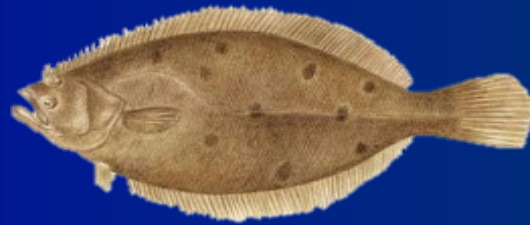




Summer Flounder Small Mesh and Flynet Exemptions



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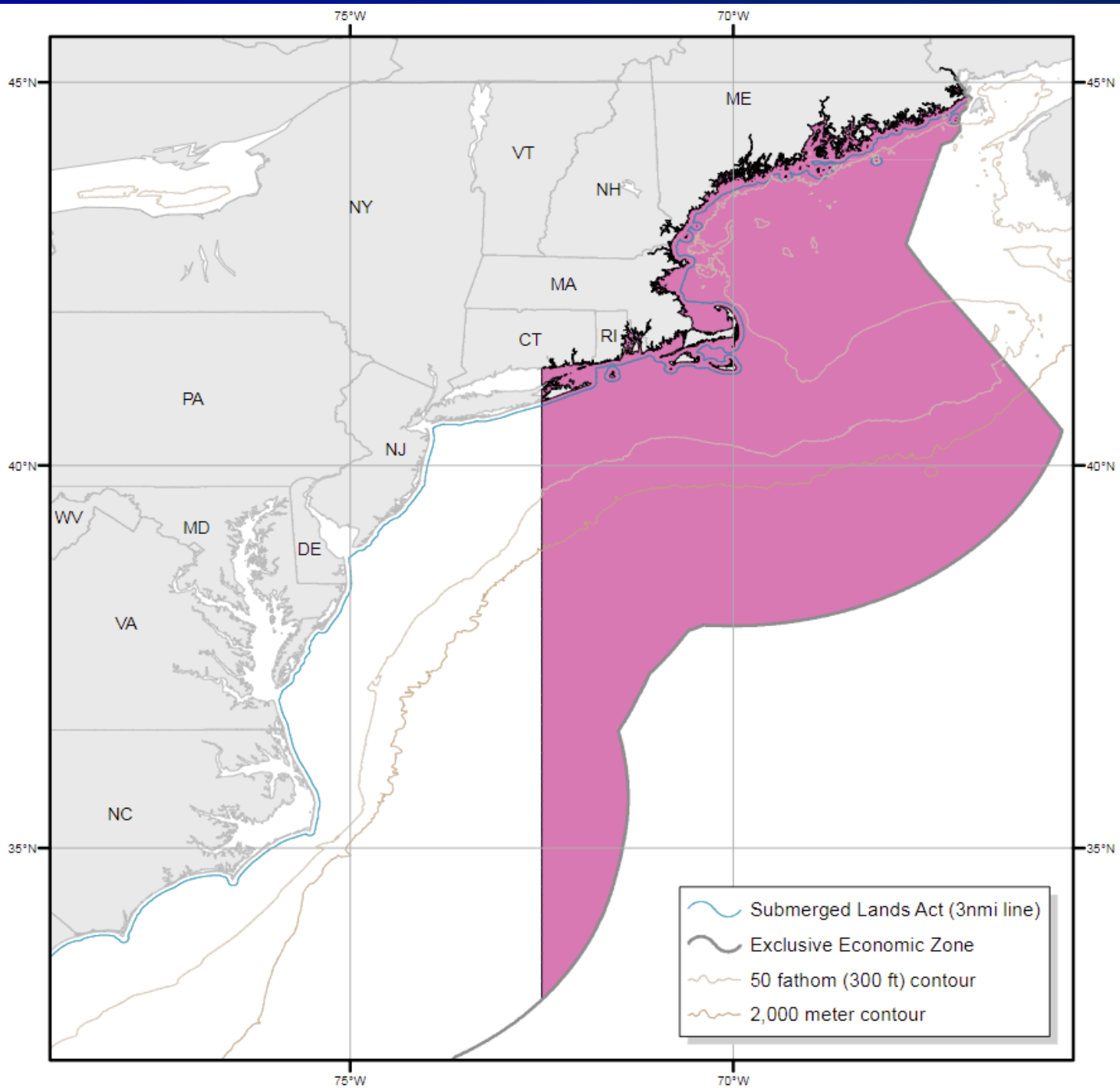
SMALL MESH EXEMPTION PROGRAM (SMEP)

Small Mesh Exemption – History

- Developed under Amendment 2 to the FMP in 1993 and modified under Amendment 3.
- Suggested by the New England Fishery Management Council and industry.
- Designed to allow vessels to retain some bycatch of summer flounder while operating in other small-mesh fisheries offshore.
- Smaller summer flounder not being caught in these areas in the winter months.

Small Mesh Exemption

- Vessels fishing east of longitude $72^{\circ} 30.0'W$ November 1 - 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.



Small Mesh Exemption – Admin

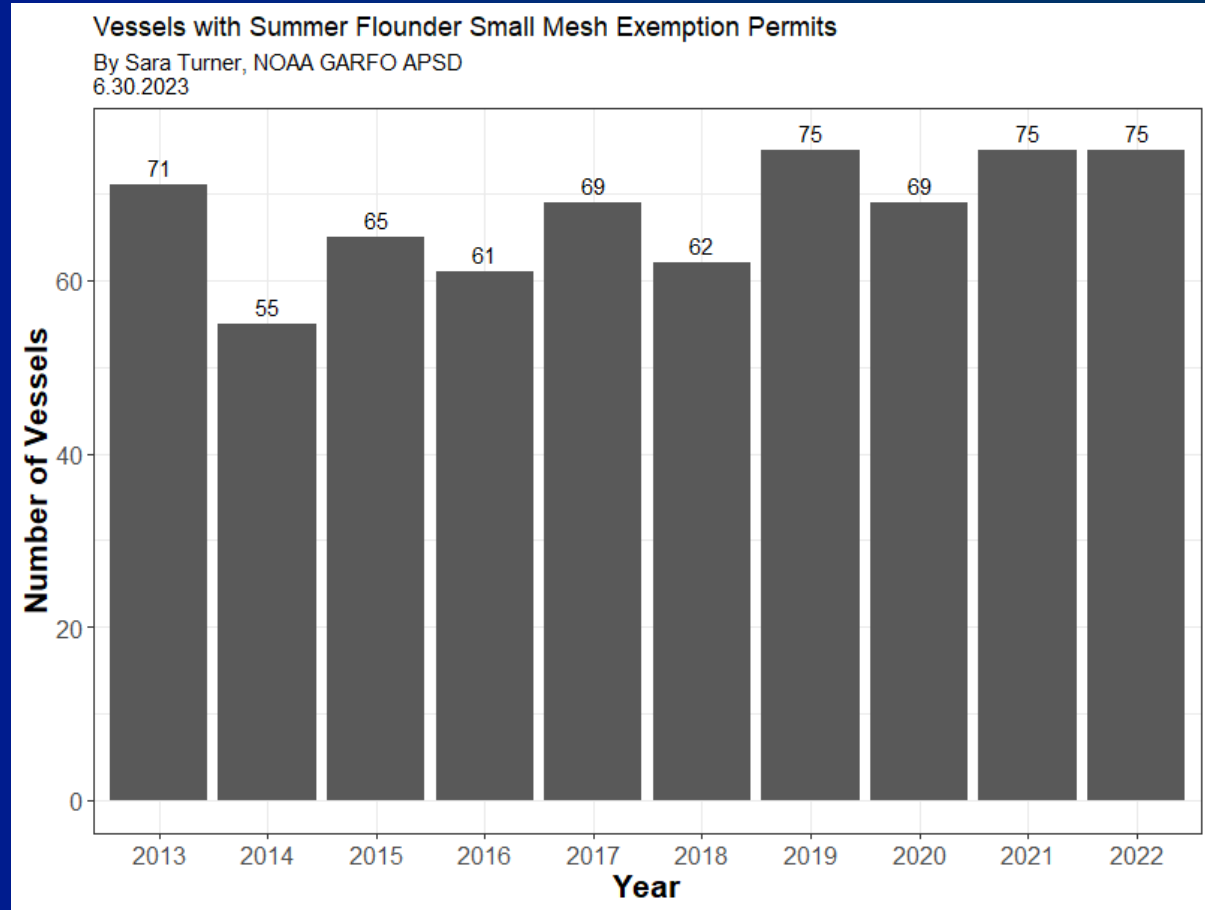
- Requires a Letter of Authorization (LOA) and participation for at least 7 days.
- Vessels cannot fish west of the line while participating in this program.
- GARFO may rescind if vessels fishing under this program are discarding more than 10% of their summer flounder catch (50CFR).

Small Mesh Exemption – Utilization

- Approximately 75 LOA's issued each year (most are active).
- Approximately 6% of observer trips met criteria for assumed SMEP trip (area, gear, pounds landed) and discarded more than 10% of their summer flounder catch) using methodology in FMP.
- Number of vessels participating and % of trips observed meeting the criteria have remained relatively stable over time.

Small Mesh Exemption Program

- The number of vessels issued a LOA has remained stable since 2013 (average = 68 vessels)

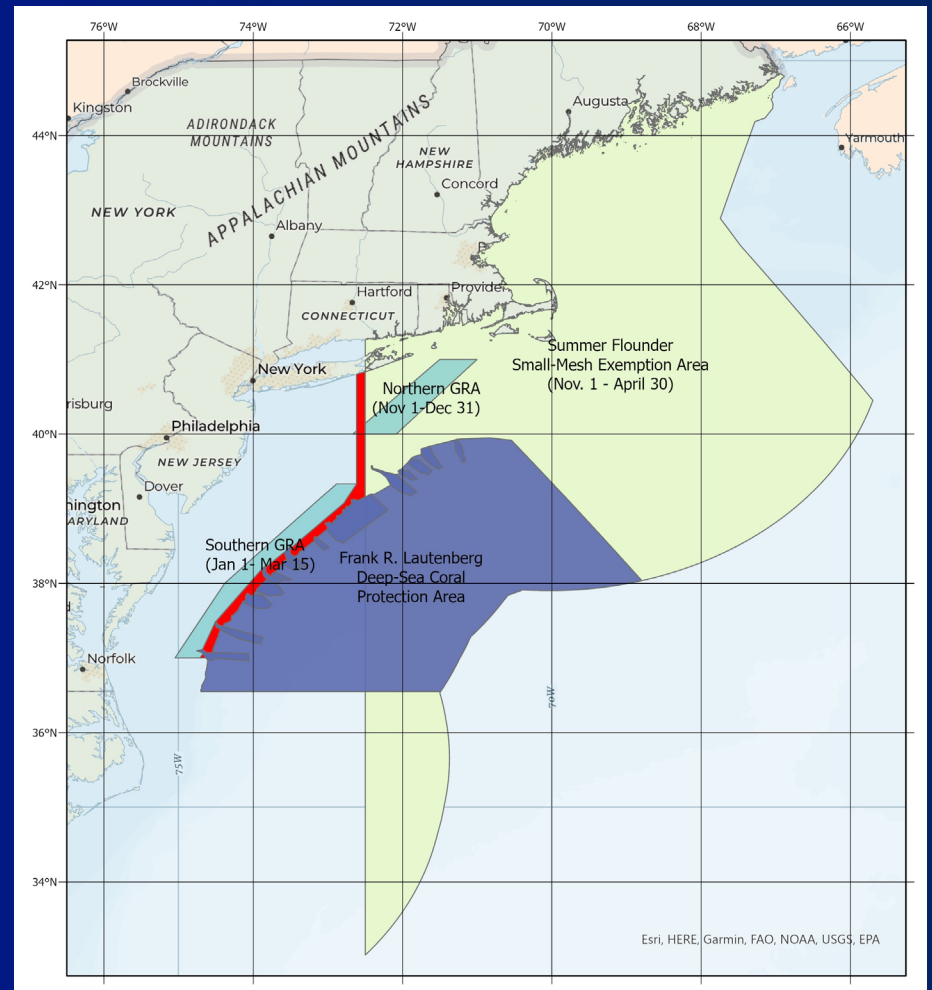
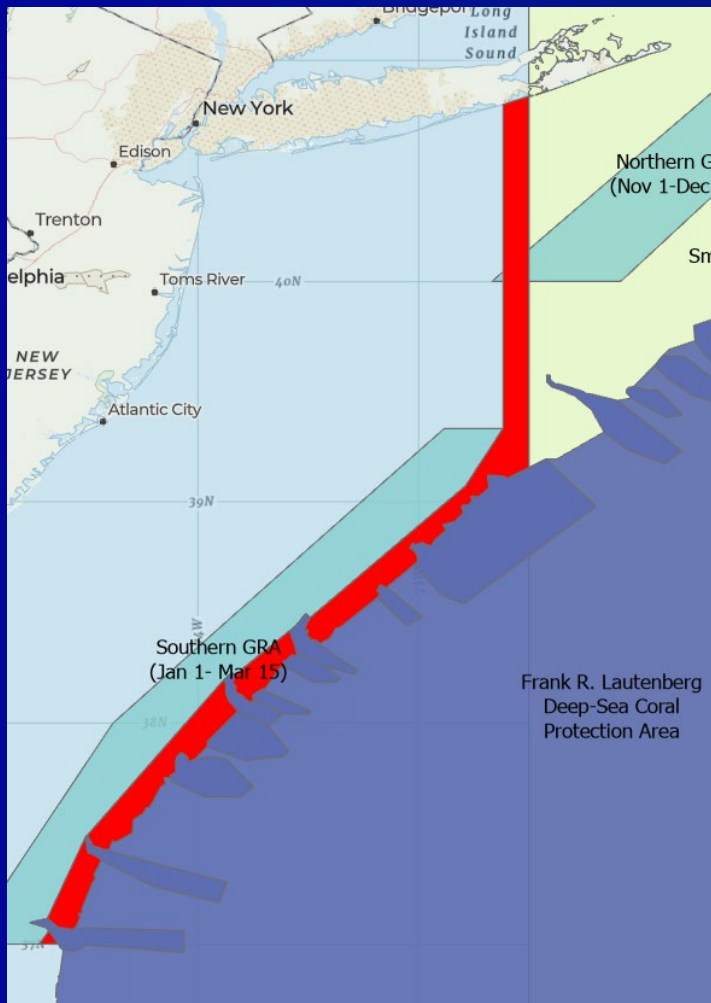


Industry Feedback

- SMEP is very (critically) important
 - Particularly to southern New England fleets
 - Has successfully reduced regulatory discards.
- Recommend moving SMEP line ~5 miles westward (align with the northeast corner of scup Southern Gear Restricted Area.

SMEP Area Modifications: Industry Proposal

- Additional area (excluding coral zones) = 4,943 km² or 1,901 mi²



Observations/Recommendations

- Discrepancy between language in FMP and language in regulations for determining point of rescinding the exemption (can be corrected with reconsideration of data sources).
- Current analysis relies heavily on assumptions of whether an observer trip is fishing under SMEP.
 - Suggest that evaluation be conducted of updating data with sources that weren't available in 1993.

Monitoring Committee Feedback

- Supportive of further evaluation of proposal to change the line:
 - Additional analysis needed, particularly on biological impacts (e.g., number of small summer flounder encountered/discarded).
- Suggest exploring new methods of analysis/data sources to help evaluate use of this exemption annually.
 - Evaluation methods could potentially be modernized/expanded to avoid relying solely on observer data and assumed LOA use.

Observations/Recommendations

GARFO Administrative Matters

- Some confusion may exist about the requirement that “Vessels fishing under the LOA shall not fish west of the line .”
 - No fishing west of the line at all while enrolled in the program? Or.....
 - No fishing west of the line during a single trip where the SMEP was used?

Staff Recommendations: SMEP

- Support additional analysis of industry-proposed change to exempted area; particularly on biological impacts
- Regulatory language appears to restrict adjustments that can occur through specifications:
 - “Adjustments to the exempted area boundary and season specified in [§ 648.108\(b\)\(1\)](#) **by 30-minute intervals of latitude and longitude** and 2-week intervals, respectively [...].”

Staff Recommendations: SMEP

- More complex area changes, if desired, should be evaluated via framework/addendum
 - Ensure sufficient resources/expertise dedicated
 - Consider how area interacts with scup GRAs and deep sea coral areas
 - Could consider adding one or both exemption issues to framework to reconsider scup GRAs (on Council's draft 2024 implementation plan)

Clarifying Questions on SMEP?

(hold discussion until after Flynet presentation)

FLYNET EXEMPTION

Flynet Exemption – History

- Implemented in 1993 (Amendment 2).
- Vessels fishing with a two-seam otter trawl flynet (specifically defined) are exempt from the summer flounder minimum mesh size requirements.

Flynet Exemption – Definition

1. A two-seam otter trawl with the following configuration:
 - a) The net has large mesh webbing in the wings with a stretch mesh measure of 8" to 64".
 - b) The first body (belly) section of the net consists of 35 meshes or more of 8" (stretch mesh) webbing or larger.
 - c) In the body section of the net the stretch mesh decreases in size relative to the wings and continues to decrease throughout the extensions to the cod end, which generally has a webbing of 2" (stretch mesh).

Flynet Exemption – Purpose

- Designed primarily to accommodate flynet fisheries targeting other species and catching very limited amounts of summer flounder, particularly Delaware to North Carolina (Atlantic croaker, weakfish, Atlantic mackerel, and bluefish fisheries).

Fly Net Exemption – Utilization

- Landings in the North Carolina flynet fishery have declined over time; little to no summer flounder have been landed in this fishery in recent years.
- Public comments from industry suggest that the flynet exemption is being used to fish with "high rise" nets (that may not meet the regulatory definition) in states other than North Carolina (substantiated by observer data).

FMP and Regulatory Discrepancy

- FMP stipulates that NMFS may withdraw the exemption if the annual average summer flounder catch in the flynet fishery *exceeds 1% of the total flynet catch*.
- Language in current federal regulations regarding this criteria refers to “vessels fishing under the exemption, on average, are discarding more than 1 percent of their entire catch of summer flounder per trip.”

Industry Feedback

- Strong support for keeping the flynet exemption.
 - Provides flexibility to switch between fisheries like summer flounder, scup, black sea bass, and squid.
- “High rise” net is regional terminology for a flynet even if it doesn’t meet the regulatory definition.
- No identified differences in fishing characteristics.

Industry Feedback

- Update Definition of flynet:
 - Must have “at least 2-seams” rather than specifying exactly 2-seams.
 - The large mesh portion of the wings should be “greater than 8 inches” without specifying an upper limit (currently 64”).

Industry Feedback

- Other suggestions made following MC meeting:
 - Addition of “Highrise” to flynet definition
 - Removal of number of meshes (“35 or more”) in the belly of the net
 - Clarification that stretch mesh decreases to the extension of the codend (part C of regulatory definition)

Monitoring Committee Feedback

- Exemption is not being used in fishery/area it was originally intended for.
- Agreed that regulatory definition update may be needed to reflect changes in fisheries and gear configuration.
 - However, need to better understand if expanding definition would simply codify existing practices or expand use of exemption.
- Need to consider use of additional data sets in the future to evaluate use of exemption.

Observations/Recommendations

GARFO Administrative Matters

The discrepancy between language in the FMP and that in current regulations regarding the 1% evaluation criteria for rescinding this exemption is an administrative matter that should be addressed by GARFO.

Observations/Recommendations

- Original intent of the regulation to accommodate the use of a specifically defined gear in a specific fishery, is no longer being utilized today in that area/fishery.
- No data available to evaluate the extent that this exemption is being used in other areas with non-compliant gear given that no permitting or reporting are required.

Staff Recommendations: Flynet Exemption

- As noted by Monitoring Committee, definition is likely in need of reconsideration
- Additional analysis needed to assess where/how/when exemption is being used and evaluate implications of changing/expanding definition
- A framework action/addendum is recommended if the Council/Board want to pursue potential changes

Questions / Discussion

BACKUP

SMEP Observed Trips

Number of observed trips meeting specific criteria based on NEFOP data

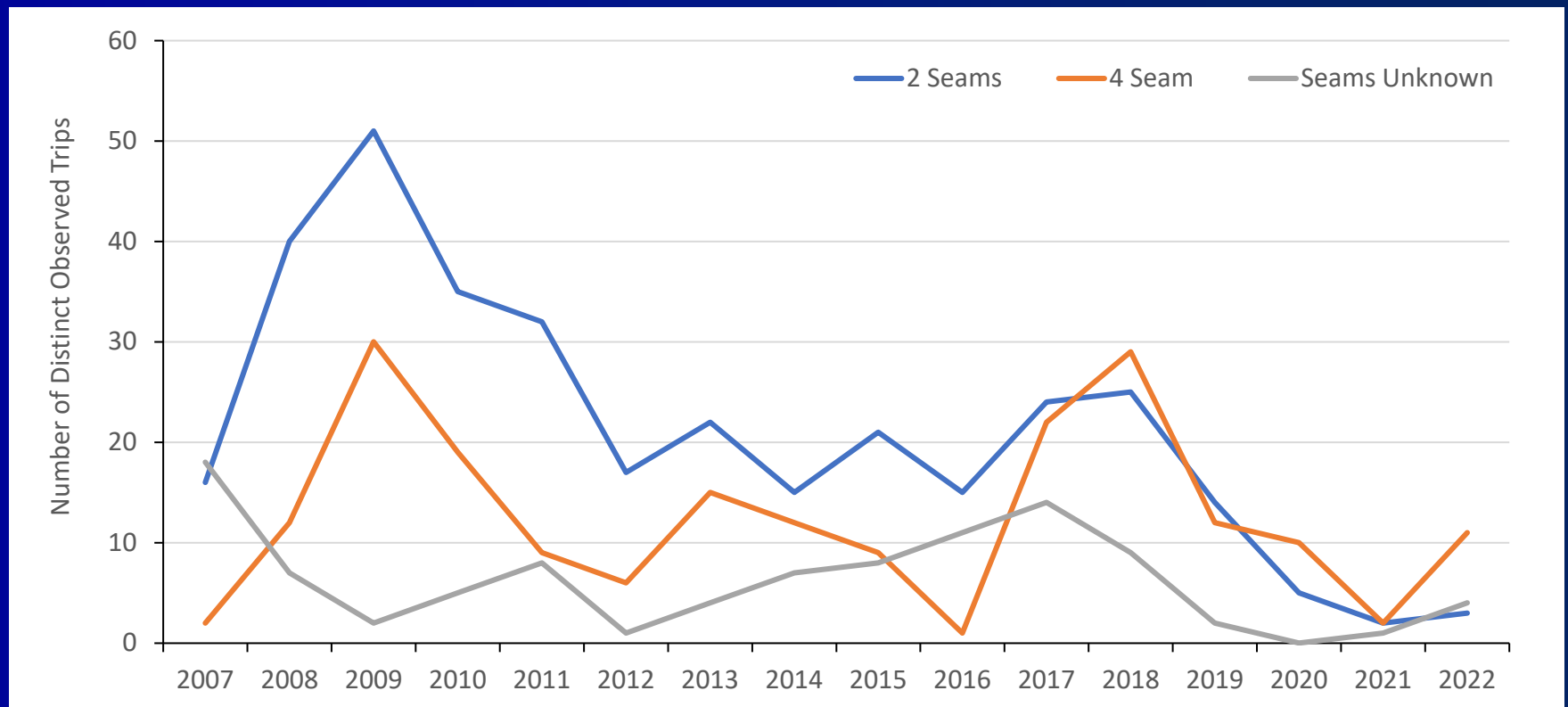
Criteria		Nov. 1, 2015 – April 30, 2016	Nov. 1, 2016 – April 30, 2017	Nov. 1, 2017 – April 30, 2018	Nov. 1, 2018 – April 30, 2019	Nov. 1, 2019 ~March 19, 2020 ^a	Nov. 1, 2020 – April 30, 2021	Nov. 1, 2021 – April 30, 2022
A	NEFOP observed bottom trawl trips over this time frame (Nov-April)	398	398	741	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

North Carolina Flynet Summer Flounder Landings

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%

Number of distinct observed trawl trips using flynet gear, by seam number, 2007-2022

- Regulatory definition specifies 2-seam nets; some using exemption with 4-seam nets



SMEP Adjustments – Amend. 3

- "All adjustments to the exempted fishery area would be **along latitude and longitude lines consistent with the 30' squares**; that is a latitudinal or longitudinal bands of 30' squares would be added to or subtracted from the exempted fishery area through the annual review. If a majority of the 30' squares in a given row were found to be under the 10% discard rate for the previous year (based on Sea Sampler data if such data existed or on winter trawl survey data if Sea Sampler data did not exist) or if the combined average (the sum of the discards for the squares in the row divided by the sum of the catch of the squares in the row) of all of the squares was below 10% discards, the row could be added to the exempted fishery area. The westernmost longitudinal row of 30' squares and the southernmost latitudinal row of 30' squares meeting this criterion would be the western and southern limits of the exempted fishery area for a particular season. Since there is no southern boundary except the point of intersection of 72° 30' with the limit of the EEZ, the southern limit for the purpose of this evaluation will be the row of 30' squares latitudinally containing the southernmost 30' square for which exempted fishery Sea Sampler data exist for the previous season."