

Atlantic States Marine Fisheries Commission

Summer Flounder, Scup, and Black Sea Bass Management Board

February 14, 2024

1:00 – 3:30 p.m.

Webinar

Link to register for webinar:

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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*) 1:00 p.m.
2. Board Consent 1:00 p.m.
 - Approval of Agenda
 - Approval of Proceedings from March 2023
3. Public Comment 1:05 p.m.
4. 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** 1:15 p.m.
 - Review Proposed Regional Measures (*C. Tuohy and T. Bauer*)
 - Consider Final Approval of Proposed Regional Measures
5. Consider Initiation of Addendum to Address Flynet Definition and Boundaries of the Small-Mesh Exemption Program **Action** 2:45 p.m.
6. Other Business/Adjourn 3:30 p.m.

MEETING OVERVIEW

Summer Flounder, Scup, and Black Sea Bass Management Board Webinar
February 14, 2024
1:00 p.m. – 3:30 p.m.
Webinar

Chair: Nichola Meserve (MA) Assumed Chairmanship: 12/23	Technical Committee Chair: Alexa Galvan (VA)	Law Enforcement Committee Representative: Snellbaker (MD)
Vice Chair: Vacant	Advisory Panel Chair: Vacant	Previous Board Meeting: December 12, 2023
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 Proceedings from March 2023

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 Final Approval of Proposed Regional Summer Flounder and Scup Recreational Measures for the 2024-2025 Fishing Years and Black Sea Bass Recreational Measures for the 2024 Fishing Year (1:15-2:45 p.m.) Final Action

Background

- In December 2023, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and the Mid-Atlantic Fishery Management Council (Council) jointly approved a 28% and 10% reduction in coastwide summer flounder and scup harvest, respectively. For summer flounder, the Board and Council opted to proceed with the regional conservation equivalency processes as outlined in Addendum XXXII, as opposed to implementing uniform coastwide measures. For scup, the Board and Council agreed to maintain the federal possession limit of 40 fish and implement a year-round open season. The Board and Council agreed that states would modify state measures through the Commission process to achieve the full 10% coastwide harvest reduction. Black sea bass recreational management measures will remain status quo in 2024. However, states were allowed to consider minor season adjustments to maintain a Saturday opening of the 2024 black sea bass season, as long as estimated harvest in 2024 does not increase.
- Following this joint December meeting, regions used the Recreation Demand Model (RDM) to identify sets of measures that achieve the needed reductions. Regions submitted their proposed recreational measures options on January 19, 2024 (**Briefing Materials**).

Presentations

- Proposed Summer Flounder, Scup, & Black Sea Bass Recreational Management Measures by C. Tuohy and T. Bauer

Board Actions for Consideration

- Approve 2024-2025 Proposed Summer Flounder & Scup Recreational Measures and 2024 Proposed Black Sea Bass Recreational Measures

5. Consider Action to Address Flynet Definition and Boundaries of the Small-Mesh Exemption Program (2:45-3:30 p.m.) Action**Background**

- In January 2024, an item was added to the summer flounder section of the Commission's 2024 Action Plan to "Develop an Addendum in collaboration with the Council to address the flynet definition and boundaries of the small-mesh exemption area".
- The intent of the proposed action is to evaluate potential changes to two exemptions to the summer flounder commercial minimum mesh size requirements, including 1) the Small Mesh Exemption Program (SMEP), and 2) the flynet exemption. Consideration of these changes is intended to modernize 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 Fishery Management Plan (**Briefing Materials**).
- The Council has taken steps to form a Fishery Management Action Team (FMAT) so that work on the action can begin immediately for a planned implementation date of November 1, 2024.

Presentations

- Background on Commercial Mesh Size Exemptions Discussions by C. Tuohy

Board Actions for Consideration

- Initiate an Addendum to Consider Adjustments to Summer Flounder Commercial Mesh Size Exemptions

6. 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.

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), Richard Wong (DE), Tony Wood (NOAA).

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS MANAGEMENT BOARD**

**Webinar
March 2, 2023**

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2. **Approval of Proceedings of March 24, 2022** by Consent (Page 2).
3. **Move to approve the range of state/regional options for 2023 black sea bass recreational measures developed using the Recreational Demand Model as presented today** (Page 7). Motion by Nichola Meserve; second by Jay McNamee. Motion carried with one abstention from NOAA Fisheries (Page 9).
4. **Main Motion**
Move to approve the use of the Recreational Demand Model to establish 2023 scup recreational measures to achieve a 10 % reduction of the RDMs estimated 2023 harvest under 2022 measures, and recommend NOAA Fisheries reconsider the federal waters closure based on the reduction achieved by the state regulations (Page 9). Motion by Joe Cimino; second by Dave Borden. Motion divided (Page 9).
5. **Move to divide the question** (Page 10). Motion by Adam Nowalsky; second by Chris Batsavage. Motion carried with abstentions from NH and NOAA (Page 12).

Divided Main Motion 1: Move to approve the use of the Recreational Demand Model to establish 2023 scup recreational measures to achieve a 10% reduction of the RDMs estimated 2023 harvest under 2022 measures. Motion substituted.

6. **Motion to Substitute**
Move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today (Page 12). Motion by Nichola Meserve; second by Jason McNamee. Motion carried (8 in favor, opposition by NJ and abstentions from NH and NOAA) (Page 15).

Divided Main Motion 1 as Substituted

Move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today. Motion carried. Roll Call: In Favor - MA, RI, CT, NY, DE, MD, VA, NC; Opposed - NJ; Abstentions - NH, NOAA. (Page 17).

Divided Main Motion 2

Move to recommend NOAA Fisheries reconsider the federal waters closure based on the reduction achieved by the state regulations. Motion carried (6 in favor, 3 opposed, 2 abstentions) (Page 20).

7. **Move to adjourn** by Consent (Page 24).

ATTENDANCE

Board Members

Renee Zobel, NH, proxy for C. Patterson (AA)	Joe Cimino, NJ (AA)
Nichola Meserve, MA, proxy for D. McKiernan (AA)	Tom Fote, NJ (GA)
Raymond Kane, MA (GA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	John Clark, DE (AA)
Jason McNamee, RI (AA)	Roy Miller, DE (GA)
David Borden, RI (GA)	Mike Luisi, MD, Administrative proxy
Justin Davis, CT (AA)	Shanna Madsen, VA, proxy for J. Green (AA)
Bill Hyatt, CT (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
John Maniscalco, NY, proxy for B. Seggos (AA)	Chad Thomas, NC, proxy for Rep. Wray (LA)
Scott Curatolo-Wagemann, NY, proxy for E. Hasbrouck (AA)	Emily Keiley, NMFS

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

Ex-Officio Members

Alexa Galvan, Technical Committee Chair	Scott Simmons, Law Enforcement Representative
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Staff

Bob Beal	Tracey Bauer	Jeff Kipp
Toni Kerns	Kurt Blanchard	Chelsea Tuohy
Tina Berger	Emilie Franke	

Guests

John Almeida, NOAA	Frank DiPietro	Vincent Palmer
Max Appelman, NOAA	Steve Doctor, MD DNR	Michael Pirri
Pat Augustine, Coram, NY	Michelle Duval, MD (AA-Acting)	Michael Plaia, Newtown, CT
Dave Bard, NOAA	Skip Feller	Will Poston, SGA
Julia Beaty, MAFMC	Jack Fullmer, Allentown, NJ	Michael Purvin, Purvin Law
Rick Bellavance, Kingstown, RI	Saverio Governale, NYS DEC	Kathy Rawls, NC (AA)
Frank Blount	Steve Haasz	Stephanie Rekemeyer, NYS DEC
Nicole Bogan	Hannah Hart, MAFMC	Paul Risi
Colleen Bouffard, CT DEEP	Victor Hartley	John Schoenig
Jeff Brust, NJ DEP	Jay Hermsen, NOAA	Allen Seigel, Berlin, MD
Peter Clarke, NJ DEP	Jesse Hornstein, NYS DEC	Scott Steinback, NOAA
Steven Cannizzo	Steve Kearney	David Stormer, DE DFW
Lou Carr-Harris, NOAA	Jared Lamy, NH F&G	Mark Terceiro, NOAA
Matt Corbin, MD DNR	Arthur Lein	Wes Townsend, Dogsboro, DE
Jessica Daher, NJ DEP	Lisa Vinny	Corinne Truesdale, RI DEM
Kiley Dancy, MAFMC	Stu Moore	Anthony Vernola
Lorena de la Garza, NC DENR	Brandon Muffley, MAFMC	Mike Waine, ASA
Greg DiDomenico, Cape May, NJ	Susanna Musick, VIMS	Patrick White

Guests (continued)

Kate Wilke, TNC
Angel Willey, MD DNR

Steve Witthuhn
Rich Wong, DE DFW

Erik Zlokovitz, MD DNR

The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission, convened via webinar; Thursday, March 2, 2023, and was called to order at 10:30 a.m. by Chair Justin Davis.

CALL TO ORDER

CHAIR DR. JUSTIN DAVIS: Good morning, everybody. I'm going to call to order this meeting of the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Management Board. My name is Justin Davis; I'm the Administrative Commissioner from Connecticut, and also currently serving as the Chair for this Board.

We're convened here today for purposes of approving state and region proposals for 2023 Scup and Black Sea Bass recreational measures. I won't go back over the process we've been through; you know over the last five, six months or so in detail, but just as a brief refresher. This Board was most recently convened jointly with the Mid-Atlantic Council back in December of 2022, at which time we approved a 10 percent reduction in both coastwide scup and black sea bass harvest.

For black sea bass, the Board and Council opted to proceed with regional conservation equivalency, as opposed to implementing uniform coastwide measures. For scup, Board and Council agreed to reduce the federal possession limit to 40 fish, and shorten the season to May 1 to December 31. But as this did not achieve the full 10 percent reduction, Board and Council also agreed that states would further modify state measures for scup to achieve the full 10 percent coastwide harvest reduction.

Then following that meeting, those of us in the states have been working with the Recreational Demand Model. Big thanks to Lou, for all his work with us on running all those options, and that brings us to the point we're at today, which

is to approve the options the states and regions have put forward for scup and black sea bass.

APPROVAL OF AGENDA

CHAIR DAVIS: Moving along on the agenda, the first item up today is Approval of the Agenda. I'll ask the Board if there are any suggested corrections or additions to today's agenda. Toni, Tracey, just as a heads up. I'm going to try to manage the hands today and keep track of them, but if that is not working out, I'll call on Audible and ask you to take that over. Again, I'll just ask if anybody has any suggested additions to the agenda this morning.

MS. TONI KERNS: Justin, if you're going to manage the hands then I need to make you an organizer, so you can actually. Hold on for a second. I will do that.

CHAIR DAVIS: Okay, well actually, let's just go ahead and call that Audible then, and I'll have you manage them. Sorry about that.

MS. KERNS: Okay. I can make you an organizer right now, which I will do, so you can see them. But Adam Nowalsky has his hand up.

CHAIR DAVIS: Okay, go ahead, Adam.

MR. ADAM NOWALSKY: Good morning, everyone. With regards to the items on the agenda, I do think it's important that we have some discussion about scup Waves 1 and 2, the decision that was made back in December. I'm not sure, given the timeframe that we need for a lead and federal rulemaking, as this would play out for 2024. I'm not sure if in your mind that discussion would be part of Agenda Item 4, or whether that would need to be considered as another business item.

Then the second item, I'm just looking for clarity that I think we need to have some discussion on, is, if we've gone through this RDM process now once for the 2023 fishing year, or at least reaching the conclusion of that process. I think we've all got some ideas about how we can provide additional input and improve that process moving forward. I would like to just have some discussion as time

would allow, to discuss what that process might look like.

CHAIR DAVIS: Okay thanks, Adam. I think to the first point, discussion around the scup Wave 1 and 2 issue. I suspect that will come up under Agenda Item 4, so we'll play that by ear if we feel like we don't address that adequately. I think we could get to that under Other Business. For the second item, the RDM process, I agree and I would suggest that we try to discuss that under Other Business at the end of the meeting if time allows, if that is agreeable.

MR. NOWALSKY: Very good, thank you very much.

CHAIR DAVIS: Okay, any other suggested additions, edits to the agenda? If not, we'll consider the agenda approved by Board consent.

APPROVAL OF PROCEEDINGS

CHAIR DAVIS: Moving on, are there any suggested corrections or additions, edits to the proceedings from the March 2022 Board proceedings which were provided in the meeting materials for this meeting?

Okay, not seeing any hands, we'll consider those meeting proceedings approved by Board consent.

PUBLIC COMMENT

CHAIR DAVIS: Moving along the agenda, next up is Public Comment. At this time, I'll provide opportunity for public comment for any issues that are not on the agenda today. To be clear, this would be public comment on items not including 2023 recreational measures for scup and black sea bass.

When we get down to Agenda Item 4 and discuss scup and black sea bass measures, I'll provide opportunity for public comment at that time on that topic. Is there any member of the

public on the webinar who would like to make a comment on an issue not related to 2023 recreational measures?

CONSIDER FINAL APPROVAL OF PROPOSED REGIONAL SCUP AND BLACK SEA BASS RECREATIONAL MEASURES FOR THE 2023 FISHING YEAR

CHAIR DAVIS: Okay, not seeing any hands, we'll move right along to our main agenda item, which is Considering Final Approval of Proposed Regional Scup and Black Sea Bass Recreational Measures for the 2023 Fishing Year. At this time, I'll turn it over to Tracey Bauer, who is going to give us a presentation.

MS. TRACEY BAUER: Great, thank you, Justin. I'll jump right into things here. I'll first go over a brief overview of what we'll be talking about today. First, I'll provide some background. Justin mostly got into it, so I think that will be a very brief slide. Then we'll get into some of the TCs decisions as they were looking at what management measures to propose in the models.

Then I will walk through the proposed state or regional measures for scup and black sea bass, and then lastly, the Board will consider the proposed measures for final approval. Like I said, Justin mostly covered this, that there was that December 2022 joint Board/Council meeting, which included that scup and black sea bass would get a 10 percent reduction in expected harvest.

The TC agreed to use the Recreational Demand Model for both black sea bass and scup to determine measures that meet the 10 percent reduction for their state or region, and the proposed measures that will be put forward today. The reductions for the options provided in the memo are for only individual states or regions.

The final total coastwide reduction for like scup for example, can be calculated once all the states decide on their final measures. Because of how the model is set up, black sea bass measures that are input into the model affect scup reduction and vice versa. The black sea bass and scup measures, you'll

see them paired today when I present them, which is how you calculate the reduction for both.

REVIEW PROPOSED REGIONAL MEASURES

MS. BAUER: As I just discussed, I'll be covering the proposed measures for scup and black sea bass together for each state or region. As each option with the estimated reductions has that particular black sea bass and scup measures associated with it. For all the measures I present to you today provided by the states, I will also show the status quo measures, or the measures that were put in place for 2022.

I will start off with the northern region, with Massachusetts, and work my way down the coast. I will be discussing each of the northern states separately, and then will provide a potential preliminary reduction for the region as a whole, for black sea bass and scup, based on the options the states have selected to calculate those reductions.

Although the proposed black sea bass measures may vary from state to state in the northern region, a majority of the options from the northern region have very similar scup measures. You'll see shortly in each of the slides for most of the northern states, but for the for-hire mode the scup option includes a 30 fish bag limit for the majority of the year, and then a 40 fish bag limit from the beginning of May through the end of June for Massachusetts, or September through October for Rhode Island through New York.

The private and shore modes have a 30 fish limit for the entire open season, with size limits of 9.5 inches for shore and 10.5 for the private mode. Scup season starts May 1st for all scup modes in northern states. Starting off with Massachusetts. For Massachusetts black sea bass proposed measures, most options kept the 16-inch size limit and lowered a bag limit for a portion of a year or for a specific sector or both. Option 1, increased the size limit by half an inch, and a day or several days were added to

the beginning or end of the season. Options ranged from a 10 percent reduction to a 10.4 percent reduction.

For scup, options ranged from a 7.5 to a 7.8 reduction. I'll just spend a few seconds on the slide, just so people can review if needed. For Rhode Island, their black sea bass proposed measures achieve anywhere between a 10.1 and 11.7 percent reduction. For all options, bag limit stayed the same for black sea bass compared to the status quo.

In Option 1, the private and shore mode maximum size limit for black sea bass increases by half an inch, and there are some tweaks in the seasons start and end dates. In the same option for black sea bass the for-hire mode keeps a 16-inch size limit, and the season remains status quo as well. The remaining three options involve increasing the current minimum size limit for black sea bass by half an inch.

Option 2 also has a few tweaks to the season start and end dates. The seasons for black sea bass stay status quo in Option 3 and 4. For scup, the reductions fall between 3 and 14 percent. There is one scup option that is different from what I previously described on that first northern region slide, which can be found in Option 4 with a 10.5-inch size limit for all modes, a 30 fish bag limit for private and shore and for-hire, except for a 50 fish bag limit for the for-hire fleet from September 1st through October 31st.

We'll move on to Connecticut, which provided four potential options. For black sea bass, one option increases the size limit by half an inch, the other options make changes to the bag limit for specific modes, like lowering the bag limit to two fish for private shore anglers or season, and keep the 16-inch minimum size limit for black sea bass.

Black sea bass reductions with these options range from 10.1 to 14.5 percent, and the scup reductions range from 1.6 to 5.3 percent. New York provided three potential options for black sea bass. One option increases the minimum size by half an inch,

the other two either shorten the black sea bass season or lower the bag limit for black sea bass for part of the year.

Reductions for black sea bass range between 10.8 and 11.7 percent, and percent reductions range between 14.9 and 15 percent. To calculate a preliminary regional percent reduction for both species, the northern states each selected an option from their sets of proposed measures. This was done due to the difficulty of calculating total reductions for every possible combination of measures from these four states.

A potential regional percent reduction for both black sea bass and scup for the northern region is shown in the table on the slide. The regional percent reduction may change, depending on what options are ultimately selected by the northern states, as each option there is on the estimated reduction achieved.

I worked with Lou to calculate the 80 percent confidence intervals around the estimated regional harvest with this, in the case of scup, the 9.6 percent reduction and the harvest values for the exact 10 percent reduction falls within the 80 percent confidence intervals for this proposed or potential 9.6 reduction for scup, as estimated by the recreational demand level. Moving on from the northern region to New Jersey, which provided four options. For black sea bass for all four options, the minimum size is decreased by half an inch.

Some options lower the bag limit from July 1st through August 31st, other options keep the bag limits the same but shorten the season in July and August. These black sea bass options achieve between a 10.3 and a 10.9 percent reduction. For scup, the bag limit is lowered to 30 for all options, and the season is shortened, either so the scup season starts in August, and runs through the end of the year, or the season ends in mid-October, starting at the beginning of the year.

These options achieve between a 10.1 and 12.6 percent reduction for scup. For the southern states, Delaware through North Carolina, they've provided two options. For black sea bass both options close the fishery during the middle of the year. One option closes the fishery from July 16 through July 26, and the other closes the fishery from October 1st through October 9th.

These options achieve 10.8 and 11.5 percent reduction respectively, and for scup the southern states lowered the bag limit from 50 to 40, except Virginia, which will remain at 30 fish with no reduction predicted. Moving on to next steps. The Board's next steps, following any questions, will be to consider the proposed measures for final approval, and I will provide more information on the Board's options in the next slide.

At this point, final measures do not need to be approved. The state and regions will need to notify ASMFC staff once the final set of measures have been selected, hopefully by April 1st at the latest, and then ASMFC will submit the letter with the final scup and black sea bass recreational measures to GARFO.

Like I mentioned, the Board has a couple of options for next steps when they consider the motion for today. The Board may improve the range of state or regional options for 2023 scup and black sea bass recreational measures developed using the RDM, the Recreational Demand Model as presented today. This means when a state's regions are selecting their final measures prior to April, they must select one of the following options as presented today.

However, they would still be able to make small changes to the season, which would allow states or regions to add or subtract a few days within the same time block that is in the RDM, from the beginning or end of the season before final measures are selected. The other option the Board can go with, there is a more flexible motion to approve the use of the Recreational Demand Model to establish 2023 scup and black sea bass recreational measures to achieve a 10 percent

reduction of the RDMs estimated 2023 harvest under 2022 measures.

This would allow the possibility for the states to make bigger changes to the proposed measures as presented today following this Board meeting, such as changes to bag or size limit before final measures are selected. However, just keep in mind that this would require additional use of NOAA staff time to complete more model runs, and if changes were made, and you needed to run the RDM again, we would need them to be provided to Lou all at the same time. With that I can take any questions.

CHAIR DAVIS: Okay, thanks very much, Tracey, excellent presentation, a lot of information to summarize there with all the options from the various states. At this time, I'll turn it to the Board and ask if there are any questions on the presentation. I see Nichola Meserve, go ahead, Nichola.

MS. NICHOLA MESERVE: Thank you, Tracey, for the presentation. I have one clarification about the Massachusetts options in the table that were shown, and also a question. The clarification is that there was an asterisk in the Massachusetts options that indicated that some of those dates still needed to be finetuned, and the dates that were presented in that table are actually the finetuned dates.

I wouldn't expect any changes to the season dates that were in that table for Massachusetts. That asterisk was just there from a prior version of the memo, where the model hadn't been run for all those options yet. Then my question is that there is a similar note for the southern region, Delaware to North Carolina, black sea bass Option 2, where it said that the mid-season closure there might continue to be finetuned.

I'm wondering if that is also true, or an artifact from a prior version of the memo. I'm also wondering if the intent is for Delaware through North Carolina to all select Option 1 or Option

2, or they would have the option of choosing among those two options for black sea bass. Thank you.

CHAIR DAVIS: I just saw Shanna Madsen's hand go up. Shanna, are you looking to respond to the question from Nichola?

MS. SHANNA MADSEN: I am, Mr. Chair. To clarify a little bit on what our asterisk actually means. What will be happening is the southern states will select either Option 1 or Option 2. There shouldn't be fine tuning with those dates that you see there. Thus far right now what the southern states are proposing is that Delaware, Maryland and Virginia are going to select Option 1, and North Carolina is going to select Option 2, which does in fact get us to the 10 percent necessary percent reduction.

Really, the point of what we were trying to say there is just we might select either one of those options, but we'll ensure that the entire region meets the required regional reduction for black sea bass. Since I have the floor, I'll just note to everyone so that folks are kind of aware of Virginia's intent.

With their February season we did open our February season, and so what we will do is we are going to go with the Option 1 for the July closure, which means that we'll extend our July closure on either end to account for that February season. We won't make another mid-season closure; we'll just extend the mid-season closure that we select. Feel free to ask me any more questions if you have them, Nichola, I'm happy to help.

MS. MESERVE: Thank you, Shanna. Part of that question, you know I think it speaks to the type of motion that we might want to approve here. It seems like the states have had an opportunity to fine tune those season dates. I think that's something to think about when we talk about what motion we want to approve, whether it's approving the methodology, or approving the options that are actually laid out in the document. Thank you.

CHAIR DAVIS: Any additional questions for Tracey? Nichola, I see you hand is still up. Do you have

another question or is that left over from before? Okay. Any other questions relative to the presentation? Mike Luisi.

MR. MICHAEL LUISI: A question for Tracey, as far as workload goes. You know something that we talked about in the southern region was the possibility of adding a few days to the closure, to maybe address the increase in size limit from 12.5 to 13. Would that require Lou and folks from the Service. Would a whole new model run have to happen to account for that, or is that something more simple that can be explored still?

CHAIR DAVIS: Go ahead, Tracey, I was going to kick it over to you anyways.

MS. BAUER: Sorry about that. If it's only a few days and it's within the same, at least as far as I understand, the model splits up the month into two-week time blocks. If it's just a few days within that time block, it's basically a back of an envelope calculation of a couple of days of what that will do to the harvest. The model would not need to be run again. It's something we would be able to do much quicker.

MS. KERNS: Justin, just to reiterate, I think we've done this before. But if it is not in that time block then it could have implications, not only on the black sea bass measure reductions, but also the scup measure reduction. Just keep that in mind.

CHAIR DAVIS: Okay thanks, Mike, does that answer your question?

MR LUISI: Yes, so what I was saying was, I just anticipate the question coming from our stakeholders about whether or not going from a 10-day closure to possibly a 14-day closure may allow for a smaller size limit. I just wanted to see how much effort that would require. I obviously don't want to stress the analysis any more than it has already been done. I just wanted to have an answer for our public when

they asked that question. But I think I got the answer I was looking for, thanks.

MS. KERNS: Justin, I would like to put it on the record that a change in the size limit would be a major change, and has the potential to have implications for the other fishery. That would be a big change and would not be allowed under one of the scenario motions that Tracey presented.

MR. LUISI: Okay that's what I wanted to hear. Thanks, Toni.

CHAIR DAVIS: Okay, I'll turn back to the Board to ask if there are any additional questions on the content of the presentation. I'm not seeing any hands, so at this time I think what would be helpful is if we could get a motion on the board to move us forward. I'm going to suggest that we deal with the two species separately, because I think that is probably the quickest and cleanest way to proceed. I'll turn to the Board and see if anyone would like to make a motion. I see Nichola Meserve. Go ahead, Nichola.

MS. MESERVE: Thank you, Mr. Chair. I'll start with sea bass, because I think that there may be some more discussion about scup, such as was suggested by Adam in the discussion of the agenda items today. Regarding sea bass, I think we have a pretty full range of options before us. Each state has had about two months to work together as regions, and request very many runs from Lou and in the Recreational Demand Model.

You know I'm comfortable where Massachusetts is with our range of options to go to public hearing. Many of the states have already started that process, and so at this point I am prepared to endorse or support the Board approving this particular suite of options that have been presented, as opposed to approving the methodology.

I've raised in the past, concern about some state closures that were shorter than two weeks in length, and I think that resulted as a consequence of the Board sometimes saying, okay we're

approving the methodology, and then the states sometimes came back with options that I don't know that everyone would have supported at that point.

CONSIDER FINAL APPROVAL OF PROPOSED REGIONAL MEASURES

MS. MESERVE: You know I'm much more comfortable approving the range of options that are before us today in the document. **My motion would be to move to approve the range of state/regional options for 2023 black sea bass recreational measures developed using the Recreational Demand Model as presented today.**

CHAIR DAVIS: Great, thank you, Nichola. We've got a motion on the board. I'll look for a second. I see Jason McNamee. The motion is seconded by Dr. McNamee. At this point the motion is the property of the Board. Nichola, I'll turn back to you to see if you want to provide any additional rationale for the motion at all.

MS. MESERVE: I think I jumped the gun and gave it up front, so I am good to defer to the Board's conversation at this point. Thank you.

CHAIR DAVIS: I'll turn to Jason McNamee to see if you would like to provide any rationale for the motion.

DR. JASON McNAMEE: Really nothing to add to what Nichola said, so I'll save us some time here and not restate what she already said so well, so thanks.

CHAIR DAVIS: I'll look to the Board to see if there is any discussion on the motion. Adam Nowalsky, go ahead.

MR. NOWALSKY: I'm not sure that I oppose this motion, and I'm not ready to make a substitute motion, but I do think I would want to highlight that this is a departure from how we've done business in most recent years, where we've been approving a process, as opposed to a

particular set of measures that a state then has to go back and select from. I think I would just ask for clarity, either from the makers of the motion or from staff, if that is in fact the case that in this case, we're not just highlighting the process, we're actually specifying that limited set of measures.

CHAIR DAVIS: Tracey, I'll turn to you to see if you would want to provide a response there, and then also it could provide opportunity for Nichola or Jason to follow up as well.

MS. KERNS: Justin, can I jump in and just say that I think part of where this goes is that with this new process and using this new model, that there are implications when you make bigger leaps on the other species, which then has the potential to send everybody back to the drawing board. Therefore, I think that a change in process is acceptable if the Board is wanting to go that way. It doesn't break the rules that we have in our Addenda Guidelines. It's not outside of the scope of the Board's decision to do so.

CHAIR DAVIS: Okay, thanks, Toni, and to be clear, I think if this motion were to pass, it does (and please correct me if I'm wrong, Tracey or Toni) it does limit states to selecting the options that they've presented in the document that the Board has right now. But there would be the opportunity for some small changes to those options following this meeting.

As long as they're sort of within bounds that would not be expected to produce major changes in the reductions that are achieved for scup, for instance. To your point, Toni, you know if you change your black sea bass option enough, it can change the reduction you're getting on scup. It can change the regional reduction achieved for a species. It sort of can have ripple effects beyond what the state does. I do think there would be room for some small adjustments, to for instance seasons by a day or two following this. Am I correct in that?

MS. BAUER: Yes, that is correct.

MS. KERNS: As long as it's in that time block.

CHAIR DAVIS: Adam, does that adequately address your concern and your desire to have some discussion on the record about how this process is different from what we've done in previous years?

MR. NOWALSKY: I'm not sure it rises to a concern, so much as I just think it's important that we note. Obviously, an awful lot has changed here in what we've done this year. I guess it shouldn't come as any surprise to anyone that we're continuing to change that as this continues to evolve. I just thought it was important to have on the record a recognition of this one additional change, in case anybody is keeping track of all the things we've changed here in the last year of our management.

CHAIR DAVIS: Nichola Meserve, go ahead.

MS. MESERVE: I could use a little bit more clarity on the fine tuning of seasons that could still be done. I know, for example, that if Massachusetts were to take a day off Wave 3 and add it to Wave 5 that changes our reduction more than you would think. I am not seeing how that type of fine tuning that was not really the intent of my motion, to suggest that states could still do that.

If you're referring to, however, like a two week in-season closure, that whether it's the first two weeks of a month or the third and fourth, you know two weeks of the month. That would be equivalent, because it's all within the same wave. I think Toni made a reference to the same time block. Just I'm not sure what that means.

CHAIR DAVIS: Tracey or Toni, do you have any input? Can we put some bounds on what is acceptable under the sort of moniker of minor adjustments?

MS. BAUER: I think the original intent of the fine tuning, I think Nichola covered this earlier, but was just to get states, at least as was

communicated to me, was that states wanted to get as close as possible to 10 percent, to a 10 percent reduction. Like I said, at 10.4 they might mess with the days a little bit to get to a 10.1. But as Nichola pointed out earlier, it sounds like states are in a better place now, at least the ones that she mentioned. This might not even be an issue any more. It may not even be needed by anyone.

CHAIR DAVIS: Go ahead, Nichola.

MS. MESERVE: For the sake of clarity, the intent of my motion is to lock in the particular dates that are shown in the document for each of the state's options for black sea bass, because I believe that the states have already gone through that process of fine tuning to get to as close to 10 percent as possible. That opening up this door here presents a little bit of concern to me, in terms of what may be the eventual outcomes and the implications for all of us.

CHAIR DAVIS: I think that is helpful to clarify the intent of the motion that you've made here. I think what might be helpful at this point is given that clarification on the intent of the motion. If there is any state that is looking at this motion and thinking that would be problematic if this motion were approved, and essentially would preclude any adjustments to the options that are presented today, to sort of speak up and bring that to light.

That we can potentially make an adjustment here if necessary. I'll just ask the Board if there is any state that views that as problematic to please speak up and let us know. Okay, so not seeing any hands, I think Tracey, you might be correct in your suspicion that that need to make minor adjustments may not be a thing any more. With that I'll ask the Board if there is any additional discussion on the motion.

Okay, not seeing any hands. I'll turn to the public, and ask if there is any member of the public who would like to make a comment on the motion, please raise your hand. Okay, I'm not seeing any hands from the public. I think at this point, given there is no desire from the Board for further discussion, I'll go ahead and call the question. But

first I'll ask if there is any state that needs to caucus. If you do, please just raise your hand on the webinar.

Okay, I see Rhode Island has raised their hand, so why don't we provide two minutes to caucus, and I'll try to keep that time here locally. Okay that was two minutes. Does anybody need any additional time to caucus? Okay, not seeing any hands. I think what I'll do is ask first, are there any objections to this motion? **Please signify by raising your hand on the webinar. Okay, just confirming, Toni. I don't see any hands.**

MS. KERNS: Will you just ask for abstentions as well? I confirm though that there are not hands.

CHAIR DAVIS: Right, will do. Are there any abstentions? I see one abstention from NOAA, National Marine Fisheries Service, so we'll consider this motion approved by consent with the one noted abstention from NOAA National Marine Fishery Service. Okay, one down, then I'll turn to the Board and see if anybody would like to make a motion relative to scup recreational measures. I see Joe Cimino. Go ahead, Joe.

MR. JOE CIMINO: With all due respect to the conversation we just had, I did not have an objection to that. But for scup I would like some flexibility, and it's a little bit more gauged towards the 2024 fishing season. I would like to make a motion towards what staff put forward as that Option B.

That would be to accept the RDM model for scup. Also, as I mentioned, I'm looking toward the 2024 season, and so I would hope that in this motion that we can ask the National Marine Fisheries Service to reconsider the federal waters closure. Let's make the motion and if I get a second, I'll speak to it.

CHAIR DAVIS: Okay, Joe, would you mind reading the motion into the record?

MR. CIMINO: Right, of course. I would like, it looks like there was one with the reconsideration.

MS. BAUER: This one here?

MR. CIMINO: Yes, thank you. **My motion would be to, I guess I'm going to have a hybrid here. My motion would be to approve the RDM.** Oh, I see what we did here. Yes, we can do that.

MS. KERNS: I can help you, Joe, really quick. Tracey, can you take the second half of this motion? He's looking to use the other motion with the end, recommend NOAA. Yes. Take that and put it into the other one.

MR. CIMINO: Thank you, apologies everyone. **I would move to approve the use of the RDM to establish 2023 scup recreational measures to achieve a 10 percent reduction. The RDMs estimated 2023 harvest under 2022 measures, also to recommend that NOAA Fisheries reconsider the federal water closures based on the reductions achieved by the state regulations.**

CHAIR DAVIS: Okay, thank you, Joe, so we've got a motion on the board made by Joe Cimino, looking for a second. Is there anybody who would like to second the motion? I see John Schoenig on the webinar with the hand raised. I'll apologize, John, not sure. Are you a member of the public or sitting on the Board? I see a hand from David Borden, so we'll take a second from David Borden on this motion. Joe, I'll turn back to you and ask if you want to provide any additional rationale for the motion at this time.

MR. CIMINO: Yes, thank you, Justin. You know I think for 2023 we're really getting into things. I think states need to set measures. I do think that this is really a state waters fishery, and that with the measures that we're going to be putting in place, once everything is aligned, that I think that federal waters closure could safely be removed. That's my intent here.

CHAIR DAVIS: I'll turn to David Borden, see if you want to provide any additional rationale.

MR. DAVID V. BORDEN: Yes, thank you, Mr. Chairman. I seconded it, because I wanted Joe to have an opportunity to at least float the idea and explain his thought pattern. But I'm curious, do we have anyone from NOAA on the call that could react to this motion, in terms of their ability to affect it in a timely manner? Thank you.

CHAIR DAVIS: Toni, I do believe we have a representative from NOAA GARFO on the line today.

MS. KERNS: Yes, Emily Keiley. She's got her hand up.

CHAIR DAVIS: Emily, go ahead.

MS. EMILY KEILEY: Hi everyone. Thank you, Mr. Chair. This just came to my attention just briefly before the meeting that there were some thoughts about reconsideration of that with that Wave 1-2 closure for scup. It's a little bit of a tricky situation, because we've got the joint actions of the Council and Board recommending that closure to us.

We're in the process of starting our rulemaking. One potential avenue I can see forward is if the Commission, you know everyone onboard, wrote us a letter during this rulemaking, during the open comment period, you know describing the concern and asking us to reconsider implementing that closure, and with that providing rationale and the data essentially to back up that these state measures will be sufficient to achieve that 10 percent reduction.

You know as you all know; we based on comments last year reconsidered what we did with scup for 2022. We do have an opportunity, potentially, to reconsider that closure to that rulemaking. My other thought was if that couldn't be pulled together in a timely way within this potential rulemaking, if

the concern really is 2024, which realistically is the case, given this final rule won't be in place for a while.

Maybe if it cannot be done right now in this rulemaking, could the Council and Board take some action at the August meeting. Obviously with the appropriate rationale data, you know something we potentially could do through the specifications rule, which would be in place before January 1, 2024. It's a little bit rambling, but a little on the spot, so those are my thoughts. I think that it is possible to do something, but we can't just do it based on this motion. You need sort of a letter, comment and sort of the information to support that. Thank you.

CHAIR DAVIS: Thank you, Emily, that is helpful. Joe, go ahead.

MR. CIMINO: Just a follow up. New Jersey is really a small part of this harvest. There is a challenge of what happens in Wave 1 in particular, since we don't have estimates. But we fully acknowledge the harvest and we have ways, I think to put forward something. We fully intend to put forward something on behalf of and send it to NOAA that acknowledges that harvest, if January and February were open, and to take measures to kind of cover that for our reduction.

CHAIR DAVIS: Adam Nowalsky, go ahead.

MR. NOWALSKY: Given those comments from the Service, which I'm greatly appreciative. Clearly, they've given us a couple of paths forward, not just one but multiple. **I would like to move to divide this question, Mr. Chairman, so that we can go ahead and address 2023 separately from what we need to do with the federal waters Wave 1 and Wave 2 issue moving forward.**

CHAIR DAVIS: Okay, Adam. A motion to divide, I'll admit I haven't handled one of these before. Can you be clearer on exactly what you're looking to do here? Split this into two motions, would it be the first, essentially what we're doing with the RDM to address 2023 harvest, and then splitting off the question of recommending to NOAA Fisheries the

reconsideration of the closure into a separate motion?

MR. NOWALSKY: That would be my intention, Mr. Chairman.

MS. KERNS: Tracey, if you'll write up a motion to divide the question, motion by Mr. Nowalsky, and then we'll see if we get a second.

CHAIR DAVIS: We have a motion on the board to divide this question made by Adam Nowalsky. I'll look to the Board to see if there is a second. I see Chris Batsavage, so we have a second by Chris Batsavage. Okay, so we've got a motion on the board with a second. It's now the property of the Board. I'll turn to Adam Nowalsky to see if he would like to provide any additional rationale for this motion.

MR. NOWALSKY: The rationale is so that we can address both of these on their individual merits here. We had two pathways forward for the 2023 measures, and I think the question of whether or not, how to recommend NOAA Fisheries reconsider. Again, they put forward two different ways forward. I think that's going to merit discussion. I don't want to see the question about 2023 get hung up in any way as we debate the merits of the Wave 1 and/or Wave 2 closure in federal waters.

CHAIR DAVIS: Thank you, Adam, and I'll turn to Chris Batsavage to see if you have anything to add there.

MR. CHRIS BATSAVAGE: Thanks, Mr. Chair, no, I think Adam covered it really well, thanks.

CHAIR DAVIS: Okay, I'll look to the Board to see if there is any discussion on this motion. Not seeing any hands I'll ask if, oh I see Bill Hyatt. Go ahead, Bill.

MR. WILLIAM HYATT: I just have a question. I'm a little bit foggy on understanding how, if these two were in their original format and combined, how a recommendation to

reconsider ties things up in any way. Maybe I'm just missing something, but if I could have some clarity provided on that it would be helpful.

CHAIR DAVIS: I think I'll turn to Adam Nowalsky, the maker of the motion, to see if you can provide the answer to Bill's question.

MR. NOWALSKY: If there are concerns by Board members today about whether or not we should recommend a reconsideration of that closure, and perhaps there are none. Perhaps all Board members at this point in time are completely onboard with both aspects of this motion. If everybody is completely onboard with both aspects of the motion, or if everyone is completely opposed to both aspects, then perhaps there is no reason to divide the question.

But my sense is, given what we did with the black sea bass motion, I don't know where all Board members are. If they want to go in the same direction with scup as they did for black sea bass, with limiting things purely to the options presented here today, or whether they are open to just continuing to approve the process of use of the RDM.

I have the same questions on the side of recommending the reconsideration of the federal closures. I do not know if every member of the Board here today is in support or not of that. It just seems to me, from procedural perspective, it makes sense to address these two things separately. But if it is not the will of the Board to do so then it won't be the will of the Board to do so.

CHAIR DAVIS: Okay, thank you, Adam. Nichola Meserve, I saw your hand up there but it looks like it went down. Just wanted to clarify. Go ahead, Nichola.

MS. MESERVE: I can support dividing the question, because I do have some questions about the first part of it, just to kind of address Adam's statement. You know I was more comfortable, I think, unless there is a state that really needs to continue to fine tune the measures that have been presented in the

document for 2023, to approve the particular set of options that have been provided, so that we can try to wrap this process up in a more timely manner. That's all, thank you.

CHAIR DAVIS: Any additional hands from the Board for discussion on this motion? Mike Luisi.

MR. LUISI: The question I have has to do with the timing of the different alternatives that Emily provided. If somebody could help clarify for me, are we talking about, as far as the reconsideration from NOAA Fisheries, I'm thinking about the timing of the closure. Are we talking only about 2024, or is it possible that reconsideration could occur for 2023? I'm just a little confused as far as the timing, with how it would play out.

CHAIR DAVIS: Emily, could you address that?

MS. KEILEY: Yes, happy to. Thanks for the question, Mike. We have not yet put out the proposed rule for the 2023 measures, so realistically a final rule that would implement the closure, if that is what we were to do, is probably not going to be published until after the closure would be over.

Correct me if I'm wrong, but the scup fishery would have opened back up in May, so I don't think that 2023 is actually really in play here, given the timing of our rulemaking. That is why I was sort of addressing 2024. In terms of what the states would need to do, we're still trying to achieve a 10 percent reduction for this 2023 year. I acknowledge it's a little weird, because of the timing of our rulemaking.

I think though, if for some reason the final rule were to occur before the end of that closure, yes, we would be sort of reconsidering that closure, I guess from both years. We would essentially not be putting that in the regulations. Because really, the problem for 2024 here is that we're not going to have a recreational rule done in time to sort of undo what we've done this year for the 2024 Wave 1

and 2. I'm sorry if that was more confusing than helpful.

MR. LUISI: No, that was helpful. That is what I had thought. I think if we ultimately decide to divide this question or not, I think it might be helpful for the public and for all of us, if somewhere in this motion 2024 was mentioned, you know just to make sure everyone is clear as to what direction the Board is suggesting. I'll leave it at that, but thanks, thanks for the answer, Emily.

CHAIR DAVIS: At this point I'm going to go ahead and call the question. I will ask if anybody needs time to caucus. Please, raise your hand if you do. Not seeing any hands I'm going to ask, is there any objection to this motion? Sorry, John Clark, I saw your hand go up there for a second. Are you saying that you need time to caucus?

MR. JOHN CLARK: I think it will be okay, Mr. Chair, thank you.

CHAIR DAVIS: Okay, thanks. I'll ask again, is there any objection to the motion? Not seeing any hands I'll ask if there are any abstentions. I see one abstention from New Hampshire, and one from NOAA National Marine Fishery Service. We'll consider the motion approved by consent with two abstentions from New Hampshire and NOAA National Marine Fishery Service.

MS. KERNS: Okay, Tracey, once you get that done, bear with us while we do so, if you will pull the first half of this motion, so from move to approve. Then let's put that on a new screen. That will be the first motion we'll tackle. I believe Bob Beal can correct me if I'm wrong, but it becomes the property of the Board and there is no maker or seconder.

EXECUTIVE DIRECTOR ROBERT E. BEAL: That's correct, Toni.

MS. KERNS: Thanks, Bob.

CHAIR DAVIS: Okay, thanks, Bob and Toni. We have a motion on the Board, move to approve the use of the Recreational Demand Model to establish

2023 scup recreational measures to achieve a 10% reduction of the RDMs estimated 2023 harvest under 2022 measures. I'll turn to the Board and see if there is any discussion on the motion. Nichola, go ahead.

MS. MESERVE: I would like to substitute to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today.

CHAIR DAVIS: Okay, thank you, Nichola, we'll just give a moment here for staff to get that substitute motion up on the board.

MS. BAUER: Nichola, some clarification just to make sure. Is that the first motion, like we did for black sea bass?

MS. KERNS: Tracey, I believe yes, it is. You can just pull from that other slide. Once we have it up, Nichola, just let us know if there is something that is not correct in there Tracey, this will have a maker. Perfect.

CHAIR DAVIS: Okay, Nichola, does this wording on the board match the intent of the motion you wanted to make? I see that Nichola is showing up as offline.

MS. KERNS: Yes, I think we might have lost her for a second. I'm not sure what is going on, because her microphone is open. But I wonder if she lost internet connection. I'm going to text her the call-in number.

CHAIR DAVIS: Toni, would it make sense to maybe take a five-minute recess here while we see if we can get Nichola back online, and confirm this is the substitute motion she had in mind?

MS. KERNS: She texted me that she just lost internet, but she did confirm that she wants the same motion as the black sea bass one, which is what we have put up on the board. In the meantime, I'm going to try to see if I can figure

out what the phone number call-in number is to text that to her so she can just simply call in.

CHAIR DAVIS: Okay. For clarity, I'll read this motion into the record. It's a motion to substitute. Move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today. Motion made by Ms. Meserve, and I will look to the Board to see if there is a second for the motion.

I see Jason McNamee, so seconded by Dr. McNamee. Hopefully we'll get Nichola back on the line here soon, and she'll be able to provide some rationale for the motion. At this point I will open it up for discussion. Mike Luisi, I see your hand. Go ahead.

MR. LUISI: Oh, I'm sorry, Mr. Chairman, I was raising my hand for a second. I'll put it down, thank you.

CHAIR DAVIS: I see Chris Batsavage.

MR. BATSAVAGE: Just a question I probably should have asked earlier, but since we're on this motion I guess it's relevant. I just want to be clear that regardless of which option for the scup measures is selected by the states, basically from New Jersey to Massachusetts, that those combined with what is proposed in federal waters will indeed meet the 10 percent reduction, or are there some combinations that won't quite get us the 10 percent?

CHAIR DAVIS: Thanks, Chris, Tracey, I'll turn to you to see if you can address that question.

MS. BAUER: I believe you're looking at the coastwide reduction of scup. It's going to be with the combinations I've messed around with, you know changing up the New Jersey ones with what the northern region has provided. At least for the example northern region it would come out to be around 9.6 percent, coastwide, sorry.

CHAIR DAVIS: Chris, does that answer your question?

MR. BATSAVAGE: I think so, Mr. Chair, so the 9.6 up in the north combined with what New Jersey proposes, and then federal waters measures collectively would meet 10 percent. But if the northern states pick some other combinations to where they weren't 9.6 percent, would we still be at that coastwide 10 percent, or are we starting to fall below that 10 percent line? It's going to help me better understand how this is going to work under either motion that we do right now, and also when we consider the federal waters closure later on.

CHAIR DAVIS: Okay, thanks, Chris, and for clarification, I think, and Tracey, correct me if I'm wrong here. Under the substitute motion there would be the ability for the northern region to select some other option, other than what's been presented here today. But under the original motion. I'm sorry, I have that backwards.

Under the original motion the northern region could essentially develop new options, select different options after this meeting, because it would be just approving the RDM. But under the substitute motion the northern region would not be able to do that. We would essentially have to select from the options that have been presented today. Do I have that correct, Tracey?

MS. BAUER: Yes, that is right.

CHAIR DAVIS: I think I'll take Chris's question as, under the original motion. Are there other options? And, correct me if I'm wrong here, Chris, but you're asking if there are other options under consideration that could be selected that could then drop us below that 9.6 that we have under the options we're proposing currently.

MR. BATSAVAGE: Actually, kind of looking more towards, I guess the substitute motion on hand, where some of the options, depending on

which state, have scup reductions in the 2 to 3 percent range, and then others in that 10 to 14 percent. Do all the combinations, because Tracey showed example combinations that will get us a 9.6 up in the north. But are there any combinations that are already presented in the north that will fall less than at 9.6, and therefore could drop us back below 10 percent coastwide? Just looking for some clarification on that.

CHAIR DAVIS: I'll turn back to you, Tracey, but I believe, you know the northern region at this point is only proposing one option for scup. Collectively the states have all proposed the same option that as a region achieves that 9.6 percent reduction.

MS. BAUER: Yes, we haven't calculated every single combination. If one of the northern states was to choose from within, you know a different option within the options presented today. But I think that's something that we're going to, you know when everyone puts forward their final options in a month or so, we're going to look back and make sure that it is somewhere around that 9.6, 10 percent. Toni can correct me if I'm wrong, but if it isn't there, we might ask them to select a different option or something.

CHAIR DAVIS: I'll turn back to you, Chris, to ask if you are satisfied that that answers your question.

MR. BATSAVAGE: That's great, and I appreciate that. Thank you, Mr. Chair, and thank you, Tracey. That answers it.

CHAIR DAVIS: Toni, do we have Nichola back on the line yet?

MS. KERNS: Yes, hold on. She can open up.

MS. MESERVE: Thank you, Mr. Chair. Apologies, I'm not sure where I dropped out there. But it looks like you got the gist of the motion that I was trying to present, and my rationale largely was very similar to black sea bass, that the states have had time to develop a range of options. To my understanding there is not a state that is looking to offer something other than was in the document. For the

sake of clarity, and moving forward with 2023 measures as quickly as possible. Using what's in the document would serve that purpose best. Thank you.

CHAIR DAVIS: Look to the Board to see if there is any additional discussion on this substitute motion. Joe Cimino, go ahead.

MR. CIMINO: I appreciate Nichola's comments and I honestly think that New Jersey would probably intend to move forward with the 2023 measures. Given the discussion we just had with Chris Batsavage's questions, I think the flexibility should be there for the options. I'm going to speak against the substitute and still support the original motion, thanks.

CHAIR DAVIS: Tracey, as a point of clarification, the substitute motion, if it was approved as the main motion and voted up, would mean that states would have to select from the range of scup options presented today. Under the original motion states could also select from those options presented today, or have the option to develop new scup options after this meeting, correct? You know, it wouldn't preclude using the options presented today under the original motion.

MS. BAUER: Yes, that is correct.

CHAIR DAVIS: Okay, thanks, I just thought that might be a helpful point of clarification. Okay, I'll turn to the Board to see if there is any additional discussion.

MS. KERNS: Mr. Chairman, I do want to sort of point out, I guess one of the big differences between these two motions is that we don't exactly have a process identified for the original motion versus the substitute motion, because we are in this sort of new realm and new world. The model has to be run by Lou. In addition to the fact that one set of measures for one species can impact the other species measures.

I don't know, it is a little bit more of an unknown scenario under the first motion. It's not that it's not something that we can't handle. I don't want to try to get that impression, but if we get to that motion, we will need to describe how that would work, and if there are any bounds around that flexibility or not. It would be helpful for us, and we would need to establish a timeframe, so that we can make sure we can still get to the April 1st deadline of finalizing measures.

CHAIR DAVIS: Thank you, Toni, that is helpful. One last call to the Board to see if there are any additional comments or discussion on the substitute motion. Okay, not seeing any hands. I'm going to provide three minutes to caucus. From Connecticut's standpoint I need some time for a caucus, so we'll provide a three-minute caucus, and then we'll come back and vote on the substitute motion.

Okay, that was probably a little bit less than three minutes, but I'll just ask does anybody need any additional time to caucus? Please raise your hand. Okay, not seeing any hands, we'll go ahead and call the question. I'll ask all those in favor to signify by raising your hands on the webinar, and Toni, if you could, read off the hands on this one that would be great, thanks.

MS. KERNS: Waiting for the hands to settle here. I have Massachusetts, Rhode Island, Delaware, New York, North Carolina, Connecticut, Maryland and Virginia. I will put the hands down.

CHAIR DAVIS: Okay, we have all the hands down. I'll ask all those opposed, signify by raising your hands.

MS. KERNS: I have New Jersey.

MS. BAUER: Toni, I didn't get the total number in favor.

MS. KERNS: I'll read it out to you, Tracey. We'll still need the abstentions, so we're not quite ready.

CHAIR DAVIS: I'll ask if there are any abstentions.

MS. KERNS: We have two, NOAA Fisheries and New Hampshire.

CHAIR DAVIS: Okay, any null votes?

MS. KERNS: No hands.

CHAIR DAVIS: Okay, I believe the motion carries with, check my math here, 8 in favor, 1 opposed with 2 abstentions.

MS. KERNS: I have the same.

CHAIR DAVIS: Okay, so the substitute motion has passed. That motion will now become the main motion. I'll just give a moment here for staff to reconfigure the board.

MS. KERNS: Again, Tracey, the same applies the second half at no maker or seconder.

CHAIR DAVIS: Okay, so the substitute motion is now the main motion. It is move to approve the range of state/regional options for 2023 scup recreational measures developed using the Recreational Demand Model as presented today. Adam Nowalsky, I see your hand up. Go ahead.

MR. NOWALSKY: Given that the range of measures that have been presented today, and their sum equate to a 9.7 percent reduction instead of 10. Are we at risk of this not being approved by GARFO and, if the answer is no, does that signal to us that moving forward, now that we're using the RDM, we don't actually have to reach the full reduction, we just have to get to within the lower bounds of the confidence interval?

CHAIR DAVIS: Thanks for that question, Adam. Emily, not to put you on the spot, but would you be able to reply to that question?

MS. KEILEY: Yes, so I think in terms of just needing to exceed the lower bounds of the confidence interval. That is definitely not the

precedent of what I think we're trying to achieve here. What I see here is that we've done our best to get as close as possible to 10. We're talking about less than half a percent. I, you know observed in the black sea bass measures, those aren't exactly 10 either, they're a little bit over the 10 percent reduction.

I think in the realm of being reasonable, given the uncertainties and the challenges particularly using this model, that the species affect each other in that interplay and uncertainty. You know I think we've got to do our best to achieve that 10 percent. But I also recognize that it would be very challenging to get a model run to be exactly 10.00 percent.

I'm sort of a little bit on the spot here, but that is my view of this. We're not trying to creep away from 10. I think we need to try to achieve that. But I also recognize that we have to be reasonable about what our actual capabilities are, and what we can manipulate and change, and then how close we can actually get to that number.

MS. KERNS: Justin, I just want to point out a semantics here. The scup is different than summer flounder and black sea bass, where it is not an official conservation equivalency process, and it's not necessarily an approval of measures from GARFO. GARFO takes into consideration the state water measures when they are developing their federal water measures.

CHAIR DAVIS: Okay, thank you, Emily and Toni, for those clarifications. Adam, does that address your question adequately?

MR. NOWALSKY: I absolutely loved the answer, Mr. Chairman.

CHAIR DAVIS: Okay, great. I'll turn to the Board and ask if there is any additional discussion on this motion. I see a hand from Nicole Bogan.

MS. KERNS: A member of the public, Justin, but I've opened up their line.

MS. NICOLE BOGAN: Hi, sorry. I know I'm a little bit late to the meeting, but I am speaking on behalf of my father, Howard Bogan. I just wanted to ask a question, as far as like your 10 percent. Will the amended proposal, can you guys amend a proposal to a closure from March 1st to April 30th? Not that it's necessary but delaying the season opening one day, May, would most likely account for all the scup in January and February. Therefore, the season couldn't be closed March 1st through May 1st, and it will easily achieve the same result or more.

CHAIR DAVIS: Okay, thanks, Nicole. I think what I would ask is we sort of put a pin in that question until we get to the second half of the motion we divided earlier, which has to do with the issue of the federal closure. I think we'll have some discussion there that might address that question. I'll turn to the Board.

Not seeing any additional hands for discussion on this motion. I'll ask if anybody needs time to caucus, please raise your hand. Okay, not seeing any hands, call the question. We'll see if we can do this the easy way. Are there any objections to this motion? Joe Cimino, I see your hand, I'm assuming that's raising an objection.

MR. CIMINO: Yes, Mr. Chair.

CHAIR DAVIS: I'll also ask if there are any abstentions.

MS. KERNS: We have two, New Hampshire and NOAA Fisheries.

CHAIR DAVIS: Toni, is it sufficient to note that the motion passes, noting the one objection from New Jersey and two abstentions from New Hampshire and NOAA National Marine Fishery Service?

MS. KERNS: Can we raise the hand for yesses? This is a final vote, and therefore technically it's

a roll call. I just want to have it real correct on the record.

CHAIR DAVIS: Sure, okay, so I'll ask all in favor of this motion to please raise your hand on the webinar.

MS. KERNS: I'll go real fast here. I'm pretty sure it's the same as before. Mass, Rhode Island, Delaware, New York, New Hampshire, Connecticut, Maryland, and Virginia, and that is 8.

MR. BATSAVAGE: North Carolina voted yes. You said New Hampshire.

MS. KERNS: Sorry about that. Still 8, I was counting them in my head, but not out loud.

CHAIR DAVIS: Correct, I have 8 in favor, 1 opposed, 2 abstentions. Thanks, I think at this point we have dispensed with the first part of that divided motion, and we can move on to the second part.

I'll just give a moment here for staff to get the second half of that divided motion on the board. I'll read that into the record.

It's move to recommend NOAA Fisheries reconsider the federal waters closure based on the reduction achieved by the state regulations. As this was a divided motion, we don't have a maker or seconder for the motion. I'll turn to the Board and ask if there is any discussion on this motion. Joe Cimino, go ahead.

MR. CIMINO: As others have said, I appreciate Emily's comments on this. I apologize to her for being on the hot seat all morning. I just want to reiterate that New Jersey does, even though we are a small player, we do intend to send comments to NOAA and to the Board on any interest we may have, you know our hope to have a Wave 1 season in 2024, and what that would mean for the rest of our 2024 season.

CHAIR DAVIS: Adam Nowalsky.

MR. NOWALSKY: I think it would be useful to clarify this motion, what exactly we're recommending. I don't think this motion as written is a motion to reconsider our motion from December as a Board, which I think would also require some like action from the Council at some point.

My vision of this would be to follow the pathway that GARFO set out, Option 1 or Step 1, as a result of this motion would be to write a letter during public comment using staff's input on justifying the allowance of federal waters to stay open. If that carries today then great, we can be done. But if that shouldn't carry the day, then I think what this is doing is saying that we're going to have an agenda item, and request that the Council do that in concert with us.

In August, during specification setting that would seek to revisit it. Whether there is consent for that moving forward, and just having it on the record is sufficient, or whether you need some specific amendments made to this motion, Mr. Chairman, I'll defer to your preference. But to me this motion as written didn't spell it out. I offered a way here, what this means, what it would mean to me, and I'll defer to you if that is sufficient, or you want something in a formal amendment.

CHAIR DAVIS: Okay, thanks, Adam. I think what you just described is consistent with the discussion we had and the input we got from Emily earlier in the meeting. From my standpoint it is sufficient to have that discussion in the record on how we're going to proceed, should this motion be approved. Toni, I'll just ask really quick if sort of you're in agreement there that that bit of discussion that we just had on the record about what will follow after this motion, should it pass, is sufficient, or if we need to clarify anything in this motion to provide more specific direction to staff on what will happen after this motion is carried.

MS. KERNS: I think you've put it in the record, unless somebody from the Board objects, then we can move in that direction.

CHAIR DAVIS: Mike Luisi, go ahead.

MR. LUISI: I'm not objecting to the concept, especially since Emily painted the path forward and gave us a couple options as to how to proceed with discussions with NOAA about 2024. I just don't know, based on what Emily said about the final rule and the process that is currently ongoing, whether or not it would be, I'm trying to think of the right word.

Does a letter right now, because by the time the final rule publishes, the closure is going to be over. I wonder if we would be better off spending more time preparing for and coming up with recommendations for the August meeting, rather than providing that feedback from the Board and the Commission for 2023, since there is likely not going to be any. It won't matter.

But I don't know, as far as process goes, whether or not just having that on the record at this time within the federal program, would be beneficial for a future discussion. I'm just looking for some guidance here. I just don't want to waste people's time if we're already through the closure before the final rule even is released.

CHAIR DAVIS: I guess what might be helpful to clarify here, and correct me if I'm wrong, Emily. But what is really at issue here is the potential closure of federal waters in Waves 1 and 2 in 2024. We're sort of trying to figure out what would be the best path forward after this meeting to provide a recommendation to NOAA Fisheries to forego that closure. From my standpoint, this motion captures the intent of the Board, were it to pass, that we would like to recommend to NOAA Fisheries they reconsider that closure.

We've had some discussion on the record today about potential paths forward for that. I think there could be follow on discussions after this meeting between Commission staff, between NOAA staff, to

sort of determine which is the most appropriate path forward, you know potentially including Mid-Atlantic Council in those discussions.

Then sort of deciding on which track is the best to take, either the sending the letter after this meeting, or defaulting to some joint action at the August joint meeting. That's just sort of my standpoint on that is that we could vote this motion up, capture the intent of the Board. After this meeting have some subsequent discussions on what is going to be the most productive path forward, and would that satisfy your concerns, Mike?

MR. LUISI: Yes, I want to make sure as a member of the Council, and we do have a lot of Council members on line today. I just think that this would be more appropriate being decided on by both the Council and the Board. You know in my opinion, I think it would be best served to just hold this, maybe even postpone this motion and have it as an agenda item in August, for a full discussion by both management bodies. But that is just my opinion. I'm not going to object to it, I just think it's very vague as to what the next steps are.

MS. KERNS: Justin, could I maybe try to help a little. Maybe this will make.

CHAIR DAVIS: Absolutely.

MS. KERNS: I think that there is sort of two things that you can look at, those here. What I would want to make sure that we can work out with NOAA Fisheries, is that we're not asking them to do a double amount of work if there is a way that we can, in conjunction and working with the Council, not to pull you guys out of the loop on this.

But to not make NOAA staff do double the amount of work, in terms of dealing with 2024. Would like to try to achieve that and just remember that in essence we're trying to think about 2023 measures, but by default, because

of the timing of the rulemaking, these Wave 1 and 2 closures don't actually impact Wave 1 and 2 of the current year that you're trying to get it to impact. But it actually impacts the following year.

Just talking through with NOAA about that, how we could achieve it working with the Council, to make sure that you guys are in the loop, and onboard with what we want to do if we need to make any recommendations. Maybe it's possible that the Council could address it at their April meeting. But if we can avoid double work for NOAA staff, I think that would be a goal I would try to achieve. But if it's not possible, then yes, of course we could address that at the August meeting.

CHAIR DAVIS: Go ahead, Adam.

MR. NOWALSKY: I appreciate what Toni just highlighted here, and not making double work on this issue. But I also appreciate Chairman Luisi's concerns as Chair of the Mid-Atlantic Council to not act unilaterally here. I do wonder if given the fact that the Mid-Atlantic Council has not yet noticed their agenda for the April meeting.

I wonder if maybe there were thoughts here about having a short period of time on that agenda, where Board members could join the discussion. Whether you want to call it a joint meeting or not, I think that might be an opportunity to have the joint discussion that Mr. Luisi seeks, and also tries to address the timing issue here to help the Service out, without doing double work, which would result by waiting until August.

CHAIR DAVIS: Just to clarify. Under your suggestion are you suggesting that we should not vote on this motion here today, or are you suggesting the Board should act on this motion and subsequently convene somewhat of an informal joint discussion on this topic at the April Mid-Atlantic Council meeting?

MR. NOWALSKY: I think my preference would be to, because we don't know, we can't say with any level, you know staff could chime in, or maybe staff could chime in here directly and say, we just can't

facilitate a joint meeting, even with the Board members chiming in remotely. You know that would make this easy. Then we would have to address this today, in my opinion. Even if staff say we could allow the Board to participate remotely, we don't have with 100 percent confidence that in fact this would show up on the Mid's agenda in April. To me, I think that calls for this motion moving forward here today, but seeking some formal communication with the Mid, letting them know what we're doing here, and giving them the opportunity to include us in their discussion in April.

If the Mid chooses to go in a different direction, and chooses not to submit comments in favor of the proposed rule when it comes out, or submits comments in favor of it in opposition. Then I think that would be their position. That was long winded. The short answer to your question is I feel this motion should still go forward today.

CHAIR DAVIS: Toni, I'll turn to you one more time to see if you have any other remarks on this discussion.

MS. KERNS: I'm not going to say that the Board can't meet with the Mid-Atlantic Council. We have not indicated that we were. We always can notice a meeting. But I said this before, when Emily was chatting with us. But as a reminder that we make these recommendations for federal waters when we're meeting in December, to ensure that we're going to have some bit of reduction, because we don't know what the state waters are going to do, even though the majority of the harvest does come from the state waters.

If you recall in the past, sometimes we made those motions contingent on the states not doing anything or the minimum amount that the states would do. I think what we're trying to get at here is saying, the states have put forward a set of regulations. We need to see what the final set are that are going to achieve close to a 10 percent reduction. Therefore,

what is necessary in federal waters to occur? Is anything necessary in federal waters?

That is the gist of why we would ask NOAA to reconsider. I think it would behoove us to go ahead and if the Board would want to even potentially ask NOAA to reconsider to make that motion today, and then we can carry forward with that, working with NOAA, working with the Mid-Atlantic Council to make sure we have all of our ducks in a row, and we're doing the right thing for the conservation of the species, and allowing industry to continue to fish. That's all I have.

CHAIR DAVIS: I think at this point we've had a pretty robust discussion around this motion. I think we should move to a vote. I'm going to ask if anybody needs time to caucus, please raise your hands. Okay, I see one hand from Massachusetts, so we'll go ahead and provide two minutes to caucus, and then we'll come back and vote. Thanks.

Okay, does anybody need any additional time to caucus? Okay, not seeing any hands. I'll ask if there are any objections to this motion. Okay, I see a couple of objections, so why don't we drop back to doing this the normal way. **I'll ask, all those in favor of the motion, please raise your hand.**

MS. KERNS: Letting the hands settle. I have Rhode Island, Delaware, New York, New Jersey, Connecticut and Maryland. I will clear the hands.

CHAIR DAVIS: Okay, we've got the hands cleared, all those opposed, same sign.

MS. KERNS: North Carolina, Massachusetts. One more, Virginia, sorry. I will clear the hands.

CHAIR DAVIS: Any abstentions?

MS. KERNS: New Hampshire and NOAA Fisheries.

CHAIR DAVIS: Okay, any null votes?

MS. KERNS: No hands.

CHAIR DAVIS: Okay, by my count, motion carries 6 in favor, 3 opposed with 2 abstentions. At this point we've dispensed with both parts of that divided motion.

OTHER BUSINESS

CHAIR DAVIS: I'll just ask if we have any Other Business we need to conduct under this agenda item. I see a hand from Mike Luisi, go ahead.

MID-ATLANTIC INPUT

MR. LUISI: I thought it was important to move this forward, that is why I supported it. I just want to go on record to say that I think, well, I think you and I could work together, along with Toni, Bob and Chris and other staff to have this as an agenda item. Not as an informal Board/Council joint meeting, but a formal Board/Council joint meeting. The next one that I believe that we'll all be in attendance, that will be the August meeting.

I have no problem with this being brought up during a joint meeting, saying that the Board already took action, and then get Council feedback on that. But I do want to make the point that I believe it's really important that the Council also have an opportunity to weigh in, in a formal way, and not just have a few Board members speaking to the motion in some kind of informal setting, which I think April would end up being something like that.

We are very close to having our agenda ready to go. It's a really long shot to be able to put something like this on the agenda, given the time that it may take for discussion purposes. I just wanted to put that on the record, and you and I can talk anytime in the next few weeks to try to get something set up for sometime this summer.

CHAIR DAVIS: Okay, thanks, Mike, that is helpful and definitely imagine we'll be talking after this meeting to move that forward. I'll just confirm with staff that we've dispensed with all

the business that we needed to under Agenda Item 4.

MS. BAUER: Yes, I believe so.

CHAIR DAVIS: Okay, before we move on to other business, I'm going to turn the floor over really quickly to Toni, who I think has some information to communicate related to the species that this Board manages that we haven't discussed yet today. The floor is yours, Toni.

SUMMER FLOUNDER UPDATE

MS. KERNS: I just wanted to clarify where we are with summer flounder. We've received a couple questions, and so I just wanted to put it on the record of the process that we took. In the end we have status quo measures for summer flounder. No state will make any changes to their recreational measures.

The Commission utilized the RDM run that was presented to the Monitoring Committee, which put us into the box of allowing a potential liberalization, because of the discussions that we had in December. It was agreed upon that there would be no changes to the summer flounder measures, we just wanted to clarify that.

RDM PROCESS

MS. KERNS: Then the other piece is that in the process of moving forward and using the RDM, and this being the first year, we've learned some lessons, had some questions, and the staff of the Commission and Mid-Atlantic Council agreed that we needed the Monitoring Committee and the Technical Committee, who are scientific advisors, on these species who understand the biology of these species the best, and implications of how we set these measures and the MRIP numbers.

We are going to have those two bodies get together late spring, early summer, to go through the process to evaluate the process that we went through this year, make some recommendations on where we need to potentially streamline, or set some requirements or guidelines on how to move

forward. We will bring those back to the Council and the Board for your review and consideration. Adam, this may get at what you were wanting to talk about, in terms of the RDM process, so that is our plan.

CHAIR DAVIS: Thanks, Toni, does anybody have any questions for Toni about that information? Adam, go ahead.

MR. NOWALSKY: I definitely think this is the Other Business topic I brought up, so thank you very much. I think the biggest area of input is when we heard back in December that there were some changes made to the model runs that affected their output, and subsequent information we've gathered about that suggest that some of those changes may be preferential in nature, and really a management decision as to what the right parameter is.

Is part of the discussion that you're referencing here so far, Toni, would that include an identification of what those parameters within the model might be that could be part of management decision, and in the timeframe, you laid out, do you think we have sufficient time for management to weigh in on those, understand the issues, and provide feedback as to what the right values might be for those parameters, before we start running models in the fall?

MS. KERNS: We can do that, Adam, for sure. I think that Kiley and Julia are on this line, and maybe Hannah, and they can correct me if I'm wrong, but I think it's something that we have the potential to bring back to the Board and the Council at the joint August meeting, so that we can ensure that the process would be complete in time for specification setting next year, or later in the year for this year.

Kiley or Julia or Hannah, if anybody disagrees, go ahead and raise your hand and I'll unmute you, because it's hard for me to find you on the list. I don't see them raising their hand.

CHAIR DAVIS: Okay, thanks, Toni, so sort of under a timeline. You are describing there would be a meeting of the technical folks in late spring or early summer, to sort of hash out what the decision points will be in parameterizing the model for the 2024 measure setting process, identifying those areas where there will be a need for management input. That discussion would sort of queue up a discussion between the Board and the Council at the joint meeting in August.

Then that would provide sufficient time, in your estimation, to inform the modeling that needs to be done to first sort of determine what reductions or liberalizations might be possible for 2024, and how the model should be set up to craft potential measures. In other words, there is not a concern that by waiting until August to have a joint management discussion about model parameterization, that we're not leaving ourselves enough time to set ourselves up for success for 2024.

MS. KERNS: Correct. I think we should have sufficient time to do that, and if Council staff a differing opinion, please raise your hand. I don't see Council staff raising their hand.

CHAIR DAVIS: Okay thanks, Adam, I'll just ask, you know you had suggested we discuss this under Other Business. Does that discussion sort of adequately capture what you think we needed to talk about today at this meeting?

MR. NOWALSKY: Yes, it does. Thank you.

CHAIR DAVIS: Okay, thanks and with respect to the other business item you had suggested, which was discussing, you know the Wave 1 and 2 issue around scup. I think we sort of had a pretty good discussion about the federal closure and the related issues under the previous agenda item. Were there any other items there you would like to discuss or put before the Board for discussion?

MR. NOWALSKY: No, there were not, thank you though.

CHAIR DAVIS: I will say, Nicole Bogan, I see your hand raised, and I did sort of say we would give you an opportunity to discuss when we got to that portion of the meeting, talking about the federal measures, and I neglected to do that. Nicole, I'll just give you a minute here if there are some comments you would like to make to the Board.

MS. BOGAN: Yes, I just had a question. You know I used to work in pharmaceuticals too, and are you guys using model-based data or data driven data, because at least from what I've seen through studies, like I know the different environments, like the model-based data is not really as accurate. Is that what you guys are solely basing it on, or are you actually using data-driven data or just model based?

CHAIR DAVIS: I think, Nicole, that is a big topic and a huge discussion. What I would suggest is if you would like more information on sort of how the scientific portion of our process works, I think Commission staff would be happy to talk to you and provide some information on sort of how that process works, but I'll turn to Commission staff to make sure I'm not speaking out of turn here.

MS. BOGAN: Okay, thank you.

MS. BAUER: Yes, Nicole, I can touch base with you afterwards, and we can talk more.

MS BOGAN: Okay, thank you so much.

CHAIR DAVIS: Thanks for that question, Nicole. Okay, I'll ask the Board if there is any other business for this Board today, before we adjourn. I see a hand from John Maniscalco. Go ahead, John.

HARVEST CONTROL RULE

MR. JOHN MANISCALCO: Thanks, Mr. Chair. We have a management stock assessment for scup and summer flounder occurring this year. Unfortunately, black sea bass is another year or so out. I'm just wondering, or I'm assuming

we'll find ourselves doing this again for scup and summer flounder, you know at end of 2023. It's unclear to me if we'll have to revisit black sea bass again as well, and then finally, I'm also interested in if we're going to resume looking at Harvest Control Rule options, other than the percent change approach. Thank you.

CHAIR DAVIS: Great questions. Tracey, I'll turn those over to you.

MS. BAUER: With the Harvest Control Rule options, that is something we're starting to look at. We've put together a timeline, which will be shared not at this meeting. We thought too much going on this meeting to talk about that. But potentially May meeting, timeline for that, and the Amendment. I think we're starting to look at putting together an FMAT, PDT and stuff like that. That is all in the beginning stages, and that will definitely be picking up steam, especially the Harvest Control Rule in the latter half of this year.

MS. KERNS: Tracey, a question. Okay, keep going and then I'll see.

MS. BAUER: I was just going to ask, what exactly was your other question, John. It was a little hard to hear you.

MR. MANISCALCO: Sure, sorry about that. We have management track assessments for summer flounder and scup, so I expect we'll be doing this again at the end of 2023. But I was also wondering, is black sea bass then going to be remaining status quo for 2024, or will we also have to revisit black sea bass?

MS. BAUER: As far as I understand, the last I heard with black sea bass and the delay in the assessment and everything like that, is that they are going to this year put 2021, 2022 data into the past model, to project the projections for specifications. We wouldn't be remaining status quo; we would be relying on what the projections tell us. Then once we have that research track completed, we'll do the management track and get back in cycle with summer flounder and scup.

MS. KERNS: I'll add to that in that I wish I could answer your question, John, and I think we should have a conversation with Mid-Atlantic Council staff and NOAA Fisheries to make sure we're all on the same page, and we can provide an update to the Board through an e-mail on what we will or will not have to do for black sea bass. But you are correct that scup and summer flounder would fall into the evaluation timeframe, due to the timing of the assessment update.

CHAIR DAVIS: Okay thanks, does that answer your questions, John?

MR. MANISCALCO: Yes, thank you, all.

CHAIR DAVIS: Okay, Tom Fote, bring us home.

MR. THOMAS P. FOTE: I'm not going to make anybody happy, but I needed to say this after sitting around listening to this conversation all day. Going out to the public, going out to the recreational community, and try to explain what we're doing with scup, and the cutbacks we need to take, even though the stock would be probably 20 percent under the overall quota is not a good situation.

I mean, we've been losing the trust of the recreational and the commercial community, because of our management of scup and black sea bass, because we realize there is so many fish out there, yet they are not allowed to harvest them. But when we basically put restrictions on them and we know that the quota will not be landed.

We basically still reduce the fishery on the recreational community. That will cause pain, cause suffering and loss of money to the charterboat, party boat, tackle stores and everything else, just because that's what it says on paper. We're not doing our jobs. I figured I must put that on the record after doing this job for 35 years.

CHAIR DAVIS: Okay, thanks, Tom, and I would say I can't agree with you more. I've certainly been having some very difficult discussions at home with our stakeholders about what we're doing with scup and black sea bass, and I suspect it's the same for everybody around the table. I guess what I would say is that we've been working hard to try to improve the situation.

I do think the Harvest Control Rule and the percent change approach was a definite improvement, but to the public that is out there listening, we recognize the situation. Everyone around this table is doing everything they can to work to get us to a better place.

ADJOURNMENT

CHAIR DAVIS: All right, so with that I'll just ask if there is any other business before this Board today. We're a few minutes over our slotted time, but not too much, we did okay.

All right, not seeing any hands, I'll just thank everybody around this table, the virtual table, Commission staff, Mid-Atlantic Council staff, and staff from NOAA National Marine Fishery Service for all the work everybody put in to get us to this point this year. Thanks everybody for your hard work, thanks for your time and attention today. **This Board stands adjourned.** Thank you everybody.

(Whereupon the meeting adjourned at 12:35 a.m.
on Thursday, March 2, 2023)



Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: Summer Flounder, Scup, and Black Sea Bass Management Board

FROM: Chelsea Tuohy and Tracey Bauer, Fishery Management Plan Coordinators

DATE: January 31, 2023

SUBJECT: Proposed 2024-2025 Regional Recreational Management Measures for Summer Flounder and Scup and 2024 Minor Season Adjustments for Black Sea Bass

Background

In December, the Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and the Mid-Atlantic Fishery Management Council (Council) met jointly to set 2024-2025 recreational management measures for summer flounder and scup and 2024 recreational management measures for black sea bass. The Percent Change Approach, as implemented under Addendum XXXIV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), was used in conjunction with the Recreation Demand Model (RDM) to determine that summer flounder and scup require a 28% and 10% reduction in recreational harvest in 2024, respectively. In 2025, recreational management measures for summer flounder and scup will remain status quo from 2024. Black sea bass recreational management measures will remain status quo in 2024. However, states were approved to consider minor season adjustments (i.e., to maintain a Saturday opening), as long as the proposals are supported by the RDM and approved by the Board.

For summer flounder, the Board and Council opted to proceed with the regional conservation equivalency processes as outlined in Addendum XXXII, as opposed to implementing uniform coastwide measures. Addendum XXXII requires each region (Massachusetts, Rhode Island, Connecticut-New York, New Jersey, Delaware-Virginia, North Carolina) to implement summer flounder regulations that will collectively achieve but not exceed the recreational harvest limit. Each region must implement measures with same minimum size limit, possession limit, and season length. Additionally, each region is expected to achieve a 28% harvest reduction by weight. At the December joint meeting under Board action, the Board voted to exempt North Carolina from implementing further restrictions to summer flounder regulations unless additional action is needed to achieve a coastwide 28% reduction in recreational harvest of summer flounder.

For scup, the Board and Council agreed at the December joint meeting to maintain the federal possession limit of 40 fish and remove the early season closure resulting in a year-round open season in federal waters. The Board and Council agreed that states would modify state recreational management measures through the Commission process to achieve the full 10% coastwide harvest reduction.

Regional Proposals

The Summer Flounder, Scup, and Black Sea Bass Technical Committee (TC) used the RDM to recommend options for 2024-2025 recreational measures for summer flounder and scup which achieve a 28% and 10% reduction, respectively. Specific summer flounder and scup measures are associated with each option, as the model relies on inputs of measures from both species to calculate estimates of 2024

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harvest. Options are organized by region (Massachusetts, Rhode Island, Connecticut-New York, New Jersey, Delaware-Virginia, North Carolina) for both species.

The RDM is currently unable to pick up scup harvest from states south of New Jersey. However, as the Board did not exempt the southern states from a reduction, these states were required to propose measures that provided some amount of scup reduction for the 2024-2025 fishing years. As a result, states from Delaware through North Carolina have proposed a status quo option for scup and an option to reduce the scup bag limit from 40 fish to 35 fish with the exception of Virginia which will remain status quo with a 30 fish bag limit. The TC supported the southern region's proposal and focused on achieving the 10% reduction in scup recreational harvest from the states New Jersey through Massachusetts because a majority of scup harvest (99%) occurs from these states and any reduction in the states south of New Jersey would likely have a negligible effect on coastwide scup harvest.

Table 1 details the proposed options for summer flounder and scup recreational measures for Massachusetts through New York. The regional percent reduction was not calculated by the RDM for every single possible combination of options from each state, but from a set of measures as an example. Table 2 provides the percent reductions of summer flounder and scup for the entire northern region (Massachusetts-New York) based on the example set of measures.

Table 3 details the proposed options and associated percent reduction for each species for New Jersey.

Table 4 details the proposed options and associated percent reduction for each species for the southern region, Delaware through North Carolina (north of Cape Hatteras for scup).

Table 5 provides the percent reductions of summer flounder and scup for the entire coast based on the example set of measures selected by each state.

Black Sea Bass: Minor 2024 Season Adjustments

Massachusetts and Connecticut have proposed minor season adjustments to maintain a Saturday opening of their 2024 black sea bass season. The requirements to allow these season adjustments while maintaining status quo black sea bass harvest in 2024 were as follows: 1) if a state adds days to the beginning of their black sea bass season to maintain a Saturday opening, the RDM must be used to determine how many days need to be removed from the end of the season to maintain status quo black sea bass harvest and not increase harvest; 2) the changes made to summer flounder and scup measures to achieve their respective reductions for 2024-2025 fishing years, which can have slight impacts on estimated black sea bass harvest, cannot be used to account for any minor adjustments to the black sea bass season in 2024. Both Massachusetts and Connecticut are requesting a May 18 opening date for their 2024 black sea bass season, and, based on RDM runs, have removed 3 days from the end of their seasons in 2024 to account for this extra harvest.

Table 6 details the proposed minor season adjustments to Massachusetts's and Connecticut's black sea bass seasons in 2024 that maintain status quo black sea bass harvest in these two states.

Tables

Table 1. Proposed 2024-2025 summer flounder and scup recreational management measures for the northern region(s), from Massachusetts to New York.

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
Massachusetts	1	Private and For-Hire	5	17.5"	5/24-9/23	-28.11%	Private	30	11"	5/1-12/31	-6.80%
		Shore		30			9.5"				
		Shore	40	11"			5/1-6/30				
			30	11"			7/1-12/31				
	2	Private and For-Hire	4	17.5"	5/24-9/30	-28.05%	Private	30	11"	5/1-12/31	-6.80%
		Shore		30			9.5"				
		Shore	40	11"			5/1-6/30				
			30	11"			7/1-12/31				
	3	Private and For-Hire	3	17"	5/24-8/27	-28.04%	Private	30	11"	5/1-12/31	-6.77%
		Shore		30			9.5"				
		Shore	40	11"			5/1-6/30				
			30	11"			7/1-12/31				
	4	Private and For-Hire	3	17"	6/5-9/2	-28.73%	Private	30	11"	5/1-12/31	-6.78%
		Shore		30			9.5"				
		Shore	40	11"			5/1-6/30				
			30	11"			7/1-12/31				
	5	Private and For-Hire	3	17"	6/18-9/29	-28.30%	Private	30	11"	5/1-12/31	-6.79%
		Shore		30			9.5"				
Shore		40	11"	5/1-6/30							
		30	11"	7/1-12/31							
6	Private and For-Hire	3	17"	6/18-9/29	-28.54%	Private	30	11"	5/1-12/31	-6.80%	
						Shore	30	9.5"			
						For-Hire	40	11"	5/1-6/30		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
		Shore		16.5"				30	11"	7/1-12/31	
	7	Private and For-Hire	2	16.5"	5/24-8/26	-28.53%	Private	30	11"	5/1-12/31	-6.74%
		Shore					30	9.5"			
		Shore	2	16.5"	5/24-8/26	-28.53%	For-Hire	40	11"	5/1-6/30	
								30	11"	7/1-12/31	
	8	Private and For-Hire	2	16.5"	6/5-9/2	-28.24%	Private	30	11"	5/1-12/31	-6.75%
		Shore					30	9.5"			
		Shore	2	16.5"	6/5-9/2	-28.24%	For-Hire	40	11"	5/1-6/30	
								30	11"	7/1-12/31	
	9	Private and For-Hire	2	16.5"	6/12-9/15	-28.47%	Private	30	11"	5/1-12/31	-6.76%
		Shore					30	9.5"			
		Shore	2	16.5"	6/12-9/15	-28.47%	For-Hire	40	11"	5/1-6/30	
30								11"	7/1-12/31		
10	Private and For-Hire	2	16.5"	6/18-9/29	-28.26%	Private	30	11"	5/1-12/31	-6.77%	
	Shore					30	9.5"				
	Shore	2	16.5"	6/18-9/29	-28.26%	For-Hire	40	11"	5/1-6/30		
							30	11"	7/1-12/31		
11	For-Hire	5	17.5"	5/24-8/26	-29.08%	Private	30	11"	5/1-12/31	-6.79%	
	Private and Shore		2			16.5"	40	11"			5/1-6/30
	Private and Shore	2	16.5"	5/24-8/26	-29.08%	For-Hire	30	11"	7/1-12/31		
							30	11"	7/1-12/31		
12	For-Hire	5	17.5"	6/5-9/2	-28.82%	Private	30	11"	5/1-12/31	-6.80%	
	Private and Shore		2			16.5"	40	11"			5/1-6/30
	Private and Shore	2	16.5"	6/5-9/2	-28.82%	For-Hire	30	11"	7/1-12/31		
							30	11"	7/1-12/31		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
	13	For-Hire	5	17.5"	6/12-9/15	-29.08%	Private	30	11"	5/1-12/31	-6.80%
				Shore			30	9.5"			
		Private and Shore	2	16.5"			For-Hire	40	11"	5/1-6/30	
								30	11"	7/1-12/31	
	14	For-Hire	5	17.5"	6/18-9/29	-28.85%	Private	30	11"	5/1-12/31	-6.81%
				Shore			30	9.5"			
		Private and Shore	2	16.5"			For-Hire	40	11"	5/1-6/30	
								30	11"	7/1-12/31	
	15	Private and For-Hire	5	17.5"	5/24-9/23	-28.11%	Private	9	10.5"	5/1-12/31	-13.41%
				Shore			9	9.5"			
		Shore		For-Hire			20	10.5"	5/1-6/30		
							9	10.5"	7/1-12/31		
	16	Private and For-Hire	4	17.5"	5/24-9/30	-28.05%	Private	9	10.5"	5/1-12/31	-13.41%
				Shore			9	9.5"			
		Shore		For-Hire			20	10.5"	5/1-6/30		
							9	10.5"	7/1-12/31		
	17	Private and For-Hire	3	17"	5/24-8/27	-28.04%	Private	9	10.5"	5/1-12/31	-13.36%
				Shore			9	9.5"			
		Shore		For-Hire			20	10.5"	5/1-6/30		
							9	10.5"	7/1-12/31		
	18	Private and For-Hire	3	17"	6/5-9/2	-28.73%	Private	9	10.5"	5/1-12/31	-13.38%
				Shore			9	9.5"			
		Shore		For-Hire			20	10.5"	5/1-6/30		
							9	10.5"	7/1-12/31		
19	Private and For-Hire	3	17"	6/18-9/29	-28.30%	Private	9	10.5"	5/1-12/31	-13.39%	
						Shore	9	9.5"			
						For-Hire	20	10.5"	5/1-6/30		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
		Shore		16.5"				9	10.5"	7/1-12/31	
	20	Private and For-Hire	3	17"	6/18-9/29	-28.54%	Private	9	10.5"	5/1-12/31	-13.40%
		Shore		16.5"			For-Hire	20	10.5"		
		Shore		16.5"			9	10.5"	7/1-12/31		
	21	Private and For-Hire	2	16.5"	5/24-8/26	-28.53%	Private	9	10.5"	5/1-12/31	
		Shore					For-Hire	20	10.5"		5/1-6/30
		Shore		16.5"			9	10.5"	7/1-12/31		
	22	Private and For-Hire	2	16.5"	6/5-9/2	-28.24%	Private	9	10.5"	5/1-12/31	-13.34%
		Shore					For-Hire	20	10.5"		
		Shore		16.5"			9	10.5"	7/1-12/31		
	23	Private and For-Hire	2	16.5"	6/12-9/15	-28.47%	Private	9	10.5"	5/1-12/31	
		Shore					For-Hire	20	10.5"		5/1-6/30
		Shore		16.5"			9	10.5"	7/1-12/31		
	24	Private and For-Hire	2	16.5"	6/18-9/29	-28.26%	Private	9	10.5"	5/1-12/31	-13.36%
		Shore					For-Hire	20	10.5"		
		Shore		16.5"			9	10.5"	7/1-12/31		
	25	For-Hire	5	17.5"	5/24-8/26	-29.08%	Private	9	10.5"	5/1-12/31	
		Private and Shore		16.5"			For-Hire	20	10.5"		5/1-6/30
		Shore		16.5"			9	10.5"	7/1-12/31		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
	26	For-Hire	5	17.5"	6/5-9/2	-28.82%	Private	9	10.5"	5/1-12/31	-13.38%
							Shore	9	9.5"		
		Private and Shore	2	16.5"			For-Hire	20	10.5"	5/1-6/30	
								9	10.5"	7/1-12/31	
	27	For-Hire	5	17.5"	6/12-9/15	-29.08%	Private	9	10.5"	5/1-12/31	-13.39%
							Shore	9	9.5"		
		Private and Shore	2	16.5"			For-Hire	20	10.5"	5/1-6/30	
								9	10.5"	7/1-12/31	
	28	For-Hire	5	17.5"	6/18-9/29	-28.85%	Private	9	10.5"	5/1-12/31	-13.40%
							Shore	9	9.5"		
		Private and Shore	2	16.5"			For-Hire	20	10.5"	5/1-6/30	
								9	10.5"	7/1-12/31	
29	Private and For-Hire	5	17.5"	5/24-9/23	-28.11%	Private	20	11"	4/1-12/31	-13.68%	
			Shore			20	10"				
	Shore		For-Hire			16.5"	20	11"	4/1-4/30		
							40	11"	5/1-6/30		
30	Private and For-Hire	4	17.5"	5/24-9/30	-28.05%	Private	20	11"	4/1-12/31	-13.68%	
			Shore			20	10"				
	Shore		For-Hire			16.5"	20	11"	4/1-4/30		
							40	11"	5/1-6/30		
31	Private and For-Hire	3	17"	5/24-8/27	-28.04%	Private	20	11"	4/1-12/31	-13.65%	
			Shore			20	10"				
	Shore		For-Hire			16.5"	20	11"	4/1-4/30		
							40	11"	5/1-6/30		
32	Private and For-Hire	3	17"	6/5-9/2	-28.73%	Private	20	11"	4/1-12/31	-13.66%	
						Shore	20	10"			
	For-Hire					20	11"	20	11"		4/1-4/30
								20	11"		4/1-4/30

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest	
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season		
		Shore		16.5"				40	11"	5/1-6/30		
								20	11"	7/1-12/31		
	33	Private and For-Hire	3	17"	6/18-9/29	-28.30%	Private	20	11"	4/1-12/31	-13.67%	
		Shore		16.5"			For-Hire	20	11"			4/1-4/30
							40	11"	5/1-6/30			
							20	11"	7/1-12/31			
	34	Private and For-Hire	3	17"	6/18-9/29	-28.54%	Private	20	11"	4/1-12/31		-13.68%
		Shore		16.5"			For-Hire	20	11"			
							40	11"	5/1-6/30			
							20	11"	7/1-12/31			
	35	Private and For-Hire	2	16.5"	5/24-8/26	-28.53%	Private	20	11"	4/1-12/31	-13.62%	
		Shore					For-Hire	20	11"			
							40	11"	5/1-6/30			
							20	11"	7/1-12/31			
	36	Private and For-Hire	2	16.5"	6/5-9/2	-28.24%	Private	20	11"	4/1-12/31		-13.63%
		Shore					For-Hire	20	11"			
							40	11"	5/1-6/30			
							20	11"	7/1-12/31			
37	Private and For-Hire	2	16.5"	6/12-9/15	-28.47%	Private	20	11"	4/1-12/31	-13.64%		
	Shore					For-Hire	20	11"			4/1-4/30	
						40	11"	5/1-6/30				
						20	11"	7/1-12/31				
38		2	16.5"	6/18-9/29	-28.26%	Private	20	11"	4/1-12/31		-13.64%	
						Shore	20	10"				

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
		Private and For-Hire					For-Hire	20	11"	4/1-4/30	
		Shore						40	11"	5/1-6/30	
								20	11"	7/1-12/31	
	39	For-Hire	5	17.5"	5/24-8/26	-29.08%	Private	20	11"	4/1-12/31	-13.67%
		Private and Shore	2	16.5"			Shore	20	10"		
							For-Hire	20	11"	4/1-4/30	
	40	11"	5/1-6/30								
	20	11"	7/1-12/31								
	40	For-Hire	5	17.5"	6/5-9/2	-28.82%	Private	20	11"	4/1-12/31	
		Private and Shore	2	16.5"			Shore	20	10"		
							For-Hire	20	11"	4/1-4/30	
	40	11"	5/1-6/30								
	20	11"	7/1-12/31								
	41	For-Hire	5	17.5"	6/12-9/15	-29.08%	Private	20	11"	4/1-12/31	-13.68%
		Private and Shore	2	16.5"			Shore	20	10"		
							For-Hire	20	11"	4/1-4/30	
	40	11"	5/1-6/30								
	20	11"	7/1-12/31								
42	For-Hire	5	17.5"	6/18-9/29	-28.85%	Private	20	11"	4/1-12/31	-13.69%	
	Private and Shore	2	16.5"			Shore	20	10"			
						For-Hire	20	11"	4/1-4/30		
40	11"	5/1-6/30									
20	11"	7/1-12/31									
Rhode Island	1	All	6	19"	4/1-12/31	-34.43%	For Hire	30	11"		5/1-8/31
								40		9/1-10/21	
								30		11/1-12/31	
							Private	30	11"	5/1-12/31	

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
							Shore	30	9.5"	5/1-12/31	
	2	All	3	18.5"	6/4-9/15	-28.62%	For Hire	30	11"	5/1-8/31	-4.69%
						40		9/1-10/31			
						30	11/1-12/31				
						Private	30	11"	5/1-12/31		
						Shore	30	9.5"	5/1-12/31		
	3	All	3	18.5"	5/24-8/26	-28.54%	For Hire	30	11"	5/1-8/31	-4.70%
						40		9/1-10/31			
						30		11/1-12/31			
						Private	30	11"	5/1-12/31		
						Shore	30	9.5"	5/1-12/31		
	4	All	6	19"	4/1-12/31	-34.43%	For Hire	9	10.5"	5/1-8/31	-15.69%
						20		9/1-10/31			
						9		11/1-12/31			
						Private	9	10.5"	5/1-12/31		
						Shore	9	9.5"	5/1-12/31		
	5	All	3	18.5"	6/4-9/15	-28.62%	For Hire	9	10.5"	5/1-8/31	-15.65%
						20		9/1-10/31			
						9		11/1-12/31			
						Private	9	10.5"	5/1-12/31		
						Shore	9	9.5"	5/1-12/31		
	6	All	3	18.5"	5/24-8/26	-28.53%	For Hire	9	10.5"	5/1-8/31	-15.66%
						20		9/1-10/31			
						9		11/1-12/31			
						Private	9	10.5"	5/1-12/31		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
							Shore	9	9.5"	5/1-12/31	
	7	All	6	19"	4/1-12/31	-34.43%	For Hire	20	11"	4/1-8/31	-9.18%
								40		9/1-10/31	
								20		11/1-12/31	
							Private	20	11"	4/1-12/31	
							Shore	20	10"	4/1-12/31	
	8	All	3	18.5"	6/4-9/15	-28.62%	For Hire	20	11"	4/1-8/31	-9.16%
								40		9/1-10/31	
								20		11/1-12/31	
							Private	20	11"	4/1-12/31	
							Shore	20	10"	4/1-12/31	
	9	All	3	18.5"	5/24-8/26	-28.54%	For Hire	20	11"	4/1-8/31	-9.15%
40								9/1-10/31			
20								11/1-12/31			
Private							20	11"	4/1-12/31		
Shore							20	10"	4/1-12/31		
Connecticut & New York	1	All	3	19"	5/1-9/8	-29.60%	Private	30	11"	-12.80%	
							Shore		9.5"		
							For-Hire	30	11"		5/1-8/31
								40			9/1-10/31
								30			11/1-12/31
	2	All	3	19"	5/1-9/8	-29.60%	Private	9	10.5"	-10.40%	
							Shore		9.5"		
							For-Hire	9	10.5"		5/1-8/31
								20			9/1-10/31
	9	11/1-12/31									
3	All	3	19"	5/1-9/8	-29.60%	Private	20	11"	-11.80%		
						Shore		10"			

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest	
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season		
							For-Hire	20	11"	5/1-8/31		
								40		9/1-10/31		
								20		11/1-12/31		
	4	All	3	19"	5/4-9/14	-28.20%		Private	30	11"	5/1-12/31	-12.80%
								Shore		9.5"		
								For-Hire	30	11"	5/1-8/31	
	40	9/1-10/31										
	30	11/1-12/31										
	5	All	3	19"	5/4-9/14	-28.20%		Private	9	10.5"	5/1-12/31	-10.40%
Shore								9.5"				
For-Hire								9	10.5"	5/1-8/31		
								20		9/1-10/31		
9	11/1-12/31											
6	All	3	19"	5/4-9/14	-28.20%		Private	20	10.5"	4/1-12/31	-11.80%	
							Shore		9.5"			
							For-Hire	20	10.5"	5/1-8/31		
								40		9/1-10/31		
20	11/1-12/31											
7	All	3	19"	5/17-9/20	-28.50%		Private	30	11"	5/1-12/31	-12.80%	
							Shore		9.5"			
							For-Hire	30	11"	5/1-8/31		
								40		9/1-10/31		
30	11/1-12/31											
8	All	3	19"	5/17-9/20	-28.50%		Private	9	10.5"	5/1-12/31	-10.40%	
							Shore		9.5"			
							For-Hire	9	10.5"	5/1-8/31		
								20		9/1-10/31		
9	11/1-12/31											
9	All	3	19"	5/17-9/20	-28.50%		Private	20	11"	4/1-12/31	-11.80%	
							Shore		10"			
							For-Hire	20	11"	5/1-8/31		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
								40		9/1-10/31	
								20		11/1-12/31	
	10	All	3	19"	5/1-7/24	-28.40%	Private	30	11"	5/1-12/31	-11.90%
							Shore		9.5"		
						For-Hire	30	11"	5/1-8/31		
							40		9/1-10/31		
				8/4-10/9			30		11/1-12/31		
	11	All	3	19"	5/1-7/24	-28.40%	Private	9	10.5"	5/1-12/31	
							Shore		9.5"		
						For-Hire	9	10.5"	5/1-8/31		
							20		9/1-10/31		
				8/4-10/9			9		11/1-12/31		
	12	All	3	19"	5/1-7/24	-28.40%	Private	20	11"	4/1-12/31	-11.80%
							Shore		10"		
						For-Hire	20	11"	5/1-8/31		
							40		9/1-10/31		
				8/4-10/9			20		11/1-12/31		
	13	All	4	19.5"	4/1-10/31	-36.50%	Private	30	11"	5/1-12/31	
							Shore		9.5"		
						For-Hire	30	11"	5/1-8/31		
							40		9/1-10/31		
							30		11/1-12/31		
	14	All	4	19.5"	4/1-10/31	-36.50%	Private	9	10.5"	5/1-12/31	-10.50%
							Shore		9.5"		
						For-Hire	9	10.5"	5/1-8/31		
							20		9/1-10/31		
							9		11/1-12/31		
	15	All	4	19.5"	4/1-10/31	-36.50%	Private	20	11"	4/1-12/31	
							Shore		10"		
						For-Hire	20	11"	5/1-8/31		

State(s)	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
								40		9/1-10/31	
								20		11/1-12/31	
	16	All	3	18.5"	6/12-8/28	-28.20%	Private	30	11"	5/1-12/31	-12.80%
							Shore		9.5"		
							For-Hire	30	11"	5/1-8/31	
								40		9/1-10/31	
								30		11/1-12/31	
	17	All	3	18.5"	6/12-8/28	-28.20%	Private	9	10.5"	5/1-12/31	-10.40%
							Shore		9.5"		
							For-Hire	9	10.5"	5/1-8/31	
								20		9/1-10/31	
								9		11/1-12/31	
	18	All	3	18.5"	6/12-8/28	-28.20%	Private	20	11"	4/1-12/31	-11.80%
							Shore		10"		
							For-Hire	20	11"	5/1-8/31	
								40		9/1-10/31	
								20		11/1-12/31	

Table 2. The percent reduction of summer flounder and scup harvest for the northern region(s) (Massachusetts-New York) achieved by the combination of an example set of measures for this memo, by state and for the region as a whole.

State	Option from Table 1	Percent Reduction in Summer Flounder Harvest	Percent Reduction in Scup Harvest
Massachusetts	1	-28.11	-6.80
Rhode Island	1	-34.43	-4.72
Connecticut	4	-24.82	-9.55
New York	4	-28.67	-13.47
Total Northern Region Reduction		-28.87	-10.57

Table 3. Proposed 2024-2025 summer flounder and scup recreational management measures for New Jersey, and associated percent reduction.

State	Option	Summer Flounder Measures				Reduction in Summer Flounder Harvest	Scup Measures				Reduction in Scup Harvest
		Mode	Bag Limit	Minimum Size Limit	Open Season		Mode	Bag Limit	Minimum Size Limit	Open Season	
New Jersey	1	All	3	17.5"	5/24-9/4	-28.02%	All	30	10"	1/1-6/30	-10.08%
										8/27-12/31	
	2	All	1	17-18"	6/4-8/31	-28.98%	All	30	10"	1/1-6/30	-10.58%
			2	18"						8/27-12/31	
	3	All	3	18"	5/4-9/25	-28.19%	All	30	10"	1/1-6/30	-11.54%
										9/1-12/31	
	4	All	1	17-18"	5/10-6/30	-28.78%	All	30	10"	1/1-6/30	-12.11%
			1	18"							
			3	18"	7/1-9/15					9/1-12/31	
	5	For-Hire and Private	3	18"	5/16-9/23	-28.52%	All	30	10"	1/1-6/30	-11.65%
		Shore								2	
	6	All	1	17.5"	5/26-9/13	-28.13%	All	30	10"	1/1-6/30	-12.09%
2			18"	9/1-12/31							

Table 4. Proposed recreational management measures for summer flounder and scup in the southern region(s), from Delaware to North Carolina (north of Cape Hatteras for scup), and associated percent reduction.

State(s)	Option	Summer Flounder Measures			Reduction in Summer Flounder Harvest	Scup Measures		
		Bag Limit	Minimum Size Limit	Open Season		Bag Limit	Minimum Size Limit	Open Season
Delaware-Virginia	1	4	17"	1/1-9/21	-28.19%	40	9"	1/1-12/31
						30 (VA)		
	2	4	17"	5/8-12/31	-28.43%	40	9"	1/1-12/31
						30 (VA)		
	3	3	17"	5/2-12/31	-28.48%	40	9"	1/1-12/31
						30 (VA)		
	4	2	17"	1/1-8/10	-28.49%	40	9"	1/1-12/31
		4		8/11-12/31		30 (VA)		
	5	4	17"	1/1-5/31	-28.33%	40	9"	1/1-12/31
		2		6/1-12/31		30 (VA)		
6	4	17"	1/1-9/21	-28.19%	35	9"	1/1-12/31	
					30 (VA)			
7	4	17"	5/8-12/31	-28.43%	35	9"	1/1-12/31	
					30 (VA)			
8	3	17"	5/2-12/31	-28.48%	35	9"	1/1-12/31	
					30 (VA)			
9	2	17"	1/1-8/10	-28.49%	35	9"	1/1-12/31	
	4		8/11-12/31		30 (VA)			
10	4	17"	1/1-5/31	-28.33%	35	9"	1/1-12/31	
	2		6/1-12/31		30 (VA)			
North Carolina	1	1	15"	8/16-9/30	3.50%	40	9"	1/1-12/31
	2	1	15"	8/16-9/30	3.50%	35	9"	1/1-12/31

Table 5. The percent reduction of summer flounder and scup harvest for the coast achieved by the combination of measures that the states selected for this memo, by state and for the coast as a whole. Note that regions are displayed using the summer flounder six region management system. States from Delaware-North Carolina have no scup reduction as the RDM is unable to detect scup harvest in the southern region. North Carolina measures for summer flounder will remain status quo from 2023 in 2024 and 2025.

State(s)	Option from Table 1 (MA-NY), Table 3 (NJ), & Table 4 (DE-NC)	Percent Reduction in Summer Flounder Harvest	Percent Reduction in Scup Harvest
Massachusetts	1	-28.11	-6.80
Rhode Island	1	-34.43	-4.72
Connecticut-New York	4	-28.20	-12.77
New Jersey	3	-28.19	-11.54
Delaware-Virginia	2	-28.43	0.00
North Carolina	1	3.57	0.00
Total Reduction		-28.49	-10.58

Table 6. Status quo black sea bass measures and proposed adjustments to Massachusetts’s and Connecticut’s black sea bass seasons in 2024, with changes in season opening and closing dates highlighted in red.

	Option	Mode	Bag Limit	Minimum Size Limit	Season	Reduction
Massachusetts	Status Quo	All	4	16.5	5/20-9/7	-
	Proposed	All	4	16.5	5/18-9/3	-0.75%
Connecticut	Status Quo	For-Hire	5	16	5/19-8/31	-
			7		9/1-12/31	
		Private/Shore	5		5/19-6/23, 7/8-12/1	
			5		5/18-8/31	
	Proposed	For-Hire	5	16	9/1-12/31	-0.14%
			7		5/18-6/23, 7/8-11/28	
	Private/Shore	5				



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Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: November 30, 2023
To: Chris Moore, Executive Director
From: Kiley Dancy and Hannah Hart, Staff
Subject: Summer Flounder Commercial Minimum Mesh Size Regulations and Exemptions: Overview and Staff Recommendations

On Tuesday, December 12, the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) will consider multiple summer flounder mesh regulations issues. Background information, a list of meeting materials, and staff recommendations are provided below for the Council and Board's discussion of this agenda item.

Background

Throughout 2023, staff and a Council contractor have evaluated and collected public comment on several summer flounder commercial mesh regulations. These mesh regulations include 1) the current 5.5-inch diamond or 6.0-inch square required minimum mesh size, 2) the summer flounder Small Mesh Exemption Program (SMEP), and 3) the summer flounder flynet exemption.

These summer flounder mesh regulations can be modified through specifications, and depending on the specific changes proposed, modifications may not require a separate action. However, if more complex changes are considered, and/or if more intensive exploration of potential changes is needed, a framework action/addendum may be needed. At this meeting, the Council and Board may choose to 1) make no changes to these measures, 2) recommend specific changes (if within the range of what can be modified via specifications) with the option of specifying a phase-in period, 3) identify additional information to inform reconsideration of one or more of these issues in August, or 4) initiate an action to further consider modifications.

Additional information on each of these regulations and the evaluation of them is provided in the meeting materials listed below.

Meeting Materials

Materials listed below are provided for the Council and Board's discussion of this agenda item. As noted below, some materials will be posted at a later date.

- 1) Briefing document: Summer Flounder Commercial Minimum Mesh Size Review (November 30, 2023)

- 2) Report: Investigation And Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynets Exemption Programs
- 3) Summary of November 13-14, 2023 Monitoring Committee meeting (Part 1: summer flounder commercial mesh issues)
- 4) Summary of public comments received on summer flounder mesh issues (comments received through November 29, 2023)

The following materials will be posted to the meeting page once they are available:

- 5) Summary of December 4, 2023 Advisory Panel meeting
- 6) Any additional public comments received by the supplemental comment deadline of December 7, 2023

Staff Recommendations

Summer Flounder Commercial Minimum Mesh Size

Staff agrees with the Monitoring Committee (MC) recommendation that there is not enough evidence at this time to suggest that a change in the commercial minimum mesh size is warranted. Observer data analysis and industry feedback suggests that a square mesh option is still needed. From the 2018 mesh size study, the length at 50% retention (L50) for the 6-inch square mesh is just below the commercial minimum mesh size. While an increase in square mesh size would be expected to decrease discards of undersized summer flounder, it is not clear to what degree this might occur without additional analysis of alternative square mesh sizes, as the 2018 study did not test square mesh sizes other than 6.0 inches. It is also not clear how such a change would affect retention of legal sized fish. The benefits of such a change may be marginal relative to the high expected costs to industry associated with such a regulation change, but it is difficult to determine this without additional information. Staff supports the MC recommendation to consider adding additional selectivity studies as a research priority for summer flounder, in particular exploring a wider range of square mesh sizes and further comparing selectivity between square and diamond mesh options. If future modifications to mesh size regulations are considered, staff also recommend a more comprehensive evaluation of the economic impacts be considered prior to adopting a change.

Small Mesh Exemption Program

Staff supports the MC recommendation to conduct additional analysis, particularly on the biological impacts to summer flounder, of the industry-proposed change¹ to the small mesh exempted area if considered a priority by the Council and Board. While some changes to the SMEP can be made through specifications, the current proposal is a more complex change in the exempted area than a simple shift of the line. This likely would require a framework action/addendum to complete. A separate action, if prioritized, could allow for additional resources to be dedicated to analysis as well as a more thorough consideration of how the SMEP area should intersect with or overlap with the deep-sea coral protected areas and scup Gear Restricted Areas (GRAs).

¹ For details on the suggested change, see the Investigation and Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynets Exemptions Program report and the public input summary document.

Staff also reiterates the MC recommendation to explore alternative data sources and methods for analyzing use of this exemption going forward. Additional details on the current method used to evaluate the use of this exemption are provided in the Investigation and Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynet Exemption Programs report.

Flynet Exemption

The current flynet exemption, as written, was developed in the 1990s to address a specific gear used in a specific fishery in a region focusing on North Carolina but generally extending north to Cape Henlopen, Delaware. As noted in the report in the briefing materials, the flynet exemption is being used beyond the original intent of the regulation. Unlike the SMEP, the flynet exemption does not have a defined area for where the exempted gear can be used, nor are there LOA or special permit requirements associated with the exemption. There is limited information to identify where, how, and when the exemption is being used aside from observer data and input collected from industry. Staff agrees with the MC that the regulatory definition of a flynet is likely in need of updating to reflect changes in the fisheries and gear configurations that have occurred since the initial implementation of this exemption.

The MC supported the regulatory definition changes if they were expected to modernize the definition in line with current practice and not expected to result in major changes in fishing activity or use of this exemption. However, as noted in the mesh exemptions report, it is difficult to fully evaluate the impacts of the industry-proposed change² based on currently available information. There are several different trawl gear types that may fall under an expanded definition of a flynet, and more information is needed to assess whether the proposed change may lead to greater retention and/or discards of summer flounder with flynet type gear. Additional evaluation is needed regarding the extent of use of flynet-type gear, as well as the target species, location, and timing of fishing. The number of vessels that would be newly exempt from the minimum mesh regulations may have a wide range depending on the exact wording of a revised definition and the gear types it may apply to.

Similar to the SMEP, while some changes to the flynet exemption can be made through specifications, a definition change may require a framework action depending on the scope of change. If the Council and Board support further consideration of definition changes, staff recommend initiating a framework action to consider the implications, and hosting additional dialogue with industry as part of the process. A framework may allow for a more thorough analysis to identify which specific gear types and fisheries may be affected by this change, and how that may relate to potential changes in summer flounder retention and discards.

Staff also recommends exploring additional data sources and analysis methodologies that can be used, either currently or under a modified program, to better track the use of such an exemption.

² For details on the suggested change, see the Investigation and Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynet Exemptions Program report and the public input summary document.

Summary

Staff recommend no changes to the current commercial minimum mesh size.

For the mesh exemptions, if the Council and Board support further exploration of either one, staff recommend that a framework action/addendum be initiated to ensure adequate resources and thorough, transparent consideration of these issues. If the Council and Board are interested in further analysis of changes to both the SMEP and the flynet exemption, staff recommend combining these issues into a single framework action to address both issues. Discussions with and public comments from industry representatives have made it clear that there is some overlap in the fisheries of interest for both of these exemptions, and that revisions to the flynet exemption may impact whether changes to the SMEP are needed. Additionally, the industry-proposed change to the small mesh exemption area includes partial alignment with the scup southern GRA. Given the Council and Board's recent interest in a framework action to consider changes to the scup GRAs, a framework/addendum to consider the summer flounder mesh exemptions in conjunction with the scup GRAs could be beneficial.



Summer Flounder Commercial Minimum Mesh Size Review

December 2023 Council and Board Meeting

Prepared By: Kiley Dancy and Hannah Hart, Council Staff
November 30, 2023

Introduction

The Mid-Atlantic Fishery Management Council (Council) and Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) are considering several summer flounder mesh regulation issues at their December 2023 joint meeting. This document provides background information and preliminary analysis for the Monitoring Committee's consideration of the **summer flounder commercial minimum mesh size requirements** (5.5-inch diamond or 6.0-inch square minimum mesh).

The minimum mesh size regulations can be modified through specifications and would not require a separate action. The Council and Board may choose to 1) make no changes to these measures, 2) recommend specific changes with the option of specifying a phase-in period, or 3) identify additional analysis or research needs to support future consideration of this issue.

Problem Summary

Since 1993, the Fishery Management Plan (FMP) has specified two options for minimum mesh sizes for summer flounder trawl vessels: **5.5-inch diamond or 6.0-inch square**. At the time of Amendment 2 development, there was limited information about square mesh selectivity for summer flounder beyond a recognition that the square mesh equivalent should be larger than the adopted diamond mesh. A recent (2018) study indicated that the 6.0-inch square mesh does not appear to be equivalent to the 5.5-inch diamond mesh in terms of selectivity and may be retaining too many undersized summer flounder. Observer data analysis and industry feedback should be considered to inform discussion of whether a square mesh option is still needed, or whether modifications to the regulations may be needed.

Regulatory Background

Trawl vessels must use nets with a minimum mesh size of **5.5-inch diamond or 6.0-inch square** in the entire net when possessing more than 200 pounds of summer flounder in the winter (November 1-April 30) and more than 100 pounds in the summer (May 1-October 31). These mesh regulations were evaluated through Amendment 2 (1993). At the time this measure applied only to the net's codend. The minimum mesh requirements were modified in 1998 (Amendment 10) to apply throughout the whole net, to reduce mortality and discards of immature summer flounder, as well as to simplify enforcement.

At the time of the original implementation of the minimum mesh size under Amendment 2, data were limited on the selectivity of a square mesh for summer flounder on which to base an equivalent to the 5.5-inch diamond mesh. Mesh selectivity information for cod, haddock, and pollock demonstrated that for round fish, 5.5-inch diamond mesh has roughly the same selectivity characteristics as a 5.0-inch square mesh. However, little information was available on selectivity behavior for flatfishes like summer flounder. The equivalency of 6.0-inch square mesh to 5.5-inch diamond, as documented in Amendment 2, was based on three sources:

1. Amendment 4 to the Northeast Multispecies FMP (1990)¹ stated: “The use of square mesh codends is known to significantly increase the retention of small flounders. Preliminary information indicates that a 5.5-inch square mesh codend may have roughly the same flatfish selectivity characteristics as a 5-inch diamond mesh codend.”
2. A selectivity study for winter flounder in Connecticut (Simpson 1989)² found diamond mesh to have a length at 50% retention about 1 cm longer ($L_{50} = 22.6$ cm), and a selection range (3.4 cm) about 1 cm narrower, than square mesh in a comparison of diamond vs. square mesh 102 mm (4-inch) codends.
3. Researchers in Nova Scotia Cooper and Hickey (1989)³ primarily explored selectivity behavior for cod and haddock but for flounder observed that the diamond mesh cod ends always had higher 50% retention lengths and selection factors.

2018 Mesh Size Study

In 2016-2017, a new mesh size selectivity study for summer flounder, scup, and black sea bass was funded by the Mid-Atlantic Fishery Management Council to address a Council research priority related to determining mesh selectivity for a range of mesh sizes and configurations. The Hasbrouck et al. study report was presented to the Council in April 2018.⁴

Results of this study indicated that the current minimum mesh sizes for summer flounder of 5.5-inch diamond or 6.0-inch square do not appear to be equivalent to each other in terms of selectivity. The 6.0-inch square mesh releases less than 50% of fish at or below the minimum size, and its selectivity appears more similar to a 5.0-inch diamond mesh (Figure 1; Table 1).

The Monitoring Committee first reviewed the results of this study in July 2018, and identified concerns with the amount of undersized summer flounder caught with the 6.0-inch square mesh. The Monitoring Committee recommended further evaluation of potentially phasing out the use of 6.0-inch square mesh to reduce discards of undersized fish, but emphasized that feedback from industry on the use of and need for square mesh nets should be sought before pursuing specific changes.

¹ Amendment 4 to the Northeast Multispecies FMP:

https://archive.nemfc.org/nemulti/planamen/Amend%204/amendment_4_combined.pdf

² Simpson, D.G. (1989). Codend selection of winter flounder *Pseudopleuronectes americanus*. NOAA Technical Report NMFS 75: <https://www.st.nmfs.noaa.gov/spo/SPO/tr75opt.pdf>

³ Cooper, C.G. and W.M. Hickey. 1989. 1988 Selectivity Experiments Square Mesh Cod-Ends of 134, 140, and 155 mm. Fisheries Development and Fishermen's Services Division. Project No. 154: <https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/253803.pdf>

⁴ Hasbrouck et al. 2018 is available at: http://www.mafmc.org/s/Tab08_SFSBSB-Mesh-Selectivity-Study-Apr2018.pdf.

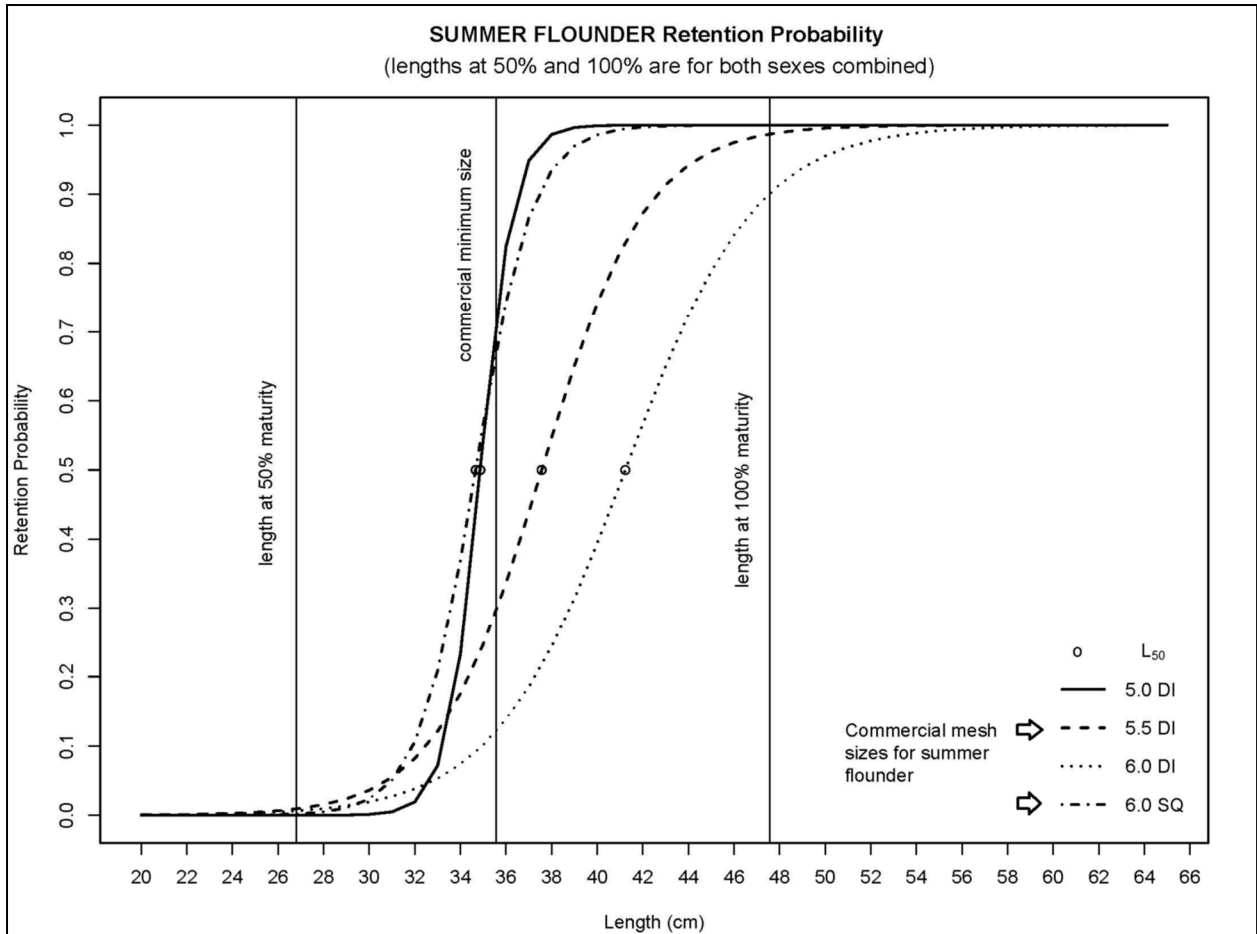


Figure 1: Logistic selective curve for summer flounder catches with 5 codends (4.5-inch diamond, 5-inch diamond, 5.5-inch diamond, 6-inch diamond, 6-inch square). Additional details can be found in the study report (Hasbrouck et al., 2018).

Table 1: From [Hasbrouck et al. 2018](#): Maximum likelihood fit of logistic selectivity curve parameters for 5 codend mesh sizes and SELECT model goodness-of-fit measures for summer flounder. Standard error is shown in parentheses. Coefficient of variation is shown in double parentheses. 5.5" Diamond and 6" Square are the current regulation minimum mesh sizes.

	4.5" Diamond	5" Diamond	5.5" Diamond	6" Diamond	6" Square
N tows (paired)	24	24	24	24	22
N length classes	55	50	51	47	57
Length class range (cm)	21-75	27-76	28-78	32-78	25-81
a	N/A	-47.78	-16.30	-14.42	-27.72
b	N/A	1.37	0.43	0.35	0.80
p - relative fishing efficiency	N/A	0.49 (0.02)	0.55 (0.02)	0.55 (0.03)	0.50 (0.02)
L₂₅ (cm)	N/A	34.07 (0.72) ((0.021))	35.03 (1.19) ((0.034))	38.09 (1.05) ((0.028))	33.29 (1.51) ((0.045))
L₅₀ (cm)	N/A	34.87 (0.67) ((0.019))	37.56 (0.87) ((0.023))	41.23 (1.22) ((0.030))	34.67 (1.16) ((0.034))
L₇₅ (cm)	N/A	35.67 (1.04) ((0.029))	40.1 (1.39) ((0.035))	44.37 (2.00) ((0.045))	36.04 (1.66) ((0.046))
Selection range	N/A	1.6 (1.17)	5.06 (1.92)	6.28 (2.07)	2.75 (2.18)
Selection factor	N/A	6.94	6.83	6.87	5.78
Model deviance	N/A	144.45	230.77	133.48	92.49
df	N/A	113	178	93	73
p-value	N/A	0.0245	0.0047	.0038	0.0615

Observer Data Analysis

Staff used the Northeast Fisheries Observer Program (NEFOP) data to investigate the usage of diamond and square mesh for summer flounder. Specifically, staff looked at observed trawl data from 2007 – 2022 where summer flounder was identified as the primary target species. Based on these observed trips, use of diamond mesh was more commonly observed on hauls targeting summer flounder (68% of hauls), while square mesh made up about 31% of total observed hauls (Table 2).

The observed square mesh hauls were then further broken down into 0.5-inch bins to get a better understanding of what size square mesh was most commonly used among industry participants (Figure 2).⁵ As shown in Figure 2, most observed hauls on trips that reported summer flounder as the primary target species used square mesh measuring 5.5 – 6.49 inches, and the greatest number of observed hauls used 6-6.49 inches.

⁵ 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.

Table 2: Mesh type used on observed trawl hauls from 2007 – 2022 on trips that identified summer flounder as the primary target species.

Mesh Type	Proportion of Total Hauls	Total Number of Hauls
Diamond	68.07%	17,423
Square	31.10%	7,961
Unknown	0.65%	167
Combination	0.10%	25
Square/ Wrapped	0.07%	18
Grand Total	100.00%	25,594

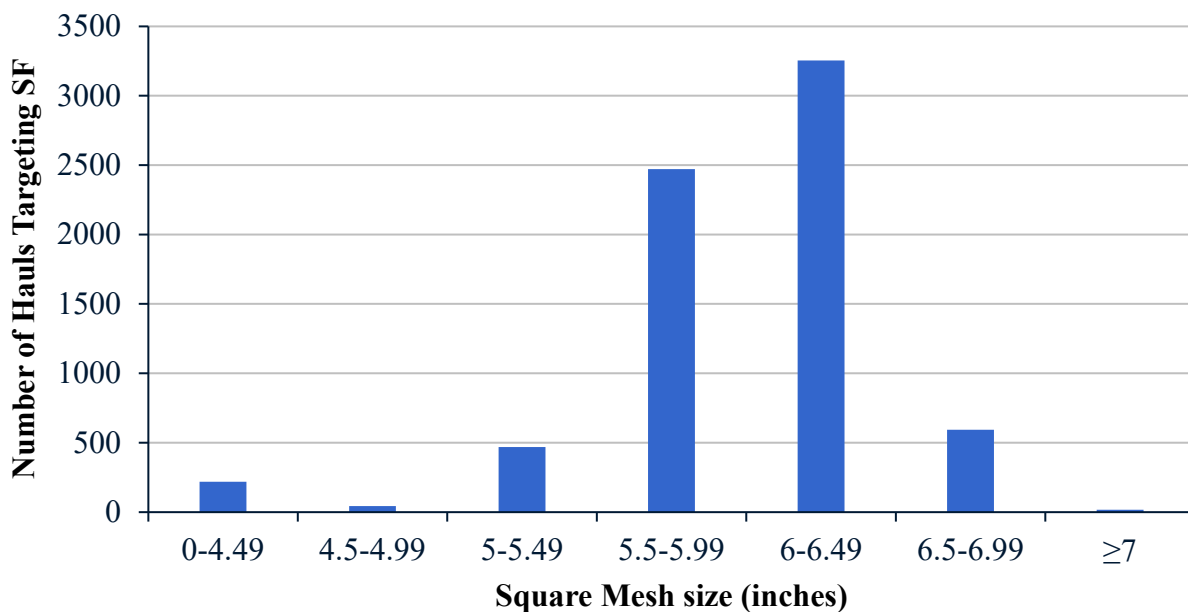


Figure 2: Total number of hauls targeting summer flounder by square mesh size from 2007 – 2022. Data source: NMFS observer data.

Observer data was also used to investigate summer flounder landings and discards by mesh type and mesh size to better characterize summer flounder catch between the two mesh regulations. Based on observed trawl data that reported summer flounder as the primary target species from 2007 – 2022, it appears that diamond mesh measuring 5 – 5.99 inches accounts for the greatest amount of summer flounder landings followed by square mesh measuring 5.5 – 6.49 inches. The quantity of observed summer flounder discards was low across all mesh categories, but the patterns generally matched that of the landings (i.e.; diamond mesh discards occurred mostly in the 5-5.99 inch range and square mesh discards mostly in the 5.5-6.49 inch range; Figure 3).

Observed discards were then compared to total observed catch (landings and discards) by mesh type and size category (Figure 4). Based on this information, discard rates ranged from 3-14.9% depending on the mesh type and size used. Diamond and square mesh measuring less than 4.49 inches resulted in the greatest portion of discards, however, they equate to a relatively small amount of observed discards in pounds (Figure 3).

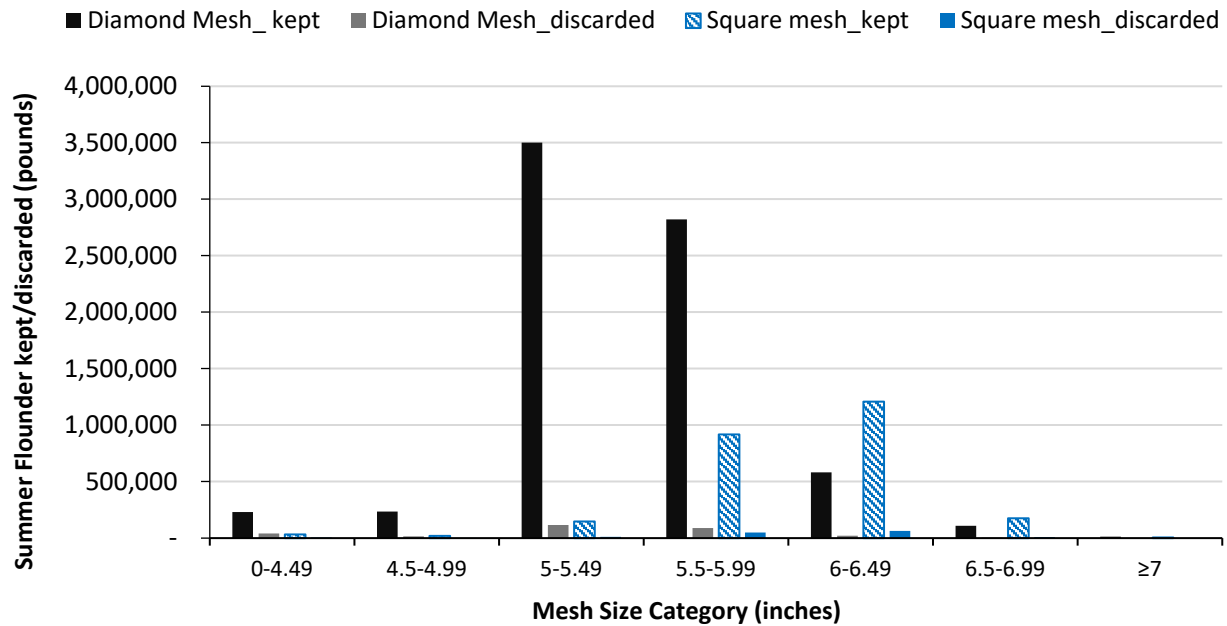


Figure 3: Observed commercial summer flounder landings and discards by mesh type and mesh size, for trawl gear hauls between 2007 – 2022 where summer flounder was identified as the primary target species. Data source: NMFS observer data.

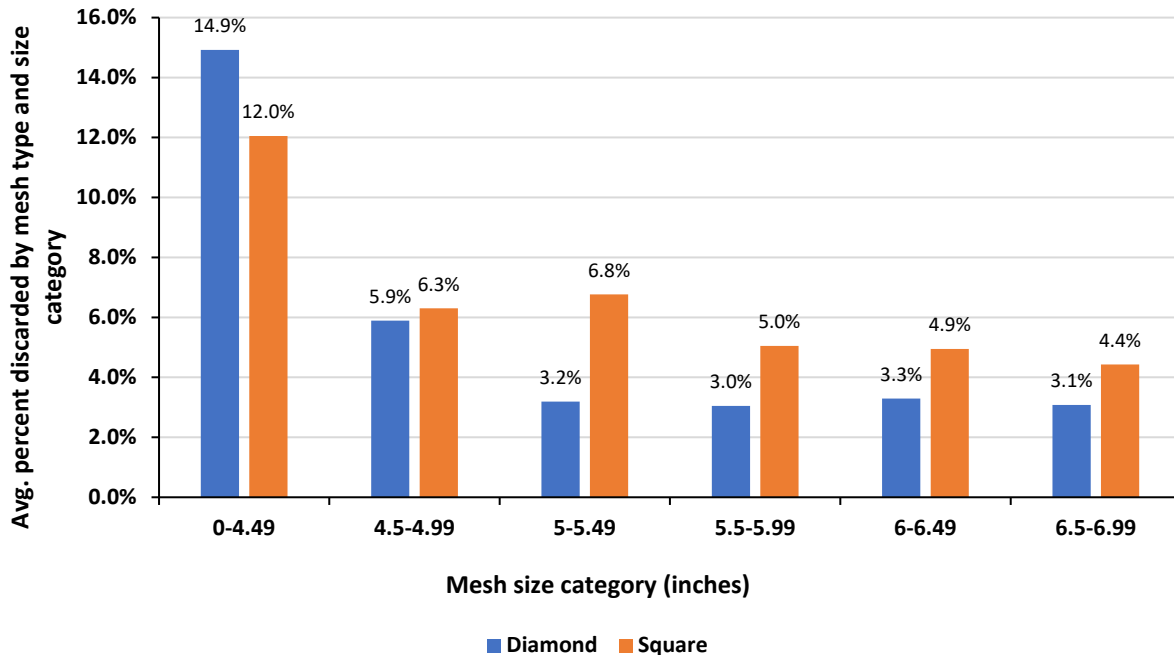


Figure 4: Average percent summer flounder discarded, by mesh type and mesh size, for observed trawl gear hauls between 2007 – 2022 where summer flounder was identified as the primary target species. Data source: NMFS observer data.

Summary of Public Feedback

Comments received to date on this issue include those made during the November 1 Summer Flounder Mesh Regulations Public Input Webinar, as well as some made via email or web form. Trigger questions provided for public comments can be found in the [overview document found here](#). A full summary of the comments received is provided in the [public input summary](#).

In summary, the key take-aways on this issue include:

- Several were concerned about the cost associated with a potential change to the mesh requirements.
 - Codend mesh can cost tens of thousands of dollars and a full net replacement can cost closer to \$50,000.
 - 6.0-inch square nets are still being ordered from net builders and a change to mesh size would render any recent net investments obsolete.
 - Changes would result in a significant financial burden on industry.
- The handful of stakeholders commenting on this issue supported **no changes** to the current regulations and indicated no concerns with selectivity or other issues.
 - One stakeholder explained that the 6-inch square mesh effectively reduces discards and retains the larger fish while releasing the smaller fish. They noted the 5.5-inch diamond mesh stretches therefore releasing marketable fish.
 - One commenter suggested exploring a larger square mesh size.

- Another commenter suggested maintaining the current summer flounder mesh size from May 1 – October 31, but adopting a uniform codend mesh size of 5 inches from November 1 – April 30 for summer flounder, scup, and black sea bass given the overlap of those species during this time. The commenter noted that decreasing the mesh size for summer flounder during the winter will have no impact on bycatch of smaller fish given the biology and migration patterns of the stock.
- Some stakeholders expressed that the choice of mesh type used to target summer flounder is often influenced by state regulations, personal preference, target species, anticipated non-target species, and type of bottom fished.
- The author of the 2018 report recommended the MC examine Table 4 in the 2018 mesh study report (see Table 1 in this document). He noted the L50 for 6-inch square mesh was only about 1 centimeter below the legal minimum size limit, and that the p-value for model fit for 6-inch square mesh (0.06) was barely not significant.

Monitoring Committee Comments and Recommendations

The Monitoring Committee reviewed the staff analysis of the 5.5” diamond and 6.0” square mesh size regulations and recommended no changes at this time to the current commercial minimum mesh requirements. The Monitoring Committee indicated that given insufficient evidence that a change is warranted, lack of information to inform selection of a more appropriate square mesh equivalent, and concerns about costs to industry participants additional research is needed.

The Monitoring Committee noted that if mesh size changes are considered by the Council and Board (now or in the future), the Monitoring Committee also recommended a longer phase-in time to help alleviate some of the costs to industry. The Monitoring Committee suggested the average expected lifespan of new nets (e.g., 7-10 years for well cared for nets) be used to inform the length of any potential phase in period. A regulatory change phased in over a much shorter time frame than the expected lifespan of a net would be expected to impose more costs on industry vs. a longer phase-in time allowing for net replacement on a more typical schedule.

The Monitoring Committee recommended consideration of additional mesh size studies as a research priority, particularly for a range of different square net mesh sizes and for additional comparison of selectivity between square and diamond mesh types. However, the Monitoring Committee did not identify what level of priority this should be.

For the full summary of the Monitoring Committee discussion see the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee November 13-14 Meeting Summary Part 1.

Investigation And Recommendation of the Mid-Atlantic Fishery Management Council's Summer Flounder Small Mesh and Flynet Exemption Programs

Briefing Document for December 2023 Council Meeting

Submitted by
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Kiley Dancy
Hannah Hart

December 1, 2023

Small Mesh Exemption Program (SMEP)

Executive Summary

Since 1993, the Small Mesh Exemption Program (SMEP) has allowed 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 5.5" diamond or 6.0" square that is otherwise required under the summer flounder fishery management plan. If the Regional Director determines that vessels fishing seaward of the line are discarding more than 10% of their summer flounder catch, the exemption may be rescinded. An evaluation was conducted to assess potential changes to the small mesh exemption program, considering the current use and effectiveness of the exemption.

Approximately 75 vessels currently participate in this program. Approximately 6% of observed bottom trawl trips fishing east of the line are discarding more than 10% of their summer flounder catch in recent years as determined using methodology that has been used in the past. It is unknown whether observed trips can be extrapolated to the entire fishery and therefore, the total pounds landed and discarded during SMEP trips cannot be determined. The number of vessels participating and the relative number of observer trips meeting the SMEP criteria have remained stable over the past decade.

Feedback from the commercial fishing industry indicates that the SMEP has become a very important program to maintain the economic viability of their business. The primary recommendation from industry is to move the demarcation line approximately 5 miles landward to facilitate the conduct of their fishing operations in other fisheries (see specifics of proposal on page 5).

Issues identified are:

- Language differs between Amendment 3 and the regulations (50 CFR 648.108) for determining the rescission of the exemption and should be reconciled. This may impact the methodology used in these evaluations going forward.

- The methodology and data sources being used to calculate the impact of this program are the same as those available in 1993. More accurate and robust data should be available through systems that are in place today, but which were not available in the 1990s, which would improve the ability to evaluate the utilization and impacts of the SMEP and provide more accurate information on trips that are actually fishing under the SMEP rather than relying on the assumptions inherent in the observer datasets.
- The industry recommendation to move the demarcation line approximately 5 miles landward should be explored, including the potential impact on incidental catch and discarding of summer flounder.
- Some confusion exists about the requirement that “Vessels fishing under the LOA shall not fish west of the line.” GARFO should clarify this portion of the regulation.

Additional details of the current utilization of this exemption, industry recommendations, and recommendations are contained in this document.

Background

Since 1993, the Summer Flounder FMP has allowed for an exemption to the summer flounder minimum mesh regulations under the Small Mesh Exemption Program (SMEP). Summer flounder moratorium permitted vessels fishing east of longitude 72° 30.0'W (Figure 1), from November 1 through April 30, and using mesh smaller than 5.5-inch diamond or 6.0-inch square, may land more than 200 pounds of summer flounder. Participation in this program requires a Letter of Authorization (LOA) obtained through the Greater Atlantic Regional Fisheries Office (GARFO). Vessels must be enrolled in the program for a minimum of 7 days and may not fish west (landward) of the line while enrolled 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. The program was developed under Amendment 2 to the FMP in 1993 and modified under Amendment 3 (1993). At the time it was determined that 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. The exemption was thus viewed as consistent with the conservation goals of the FMP while reducing discard waste in the summer flounder fishery.

The original demarcation line followed a yellowtail large mesh area at the northern end before following 72°20.0'W longitude to the south. This proved difficult for compliance and enforcement and was also not favored because of the way it bisected Hudson Canyon. Amendment 3 adjusted the line of demarcation to 72°30.0'W. It has remained unchanged since that time.

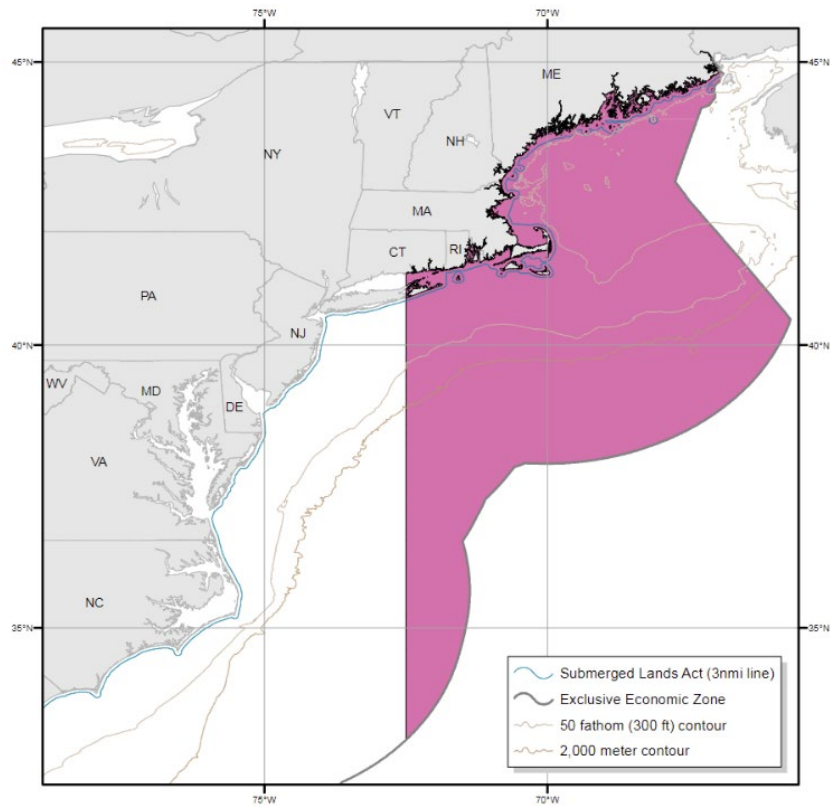


Figure 1: Summer flounder small mesh exemption area.

Amendment 3 also specified 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.” The Monitoring Committee 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. The Committee may recommend adjustments to the exempted area and boundary in 30-minute intervals of latitude and longitude, and to the seasons in 2-week intervals.

Based on this analysis of observer coverage, 5.79% of trips fishing seaward of the line discarded more than 10% of their summer flounder catch in the most recent period evaluated (November 2021-April 2022). Since 2015, (excluding 2021 when observer coverage was diminished due to Covid), this percentage has ranged from 3.97%-6.18% (Table 1).

Table 1. Numbers of observed trips that meet specific criteria based on NEFOP data from November 1-April 30 for 2016 through 2022.

Criteria		Nov. 1, 2015 – April 30, 2016	Nov. 1, 2016 – April 30, 2017	Nov. 1, 2017 – April 30, 2018	Nov. 1, 2018 – April 30, 2019	Nov. 1, 2019 ~March 19, 2020 ^a	Nov. 1, 2020 – April 30, 2021	Nov. 1, 2021 – April 30, 2022
A	Observed bottom trawl trips over this time frame (Nov-April)	398	398	741	657	403	151	232
B	Observed trips with at least one catch record east of 72° 30' W Longitude	302	302	598	534	322	122	190
C	That met the criteria in row B <u>and</u> used small mesh at some point during their trip	177	177	271	261	145	33	99
D	That met the criteria in rows B-C <u>and</u> landed more than 200 pounds summer flounder on whole trip	67	67	90	114	63	22	50
E	That met the criteria in rows B-D <u>and</u> discarded >10% of summer flounder catch east of 72° 30' W Longitude	12	12	35	33	18	4	11
F	% of observed trips with catch east of 72° 30' W Longitude that also used small mesh, landed >200 pounds of summer flounder, and discarded >10% of summer flounder catch (row E/row B)	3.97%	3.97%	5.85%	6.18%	5.59%	3.28%	5.79%
G	Total summer flounder discards (pounds) from trips meeting criteria in B-E	10,992	10,992	22,798	9,925	6,547	1,605	4,775
H	Total summer flounder landings (pounds) from trips meeting criteria in B-E	10,523	10,523	44,711	23,038	13,340	9,165	20,080
I	Total catch (pounds) from trips meeting criteria in B-E	21,515	21,515	67,508	32,963	19,887	10,770	24,856

Summary of Industry Feedback

A webinar was held on November 1, 2023, to present the evaluation of the SMEP and solicit input from stakeholders on the current utilization of the program and recommended changes. Written comments were also accepted via email and web-based form. Follow up calls and/or virtual meetings were made to further clarify recommendations provided through submitted written comments and feedback received during the November 1 public input webinar. A full summary of the comments received is provided in the [public input summary](#).

Multiple participants noted the importance of the SMEP, particularly to southern New England fleets. Some noted the program has successfully reduced regulatory discards and, overall, maintaining the program was critical to industry. Nearly all participants who commented on this issue supported moving the SMEP line to the west to provide further flexibility for industry participating in multiple fisheries. Specifically, a proposal was made to move the line approximately 5 miles west to about $72^{\circ}37'W$ longitude, then dropping south to align with the northeast corner of the scup Southern Gear Restricted Area (GRA) at $39^{\circ}20'N$ and $72^{\circ}37'W$ and then follow along the eastern border of the southern scup GRA to about $37^{\circ}N$ latitude (Figure 2). The calculated additional area, excluding the deep sea coral zones, is 4,943 km.²

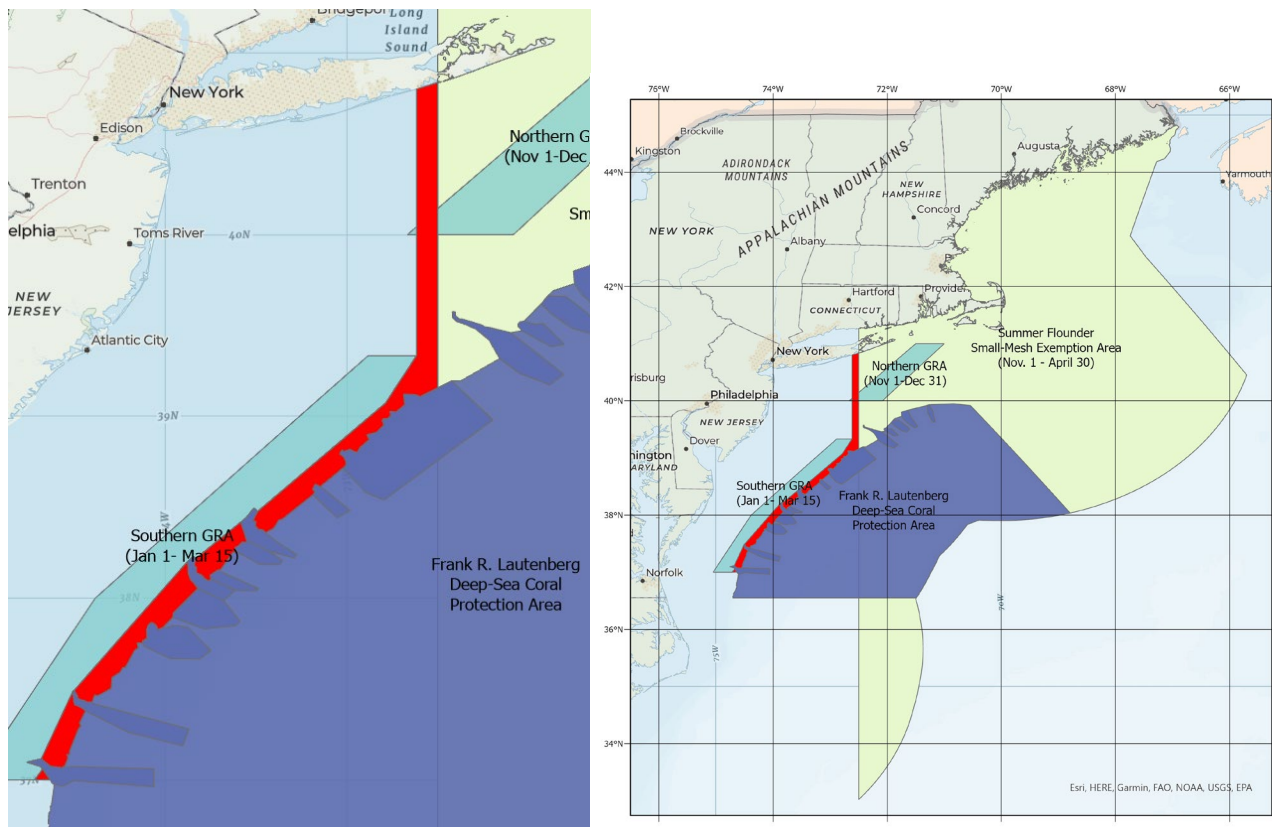


Figure 2: Industry proposal for the expansion of the SMEP (in red). Maps: Tori Kenter, MAFMC staff.

Monitoring Committee Recommendations

The Monitoring Committee discussed industry's recommendation to move the SMEP line further west. The Committee was supportive of further evaluating this recommendation, specifically noting that investigation of the potential biological impacts of expanding the SMEP area was needed, including how it may affect the size of summer flounder caught and/or discarded. At the time of the meeting, a map of the proposed revision was not available, and the Committee suggested mapping and calculating the additional area represented by the industry's request (see Figure 2 developed in response). The Committee noted that, depending on Council and Board direction, it may be beneficial to form a subgroup to explore potential analyses to investigate such impacts.

Concerns were expressed about the lack of data available to evaluate impacts of the SMEP on summer flounder catches. Currently, the analysis relies 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 is 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 electronic reporting and data accessibility over the years may create opportunities to improve analysis of this exemption. The Monitoring Committee noted that if continued use of observer data for this analysis is necessary, the methodology used may need to be revisited.

For the full summary of the Monitoring Committee discussion see the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee November 13-14 Meeting Summary Part 1.

Summary Observations and Recommendations

Based on feedback from industry, the SMEP has become a very important program to maintain the economic viability of their business. However, the recommendation that the demarcation line be moved approximately 5 miles landward needs to be thoroughly evaluated prior to action being taken. The existing line was established based on the relatively low number of undersized summer flounder being encountered to the east, thus maintaining the FMP objective to protect juvenile summer flounder. Additional data are needed to determine whether a shift of the line to the west would result in an increase in the number of small summer flounder being encountered and therefore being released due to being undersized.

Based on comments from stakeholders and discussions with GARFO staff, some confusion may exist about the requirement that "Vessels fishing under the LOA shall not fish west of the line." Does this requirement prohibit any vessel with an active LOA from fishing west of the line in any fishery, or just restrict a vessel fishing west of the line during a single trip in which they have participated in the SMEP? GARFO should clarify this portion of the regulation and consider whether it is still necessary.

Approximately 75 vessels currently participate in this program. Using consistent methodology applied in the past that is based solely on observer data, approximately 50 observed bottom trawl trips in November 2021 - April 2022 met the criteria characterizing a SMEP trip (fishing area, gear, and pounds of summer flounder landed) and are presumed to have been fishing under the SMEP. Of these, 11 trips discarded more than 10% of their summer flounder catch (representing approximately 6% of observed bottom trawl trips fishing east of the line in this time frame). It is unknown whether observed trips can be extrapolated to the entire fishery and therefore, the total

pounds landed and discarded during SMEP trips cannot be determined. However, the trigger for rescinding this exemption has never been reached using this analysis methodology (vessels fishing east of the line discarding more than 10% of summer flounder catch). The number of vessels participating and the relative number of observer trips meeting the SMEP criteria have remained stable over the past decade. The Monitoring Committee had previously flagged concerns with some years where a higher percentage of summer flounder discards were observed for trips presumed to be using the exemption; however, this was largely attributed to low quotas over that time period.

A question was raised regarding the calculation of Row F in Table 1 that is used to determine the trigger for rescinding the SMEP. As has been calculated for at least the past 10 years (and likely longer), Row F is calculated by dividing the number of trips that fished east of the line, landed more than 200 pounds and discarded >10% of summer flounder catch (Row E) by the number of observed trips with at least one catch record east of the line (Row B). We assume that this methodology follows the original language contained in Amendment 3, which states:

“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.”

Row B contains the best estimate of “vessels fishing seaward of the line” and is thus the best estimate *from these data* to use for the denominator.

However, the language contained in the regulations varies slightly and could potentially change this calculation. 50 CFR 648.108 states:

“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 more than 10 percent, by weight, of their entire catch of summer flounder per trip.”

By definition “vessels fishing under the exemption” would include the area (seaward of the line) and landing more than 200 pounds of summer flounder, in which case the best data for the denominator would be row D (or potentially Row C).

Perhaps more importantly moving forward is the consideration of updating the data sources used in calculating the impact of the SMEP. At the time that the SMEP was implemented in the early 1990s, the ability to connect disparate datasets was more time consuming and difficult due to the technology at the time. Current day technology and reporting systems may avail themselves to obtaining more accurate information on trips that are actually fishing under the SMEP rather than rely on the assumptions inherent in Table 1 based on the observer datasets. Can observer coverage be tied to the LOAs that are issued for the SMEP through fields such as vessel ID to accurately determine which trips should be included in the analysis? If not, can the information collected in the process of issuing the LOAs be expanded to allow this? Is there value in tying LOAs to electronic Vessel Trip Reports which are now reporting trips within 48 hours of entering port? More accurate and robust data that should be available through systems that are in place today but which were not available in the 1990s would improve the ability to evaluate the utilization and impact of the SMEP.

Executive Summary

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. No permits or special reporting are required to utilize this exemption. An evaluation was conducted of the original intention of the regulation and how that intent is being served today. Additionally, the extent to which 4-seam high rise nets are being used in relation to this exemption was explored.

The original intent of this exemption was to accommodate the use of a specifically defined gear in a specific fishery, concentrated in North Carolina and extending north to Cape Henlopen, Delaware. In that regard, available data provided by the state of North Carolina indicate that the flynet exemption is no longer being utilized today in that area/fishery and discussions with surrounding states indicate that few landings of summer using this gear type occur.

However, industry feedback indicates that 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 do not comply with the specific regulatory definition of a flynet. The term “high rise” net appears to be regional terminology for a flynet. Those nets may not meet the definition specified in regulation for this exemption (particularly regarding the number of seams) but industry feedback indicated that, in their opinion, there was little difference in the fishing characteristics of 2-seam flynets and high-rise nets. The term “flynet” refers mainly to the way in which the net opens at the mouth. Recommendations from industry centered primarily on updating the definition of the term “flynet” (specific recommendations provided in the full discussion of industry feedback).

Industry feedback indicated that where the exemption is being used it provides important economic benefits by fostering flexibility in fishing practices. This exemption is very important to provide flexibility to switch between fisheries like summer flounder, scup, black sea bass, and squid. No data are available to evaluate the extent that this exemption is being used outside of North Carolina given that no permitting or reporting are required, but use of nets identified as “flynets” throughout the GARFO region is borne out by observer coverage. Prior to updating the definitions to codify an existing practice, an evaluation should be conducted to ensure that changes would not unintentionally incentivize an expansion of the use of this exemption. Additionally, this exemption, including any revisions to it, should be evaluated in the context of how the Flynet Exemption and Small Mesh Exemption programs interact in areas where their application overlap.

Finally, language differs in Amendment 3 and the regulation (50 CFR 648.108) for determining when this exemption should be rescinded based on the level of discards of summer flounder by vessels fishing under this exemption and should be reconciled. This is likely an administrative matter to be handled by GARFO.

Background

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 webbing in the wings with a stretch mesh measure of 8" to 64".
- The first body (belly) section of the net consists of 35 meshes or more of 8" (stretch mesh) webbing or larger.
- 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" (stretch mesh).

The flynet exemption was added to the FMP through Amendment 2 in 1993, as suggested by the South Atlantic Fishery Management Council and the State of North Carolina. At that time, flynets as defined were mostly used between Cape Henlopen, Delaware and North Carolina in the fall and winter. Atlantic croaker, weakfish, Atlantic mackerel, and bluefish were the dominant species in flynet catches in the mid- to late 1980s when the exemption was proposed. Limited amounts of summer flounder have been harvested by this gear. The exemption was intended to increase flexibility for fishermen while not negatively impacting the conservation objective of the FMP.

The FMP stipulates that the NMFS Regional Administrator may withdraw the exemption if the annual average summer flounder catch in the flynet fishery exceeds 1% of the total flynet catch. However, the language in the current federal regulations regarding this evaluation criteria for the exemption is inconsistent with the original FMP language and intent of the exemption. The current regulations refer to evaluating whether “vessels fishing under the exemption, on average, are discarding more than 1 percent of their entire catch of summer flounder per trip.”

The Monitoring Committee reviews data from the North Carolina flynet fishery as the bulk of flynet landings in the Greater Atlantic region are thought to originate from North Carolina, though the flynet fishery in North Carolina is small. Landings in the North Carolina flynet fishery have generally declined over time (Table 2), and little to no summer flounder have been landed in this fishery in recent years. Past discussions have suggested that other states such as Virginia, New Jersey, and Maryland may also have small amounts of flynet landings, but data are limited or unavailable for these states to accurately assess such landings.

Based on observer data from 2007-2022, about 325 observed trips were recorded using 2-seam “Flynets” in the GARFO region with fewer than five observed trips in each of the past three years. Additionally, about 197 observer trips recorded using 4-seam and 101 observed trips recorded “seams unknown” flynets (Figure 3). This information is based on the “net type” field in the observer data, which is recorded by the observer after consultation with the vessel’s captain. Many observed trips having missing information for net type.

Table 1: North Carolina flynet fishery summer flounder landings in pounds, as a percent of total North Carolina flynet landings, and as a percent of total North Carolina commercial summer flounder landings, 2005-2022. Some values are confidential but as denoted below are <2,000 pounds in those years.

Year	Summer Flounder Flynet Landings (lbs.)	% of Total NC Flynet Landings	% of total NC commercial summer flounder landings
2005	4,102	0.05%	0.10%
2006	5,752	0.07%	0.15%
2007	7,067	0.13%	0.26%
2008	3,147	0.08%	0.07%
2009	2,842	0.05%	0.10%
2010	<2,000 lbs.	<0.05%	<0.06%
2011	<2,000 lbs.	<0.05%	<0.07%
2012	<2,000 lbs.	<0.05%	<0.18%
2013	0	0%	0.00%
2014	<2,000 lbs.	<0.05%	<0.07%
2015	0	0%	0.00%
2016	0	0%	0.00%
2017	0	0%	0.00%
2018	0	0%	0.00%
2019	0	0%	0.00%
2020	0	0%	0.00%
2021	0	0%	0.00%
2022	0	0%	0.00%

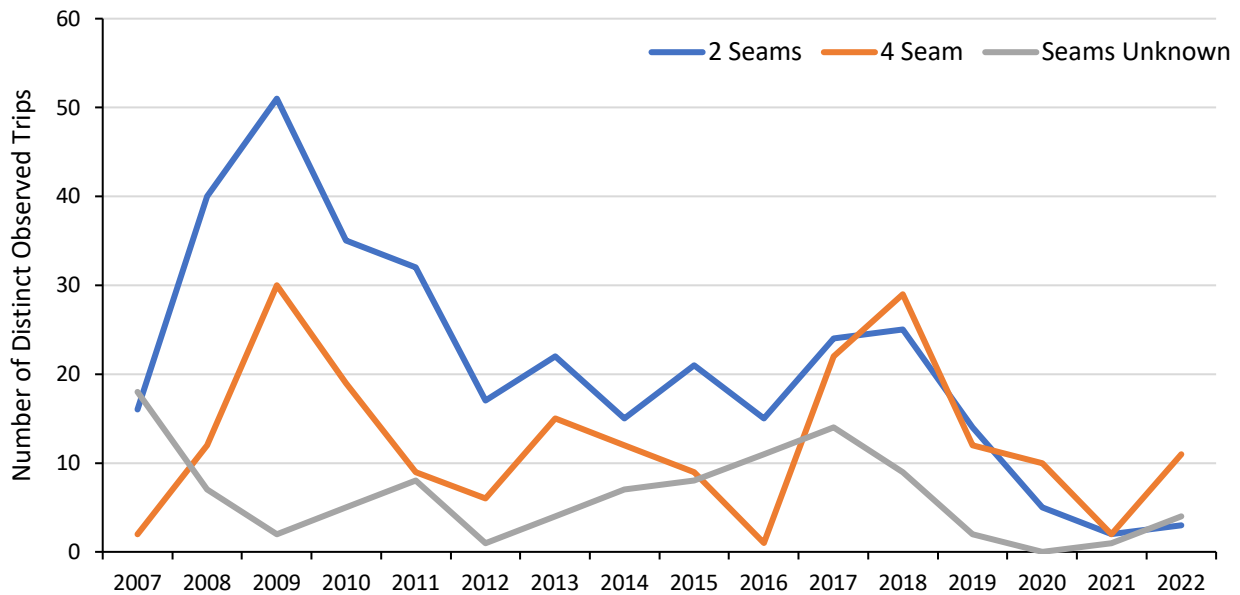


Figure 3: Number of distinct observed trawl trips using flynet gear, by seam number, 2007-2022 in the GARFO region.

Summary of Industry Feedback

A webinar was held on November 1, 2023, to present the evaluation of the SMEP and solicit input from stakeholders on the current utilization of the program and recommended changes. Written comments were also accepted via email and web-based form. Follow up calls and/or virtual meetings were made to further clarify recommendations provided through submitted written comments and feedback received during the November 1 public input webinar. A full summary of the comments received is provided in the [public input summary](#).

Participants who spoke on this issue strongly supported keeping the flynet exemption. It was noted that this exemption is very important to provide flexibility to switch between fisheries like summer flounder, scup, black sea bass, and squid.

All participants who spoke on the issue agreed that the term “high rise” net was regional terminology for a flynet, although those nets may not meet the definition specified in regulation for this exemption, particularly regarding to the number of seams. Industry feedback indicated that they felt that there was little difference in the fishing characteristics of 2-seam flynets and high-rise nets and that the term “flynet” referred mainly to the way in which the net opened at the mouth.

Industry input indicated that the definition of the term flynet should be updated to better reflect current gear use and fishing practices that, while technically not in compliance with the exemption, have become standard application in part due to the lack of permitting or reporting for using this exemption. Specific recommendations to modify the definition of flynet included:

- Rename exemption to “Flynet and Highrise” Exemption.
- A flynet/highrise must have “at least 2-seams” rather than specifying exactly 2-seams.
- The trawl consists of 8-inch mesh or greater throughout the mouth and the wings (without specifying an upper limit, currently 64”).
- Remove the criteria of 35 panels in the first belly section.

Industry feedback suggests that limited amounts of summer flounder are caught in these gear types by design, so biological impacts to the summer flounder stock may be low.

Monitoring Committee Recommendations

The Monitoring Committee agreed that the regulatory definition of a flynet might need to be updated to reflect changes in the fisheries and gear configurations that have occurred since the implementation of this exemption. At the time of the meeting, the only proposed revisions to the flynet definition were for removal of the reference to a 64-inch maximum mesh in the wings, and the expansion of the definition beyond two-seam nets.

The information reviewed by the Committee suggests that these changes may be more in line with modernizing the definition to capture evolution in the use of flynet-type gear. In particular, the Committee did not have any concerns with the proposal to remove “to 64 inches” from the definition and was generally supportive of removing the reference to “two-seam” nets but noted that there was less information available to determine whether this change may lead to changes in gear use or fishing practices. The Committee noted that this exemption was originally designed to accommodate a specific fishery at the southern end of the management unit, and that existing data make it difficult to evaluate the extent to which this exemption is being used beyond its original intent. The

Committee discussed whether there might be potential unintended consequences of updating the definition to include nets with greater than two seams. Given existing reporting, monitoring, and catch accounting practices, all catch of summer flounder should be appropriately accounted for or estimated, regardless of gear type or target species. As such, there should not be any summer flounder catch that would go “unaccounted for” under the current or modified definition of flynet-type gear. However, there is limited information to assess whether expanding the definition might change current fishing practices. While a definition change may simply reflect current practice, better data and analysis methods are needed to track patterns more comprehensively in the harvest and discards of summer flounder with these gear types.

Given the original intent of the exemption, the Monitoring Committee has typically evaluated North Carolina flynet fishery data to determine the extent of landings and discards in this fishery. The Committee noted that because the flynet fishery has not been very active off North Carolina recently and has not caught summer flounder in many years, there should be considerations to use of other data sets in the future. While the observer data analysis did not illuminate use of this exemption by state, observed flynet trips by statistical area indicate use of this gear type in statistical areas north of North Carolina. However, drawing assumptions solely based on observer data given the limitations of that data with regard to net type descriptions, and the relatively low number of observed trips reporting using the “flynet” gear type on an annual basis may be problematic.

For the full summary of the Monitoring Committee discussion see the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee November 13-14 Meeting Summary Part 1.

Summary Observations and Recommendations

The original intent of the summer flounder flynet exemption was to accommodate the use of a specifically defined gear in a specific fishery, concentrated in North Carolina and extending north to Cape Henlopen. In that regard, available data indicates that the flynet exemption is no longer being utilized today in that area/fishery.

However, industry feedback indicates that the flynet exemption has become an important component of specific fisheries throughout the GARFO region, although the 4-seam, high rise and other types of nets that are considered flynets (and may fish similarly to the flynets as defined in regulation) do not comply with the specific regulatory definition. No data are available to evaluate the extent that this exemption is being used given that no permitting or reporting are required, but industry feedback indicated that where it is being used it provides important economic benefits by fostering flexibility in fishing practices. Use of nets identified as “flynets” is borne out by observer coverage.

The recommendation by industry to modify the definition of the term “flynet” should be considered but requires more thorough evaluation. In one sense, any summer flounder currently being landed by vessels using this exemption are being accounted for through normal reporting mechanisms (e.g., Vessel Trip Reports) and observer coverage. The decision to codify existing practices by changing the definition of the gear is one factor for the Council to consider, but revisions to the definition of flynet should also consider whether these changes would unintentionally incentivize targeting of summer flounder with smaller mesh gear types using this exemption, or otherwise modify retention and discarding patterns for summer flounder. The commercial fishing industry should be integrally involved in these evaluations. Additionally, revisions to this exemption should be considered in the

context of how the Flynet Exemption and Small Mesh Exemption programs interact in areas where their application overlap.

Communication between Council staff, contractors, and GARFO staff concluded that the discrepancy between language in the FMP and that in current regulations regarding the 1% evaluation criteria for rescinding this exemption was an administrative matter that should be addressed by GARFO.



Summer Flounder, Scup, and Black Sea Bass Monitoring Committee (MC)
November 13-14, 2023 Meeting Summary
Part 1: Summer Flounder Commercial Mesh Issues
Hybrid Meeting: Philadelphia, PA and Webinar

Monitoring Committee Attendees: Tracey Bauer (ASMFC staff), Julia Beaty (MAFMC staff), Peter Clarke (NJ F&W), Kiley Dancy (MAFMC staff), Lorena de la Garza (NC DMF), Steve Doctor (MD DNR), Alexa Galvan (VMRC), Emily Keiley (GARFO), Hannah Hart (MAFMC staff), Rachel Sysak (NY DEC), Mark Terceiro (NEFSC), Chelsea Tuohy (ASMFC staff), Corinne Truesdale (RIDEM), Greg Wojcik (CT DEEP), Rich Wong (DE DFW)

Additional Attendees: Kim Bastille, Chris Batsavage, Alan Bianchi, Lou Carr-Harris, Greg DiDomenico, James Fletcher, Joe Grist, Jesse Hornstein, Raymond Kane, Elise Koob, Meghan Lapp, Andrew Loftus (MAFMC Contractor), John Maniscalco, Meghna Marjadi, Nichola Meserve, Brandon Muffley, Adam Nowalsky, Will Poston, Eric Reid, Robert Ruhle, Scott Steinback, Wes Townsend, Mike Waine, Kate Wilke

Summer Flounder Minimum Mesh Regulations and Exemptions

Summer Flounder Commercial Minimum Mesh Regulations

The Monitoring Committee (MC) reviewed staff analysis of the 5.5” diamond and 6.0” square mesh size regulations. The MC discussed whether catch per unit effort (CPUE) metrics using observer data could be explored for different mesh sizes, including separating this data into discards and harvest, to give more information on catch efficiency by mesh size and type. The group also considered whether similar information could be gleaned from the 2018 mesh size study data (Hasbrouck et al. 2018). This may be possible but would require additional time and expertise to evaluate, and was not indicated by the MC to be a high priority.

Factors influencing the choice of square vs. diamond mesh was a question posed to industry members during the public webinar and associated comment period. While feedback on this topic was limited, the MC and members of the public discussed that this choice is often influenced by state regulations, personal preference, target species, anticipated non-target species, and type of bottom fished. For example, in Maryland, trawl vessels fish mostly for horseshoe crab and flounder and will typically use square mesh because it results in fewer discards for this area/fishery. As noted in the public comments below, square mesh may perform better on muddy bottom.

With observer data indicating that about 30% of trawl hauls targeting summer flounder use square mesh, the MC concluded that removing square mesh as an option is not advisable. The group also discussed that identifying a more appropriate square mesh regulation (i.e., selectivity more aligned with that of the 5.5” diamond) will be difficult without additional data. While the 2018 study shows that 6.0” square mesh has a somewhat higher probability of retaining fish at or below the minimum

fish size, the length at 50% retention (L50) is only about a centimeter below the minimum size and there is no evidence at this time to suggest that substantially more discards of undersized fish are occurring with this mesh size and type. Observer data shows a small degree of difference in the percent of summer flounder discarded among the two mesh sizes. Increasing the square mesh size from 6.0" square to 6.5" square could be assumed to reduce retention of undersized fish; however, information on the specific impacts of a 6.5" square mesh (or other square mesh size) is not available. Based on data currently available, it is not clear that a potential reduction in the amount of undersized summer flounder encountered in the 6.0" square mesh would be substantial enough to warrant the large economic impacts associated with requiring widespread gear replacements.

The MC recommended no changes at this time to the current commercial minimum mesh requirements given insufficient evidence that a change is warranted, lack of information to inform selection of a more appropriate square mesh equivalent, and concerns about costs to industry participants.

If mesh size changes are considered by the Council and Board (now or in the future), the MC recommends a longer phase-in time to help alleviate some of the costs to industry. The MC suggested the average expected lifespan of new nets (e.g., 7-10 years for well cared for nets) be used to inform the length of any potential phase in period. A regulatory change phased in over a much shorter time frame than the expected lifespan of a net would be expected to impose more costs on industry vs. a longer phase-in time allowing for net replacement on a more typical schedule.

The MC recommended consideration of additional mesh size studies as a research priority, particularly for a range of different square net mesh sizes and for additional comparison of selectivity between square and diamond mesh types. The MC did not identify what level of priority this should be.

Public Comments

Advisors and other members of the public provided insights into the use of square vs. diamond mesh, and the potential implications of a change in the regulations. Two industry representatives noted that if you take care of a codend, it can last for many years (up to a decade), particularly if fishing on sandy bottom for summer flounder.

It was noted that the square mesh option was originally specified because it matched the regulation for groundfish in New England at the time. The choice of diamond vs. square mesh may be influenced by several factors. One participant noted that Massachusetts has a 6.5 inch trawl mesh regulation (not specifying diamond vs. square), and influences the choice of many participants in that state. It was also noted that square mesh elongates over time and eventually fishes more like diamond mesh. If the 2018 selectivity study used only new nets, it may not be representative of selectivity over time as the nets are used more. One industry participant noted that while square mesh may not retain mixed species as much as diamond, square mesh does shed mud better and thus may be a better choice for a vessel fishing in muddier areas.

Small Mesh Exemption Program

The MC discussed the Summer Flounder Small Mesh Exemption Program (SMEP), which includes the area east of 72°30'W longitude from November 1 to April 30. During the presentation, Andy Loftus (MAFMC contractor) noted that around 75 letters of authorization (LOA) are issued

annually for the program with an average of 68 vessels actively landing summer flounder in recent years.

During the discussion concerns were expressed about the lack of data available to evaluate impacts of the SMEP on summer flounder catches. Currently the analysis relies 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 is not based on confirmed use of this LOA. We do not have a complete understanding of the extent of use other than the number of issued and active LOAs each year. It was noted that when the SMEP was put in place in the 1990s, there was difficulty in linking dealer data, vessel trip report (VTR) data, and observer data, which remains a challenge to this day. The current data analysis was designed to answer the question “are vessels presumed to be using the SMEP discarding more than 10% of their catch” and the only way to answer that question was through the use of observer data. Advances in electronic reporting and data accessibility over the years may create opportunities to improve analysis of this exemption. The MC questioned if it was possible to capture LOA use in the VTR data, similar to how it was done in the past for the Research Set Aside (RSA) program. One MC member noted that LOAs capture vessel information and the timing of vessel enrollment and un-enrollment. The MC suggested a data request to the GARFO permitting office to try to connect information on enrollment periods for vessels using a SMEP LOA, and to try to cross reference that with observer data, or if possible, VTR data. This could be helpful for a revised analysis of discarding patterns under use of this exemption, and could also help identify the extent of confusion about the requirement to not fish west of the SMEP line while the LOA is active.

The MC discussed that if continued use of observer data for this analysis is necessary, the group may want to revisit the methodology used. As discussed in the briefing document, there appears to be a discrepancy between the language used to describe the evaluation in Amendment 3 vs. the current regulations. If observer data analysis remains a focus of this evaluation, this language may need clarification.

The MC also discussed industry’s recommendation to move the SMEP line further west. **The MC was supportive of further evaluating this recommendation, specifically noting that investigation of the potential biological impacts of expanding the SMEP area was needed, including how it may affect the size of summer flounder caught and/or discarded.** At the time of the meeting, a map of the proposed revision was not available, and the MC suggested mapping and calculating the additional area represented by the industry’s request. The MC noted that depending on Council and Board direction, it may be beneficial to form a subgroup to explore potential analyses to investigate such impacts.

Public Comments

Advisors and other members of the public provided insight on use of and recommended changes to the SMEP. One advisor explained that the SMEP came about in the 90s when boats were fishing further north for larger flounder. Trips would take 5-6 days but squid would not keep that long, so this exemption was a way to allow vessels to switch nets and also catch squid at the end of a trip. He suggested cutting off the exempted area with an East-West line somewhere around New York to better capture the original intent of the program. He explained that this adjustment could benefit three to four fisheries.

Reiterating several public comments collected prior to the meeting, an industry representative supported moving the SMEP line about five miles west to align with the existing scup southern gear restricted area (GRA). He noted that the scup GRA was shifted slightly west in 2017 to allow additional access for the squid fishery, and that there is only a very narrow band of fishable bottom in this area before it gets too deep to effectively fish for squid. He explained that the squid gear currently used has changed a lot from what was used in the 1990s and noted that some modern nets do not even have meshes in the wings. The gear is designed to skim above the bottom and is not designed to target anything but squid, making concerns about impacts on the summer flounder fishery irrelevant. Additionally, he noted that over the course of a season, only a handful of boats fish this area between the southern scup GRA and therefore would not have a significant impact on summer flounder. Additional advisors and industry members agreed with these comments and expressed support for moving the line west to provide some flexibility and access to additional fishing grounds for the squid fleet. It was noted that under the existing regulations, boats depart to look for squid but cannot target substantial portions of the area they transit through due to the restrictions, which represents wasted time and fuel.

Another advisor offered to assist with any analysis needed. He noted that given how much has changed, a thorough analysis and review of potentially moving the SMEP line would be beneficial and suspected it would be conservationally neutral.

Flynet Exemption

The current flynet exemption, as written, was developed in the 1990s to address a specific gear used in a specific fishery in a region focusing on North Carolina but generally extending north to Cape Henlopen, DE. According to data received from North Carolina over the past 30 years, this exemption is no longer utilized due to changes in the fishery. However, the exemption has been adopted for use in other fisheries and regions, in part using gear that does not technically comply with regulatory language.

The MC agreed that the regulatory definition of a flynet is likely in need of updating to reflect changes in the fisheries and gear configurations that have occurred since the implementation of this exemption. There appears to be no single, agreed-upon definition of a flynet, but rather some slight variations in similar gear configuration, with different naming conventions up and down the coast.

The group discussed whether any changes in the definition could be done through specifications. GARFO staff offered to look into this further, but noted that it may depend on the scope of the change and whether the changes are expected to change fishing practices or simply to codify existing practices by modernizing the flynet definition. If the latter, the change could likely happen through specifications. If the Council and Board are interested in re-envisioning what the program is intended to do, this may need a separate action.

Specific changes to the regulatory definition proposed by industry and discussed by the MC include 1) removing reference to “two-seam” otter trawl nets in the description to accommodate use of four-seam (or more) nets, and 2) in the description of large mesh webbing in the wings, removing the portion referencing “to 64 inches” as a maximum mesh, as modern nets use larger mesh in this part of the net.

The information reviewed by the MC suggests that these changes may be more in line with modernizing the definition to capture evolution in the use of flynet-type gear. In particular, the MC did not have any concerns with the proposal to remove “to 64 inches” from the definition. The MC was also generally supportive of removing the reference to “two-seam” nets, but noted that there was less information available to determine whether this change may lead to changes in gear use or fishing practices. The MC noted that this exemption was originally designed to accommodate a specific fishery at the southern end of the management unit, and that existing data make it difficult to evaluate the extent to which this exemption is being used beyond its original intent. The MC discussed whether there might be potential unintended consequences of updating the definition to include nets with greater than two seams. Given existing reporting, monitoring, and catch accounting practices, all catch of summer flounder should be appropriately accounted for or estimated, regardless of gear type or target species. As such, there should not be any summer flounder catch that would go “unaccounted for” under the current or modified definition of flynet-type gear. However, there is limited information to assess whether expanding the definition might change current fishing practices. Industry feedback suggests that limited amounts of summer flounder are caught in these gear types by design, so biological impacts to the summer flounder stock may be low. While a definition change may simply reflect current practice, the MC notes that going forward, better data and analysis methods are needed to more comprehensively track patterns in the harvest and discards of summer flounder with these gear types.

Given the original intent of the exemption, the MC has typically evaluated North Carolina flynet fishery data to determine the extent of landings and discards in this fishery. The MC noted that because the flynet fishery has not been very active off North Carolina recently and has not caught summer flounder in many years, there should be considerations to use of other data sets in the future. While the observer data analysis did not illuminate use of this exemption by state, observed flynet trips by statistical area suggest use of this gear type north of North Carolina. Use of alternative datasets would be particularly important if the Council and Board were to move forward with a recommendation to modify or expand the current flynet definition. As was done for this evaluation, observer data can be used to some extent to explore use of this gear type. However, the MC did express some hesitation in drawing assumptions solely based on observer data given the limitations of that data with regard to net type descriptions, and the relatively low number of observed trips reporting using the “flynet” gear type on an annual basis. The MC recommended exploring alternatives to evaluate the use of the flynet exemption in order to improve our understanding of impacts over time. Additional discussions with observer program staff may also inform the extent to which we could rely on the “net type” designation for future analyses.

Public Comment

Industry participants on the call agreed that the current regulatory definition is outdated, being over 30 years old. Gear technologies have advanced substantially since that time. One commercial representative and Council member noted that “flynet” is a layman’s term that has never described one specific net configuration, but more so a general style or design of net.

One participant noted that the species targeted with these particular gear types have changed over time. He supported the modification to remove “to 64 inches” from the definition, given the use of nets with mesh much greater than this in the wings. He noted that these are very precise gear types configured for certain species, and not designed to catch summer flounder. This participant

also cautioned against removing the exemption for the North Carolina fisheries for which it was originally intended, given the difficulty of adding the exemption back if these fisheries recover.

Another industry representative stated that the gear types and nets in question have been in use for a long time, including over the course of rebuilding summer flounder and other mid-Atlantic demersal species, and that there is no conservation issue that should be posed by revising the definition of a flynet under this exemption.

Another industry representative stated that the only change needed is to remove the reference to a 64 inch upper limit. North Carolina's landings have been low due to issues accessing Oregon Inlet.



Public Input Webinar on Summer Flounder Mesh Regulations and Exemptions Meeting Summary November 1, 2023

Attendees: Alexa Galvan (VMRC), Wes Townsend (MAFMC Chair), Scot Mackey (Garden State Seafood Association), Mike Waine (ASA), Laura Deighan (NOAA), Emily Keiley (NOAA), Dan Malone (Boat owner), Meghan Lapp (SeaFreeze), Eric Reid (NEFMC), Luca McGinnis (Commercial Fisheries Research Foundation), James Fletcher (United National Fisherman's Association), Emerson Hasbrouck (Cornell Marine Program), Dan Farnham (MAFMC), Sam Martin (Atlantic Capes Fisheries Inc.), Chris Batsavage (NCDMF and MAFMC), Bonnie Brady (LICFA), Scott Curatolo-Wagemann (Cornell Cooperative Extension of Suffolk County), Nichola Meserve (MADMF), Kiley Dancy (MAFMC staff), Hannah Hart (MAFMC staff), Andy Loftus (MAFMC Contractor), Jason Didden (MAFMC staff), Chelsea Tuohy (ASMFC staff), Todd Smith, Jesse Hornstein, Jeffrey Brust, Katie Almeida (Town Dock), Tara McClintock, Alan Bianchi (NC DMF), Haley Clinton, Gus Lovgren, Kristin Gerbino, Tracey Bauer (ASMFC staff), Steve Doctor (MD DNR), Victor Hartley, Jared Silva, Mike Roderick, Hank Lackner, Dan Farnham Jr., and 6 unidentified phone participants

The Mid-Atlantic Fishery Management Council hosted a public input webinar on Wednesday, November 1, 2023 to solicit stakeholder input on several summer flounder regulations related to commercial minimum mesh sizes and their exemptions. Council staff and Andy Loftus (contracted by the Council) are currently evaluating whether modifications to these measures are needed, and feedback from fishing industry participants and other stakeholders is critical to a successful review of these regulations. The Council and Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board will review the provided feedback and consider next steps at their joint December 2023 meeting.

Meeting materials considered and discussed during the meeting are available at:

<https://www.mafmc.org/council-events/2023/public-input-webinar-on-summer-flounder-mesh-regulations-and-exemptions>.

Minimum Mesh Size

Council staff provided an overview of the minimum mesh requirements and a summary of the 2018 mesh size selectivity study for summer flounder, scup, and black sea bass. Results of this study indicated that the current minimum mesh sizes for summer flounder of 5.5-inch diamond or 6.0-inch square do not appear to be equivalent to each other in terms of selectivity.¹ The 6.0-inch square mesh releases less than 50% of fish at or below the minimum size, and its selectivity appears more similar to a 5.0" diamond mesh. Council staff also presented some preliminary analysis on net type (square vs. diamond) use based on the Northeast Observer Program data from 2007-2022.

¹ Hasbrouck et al. 2018 is available at: http://www.mafmc.org/s/Tab08_SFSBSB-Mesh-Selectivity-Study-Apr2018.pdf.

Following the presentation a participant asked whether vessel trip report (VTR) data could be used to expand the preliminary analysis. However, staff responded that VTR data does not include the specific information on mesh size or mesh type fished.

Participants provided the following specific comments on the minimum mesh size regulations:

Gus Lovgren: A larger size of square mesh should be investigated, such as 6.5” square. Any changes in regulations would be expensive and place a large financial burden on fishery participants. A regulation change for just the cod end would cost thousands to tens of thousands of dollars, and if the regulation change was to the entire net, that could cost anywhere from \$30,000-50,000.

Meghan Lapp: The current 5.5-inch diamond or 6.0-inch square minimum mesh requirements have been in place for decades, including during the period when the summer flounder stock was rebuilt. Recent discussions with three primary net builders in the southern New England area indicated that they continue to build new nets to the 6-inch square mesh specification. Changes to the mesh requirements could immediately render those investments obsolete, placing significant financial burden on the industry. Additionally, the square vs. diamond mesh issue does not seem pressing, and if changes are recommended, the recreational sector should also be held accountable for recreational harvest limit overages.

Emerson Hasbrouck: Note that in the 2018 study, the L50 for summer flounder length retention using 6-inch square mesh was about 1 centimeter below the legal minimum size limit. Recommend that the Monitoring Committee examine the summer flounder Table 4 in the 2018 mesh study report, which shows the p-values to determine the statistical significance of the model fit. The p-value for 6-inch square mesh of 0.06 was barely significant, while the p-values for all other mesh sizes tested had a much stronger significance.

Small Mesh Exemption Program

Andy Loftus gave an overview of the Summer Flounder Small Mesh Exemption Program (SMEP), which includes the area east of 72°30’W longitude from November 1 to April 30. He noted that around 75 letters of authorization (LOA) are issued annually for the program with an average of 68 vessels actively landing summer flounder. Approximately 6% of observed trips have met the criteria by fishing in the exempted area using small mesh while landing over 200 pounds of summer flounder, with discard rates remaining under the 10% limit.

Multiple participants noted the importance of the SMEP, particularly to southern New England fleets. Some noted the program has successfully reduced regulatory discards and overall maintaining the program was critical to industry. All participants who commented on this issue supported moving the SMEP line to the west to provide further flexibility for industry, and believed this would not negatively impact summer flounder.

Participants provided the following specific comments on the SMEP:

Meghan Lapp: This program is very important to Southern New England vessels. It gets a lot of use out of Rhode Island fleets and reduces discards. Recommend moving the line west. This would provide

increased flexibility and access to the continental shelf edge where fisheries operate in the winter, given the requirement about not fishing west of line while enrolled in the program. Allowing this flexibility to industry is important especially with diesel costs around \$4/gallon, because otherwise those enrolled in the program need to steam back to port or change their gear if they want to fish west of the current line. The program does reduce discards and maximize profitability, and moving the line west would enhance that, she felt that this shift would not increase discards of smaller summer flounder.

Eric Reid: Agree that the line should be moved west, and specifically propose moving the line about 5 miles west to about 72°37'W longitude, then dropping south to align with the northeast corner of the scup Southern Gear Restricted Area (GRA) at 39°20'N and 72°37'W and then follow along the eastern border of the southern scup GRA to about 37°N latitude. This would better reflect current fishing practices, similar to how the scup southern GRA was previously adjusted to accommodate the squid fishery. Boats fishing in this area primarily target squid using trawl nets with at least 8–10-foot mesh in the wings and 8-inch mesh in the belly. Summer flounder is bycatch in that fishery and there are not a lot of small fish caught or fish discarded. The administrative requirement for the LOA to fish only east of the line for the time enrolled (minimum of 7 days) is very inconvenient and creates unnecessary paperwork. Consider modifying this rule to increase flexibility for industry without any negative impacts on summer flounder fishery.

Meghan Lapp: Supports Eric's proposed line to follow. This would allow access to the edge where small mesh fisheries are happening at that time of year. In the winter, most gear in that fishery use 10-foot mesh in the wings. Summer flounder are not being targeted with that gear, as flatfish fall out of it. That's why nets of similar configuration are used to reduce flatfish bycatch in other Northeast fisheries.

Bonnie Brady: Speaking on behalf of Dave Aripotch, in support of Eric Reid's recommendations for a modified line. The SMEP is very important economically to fishermen.

Gus Lovgren: Supported Meghan and Eric's comments and recommendations.

Flynet Exemption

Andy Loftus presented an overview of the flynet exemption, which was originally intended to accommodate limited summer flounder catch in North Carolina flynet fisheries targeting other species. He noted that landings under this exemption have declined in recent years. However, there have been industry comments that the exemption may now be used more widely than data shows, with nets that may not meet the regulatory definition.

Participants who spoke on this issue generally supported keeping the flynet exemption but updating the definition to better reflect current gear use and fishing practices.

Participants provided the following specific comments on the flynet exemption:

Eric Reid: The definition of a flynet needs to be updated to reflect how the gear and its use have changed over the years. The requirement for a net to have only 2 seams is outdated, as 4-seam (or high rise nets) are now commonly used. The flynet definition text including mesh size in the wings ranging from 8 to up to 64 inches is also not reflective of the much larger mesh sizes now used (e.g., 10-feet in the wings)

compared to the past. The definition should require at least 2-seams, but not cap the maximum at 4-seams. The definition should also describe the largest mesh portions of the net as being greater than 8 inches without an upper limit. There does not seem to be a difference between a “flynet” and “high rise” net; that is a colloquialism difference up and down the coast. The nets handle the same, and nets with large seam are more fuel efficient which helps the bottom line.

Gus Lovgren: Agreed with Eric Reid’s points and recommended specifically updating the definition to a requirement for a minimum of 8-inch mesh in the wings regardless of the number of seams, graduating down to 2-inch mesh in the body. Speaking for Fishermen’s Dock Coop, this exemption is very important to provide flexibility to switch between fisheries like summer flounder, scup, black sea bass, and squid. The exemption should be left in place with an improved definition, and there should also be better knowledge of the exemption among enforcement. The number of seams does not impact fluke catch rate, but rather just net rise within the water column.

Emerson Hasbrouck: Agree with Eric Reid that the term “flynet” seems to be regional. Further north, the term “high rise” is used. The term “flynet” seems to refer to how the net opens up with a large overhang compared to the footrope/sweep. Many consider a high rise net to be a type of flynet. The Ruhle Trawl was developed from a 4-seam flynet, so a definition not restricted to 2 seams makes sense. Based on several selectivity studies, panels with larger mesh sizes over 32 inches release most summer flounder that enter the net.

Comments on Other Issues

Emerson Hasbrouck noted that his group’s 2018 study included several objectives, one of them being to investigate a common mesh size for summer flounder, scup, and black sea bass. The results from their study indicated that although there may not be a feasible common mesh size for all three species, a 4.5 or 5-inch diamond mesh could be a feasible option for scup and black sea bass. He questioned whether the Monitoring Committee and/or Council and Board were still considering these types of changes or whether the focus was only on the diamond vs. square mesh portion of their study for summer flounder. He recommended the Monitoring Committee further consider a common mesh size for scup and black sea bass.



Summer Flounder Minimum Mesh Size Requirements and Exemptions Compiled Written and Phone Public Comments, as of November 17, 2023

Web Form Comments

Name	Burl Self
Email Address	b_e_self@yahoo.com
Affiliation	Fisherman
What is your primary area(s) of fishing activity?	Bottom species
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	Small mesh is not a problem and conservation focus
Issue #2: Small Mesh Exemption Program	Phase out larger mesh over three seasons
Issue #3: Summer Flounder Flynet Exemption	No exemptions
Additional Comments	Conservation and enforcement out to our EEZ should be the norm

Name	Thomas P Anderson
Email Address	tanderson705@comcast.net
Affiliation	Fishy Business Inc., F/V Amber Waves
What is your primary area(s) of fishing activity?	Coastal NJ out to Hudson Canyon, south to Cape May and East to Block Island
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	
Issue #2: Small Mesh Exemption Program	
Issue #3: Summer Flounder Flynet Exemption	<p>Dear Mid-Atlantic Council,</p> <p>My name is Thomas P Anderson and I've been fishing out of Fishermen's Cooperative, Point Pleasant, NJ since 1979. I started as a crewman for my father, Andreas Anderson, on the F/V Snow White and bought the boat in 1989. I later replaced the Snow White in 2006 with my current boat, F/V Amber Waves.</p> <p>I didn't comment on the 6" square cod end (we fish with 5" diamond) and the</p>

small mesh exemption program, since they really have no bearing on the fishing I do. But the Flynet Exemption is very important to myself and others that fish out of my dock. I'm not a scientist, but I have fished for over 40 years so I feel I have a little knowledge on the subject.

1) What does industry consider a flynet for the purpose of fishing under this exemption (2-seam net, 4-seam net, etc.)?

Personally, I consider a net with at least 8" twine (whether it is 2-seam or 4-seam) in the wings and at least 35 meshes in the first body section behind the sweep to be a flynet (what we call a high rise). It can graduate down to 2" twine in the extension (a lot of guys use these nets for squid), but it doesn't have to. I use 4" twine in my extension to let out small porgies and sea bass, since I don't do a lot of squidding these days.

My net has 16" twine in the wings and 20 meshes of 16" twine in the first belly panel and then 50 meshes of 8" twine in the next section. In other words, way more than is needed to be considered exempt under the flynet exemption. It is a 4-seam net, but we only started putting a panel in the side in recent years, to make the net fish higher for porgies and bass. This modification didn't make the net retain more summer flounder. So, I don't feel that just having a 2-seam net would make a difference.

2) Is the flynet exemption widely used?

- a. In what areas, and for which target species, is this exemption being used?
- b. To what extent is industry using a 4-seam "high rise" otter trawl under this exemption program?

I can't speak for other docks, but I know that the exemption is used at ours by most boats at one time or another. From fall until spring, when fluke, bass and scup can be found together, from the Cholera Bank (in the fall) out to Hudson Canyon and waters north and south out to 80 Fathoms (late fall, winter, and spring). We only use a flynet (high rise) in the colder months. I would say most, if not all boats are using a 4-seam net under this exemption. Like I said earlier, the side panels don't help to catch more summer flounder, but they help with other species like bass and scup, that tend to be off the bottom.

3) What is the difference between a flynet and a "high rise" otter trawl in terms of net handling characteristics and fishing efficiency?

I would say that the only difference between the two is the name. Down south they call it a flynet and we call it a high rise in the north. We have added a side panel making it a 4-seam net, but that just gives it more lift.

4) What are industry recommendations on the flynet exemption? Is there a need to change or modify this exemption?

The flynet exemption is very important in our fishery. We don't target summer flounder with a high rise, but there are times when we catch quite a few. If there was no flynet exemption, we would have to discard these fish and waste a commodity that we'll have to later catch (on the same trip) in a net with a 5.5" cod end. Having all that big twine in the front of the net eliminates discards (of small summer flounder), so we're not wasting the resource by throwing over dead fish.

Another reason the flynet exemption is important is not having to worry

about being compliant with the 5.5" cod end mesh size requirement for summer flounder. There are times, for one reason or another, that we catch our fluke quota first on a trip (with a 5.5" bag) and then switch over to a flynet (high rise) for bass and scup with a 5" cod end. Even though we are not targeting summer flounder at that point, if we are boarded by the coast guard we can be found to be out of compliance for summer flounder, since we have a 5" cod end on the net. The 5" is legal for bass and scup, but not for summer flounder. There are other times when you may start out fishing for bass and scup and you are catching summer flounder with them. So if you are only allowed to retain the by-catch of summer flounder until you put on a net with a 5.5" cod end, you would have to discard all summer flounder in excess of the by-catch limit. This would be a waste of the resource and just make the trip that much longer (burning more fuel and making it harder for me and my crew).

I would say that the flynet exemption should allow the retention of summer flounder with a 2 or 4 seam net, that has at least 8" twine in the wings and the first 35 meshes in the first belly of the net.

I've been doing this a long time, and I don't feel that anyone (including myself) uses the flynet exemption to try to catch more summer flounder with a smaller cod end. But rather retain legal fish that would otherwise be wasted if they were to be discarded and caught at a later time (on the same trip) with a net with a 5.5" cod end. I probably won't be in this business much longer, but feel this exemption is not only important to the fishermen that use it, but also for the resource.

Sincerely,

Thomas P Anderson
President
Fishy Business Inc.
Captain
F/V Amber Waves

Additional Comments

Name	Paddy mc glade
Email Address	Erin15@cox.net
Affiliation	Owner of F/v Cody and enterprise out of point judith
What is your primary area(s) of fishing activity?	SNE
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	Personally I prefer the 5.5 inch diamond but don't think a change is needed on either size.
Issue #2: Small Mesh Exemption Program	<p>In my opinion the discards are not the problem but the insanely high quota amount that we have been given this last year with boats able to stay and drill on 20/30k trip limits for the southern states while the other states may be on a 2k trip limit bi weekly during the winter.</p> <p>A .my boats use the exemption to target squid , whiting etc plus Sumer flounder till we get our limit of SF and then go for off load . Smaller boats are limited with weather and being able to catch some mix can make it pay for expenses</p> <p>B.. shorter trips which is less time on bottom with no discards and less fuel.</p> <p>C . I think there would be more discards if we did not have the exemption so I think leave as is</p> <p>Would like to see the council look at quota division among states as 20/30 k a trip for some states is crazy . Last month I got .75 cents a lb for SF . I'm glade quota is getting cut so maybe we can get \$3/4 a lb</p>
Issue #3: Summer Flounder Flynet Exemption	
Additional Comments	I see absolutely see more discards if we don't have it which means more time on bottom as in switching nets to catch SF or mix . A trip on my boats might be 1/2 days but may turn into 3/4 days if we take the exemption away as we need to have the mix otherwise it won't be worth leaving the dock .

Name	Shawn hinds
Email Address	Fvscottnathan@aol.com
Affiliation	Fv scott nathan
What is your primary area(s) of fishing activity?	Nj coast , mud hole, Hudson canyon
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	6 inch square works just fine to filter small fish, 5.5 diamond holds much smaller fish, if any change keep 6 inch square and get rid off 5.5 diamond
Issue #2: Small Mesh Exemption Program	No change
Issue #3: Summer Flounder Flynet Exemption	No change
Additional Comments	

Name	Aaron Williams
Email Address	Tradfisheries@gmail.com
Affiliation	FV Tradition
What is your primary area(s) of fishing activity?	South of New England
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	I think we should remain status quo on mesh size, it has worked for numerous years.
Issue #2: Small Mesh Exemption Program	Small mesh program has worked well for years I think it should remain status quo, but also maybe look into having the exemption be a macro on VMS you could code in via VMS instead of through NOAA port agent.
Issue #3: Summer Flounder Flynet Exemption	I believe the flynet seam size shouldn't matter as long as minimum mesh size of twine is met.
Additional Comments	

Name	Gus Lovgren
Email Address	gus.glove@gmail.com
Affiliation	Lilly Rose Fisheries LLC, Fishermans Dock Co-Operative
What is your primary area(s) of fishing activity?	otter trawl
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	
Issue #2: Small Mesh Exemption Program	
Issue #3: Summer Flounder Flynet Exemption	<p>Dear Mid Atlantic Council,</p> <p>My name is Gus Lovgren, owner and operator of the F/V Lilly Rose and a member of the Fisherman's Dock Co-Operative in Point Pleasant Beach, NJ. I am a fourth-generation commercial fisherman that has worked within the industry for almost 25 years, and I've been involved, at some level for the entirety of my life. My written comments represent that of myself, my business, Lilly Rose Fisheries LLC, as well as the entirety of the Fisherman's Dock Co-operative.</p> <p>We have little experience using square mesh cod ends, we typically fish with diamond mesh. And although plans may change soon, the small mesh exemption program has been seldom, if ever, used by myself or other members. I will refer to my comments expressed at the webinar on November 1, 2023, on both these issues. What is most important to us is the Flynet Exemption, so I will reiterate my spoken comments and add anything I may have missed.</p> <p>1) What does industry consider a flynet for the purpose of fishing under this exemption (2-seam net, 4-seam net, etc.)?</p> <p>We consider a net with at least 8" twine (whether it is 2-seam or 4-seam) in the wings</p>

and at least 35 meshes in the first body section behind the sweep to be a flynet, or what we call a high rise. It can graduate down to 2" twine in the extension, which a lot of guys use for squid, but it doesn't have to. The number of seams should not matter. Typically, the more seams a net has, the more of a likelihood that the nets are targeting higher swimming species and decreasing fluke by-catch. Nets are now evolving with more and more seams. Many fishermen are having nets built with bottom panels using mesh sizes 10 feet or larger to assure the escape of bottom fish. Limiting the number of seams in the flynet exemption would be doing an injustice to the exemption.

2) Is the flynet exemption widely used?

a. In what areas, and for which target species, is this exemption being used?

b. To what extent is industry using a 4-seam "high rise" otter trawl under this exemption program?

From fall until spring, when fluke, bass and scup can be found together, from the Cholera Bank (in the fall) out to Hudson Canyon and waters north and south out to 80 Fathoms (late fall, winter, and spring), we only use a flynet (high rise) in the colder months.

I would say most, if not all boats are using a 4-seam net under this exemption. Like I said earlier, the side panels don't help to catch more summer flounder, but they help with other species like bass and scup, that tend to be off the bottom.

3) What is the difference between a flynet and a "high rise" otter trawl in terms of net handling characteristics and fishing efficiency?

I would say that the only difference between the two is the name. Down south they call it a flynet, and we call it a high rise in the north. We have added a side panel making it a 4-seam net, but that just gives it more lift.

4) What are industry recommendations on the flynet exemption? Is there a need to change or modify this exemption?

The flynet exemption is very important in our fishery. We don't target summer flounder with a high rise, but there are times when we catch quite a few. If there was no flynet exemption, we would have to discard these fish and waste a commodity that we'll have to later catch (on the same trip) in a net with a 5.5" cod end. Having all that big twine in the front of the net eliminates discards (of small summer flounder), so we're not wasting the resource by throwing over dead fish.

This exemption also allows us to switch between fisheries for any number of reasons. Sometimes we have gear damage and to salvage a trip need to switch fisheries. More often we find that between our fisheries for black sea bass, scup, and summer flounder we may find it more efficient to catch one species during the day and another at night, then return to the original fishery upon sunrise. This allows us to be more economical burning less fuel and resources, while increasing our time on land spent with families and loved ones.

I don't feel that anyone, including myself, uses the flynet exemption to try to catch more summer flounder with a smaller cod end. But we would rather retain legal fish that would otherwise be wasted if they were to be discarded, only to be caught at a later time on the same trip with a net with a 5.5" cod end. I feel this exemption is not only important to the fishermen that use it, but also for the resource.

Sincerely,
Gus Lovgren
Owner/Operator
Lilly Rose Fisheries LLC
Treasurer
Fisherman's Dock Co-Operative
Cell (732)597-8742

Name	Bill Amaru
Email Address	ironbill70@gmail.com
Affiliation	Commercial fisherman from Massachusetts. Current member of Massachusetts Marine Fisheries Advisory Commission, and former NEFMC member.
What is your primary area(s) of fishing activity?	Have fished multiple gears over 50+ years of commercial fishing activity in both state and federal waters. Primarily focused on mixed-species trawl fishery south of Cape Cod now.
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	Massachusetts state regulations establish a minimum trawl mesh of 6.5"; most fluke fishermen here use a 6.5" or even 7" square mesh to comply with this regulation. Dropping the square mesh alternative from the fluke FMP would have an economic cost to switch to diamond for dual state/federal permit holders. With other costs rising (fuel, dockage, etc.), the industry cannot sustain such a change for negligible conservation benefit. Importantly, it must be considered that square mesh doesn't pull evenly and over time becomes elongated and thus more diamond in shape; accordingly, the 6.0" square alternative in the FMP becomes more equivalent to the 5.5" diamond over time than the recent mesh study indicates. The 6.5" square mesh used mostly in the MA fluke fishery is really like a 6" diamond.
Issue #2: Small Mesh Exemption Program	
Issue #3: Summer Flounder Flynet Exemption	
Additional Comments	

Name	Corey Harris
Email Address	Cwh6k12@aol.com
Affiliation	Owner/Operator FV Bulldog
What is your primary area(s) of fishing activity?	Southern new england
Issue #1: Summer Flounder Minimum Mesh Size: 5.5" Diamond or 6.0" Square	No changes needed
Issue #2: Small Mesh Exemption Program	I believe that the small mesh exemption area be extended to follow Eric Reid's proposal as it would greatly reduce regulatory discards in the fall and winter small mesh fisheries
Issue #3: Summer Flounder Flynet Exemption	
Additional Comments	

Email and Phone Comments

From: bucktail <bucktail8@aol.com> **Sent:**

Thursday, October 19, 2023 1:06 PM **To:**

Chelsea Tuohy <CTuohy@asmfc.org>

Subject: [External] Re: MAFMC Seeks Public Input on Summer Flounder Mesh Regulations and Exemptions

IF you are going to loosen up the Commercial regulations YOU ALSO need to loosen up RECREATIONAL REGULATIONS

TWO suggestions for recreational summer flounder

#1 Recognize that 80% of Summer Flounder migrate a little further north after spawning well offshore in winter every year which results in the average size is larger New York and further north than average size in New Jersey/Delaware

#2 With regulations of 17 1/2" and larger all that is being removed are females which will never allow the population to return to it's past numbers

#3 Set regulations by area and acknowledge the fact that off NJ and Delaware the average size is smallest

#4 Recognize that largest summer flounder of the year arrive in inshore waters of New Jersey and Delaware in mid April and ONLY remain inshore 8 to max of 10 weeks before moving back offshore and returning to spawning areas . The number of larger fluke arriving inshore drops significantly in late May and June . In July thru August the smallest fluke of the year are inshore with very few legal fluke getting caught in inshore waters

#5 Open season earlier or have a 360 day season for inshore summer flounder and different seasons for off shore ,Keep number of fish kept at 3 until population returns to higher numbers

As one who has fished for summer flounder in South New Jersey area and tagged and released over 12,000 summer flounder with a 9% return of tags my comments come from the results of my tagging data

Managing the Summer Flounder Coast Wide is wrong and will not allow for a population growth

I recognize these comments probably will go no where but felt they needed to be stated from someone who has actually caught summer flounder and kept the data

Based on some of the decisions that have been made over past 30 years I have my doubts if the decision makers do a lot of fishing

thank you for listening

Bill Shillingford

Cape May County ,New Jersey

email bucktail8@aol.com

From: James Fletcher <unfa34@gmail.com>
Sent: Thursday, October 19, 2023 5:35 PM
To: Kiley Dancy; Moore, Christopher; Hare, Jon
Subject: Re: FW: MAFMC Seeks Public Input on Summer Flounder Mesh Regulations and Exemptions

KILEY PLEASE -PLEASE GO BACK TO 1989 PRE NET SIZE (SUMMER FLOUNDER REGULATIONS) INTRODUCTION! REVIEW PUBLIC COMMENT OPPOSED TO 5 1/2 TAIL BAG.

United National Fisherman's argued for a 5 inch web size for summer flounder, FROM PRE COUNCIL IN 1976 First net size request for net size to ASMFC came from Carolina Fishermen mid 70's
5 inch is still the correct size to allow sea bass Scup & croaker to be landed in a mixed fishery.

JUST GO BACK AND LOOK WHAT THE FISHING INDUSTRY ASK FOR! pre 1989 when 5 1/2 was implemented. 5 INCH AND 12 INCH FISH WOULD HAVE WORKED AT THE TIME! **(WILL WORK NOW)**
THINK OF BOFFFF AND THE IGNORANT SCIENCE PRESENTED AT THE LAST COUNCIL MEETING.
31 years later and over half the fishermen and boats are out of business Perhaps the time has come for a 5 inch tail bag and 12 inch fish WHY 12 YOU ASK
THE SOUTHERN FLOUNDER IS NOW IN CHESAPEAKE BAY AND FEW MALE GROW TO 15 INCHES! THIS IS EXTREMELY FRUSTRATING ASK DR. MOORE ABOUT 5 INCH FROM INDUSTRY!

BEFORE THE NET SIZE A VESSEL WOULD LAND 65% FLOUNDER, REST OF CATCH WOULD HAVE BEEN BLACK SEA BASS GRAY TROUT, CROAKER' SCUP, SQUID the extra catch was eliminated by the 5 1/2 net size instead of 5 inch STUPID SCIENCE OR DESIGN TO KILL BOFFFF FEMALE FLOUNDER. The water bucket affect allowed large female to escape. Those dumb fishermen did not know anything WE HAD BEST AVAILABLE SCIENCE TRYING TO DESTROY U.S. FISHERIES BY TARGETING BOFFFF. the same scientist that said in report that large FEMALE FLOUNDER DID NOT AFFECT REPRODUCTIVE STOCK.

Be sure to invite Mark Wuenschel & crew to explain BOFFFF and **SOUTHERN FLOUNDER INSTEAD OF YELLOW TAIL FLOUNDER THAT WERE NEVER PART OF THE FLOUNDER (SOUTHERN & SUMMER) FISHERY.**

As you can tell i am upset 52 years and the science is still being used to make America import seafood!

GO BACK AND REVIEW THE RECORD

From: Hart, Hannah
Sent: Monday, October 23, 2023 9:42 AM
To: Kiley Dancy; Chelsea Tuohy
Subject: FW: Summer Flounder VS Southern Flounder MOVEMENT NORTH

FYI

From: James Fletcher <unfa34@gmail.com>
Sent: Monday, October 23, 2023 9:41 AM
To: Hart, Hannah <hhart@mafmc.org>; hkindsvater@vt.edu; Didden, Jason <jdidden@mafmc.org>; Ross Butler <Ross.Butler@oceanfleetservices.com>
Subject: Summer Flounder VS Southern Flounder MOVEMENT NORTH

Discussion of net size regulations IS NOT THE PROBLEM:::
PROBLEM POOR SCIENCE & MANAGEMENT. This does not address dead recreational discards BUT TOTAL LENGTH FOR RECREATIONAL WOULD!

Ms. kindsvater; Have the Southern Flounder (*paralichthys lethostigma* moves north ? Now off Delaware and Growing in Chesapeake Bay? IF SO CONSIDER :

Could the Bastard Halibut of Japan family Paralichthyidae two families be introduced to U.S. waters to increase flat fish production off N.C. & Virginia (Yamaha Fishery Journal No. 37) IF SUMMER FLOUNDERS HAVE MOVED NORTH? OR SHOULD NET SIZE & FISH SIZE BE REDUCED TO HARVEST MALE SOUTHERN FLOUNDERS

is science & management following *GROUP THINK?*

WHEN WAS THE LAST TIME THE GILL RAKES OF FLOUNDER FROM BAY COUNTED? Are the fish southern or summer flounders off VA & NC ?

Southern Flounder migrate in tighter groups thus are not located off N.C. Or Virginia

PLEASE SOMEONE **THINK!**

--

United National Fisherman's Association James Fletcher Director 123 Apple Rd Manns Harbor NC 27953 land 252-473- 3287 cell 757-435-8475

From: Hart, Hannah
Sent: Monday, October 23, 2023 9:59 AM
To: Kiley Dancy; Chelsea Tuohy
Subject: FW: Summer Flounder Discussion

-----Original Message-----

From: James Fletcher <unfa34@gmail.com>
Sent: Monday, October 23, 2023 9:57 AM To:
Hart, Hannah <hhart@mafmc.org> Subject:
Summer Flounder Discussion

Consider;;; go down on net size to 5 inch. Go down of fish size to 12 inch TARGET MALE FLOUNDERS BOTH SOUTHERN & SUMMER. prevent small importing of flat fish.

CALL 757 435 8475 to discuss. NOT GROUP THINK!

--

United National Fisherman's Association James Fletcher Director 123 Apple Rd Manns Harbor NC 27953 land
252-473-3287 cell 757-435-8475

From: James Fletcher <unfa34@gmail.com>
Sent: Tuesday, October 31, 2023 11:59 AM
To: Kiley Dancy; Hart, Hannah; Moore, Christopher
Subject: Committee or plan development BEHIND DISCUSSION OF NET SIZE CHANGES

WHO ----- please supply a list of gropes BEHIND THE REVIEW OF NET SIZE DISCUSSION?

-- NAME AND QUALIFICATION OF CONTRACTOR REVIEWING MESH REGULATION! PAST EMPLOYMENT OF CONTRACTOR.

IWhat data is being utilized to support THIS REVIEW?

BOFFFF indicates the MAFMC & ASMFC **have allowed a smaller slower growing summer flounder to be genetically developed! SO why change net size GO SMALLER NET SMALLER FISH SIZE.**

DISCUSS CHANGING FIEH SIZE TO 12 INCHES TO MATCH THE SMALLER SLOWER GROWING FISH DEVELOPED BY MAFMC & ASDMFC CONSERVATION EQUIVLENCE .

United National Fisherman's Association James Fletcher Director 123 Apple Rd Manns Harbor NC 27953 land 252-473- 3287 cell 757-435-8475

From: Steve Doctor -DNR- <steve.doctor@maryland.gov>
Sent: Wednesday, November 1, 2023 3:09 PM
To: Hart, Hannah; Kiley Dancy
Subject: mesh size meeting

I emailed Sam Martin a trawler from Maryland and he would prefer to be able to keep the 6 inch square mesh. He says the fleet uses the 6 inch square mesh and the 5.5 inch diamond mesh both. He uses the 6 inch square when he wants to reduce 'trash' bycatch in the catch.

Thank you

Steve Doctor Fisheries
Biologist Ocean City,
Maryland
Maryland Department of Natural Resources
12917 Harbor Rd. Ocean City, MD 21842
443-365-0243
steve.doctor@Maryland.gov

From: Hank Lackner <jdhlcl@aol.com>
Sent: Saturday, November 4, 2023 2:40 PM
To: Kiley Dancy
Subject: summer flounder mesh regulations and exemptions

Hello Kiley,

I would like to start off by commenting on the mesh sizes..I do not believe there is any need at this current time to make any changes to the cod end mesh size Keep the current 5.5 inch diamond or 6 inch square as the minimum size .

I would like to support keeping the small mesh exemption program in place and in fact expand it..During these times of warming water, fish are moving north and deeper so I believe it is time to adapt some of these old, but very important exemptions. Slightly modifying the current small mesh exemption boundaries will reduce discards and add some flexibility to the struggling squid fleet.

I would like to see the boundary shifted west on the north end to 72* 37.0W and connect to the northeast corner of the southern scup GRA and follow that offshore line south..The loligo squid fleet primarily fishes with large mesh nets in this area and occasionally encounters summer flounder and discarding them is just a waste.

I also support keeping the flynet exemption with some modifications made to its definition..It should include nets with more than two seams as well as mesh sizes greater than 64 inches in the wings..

By keeping and amending these two exemptions to more adequately represent todays fishing fleet, discard numbers will drop and the fleets efficiency will slightly improve..These are trying times for most and I hope you can make these few revisions to make things a little easier for all..

Thank You, Hank

Lackner

F/V Jason & Danielle Montauk NY

Comments from James Fletcher 11/1/23

In the 1970's was shoveling over flounder that were less than 10 inches. A 5-inch net and a 12 inch fish would work. The Council is now discussing the net size and not discussing changing the min. fish size. Summer flounder is going for 1 dollar/ pound. Nothing in the US is going down in price other than fish. The department of Comm. is manipulating the price of fish to benefit the foreign market.



November 3, 2023

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

Chris Moore, Executive Director
Mid Atlantic Fishery Management Council
88 North State Street, Suite 201
Dover, DE 19901

Re: Summer Flounder Mesh Regulations and Exemptions

Dear Chris,

We are writing to express our support for the Small Mesh Exemption program, which is an important exemption utilized by many vessels in Southern New England. It reduces discards and enables fishing flexibility for these vessels, including several of our vessels. To increase this flexibility and reduce regulatory discards, we support moving the current Small Mesh Exemption 72° 30.0 W longitude line to the west, beginning a new line with a starting point at 72° 37.0 W connecting to the northeast corner of the Southern Scup GRA, then following down the eastern border of the Scup GRA. This would allow the small mesh fisheries operating on the edge of the continental shelf in the winter months to access the area between the Southern Scup GRA line to the west and the Coral Zone line to the east. As these vessels are already typically using gear with large meshes in the mouth of the net, designed to shed non-target species, no impact to the fluke resource would occur, other than to reduce a small amount of discards, but the change would provide flexibility to the vessels utilizing the exemption. Currently, vessels utilizing the Exemption are prevented from continuing a trip started east of the current 72° 30.0W to the west of that line; the vessel would be required to return to port and then start another new trip to the west of the line. This reduces flexibility and increases fuel consumption. Moving the line to the west would allow the fisheries to operate in a more efficient manner and reduce high fuel costs.

We also support amending the flynet exemption language to include nets with more than two seams, as well as mesh sizes greater than 64 inches in the wings. Many current nets include meshes much larger than 64 inches in the wings, and inclusion of larger mesh sizes than currently allowed should not present any conservation issue. Neither should inclusion of nets with more than 2 seams, as the number of seams has no bearing on flatfish retention. In fact, in the New England groundfish fishery, four seam nets with large mesh in the wings were adopted into regulation after demonstrating significant reduction in flatfish catch.²

Thank you for the opportunity to comment.

Sincerely,
Meghan Lapp
Fisheries Liaison
Seafreeze Shoreside and Seafreeze Ltd.

² See [Bycatch reduction in the Northeast USA directed haddock bottom trawl fishery - ScienceDirect](#).

Kiley Dancy

From: Jim Lovgren <jlovgren3@gmail.com>
Sent: Thursday, November 9, 2023 4:38 PM
To: Hart, Hannah; Kiley Dancy
Subject: summer flounder issues
Attachments: fly net.docx

Hanna, Kiley, attached are comments I submitted to the council in 2020, in regard to the fly net exemption, and mesh sizes for demersal species. I wasn't available for the webinar last week, so I would like these comments to go on record and also be presented in the briefing book for December's council meeting, especially since there are new members who are unaware of these comments. Thanks, Jim

Possible changes to Summer Flounder net regulations

At this fall's council meeting in Durham, N.C. I brought up a couple of issues in concern to Summer Flounder management relating to the Fly Net Exemption, and mesh sizes themselves. I would like to refresh your minds on these two issues as they are of critical importance to the Summer Flounder fishery, especially the winter off shore fleet.

The first issue I brought up was concerning the Fly Net exemption, which was stated by staff to be little used by the industry. I commented that that was wrong, many Mid Atlantic fishermen have been using the fly net criteria to allow them the flexibility to pursue multiple species while on an offshore trip of multiple days. Due to the use of trip limits in many species, fishermen of various states find themselves in the position of having trip limits of some species that are not economically worthwhile due to the increased distances they need to travel to catch them in the winter season. Because of the 200 pound bycatch limit in effect from November 1 to April 31, fishermen once they reach that limit must either discard anymore Summer Flounder they catch, or change nets to the now required five and a half inch mesh throughout. As a former council member I was familiar with the Fly Net exemption and recognized that it could be utilized on these offshore trips so that our fishermen could retain summer flounder in amounts exceeding the 200 Lb bycatch as long as their nets met the requirements of the Fly Net exemption, which all of our high rise nets do, [industry in the north east calls these nets High Rise, not fly net although they are the same thing]

Consequently boats from Point Pleasant, and other ports have been fishing using the fly net exemption for years, but because there was never any requirements needed to utilize this exemption, it went unnoticed by management. This utilization all gets down to versatility, the ability that all boats used to have to change from one fishery to another depending on many variables, including, weather, market prices, fish availability, damaged gear, ect. Once a bycatch limit of summer flounder was reached, the fisherman is forced to use 5 ½ inch mesh throughout. If he has 500 lbs of summer flounder aboard and tears up his net, he has to try to catch scup, sea bass or squid with 5 ½ inch mesh which will result in a broker, he might as well go home. By utilizing the fly net exemption, the fisherman can just change to his high rise and continue fishing, although his targeted fishery would change to Scup, Sea Bass, or squid. The fisherman should utilize a second VTR since he has changed his gear, but not all fishermen do this although they are required to.

So there are a few things that I request in regard to the fly net regulations, first being to change the description of the fly net to include not only two seam nets but also four seam nets. When this exemption was created four seam nets were not in wide spread use, now almost everyone uses them. And to be clear in regard to a four seam net, the four seams generally only go half way down the length of the nets body, they are designed to make the nets mouth, open higher, to

target fish higher in the water column, Scup, Sea Bass, and squid. Also some of these nets have ten foot mesh, or they are rope nets in which there are no meshes until further behind the sweep, therefore the mesh size definition of the fly net should also state 35 meshes or more of 8 inch OR LARGER behind the sweep. Also the storage language should be changed because it reads no mesh smaller than 5 ½ inches can be onboard the vessel. This should be changed to add “unless properly stored”. Remember, a fly net has a number of different meshes, one common version would have a graduated change from 32 inch to 16, to 8, to four and then to 2 inch, this is how they are constructed. If a fisherman cannot have 2 or four inch mesh

properly stored on his vessel, then when he tears up, if there is twine missing, his net is useless until he goes home and fixes it with the size twine that he is presently not allowed to have onboard. Lastly, if the NMFS or the council is so inclined I think that a review of VTR's and observer data will prove the wide spread use of the fly net exemption.

The second issue is related to the first and it regards the use of 3 different mesh sizes for the demersal species of Scup [five inch], Summer Flounder [five and a half] and Black Sea Bass, [four and a half]. These species are rightfully managed together, as they are very frequently caught together, in the same tow, or on the same trip. The mesh sizes have been very effective and have been the primary reason these stocks are presently so healthy. I do not propose any changes to the mesh sizes in these fisheries for the May 1 to October 31st fishery, which is defined by the increase in the bycatch limit for these fish. What I do propose though is that a uniform cod end mesh size of five inches be adopted for the offshore winter season from November 1st to April 30. This would mean that the Black Sea Bass mesh size would increase to five inches, while the Summer Flounder mesh size would be reduced to Five inches, while Scup stays the same.

This will allow fishermen the flexibility to target all three species on the same trip without having to worry about if he is legal or not. By increasing the Sea Bass mesh size to Five inches it will reduce discards and fishermen will retain larger fish. Most fishermen in the winter season are already targeting the Bass with five inch mesh. The reduction of the Summer Flounder mesh to five inches during the winter season will not in anyway create more bycatch of summer Flounder, It should be pretty well documented by Observer data that very few fish smaller than 14 inches are caught in the offshore fishery, they simply do not migrate that far offshore, the winter fishery is dominated by large mature fish usually bigger than 15 inches and the deeper the water the bigger the fish. This is also the reason the small mesh exemption exists east of the 72 30 line. One area of possible concern would be the southern area off Virginia and North Carolina. I do not have much expertise in fishing down south, so I don't know much about the size of the fish caught in the winter south of Baltimore canyon. The continental shelf narrows there, so the water gets deeper faster than off the northern Mid Atlantic. Also the southern fish generally are smaller than the northern fish so this may be an area to look into. If it is a problem it may be solved by using the southern boundary of the Scup GRA, or simply the 42500 line.

Emerson Hasbrouck has been doing research on this issue for a while so I'm sure he has valuable information regarding this mesh size issue. The regulatory relief that this change in meshes would create would be enormous, and a welcome relief to the fishermen that are presently stuck constantly changing nets or cod ends, many times in cold and dangerous conditions. Changing nets generally involves hoisting the net 30 feet or more in the air so it can be placed somewhere else on the deck, or in the fish hold. The net swings back and forth, and the floats and sweep become a dangerous weapon that have hurt many fishermen. Changing cod ends in the winter is brutal as the twine is wet, and its usually freezing or below, after a few minutes exposed to this your fingers become numb and you must go inside to thaw them out. Changing a cod end usually take 15 to 30 minutes.

So I request that the council and the Demersal committee pursue these proposals in an expediated manner. I don't believe that they require a Framework, I think it could be accomplished under annual Specifications. Thank you for your efforts in regard to fishery management,

Sincerely; Jim Lovgren

Kiley Dancy

From: Katie Almeida <kalmeida@towndock.com>
Sent: Thursday, November 16, 2023 2:04 PM
To: Kiley Dancy
Subject: fluke comments

Hi Kiley,

I'd like to add a couple of comments to consider on the fluke mesh size and fluke exemption.

-We use the 6" square net for fluke fishing as it works well in reducing discards and retaining the larger fish while letting the smaller ones go. The 5 ½ diamond can stretch a bit letting marketable fish escape.

-We support the suggestion of moving the small mesh exemption line west and perhaps allowing it to be used year- round to continue to reduce discards.

Thank you,
Katie

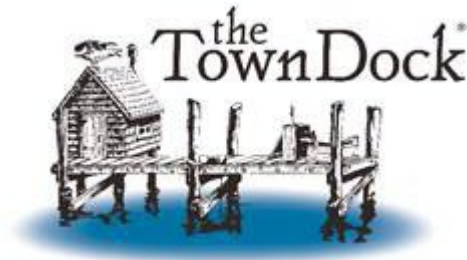
Katie Almeida

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From: Malcolm McClintock <mjmcclintock3@gmail.com>
Sent: Thursday, November 16, 2023 10:21 AM
To: Kiley Dancy; Hart, Hannah
Subject: Small Mesh Exemption
Attachments: Summer Flounder Mesh Regulations and Exemptions 11.16.23.pdf

I would specifically like to comment on the small mesh exemption regulation and say that i would be in full support of the idea that Eric Reid had about moving the western border of the line to the 72'37.00, starting at the shore of Long Island running south to the northeast corner of the southern GRA, and then following that border all the way down. This would dramatically reduce the regulatory discards. As it stands now, any boat that is squid fishing in the fall and winter, east of said line (where we typically squid fish in the fall and winter), and west of the 72'30, has to throw back any fluke they might catch over the 200 pound limit, only to then steam back to the northeast, east of the 72'30 at the end of the squid trip to then catch the fluke that they had already thrown back. It would just be a common sense solution to a regulatory discard problem and could easily be implemented thanks to the existing line of the southern GRA and should be done so as soon as possible.

As far as the 6" square bag issue goes, from the MAFMC's website, under which regulations are under review, it states that; "6.0" square mesh may be retaining too many undersized fish". The word that should be highlighted there is "may". Clearly more cooperative research needs to be done to determine whether or not 6" mesh is retaining undersized fish. Boats made significant investments building 6" square cod ends, let's not throw them all in the dumpster before we know for sure.

Also, it seems like a no-brainer that rope nets should be included as part of the flynet exemption and the language should be amended to reflect that.

Sincerely,
Malcolm J
McClintock F/V
Bulldog

Seafreeze Ltd.



November 3, 2023

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

Chris Moore, Executive Director
Mid Atlantic Fishery Management Council
88 North State Street, Suite 201
Dover, DE 19901

Re: Summer Flounder Mesh Regulations and Exemptions

Dear Chris,

We are writing to express our support for the Small Mesh Exemption program, which is an important exemption utilized by many vessels in Southern New England. It reduces discards and enables fishing flexibility for these vessels, including several of our vessels. To increase this flexibility and reduce regulatory discards, we support moving the current Small Mesh Exemption 72° 30.0 W longitude line to the west, beginning a new line with a starting point at 72° 37.0 W connecting to the northeast corner of the Southern Scup GRA, then following down the eastern border of the Scup GRA. This would allow the small mesh fisheries operating on the edge of the continental shelf in the winter months to access the area between the Southern Scup GRA line to the west and the Coral Zone line to the east. As these vessels are already typically using gear with large meshes in the mouth of the net, designed to shed non-target species, no impact to the fluke resource would occur, other than to reduce a small amount of discards, but the change would provide flexibility to the vessels utilizing the exemption. Currently, vessels utilizing the Exemption are prevented from continuing a trip started east of the current 72° 30.0W to the west of that line; the vessel would be required to return to port and then start another new trip to the west of the line. This reduces flexibility and increases fuel consumption. Moving the line to the west would allow the fisheries to operate in a more efficient manner and reduce high fuel costs.

We also support amending the flynet exemption language to include nets with more than two seams, as well as mesh sizes greater than 64 inches in the wings. Many current nets include meshes much larger than 64 inches in the wings, and inclusion of larger mesh sizes than currently allowed should not present any conservation issue. Neither should inclusion of nets with more than 2 seams, as the number of seams has no bearing on flatfish retention. In fact, in the New England groundfish fishery, four seam nets with large mesh in the wings were adopted into regulation after demonstrating significant reduction in flatfish catch.¹

Thank you for the opportunity to comment.

MALCOLM J. MELNTOCK FIVE BULLDOGS

Sincerely,

¹ See [Bycatch reduction in the Northeast USA directed haddock bottom trawl fishery - ScienceDirect](#).

Chris Moore, Executive Director

Nov 15, 2023

Mid Atlantic Fisheries Council

88North State Street, Suite201

Dover DE 19901

Dear Chris,

I support keeping the 6" square, most of the boats that have gone groundfishing use their old yellowtail flounder bags that are useless now.

I support moving the 72'30 line west to the scup GRA line to make it simpler with one less line. We were boarded once by a cutter unfamiliar with the rules and he told me I had to have the 72'30 LOA to fish west of 72'30 and I had to explain it all to them multiple times that I was right and they were wrong I got through to the boarding team but someone on the cutter didn't believe me or the papers I had. 3.5 hours later they finally realized they made a mistake.

I also support changing the wording in the fly net exemption to meshes 64" or greater and eliminating the 2 seam requirement or adding 4 seam to it. Eliminating 2 seam preferable.

Thank you

Mark S Phillips

F/V Illusion