Apr[a]	Discards – all trawl year-round[a]
Total observed trips with summer flounder catch	514	2,726	7,560
Mean discards	165	168	129
Median discards	30	27	15
% trips discards>2000lb	1%	1%	1%
% trips discards>500lb	7%	9%	6%
% trips discards>200lb	17%	20%	15%
% trips no discards	20%	23%	26%
% trips discarding more than 10% catch	50%	41%	45%
Avg % summer flounder discarded per trip	24%	24%	25%
Total % summer flounder discarded from combined trips	18%	8%	12%

[a] SMEP LOA trips are not excluded from these columns, so there is some overlap of these categories. “All trawl” columns include all mesh sizes.

Table 7: Annual statistics on summer flounder annual discards for observed Small Mesh Exemption Program LOA trips using small mesh only.

Discards – SMEP LOAs using small mesh	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Total observed trips with summer flounder catch	11	28	54	44	80	81	85	28	34	69	71
Mean discards	76	114	275	292	148	189	137	136	108	97	191
Median discards	4	34	40	11	24	49	30	50	22	8	44
% trips discards>2,000lb	0%	0%	2%	2%	0%	1%	2%	0%	0%	0%	1%
% trips discards>500lb	0%	4%	13%	14%	8%	7%	2%	7%	9%	4%	8%
% trips discards>200lb	18%	21%	19%	18%	15%	22%	15%	18%	15%	13%	21%
% trips no discards	45%	21%	13%	36%	19%	12%	14%	11%	21%	35%	23%
% trips discarding more than 10% catch	45%	36%	48%	34%	56%	67%	55%	36%	44%	42%	41%
Avg % summer flounder discarded per trip	37%	14%	27%	16%	32%	34%	19%	18%	13%	22%	21%
Total % summer flounder discarded from combined trips	32%	11%	29%	26%	27%	33%	15%	9%	10%	8%	10%

The average percent of summer flounder discarded per LOA trip decreases as the landings of summer flounder on those trips increases. Trips landing over 1,000 pounds of summer flounder are generally below the current 10% SMEP evaluation trigger on average. However, the majority of observed LOA trips from 2013-2022 landed less than 500 pounds of summer flounder; these trips are on average discarding about 34% of their total summer flounder catch (Figure 8).

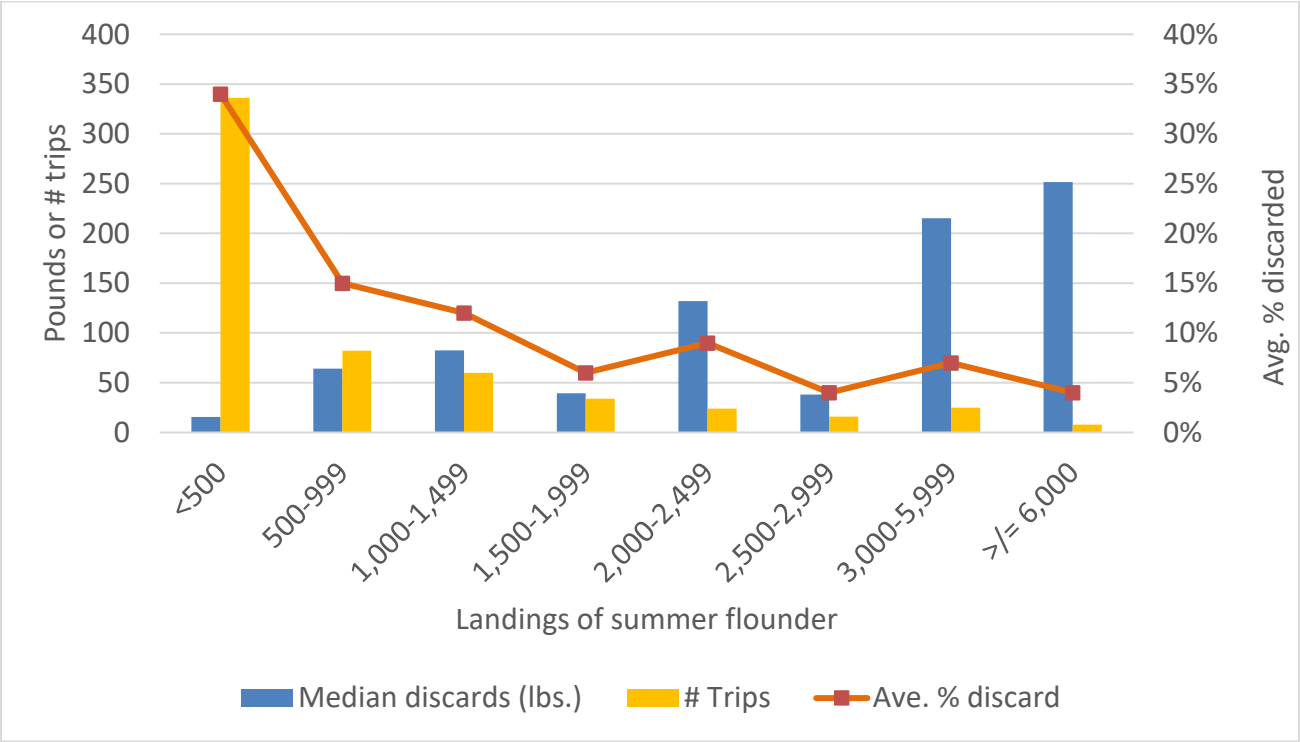

Figure 9: Summer flounder discard statistics by amount of summer flounder landed, based on observed SMEP LOA trips using small mesh (<5.5 inches), 2013-2022.

Discard Length Frequency

Length information available for observed trips was compiled for LOA vs. non-LOA trips from 2013-2022. Figure 7 shows the observed number of discarded fish by length for LOA vs. non-LOA trips, as well as the percent of observed discard lengths. LOA trips are associated with a higher proportion of observed discard lengths for smaller fish and fish below the 14-inch commercial minimum size (Figure 9; Table 9).

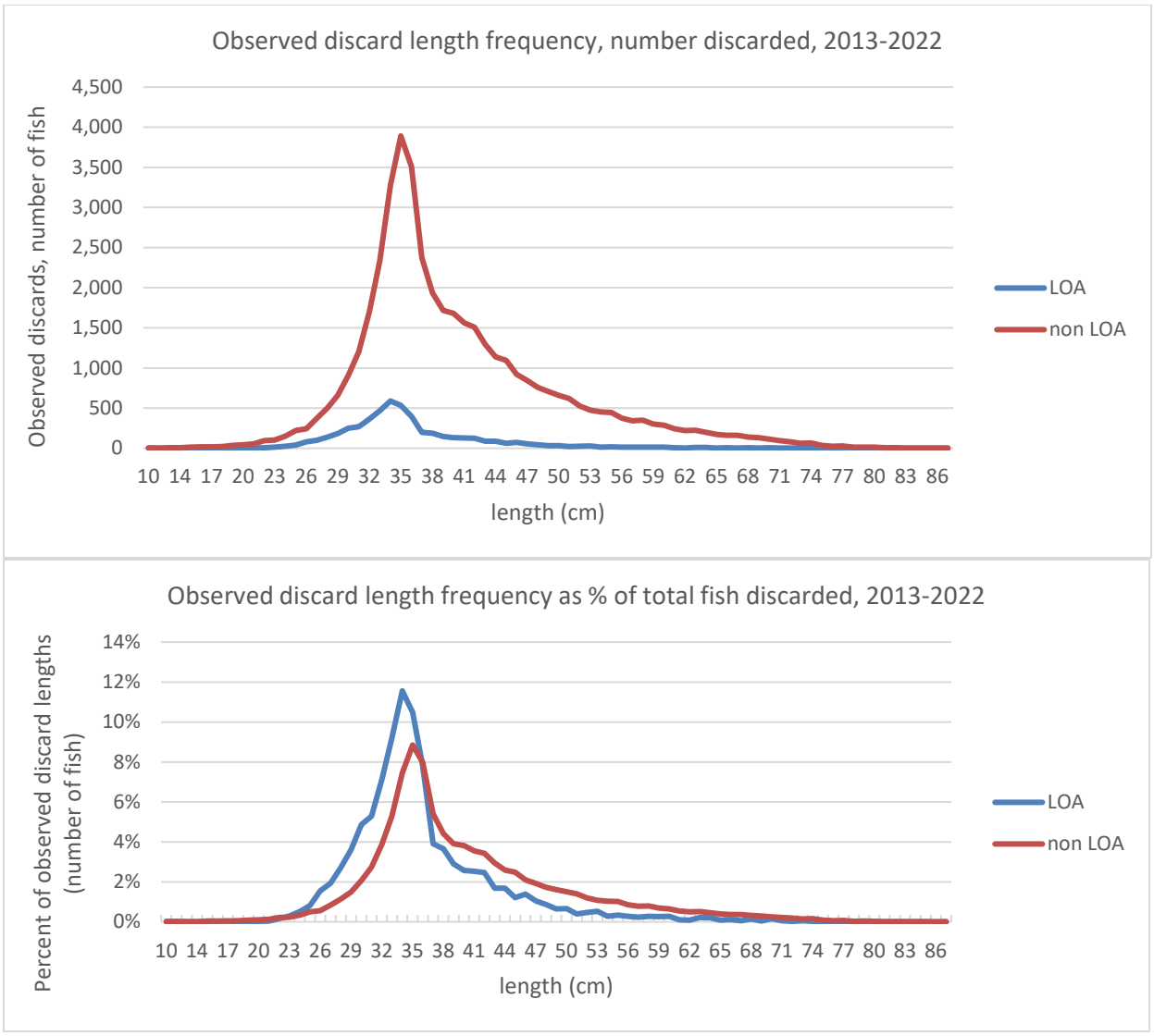

Figure 10: Observed discard length frequency for summer flounder, 2013-2022. Summer flounder minimum size = 14 inches or ~36 cm.

Table 8: Total observed discards and percent of discards below 14-inch minimum size, 2013-2022 observer data.

	LOA	Non-LOA
Total observed discards (pounds)	5,095	43,966
% of discards under minimum size	60%	36%

Analysis of Juvenile and Undersized Summer Flounder in SMEP Area Using Fishery Independent Survey Data

The availability of juvenile and undersized summer flounder in the SMEP area (current and potential proposed) was investigated using fishery independent trawl survey data. The Northeast Regional Habitat Assessment Data Explorer[13] includes mapped length data for state and federal trawl surveys. While the spatial and temporal overlap between the surveys and the SMEP area/timing are limited, some information is available to assess the abundance of juvenile (<30 cm or 11.8 inches) and undersized (<35.6 cm or 14 inches) summer flounder in the SMEP area during November 1-April 30, and how abundance varies for the proposed expanded area.

Data was first filtered to include records from 1990 to the most recent year of trawl survey data availability within NRHA, 2019. Subsequent exploration focused on spatial coverage and temporal alignment. The NMFS bottom trawl survey is the only survey spanning both the current and proposed areas within the November-April exemption timeframe. The NEAMAP, Massachusetts Bottom Trawl, Rhode Island Narragansett Bay Trawl and Long Island Sound Bottom Trawl surveys were all considered for inclusion in these analyses as they do intersect with the current SMEP area. However, these surveys occur well inshore and are unlikely to provide informative data on summer flounder relative to this exemption program. In addition, the NEAMAP and Massachusetts Bottom Trawl survey do not occur within the November-April time frame, and the Long Island Sound Bottom Trawl and Rhode Island Narragansett Bay Trawl do not occur within the proposed expanded SMEP area (Table 10, Figure 10, Table 11).

Table 9: Survey and timing available to potentially evaluate summer flounder within SMEP area (current and proposed).

Survey	Months Surveyed
Connecticut Long Island Sound Trawl	4, 5, 6, 8, 9, 10, 11
Massachusetts Bottom Trawl	5, 9, 10
NEAMAP Bottom Trawl	5, 6, 9, 10
NMFS Bottom Trawl	1, 2, 3, 4, 5, 6, 9, 10, 11
Rhode Island Narragansett Bay Trawl	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

[13] https://nrha.shinyapps.io/dataexplorer/#!/

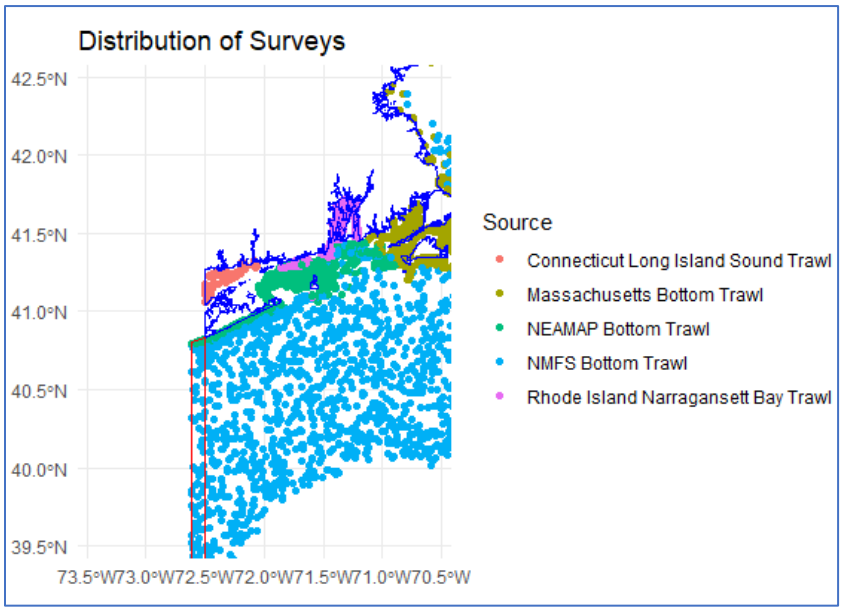

Figure 11: Distribution of surveys available to potentially evaluate summer flounder within SMEP area (current and proposed).

Table 10: Summary of the number of records from each survey in the current Small Mesh Exemption Area and the Proposed Exemption Area by date and life stage, 1990-2019. Only NMFS covers both proposed and current areas for the Nov 1-April 30th SMEP timing.

Survey	Season	Stage 30cm	Legal size 35.6cm	Small Mesh Exemption Area	Number of Records
Connecticut Long Island Sound Trawl	Nov 1 - Apr 30	Adult	legal sized	current	25
Connecticut Long Island Sound Trawl	Nov 1 - Apr 30	Adult	undersized	current	12
Connecticut Long Island Sound Trawl	Nov 1 - Apr 30	Juv	undersized	current	16
Connecticut Long Island Sound Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	current	411
Connecticut Long Island Sound Trawl	Outside Nov 1 - Apr 30	Adult	undersized	current	235
Connecticut Long Island Sound Trawl	Outside Nov 1 - Apr 30	Juv	undersized	current	161
Massachusetts Bottom Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	current	2602
Massachusetts Bottom Trawl	Outside Nov 1 - Apr 30	Adult	undersized	current	1051
Massachusetts Bottom Trawl	Outside Nov 1 - Apr 30	Juv	undersized	current	495
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	current	668
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	proposed	16
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Adult	undersized	current	404
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Adult	undersized	proposed	17
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Juv	undersized	current	248
NEAMAP Bottom Trawl	Outside Nov 1 - Apr 30	Juv	undersized	proposed	26
NMFS Bottom Trawl	Nov 1 - Apr 30	Adult	legal sized	current	1543
NMFS Bottom Trawl	Nov 1 - Apr 30	Adult	legal sized	proposed	403
NMFS Bottom Trawl	Nov 1 - Apr 30	Adult	undersized	current	561
NMFS Bottom Trawl	Nov 1 - Apr 30	Adult	undersized	proposed	125
NMFS Bottom Trawl	Nov 1 - Apr 30	Juv	undersized	current	345
NMFS Bottom Trawl	Nov 1 - Apr 30	Juv	undersized	proposed	59
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	current	1319
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	proposed	38
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Adult	undersized	current	251
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Adult	undersized	proposed	16
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Juv	undersized	current	94
NMFS Bottom Trawl	Outside Nov 1 - Apr 30	Juv	undersized	proposed	19
Rhode Island Narragansett Bay Trawl	Nov 1 - Apr 30	Adult	legal sized	current	129
Rhode Island Narragansett Bay Trawl	Nov 1 - Apr 30	Adult	undersized	current	54
Rhode Island Narragansett Bay Trawl	Nov 1 - Apr 30	Juv	undersized	current	87
Rhode Island Narragansett Bay Trawl	Outside Nov 1 - Apr 30	Adult	legal sized	current	2007
Rhode Island Narragansett Bay Trawl	Outside Nov 1 - Apr 30	Adult	undersized	current	788
Rhode Island Narragansett Bay Trawl	Outside Nov 1 - Apr 30	Juv	undersized	current	450

Figure 11 shows the spatial distribution of legal sized vs. undersized summer flounder from the NMFS bottom trawl survey length data, while Figure 12 shows juvenile vs. adult summer flounder.

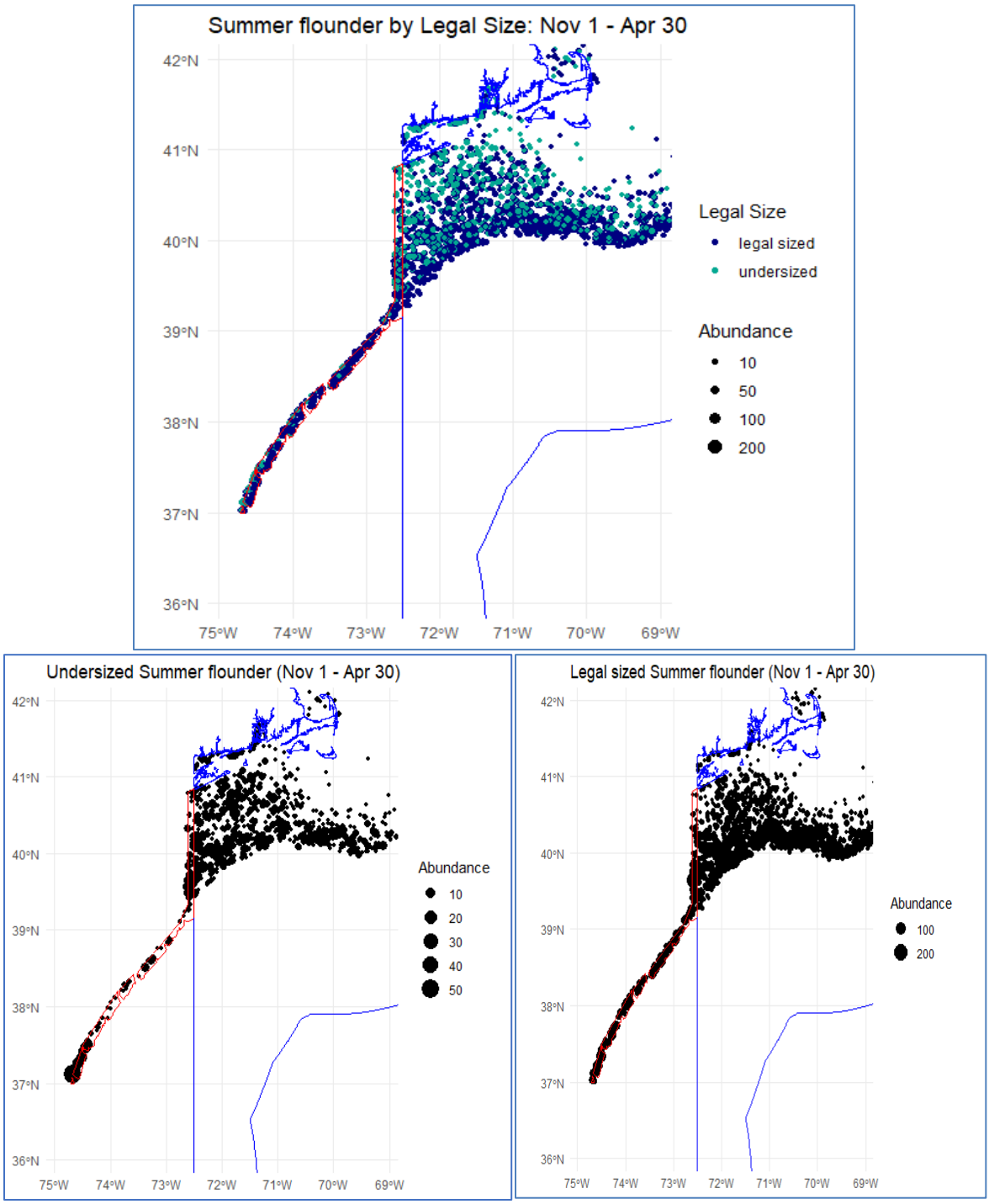

Figure 12: Spatial extent of observations of undersized vs. legal sized (above and below 14-inch commercial minimum size) for NMFS bottom trawl survey data, 1990-2019. The current SMEP area is represented by the blue line, with potential additional area (excluding deep sea coral zones, see section 3.1 Options A and B) outlined in red.

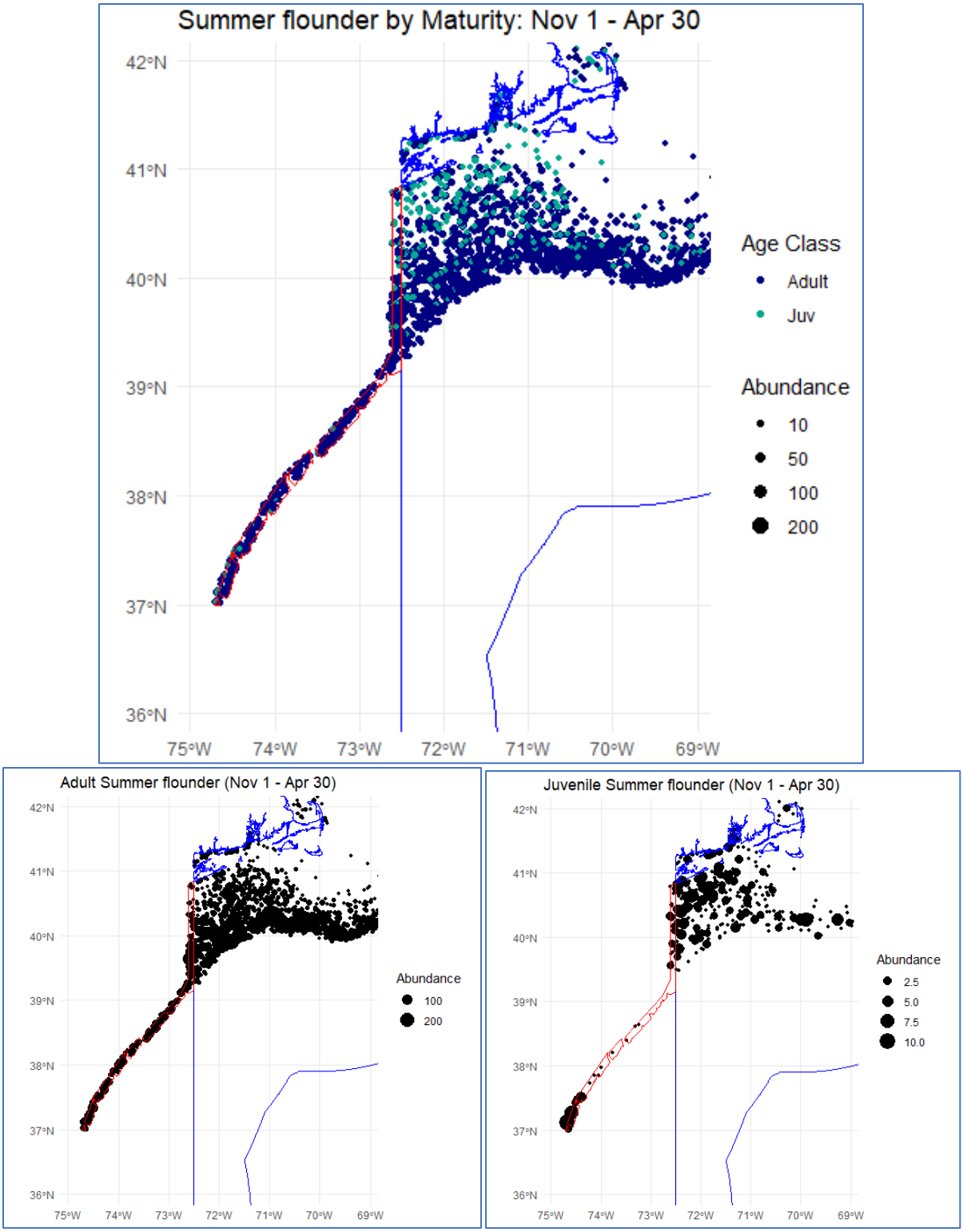

Figure 13: Spatial extent of observations of juvenile vs. mature summer flounder (above and below 30 cm) for NMFS bottom trawl survey data, 1990-2019. The current SMEP area is represented by the blue line, with potential additional area (excluding deep sea coral zones, see section 3.1 Options A and B) outlined in red.

Figure 13 shows the summer flounder distribution by length category for all NRHA surveys with summer flounder data (NMFS Bottom Trawl, Connecticut Long Island Sound Trawl, New Jersey Ocean Stock Assessment, Rhode Island Narragansett Bay Trawl, Massachusetts Bottom Trawl, NEAMAP Bottom Trawl), within and outside the current SMEP and proposed expanded area. This preliminary work used an aggregated data set beginning in 1990; future work will identify whether more recent data sets suggest alternative patterns that could impact the interpretation of the data.

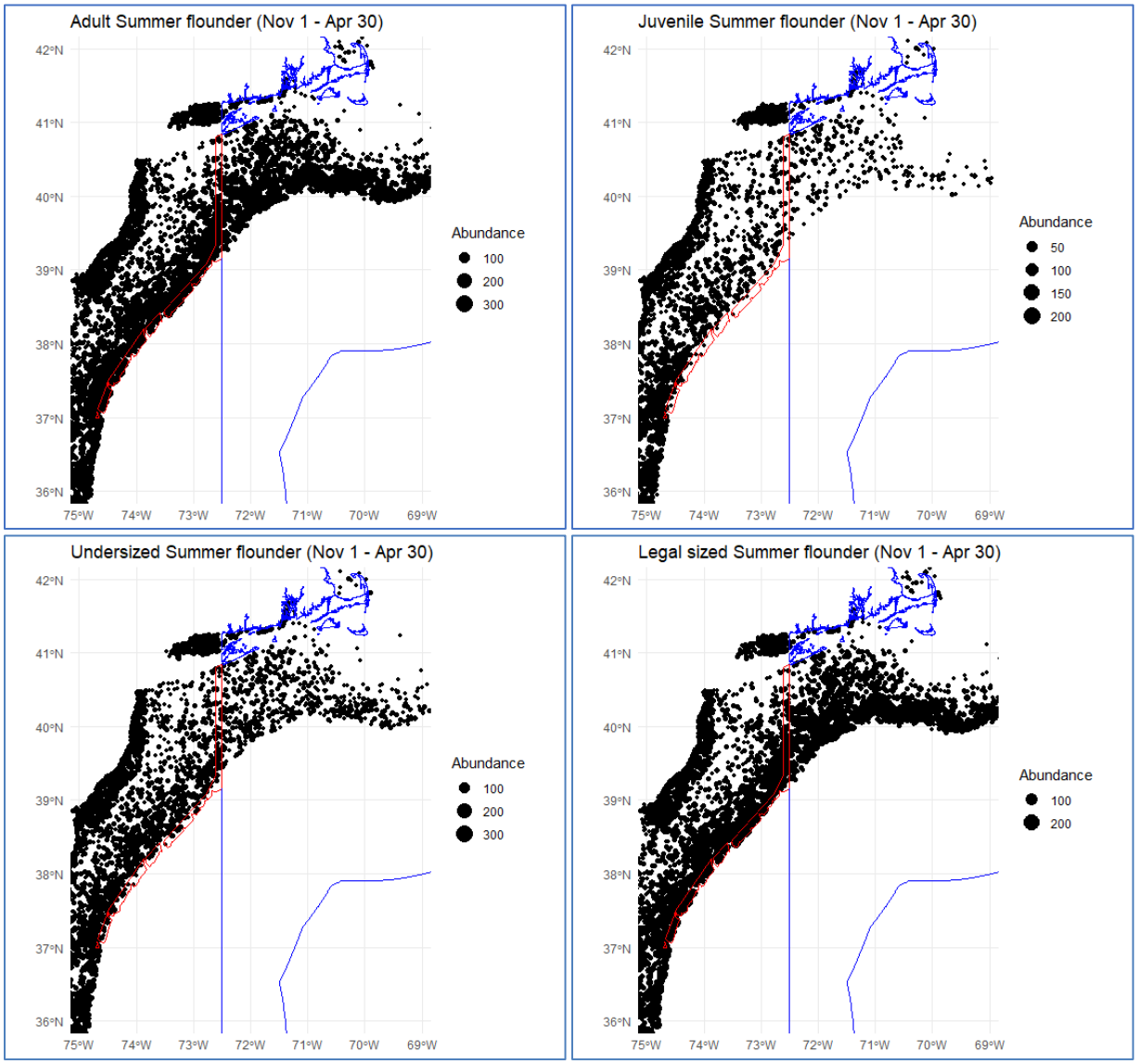

Figure 14: Summer flounder trawl survey distribution within and outside the SMEP area from November-April, 1990-2019, for all trawl surveys in NRHA with summer flounder data for this time period.

As indicated in Table 12, most summer flounder captured by the survey during this time period are legal sized adult fish. The proportions of summer flounder under the commercial minimum size (under 14 inches, including both mature and immature fish) appear to be similar between the current SMEP area (11% of summer flounder survey catch in this area) and the proposed expanded SMEP area (12%) of summer flounder survey catch in this area).

Table 11: Percentage of total summer flounder in the NMFS bottom trawl (November 1-April 30, 1990-2019) in each category outside the SMEP, within the current SMEP, and within the proposed expanded area.

Location	Legal Size	Maturity	Total Abundance	Percent of total	Percent within evaluated area
current	legal sized	Adult	13525	28.9	89%
current	undersized	Adult	1216	2.6	8%
current	undersized	Juv	448	1.0	3%
outside	legal sized	Adult	13191	28.2	47%
outside	undersized	Adult	6702	14.3	24%
outside	undersized	Juv	8403	18.0	30%
proposed	legal sized	Adult	2913	6.2	88%
proposed	undersized	Adult	310	0.7	9%
proposed	undersized	Juv	90	0.2	3%

Appendix B. Flynet Exemption Definition Analysis

Gear Definitions and Descriptions

Several otter trawl net types used in the Greater Atlantic region may be relevant to an expanded or modified definition of a flynet for the purposes of the flynet exemption. However, defining some of these net types consistently and clearly can be a challenge. Most nets are made with custom specifications, and the exact configuration often varies even among net types that may be called by the same name. Terminology for a given net type can also vary by region and fishery.

During the mesh exemptions review process in the Fall of 2023, industry representatives provided input on the types of nets that may be appropriate to consider in an expanded flynet definition ( ). These net types are either two- or four-seam high-rise nets having large mesh in the wings with mesh sizes gradually decreasing to the codend. The large mesh in the wings allows many flatfish to escape and is not ideal for targeting summer flounder. Additional definitions related to gear configuration and net types, including definitions for trawl types not proposed for potential inclusion in this exemption can be found in the April 2024 Summer Flounder Commercial Minimum Mesh Exemption Framework/Addendum Discussion Document.

Preliminary conversations with gear experts[14] suggest the mesh size in the wings, particularly in the middle part of the trawl behind the sweep, is the most important part to regulate for flatfish to escape. A larger mesh regulation and potentially a maximum number of meshes should be considered here, as allowing for too many large meshes may mean the mesh will close up while the gear is towed.

The number of seams on an otter trawl primarily impacts the opening shape of a net. For example, a 4-seam compared to a 2-seam net creates a higher dome-shape opening. This sort of opening is designed primarily for fish that occupy or swim up just above the bottom, and is not ideal for catching flatfish that reside on the bottom. Therefore, the removal of the reference to the number of the seams in the regulatory definition of a flynet appear unlikely to directly impact the proportions of summer flounder targeted, caught, or discarded using this exemption, although it would expand the number of vessels that could theoretically use the exemption. As noted below, additional evaluation of the differences in catch characteristics between 2- and 4-seam nets is planned, but overall these net types do not appear to catch substantial amounts of summer flounder. Nets with more than 4 seams do exist (e.g., 6 seam nets), but are very uncommon for bottom trawls and are designed more for mid-water trawling.

[14] Northeast Trawl Advisory Panel members Pingguo He and Mike Pol, pers. comm., March 2024.

Table 12: Possible net types recommended for consideration by fishing industry comments during Fall 2023 mesh exemptions review. Definitions from: 2021 Observer Operations Manual.[15]

Net type	Description
Balloon Trawl	A two-seam trawl with a high mouth, lighter net material, and floats attached to the headrope so the footrope floats just above the bottom.
Eliminator Trawl	Typically a four-seam, three-bridle trawl with large mesh in the forward part of the net. Large meshes in the bottom belly act as a separator device for the escape of non-target groundfish species. Mesh sizes decrease as the net tapers towards the codend.
Flynet	A high profiled trawl with large wing mesh sizes that slowly taper to smaller mesh sizes in the body extension and codend. The headrope is usually slightly larger than the footrope. Uses a large number of floats to keep the net slightly off the bottom. *Regulatory definition for this exemption specifies two seams, but observer data show some reported use of four seam flynets.
Haddock Separator Trawl	A groundfish trawl with two codend extensions arranged one over the other. A codend is attached to the upper extension, and the bottom extension is left open with no codend attached. A horizontal mesh panel separates the upper and lower extensions.
Millionaire Trawl	A four-seam trawl typically used in the squid fishery. Very large openings in the mouth and large mesh in the wings.
Rope Separator Trawl	A four-seam bottom trawl net modified to include both a horizontal separator panel (consisting of parallel lines of fiber rope) and an escape opening in the bottom belly of the net below the separator panel.
Ruhle Trawl	A four-seam groundfish net with large meshes (8-foot meshes) in the wings and bottom belly of the net. The trawl must have kite panels that meet the regulated minimum surface area. The Ruhle Trawl is a specific type of Eliminator Trawl.

Characterization of Flynet and High-Rise Gear Use

Observer data was used to characterize the use of flynet/high-rise type nets in comparison with other trawl net types. This data is associated with caveats and should be interpreted with caution. Observers record a "net type" field in addition to a broader gear category field, and also collect other information related to specific configuration of a trawl. Net type in the observer data is recorded based on what is reported to the observer by the captain[16], and not all captains use the same terminology. In addition, net type information in the observer data is often missing or reported as "unknown." Therefore, while observer data over a number of years can provide a general sense of the use of different gear types, it should be interpreted with caution, and industry feedback on these analyses will be helpful.

Prevalence vs. Other Trawl Types

The net types associated with potential revisions to the flynet definition ( ) were associated with about 13% of all observed bottom trawl hauls from 2014-2022 (regardless of target species; Table 14).

[15] Note that this suggested list originally included "**pelagic pair trawl**" and "**pelagic single trawl**" net types. It was determined that these net types apply almost exclusively to midwater trawls, which operate fully off the bottom and catch negligible amounts of summer flounder. As such, these net types were removed from this list.

[16] Observers are also instructed to visually verify trawl gear components and configurations.

Table 13: Percent of hauls and observed trips by net category for all observed bottom trawl trips, 2014-2022. Includes all observed trawl trips regardless of target species or catch of summer flounder.

Net Category	Percent of Hauls	Observed trips[a]
NOT considered "flynet" or high-rise (e.g., flatfish trawl, groundfish trawl, etc.)	86.9%	8,534
Potential flynet/high-rise nets (e.g., balloon trawl, eliminator trawl, flynet, etc.)	13.1%	1,155

[a] This column indicates that this gear type was used at some point on a trip, not necessarily for every haul. Many vessels use multiple gear types within a single trip.

Target Species

For flynet or high-rise type gears identified for possible inclusion in a revised flynet definition, the top target species according to observer data are listed in Table 15. For all of these gear types combined, the largest proportion of hauls were targeting haddock or longfin squid. A good proportion of hauls also targeted scup, short-fin squid, black sea bass, and groundfish. Summer flounder was identified as the primary target species on about 3.7% of observed flynet/high-rise type gear hauls from 2007-2022.

For all of these species, flynet or high-rise gear types are only a portion of the net types used to target them, ranging from 1-62% of hauls vs. other trawl gear types (Figure 14).

For confidentiality reasons, target species cannot be broken down for all individual net types. The FMAT/PDT is working to summarize some information in aggregated form; however, additional time is needed to ensure confidentiality. However, of the different industry recommended flynet/high-rise net types, only balloon trawls and flynets appear to have a meaningful percent of hauls targeting summer flounder, about 6-7% of their total hauls. Other industry recommended flynet/high-rise net types appear to very rarely report targeting summer flounder within a haul.

Table 14: Top target species recorded on observed trawl hauls for all flynet-type net types identified for possible inclusion in an expanded flynet definition, 2007-2022.[a] Species shown represent those target species collectively accounting for 90% of observed hauls.

Target Species[b]	Percent of observed hauls	Observed trips
Haddock	20.1%	274
Squid, Atl Long-Fin	19.1%	383
Scup	9.9%	392
Squid, Short-Fin	8.7%	176
Sea Bass, Black	8.0%	283
Groundfish, NK	7.2%	114
Croaker, Atlantic	4.2%	122
Flounder, Summer (Fluke)	3.7%	237
Cod, Atlantic	3.1%	112
Flounder, Winter (Blackback)	2.3%	51
Herring, Atlantic	2.2%	89
Pollock	1.5%	59

[a] Gear types include flynets, balloon trawls, eliminator trawls, haddock separator trawls, millionaire trawls, rope separator trawls, and Ruhle trawls.

[b] Observer records can include up to five target species per haul; for simplicity, only the first target species listed is included in this analysis.

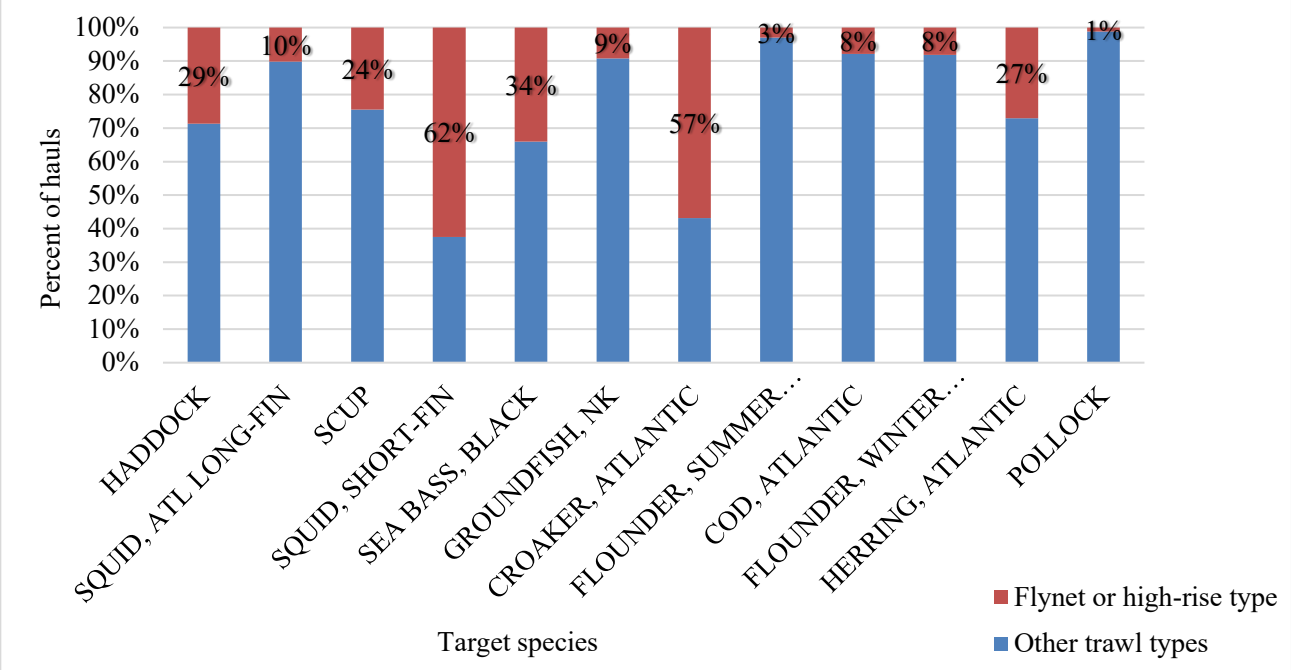

Figure 15: For top target species of flynet and high-rise type gear, percent of total observed trawl hauls represented by flynet-type gear vs. Other trawl types, from 2007-2022 observer data.

Caught Species

According to observer data from 2007-2022, the top species caught and landed with these trawl gear types are short-fin squid and Atlantic herring, followed by longfin squid, haddock, and scup (Table 15). The top discarded species by weight are spiny dogfish and winter skate, followed by unknown fish and little skate (Table 16).

Summer flounder represents 0.7% of the total observed catch by weight in these gear types, including 0.6% of observed landings and 0.9% of observed discards. Average total catch of summer flounder in these gear types is about 455 pounds per trip, with discards averaging about 100 pounds per trip.

Table 15: Top caught and landed species recorded on observed trawl hauls for all flynet-type net types identified for possible inclusion in an expanded flynet definition, 2007-2022.[a] Species shown represent those caught species collectively accounting for 90% of observed catch.

Species	Percent of total flynet/high-rise gear catch by weight	Percent of total flynet/high-rise gear landings by weight	Percent of total flynet gear trips with catch
Squid, Short-Fin	35.7%	41.6%	32.3%
Herring, Atlantic	11.0%	13.0%	20.36%
Squid, Atl Long-Fin	8.7%	10.1%	63.07%
Haddock	6.9%	7.7%	26.4%
Scup	5.2%	5.2%	48.6%
Butterfish	4.0%	3.8%	53.3%
Dogfish, Spiny	3.2%	0.1%	64.8%
Croaker, Atlantic	2.8%	3.2%	7.85%
Mackerel, Atlantic	2.4%	2.8%	26.09%
Skate, Winter (Big)	2.3%	0.6%	47.5%
Fish, Nk	1.6%	0.4%	19.4%
Sea Bass, Black	1.6%	1.5%	48.94%

[a] Gear types include flynets, balloon trawls, eliminator trawls, haddock separator trawls, pelagic pair trawls, pelagic single trawls, millionaire trawls, rope separator trawls, and Ruhle trawls.

Table 16: Top discarded species recorded on observed trawl hauls for all flynet-type net types identified for possible inclusion in an expanded flynet definition, 2007-2022.[a] Species shown represent the top 10 discarded species, collectively totaling 69% of observed discarded weight in these gear types.

Species	Percent of total flynet/high-rise gear discards by weight	Observed trips
Dogfish, Spiny	20.0%	1,242
Skate, Winter (Big)	11.3%	790
Fish, Nk	7.7%	364
Skate, Little	7.2%	1,014
Butterfish	5.0%	867
Scup	4.9%	866
Squid, Short-Fin	4.3%	503
Haddock	3.1%	400
Skate, Nk	2.6%	197
Sea Robin, Northern	2.5%	806

[a] Gear types include flynets, balloon trawls, eliminator trawls, haddock separator trawls, pelagic pair trawls, pelagic single trawls, millionaire trawls, rope separator trawls, and Ruhle trawls.

Flynet Exemption Evaluation Methodology

As noted in section 3.3.3, the PDT/FMAT recommends the regulations be clarified to reflect the language in the FMP (summer flounder catch in the flynet fishery should not exceed 1 percent of the total flynet catch). Observer data for 2013-2022 of the flynet/high-rise net types that may be captured under a revised definition appear to indicate that this threshold remains appropriate (Table 18).

Table 17: Proportion of summer flounder catch compared to total catch and number of trips, for all observed trawl trips 2013-2022, using flynet-type net types identified for possible inclusion in an expanded flynet definition. Gear types include flynets, balloon, eliminator, haddock separator, pelagic pair, millionaire, rope separator, and Ruhle trawls.

Year	Proportion of SF catch compared to total catch	Distinct # of trips catching SF
2013	0.66%	79
2014	0.38%	93
2015	0.52%	93
2016	0.53%	65
2017	0.29%	143
2018	0.56%	126
2019	0.78%	94
2020	0.85%	31
2021	0.42%	31
2022	1.02%	55
Average	**0.75%**	**78**

Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: **Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council**

FROM: **Chelsea Tuohy, FMP Coordinator**

DATE: **October 3, 2024**

SUBJECT: **Public Comment on the Summer Flounder Commercial Mesh Size Exemptions Addendum/Framework (Addendum XXXV)**

The following pages represent a draft summary of all public comments received by the Atlantic States Marine Fisheries Commission (Commission) on Draft Addendum XXXV to the Interstate Fishery Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass as of 11:59 PM (EST) on September 28, 2024 (closing deadline). Draft Addendum XXXV is part of a joint effort by the Commission and Mid-Atlantic Fishery Management Council (Council) to address potential changes to two exemptions to the summer flounder commercial minimum mesh requirements, the Small Mesh Exemption Program (SMEP) and the flynet exemption. The Council is considering an identical set of options through a framework action.

Comment totals for Addendum XXXV are provided in the table below, followed by summaries of the state public hearings, and written comments sent by organizations and individuals. A total of four written comments were received, all from organizations. Two virtual public hearings were held and the total public attendance across the hearings was five. Two public comments were provided during the first public hearing and the second public hearing concluded early due to only state staff, Commission staff, Council staff, Commissioners/Proxies, and Council members in attendance.

The following pages are intended to give the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and Council an overview of the support for or opposition to the proposed options in Draft Addendum XXXV. The summary tables and public hearing summaries are followed by the letters and emails sent by individuals and organizations.

Public Comment Summary Tables

Table 1. All public comment received by individuals and organizations and number of people who provided comments during the public hearings.

Written Public Comment Received		
Organization Letters		4
Individual Comments		0
Total Written Comment		*4*
Public Hearing	**# Public Attendees***	**# Commentors**
Massachusetts, Rhode Island, Connecticut, New York, and New Jersey (September 16, Webinar)	5	2
Maryland, Virginia, and North Carolina (September 17, Webinar)	0	0
Total	*5*	*2*

**Number of public attendees does not include state staff, Commission staff, Council staff, Commissioners/Proxies, or Council Members*

Table 2. Comments in support of each option outlined in Draft Addendum XXXV

Management Options	**Public Hearings**	**Letters***
Option 3.1A (Status Quo SMEP Area)	-	-
Option 3.1B (Expanded SMEP Area)	2	3
Option 3.2A (Status Quo SMEP Evaluation Criteria)	-	1
Option 3.2B (Modified SMEP Discard Trigger)	2	2
Option 3.2C (Tiered SMEP Discard Monitoring Approach)	-	1
Option 3.3A (Status Quo Flynet Definition)	-	1
Option 3.3B (Modified Flynet Definition)	2	1

**Some individuals provided comment both at a public hearing and through organization letters.*

Public Hearing Summaries

Summer Flounder, Scup, and Black Sea Bass Draft Addendum XXXV Public Hearing

Webinar Hearing – Massachusetts, Rhode Island, Connecticut, New York, & New Jersey

September 16, 2024

5 Public Participants

Commissioners/Proxies & Council Members: Scott Curatolo-Wagemann (NY), Wes Townsend (DE), John Maniscalco (NY), Jeff Kaelin (NJ), Jason McNamee (RI), Eric Reid (RI), Marty Gary (NY), Joseph Cimino (NJ), Matthew Gates (CT), Emerson Hasbrouck (NY), Nichola Meserve (MA)

Commission, Council, GARFO, & State Staff: Chelsea Tuohy (ASMFC), Kiley Dancy (MAFMC), Laura Deighan (GARFO), Jeffery Brust (NJ), Matt Bass (MA), Elise Koob (MA), Lorena de la Garza (NC)

Hearing Overview

- Two comments were provided in support of Options 3.1B and 3.3B which consider moving the western boundary of the SMEP and modifying the definition of a flynet.
- Both comments also supported modifying the discard trigger for the SMEP from 10% to 25%.

Summary of Comments

Meghan Lapp, Seafreeze Ltd.

- Supports Option 3.1B, moving the western boundary of the SMEP to allow greater access for vessels participating in the program. The proposed expansion is where vessels would likely go to fish and with the current price of fuel, vessels have less flexibility.
- Supports Option 3.3B, the modified flynet definition. The current flynet definition is outdated and the proposed more modern definition would allow more flexibility. Net configurations today are more conservation friendly than when the exemption was implemented in the 90s.
- Supports a modified discard trigger from 10% to 25%.
- States we are in a very different fisheries world today than in the 90s when these exemptions were first implemented. Specifically, there are substantially more regulations, newer nets have larger meshes that are not designed to catch flat fish, expansion of the summer flounder stock, new gear restricted areas, and new discard methodologies. Making these modifications will provide a small bright spot of flexibility to these fisheries without damaging the summer flounder stock.

Greg DiDomenico, Lund's Fisheries, Inc.

- Supports Meghan's comments above.

Summer Flounder, Scup, and Black Sea Bass Draft Addendum XXXV Hearing Attendance, September 16, 2024		
First Name	**Last Name**	**Email Address**
Kiley	Dancy	kdancy@mafmc.org
Scott	Curatolo-Wagemann	sw224@cornell.edu
Jeffery	Brust	jeffrey.brust@dep.nj.gov
Wes	Townsend	pakafish1@yahoo.com
John	Maniscalco	John.maniscalco@dec.ny.gov
Matt	Bass	matthew.bass@mass.gov
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Jason	McNamee	jason.mcnamee@dem.ri.gov
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Eric	Reid	Ericreidri@gmail.com
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Matthew	Gates	matthew.gates@ct.gov
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Nichola	Meserve	nichola.meserve@mass.gov

Laura	Deighan	laura.deighan@noaa.gov

Summer Flounder, Scup, and Black Sea Bass Draft Addendum XXXV Public Hearing
Webinar Hearing – Maryland, Virginia, & North Carolina
September 17, 2024
0 Public Participants

Commissioners/Proxies & Council Members: Eric Reid (RI), Dan Farnham (NY), Michael Luisi (MD), Chris Batsavage (NC), Pat Geer (VA)

Commission, Council, GARFO, & State Staff: Chelsea Tuohy (ASMFC), Kiley Dancy (MAFMC), Steven Ellis (NOAA), Laura Deighan (GARFO)

Hearing Overview

- No members of the public were in attendance; therefore, no public comment was received.

Summer Flounder, Scup, and Black Sea Bass Draft Addendum XXXV Hearing Attendance, September 17, 2024		
First Name	**Last Name**	**Email Address**
Kiley	Dancy	kdancy@mafmc.org
Eric	Reid	Ericreidri@gmail.com
Dan	Farnham	dfarnham.ny@gmail.com
Michael	Luisi	Michael.luisi@maryland.gov
Chris	Batsavage	Chris.Batsavage@deq.nc.gov
Steven	Ellis	steven.ellis@noaa.gov
Pat	Geer	pat.geer@mrc.virginia.gov
Laura	Deighan	laura.deighan@noaa.gov

Written Comments

From: Chris Vann <cv.outdoors247@gmail.com>
Sent: Saturday, September 28, 2024 11:46 PM
To: Comments <comments@asmfc.org>
Subject: [External] Summer Flounder Draft Addendum XXXV

Hartford Surf Fishing Club – Public Comments on the ASMFC Summer Flounder Addendum XXXV

Submitted by Conservation Chairman: Chris Vann, Date: 9/28/2024

I. Small Mesh Exemption Program:
- Recommend Option A: status quo.
  - Vessels found to be exceeding the current 10% discard rate shall be notified and terminated from the program.

II. Flynets
– Recommend Option A: status quo.
  - Vessels found to be exceeding discard rate shall be notified and terminated from the program.

General Comments regarding ASMFC and Addendum XXXV:

As recreational fishermen primarily fishing in CT and RI inshore waters it is evident that the summer flounder population has declined over the last decade. Many members no longer even target them as what few fish are caught even fewer are the 19 or 19.5" minimum length. The substantial number of commercial SMEP summer flounder discards (24%) is unacceptable and not sustainable if summer flounder are to recover from current declines and overfishing - which will soon lead to the population being overfished. The use of the SMEP as a means of allowing otter trawlers to be allowed a small number of summer flounder bycatch to reduce their being otherwise discarded is a loophole as data shows 25% of the fish taken by said boats are summer flounder.

The commercial fishing industry's goals of increasing harvests and discarding large numbers of summer flounder, as well as other species, is contrary to maintaining healthy fisheries. The ASMFC, Mid-Atlantic and New England commissions/councils should be working to prevent this by accurately surveying harvests and strictly enforcing regulations as necessary to ensure the long-term health of fishery populations and their tremendous value to all resource users.

Chelsea Tuohy, FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 Highland St., Suite 200A-N
Arlington, VA 22201

Re: Summer Flounder Addendum XXXV

Dear Ms. Tuohy:

On behalf of our family-owned, vertically-integrated seafood harvesting and processing company, the 200 plant and vessel employees and independent fishermen who work with us in producing sustainable seafood from the Atlantic Ocean from Cape May, NJ, we thank you for the opportunity to comment.

We are writing to express our support for several options of Summer Flounder Addendum XXXV. We have participated extensively in the federal MAFMC process for this action over the past year and hope to be in attendance when final action is being taken. We very much appreciate the hard work on a complex topic and the open and transparent process.

3. 1 Small Mesh Exemption Program Western Boundary: We support option B, the expanded SMEP exemption area. The SMEP is utilized by many mid Atlantic vessels, including ours. Currently, vessels possessing the exemption may not fish west of the line, which limits flexibility in the winter months and increases fuel consumption by forcing vessels to return to port and begin a new trip after the exemption expires rather than have the flexibility of continuing the same trip. The area proposed for expansion is a relatively small area bounded on either side by gear restricted areas.

3.2 Small Mesh Exemption Program Evaluation Criteria: We support Option B, Modified Discard Trigger. The new revised discard evaluation method has changed previous estimates, and this option is consistent with the revised method. While in practice the option is not expected to increase the amount of summer flounder discards before considering rescinding the exemption, it would bring the evaluation criteria in line with the new revised methodology.

3.3 Updates to the Definition of the Term "Flynet": We support Option B, Modified flynet definition to remove references to two seams and 64" upper bound of mesh in wings. This modification would bring the flynet definition in line with modern gear that is more conservation

oriented than the previous flynet definition. For example, many nets used by vessels offshore during this winter period have ten - foot mesh in the wings, much larger than the current definition of 64 inch mesh required.

With best regards,

Wayne Reichle

Wayne Reichle, President

Lund's Fisheries, Inc.

997 Ocean Drive, Cape May, NJ 08204

wreichle@lundsfish.com

www.lundsfish.com

Seafreeze Ltd.

100 Davisville Pier
North Kingstown, R.I. 02852 U.S.A.
Tel: (401)295-2585

September 23, 2024

Chelsea Tuohy, FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 Highland St., Suite 200A-N
Arlington, VA 22201

Re: Summer Flounder Draft Addendum XXXV

Dear Ms. Tuohy,

We are writing to express our support for several options of Summer Flounder Draft Addendum XXXV. We have also participated extensively in the federal MAFMC process for this action over the past year, as have other various federal fisheries stakeholders. As such, we will include our Council comments along with this comment.

3. 1 Small Mesh Exemption Program Western Boundary: We support option B, the expanded SMEP exemption area. The SMEP is utilized by many Southern New England vessels, including ours. Currently, vessels possessing the exemption may not fish west of the line, which limits flexibility in the winter months and increases fuel consumption by forcing vessels to return to port and begin a new trip after the exemption expires rather than have the flexibility of continuing the same trip. The area proposed for expansion is a relatively small area bounded on either side by gear restricted areas but is also an important winter fishing ground.

3.2 Small Mesh Exemption Program Evaluation Criteria: We support Option B, Modified Discard Trigger. The new revised discard evaluation method has changed previous estimates, and this option is consistent with the revised method. While in practice the option is not expected to increase the amount of summer flounder discards before considering rescinding the exemption, it would bring the evaluation criteria in line with the new revised methodology, which is important.

3.3 Updates to the Definition of the Term "Flynet": We support Option B, Modified flynet definition to remove references to two seams and 64" upper bound of mesh in wings. This modification would bring the flynet definition in line with modern gear that is actually more conservation oriented than the previous flynet definition. For example, many nets used by vessels offshore during this winter period have ten foot mesh in the wings, much larger than the current definition of 64 inch mesh requires.

We are in a very different fisheries world now than we were in the 1990s when the original measures were adopted. Newer nets have four seams and ten foot mesh in the mouth/wings and are designed specifically to avoid flatfish and other non-target species. We have substantially more fisheries

regulation and less flexibility in fisheries than at any time in history. We have newer discard methodology, expansion of the stock, and new gear restricted areas. It is important to modernize this FMP to make regulations consistent with modern practices, gear, methodology and vessel reality. Changing these regulations will not have negative impacts on the stock, but it will give some much-needed flexibility for fishermen.

Thank you for the opportunity to comment.

Sincerely,

Meghan Lapp
Fisheries Liaison
Seafreeze Shoreside, Seafreeze Ltd.

45 STATE STREET | PO BOX 608
NARRAGANSETT, RI 02882

September 23, 2024

Chelsea Tuohy
FMP Coordinator
1050 N. Highland St.
Suite 200 A-N
Arlington, VA 22201

Dear Ms. Tuohy,

I'm writing to comment on the Summer Flounder Draft Addendum XXXV.

The Town Dock supports:

Option B. Expanded SMEP exemption program under the boundary expansion discussion. This would allow our vessels to retain, rather than discard, the fluke they catch while fishing for squid in that area during the winter.

Option C. Tiered Discard Monitoring Approach under the under the SMEP evaluation criteria. This option allows for more flexibility when determining whether to suspend the SMEP once the trigger is reached. A more in-depth analysis of *why* we reached the 25% discard threshold could influence the decision to rescind the LOA or not. This additional analysis would provide a more in depth understand of fishing behavior.

Option B. Modified Fly Net definition.

Thank you,

Katie Almeida
Sr. Representative, Government Relations & Sustainability

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