



**Summer Flounder, Scup, and Black Sea Bass Monitoring Committee (MC)
November 13-14, 2023 Meeting Summary
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" 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.

Summer Flounder 2024-2025 Recreational Measures

The MC supported the use of the RDM estimates for summer flounder 2024-2025 harvest under status quo measures. Using the group's previous recommendation for an 80% confidence interval around the RDM median harvest estimate of 8.88 million pounds for 2024-2025 under status quo measures, the 2024-2025 RHL (6.35 million pounds) falls below the lower bound of the confidence interval. In combination with summer flounder stock status, this would result in reduction equivalent to the difference between the harvest estimate and the RHL. The MC confirmed that the 2024-2025 coastwide harvest target would thus be the RHL of 6.35 million pounds, **resulting in a 28% reduction from harvest expected under current measures.**

The MC agreed with the staff recommendation for **continued use of regional conservation equivalency for summer flounder to achieve the harvest target in 2024-2025**, using the same regions as adopted in 2023 and as defined in Addendum XXXII. RDM runs were not available at the time of this meeting to assist the MC with identifying non-preferred coastwide measures under conservation equivalency. Similarly, the MC believed the precautionary default measures could likely remain unchanged for 2024-2025 but wanted to see additional RDM results for coastwide measures to confirm this recommendation. **The MC will identify non-preferred coastwide and precautionary default measures at their follow up meeting on December 7, 2023.**

Scup 2024-2025 Recreational Measures

The MC supported the use of the RDM for estimating scup 2024-2025 harvest under status quo measures, as well as for adjusting the measures. Using the group's previous recommendation for an 80% confidence interval around the RDM median harvest estimate of 15.29 million pounds for 2024-2025 under status quo measures, the 2024-2025 average scup RHL (12.51 million pounds) falls below the lower bound of the confidence interval. In combination with scup stock status ("very high"), **this results in a required 10% reduction in harvest.** The MC confirmed that the 2024-2025 coastwide harvest target would thus be 13.76 million pounds (10% reduction from the RDM median harvest estimate).

The MC discussed potential removal or modifications to the federal waters January 1 - April 30 closure (resulting in a May 1 - December 31 open season) previously approved by the Council and Board in December 2022. The MC noted there is limited data available to assess the impacts of the federal waters closure given the lack of Marine Recreational Information Program (MRIP) data collected during Wave 1 (January - February) in all states in the management unit except for North

Carolina and the minimal MRIP data and intercepts available during Wave 2 (March - April). The group also discussed potential mandatory permit or reporting requirements if the fishery is reopened during waves 1 and 2, such as implementing a similar system to what is currently in place for the February black sea bass fishery in Virginia. However, it was noted that this Virginia program is specific to black sea bass and a program similar in scope may not be as successful for the scup fishery. For example, the reporting requirements for the Virginia February fishery are largely viewed as something given in return for an opening that was not previously allowed for several years, as opposed to the scup season which was previously open but is now closed.

The MC recommended an analysis of the for-hire vessel trip report (VTR) data for waves 1 and 2, and how we might estimate total recreational harvest based on that information similar to what has been done in the past for other species (i.e., black sea bass prior to the February fishery program that is currently in place). The MC agreed to look at the VTR data analysis at a follow up meeting in December, but noted given the minimal harvest that occurs in waves 1 and 2 in combination with the overall minimal effort in federal waters (less than 5% of total coastwide harvest annually), the removal of the January 1 - April 30 closure in federal waters would have minimal to no impact on overall scup harvest. Therefore, **the MC recommended removing the federal closure for 2024 but maintaining the current 40 fish possession limit and 10 inch minimum size limit. They recommended that the necessary 10% reduction be taken through the state recreational measures setting process** to give states more flexibility in setting measures for 2024-2025.

Given the required 10% reduction and the discussion described above related to the recommendation to remove the federal waters closure, **the MC agreed with the staff recommendation for continued use of the current federal water measures, with the exception of the January 1 - April 30 closure, and adjustments to state waters measures made through the Commission process to achieve the full 10% reductions required for 2024-2025.**

Black Sea Bass 2024 Recreational Measures

The MC recommended continued use of conservation equivalency to waive federal waters black sea bass measures in favor of state waters measures in 2024.

The MC discussed the requirements of the Percent Change Approach given that the 2024 black sea bass RHL differs from the 2023 RHL due only to three additional years of catch data without updated stock status information. They agreed that the Percent Change Approach requirements in this situation are not clear. The framework/addenda which implemented the Percent Change Approach did not contemplate a situation where the RHL would change without a stock assessment update. When the framework/addenda were finalized, it was assumed that management track stock assessments would be available every other year. The Percent Change Approach intends to set identical recreational measures across two years to provide some stability; however, measures were set for just 2023 with the intent of setting 2024-2025 measures in response to an anticipated 2023 management track assessment. However, the management track assessment was later delayed to 2024.

The MC discussed that the 2024 RHL is only about 5% lower than the 2023 RHL. Therefore, if the 2023 and 2024 RHLs had both been available for setting identical measures across 2023-2024,

use of the average of the two RHLs under the Percent Change Approach would have resulted in the same 10% reduction as was implemented for 2023. This reduction would have been used to set identical measures in 2023 and 2024. It would not have required a 10% reduction in 2023 and an additional 10% reduction in 2024. In short, the same measures implemented for 2023 would also have applied to 2024.

One MC member noted that there is no status quo option for stocks in the “very high” biomass category (i.e., at least 150% of the target level) under the Percent Change Approach. They said they would feel comfortable leaving black sea bass with status quo measures in 2024 given the high biomass. Another MC member agreed it is problematic that the Percent Change Approach does not include a status quo outcome for stocks in the very high biomass category under any of the three categories of expected harvest compared to the upcoming RHL(s).

The MC discussed whether status quo measures in 2024 would increase the likelihood of an additional reduction being needed for 2025, and alternatively if a 10% reduction in 2024 would prevent the need for an additional reduction in 2025 or even allow for a liberalization. They ultimately agreed it is not possible to predict outcomes for 2025 given the changes to the stock assessment which will take place over the next several months (e.g., transition to a new modeling framework, inclusion of several new years of data, and likely changes to the biological reference points). It is not possible to predict if the Percent Change Approach biomass category will change or how the outcome of the RDM will change after the assessment is updated. Therefore, the MC decided not to base their 2024 recommendations on any anticipated outcomes beyond 2024. Measures for 2025 and beyond will be set based on an updated stock assessment using the most recent information available.

The MC also noted that if a status quo approach is not used for 2024, the likely outcome would be changes in measures for 2022, 2023, 2024, 2025, and potentially also 2026 (given that an additional management track assessment may occur in 2025 to get black sea bass back on the same cycle as summer flounder and scup). Frequent changes in measures can lead to frustration and non-compliance among anglers, especially when the measures are restricted each time, as would be the case for black sea bass through at least 2024. Stability in measures, even if it means less frequent but larger restrictions, rather than frequent but smaller restrictions, can have benefits in terms of angler buy-in and compliance.

In light of these considerations, the MC agreed it would be appropriate to treat 2024 as the second year of a two-year cycle with 2023, despite the fact that this was not the intent when the 2023 measures were set. The MC agreed this would align with the goals of the Percent Change Approach to provide some stability in measures and to update measures in sync with the timing of updated stock assessment information.

One MC member noted that although biomass remains very high, the most recent stock assessment suggests it is declining. Therefore, status quo measures in 2024 may result in less harvest than 2023 due to reduced availability. Another MC member noted that the final 2023 harvest estimates may be lower than the preliminary wave 1-4 data suggest due to poor weather in the fall. In addition, the trawl survey in Maryland suggests recent strong recruitment.

Given all these considerations, but with greatest emphasis on the lack of updated stock assessment information, **the MC recommended that recreational black sea bass measures be left unchanged in 2024.**

The MC also briefly discussed the Virginia February recreational black sea bass fishery and expressed no concerns with continuation of this fishery in 2024.

Public Comment

One member of the public asked if the Monitoring Committee would discuss management uncertainty and what would happen if the ongoing research track stock assessment determines that the stock is overfished. Staff responded that management uncertainty impacts the RHL. The 2024 RHL was set in August 2023; therefore, the Monitoring Committee would not revisit the management uncertainty discussions as part of their 2024 recreational management measures discussions. Similarly, the research track assessment is not intended to be used in management. The research track will inform a management track assessment in 2024 which will be used to set measures for 2025. Changes in stock status shown in the management track assessment will impact the Percent Change bin for setting 2025 measures.