

**Draft Document for Board Review. Not for Public comment.**

*Atlantic States Marine Fisheries Commission*

**PUBLIC INFORMATION DOCUMENT TO DRAFT  
AMENDMENT 21 TO THE SUMMER FLOUNDER, SCUP,  
AND BLACK SEA BASS MANAGEMENT PLAN**



**This draft document was developed for Management Board review and discussion.**

**This document is not intended to solicit public comment as part of the Commission/State formal public input process. Comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting.**

**If approved, a public comment period will be established to solicit input on the issues contained in the document.**

*ASMFC Vision:  
Sustainably Managing Atlantic Coastal Fisheries*

**August 2014**

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**Public Comment Process and Proposed Timeline**

In December 2013, the Mid-Atlantic Fishery Management Council (Council) approved a motion to initiate the development of an amendment to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. In August 2014, the Atlantic States Marine Fisheries Commission (Commission)..... The Amendment process will conduct a comprehensive review and update of the FMP's goals, objectives, and management strategies for summer flounder. This draft Public Information Document (PID) presents background on the Commission and Council management of Summer Flounder, the amendment process and timeline, and a statement of the problem.

The Commission is calling this document Draft Amendment 21 to be consistent with the MAFMC's FMP for public comment.

The public is encouraged to submit comments regarding this document at any time during the Amendment process. Comments will be accepted until 5:00 PM (EST) on **XX, XX 2014**. Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

|   |   |
|---|---|
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**Timeline for Completion of Proposed Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass FMP**

|                       |                          |  |
|-----------------------|--------------------------|--|
| <b>Current Step →</b> | <b>August 2014</b>       | <b>Draft PID developed; Board Reviews and considers draft PID for public comment</b>   |
|                       | Summer/Fall 2014         | PID/Scoping public comment period  |
|                       | Fall 2014                | Management Board/Council reviews PID for public comment, considers initiation of Draft Amendment.  |
|                       | Winter 2015              | Board and Council identify priority issues for inclusion in the amendment; issue specific working groups are established; Fishery Management Action Team (FMAT) and working group meetings; FMAT begins development of options |
|                       | Spring/Summer 2015       | FMAT continues development of options (with working group input); meetings of the FMAT, working groups, Council/Board, Advisory Panel  |
|                       | Fall 2015/ Winter 2016   | Management Board/Council reviews FMAT and working group recommendations for options; Draft Environmental Impact Statement (DEIS) development begins  |
|                       | Spring/Summer 2016       | Range of options refined and approved; DEIS development continues  |
|                       | Fall 2016                | DEIS finalized; Management Board/Council, selects preferred options; public hearings   |
|                       | Winter 2016 /Spring 2017 | Management Board/Council considers public comments; final action; rulemaking and comment periods (5-7 months)  |

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### **Introduction**

Summer flounder, scup, and black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles), and by the Mid-Atlantic Fishery Management Council (Council) and NOAA Fisheries in Federal waters (3-200 miles). The management unit for summer flounder, scup, and black sea bass in US waters is the western Atlantic Ocean from the southern border of North Carolina northward to the US-Canadian border.

This amendment will consider updating the goals and objectives of the FMP as related to summer flounder, as well as consider modifications to any and all current management strategies used in the summer flounder commercial and recreational fisheries. The Commission and Council are seeking your comments on the specific issues identified in this document, as well as any other issues that might be of concern to you regarding summer flounder management.

### **Purpose of the Public Information Document**

The Commission and Council have initiated this PID to: 1) perform a comprehensive review of all aspects of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) related to summer flounder, 2) update the FMP goals and objectives for summer flounder management, and 3) modify management strategies and measures as necessary to achieve those goals and objectives.

A number of issues and concerns relative to summer flounder management have been raised by Commission and Council members, advisors, and other interested stakeholders. The Council received significant input on summer flounder management during the Council's Visioning and Strategic Planning process, conducted from 2011-2013. During this process, input gathered from surveys, port meetings, and other comment opportunities indicated there is significant stakeholder interest in re-examining and updating many of the management strategies and measures currently in place.

In addition, the Commission and Council have also proposed this action to evaluate the need for management response to changing conditions in the summer flounder fishery. This includes addressing apparent shifts in the distribution and center of biomass for the summer flounder stock (possibly related to the effects of rebuilding and/or climate change), as well as changing social and economic drivers for these fisheries. This action was proposed so that the FMP goals, objectives, and management strategies can be assessed in light of these changing fishery conditions, and can be better aligned with stakeholder priorities.

### **The ASMFC's Amendment Process and Timeline**

The publication of this document and announcement of the Commission's intent to amend the Summer Flounder, Scup, and Black Sea Bass FMP is the first step of the amendment development process. Following the initial phase of information gathering and public

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comment, the Commission will evaluate potential management alternatives and the impacts of those alternatives. The Commission will then develop a draft amendment, incorporating the identified management alternatives, for public review. Following the review and public comment, the Commission will specify the management measures to be included in the amendment, as well as a timeline for implementation.

This is the public's opportunity to inform the Commission about changes observed in the fishery, things the public feels should or should not be done in terms of management, regulation, enforcement, research, development, enhancement, and any other concerns the public has about the resource or the fishery. In addition, this is the public's chance to present reasons for the changes and concerns for the summer flounder fishery.

A tentative schedule for the completion of Amendment 21 is included at the beginning of this document. Please note these dates are subject to change.

**Background on Summer Flounder Management**

The Commission created the first Summer Flounder FMP implemented in 1982. The Council's FMP was implemented in 1988 and was based on the ASMFC plan. Since then, twelve of the fourteen amendments that have been developed and approved for the Summer Flounder, Scup, and Black Sea Bass FMP have made changes to Summer Flounder management. A complete list of the amendments, addenda, and framework changes to the Summer Flounder FMP are in Table 1.

Amendment 2 (1992), introduced the allocation of the total allowable landings (TAL) to the commercial sector (60% of the TAL) and recreational sector (40% of the TAL) in the form of annual quotas. The initial quota-based management system set state-by-state percent shares of the commercial summer flounder allocation for each year's coastwide quota based on the 1980-1989 commercial landings by state from Maine to North Carolina. This was stipulated in Amendment 2 and revised slightly in Amendment 4 (both in 1993). States manage their quotas using trip limits, gear restrictions, seasons, and Individual Fishing Quotas (IFQs) to best utilize their state quota and meet their fisheries' needs. In Federal waters, commercial fishermen holding a moratorium permit may fish for summer flounder. Permit data for 2013 indicates that 824 vessels held commercial permits for summer flounder.

For the recreational sector, the initial setup of Amendment 2 required each state to adopt the same minimum size and possession limit as established in Federal waters, allowing only for different open seasons. The consistent measures were intended to achieve conservation equivalency in all state and Federal waters throughout the range of the resource. However, states soon found that one set of measures applied coastwide did not achieve equivalent conservation due to the significant geographic differences in summer flounder abundance and size composition. To address this disparity, the FMP was amended via Addendum IV (2001) and Addendum VIII (2003) to allow for the use of state conservation equivalency to manage recreational harvests. Since 2001, the FMP has allowed for, and the Commission and Council have utilized, a state-by-state harvest target,

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based on the proportion of estimated state recreational landings in 1998 as reported in the Marine Recreational Fisheries Statistical Survey (MRFSS). The individual state targets, as a percentage of the total coastwide recreational harvest limit, are set forth in Table 3.

Under conservation equivalency, states have the flexibility to tailor their regulations – using minimum size, possession, and season limits – to meet the needs and interests of their fishermen, provided that the targets are not exceeded. Additionally under conservation equivalency, Federal regulations are waived, with anglers subject to the regulations of the state in which they land. The Commission and Council still have the option of deciding annually between coastwide measures and conservation equivalent measures. For 2014, the ASFMC voted to implement regional-based conservation equivalency measures, given in Table 4.

### **Description of the Summer Flounder Resource**

#### Status of the Stock

The summer flounder stock was declared rebuilt in November of 2011 (NEFSC 2011). The 2013 Benchmark Stock Assessment includes 2012 commercial and recreational fishery catch data, research survey indices of abundance, and estimates of stock size and fishing mortality. The summer flounder stock was not overfished and overfishing was not occurring in 2012 relative to the new (updated) biological reference points established in the 2013 SAW 57 assessment.

#### Stock Definition

The Commission and Council FMP for summer flounder defines the management unit as all summer flounder from the southern border of North Carolina northeast to the US-Canada border. For assessment purposes, the definition of a unit stock (Wilk et al. 1980) extending from Cape Hatteras north to New England was accepted in the 2013 Benchmark Assessment as well as in previous assessments. The current management unit is consistent with a summer flounder genetics study, which revealed no population subdivision at Cape Hatteras (Jones and Quattro 1999). A study by Kraus and Musick (2001) using tagging data supported a summer flounder stock structure theory of stocks north and south of Cape Hatteras, with the stock north of Cape Hatteras possibly composed of two distinct spawning aggregations, off of New Jersey and Virginia-North Carolina.

#### Spawning Stock Biomass (SSB)

Estimated summer flounder SSB has changed significantly over the last 30 years, having increased from 12.1 million pounds in 1989 to a peak of 117.2 million pounds in 2010. In 2012, SSB was estimated to be 112.96 million pounds, 82% of the new biomass target reference point ( $SSB_{MSY}$ ) = 137.6 million pounds. The 2012 year class is estimated to be about 37 million fish, about 14% below average, but higher than the 2010 (34.6 million fish) and 2011 (19.6 million fish) year classes.

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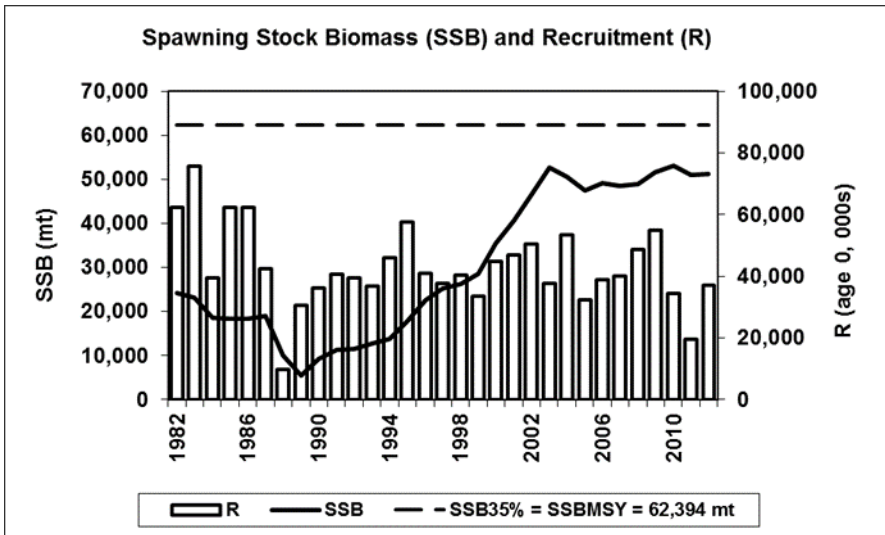


Figure 1. Summer flounder spawning stock biomass (SSB; solid line) and recruitment at age 0 (R; vertical bars) by calendar year. The horizontal dashed line is the 2013 SAW/SARC 57 biomass reference point proxy.

Fishing Mortality

From 1982-1996, the fishing mortality rate (F) on summer flounder ranged between 0.790 and 1.745. Since then, the fishing mortality rate has decreased from 0.849 in 1997 to 0.285 in 2012, below the new fishing mortality threshold reference point =  $F_{35\%} = F_{MSY} = 0.309$ .

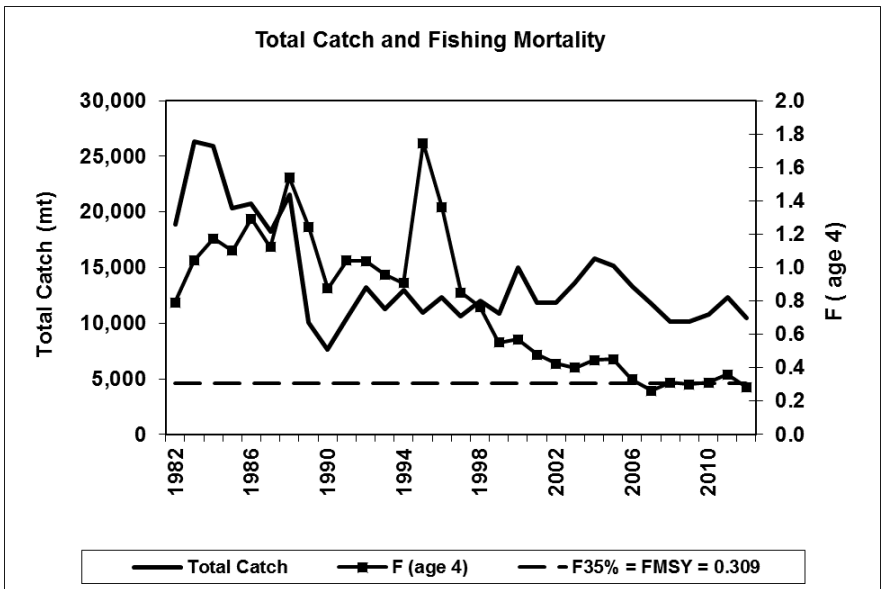


Figure 2. Total fishery catch and fully-recruited fishing mortality (F, peak at age 4) of summer flounder. The horizontal dashed line is the 2013 SAW/SARC57 fishing mortality reference point proxy.



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*Description of the Fishery*

Commercial Fishery

Based on Vessel Trip Report (VTR) data for 2013, the bulk of the summer flounder commercial landings were taken by bottom otter trawls (97 percent), followed by bottom scallop trawls (1 percent), with other gear types (e.g. hand lines, scallop dredges, sink gill nets) each accounting for 1 percent or less of landings. Current regulations require a 14 inch total length minimum fish size in the commercial fishery and a 5.5 inch diamond or 6 inch square minimum mesh in the entire net for vessels possessing more than the threshold amount of summer flounder, i.e., 200 lbs. in the winter and 100 lbs. in the summer. Summer flounder ex-vessel revenues based on dealer data have ranged from \$14.3 to \$30.2 million for the 1994 through 2013 period. The mean price for summer flounder (unadjusted) has ranged from a low of \$1.34/lb. in 2002 to a high of \$2.38/lb. in 2008 (Figure 1). In 2013, 12.49 million pounds of summer flounder were landed generating \$29.2 million in revenues (\$2.34/lb.).

Recreational Fishery

There is a significant recreational fishery for summer flounder in state waters, which occurs seasonally when the fish migrate inshore during the warm summer months. The majority of recreational harvest over last 30 years has been by the states of New York and New Jersey (Table 5). When anglers are intercepted through the surveys conducted for the recreational statistics programs, they are asked about where the majority of their fish were caught (i.e., inland, state waters (<=3 miles), exclusive economic zone (EEZ; > 3 miles)). While these data are somewhat imprecise, they do provide a general indication of where the majority of summer flounder are landed recreationally. These data indicate that on average, about 90 percent of the landings (in numbers of fish) have occurred in state waters over the past ten years, and about 77 percent of landings came from state waters in 2013 (Table 6). Additionally fish are primarily landed by private and rental boats (Table 7).

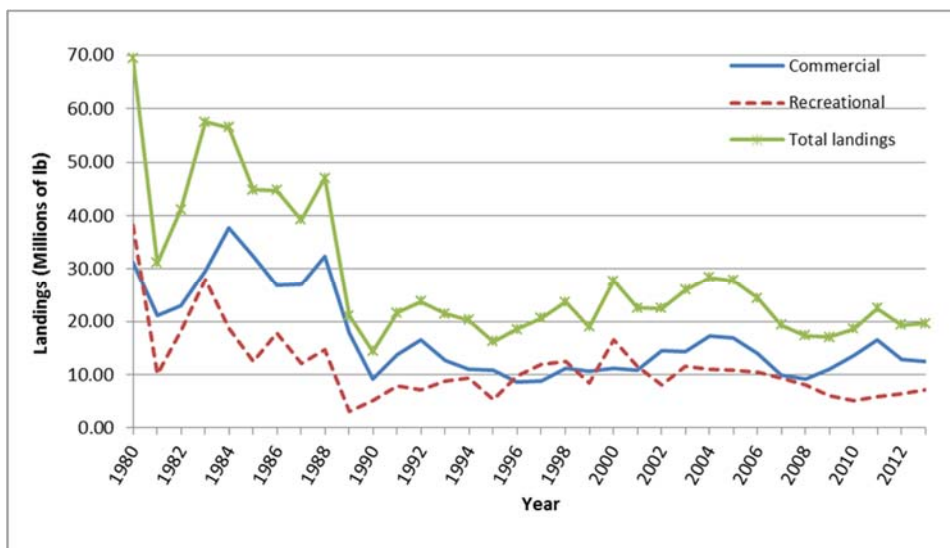


Figure 3. Commercial and Recreational U.S. Summer Flounder Landings (lbs) from Maine- North Carolina, 1980-2013.

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### **Issues for Public Comment**

Public comment is sought on a range of issues that may be considered in the draft amendment. The issues listed below are not necessarily exhaustive, but are intended to focus the public comment and provide the Commission and Council input necessary to develop the amendment. The public is encouraged to submit comments on the issues listed below as well as any other issues that should be addressed in the amendment. The Commission's Summer Flounder, Scup, and Black Sea Bass Board initiated this process for the purpose xxxxxxxx.

#### ***ISSUE 1: FMP Goals and Objectives***

##### **Background**

Amendment 2 (1993) contains the first set of shared objectives of the FMP between the Commission and Council. The six goals of the FMP are the following;

1. Reduce fishing mortality in the summer flounder fishery to assure that overfishing does not occur.
2. Reduce fishing mortality on immature summer flounder to increase spawning stock biomass.
3. Improve the yield from the fishery.
4. Promote compatible management regulations between State and Federal jurisdictions.
5. Promote uniform and effective enforcement of regulations.
6. Minimize regulations to achieve the management objectives stated above.

##### **Statement of the Problem**

As the management of summer flounder over the last 20 years has changed through amendments, framework adjustments, and addendums, the management objectives have remained the same. During this period, the status of the stock has changed, as well as attributes of the fisheries that the resource supports. Given these changes, do the management objectives still capture the needs and goals of the FMP?

##### **Management Questions**

- **Are the existing objectives appropriate for managing the summer flounder fishery?**
- **If these are not appropriate, what should the goals and objectives be?**

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**ISSUE 2: QUOTA  
ALLOCATION  
BETWEEN THE  
COMMERCIAL  
AND  
RECREATIONAL  
FISHERIES**

**Background**

Since Amendment 2 (1993), the annual quotas have been derived from the total allowable landings (TAL) with 60% for the commercial fishery and 40% for the recreational fishery.

**Statement of the Problem**

While the designation of the 60/40 split in 1993 was determined based on the historical significance of the summer flounder fishery, the characteristics and participation in both the commercial and recreational fisheries has changed over the last 20 years.

**Management Questions**

- **Is the existing allocation between the commercial and recreational sectors based on the annual TAL appropriate for managing the summer flounder fishery?**
- **If not, how should the current allocations be revised?**

**ISSUE 3:  
COMMERCIAL  
SUMMER  
FLOUNDER  
MANAGEMENT  
MEASURES  
AND  
STRATEGIES**

**Background**

Amendment 2 (1993) set the commercial state-by-state quotas based on commercial landings between 1980 and 1989. Since then a series of amendments, frameworks, and addendums has further specified the season length, allowable gear types, permits, and monitoring & reporting requirements, and exemption programs.

**Statement of the Problem**

To address and update the commercial management of summer flounder, the following items may be considered within this amendment for revision in the FMP;

- Commercial fishing gear requirements and restrictions, including, but not limited to: mesh requirements, net dimensions, bycatch reduction devices, head and footrope lengths
- Minimum fish size requirements
- Possession limit and trigger requirements
- Time/area closures and exemption programs
- Licensing
- Commercial quota allocation strategies
- Landings flexibility (regional, coastwide, other)

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***ISSUE 3: COMMERCIAL  
SUMMER FLOUNDER  
MANAGEMENT  
MEASURES AND  
STRATEGIES  
(Continued)***

**Management Questions**

- **Are the existing commercial sector management measures appropriate for managing the summer flounder fishery?**
- **If not, how should current measures and requirements be revised?**

***ISSUE 4:  
RECREATIONAL  
SUMMER FLOUNDER  
MANAGEMENT  
MEASURES AND  
STRATEGIES***

**Background**

Amendment 2 (1993) introduced the annual specification of a coastwide Recreational Harvest Limit (RHL) for states with a declared interest in the fishery. Under conservation equivalency, State-by-state shares of the annual RHL and subsequent state-by-state measures were first implemented in 2001 and based on the 1998 coastwide recreational harvest.

**Statement of the Problem**

The interim solution of state-by-state conservation equivalency based on estimated state harvests in 1998 succeeded, initially, in mitigating the disparity in conservation burden among states, but the approach is increasingly being viewed as an inadequate long-term solution, given recent changes in resource status and fishery performance. Further, the 1998-based allocation formula set forth by the FMP does not reflect changes in socio-economic patterns over the past fifteen years, particularly with regard to the number and distribution of anglers along the coast.

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To address and update the recreational management of summer flounder, the following items may be considered within this amendment for revision in the FMP;

- Recreational bag limits, size limits, and seasonal limits
- Recreational fishing gear requirements and restrictions
- Inter-jurisdictional management processes and strategies (including use of state-by-state or regional Conservation Equivalency vs. Coastwide measures)
- Management strategies specific to the party/charter (for-hire) recreational fleet
- Management strategies specific to private recreational anglers
- Recreational quota allocation strategies (by state, fishing sector, other)

### **Management Questions**

- **Are the existing recreational sector requirements appropriate for managing the summer flounder fishery?**
- **If not, what are appropriate requirements for managing the recreational summer flounder fishery?**

### ***ISSUE 5: SUMMER FLOUNDER DISCARDS IN THE COMMERCIAL AND RECREATIONAL FISHERIES***

#### **Background**

Over the last 30 years, discards in the recreational and commercial summer flounder fisheries have persisted. In the recreational sector, released alive fish (MRIP B2) have increased from 30% of total recreational catch in 1981 to 84% (Table 8). For the commercial sector, commercial discards have constituted 8% of the total catch since 1982, with commercial discard losses in the otter trawl and scallop dredge fisheries having accounted for approximately 14% of the total commercial catch (NEFSC 2013).

#### **Statement of the Problem**

To address concerns over the discard rates as raised by managers and stakeholders, this amendment will consider changes to the summer flounder FMP regarding the management of discards in the commercial and recreational fisheries.

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### OTHER ISSUES:

- **ECOSYSTEM, HABITAT, BYCATCH, AND PROTECTED SPECIES ISSUES**  
**Statement of the Problem**  
To address the changes in the distribution and abundance of summer flounder, this amendment will consider changes to the summer flounder FMP regarding the ecosystem, habitat and protected species associated with the summer flounder fishery.
  
- **DATA COLLECTION REQUIREMENTS AND PROTOCOLS**  
**Statement of the Problem**  
To address the changes in the technological and communications systems over the last 30 years in both commercial and recreational fisheries, this amendment will consider changes to the summer flounder FMP regarding the data collection requirements and protocols.

### References

- Jones WJ, Quattro JM. 1999. Genetic structure of summer flounder (*Paralichthys dentatus*) populations north and south of Cape Hatteras. *Marine Biology* 133: 129-135.
- Kraus RT, Musick JA. 2001. A brief interpretation of summer flounder, *Paralichthys dentatus*, movements and stock structure with new tagging data on juveniles. *Mar. Fish. Rev.* 63(3): 1-6.
- Northeast Fisheries Science Center. 2011. Stock Assessment of Summer Flounder 2011. US Dept Commerce, Northeast Fish Sci Cent Ref Doc. 11-20; 147 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at: <http://nefsc.noaa.gov/publications/>.
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- Wilk SJ, Smith WG, Ralph DE, Sibunka J. 1980. The population structure of summer flounder between New York and Florida based on linear discriminant analysis. *Trans. Am. Fish. Soc.* 109:265-271.

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**Tables and Figures**

**Table 1. Summary of Management Actions taken in the FMP, including Amendments, Addenda, and Framework adjustments to the FMP.**

| <b>Year</b> | <b>Document</b> | <b>Plan Species</b>      | <b>Management Action(s)</b>  |
|-------------|-----------------|--------------------------|--|
| 1982        | ASMFC FMP       | Summer flounder          | Established management plan for summer flounder  |
| 1988        | MAFMC FMP       | Summer flounder          | Established management plan for summer flounder  |
| 1991        | Amendment 1     | Summer flounder          | Established an overfishing definition for summer flounder  |
| 1993        | Amendment 2     | Summer flounder          | Established rebuilding schedule, commercial quotas, recreational harvest limits, size limits, gear restrictions, permits, and reporting requirements for summer flounder; created the Summer Flounder Monitoring Committee |
| 1993        | Amendment 3     | Summer flounder          | Revised the exempted fishery line for summer flounder; increased the large mesh net threshold for summer flounder; established otter trawl retention requirements for large mesh use in the summer flounder fishery        |
| 1993        | Amendment 4     | Summer flounder          | Revised state-specific shares for summer flounder commercial quota allocation  |
| 1993        | Amendment 5     | Summer flounder          | Allowed states to combine or transfer summer flounder commercial quota   |
| 1994        | Amendment 6     | Summer flounder          | Set criteria for allowance of multiple nets on board commercial vessels for summer flounder; Established deadline for publishing catch limits, Established commercial management measures for summer flounder.             |
| 1995        | Amendment 7     | Summer flounder          | Revised the fishing mortality rate reduction schedule for summer flounder.   |
| 1996        | Amendment 8     | Summer flounder and scup | Incorporated Scup FMP into Summer Flounder FMP<br>Established scup management measures, including commercial quotas, recreational harvest limits, size limits, gear restrictions, permits, and reporting requirements.     |

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| 1996 | Amendment 9  | Summer flounder and black sea bass        | Incorporated Black Sea Bass into Summer Flounder FMP; Established black sea bass measures, including commercial quotas, recreational harvest limits, size limits, gear restrictions, permits, and reporting requirements.   |
| 1997 | Amendment 10 | Summer flounder, scup, and black sea bass | Modified commercial minimum mesh requirements; Continued commercial vessel moratorium; Prohibited transfer of summer flounder at sea; Established special permit for party/charter sector for summer flounder               |
| 1998 | Amendment 11 | Summer flounder, scup, and black sea bass | Modified certain provisions related to vessel replacement and upgrading, permit history transfer, splitting, and permit renewal regulations   |
| 1999 | Amendment 12 | Summer flounder, scup, and black sea bass | Revised FMP to comply with the Sustainable Fisheries Act and established framework adjustment process   |
| 2001 | Framework 1  | Summer flounder, scup, and black sea bass | Established quota set-aside for research for summer flounder, scup, and black sea bass  |
| 2001 | Addendum 3   | Summer flounder                           | Recreational specification for the Summer Flounder and Scup fisheries in 2001   |
| 2001 | Framework 2  | Summer flounder                           | Established state-specific conservation equivalency measures  |
| 2003 | Framework 3  | Scup                                      | Allowed the rollover of winter scup quota; Revised the start date for summer quota period for scup fishery  |
| 2003 | Framework 4  | Scup                                      | Established system to transfer scup at sea  |
| 2003 | Amendment 13 | Summer flounder, scup, and black sea bass | Addressed disapproved sections of Amendment 12; revised black sea bass commercial quota system; addressed other black sea bass management measures; updated Essential Fish Habitat (EFH) requirements for all three species |
| 2003 | Addendum 8   | Summer flounder                           | Established state-specific targets for recreational landings derived from the coastwide harvest limit based on each state's proportion of landings in 1998  |
| 2006 | Framework 6  | Summer flounder                           | Established region-specific conservation equivalency measures for summer flounder   |
| 2007 | Framework 7  | Summer flounder, scup, and black sea bass | Built flexibility into process to define and update status determination criteria for each plan species   |
| 2007 | Amendment 16 | Summer flounder, scup, and black sea bass | Standardized bycatch reporting methodology  |

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|------|--------------|---|--|
| 2007 | Amendment 14 | Scup                                      | Established a rebuilding schedule for scup; Scup GRAs made modifiable through a framework adjustment process   |
| 2011 | Amendment 15 | Summer flounder, scup, and black sea bass | Established Annual Catch Limits (ACLs) and Accountability Measures (AMs)   |
| 2013 | Amendment 19 | Summer flounder, scup, and black sea bass | Revised recreational Accountability Measures for each plan species   |
| 2014 | Addendum 25  | Summer flounder and black sea bass        | Set regional management for summer flounder recreational management in 2014; ad hoc regional management for black sea bass in 2014, with the option of extending into 2015 |
|      | MAFMC        |   |  |
|      | ASMFC        |   |  |
|      | Joint        |   |  |
|      | ASMFC/MAFMC  |   |  |

**Table 2. State-by-state allocation for annual commercial quota.**

| State          | Allocation (%) |
|----------------|----------------|
| Maine          | 0.04756%       |
| New Hampshire  | 0.00046%       |
| Massachusetts  | 6.82046%       |
| Rhode Island   | 15.68298%      |
| Connecticut    | 2.25708%       |
| New York       | 7.64699%       |
| New Jersey     | 16.72499%      |
| Delaware       | 0.01779%       |
| Maryland       | 2.03910%       |
| Virginia       | 21.31676%      |
| North Carolina | 27.44584%      |
| Total          | 100%           |

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**Table 3. Recreational summer flounder harvest by state in 1998 and the proportion of harvest conservation equivalency was based on for management between 2001-2013.**

| <b>State</b>   | <b>1998 estimated harvest<br/>(thousands of fish)</b> | <b>Percent of the<br/>1998 harvest</b> |
|----------------|---|--|
| Massachusetts  | 383   | 5.5%                                   |
| Rhode Island   | 395   | 5.7%                                   |
| Connecticut    | 261   | 3.7%                                   |
| New York       | 1,230   | 17.6%                                  |
| New Jersey     | 2,728   | 39.1%                                  |
| Delaware       | 219   | 3.1%                                   |
| Maryland       | 206   | 3.0%                                   |
| Virginia       | 1,165   | 16.7%                                  |
| North Carolina | 391   | 5.6%                                   |

**Table 4. 2014 Atlantic States Marine Fisheries Commission Approved State-by-State Conservation Equivalent Recreational Measures for Summer Flounder.**

| <b>State</b>                                   | <b>Minimum<br/>Size (inches)</b> | <b>Possession<br/>Limit</b> | <b>Open Season</b>                 |
|--|----------------------------------|-----------------------------|------------------------------------|
| Massachusetts                                  | 16                               | 5 fish                      | May 22-September 30                |
| Rhode Island                                   | 18                               | 8 fish                      | May 1-December 31                  |
| Connecticut                                    | 18                               | 5 fish                      | May 17- September 21               |
| CT shore program<br>45 designed shore<br>sites | 16                               |                             |                                    |
| New York                                       | 18                               | 5 fish                      | May 17- September 21               |
| New Jersey                                     | 18                               | 5 fish                      | May 23- September 27               |
| NJ pilot shore<br>program 1 site               | 16                               | 2 fish                      | Tentatively<br>May 23-September 27 |
| Delaware                                       | 16                               | 4 fish                      | January 1- December 31             |
| Maryland                                       | 16                               | 4 fish                      | January 1- December 31             |
| PRFC   | 16                               | 4 fish                      | January 1- December 31             |
| Virginia                                       | 16                               | 4 fish                      | January 1- December 31             |
| North Carolina                                 | 15                               | 6 fish                      | January 1- December 31             |

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**Table 5. Percentage of Summer Flounder Recreational Harvest (MRIP Type A+B1 in numbers of fish) Maine-North Carolina from 1981-2013.**

| <b>Year</b>       | <b>ME</b>  | <b>NH</b>  | <b>MA</b>  | <b>RI</b>  | <b>CT</b>  | <b>NY</b>   | <b>NJ</b>   | <b>DE</b>  | <b>MD</b>  | <b>VA</b>   | <b>NC</b>  |
|-------------------|------------|------------|------------|------------|------------|-------------|-------------|------------|------------|-------------|------------|
| <b>1981</b>       | 0.0        | 0.0        | 0.8        | 1.2        | 0.8        | 18.7        | 44.8        | 1.6        | 1.9        | 23.0        | 7.2        |
| <b>1982</b>       | 0.0        | 0.0        | 7.4        | 2.1        | 0.9        | 10.6        | 25.6        | 5.2        | 1.2        | 35.9        | 11.1       |
| <b>1983</b>       | 0.0        | 0.0        | 2.0        | 0.4        | 2.7        | 16.9        | 35.1        | 3.0        | 4.0        | 31.3        | 4.5        |
| <b>1984</b>       | 0.0        | 0.0        | 1.2        | 0.6        | 1.8        | 17.3        | 51.8        | 4.4        | 3.0        | 10.0        | 9.8        |
| <b>1985</b>       | 0.0        | 0.0        | 0.3        | 1.6        | 1.7        | 10.8        | 70.0        | 1.3        | 0.9        | 5.5         | 7.9        |
| <b>1986</b>       | 0.0        | 0.0        | 9.8        | 9.1        | 4.2        | 13.8        | 47.6        | 0.9        | 1.7        | 4.4         | 8.6        |
| <b>1987</b>       | 0.0        | 0.0        | 3.8        | 2.2        | 2.8        | 19.5        | 44.0        | 2.0        | 7.8        | 14.4        | 3.5        |
| <b>1988</b>       | 0.0        | 0.1        | 2.0        | 1.4        | 0.8        | 20.1        | 44.8        | 4.3        | 6.9        | 13.1        | 6.6        |
| <b>1989</b>       | 0.0        | 0.4        | 1.1        | 5.1        | 1.6        | 18.4        | 23.2        | 5.9        | 11.6       | 20.5        | 12.2       |
| <b>1990</b>       | 0.0        | 0.7        | 0.8        | 1.1        | 0.5        | 25.7        | 38.5        | 3.6        | 4.6        | 11.1        | 13.5       |
| <b>1991</b>       | 0.0        | 0.0        | 0.8        | 1.3        | 1.1        | 16.6        | 50.0        | 2.9        | 4.7        | 19.2        | 3.5        |
| <b>1992</b>       | 0.0        | 0.0        | 1.1        | 1.4        | 2.2        | 9.2         | 56.0        | 5.7        | 6.4        | 13.9        | 4.1        |
| <b>1993</b>       | 0.0        | 0.0        | 2.1        | 2.1        | 1.2        | 18.6        | 49.8        | 5.7        | 3.7        | 11.0        | 5.9        |
| <b>1994</b>       | 0.0        | 0.0        | 2.5        | 2.6        | 4.7        | 27.7        | 42.2        | 3.4        | 1.2        | 9.9         | 5.8        |
| <b>1995</b>       | 0.0        | 0.0        | 3.2        | 3.6        | 5.7        | 17.4        | 39.2        | 3.0        | 4.2        | 19.2        | 4.5        |
| <b>1996</b>       | 0.0        | 0.0        | 1.3        | 5.1        | 4.0        | 11.3        | 47.5        | 6.9        | 2.2        | 16.8        | 5.0        |
| <b>1997</b>       | 0.0        | 0.0        | 3.1        | 3.5        | 3.4        | 16.8        | 52.2        | 2.8        | 0.9        | 13.2        | 4.0        |
| <b>1998</b>       | 0.0        | 0.0        | 5.5        | 5.7        | 3.7        | 17.6        | 39.1        | 3.1        | 3.0        | 16.7        | 5.6        |
| <b>1999</b>       | 0.0        | 0.0        | 4.3        | 10.5       | 5.2        | 18.5        | 36.6        | 4.4        | 5.5        | 9.2         | 5.8        |
| <b>2000</b>       | 0.0        | 0.0        | 4.9        | 10.3       | 4.8        | 21.4        | 38.7        | 4.3        | 3.3        | 7.4         | 4.8        |
| <b>2001</b>       | 0.0        | 0.0        | 2.9        | 5.1        | 2.9        | 13.2        | 39.1        | 2.8        | 2.6        | 25.3        | 6.2        |
| <b>2002</b>       | 0.0        | 0.0        | 4.8        | 5.8        | 2.9        | 21.3        | 30.3        | 3.3        | 2.1        | 23.7        | 5.8        |
| <b>2003</b>       | 0.0        | 0.0        | 3.9        | 4.5        | 3.6        | 33.8        | 39.1        | 2.3        | 0.9        | 9.9         | 1.9        |
| <b>2004</b>       | 0.0        | 0.0        | 5.2        | 5.8        | 5.0        | 23.7        | 37.5        | 2.6        | 1.0        | 15.6        | 3.6        |
| <b>2005</b>       | 0.0        | 0.0        | 6.6        | 4.1        | 3.9        | 28.9        | 32.3        | 1.8        | 2.9        | 17.0        | 2.5        |
| <b>2006</b>       | 0.0        | 0.0        | 6.0        | 6.7        | 3.5        | 19.0        | 39.4        | 2.2        | 0.9        | 19.3        | 2.8        |
| <b>2007</b>       | 0.0        | 0.0        | 4.4        | 5.7        | 3.6        | 27.9        | 34.3        | 3.5        | 3.3        | 12.8        | 4.5        |
| <b>2008</b>       | 0.0        | 0.0        | 9.9        | 8.7        | 6.2        | 25.9        | 32.4        | 1.5        | 2.5        | 11.1        | 1.9        |
| <b>2009</b>       | 0.0        | 0.0        | 2.8        | 4.0        | 2.5        | 16.5        | 45.7        | 4.8        | 3.6        | 16.0        | 4.1        |
| <b>2010</b>       | 0.0        | 0.0        | 3.0        | 7.9        | 2.3        | 22.3        | 36.8        | 3.6        | 1.7        | 17.3        | 5.1        |
| <b>2011</b>       | 0.0        | 0.0        | 3.2        | 8.8        | 2.6        | 20.4        | 40.0        | 3.6        | 0.8        | 17.3        | 3.3        |
| <b>2012</b>       | 0.0        | 0.0        | 3.3        | 4.5        | 2.8        | 22.4        | 49.7        | 2.0        | 1.0        | 11.4        | 2.8        |
| <b>2013</b>       | 0.0        | 0.0        | 1.2        | 4.9        | 11.1       | 18.3        | 50.5        | 2.2        | 2.1        | 7.8         | 1.9        |
| <b>Total Avg.</b> | <b>0.0</b> | <b>0.0</b> | <b>3.5</b> | <b>4.5</b> | <b>3.2</b> | <b>19.4</b> | <b>41.9</b> | <b>3.4</b> | <b>3.2</b> | <b>15.5</b> | <b>5.5</b> |

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**Table 6. Percentage summer flounder recreational landings (MRIP Type A+B1 in numbers of fish) by area (state vs. Federal waters), Maine through North Carolina, 2004-2013. Area information is self-reported based on where the majority of fishing activity occurred per angler trip.**

| <b>Year</b>             | <b>State &lt;= 3 mi</b> | <b>EEZ &gt; 3 mi</b> |
|-------------------------|-------------------------|----------------------|
| 2004                    | 87.7%                   | 12.3%                |
| 2005                    | 81.2%                   | 18.8%                |
| 2006                    | 90.4%                   | 10.0%                |
| 2007                    | 88.9%                   | 11.1%                |
| 2008                    | 96.8%                   | 3.5%                 |
| 2009                    | 90.8%                   | 9.2%                 |
| 2010                    | 92.3%                   | 7.7%                 |
| 2011                    | 95.4%                   | 4.7%                 |
| 2012                    | 87.8%                   | 12.3%                |
| 2013                    | 77.1%                   | 22.9%                |
| <b>Avg. 2004 - 2013</b> | 88.9%                   | 11.3%                |
| <b>Avg. 2011 - 2013</b> | 86.8%                   | 13.3%                |

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**Table 7. The number of summer flounder landed from Maine through North Carolina by mode, 1981-2013.**

| <b>Year</b>                      | <b>Shore</b> | <b>Party/Charter</b> | <b>Private/Rental</b> |
|----------------------------------|--------------|----------------------|-----------------------|
| 1981                             | 3,145,683    | 1,362,252            | 5,058,639             |
| 1982                             | 1,120,521    | 5,936,006            | 8,416,173             |
| 1983                             | 3,963,680    | 3,574,229            | 13,458,398            |
| 1984                             | 1,355,595    | 2,495,733            | 13,623,843            |
| 1985                             | 786,185      | 1,152,247            | 9,127,759             |
| 1986                             | 1,237,033    | 1,608,907            | 8,774,921             |
| 1987                             | 406,095      | 1,150,095            | 6,308,572             |
| 1988                             | 945,864      | 1,134,353            | 7,879,442             |
| 1989                             | 180,268      | 141,320              | 1,395,177             |
| 1990                             | 261,898      | 413,240              | 3,118,447             |
| 1991                             | 565,404      | 597,610              | 4,904,637             |
| 1992                             | 275,474      | 375,245              | 4,351,387             |
| 1993                             | 342,225      | 1,013,464            | 5,138,352             |
| 1994                             | 447,184      | 836,362              | 5,419,145             |
| 1995                             | 241,906      | 267,348              | 2,816,460             |
| 1996                             | 206,927      | 659,876              | 6,130,182             |
| 1997                             | 255,066      | 930,633              | 5,981,121             |
| 1998                             | 316,314      | 360,777              | 6,302,004             |
| 1999                             | 213,447      | 300,807              | 3,592,741             |
| 2000                             | 569,612      | 648,755              | 6,582,707             |
| 2001                             | 226,996      | 329,705              | 4,736,910             |
| 2002                             | 154,958      | 261,554              | 2,845,647             |
| 2003                             | 203,717      | 389,142              | 3,965,811             |
| 2004                             | 200,368      | 463,776              | 3,652,354             |
| 2005                             | 104,295      | 498,614              | 3,424,557             |
| 2006                             | 154,414      | 315,935              | 3,479,934             |
| 2007                             | 98,418       | 499,160              | 2,510,000             |
| 2008                             | 79,339       | 171,951              | 2,098,583             |
| 2009                             | 62,691       | 176,997              | 1,566,490             |
| 2010                             | 59,812       | 160,109              | 1,281,546             |
| 2011                             | 34,849       | 137,787              | 1,667,240             |
| 2012                             | 106,342      | 96,386               | 1,996,407             |
| 2013                             | 132,684      | 208,207              | 2,116,398             |
| <b>% of Total,<br/>1981-2013</b> | 9%           | 14%                  | 78%                   |
| <b>% of Total,<br/>2009-2013</b> | 4%           | 9%                   | 87%                   |

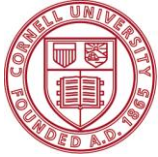
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**Table 8. Recreational summer flounder landings data from NMFS recreational statistics databases, 1981-2013.**

| <b>Year</b> | <b>Recreational harvest (A+B1)</b> | <b>Recreational Releases (B2)</b> | <b>Total Catch (A+B1+B2)</b> | <b>Recreational Releases as % of Total Catch</b> |
|-------------|------------------------------------|-----------------------------------|------------------------------|--|
| 1981        | 9,566,574                          | 4,012,208                         | 13,578,782                   | 29.5   |
| 1982        | 15,472,701                         | 8,089,316                         | 23,562,017                   | 34.3   |
| 1983        | 20,996,303                         | 11,065,966                        | 32,062,269                   | 34.5   |
| 1984        | 17,475,171                         | 12,309,755                        | 29,784,926                   | 41.3   |
| 1985        | 11,066,190                         | 2,459,731                         | 13,525,921                   | 18.2   |
| 1986        | 11,620,861                         | 13,671,598                        | 25,292,459                   | 54.1   |
| 1987        | 7,864,761                          | 13,158,691                        | 21,023,452                   | 62.6   |
| 1988        | 9,959,660                          | 7,211,078                         | 17,170,738                   | 42.0   |
| 1989        | 1,716,763                          | 959,831                           | 2,676,594                    | 35.9   |
| 1990        | 3,793,585                          | 5,307,236                         | 9,100,821                    | 58.3   |
| 1991        | 6,067,647                          | 10,007,163                        | 16,074,810                   | 62.3   |
| 1992        | 5,002,107                          | 6,907,447                         | 11,909,554                   | 58.0   |
| 1993        | 6,494,043                          | 16,410,096                        | 22,904,139                   | 71.6   |
| 1994        | 6,702,689                          | 11,022,356                        | 17,725,045                   | 62.2   |
| 1995        | 3,325,716                          | 12,981,914                        | 16,307,630                   | 79.6   |
| 1996        | 6,996,987                          | 11,997,418                        | 18,994,405                   | 63.2   |
| 1997        | 7,166,824                          | 12,860,261                        | 20,027,085                   | 64.2   |
| 1998        | 6,979,096                          | 15,106,746                        | 22,085,842                   | 68.4   |
| 1999        | 4,106,995                          | 17,270,721                        | 21,377,716                   | 80.8   |
| 2000        | 7,801,075                          | 17,583,349                        | 25,384,424                   | 69.3   |
| 2001        | 5,293,609                          | 22,893,605                        | 28,187,214                   | 81.2   |
| 2002        | 3,262,156                          | 13,412,134                        | 16,674,290                   | 80.4   |
| 2003        | 4,558,670                          | 15,973,231                        | 20,531,901                   | 77.8   |
| 2004        | 4,316,494                          | 16,019,711                        | 20,336,205                   | 78.8   |
| 2005        | 4,027,467                          | 21,778,113                        | 25,805,580                   | 84.4   |
| 2006        | 3,950,282                          | 17,449,726                        | 21,400,008                   | 81.5   |
| 2007        | 3,107,580                          | 17,623,924                        | 20,731,504                   | 85.0   |
| 2008        | 2,349,874                          | 20,546,974                        | 22,896,848                   | 89.7   |
| 2009        | 1,806,181                          | 22,279,002                        | 24,085,183                   | 92.5   |
| 2010        | 1,501,465                          | 22,220,121                        | 23,721,586                   | 93.7   |
| 2011        | 1,839,877                          | 19,718,824                        | 21,558,701                   | 91.5   |
| 2012        | 2,272,219                          | 14,256,233                        | 16,528,452                   | 86.3   |
| 2013        | 2,419,351                          | 13,138,665                        | 15,558,016                   | 84.4   |

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March 15, 2013

The Honorable John D. Rockefeller IV  
531 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Rockefeller;

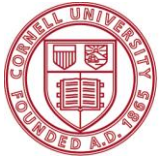
Thank you for inviting me to testify before the Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard. I will be attending the hearing on "Developments and Opportunities in U.S. Fisheries Management" on March 19, 2013. Attached is my testimony for your review entitled "State-by-State Allocations of Commercial Fisheries Quota and the Impact on New York Fisheries". I look forward to meeting the subcommittee.

Sincerely,

A handwritten signature in cursive script, appearing to read "Emerson C. Hasbrouck".

Emerson C. Hasbrouck  
Marine Program Director Emeritus  
Senior Natural Resources Specialist

cc: Senator Mark Begich



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**Testimony to the Senate Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard  
“Developments and Opportunities in U.S. Fisheries Management”**

**State-By-State Allocation of Commercial Fisheries Quota  
and the Impact on New York Fisheries**

*By*  
Emerson C. Hasbrouck  
Cornell University Cooperative Extension  
Marine Program

**BACKGROUND**

There are currently six species in the Mid-Atlantic being managed on a state-by-state quota allocation system. One of these species, striped bass, is only allowed to be harvested in state waters and will thus not be included in the discussion of this testimony. The other five species are: summer flounder (also known as fluke); black sea bass; bluefish; scup; and spiny dogfish. The state-by-state quota allocation for these species is each based on its own baseline time period during the late 1970’s, the 1980’s and early 1990’s. See Table 1.

| Species        | Baseline Years |
|----------------|----------------|
| Fluke          | 1980-1989      |
| Scup           | 1983-1992      |
| Black Sea Bass | 1983-1992      |
| Bluefish       | 1981-1989      |
| Spiny Dogfish  | 1990-1997      |

Table 1 – Baseline Period for Each Species

The reported commercial landings during the baseline period for each species, for each state, provides basis for the percent allocation to each state of the total commercial annual quota. The state-by-state allocations for these five species are shown in Table 2.



|                | Fluke | Scup | Black Sea Bass | Bluefish | Spiny Dogfish |
|----------------|-------|------|----------------|----------|---------------|
| Maine          | 0.0   | 0.1  | 0.5            | 0.7      | 58            |
| New Hampshire  | 0.0   | 0    | 0.5            | 0.4      |               |
| Massachusetts  | 6.8   | 21.6 | 13.0           | 6.7      |               |
| Rhode Island   | 15.7  | 56.2 | 11.0           | 6.8      |               |
| Connecticut    | 2.3   | 3.2  | 1.0            | 1.3      |               |
| New York       | 7.6   | 15.8 | 7.0            | 10.4     | 2.7           |
| New Jersey     | 16.7  | 2.9  | 20.0           | 14.8     | 7.6           |
| Delaware       | 0.0   | 0    | 5.0            | 1.9      | 0.8           |
| Maryland       | 2.0   | 0    | 11.0           | 3.0      | 5.9           |
| Virginia       | 21.3  | 0.2  | 20.0           | 11.9     | 10.8          |
| North Carolina | 27.4  | 0    | 11.0           | 32.1     | 14.0          |
| South Carolina |       |      |                | 0.0      |               |
| Georgia        |       |      |                | 0.0      |               |
| Florida        |       |      |                | 10.1     |               |

Table 2 - State-by-State Allocation - Percent of Commercial Quota

The U.S. manages its fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) through the Department of Commerce, NOAA and the National Marine Fisheries Service. The enabling legislation is the Magnuson-Stevens Act (MSA) (as amended) originally signed into law in 1976. The MSA established 8 regional fishery management councils to advise NMFS on fisheries management and to develop Fishery Management Plans for the conservation and utilization of our nation's marine resources. Summer flounder, as well as the other 4 species managed under state-by-state quota fall under the jurisdiction of the Mid-Atlantic Fishery Management Council (MAFMC).

Fisheries within 3 miles are managed by the individual states. However, the 15 Atlantic coastal states from Maine to Florida have come together to form the Atlantic State Marine Fisheries Commission. The ASMFC develops fishery management plans which the member states then implement in their respective states. The 5 species managed under state-by-state quota are also under the purview of the ASMFC.

Although the MAFMC and the ASMFC are two separate entities, they work together on the development of Fishery Management Plans, including stock assessment, quota setting and other management measures. In fact, many individuals are members of both the Council and the Commission. Thus both are responsible for management issues relative to these state-by-state quota species.

As requested, the focus of this testimony will be on summer flounder, or fluke. However, the issues, economic impact and inequities to New York fisherman are similar for all five species.

## HISTORY

Although the fishing industry in New York was large and active during the base years, the allocation to New York is quite low for many of the species. This is particularly evident when New York is compared to its neighboring states of New Jersey and Rhode Island. The fish did not avoid New York fisherman nor were New York fisherman any less skilled at catching fish. The basis of the problem and of the inequity in the state-by-state allocation is the system of accounting for commercial fish landings that was in place during the baseline qualifying periods.

As shown in Table 2 above, the state-by-state allocation system in place for the commercial summer flounder quota puts New York fishermen at a severe disadvantage. NY receives 7.6% of the commercial quota, while the allocation to other states is: RI – 15.7%; NJ – 16.7%; VA – 21.3%; NC – 27.4%. Other states receive less allocation.

The NMFS data collection system for commercial landings that was in place during the time period that established individual states' percent allocation of the summer flounder annual commercial quota caused inherent inadequacies in New York's allocation. The data collection system during the baseline period on which the state-by-state summer flounder allocation was based, put New York at a severe disadvantage compared to other states. The methodology used for data collection during the baseline period was inadequate and thus the method of allocation was prejudicial.

The NY landing records and histories, as compared to the other states, were determined on a completely different and separate methodology. The main difference is due to the unique way of landing and marketing fishery resources in NY as compared to the rest of the east coast. During the baseline period, NMFS had established a "weighout system" in every major landings state in the Northeast Region, except for New York, Connecticut and N. Carolina. This "weighout system" was developed specifically to collect, track and report commercial landings within the regulatory framework available at the time. The "weighout system", however, was not implemented in NY because the first sale transaction system in place for seafood in NY was completely different from what occurred in other states. The majority of all fisheries landings for all states other than NY involve a process that included a dockside transaction, meaning, the sale and/or auction of the fish occurred at that point. This transaction was recorded not only by the dealers purchasing directly from the boat but also included a NMFS dealer report (weighout) that was generated at the point of sale. Thus, summer flounder landings were tracked at this point of first sale and then could be verified by individual fishing records generated by the "weighout system". NY fishery landings, including summer flounder, do not for the most part include a dockside transaction. Fish are landed at a pack-out dock and then shipped on consignment to various dealers at the Fulton Fish Market in NY City. The first-sale transaction does not occur dockside as in other states.

Thus, in NY the dockside report/record during the baseline period did not include a sales transaction or a species manifest, but simply a carton or box total number trucked to Fulton Fish Market. The consignment agreement between the fisherman and the Fulton Fish Market wholesaler during this period was simply completed by a return made by the Fulton wholesaler directly to the commercial fisherman detailing the result of the sale of the products with no copy

or “weighout” provided to NMFS or NYSDEC or the unloading dock. During the period leading up to the summer flounder fishery management plan being implemented, there were no mandatory requirements for Fulton Market dealers to report their consignment sales/purchases. Mandatory reporting for dealers licensed to purchase from federally permitted fishing vessels did not go into effect until 1994. NY State did not initiate mandatory reporting for state dealers until after that. So there were no reports or “weighouts” generated by Fulton Market dealers during the summer flounder baseline period. Further, the general attitude by the NY fishing industry (including the Fulton Fish Market) was to treat this information as proprietary in nature. Specifically, there was a great amount of secrecy and thus information about landings by species and by location was protected for a myriad of reasons. Since there was no dockside transaction, NY landing histories were not readily available and proved to be inadequate at that time. Landings were constructed by NMFS based on a dock-by-dock box count and an estimation of the content of those boxes based on dock personnel recall. There were no “weighouts” available to verify landings.

This system also allowed for some volume of fish to go completely unaccounted for. Some small remote docks were not regularly visited by NMFS personnel to collect box-count information. There were also some number of fishermen in close proximity to the Fulton Market that would deliver their fish directly without any packing dock involved. During the 1970’s, 1980’s and early 1990’s, there was a fleet of North Carolina and Virginia fishing vessels that fished out of NY ports during summer months. The dealers that these vessels normally sold to in their home ports would send trucks to NY ports to continue to buy from these vessels and truck the fish back to their homeport. Since there was no dock-side purchase by the unloading dock, these fish were reported by the first transaction dealers as landed in Virginia or North Carolina.

We need at this point to look back in time to when the state-by-state allocation developed and implemented and review the NMFS regional data collection activities at that time. If in fact, because the NY system of landing and marketing fisheries products resulted in inadequate histories available at the time compared to the rest of the region, an argument could be made that the dissimilar basis of the landing histories used, unfairly/ inaccurately portrayed NYS summer flounder landings. Simply put, the NMFS system for collecting and reporting landings data was significantly different in NY than it was in the other Mid-Atlantic and New England states. This difference in the data collection/reporting system put NY at a severe and significant disadvantage relative to baseline calculations for state-by-state quota allocations. These included summer flounder as well as other species such as scup, sea bass and bluefish. Further, the disadvantaged NY industry was discriminately treated in an unfair manner in the establishment of the state-by-state quota allocation.

Recent attempts have been made to validate and/or collect NY baseline period landings information in several different ways: (1.) An effort was made to correlate the Fishery Market News “green sheets”, which were maintained by the National Marine Fisheries Service that tracked the daily general Fulton Fish Market activity, in order to determine some landing history. This proved to be difficult and did not generate useable information. (2.) An effort was made to collect landing histories from individual NY fisherman by the NYS Department of Environmental Conservation in cooperation with commercial fishing organizations and others.

This information also proved difficult to collect across the board and again did not result in a composite NY State landing history.

As was mentioned above, NMFS also did not have an established “weighout” system in place in Connecticut and North Carolina. However, the issue was resolved in those states in the following manner. In North Carolina, the Division of Marine Fisheries had in place a reporting and sampling program during the baseline period. These data were used to establish North Carolina’s state percent allocation. In 1993, Connecticut successfully convinced the MAFMC to re-examine their percent quota based on the fact that NMFS did not have a port-agent in Connecticut, nor were there weighouts available on which to base landings. In Amendment 4 to the FMP, Connecticut’s percent of the annual quota was increased. No such consideration was ever given to NY.

Senator Schumer has previously arranged meetings with NMFS leadership to help resolve the severe and significant disadvantage for NY of the summer flounder state-by-state quota. A meeting was held in NY with the fishing industry to discuss issues relative to NY’s summer flounder allocation. Attending this meeting were Senator Schumer, Congressman Bishop, Eric Schwaab – then NMFS Assistant Administrator for Fisheries and Dr. Jane Lubchenco – then NOAA Administrator. Nothing resulted from the meeting to help address the inequity of NY’s fluke allocation.

### IMPACTS

Since the implementation of the summer flounder fishery management plan, the resource has been steadily increasing and is now fully rebuilt and overfishing is not occurring. However, we are still managing a fully rebuilt stock the way we were managing a depleted stock 20 years ago. It is time to update the management of the summer flounder fishery.

Also, as the stock has increased, there is some evidence that there has been a shift in the concentration in the resource such that NY is geographically located near very high concentrations of summer flounder year-round based on new migratory patterns. In fact, this shift in the northward concentration of the summer flounder resource has also affected the fishery in the southern portion of the fish’s range. For the past couple of years, neither North Carolina nor Virginia has been able to harvest their quota allocation. Additionally, North Carolina has been transferring quota to Virginia due to issues with North Carolina vessels not being able to access North Carolina ports because of shoaling inlets. In fact, even after transferring over half of its quota to Virginia, North Carolina still only harvested 65% of its quota in 2012. Also Virginia harvested 97% of its quota and Maryland only harvested 52% of its quota. None of this underage was offered to NY. The fish just aren’t available any more in large abundance off of these southern states. High fuel costs prohibit vessels from North Carolina and Virginia from traveling to waters off of New York for access to the resource. Neither the distribution of the fish nor the fishery are the same as they were 20 to 30 years ago.

A significant amount of the summer flounder commercial harvest occurs outside of 3 miles. NY fishermen are fishing alongside of fishermen from RI, NJ and other states while fishing in federal waters. NY fishermen are allowed far less quota and thus a smaller trip limit than fishermen

from these other states, even when fishing together in federal waters. Over the years, this has forced some NY fisherman to purchase (at a premium price) state fluke permits to allow them to land in New Jersey or Rhode Island. This only serves to reduce economic activity and jobs in NY and increase operating expenses for NY fishermen.

Table 3 highlights the impact to NY’s economy, relative to other states, because of the state-by-state quota system. The value in Table 3 is ex-vessel value – the amount paid directly to the fisherman. The full economic return to the local community is approximately 4.2 times ex-vessel value. Conversely the economic loss to local NY communities can be seen as 4.2 times the potential lost revenue due to a disadvantaged quota system. In 2011, this amounted to a loss of \$12 million compared to Rhode Island or a loss of \$9.3 million compared to New Jersey – a severe impact to jobs and the economy in local NY communities.

|                    | Value in Dollars  |
|--------------------|-------------------|
| New Jersey         | 5,422,719         |
| New York           | 3,208,277         |
| North Carolina     | 6,136,621         |
| Rhode Island       | 6,057,311         |
| Virginia           | 5,920,332         |
| <b>TOTAL VALUE</b> | <b>26,763,260</b> |

Table 3- 2011 Ex-Vessel Value of Summer Flounder Landings (excludes RSA landings)

### RECOMMENDATIONS

We are still managing the summer flounder resource (and other state-by-state quota species) on incomplete data from over 25 years ago. Further, we are managing summer flounder the same way we did 25 years ago for an overharvested stock. The resource and the fishery have changed. It is now time to change the management of the resource.

A change should be made away from state-by-state allocation to a system based on a regional or coast-wide quota and associated trip limits. This would provide equitable treatment for all fishermen and would help address the inequity to NY fishermen that was precipitated by the discriminatory NMFS data collection system in place in NY during the baseline period. As in other fisheries, qualified fishermen could fish where they wanted in the EEZ and all fishermen fish under the same regulations, quotas, trip limit or days at sea, regardless of what state they are from.

Another approach could be a combination of coast-wide and state-by-state quotas. As an example, Amendment 8 to the Scup FMP adjusted the scup fishery to modified partial coast-wide partial state-by-state quota system. In the summer months, the fishery is divided into a state-by-state quota system to allow inshore fishermen that fish in state waters equal access to the resource. Then in the Winter I and Winter II periods, when traditionally a larger portion of the fishery took place offshore, scup is regulated by a coast-wide quota system in which all states have the same limit per trip until the quota for that period is caught. During the development of Amendment 8 to the scup FMP, it was acknowledged that the year-round state-by-state system

developed for summer flounder was not a desirable system. It would be advisable to create a modified partial state-by-state/coastwide fishery for summer flounder and other state-by-state fisheries, as the MAFMC did for the scup fishery in 1996. However, the state-by-state portion must be a more fair and equitable distribution than was established 25 years ago.

We also need to add flexibility into the management system. Not all species can fully respond within an arbitrary rebuilding 10-year time frame. Summer flounder is a prime example of that. Senator Schumer was successful in obtaining an additional 3 years in the rebuilding period for summer flounder. The fish did just fine and the stock is fully rebuilt. I urge you to consider providing for flexibility of rebuilding schedules in the upcoming reauthorization of Magnuson.

As our fishery resources become fully restored, management has to change to a new philosophy. All of the fishery management plans in the Mid-Atlantic were developed to rebuild overfished stocks. But now that stocks are fully rebuilt, the management approach has not changed. We have fully rebuilt stocks, but fishermen are still conservatively restrained. Ask any commercial or recreational fisherman if they have seen any improvement in their catch for fully restored summer flounder or black sea bass and they will respond in the negative.

Due to the current management process, quotas are set way below the level that could be harvested without causing overfishing to occur. The output from the stock assessment could allow harvests at higher levels. However managers must take a precautionary approach to setting quotas. The precautionary approach is driven by some of the uncertainties in the inputs to stock assessment models. If there is uncertainty or low confidence or high variability in the data inputs to the stock assessment, it causes uncertainty in the output. The greater the uncertainty the more precautionary the management approach and the lower the harvest quota becomes. But the uncertainty can also mean that there is either a higher or lower level of abundance than estimated. But the precaution always results in a lower quota.

The science of stock assessments is an imprecise science at best. Yet the management process is being driven by an approach that says because it is imprecise we have to take an extremely precautionary approach. Precautionary is a subjective term. Poor or incomplete data just makes the analysis even more imprecise and drives further precaution.

Much of this uncertainty and precaution is driven by poor or incomplete data. Often times even the "best available data" can still be poor or lacking data or science. We have reached a point in management, particularly with setting annual catch limits and accountability measures, where the science cannot keep up with management. Management is putting demands on science that the science cannot keep up with.

It is not that we don't have intelligent qualified scientists. Quite the contrary. But our scientists can only do so much in a day's work and the management asks for more. Scientists can only do so many stock assessments in a year. Many species go several years between benchmark stock assessments. Summer flounder is a prime example. It has been 5 years between full assessments for summer flounder.

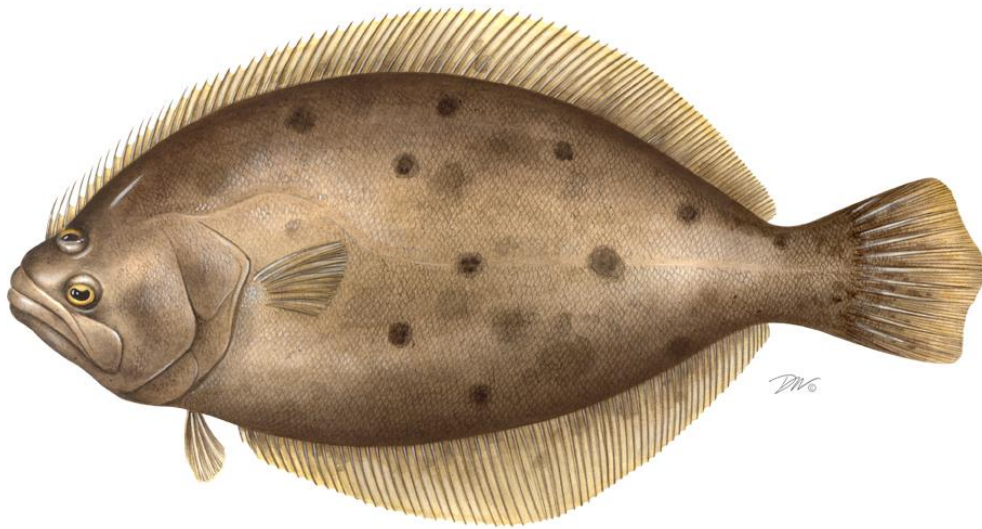
Scientists can also only do so many surveys in a year. Or only collect so much data in a year. The current level of staffing for fisheries science cannot do all things for all species every year. So we settle for a precautionary approach based on uncertainty and the fishermen and the communities that depend on them pay the price.

Much of the problem of course is funding. Currently the state and federal resources available to support fisheries science are not sufficient to meet the legal mandates of management. More funding, of course, can solve most of the science issues. But I realize the fiscal reality that this is not likely to occur. The alternative is for management to not require science to do things we cannot afford to fund it to do. This can be fixed in the reauthorization of Magnuson.

An opportunity to help with science and data collection is cooperative research. Cooperative research is where scientists get together with fishermen to implement innovative programs to collect and provide needed fisheries data and information. Scientists and fishermen working side by side on fishing boats to improve fisheries science. It is good for the scientists, good for the fishermen and good for the fish. And it is supported by scientists and fishermen alike. Cooperative research does cost money. But it is less expensive and provides an excellent return for the investment.

2014 REVIEW OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
FISHERY MANAGEMENT PLAN FOR THE 2013 SUMMER FLOUNDER FISHERY

**SUMMER FLOUNDER**  
*(Paralichthys dentatus)*



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## **2010 REVIEW OF THE ASMFC FISHERY MANAGEMENT PLAN FOR SUMMER FLOUNDER (*Paralichthys dentatus*)**

### **I. Status of the Fishery Management Plan**

The summer flounder (*Paralichthys dentatus*) fishery of the Atlantic Coast is managed jointly by the ASMFC and the Mid-Atlantic Fishery Management Council (MAFMC). The original ASMFC Fishery Management Plan, established in 1982, recommended a 14 inch minimum size. The MAFMC Plan, prepared in 1988 and based on the ASMFC plan, established a 13" minimum size. Since then, fourteen amendments have been developed and approved, except Amendment 1 which would have required a 5–1/2" minimum mesh size in the codend of trawls and Amendment 11 which would have reallocated commercial quota shares.

Amendment 2 (approved in August 1992) provided a strategy for reducing fishing mortality to  $F_{max}$ , balanced against reasonable impacts on the fishermen. Management measures included a federal (EEZ) moratorium on entry into the commercial fishery, vessel and dealer permitting and reporting requirements, an annual commercial quota, and minimum mesh requirements with an exemption program. Recreational fishery measures include size limits, possession limits, and seasonal closures.

The management system established under Amendment 2 has been modified by the following amendments. Amendment Three (approved in July 1993) revised the mesh requirement exemption program. Amendment Four (approved in September 1993) revised the state-specific shares of the coastwide quota allocation in response to a reporting issue in Connecticut. Amendment Five (approved in December 1993) allows states to transfer or combine their commercial quota shares. Amendment Six (approved in May 1994) allows properly stowed nets with a cod end mesh size less than that stipulated in the plan to be aboard vessels in the summer flounder fishery. Amendment 7 (approved May 1995) adjusted the stock rebuilding schedule and capped the 1996-1997 commercial quotas at 18.51 million pounds. There is no Amendment 8 or 9 to the ASMFC FMP. The MAFMC adopted Scup management measures as Amendment 8 and Black Sea Bass measures as amendment 9, while the ASMFC adopted separate Scup and Black Sea Bass Management Plans.

Amendment 10, approved by the ASMFC in May 1997, initially sought to examine the commercial quota management system. Its scope was expanded to address a number of federal and state issues in the fishery, including: 1) allow framework adjustments to the minimum mesh for any portion of the net; 2) require 5.5" diamond mesh between the wings and the codend of trawls; 3) continue the federal moratorium on entry; 4) remove the requirement that federally permitted vessels must land summer flounder every year; 5) modify the federal vessel replacement criteria; 6) implement state *de minimis* criteria; 7) prohibit transfer at sea; 8) require states to report summer flounder landings from state waters to the NMFS; and 9) allow states to implement a summer flounder filet at sea permit system. The amendment also proposed alternative commercial quota schemes, including 1) a trimester quota with state-by-state shares during summer, 2) a trimester coastwide quota of equal periods, and 3) a revision to the allocation formula. Ultimately, the Board and Council decided to maintain the current state-by-state quota allocation system.

Amendment 12, approved by the Commission in October 1998, was developed to bring the Summer Flounder, Scup, and Black Sea Bass Fishery management Plan in to compliance with the new and revised National Standards and other required provisions of the Sustainable Fisheries Act. Specifically, the amendment revised the overfishing definitions (National Standard 1) for summer flounder, scup and black sea bass and addressed the new and revised standards relative to the existing management measures (National Standard 8-consider effects on fishing communities, National Standard 9-reduce bycatch, National Standard 10-promote safety at sea). The Amendment also identified essential habitat for summer flounder, scup and black sea bass. Finally, Amendment 12 added a framework adjustment procedure that

allows the Council to add or modify management measures through a streamlined public review process. Amendment 12 was partially approved by NMFS on April 28, 1999.

Framework Adjustment 2 to the Summer Flounder, Scup and Black Sea Bass FMP, adopted in January 2001, provided the information and analyses necessary to implement a system of conservation equivalency for the recreational summer flounder fishery. Based on a coastwide recreational harvest limit, Framework 2 allows states to customize summer flounder recreational management measures in order to address issues associated with the availability of summer flounder on spatial and temporal scales.

Addenda III and IV were approved on January 29, 2001. Addendum IV provides that, upon the recommendation of the relevant monitoring committee and joint consideration with the Council, the Board will make a decision concerning what state regulations will be rather than forward a recommendation to NMFS. The states will then be responsible for implementing the Board's decision. Addendum III established specifications for the 2001 recreational summer flounder fishery.

In December 2000, the Commission approved Amendment 13. Although there were some management alternatives included in public hearing drafts of the document that could have resulted in changes to summer flounder management measures, none were approved for implementation. As a result, Amendment 13 will have no impact on the summer flounder fishery.

The commission approved Addendum VIII in December of 2003. Under this addendum, state-specific targets for recreational landings are derived from the coastwide harvest limit based on each state's proportion of landings reported in 1998.

The commission approved Addendum XIII in August of 2004. This addendum modifies the FMP so that, within a given year, TALs for the summer flounder, scup, and/or black sea bass can be specified for up to three years. Multi-year TALs do not have to be constant from year to year, but instead are based upon expectations of future stock conditions as indicated by the best available scientific information during the year in which specifications are set.

The commission approved Addendum XV in December of 2004. This Addendum has been developed to allow for a change in the allocation scheme for the increase commercial quota from 2004 to 2005, approximately 1.3 million pounds, as well as the additional quota from 2004 to 2006, approximately 1.6 million pounds. For the fishing years 2005 and 2006, the associated quota increases will be allocated to the following states as a bycatch allocation. 75,000 pounds of summer flounder will be allocated each to Maryland, New York, Connecticut, and Massachusetts; 15,000 lbs to Delaware; 5,000 lbs to Maine; and 90 lbs to New Hampshire.

The commission approved Addendum XVII in August of 2005. Addendum XVII establishes a program wherein the board could sub-divide the recreational summer flounder coastwide allocations into voluntary regions. This is an addition management tool in the management toolbox. This addendum also allows the averaging or combination of multiple years of data (i.e. landings-per-angler, length-frequency distributions) in analyses to determine the impacts of proposed recreational management programs. These programs may include minimum fish sizes, possession limits, and fishing seasons. The averaging of annual harvest estimates will not be allowed.

The commission approved Addendum XVIII in February of 2006. The addendum seeks to stabilize fishing rules as close to those that existed in 2005, in part, to minimize the drastic reductions facing three states. The addendum allows the three states (NY, CT, and MA) facing large reductions in their harvest targets to capitalize on harvest opportunities that are foregone by states that choose to maintain their 2005 recreational fishing rules in 2006.

The commission initiated Addendum XXV in October of 2013. The addendum seeks to respond to the unintended consequence of using conservation equivalency (e.g., state-specific recreational management measures) to stay within the annually established coastwide recreational harvest limit for summer flounder. The addendum offers regional management measure options to alleviate the differences between state by state measures among the states along the coast. The Addendum XXV will be voted on at the ASMFC Winter Meeting in February 2014, with the approved measures to take effect in 2014.

The objectives of the FMP have not changed and are to: 1) reduce fishing mortality of summer flounder to assure overfishing does not occur; 2) reduce fishing mortality on immature summer flounder to increase spawning stock biomass; 3) improve yield from the fishery; 4) promote compatible management regulations between State and Federal jurisdictions; 5) promote uniform and effective enforcement of regulations; and 6) minimize regulations to achieve the stated objectives.

The management unit includes summer flounder in US waters in the western Atlantic Ocean from the southern border of North Carolina northward to the US - Canadian border. States and jurisdictions with a declared interest in the summer flounder FMP include all those from North Carolina through Massachusetts except Pennsylvania and the District of Columbia, as well as NMFS and USFWS. An ASMFC plan review team, Technical Committee, and species board, and the MAFMC Demersal Species Committee are actively working on this plan. A joint ASMFC-MAFMC Technical Monitoring Committee provides annual framework adjustment advice.

Addendum XIX, approved in August 2007, broadens the descriptions of stock status determination criteria contained within the Summer Flounder, Scup, and Black Sea Bass FMP to allow for greater flexibility in those definitions, while maintaining objective and measurable status determination criteria for identifying when stocks or stock complexes covered by the FMP are overfished. It establishes acceptable categories of peer-review for stock status determination criteria. When these specific peer-review metrics are met and new or updated information is available, the new or revised stock status determination criteria may be incorporated by the Commission directly into the annual management measures for each species.

## **II. Status of the Stock**

The most recent peer review of the summer flounder assessment was the July 2013 Benchmark Stock Assessment Update.

Relative to the new (updated) reference points the stock is not overfished and overfishing is not occurring, but it is not rebuilt. F has been declining since the 90s. In 1996 it dropped below 1.0 for the first time since management began. F is estimated to be 0.285 in 2012, below the threshold. SSB declined in the 80s and began to increase in the 90s. In 2012, SSB is estimated to be 112.96 million pounds or 82% of its target. Average recruitment (the number of juvenile fish that will be able to reproduce that year) since 1982 is 43 million fish. Previously, the largest class was in 1983 at 81.6 million fish and the lowest was in 1988 at 12.8 million fish. The 2012 year class is estimated to be about 37 million fish, about 14% below average, and but higher than the 2010 (34.6 million fish) and 2011 (19.6 million fish) year classes.

## **III. Status of the Fishery**

During the late 1980's landings declined dramatically, reaching a low of 9.3 million pounds in the commercial fishery in 1990 and 3.2 million pounds in the recreational fishery in 1989. Following this record low, the commercial landings showed an increasing trend through 1995, but have varied without trend through 2009. For the past five years commercial landings have been over 10 million pounds, with last two years being over 12 million pounds (16.5 and 12.9 in 2011 and 2012). In 2013 commercial

landings declined to 12.5 million pounds, exceeding the commercial quota by 1.05 million lbs. The principle gear used in the fishery is the otter trawl. Commercial discard losses in the otter trawl and scallop dredge fisheries are estimates from observer data and recently account for 5 to 10% of the total commercial catch.

Recreational landings in 1997 were 11.9 million pounds, double the estimate for 1995. The landings continued to increase through till 2000 when landings reached 16.5 million pounds. Since then landings have varied with a slight decreasing trend, with landings stable at 7.12 million pounds in 2013. Recreational losses have recently accounted for 15 to 20% of the total catch.

#### **IV. Status of Assessment Advice**

The summer flounder stock assessment model had historically exhibited a retrospective pattern of underestimation of F and overestimation of SSB; the causes of this pattern have not been determined. A recent pattern of overestimation in recruitment is also evident. Over the last 7 years, the annual internal model retrospective error in F has ranged from +11% in the 2006 terminal year to -35% in 2003, while the annual internal model retrospective error in SSB has ranged from -13% in 2006 to +45% in 2003. Over the last 3 terminal years, the annual internal model retrospective error in recruitment has ranged from +54% for the 2008 year class to +80% for the 2006 year class. Comparison of the estimates for SSB, R, and F over the last three assessments indicates consistency of those estimates in line with the most recent benchmark stock assessment.

Landings that correspond to fishing at or near the threshold F rate ( $F_{MSY}=F_{35\%}=0.309$ ) may result in overfishing if the previous retrospective pattern of underestimation of F occurs in the future.

#### **Biological Reference Points (updated by the 2013 Benchmark Stock Assessment)**

- F Threshold= $F_{35\%} = 0.309$
- Current (2012)  $F=0.285$  overfishing is not occurring
- Spawning Stock Biomass (SSB) threshold = 68.8 million lbs
- SSB target = 137.6 million lbs
- Current SSB (2012) = 112.96 million lbs stock is not overfished

#### **V. Status of Research and Monitoring**

Several states and NMFS conduct seasonal sampling cruises using an otter trawl to assess the condition of summer flounder populations inshore and in the Exclusive Economic Zone (EEZ). Massachusetts collects sex and maturity samples and local abundance indices from spring and fall otter trawl surveys, as well as young of the year information in its winter flounder juvenile seine survey. The Commonwealth monitored the commercial fishery through the observation of six directed trawl fishery trips, as well as through dealer Integrated Voice Response (IVR) systems and mandatory fishermen's logbook. Rhode Island monitors the commercial quota for summer flounder using an automated IVR system and dealers are required to provide weekly reports through the IVR of summer flounder landings. Connecticut commercial summer flounder landings are monitored through monthly commercial fishermen logbooks, and weekly and monthly dealer reports. These reports contain daily records of fishing and dealer purchase activity. There was no sea sampling or port sampling activity for summer flounder in 2004. New York conducts a survey of anglers on open boats on Great South Bay to collect data on age and size composition from which mortality rates are calculated. New Jersey collects data from the commercial trawl fishery and conducts an ocean trawl survey from which data on summer flounder are collected and catch-per-unit-of-effort and distribution information are generated for juveniles and adults. Delaware's commercial landings are monitored through a mandatory monthly harvest report from all state-licensed fishermen. Maryland constructs a juvenile index from trawl data collected in the ocean side bays and is also compiling data on population age, sex, and size from summer flounder taken in pound nets. A

statewide voluntary angler survey is conducted and records location, time spent fishing, number of fish caught, number kept, and lengths of the first 20 fish caught. Virginia prepares a young-of-the-year index from data collected from beach seine and trawl surveys. North Carolina conducts two otter trawl surveys for juvenile fluke, conducts tagging programs to determine migrations and to assess mortality, and collects information on age and growth and catch-per-unit-of-effort for the winter trawl fishery, the estuarine gill net fishery, pound net fisheries, the ocean sink net fishery and the long haul seine fishery.

## **VI. Status of Management Measures and Issues**

Management measures imposed upon harvesters of summer flounder include an annual commercial quota and recreational harvest limit, minimum sizes, minimum mesh requirements for trawls, permits and administrative fees for dealers and vessels, a moratorium on entry into the fishery, mandated use of sea samplers, monitoring of sea turtles in the southern part of the management unit, and collection of data and record keeping by dealers and processors. Fishing mortality has been controlled by a Total Allowable Landings (TAL) since 1983, allocated into a commercial quota (60% of the TAL) and a recreational harvest limit (40% of the TAL). The commercial quota is allocated to each state based on landings during a baseline period, and any overages are subtracted from a state's quota for the following year. The state allocations of the commercial quota are included in table 1.

### **Summer Flounder Compliance Criteria**

The PRT found no compliance issues.

### **De Minimis**

Delaware requests de minimis status. The PRT notes that they meet the requirement of de minimus.

## **COMMERCIAL FISHERY**

The following measures may change annually. The 2013 measures are indicated.

Minimum size: 14"

Minimum mesh and threshold: 5.5 diamond, 6" square

Regulation of mesh beyond the codend: 5.5" throughout the mesh

2013 Commercial quota: 12,11 million pounds, 11.49 million lbs after adjustment for the research set a-sides.

In 1998 the Summer Flounder, Scup, and Black Sea Bass Management Board recommended that 15% of each state allocation must be set aside to mitigate discards after closure of the directed summer flounder commercial fishery. To be eligible to land this 15%, the state must adopt appropriate trip limits sufficiently restrictive to allow bycatch landings for the entire year without exceeding the state quota. Additionally, either the state or the fishermen must participate in collection of additional discard data.

The following measures are not subject to annual adjustment.

Quota management provisions: States are required to adopt appropriate measures to manage their quota shares. States may transfer or combine their quota shares as specified in Amendment 5. States must document through a vessel and dealer reporting system all landings that are not otherwise included in the federal monitoring of permit holders. States are required to forward all landings information to the NMFS for inclusion in quota reporting.

Transfer at Sea: States must prohibit permitted summer flounder vessels from transferring summer flounder from one vessel to another at sea. (As specified in Amendment 10)

De minimis status: States having commercial landings less than 0.1% of the coastwide total will be eligible for *de minimis* status. (As specified in Amendment 10). Delaware has requested *de minimis* status and meets the requirements.

## RECREATIONAL FISHERY

The Management Board chose to adopt conservation equivalency for the 2013 recreational fishery under the provisions of Framework 2 (see table 3 for state measures). As such, the Federal recreational bag limit and minimum fish size were waived and the fishing season and vessel owners were subject only to the regulations in their states.

2013 recreational harvest limit: 7.63 million lbs. after adjustment for the research set a-sides.

## OTHER MEASURES

Filet at sea permit: Party or charter vessels in state waters will be allowed to filet at sea if they obtain a state issued permit allowing such activity. (As specified in Amendment 10)

### Reporting:

1. States must submit a commercial fishery management proposal by October 1 of each year. The proposal must detail the specific management measures that the state intends to use to manage their commercial quota allocation. The proposal must be reviewed and approved by the Management Board.

2. States must submit an annual compliance report to the Chairman of the Summer Flounder Plan Review Team by June 1 of each year. The report must detail the state's management program for the current year and establish proof of compliance with all mandatory management measures and all framework changes specified for the current year. It should include landings information from the previous year, and the results of any monitoring or research program.

*This summary of compliance criteria is intended to serve as a quick reference guide. It in no way alters or supersedes compliance criteria as contained in the Summer Flounder FMP and Amendments thereto.*

## VII. Current State-by-State Implementation of FMP Requirements

### 1997 - 2013 Summer Flounder FMP Compliance Schedule

#### COMMERCIAL:

|   |        |
|---|--------|
| 14" minimum size  | 3/1/97 |
| 5.5" codend mesh  | 1/1/98 |
| Ability to regulate mesh in any portion of the net        | 1/1/98 |
| 5.5" mesh, body   | 6/3/98 |
| Prohibition of transfer at sea                            | 1/1/98 |
| Mandatory reporting to NMFS of landings from state waters | 1/1/98 |

#### RECREATIONAL

|   |     |
|---|-----|
| Conservation Equivalency to achieve a 40% reduction | TBD |
|---|-----|

#### GENERAL

Submission of annual commercial management plan  
Submission of annual landings and compliance report

10/1/97, annually thereafter  
6/1/98, annually thereafter

Table 1. State by state allocation for annual commercial quota

| <b>State</b>   | <b>Allocation (%)</b> |
|----------------|-----------------------|
| Maine          | 0.04756%              |
| New Hampshire  | 0.00046%              |
| Massachusetts  | 6.82046%              |
| Rhode Island   | 15.68298%             |
| Connecticut    | 2.25708%              |
| New York       | 7.64699%              |
| New Jersey     | 16.72499%             |
| Delaware       | 0.01779%              |
| Maryland       | 2.03910%              |
| Virginia       | 21.31676%             |
| North Carolina | 27.44584%             |
| Total          | 100%                  |

Table 1. Summer Flounder Commercial Landings by State (2004-2013) in pounds.

Source: National Marine Fisheries service Commercial Landings Data & State Compliance Reports (2014)

| State        | 2004              | 2005              | 2006              | 2007             | 2008             | 2009              | 2010              | 2011              | 2012              | 2013              |
|--------------|-------------------|-------------------|-------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| MA           | 1,192,602         | 1,274,429         | 920,549           | 659,784          | 644,404          | 731,174           | 851,889           | 1,132,192         | 891,495           | 859,150           |
| RI           | 3,084,560         | 2,925,365         | 2,122,528         | 1,515,684        | 1,473,439        | 1,793,891         | 2,289,379         | 2,824,032         | 2,064,076         | 1,799,394         |
| CT           | 406,038           | 448,594           | 316,533           | 205,115          | 220,510          | 256,768           | 308,341           | 401,377           | 298,849           | 280,652           |
| NY           | 1,798,830         | 1,172,279         | 1,219,842         | 929,132          | 832,415          | 1,119,093         | 1,330,015         | 1,483,785         | 1,237,126         | 999,206           |
| NJ           | 1,587,972         | 2,156,909         | 2,379,733         | 1,697,472        | 1,540,811        | 1,798,903         | 2,165,325         | 2,830,686         | 2,268,793         | 1,995,298         |
| DE           | 7,565             | 5,427             | 4,376             | 2,261            | 1,213            | 2,952             | 1,858             | 836               | 677               | 913               |
| MD           | 262,492           | 337,652           | 247,743           | 228,809          | 208,219          | 213,564           | 263,302           | 259,392           | 139,824           | 165,134           |
| VA           | 3,906,048         | 3,869,171         | 2,756,952         | 1,853,693        | 1,651,575        | 1,978,754         | 2,589,786         | 4,050,998         | 4,111,708         | 4,868,842         |
| NC           | 4,844,136         | 4,064,474         | 3,981,430         | 2,670,122        | 2,406,611        | 2,859,048         | 6,622,004         | 5,708,254         | 1,087,427         | 543,247           |
| <b>Total</b> | <b>17,927,681</b> | <b>17,073,033</b> | <b>13,949,754</b> | <b>9,774,075</b> | <b>9,002,613</b> | <b>10,774,754</b> | <b>16,455,427</b> | <b>18,724,801</b> | <b>11,801,702</b> | <b>11,511,836</b> |

Table 2. Recreational Landings by State (2004-2013) in numbers of fish.

Source: "Personal Communication with National Marine Fisheries Division July 2014"

| State        | 2004             | 2005             | 2006             | 2007             | 2008             | 2009             | 2010             | 2011             | 2012             | 2013             |
|--------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| ME           | 0                | 0                | 0                | 0                | 0                | 0                | 0                | 0                | 0                | 0                |
| NH           | 0                | 0                | 717              | 0                | 562              | 0                | 0                | 0                | 0                | 0                |
| MA           | 224,729          | 267,081          | 238,970          | 138,071          | 232,285          | 50,382           | 45,156           | 58,372           | 75,803           | 29,848           |
| RI           | 248,988          | 164,909          | 264,142          | 175,778          | 203,745          | 71,739           | 118,455          | 161,125          | 103,102          | 118,374          |
| CT           | 216,154          | 156,724          | 137,521          | 112,227          | 145,661          | 44,944           | 35,028           | 47,071           | 62,501           | 269,652          |
| NY           | 1,024,670        | 1,163,329        | 752,388          | 865,957          | 608,925          | 298,634          | 334,491          | 376,198          | 509,123          | 443,312          |
| NJ           | 1,616,811        | 1,300,223        | 1,556,151        | 1,067,404        | 761,843          | 824,887          | 552,401          | 736,848          | 1,130,407        | 1,220,806        |
| DE           | 111,362          | 72,696           | 88,149           | 108,264          | 35,227           | 87,232           | 53,512           | 66,820           | 45,474           | 48,897           |
| MD           | 42,261           | 117,021          | 37,471           | 103,849          | 57,895           | 64,647           | 25,215           | 15,347           | 22,617           | 48,786           |
| VA           | 674,552          | 684,272          | 762,597          | 397,041          | 260,221          | 289,075          | 260,050          | 317,674          | 259,973          | 418,000          |
| NC           | 156,967          | 101,212          | 112,176          | 138,989          | 43,510           | 74,641           | 77,157           | 60,422           | 63,135           | 44,941           |
| <b>Total</b> | <b>4,316,494</b> | <b>4,027,467</b> | <b>3,949,565</b> | <b>3,107,580</b> | <b>2,349,312</b> | <b>1,806,181</b> | <b>1,501,465</b> | <b>1,839,877</b> | <b>2,272,135</b> | <b>2,642,616</b> |



Table 3. 2013 recreational management measures for summer flounder by state.

| State                         | Minimum Size (inches) | Possession Limit | Open Season          |
|-------------------------------|-----------------------|------------------|----------------------|
| Massachusetts                 | 16                    | 5 fish           | May 22-September 30  |
| Rhode Island                  | 18                    | 8 fish           | May 1-December 31    |
| Connecticut*                  | 17.5                  | 5 fish           | May 15-October 31    |
| *At 42 designated shore sites | 16                    |                  |                      |
| New York                      | 19                    | 4 fish           | May 1-September 29   |
| New Jersey                    | 17.5                  | 5 fish           | May 18-September 16  |
| Delaware                      | 17                    | 4 fish           | All year             |
| Maryland                      | 16                    | 4 fish           | March 28-December 31 |
| PRFC                          | 16                    | 4 fish           | All year             |
| Virginia                      | 16                    | 4 fish           | All year             |
| North Carolina                | 15                    | 6 fish           | All Year             |

Table 4. 2014 recreational management measures for summer flounder by state.

| State                          | Minimum Size (inches) | Possession Limit | Open Season                        |
|--------------------------------|-----------------------|------------------|------------------------------------|
| Massachusetts                  | 16                    | 5 fish           | May 22-September 30                |
| Rhode Island                   | 18                    | 8 fish           | May 1-December 31                  |
| Connecticut*                   | 18                    | 5 fish           | May 17-September 21                |
| *At 42 designated shore sites  | 16                    |                  |                                    |
| New York                       | 18                    | 5 fish           | May 17-September 21                |
| New Jersey*                    | 18                    | 5 fish           | May 23-September 27                |
| *NJ Pilot shore program 1 site | 16                    | 2 fish           | Tentatively<br>May 23-September 27 |
| Delaware                       | 16                    | 4 fish           | All year                           |
| Maryland                       | 16                    | 4 fish           | All year                           |
| PRFC                           | 16                    | 4 fish           | All year                           |
| Virginia                       | 16                    | 4 fish           | All year                           |
| North Carolina                 | 15                    | 6 fish           | All Year                           |

**Commonwealth of Massachusetts  
Division of Marine Fisheries**



**ATLANTIC STATES MARINE FISHERIES COMMISSION  
SUMMER FLOUNDER FISHERY MANAGEMENT PLAN  
2013 COMPLIANCE REPORT**

May 1, 2014

Prepared by

Paul G. Caruso  
Senior Marine Fisheries Biologist

## **I. Introduction**

The following represents the Commonwealth of Massachusetts Division of Marine Fisheries (MDMF) 2013 FMP compliance report as required by the ASMFC Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. There were no significant changes in fluke monitoring in 2013. Commercial regulations were not significantly changed and commercial landings were 859,150 lbs as compared to a 791,236 lb quota (109 % landed). The recreational regulations were adjusted to lower the minimum size and the estimated harvest (29,848 fish) declined from the previous year.

## **II. Request for *de minimis* status**

Not applicable.

## **III. Review of previous year fishery and management program**

### **A. Activity and results of fisheries dependent monitoring**

Commercial landings were estimated from data collected by the MDMF Quota Monitoring Project. In addition, several commercial trawl trips were observed by the MDMF Fisheries Dependent Sampling Project to estimate discard ratios and catch length frequencies. Recreational fisheries catch and landings estimates were generated from data collected by the Marine Recreational Information Program (MRIP).

### **B. Activity and results of fishery independent monitoring**

The 2013 fisheries-independent monitoring program for summer flounder consisted of the acquisition of age and maturity samples and local abundance indices (stratified number and weight per tow) from our synoptic spring and fall otter trawl surveys. Age samples from the survey are forwarded to the NMFS Northeast Fisheries Science Center Age and Growth Unit. This coast-wide survey conducts approximately 100 twenty-minute tows in state waters with a random stratified design. The abundance index for fluke includes data from all strata. Local adult fluke abundance in number decreased from the 2012 value (Figure 1). Additionally, MDMF captured 16 YOY fluke in its juvenile winter flounder beach seine survey in 2013. This is above the time series annual average catch of 15 fish, but well below the average catch of 36 fish during the years 2006-2012 (Figure 2).

### **C. Regulations in effect in 2013**

#### **1. Recreational Fisheries (322 CMR 6.09 & 6.22)**

- Permit required to conduct “For-Hire” fishing operations

| <b>Minimum Size</b> | <b>Open Season</b>       | <b>Possession Limit</b>    |
|---------------------|--------------------------|----------------------------|
| 16.0”               | May 22 –<br>September 30 | 5 fluke per day per angler |

## **2. Commercial Fisheries**

### Permitting & Reporting (322 CMR 6.22)

- Regulated fishery permit (in addition to a commercial fishing permit) required for commercial fishermen to possess scup.
- Limited entry provisions for regulated fishery permit
- Fluke dealers must be permitted to purchase fluke
- Mandatory dealer and fisherman's catch reporting.

### Directed Fishery Limits (322 CMR 6.09 & 6.22)

- 14" minimum size
- Landings or possession of fluke by commercial fishermen allowed from 6 AM to 8 PM daily only
- 30% quota split between Winter I & II periods
- 70% quota allocated to Summer period

In addition to the above directed fluke regulations, the following laws and regulations were in effect and did impact fluke landings:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for the lobster pot, fish pot, gillnet and mobile gear fisheries.
- Numerous area/time closures to otter trawling and gillnets including a seasonal closure for gillnets in waters south of Cape Cod which precludes a directed gillnet fishery for fluke in state regulated waters.
- Minimum mesh size restrictions for the trawl and gillnet fisheries.
- Nantucket and Vineyard Sounds closed to night trawling
- Buzzards Bay closed to the use of all nets.

## **D. 2013 Harvest**

Based on MDMF harvest data, the 2013 commercial harvest was 859,830 pounds, 109 % of the allocated quota (791,236 pounds). Trends in the commercial harvest are plotted in Figure 2. There is no current estimate of commercial losses from discard mortality because there are no local estimates of discarded commercial catch from all gear types. However, since most commercial catches of fluke in Massachusetts are from shallow waters with gear types with low or moderate levels of discard mortality, we assume that additional losses from the discard of commercial catch are minimal relative to the total commercial catch.

Total recreational losses (harvest and discard mortality) in 2013 are estimated at 38,408 fish. This number was derived from the MRIP estimated type A and B1 aggregate catch (29,848 fish, PSE 26.9) plus 14 % of the estimated B2 catch (61,146 fish, PSE 25.8), representing an estimate of the catch/release mortality (Malchoff and Lucy 1998). Recreational fishery harvest trends are plotted in Figure 3.

## E. Progress in implementing habitat recommendations

Not applicable.

## IV. Planned 2014 Management Program

### A. Regulations for 2014

#### 1. Recreational Fisheries (322 CMR 6.09 & 6.22)

Permit required to conduct “for-hire” fishing operations

| Minimum Size | Open Season      | Possession Limit          |
|--------------|------------------|---------------------------|
| 16.0”        | May 22 –Sept. 30 | 5 fish per day per angler |

#### 2. Commercial Fisheries

Permitting & Reporting (322 CMR 6.22) – *Status Quo*

- Regulated fishery permit (in addition to a commercial fishing permit) required for commercial fishermen to possess summer flounder.
- Limited entry provisions for fluke endorsement
- Dealers must be permitted to purchase fluke
- Mandatory dealer and fisherman’s catch reporting.

Directed Fishery Limits (322 CMR 6.09 & 6.22)

- 14” minimum size – *Status quo*
- Landings or possession of fluke by commercial fishermen allowed from 6 AM to 8 PM daily only – *Status quo*
- 30% quota allocated to Period I (Jan 1 – Apr 22)
- 70% quota allocated to Period II (Apr 23 – Dec)
- *Status quo* possession limits

In addition to the above directed fluke regulations, the following laws and regulations will be in effect and impact fluke landings:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for the lobster pot, fish pot, gillnet and mobile gear fisheries.
- Numerous area/time closures to otter trawling and gillnets including a seasonal closure for gillnets in waters south of Cape Cod, which precludes a directed gillnet fishery for fluke in state regulated waters.
- Minimum mesh size restrictions for the trawl and gillnet fisheries.
- Nantucket and Vineyard Sounds closed to night trawling
- Buzzards Bay closed to the use of all nets.

## **B. 2014 Monitoring Program**

The 2014 monitoring program for fluke will continue to derive a fisheries-independent index of abundance from our synoptic trawl survey. Limited fluke age and growth parameters will also be collected from survey trawl catch. Data on YOY fluke encountered during our beach seine survey will continue to be collected. Some directed commercial fishery trawl tows will be observed. Our local tagging study will continue for another season as it gives us length frequency data for recreational size limit analyses.

For aggregate recreational catch and harvest data, the MDMF will continue to rely on the MRIP survey. Commercial catch estimates will be generated from data collected by the MDMF Quota Monitoring Project as well as mandatory monthly logbook submissions for all commercial fishermen.

## **C. Changes from previous years monitoring program**

None

## **V. Plan Specific Requirements**

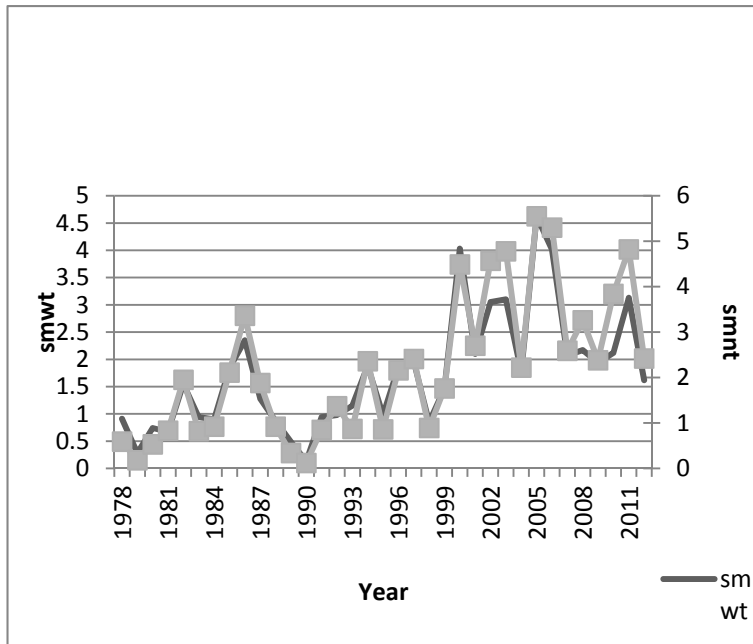
Not applicable.

## **VI. Law Enforcement Reporting Requirements**

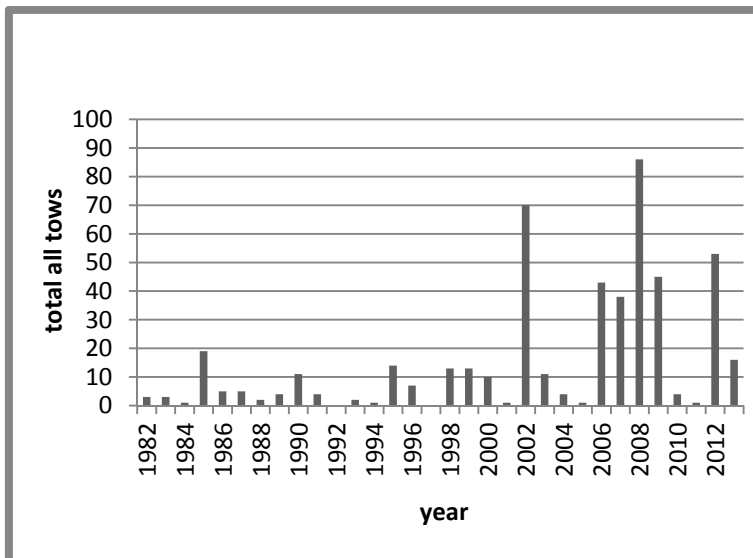
Not applicable

## VII. Figures

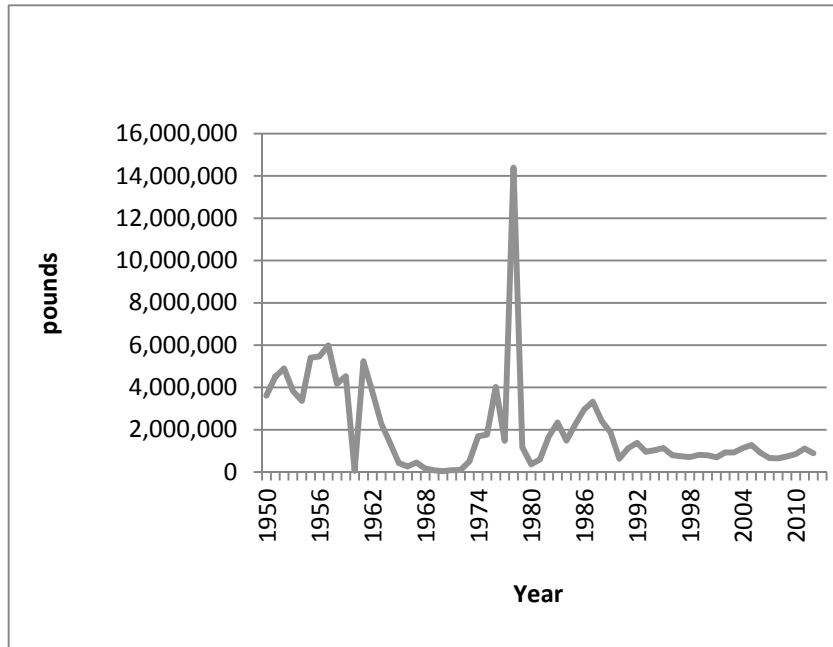
**Figure 1.** Fisheries-independent trawl survey indices.



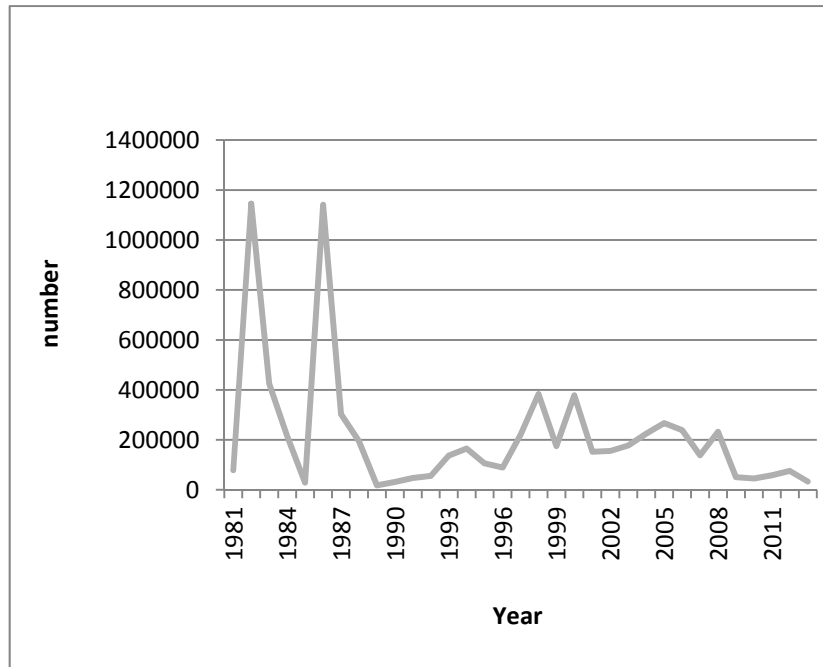
**Figure 2.** YOY indices.



**Figure 3.** Commercial harvest trends.



**Figure 4.** Recreational harvest trends.







Rhode Island  
Department of Environmental Management

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**DIVISION OF FISH AND WILDLIFE**

3 Fort Wetherill Road  
Jamestown, RI 02835

401 423-1920  
FAX 401 423-1925  
TDD 401 831-5508

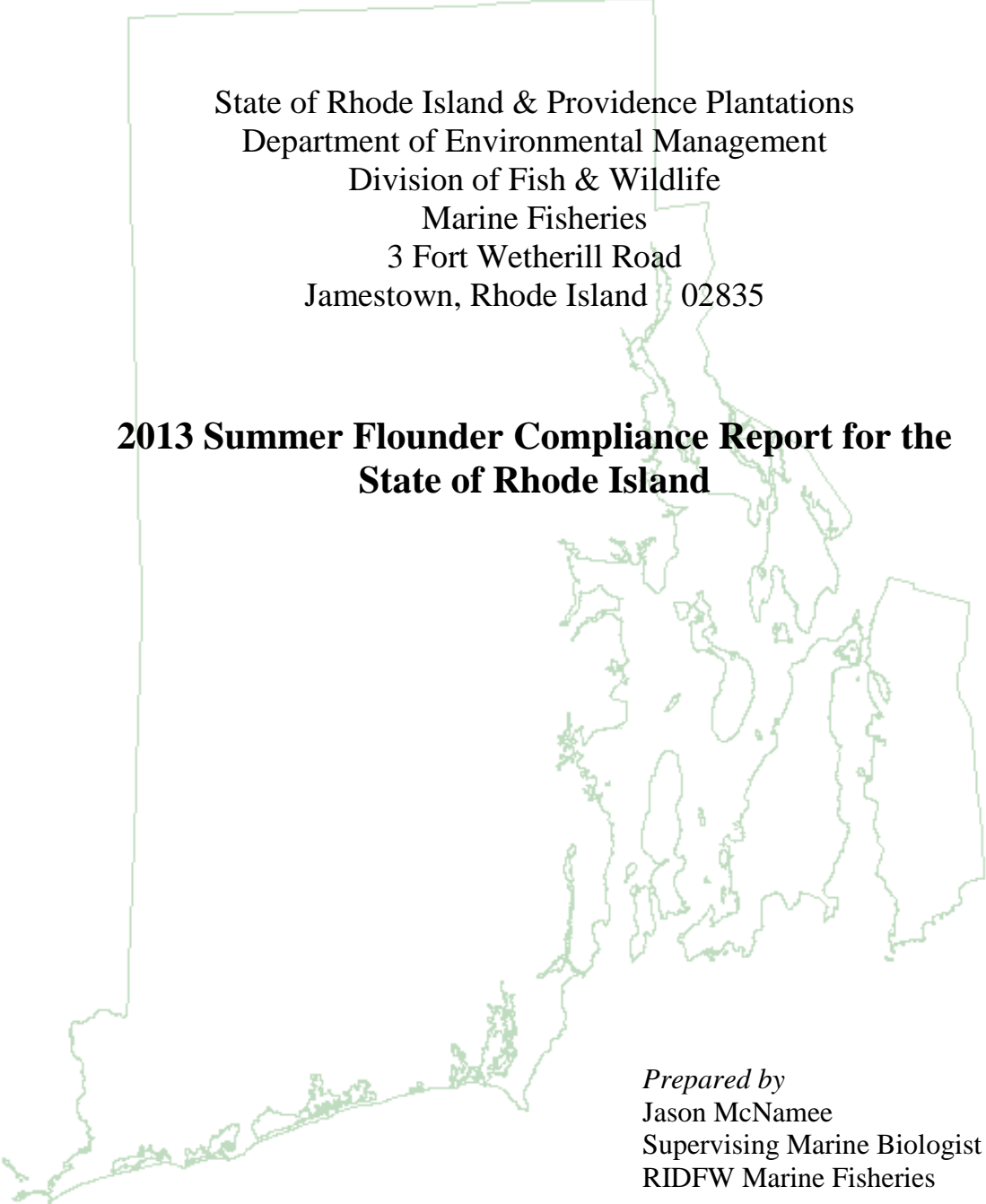
TO: Kirby Rootes-Murdy

FROM: Jason McNamee, Supervising Marine Biologist

DATE: June 14, 2014

SUBJECT: Rhode Island Annual Compliance Report for Summer Flounder

Please find Rhode Island's 2013 annual compliance report for summer flounder. If you have any questions, you may contact me directly at 401.423.1943.




State of Rhode Island & Providence Plantations  
Department of Environmental Management  
Division of Fish & Wildlife  
Marine Fisheries  
3 Fort Wetherill Road  
Jamestown, Rhode Island 02835

**2013 Summer Flounder Compliance Report for the  
State of Rhode Island**

*Prepared by*  
Jason McNamee  
Supervising Marine Biologist  
RIDFW Marine Fisheries

June 14, 2014



## Rhode Island's 2013 Annual Compliance Report for Summer Flounder

### I. Introduction

No executive summary is needed.

### II. Request for *de minimis*, where applicable.

RI does not request *de minimis* status.

### III. Previous calendar year's fishery

a. The RIDFW Marine Fisheries Section utilizes the Standard Atlantic Fisheries Information System (SAFIS) reporting system to monitor landings of quota-managed species, including summer flounder. Based on information collected under this system, Rhode Island commercial landings for 2013 were approximately 1,799,394 lbs.

Estimates of recreational fishery statistics for Rhode Island are obtained from the MRIP (formerly MRFSS) online data query (NMFS, Fisheries Statistics and Economics Division, Silver Spring, MD, pers. comm.). Recreational harvest (Type A + B1) of summer flounder in Rhode Island for 2013 was 118,374 fish.

b. The RIDFW Marine Fisheries Section operates a seasonal trawl survey to monitor finfish resources (Olszewski 2013). Summer flounder are more common in the fall component of the survey as the availability during the spring is highly dependent upon the timing between the survey and inshore migration. Summer flounder biomass and abundance indices updated for 2013 were calculated as mean number per tow and mean weight per tow, respectively. Estimated relative biomass of summer flounder in RI for 2013 was 1.37 kg/tow, a decrease from the 2012 estimate (=2.70 kg/tow). Relative abundance demonstrated a decrease from the previous year with an estimate of 1.82 fish/tow for 2013 compared to 3.09 fish/tow observed in 2012.

c.

#### **Commercial – The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

14" minimum size

5.5" diamond or 6" square minimum mesh

5.5" mesh beyond the codend, for the entire net

Prohibition of transfers at sea

#### **Recreational - The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

18" minimum size

Season from May 1 – Dec 31

Bag limit of 8 fish per person per day

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses (when available):

| Year | Commercial (lbs) | Recreational (harvest in fish) |
|------|------------------|--------------------------------|
| 2004 | 3,084,560        | 248,988                        |
| 2005 | 2,925,365        | 164,909                        |
| 2006 | 2,123,216        | 264,142                        |
| 2007 | 1,515,684        | 175,778                        |
| 2008 | 1,473,439        | 203,745                        |
| 2009 | 1,793,891        | 71,739                         |
| 2010 | 2,289,379        | 118,455                        |
| 2011 | 2,824,032        | 161,125                        |
| 2012 | 2,409,371        | 103,102                        |
| 2013 | 1,799,394        | 118,374                        |

Note: Commercial landings may contain RSA pounds. Data from NMFS and MRIP websites.

#### **IV. Planned management programs for the current calendar year**

There will not be any major changes to RI's summer flounder management in 2014 from what was in place in 2013 aside from minor modification to daily possession limits to protect against over harvest of the commercial quota.

State of Connecticut  
Compliance Report for Summer flounder  
June 1, 2014

**I. Introduction**

The Atlantic States Marine Fisheries Commission requires states to submit an annual report by June 1 of each year to show compliance with the Fishery Management Plan (FMP) for summer flounder. This document fulfills that compliance requirement. This report includes commercial and recreational fishery statistics, monitoring activities and management measures during 2013.

**II. Request for *de minimus*, where applicable.**

N/A

**III. Previous calendar year's fishery and management program.**

a. Activity and results of fishery dependent monitoring.

All commercial fishermen submitted either Commercial Fisheries Catch Logs or NMFS Fishing Vessel Trip Reports on a monthly basis. Connecticut Department of Environmental Protection (CTDEEP) Marine Fisheries Division (MFD) staff entered fishermen reports into the Connecticut Marine Fisheries Information System (MFIS). Seafood dealers with a federal permit submitted their reports electronically to the National Marine Fisheries Service (NMFS) via the Standard Atlantic Fisheries Information System (SAFIS). Dealers with only state permits submitted reports to the CTDEEP and MFD staff entered the reports into SAFIS. Harvest was monitored by combining fishermen and dealer reports.

Recreational catch and harvest is monitored through the Marine Recreational Information Program (MRIP). The NMFS contractor conducts both the interview (intercept) and telephone portions of the survey. Monitoring of recreational harvest from Enhanced Designated Shore Sites was also performed by CT staff.

b. Activity and results of fishery independent monitoring.

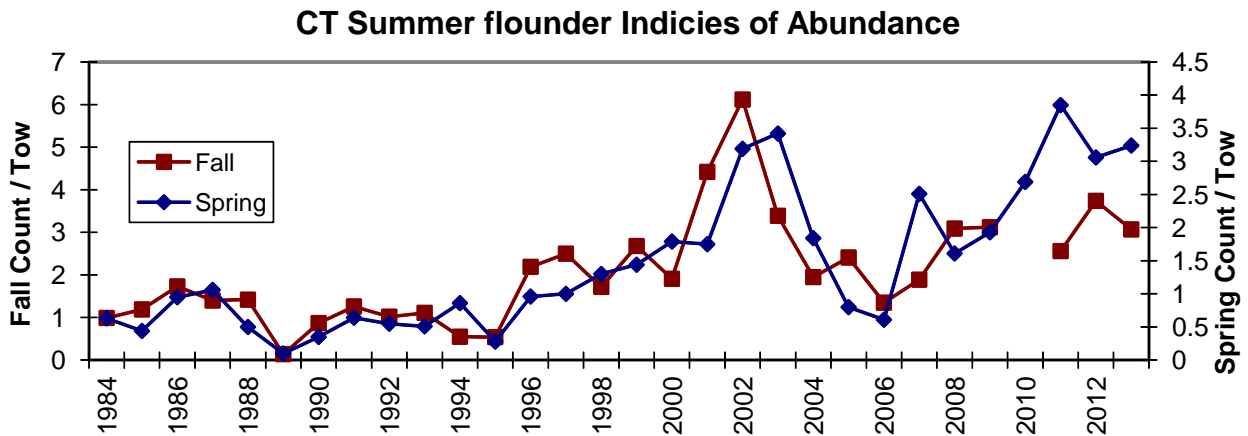
Summer flounder have been monitored through the Long Island Sound Trawl Survey since 1984. Spring (April, May and June) and fall surveys (September & October) are conducted each year.

Survey results are summarized in detail in annual reports to the US Fish and Wildlife Service and are available online at CT DEEP's website:

[http://www.ct.gov/deep/cwp/view.asp?a=2696&q=322660&depNAV\\_GID=1647](http://www.ct.gov/deep/cwp/view.asp?a=2696&q=322660&depNAV_GID=1647)

The spring of 2013 was slightly higher than 2012 and is the third highest in the time series. Due to catastrophic engine failure of the R/V John Dempsey, the Long Island Sound Trawl Survey sampling was not conducted in the fall of 2010. The fall of 2013 was slightly lower than 2012.

7/01/2013



**Figure 1: Indices for Summer Flounder from the Long Island Sound Trawl Survey.**  
*Indices reflect mean catch in numbers per standardized research trawl tow.*

c. Copy of regulations that were in effect.

Connecticut has implemented the required measures as mandated in the FMP. Regulations required under the Summer flounder FMP are addressed in the Connecticut Regulations of State Agencies sections: 26-142a-6(g)(2) (trawl net mesh size), 26-142a-8a(b) (commercial minimum size), 26-159a-4(a) (sport minimum size), 26-159a-7(a) (creel limits), and 26-159a-10 (Summer flounder commercial moratorium and landing limits), 26-159a-20 (sport closed season), and 26-159a-22 (Compliance with Interstate Fishery Management Plans). The 2013 regulations were as follows:

Commercial

- 14” minimum size
- 4.4” diamond or 6” square minimum mesh
- 5.5” mesh beyond the codend, for the entire net
- Prohibition of transfers at sea

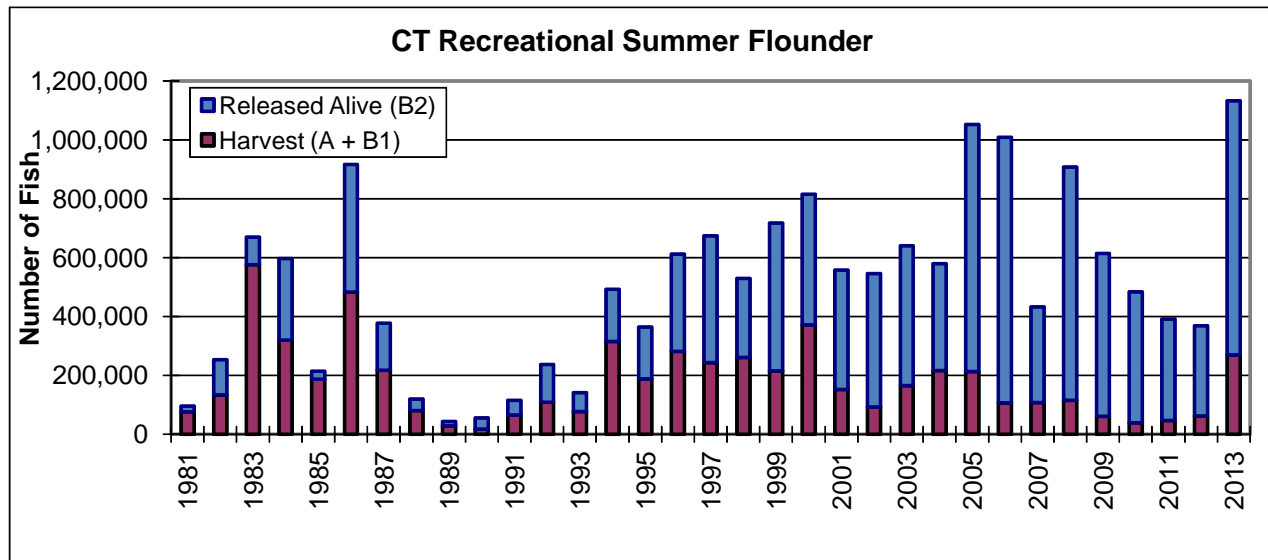
Recreational

- 17.5” minimum size
- 16” minimum size at designated shore sites
- 5 fish creel limit
- Open season from May 15 to October 31

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses.

Preliminary 2013 landings show that in the Connecticut commercial fishery, 2,80,652 pounds of summer flounder were landed. Otter trawls accounted for 93.0% of the commercial harvest while “handline” catches accounted for 6%. Less than 1% came from several other gears.

Recreational harvest (A+B1's) for 2013 was 269,652 fish and discards (B2's) were 863,056 fish, totaling 1,132,708 fish as catch. Non-harvest losses are unknown but assumed in the stock assessment to be 10% of B2 catch in the recreational fishery giving a discard mortality estimate of 113,271 fish. Discard losses in the commercial fishery are unknown.



**Figure 2. Connecticut Summer Flounder Harvest (A + B1) and Released Alive (B2).**

e. Review of progress in implementing habitat recommendations.

Not applicable.

**IV. Planned management programs for the current calendar year.**

a. Summarize regulations that will be in effect (provide copy if different from IIIc).

On March 18, 2013 by declaration, the minimum size was lowered to 17.5". There were no changes to the recreational creel limit or season. There were also 45 designated summer flounder reduced size limit fishing access sites established with the same season and a one fish creel limit having a minimum size of 16".

Commercial fishery minimum size is 14 inches and landings are managed by quota, utilizing a series of trip limits.

See sections referenced in IIIc above in attached copy of Connecticut Marine Fisheries Regulations.

b. Summarize monitoring programs that will be performed.

Monitoring programs described above: commercial logbooks, dealer reports, MRIP, fishery  
7/01/2013

independent LIS Trawl Survey will be continued.

c. Highlight any changes from the previous year.

None.

#### **V. Law Enforcement Reporting Requirements**

None.



# New York State Department of Environmental Conservation

## Division of Fish, Wildlife & Marine Resources

### Bureau of Marine Resources

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

Phone: (631) 444-0430 • Fax: (631) 444-0434

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

## 2013 Compliance Report to the ASMFC for Summer Flounder

### I. Introduction

### II. Request for *de minimis* Not applicable.

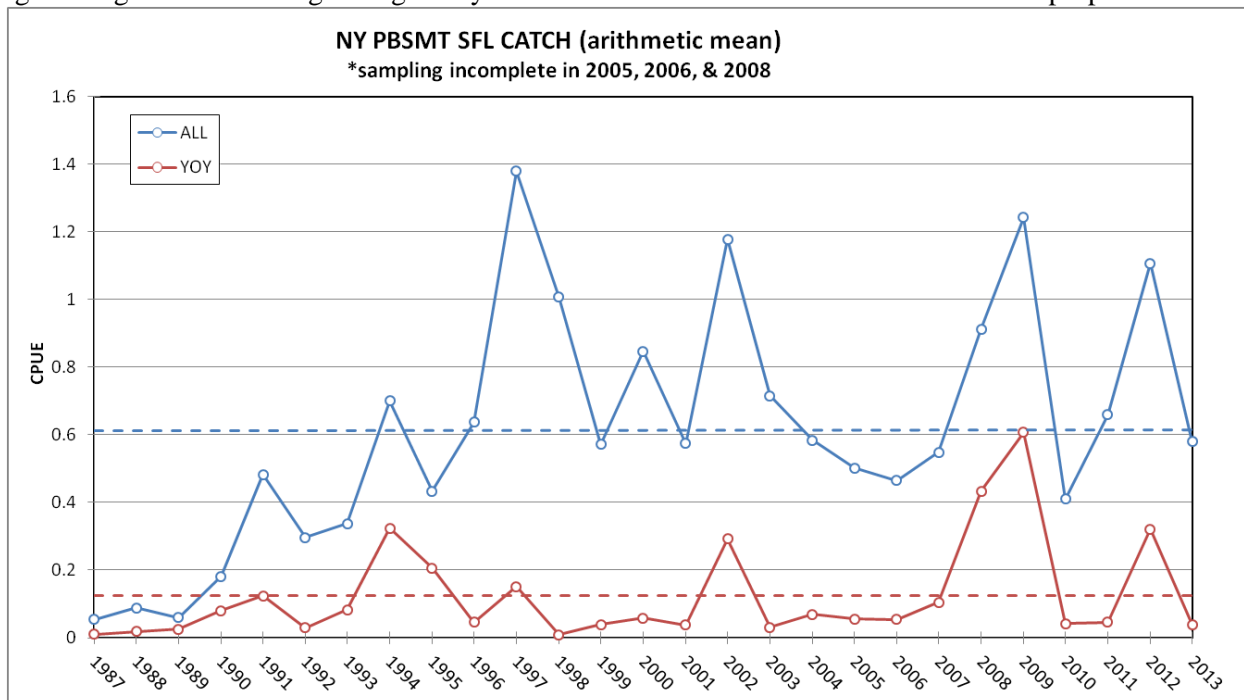
### III. Previous calendar year's fishery and management program

#### a. Activity and results of fishery dependent monitoring

Recreational: NYSDEC staff sampled head-boats targeting summer flounder throughout the fishing season and measured ALL kept and discarded fish from 200+ individual anglers spread across 14 trips (5/21-8/22). Out of the 1544 summer flounder that were caught, 126 anglers landed 283 fish of 19.0" or greater in length. This data was utilized to calculate the %liberalization/reduction associated with different regulatory changes.

#### b. Activity and results of fishery independent monitoring

Peconic Bay Small Mesh Trawl Survey: In 2013, 362 tows were conducted in the Peconic Bays, yielding 210 summer flounder for an average CPUE of 0.58 summer flounder per tow which is significantly lower than the previous year (1.11 summer flounder per tow) and slightly below the time series average (1987-present) of 0.61. The summer flounder data for the entire time series has been aged using NEFSC Fall Age-Length Keys and been made available for stock assessment purposes.



**c. Regulations in effect**

See Appendix B

Recreational Regulations: 19.0” minimum size limit  
4 fish possession limit

Open season May 1 – September 29

Commercial Regulations: 14” minimum size limit - Yes

See quota distribution plan (Appendix A)

14” min size – Yes

5.5” diamond or 6” square min mesh – Yes, directed fishery

5.5” mesh beyond the codend, for the entire net – Yes, directed fishery

Prohibition of transfers at sea - Yes

**d. Harvest**

| YEAR   | COMMERCIAL LBS NMFS FISHERIES STATISTICS |             |              |        |           |           |           | REC. NO. OF FISH |               |
|--|--|-------------|--------------|--------|-----------|-----------|-----------|------------------|---------------|
|  | GILL NET                                 | HOOK & LINE | NOT REPORTED | OTHER  | POUND NET | TRAWL     | TOTAL     | HARVEST (A+B1)   | RELEASED (B2) |
| 2004   | 18,045                                   | 47,627      | 290,953      | 24,477 | 15,207    | 1,198,036 | 1,594,345 | 1,024,670        | 3,182,287     |
| 2005   | 37,353                                   | 250,899     | 417,058      | 84,363 | 10,299    | 998,858   | 1,798,830 | 1,163,329        | 7,753,367     |
| 2006   | 8,673                                    | 51,441      | 806,813      | 20,772 | 26,449    | 258,131   | 1,172,279 | 752,388          | 4,945,661     |
| 2007   | 8,490                                    | 52,745      | 619,685      | 8,537  | 10,717    | 228,958   | 929,132   | 865,957          | 5,271,601     |
| 2008   | 19,327                                   | 33,052      | 545,310      | 18,891 | 11,939    | 203,896   | 832,415   | 608,925          | 5,521,407     |
| 2009   | 16,336                                   | 49,331      | 699,583      | 25,986 | 13,901    | 313,956   | 1,119,093 | 298,634          | 5,563,769     |
| 2010   | 16,537                                   | 84,451      | 580,626      | 2,974  | 9,284     | 636,143   | 1,330,015 | 334,491          | 6,571,251     |
| 2011   | 18,885                                   | 75,326      | 786,705      | 31,820 | 19,635    | 551,414   | 1,483,785 | 376,198          | 7,295,096     |
| 2012   | 5,520                                    | 70,090      | 662,516      | 21,490 | 26,828    | 450,682   | 1,237,126 | 509,123          | 5,012,611     |
| 2013*  | 15,115                                   | 66,099      | 605,892      | 12,414 | 12,834    | 286,853   | 999,206   | 443,312          | 4,321,443     |
| Commercial data 2004-2012 is from NMFS Fisheries Statistics    |  |             |              |        |           |           |           |                  |               |
| Commercial data 2013 is from ACCSP Confidential Dealer Reports |  |             |              |        |           |           |           |                  |               |
| All recreational data is from MRIP queries as of 5/30/2014     |  |             |              |        |           |           |           |                  |               |

**IV. Planned management programs for the current calendar year**

*Changes*

Recreational (for 2014 fishing season): Minimum size limit reduced by 1.0” to 18.0” and 24 days removed from season (May 17 – September 21). Possession limit of 4 fish increased to 5 fish. Consistent size limit, possession limit and season length (128 days) as part of regional management with CT and NJ.

**V. Law Enforcement Reporting Requirements**

Violating the terms of their permits and the Research Set Aside program, multiple NY fishermen/federal dealers have underreported summer flounder harvest. Two high profile cases have been publicized thus far, resulting in almost 400,000 lbs of underreported summer flounder from 2009-2011. There may be additional cases moving forward. The US DOJ released details about these two cases in August 2013 and April 2014.

Appendix A.

## 2013 SUMMER FLOUNDER DISTRIBUTION

The 2013 summer flounder quota allocation provided by the United States Department of Commerce, National Marine Fisheries Service to the State of New York is anticipated to be **842,605** pounds. The quota distribution plan for summer flounder is below. The purpose of this distribution plan is to fully utilize the available quota of summer flounder for the maximum benefit to New York's commercial fishery and to minimize the likelihood of a fishery closure.

| Period          | Quota   | % of annual quota | Initial Daily Trip Limit | Weekly limit (max of two landings per week) <u>effective January 12</u> | Trigger | Action        |
|-----------------|---------|-------------------|--------------------------|---|---------|---------------|
| 1 (Jan - March) | 210,651 | 25%               | 70                       | 1,000   | 75%     | 210 lb weekly |
| 2 (April - May) | 151,669 | 18%               | 140                      | XXX   | 75%     | 70 lb daily   |
| 3 (June - July) | 227,503 | 27%               | 100                      | XXX   | 75%     | 70 lb daily   |
| 4 (Aug - Oct)   | 143,243 | 17%               | 100                      | XXX   | 75%     | 70 lb daily   |
| 5 (Nov - Dec)   | 109,539 | 13%               | 100                      | To Be Determined  |         |               |

Provisions to the quota distribution plan--

1. Trip limits and triggers are intended to spread quota allocation over each period and to avoid fishery closures if possible.
2. A percent of the period's assigned quota share is set as a trigger to lower the daily trip limit. When the period landings reach the stated trigger, trip limits will be lowered to prevent over-harvest.
3. Overharvest/underharvest from Period 1 will be deducted from/added to Period 5. Overharvest/underharvest from Periods 2 through 4 will be rolled into the next period.
4. The ASMFC Fishery Management Plan does not allow for one year's unused quota to be rolled over to the next year.
5. DEC may adjust this quota distribution plan if the level of harvest is different from what was projected to ensure maximum utilization of the summer flounder resource and prevent the state allocation from being exceeded.
6. The final 2013 quota allocation is subject to adjustment by the National Marine Fisheries Service.



NEW JERSEY DIVISION OF  
**Fish and Wildlife**  
P.O. Box 400  
Trenton, NJ 08625-0400  
David Chanda, Director

## Memorandum

TO: Kirby Rootes-Murdy, Fisheries Management Plan Coordinator  
Atlantic States Marine Fisheries Commission

FROM: Peter Clarke, Fisheries Biologist  
NJ Division of Fish and Wildlife

DATE: 22 May 2014

SUBJECT: 2013 Summer Flounder, Scup and Black Sea Bass Compliance Report

Attached is the subject report. If you have any questions or need anything else please contact me.

STATE OF NEW JERSEY  
ASMFC Compliance Report for Summer Flounder  
Calendar Year 2013

I. Introduction

This report has been prepared to satisfy Atlantic States Marine Fisheries Commission (ASMFC) compliance reporting requirements for summer flounder. No significant changes in monitoring occurred. Several regulatory changes occurred. Daily commercial trip limits for summer flounder were changed for 2013. Dealers and fishermen were notified of any changes concerning trip limits, seasons and quotas. These changes are reflected in Table 1. The summer flounder recreational fishing regulations were changed from 5 fish at 17.5 inches with an open season from May 5 to September 28 in 2012 to 5 fish at 17.5 inches with an open season from May 18 to September 24 in 2013.

II. Request for de minimus status: Not Applicable.

III. Previous Calendar Years Fishery and Management (2013):

a. Fishery Dependent Monitoring

Commercial summer flounder landings were monitored through daily and/or weekly SAFIS dealer reports listing landings by vessel. These reports are used to administer commercial quotas Table 1. Commercial landings were also available through the National Marine Fisheries Service. Recreational harvest was monitored through the Marine Recreational Information Program.

b. Fishery Independent Monitoring

Summer flounder abundance and size composition have been monitored through New Jersey's Ocean Stock Assessment Survey since 1988. The survey is conducted five times a year. Annual survey indices expressed as #/tow and weight/tow for summer flounder are listed on Table 4. Summer flounder aging has been conducted since 2010. Results are expressed in number collected per year and average age at length and can be found in Figure 1.

c. Copies of Regulations for 2013.

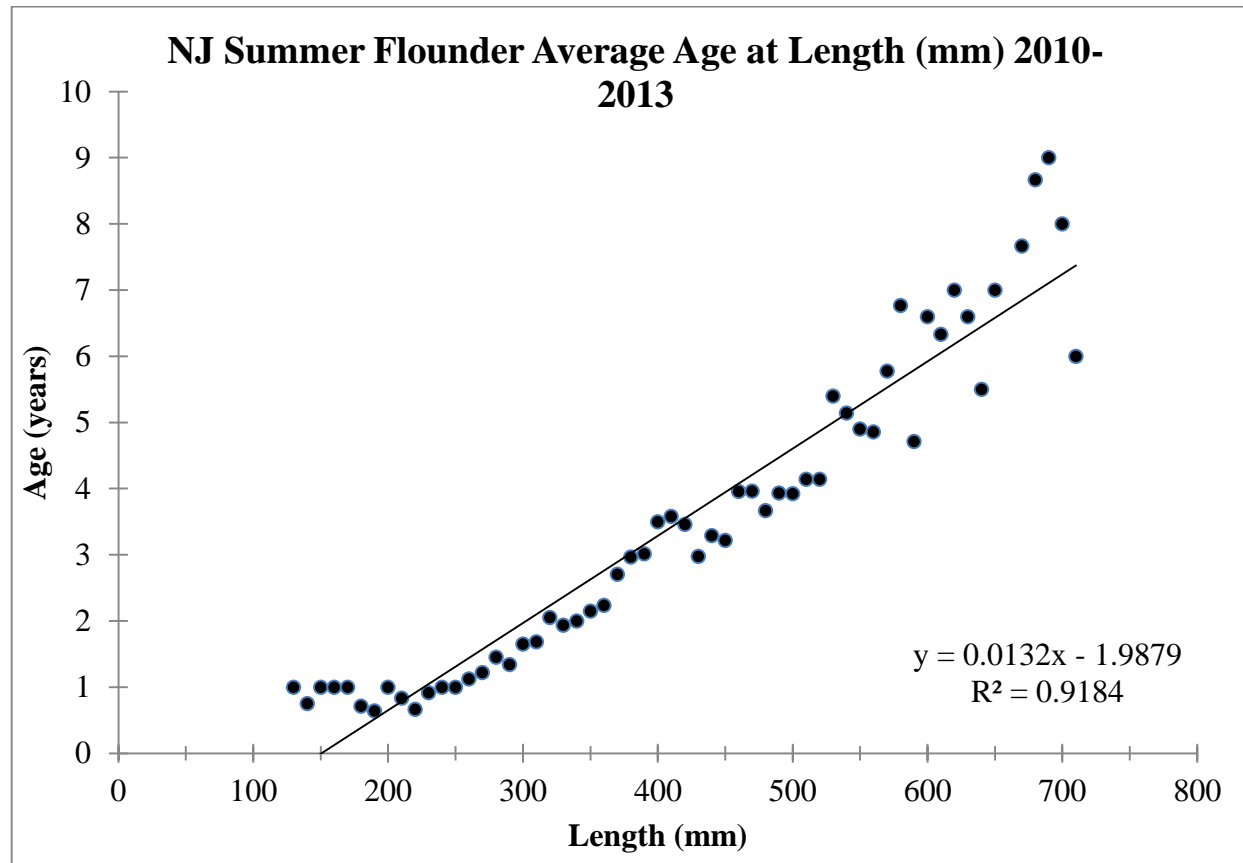
Required FMP mandates were met.

Commercial and recreational regulations are attached as Appendix I and II.

#### IV. Planned Management Programs for 2014

Commercial landings of summer flounder will continue to be monitored via SAFIS electronic dealer reporting for quota management. All New Jersey Summer Flounder Dealers were notified that the NJ Department of Environmental Protection will accept SAFIS reporting as an approved method to satisfy state reporting requirements beginning January 1, 2007. This action was taken to eliminate the duplicate reporting requirements that had been in effect. Trip limits and quotas will be modified as per ASMFC direction. The recreational fishing regulations for summer flounder changed from 5 fish at 17.5 inches with an open season from May 18 to September 24 in 2013 to 5 fish at 18 inches with an open season from May 23 to September 27 for 2014. In addition for 2014, a New Jersey Shore Based Enhanced Opportunity Program will be implemented at a single location in New Jersey at a State Park with the same season as listed above and a bag limit of 2 fish at 16 inches.

**Figure 1.** Annual summer flounder aging results expressed in numbers of fish collected per year and average age at length for all years combined.



**Table 1. New Jersey Commercial Summer Flounder Quota Summary: 2013**

| NJ Commercial Summer Flounder Quota Summary  |            |  |  |  |  |  |  |  |  |  |  |  |  |
|--|------------|--|--|--|--|--|--|--|--|--|--|--|--|
| 2013   |            |  |  |  |  |  |  |  |  |  |  |  |  |
| Coastwide ABC (Rec and Com):                 | 22,340,000 |  |  |  |  |  |  |  |  |  |  |  |  |
| Commercial Discards:                         |            |  |  |  |  |  |  |  |  |  |  |  |  |
| Recreational Discards:                       |            |  |  |  |  |  |  |  |  |  |  |  |  |
| Research Set Aside (RSA):                    | 670,200    |  |  |  |  |  |  |  |  |  |  |  |  |
| Coastwide ACL Less RSA and Discards:         | 19,066,667 |  |  |  |  |  |  |  |  |  |  |  |  |
| Coastwide Commercial Quota (60%):            | 11,440,000 |  |  |  |  |  |  |  |  |  |  |  |  |
| NJ Annual Quota (16.72499% CCQ):             | 1,913,339  |  |  |  |  |  |  |  |  |  |  |  |  |
| Previous year overage:                       | 73,159     |  |  |  |  |  |  |  |  |  |  |  |  |
| Transfers NC                                 | 47,034     |  |  |  |  |  |  |  |  |  |  |  |  |
| Transfers VA                                 | 11,729     |  |  |  |  |  |  |  |  |  |  |  |  |
| Total Adjusted Quota for Seasonal Allocation | 1,840,180  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total Adjusted Quota after transfer          | 1,898,943  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total Harvest                                | 1,974,267  |  |  |  |  |  |  |  |  |  |  |  |  |
| total overage (-) / underage ( )             | -75,324    |  |  |  |  |  |  |  |  |  |  |  |  |
| Percent of Quota Harvested                   | 103.97%    |  |  |  |  |  |  |  |  |  |  |  |  |

| Season  | Original Directed Quota | Adjusted Directed Quota | Directed Landings | Over (-) / Under ( ) | By-Catch Quota | By-Catch Landings | Over / Under | Total Season Quota | Total Season Landings | Total Season Over/Under | Number of Directed Vessels: 2010 / 2011 / 2012 / 2013 | Possible Closure Date | Trip Limits        |
|---|-------------------------|-------------------------|-------------------|----------------------|----------------|-------------------|--------------|--------------------|-----------------------|-------------------------|---|-----------------------|--------------------|
| 1<br>Jan 1-Jan5 (by catch)<br>Jan 6-Feb 9 (directed)<br>Feb 10-Feb 28 (by catch)                      | 463,725                 | 522,488                 | 565,509           | -43,021              | 51,525         | 58,440            | -6,915       | 574,013            | 623,949               | -49,936                 | 59/58/65/56   | 2/9/13                | 2,500x2 or 5,000x1 |
| 2<br>Mar 1- Mar 2 (bycatch)<br>Mar 3 - Apr 6 (directed)<br>7 - Apr 30 (bycatch)                       | 182,178                 | 132,242                 | 206,912           | -74,670              | 20,242         | 12,699            | 7,543        | 152,484            | 219,611               | -67,127                 | 41/41/36/42   | 4/6/13                | 2,000 x 2          |
| 3<br>May 1 - May 4 (bycatch)<br>May 5 - Jun 30 (directed)   | 173,897                 | 106,770                 | 209,127           | -102,357             | 19,322         | 800               | 18,522       | 126,092            | 209,927               | -83,835                 | 33/36/33/35   | 6/30/13               | 250x7 or 500x4     |
| 4<br>Jul 1-Jul 6 (by catch)<br>Jul 7-Aug 9 (directed)<br>Aug 10-Aug 31 (closed)                       | 173,897                 | 90,062                  | 224,577           | -134,515             | 19,322         | 1,462             | 17,860       | 109,384            | 226,039               | -116,655                | 33/32/24  |                       | 250x7 or 500x4     |
| 5<br>Sep 1- Sept 21 (directed)<br>Sept 22 - Oct 31 (bycatch)  | 480,287                 | 363,632                 | 321,685           | 41,947               | 53,365         | 27,526            | 25,839       | 416,997            | 349,211               | 67,786                  | 67/43/28  | 9/21/13               | 750x4 or 3,000x1   |
| 6<br>Nov 1-Nov 2 (bycatch)<br>Nov 3-Nov27 (directed)<br>Nov28-Dec14 (bycatch)<br>Dec15-Dec31(bycatch) | 182,178                 | 249,964                 | 331,708           | -81,744              | 20,242         | 13,822            | 6,420        | 270,206            | 339,793               | -69,587                 | 44/57/NA  |                       | 1,000x3 or 3,000x1 |
| <b>Total</b>  | 1,656,162               |                         | 1,859,518         |                      | 184,018        | 114,749           |              | 1,898,943          | 1,968,530             | -69,587                 |   |                       |                    |



**Table 4.** Annual abundance indices (arithmetic mean stratified number and weight [kg] per tow) of scup, summer flounder, and black sea bass taken in bottom trawl surveys of New Jersey coastal waters. Means are based on data pooled for five survey cruises each year (January, April, June, August, October [+December in 1989]).

| Year | Samples (n) | Scup    |        | Summer Flounder |        | Black Sea Bass |        |
|------|-------------|---------|--------|-----------------|--------|----------------|--------|
|      |             | Number  | Weight | Number          | Weight | Number         | Weight |
| 1989 | 193         | 72.75   | 2.75   | 1.33            | 0.58   | 1.58           | 0.25   |
| 1990 | 171         | 74.72   | 3.77   | 2.43            | 1.04   | 1.42           | 0.26   |
| 1991 | 189         | 200.61  | 6.17   | 3.32            | 1.38   | 4.10           | 0.57   |
| 1992 | 191         | 222.70  | 7.16   | 3.98            | 1.77   | 2.32           | 0.33   |
| 1993 | 187         | 256.91  | 5.21   | 7.19            | 2.69   | 3.01           | 0.49   |
| 1994 | 186         | 86.45   | 3.30   | 2.39            | 1.04   | 0.64           | 0.13   |
| 1995 | 188         | 27.13   | 2.08   | 7.24            | 3.00   | 1.84           | 0.26   |
| 1996 | 189         | 30.81   | 1.04   | 8.06            | 3.53   | 2.90           | 0.62   |
| 1997 | 187         | 52.09   | 3.82   | 13.80           | 7.49   | 40.21          | 0.62   |
| 1998 | 188         | 220.05  | 4.88   | 8.05            | 4.09   | 4.36           | 0.29   |
| 1999 | 186         | 209.10  | 10.30  | 9.66            | 5.03   | 2.48           | 0.30   |
| 2000 | 186         | 262.66  | 6.67   | 6.35            | 3.64   | 7.14           | 1.76   |
| 2001 | 186         | 163.37  | 4.32   | 4.80            | 2.68   | 5.52           | 1.25   |
| 2002 | 188         | 568.07  | 25.73  | 14.45           | 9.97   | 25.23          | 2.86   |
| 2003 | 188         | 804.08  | 10.19  | 8.54            | 6.06   | 5.43           | 1.34   |
| 2004 | 187         | 449.12  | 11.70  | 9.22            | 5.96   | 3.29           | 0.60   |
| 2005 | 186         | 147.98  | 4.19   | 9.63            | 4.22   | 1.21           | 0.23   |
| 2006 | 186         | 943.63  | 16.52  | 9.10            | 5.03   | 4.54           | 0.50   |
| 2007 | 187         | 1185.54 | 38.27  | 7.98            | 4.94   | 15.64          | 1.95   |
| 2008 | 186         | 141.17  | 3.19   | 5.41            | 2.85   | 2.76           | 0.62   |
| 2009 | 186         | 205.66  | 6.04   | 7.33            | 3.90   | 6.64           | 1.21   |
| 2010 | 186         | 141.11  | 2.21   | 9.41            | 4.52   | 2.20           | 0.34   |
| 2011 | 186         | 101.74  | 5.13   | 5.84            | 3.27   | 3.62           | 0.55   |
| 2012 | 186         | 131.73  | 5.83   | 7.53            | 3.99   | 7.15           | 0.63   |
| 2013 | 186         | 12.72   | 0.50   | 6.41            | 3.51   | 3.88           | 0.66   |

**Appendix I. N.J.A.C. 7:25-18.1** Size, season, and possession limits. 2013

(a) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or group of species, except as otherwise specified elsewhere in this subchapter.

| <u>Common Name</u>         | <u>Scientific Name</u> |
|----------------------------|------------------------|
| Black Sea Bass             | Centropristis striata  |
| Scup (Porgy)               | Stenotomus chrysops    |
| Summer Flounder<br>(Fluke) | Paralichthys dentatus  |

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

| <u>Species</u>  | <u>Minimum Size<br/>(inches)</u> |
|-----------------|----------------------------------|
| Black Sea Bass  | 11                               |
| Scup (Porgy)    | 9                                |
| Summer Flounder | 14                               |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below:

| <u>Species</u>             | <u>Minimum<br/>Size<br/>In Inches</u> | <u>Open Season</u>                    | <u>Possession<br/>Limit</u> |
|----------------------------|---------------------------------------|---------------------------------------|-----------------------------|
| Black Sea Bass             | 12.5                                  | May 19 – Aug 8                        | 15                          |
|                            |                                       | Sept 27-Oct 14                        | 20                          |
|                            |                                       | Nov 1 – Dec 31                        | 20                          |
| Scup (Porgy)               | 9                                     | Jan. 1—Feb. 28, and<br>July 1—Dec. 31 | 50                          |
| Summer Flounder<br>(Fluke) | 17.5                                  | May 5—Sept. 24                        | 5                           |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(e) Except as provided in (e)2 and (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.

1. A shark may be eviscerated and the head and tail removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the precaudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark or dogfish, except after fishing has ceased and such shark or dogfish has been landed as specified in (e) above.

2. A person may use parts of one legal sized summer flounder as bait. The carcass of the fish minus the fillets, commonly known as the rack, of the summer flounder used must be retained by the person and counted as part of the person's daily bag limit for that day. The rack shall be kept fully intact so it can be measured for minimum size limit. One summer flounder caught on the person's current fishing trip can be used for this purpose. No parts of fish caught on previous fishing trips shall be in possession. No other species of flat fish or fish listed under (b) or (c) above shall be used for this purpose.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (c) above at sea;

2. For purposes of this section, party boats are defined as vessels that can accommodate 15 or more passengers as indicated on the Certificate of Inspection issued by the United States Coast Guard for daily hire for the purpose of recreational fishing;

3. The Special Fillet Permit shall be subject to the following conditions:

i. Once fishing commences, no parts or carcasses of any species specified in (c) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (c) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (c) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (c) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fish of any species less than the minimum size limit specified in (c) above shall be filleted and no fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

| <u>Species</u> | <u>Minimum Fillet or Part Length</u> |
|----------------|--------------------------------------|
| Black Sea Bass | 5 inches                             |
| Scup           | 4 inches                             |

vi. Fish carcasses from the previous trip shall be disposed of prior to commencing fishing on a subsequent trip;

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner of the Special Fillet Permit according to the following schedule:

(1) First offense: 60 days suspension;

(2) Second offense: 120 days suspension; and

(3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. In calculating the period of suspension or revocation applicable under (f)3vii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-

year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

ix. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (b), (c), (d) or (e) above shall be liable to a penalty of \$ 30.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(m) Wanton waste of fish is prohibited.

1. Fish of any species, taken by any means, which are purposely killed shall become part of the fisherman's daily possession limit and shall be removed from the waters from which they were taken and from adjacent lands. This subsection shall not apply to those fish which are released while still alive and subsequently die or to those fish taken inadvertently by net (bycatch) and subsequently die.

(n) Any person violating the provisions of (h) through (l) above shall be liable for a penalty of \$ 100.00 for each fish taken or possessed. Each fish taken or possessed shall constitute a separate and distinct offense.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons, minimum size limits and possession limits specified in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. §5104(b) or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. The Department shall publish notice of any such modification in the New Jersey Fish and Wildlife Digest and the New Jersey Register, and shall submit a news release to individuals on the Division outdoor writers' mailing list.

(q) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule. After any instructions, signals or other communication from an authorized law enforcement officer indicating the officer's intent to perform an inspection, it shall be unlawful for any person to dispose of fish, fish parts or any other matter in any manner until such time as the inspection is complete. Violation of this provision shall subject the violator to the penalties established pursuant to N.J.S.A. 23:2B-14.

(r) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division.

## Appendix II. Commercial Regulations

### N.J.A.C. 7:25-18.12; Commercial fishing seasons, quotas, and trip limits.

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. After December 31, 2002, a vessel shall not land more than 100 pounds of black sea bass during the period of January 1 through March 31 or more than 50 pounds of black sea bass during the period of April 1 through December 31 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Black Sea Bass Permit. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Black Sea Bass Permit shall complete and submit an application provided by the Department by December 31, 2002 that includes information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified in (h)1ii below. Applications for a New Jersey Black Sea Bass Permit received after the above date shall be denied.
  - ii. To be eligible for a New Jersey Black Sea Bass Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold a minimum cumulative total of 10,000 pounds of black sea bass in New Jersey during the period 1988 through May 3, 2001;
    - (2) The vessel shall have possessed a valid Federal Black Sea Bass Moratorium Permit or appropriate New Jersey gear license for each year of submitted landings documentation; and
    - (3) Documented proof of landings shall consist of one or more of the following:
      - (A) Weigh-out slips totaling the weight harvested;
      - (B) A notarized statement from the applicant and the purchaser(s) attesting to the weight harvested (a copy of the business records the statement(s) must accompany the application);
      - (C) Other documentation similar to that in (h)1ii(3)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.
2. The New Jersey Black Sea Bass Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in a black sea bass fishery, may have on board the gear type(s) listed on that vessel's New Jersey Black Sea Bass Permit.
3. The owner of a vessel permitted pursuant to this sub-section not pending revocation or court action may transfer his or her Black Sea Bass Permit, upon application to the Department, as follows:
  - i. To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a black sea bass permit; or
  - ii. Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a Black Sea Bass Permit based on the harvesting history of the vessel being sold.
4. Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
5. Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.
6. A vessel possessing a valid Black Sea Bass Permit to commercially harvest black sea bass by angling or hook and line and when operating under the permit shall be subject to the following:
  - i. Crew size shall be limited to no more than five persons, including the captain; and
  - ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire the Black Sea Bass Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.
7. A vessel that does not possess a New Jersey Black Sea Bass Permit shall be permitted to land not more than 100 pounds of black sea bass during the period of January 1 through March 31, or not more than 50 pounds of black sea bass during the period of April 1 through December 31 on any trip provided the amount of black sea bass landed from any vessel

shall not exceed 10 percent, by weight, of the total weight of all species landed and sold. Vessels taking black sea bass by angling or hook and line that do not possess a New Jersey Black Sea Bass Permit shall be subject to the possession limits established in N.J.A.C. 7:25-18.1 and the seasonal by-catch limits and 10 percent criteria specified above.

8. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.
  - i. The Commissioner, or his or her designee, shall implement annual and seasonal black sea bass quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon four days public notice. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - ii. Ten percent of the New Jersey annual black sea bass quota shall be allocated each year for by-catch landings when any of the seasons for the directed commercial fishery defined in (h)8iii below are closed. The by-catch landings shall be divided between seasons as identified in (h)8iii below at the same percentage apportioned to each season specified at (h)8iii below.
    - (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
    - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed black sea bass fishery quota.
  - iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
    - (1) January 1-April 15: 38.8 percent, 750 pound trip limit and a maximum of two days per week or 1,500 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (2) April 16-June 30: 20.6 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (3) July 1-September 30: 13.5percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (4) October 1-December 31: 27.1 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (5) If a minimum of 50,000 pounds of the New Jersey black sea bass quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year.
    - (6) Any daily landings of black sea bass not exceeding 100 pounds during the period of January 1 through March 31 or 50 pounds during the period of April 1 through December 31 shall not be applied to maximum weekly landings days during any season as specified in (h)8iii(1) through (4) above, provided the amount of black sea bass landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
  - iv. No vessel shall have in possession or land and no dealer shall accept from any one vessel or person more than the lesser of the daily trip limit of black sea bass set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission in any one calendar day.
  - v. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders.

- vi. Once the season has been closed for the directed commercial black sea bass fishery, no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or purchase any black sea bass landed in New Jersey in excess of the by-catch allowances specified in (h)1 and 7 above and provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or buy any black sea bass landed in New Jersey.
- vii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (h)7v above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- viii. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- ix. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following season. The amount overharvested shall also be deducted from the following years seasonal quota in pounds and reallocated to the season from which it was deducted the previous year.
- x. Any vessel participating in the black sea bass fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the trip being called in. For example, "this will be my third landing this week." Notification shall include phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.
- 9. After December 31, 2002, no dealer shall accept or purchase any black sea bass from any vessel or harvester unless such dealer is in possession of a valid New Jersey Black Sea Bass Dealers Permit. A New Jersey Black Sea Bass Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:
  - New Jersey Black Sea Bass Dealers Permit
  - Nacote Creek Research Station
  - PO Box 419
  - Port Republic, NJ 08241
- 10. After December 31, 2002, no dealer shall accept or purchase from any one vessel more than the amounts of black sea bass specified at (h)1 above unless said vessel is in possession of its valid New Jersey Black Sea Bass Permit.
- 11. After December 31, 2002, any harvester or vessel landing black sea bass in New Jersey for the purpose of sale shall sell all black sea bass to a permitted New Jersey Black Sea Bass Dealer.
- 12. All permitted New Jersey Black Sea Bass Dealers shall provide daily reports during the period January 1 through April 15 and weekly reports during the period April 16 through December 31 to the Division listing the amount of black sea bass landed on a daily basis and any other information that may be required by the Commissioner. If no black sea bass were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number listed on the reporting form no later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
- 13. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the required documentation to an application shall result in the denial of the permit.

- ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of black sea bass landed as specified in (h)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
- iii. Failure to comply with the provisions of (h)6 above, criteria under which a vessel may harvest black sea bass by angling or hook and line, (h)8 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)9 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)10 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to (h)1 and 7 above, and (h)11 above, selling black sea bass to a non-permitted dealer shall result in the suspension during open season(s) or revocation of the vessel's and/or dealer's Black Sea Bass Permit according to the following schedule:
  - (1) First offense: 60 days suspension;
  - (2) Second offense: 120 days suspension;
  - (3) Third offense: permanent revocation;
- iv. In calculating the period of suspension or revocation applicable under (h)13iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Black Sea Bass Dealers Permit suspended or revoked shall not land or permit the landing of any black sea bass at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Black Sea Bass Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(i) The following provisions are applicable to the commercial harvest of summer flounder:

- 1. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (i)3 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Summer Flounder Permit shall complete and submit an application provided by the Department. Applicants applying to use hook and line shall submit their applications no later than May 31, 1994. Applicants applying for a New Jersey Summer Flounder permit for any other gear type shall submit their applications no later than January 1, 2000. Applications for a New Jersey Summer Flounder Permit received after the above dates shall be denied.
  - ii. To be eligible for a New Jersey Summer Flounder Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold at least 1,000 pounds of summer flounder in each of two years during the period of 1985-1992;
    - (2) The vessel shall have possessed a valid New Jersey otter trawl, pound net, or gill net license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of



summer flounder landed and sold in (i)1ii(!) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 to November 2, 1988 or vessels providing documentation of harvest by hook and line are exempt from this requirement; and

- (3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl, pound net or gill net license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in the directed summer flounder fishery, may only have on board the gear type(s) listed on that vessel's New Jersey Summer Flounder Permit.

- (1) The owner of a vessel permitted pursuant to this subsection not pending revocation or court action may transfer his or her Summer Flounder Permit, upon application to the Department, as follows:
  - (A) To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a New Jersey Summer Flounder Permit; or
  - (B) Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a New Jersey Summer Flounder Permit based on the harvesting history of the vessel being sold.

- (2) Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
- (3) Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.

iv. A vessel possessing a valid New Jersey Summer Flounder Permit to commercially harvest summer flounder by angling or hook and line and when operating under the permit shall be subject to the following:

- (1) Crew size shall be limited to no more than five persons, including the captain; and
- (2) The vessel shall not carry any passengers for hire. When carrying passengers for hire the New Jersey Summer Flounder Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.

v. A vessel that does not possess a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder during the period of May 1 through October 31, or not more than 200 pounds of summer flounder during the period of November 1 through April 30 on any trip provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold, except that vessels taking summer flounder by angling or hook and line shall be subject to the possession limits established in N.J.A.C. 7:25-18.1.

2. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (i)3 below and such agreement indicated otherwise.

- i. Ten percent, but no more than 200,00 pounds of the of the New Jersey annual summer flounder quota, shall be allocated each year for by-catch landings when any of the six seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the six seasons as identified at (i)2ii below at the same percentage as for the directed fishery specified at (i)2ii below or as modified by the Commissioner.

- (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
  - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed summer flounder fishery quota.
  - (3) For the purpose of this section, all directed fishery seasons identified at (i)2i below shall start on the first Sunday of the applicable month.
- ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
- (1) January-February: 28 percent, 2,500 pound trip limit and a maximum of two days a week or 5,000 pound trip limit and a maximum of one day a week that a vessel may land summer flounder;
  - (2) March - April: 11 percent, 2,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder;
  - (3) May-June: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (4) July-August: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (5) September - October: 29 percent, 750 pound trip limit and a maximum of four days that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds;
  - (6) November - December: 11 percent, 1,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds; and
  - (7) Any daily landings of summer flounder not exceeding 100 pounds during the period of May 1 through October 31 or 200 pounds during the period of November 1 through April 30 shall not be applied to maximum weekly landings days during any season as specified in (i)2ii(1) through (6) above, provided the amount of summer flounder landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
- iii. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of summer flounder in any one calendar year.
- iv. Any vessel participating in a directed summer flounder fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the tip being called in. For example, "This will be my third landing this week." Notification shall include a phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.

- v. If a minimum of 100,000 pounds of the New Jersey summer flounder quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year or until the quota specified in (i)2 above is landed, whichever occurs first.
- vi. The Commissioner, or his or her designee, shall close the season for the directed and/or by-catch commercial summer flounder fishing season upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all permitted New Jersey Summer Flounder Dealers and New Jersey Summer Flounder Permit holders.
- vii. Once the season has been closed for the directed commercial summer flounder fishery, no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey in excess of the by-catch allowances specified in (i)1 above and provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any summer flounder and no dealer or person shall accept or buy any summer flounder landed in New Jersey.
- viii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (i)2vi above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- ix. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- x. If the quota for any of the first five seasons is exceeded, the amount overharvested shall be deducted from the following season.
- xi. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (i)2i and ii above.
- xii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.
- xiii. All New Jersey Summer Flounder Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Summer Flounder Program  
 Nacote Creek Research Station  
 PO Box 419  
 Port Republic, NJ 08241

- (1) The monthly report shall include, but not be limited to, the following information: name, New Jersey Summer Flounder Permit number of the vessel, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which summer flounder are landed. New Jersey Summer Flounder Permit holders who also possess a Federal summer flounder permit and are required to report monthly to the Federal government may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
- (2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.

3. Pursuant to Amendment 5 of the Mid-Atlantic Fishery Management Council's Summer Flounder Management Plan, the Commissioner may enter into agreements with other states to transfer or combine summer flounder commercial quotas. Such agreements shall specify the terms and conditions under which vessels not in possession of a New Jersey Summer Flounder Permit may land summer flounder in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.
4. No fish dealer shall accept any summer flounder from any vessel or harvester unless such dealer is in possession of a valid New Jersey Summer Flounder Dealers Permit. A New Jersey Summer Flounder Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Summer Flounder Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

5. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (i)1 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.
6. No vessel shall land and no dealer shall accept any summer flounder which have been frozen, filleted or processed in any way. Only whole, fresh summer flounder may be landed, except that by-catch amounts of summer flounder as specified in i(1) above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.
7. Any harvester or vessel landing summer flounder in New Jersey for the purpose of sale shall sell all summer flounder to a permitted New Jersey Summer Flounder Dealer.
8. All permitted New Summer Flounder Dealers shall provide daily reports during the period January 1 through February 28 and weekly reports during the period March 1 through December 31 to the Division listing the amount summer flounder landed on a daily basis by size category and any other information that may be required by the Commissioner or as a result of any agreement with other states pursuant to (i)3 above. If no summer flounder were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division not later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
9. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the application by May 31, 1994 for use of hook and line or to attach the required documentation to the application shall result in the denial of the permit.
  - ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of summer flounder landed as specified in (i)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
  - iii. Failure to comply with the provisions of N.J.A.C. 7:25-18.14(i)2, minimum mesh sizes, (i)2iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (i)2iv above, failure of notification of landing of summer flounder, (i)2vii above, landing summer flounder after the directed fishery and/or by-catch season has been closed, (i)2xiii above, failure to submit accurate and timely monthly reports, (i)5 above accepting more than by-catch amounts from non-permitted vessels, (i)6 above accepting any summer flounder other than fresh product, or N.J.S.A. 7:25-18.14(a), (b), (d), (e), (f) or N.J.S.A. 23:3-46 through 47 shall result in the suspension during open seasons or revocation of the vessel's New Jersey Summer Flounder Permit or the dealers New Jersey Summer Flounder Dealers Permit according to the following schedule:
    - (1) First offense: 60 days suspension;
    - (2) Second offense: 120 days suspension;

(3) Third offense: permanent revocation;

- iv. In calculating the period of suspension or revocation applicable under (i)9iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Summer Flounder Dealers Permit suspended or revoked shall not land or permit the landing of any summer flounder at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Summer Flounder Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(k) The following provisions are applicable to the commercial harvest of scup:

1. Annual coastwide scup quotas and daily trip limits for the periods of January 1 through April 28 and November 1 through December 31, and an annual New Jersey scup quota for the period from May 1 through October 31 shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission. All landings of scup in New Jersey during the period from May 1 through October 31 shall be applied to the New Jersey scup quota.
  - i. Any closure of the scup fishery by the National Marine Fisheries Service in adjacent Federal waters or any closure which includes New Jersey marine waters during the periods January 1 through April 28 and November 1 through December 31 would automatically close New Jersey to commercial landings of scup.
  - ii. The Commissioner, or his or her designee, shall implement annual and seasonal scup quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon two days public notice. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - iii. The Commissioner, or his or her designee, shall close the season for the commercial scup fishery upon two days public notice of the projected date the New Jersey seasonal quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Scup Dealer Permit holders and Federal scup moratorium, permit holders that are New Jersey residents.
  - iv. Once the season has been closed for the commercial scup fishery, no vessel shall land any scup and no dealer shall accept any scup landed in New Jersey.
  - v. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (k)1iii above.
  - vi. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following year's quota for that season.
2. No vessel shall have in possession or land and no dealer shall accept from any vessel more than the lesser of the daily trip limits set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission for the season of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealers shall accept from any one vessel more than the daily trip limit of 5,000 pounds of scup during the season of May 1 through October 31 or as provided for in (k)2i above.

- i. If a minimum of 25 percent of the New Jersey scup quota is projected to remain unlanded as of October 1 in any calendar year, then there shall be a 10,000 pound trip limit for the remainder of the season or until the season is closed as provided in (k)1i above.
  - ii. The trip limit for scup shall be two trips per week (Sunday through Saturday) with landings not to exceed 50,000 pounds during any two-week period from January 1 through April 28 and a daily limit as established by the National Marine Fisheries Service from November 1 through December 31. During the period of January 1 through April 28, the daily trip limit will be reduced to 1,000 pounds when it is projected that 80 percent of the period quota will be harvested.
3. No fish dealer shall accept any scup from any vessel or harvester unless such dealer is in possession of a valid New Jersey Scup Dealer Permit. A New Jersey Scup Dealer Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Scup Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

4. A harvester or vessel shall not land scup for the purpose of sale or sell any scup unless such harvester or vessel is in possession of a valid scup moratorium permit issued by the National Marine Fisheries Service.
5. Any harvester or vessel landing scup in New Jersey for the purpose of sale shall sell all scup to a permitted New Jersey Scup Dealer.
6. All permitted New Jersey Scup Dealers shall provide weekly reports to the Division listing the amount of scup landed on a daily basis and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (k)9 below. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
7. All scup moratorium permit holders landing scup in New Jersey shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Scup Program  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

- i. The monthly report shall include, but not be limited to, the following information: name, scup moratorium permit number, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which scup are landed. Scup moratorium permit holders may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
8. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
- i. Failure to comply with the provisions (k)1iv above, landing or accepting scup after the season has been closed; (k)2 above, landing or accepting more than the daily trip limit; (k)3 above, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (k)4 above, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (k)5 above, selling scup to a non-permitted fish dealer; or (k)6 and 7 above, failure to submit accurate and timely reports, shall result in the suspension during the open seasons or revocation of the dealer's New Jersey Scup Dealer Permit according to the following schedule:

- (1) First offense: 60 days suspension;
- (2) Second offense: 120 days suspension;
- (3) Third offense: permanent revocation;

ii. In calculating the period of suspension or revocation applicable under (k)8i above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

9. Pursuant to Amendment 8 of the Mid-Atlantic Fishery Management Council's Fishery Management Plan for the Summer Flounder and Scup Fishery, the Commissioner may enter into agreements with other states to transfer or combine scup commercial quotas. Such agreements shall specify the terms and conditions under which vessels may land scup in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.

#### **N.J.A.C. 7:25-18.14**

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.
2. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

- (1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;
- (2) The first body (belly) section of the net consists of 35 meshes or more of eight inches stretch mesh webbing or larger;
- (3) 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 two inch stretch mesh.

(p) Special provisions applicable to a directed scup fishery are as follows:

1. The possession of more than 500 pounds of scup during the period of November 1 through April 30 and more than 200 pounds of scup during the period of May 1 through October 31 on board a vessel or landed from a vessel shall constitute a directed fishery for scup.

2. A person utilizing an otter or beam trawl in a directed fishery for scup shall not use a net of less than 5.0 inches stretched mesh inside measurement applied for a minimum of 75 continuous meshes forward of the terminus of the net.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (p)2 above shall not contain any meshes less than 5.0 inches stretched mesh inside measurement throughout the entire net.
  3. The possession of any net with a mesh less than the minimum specified in (p)2 above on board a vessel in a directed fishery for scup is prohibited unless it is not available for immediate use as defined in (b) above.
- (q) Special provisions applicable to a directed black sea bass fishery are as follows:
1. The possession of more than 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period of April 1 through December 31 on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass for the purpose of requiring minimum mesh sizes as defined in (q)2 below.
  2. A person utilizing an otter or beam trawl in a directed fishery for black sea bass shall not use a net of less than 4.5 inches stretched diamond mesh or 4.0 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified in this paragraph on board a vessel in a directed fishery for black sea bass is prohibited unless it is not available for immediate use as defined in (b) above.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (q)2 above shall not contain any meshes less than 4.5 inches stretched diamond mesh or 4.0 inches stretched square mesh inside measurement throughout the entire net.





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF FISH & WILDLIFE  
89 Kings Highway  
Dover, Delaware 19901

OFFICE OF THE  
DIRECTOR

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## **Delaware Summer Flounder Compliance Report**

**R. Wong, G. Glanden; May 19, 2014**

### **I. Introduction**

Summer flounder recreational fishery and commercial hook and line regulations were liberalized in 2013 to a 17 inch size limit, 4 fish bag limit, and year-round open season. Harvest was limited to state licensed fishers operating within state territorial waters. Since the inception of the commercial quota system in 1993, Delaware has restricted summer flounder commercial landings to the bycatch taken by its gill net fishery and to those landed in the commercial hook and line fishery, which operates under recreational summer flounder regulations. Delaware will maintain low landing levels by preventing the development of a directed commercial fishery. Commercial landings are reported monthly and local stock conditions are monitored by an annual trawl survey program.

### **II. Request for *de minimus* status**

Delaware qualifies for *de minimis* designation under the guidelines of the Atlantic States Marine Fisheries Commission (ASMFC) Fishery Management Plan for Summer Flounder, Amendment 13. In 2013 the coast wide commercial quota was 11.44 million pounds and the *de minimis* threshold of 0.1% of the coast wide commercial quota was 11,400 pounds. Delaware's reported commercial landings in 2013 were only 913 pounds, so Delaware is requesting *de minimus* status for commercial summer flounder landings for the 2013 fishing season.

### **III. Previous year's fishery and management program, 2013**

#### **A. Fishery-Dependent Monitoring.**

Landings are monitored on a monthly basis by the Division of Fish and Wildlife.

#### **B. Fishery-Independent Monitoring**

Two trawl survey programs are conducted annually in Delaware's coastal waters to assess relative abundance of both juvenile and adult finfish (Figures 1,2; Tables 1-3). These findings are provided to the Northeast Fisheries Science Center for inclusion in the annual stock assessment update for summer flounder.

#### **C. Regulations (2013)**

Commercial Fishery: Summer flounder minimum size for fish caught in gill nets is 14 inches, while the minimum size for fish caught by commercial hook and line is 18 inches. The commercial hook and line fishery is bound by all recreational summer flounder regulations. A regulation, in effect since 1997, limits summer flounder

landings to 200 pounds per trip in order to prevent federally licensed vessels from landing in Delaware and off-loading flounder taken in federal waters. Commercial fishers are required to submit landing reports monthly. Delaware does have the authority to prohibit landings of summer flounder by commercial fishers if projections based on monthly landings reports suggest that the *de minimis* target could be exceeded in a given year.

Recreational Fishery: The recreational summer flounder regulations for 2013 included a 17 inch minimum size, four fish creel limit, and no closed season.

D. Harvest

Commercial Fishery: Delaware's 2013 commercial summer flounder landings were 913 lb, the third lowest in the 1990 through 2013 time series (Table 4). All landings were reported by state licensed fishers operating in state territorial waters. Gill nets accounted for 17 percent of the summer flounder landed in 2013, the fifth consecutive year that gill net landings were lower than commercial hook and line landings (Table 5). The gill net landings were harvested as bycatch in gill nets targeting weakfish and striped bass during the months of March and April. Commercial hook and line fishers were required to adhere to the recreational management measures during 2013, and accounted for 83% of landings.

Recreational Fishery: Based on estimates from the Marine Recreational Information Program (MRIP), the number of summer flounder harvested (A+B1) by Delaware recreational anglers in 2013 was 48,897 (Table 6), well under Delaware's recreational quota of 87,536 summer flounder. The 2013 recreational summer flounder regulations were a minimum size limit of 17 inches, a 4 fish creel limit, and no closed season.

IV **Planned Management Programs for 2014**

- A. Regulations: A 16 inch minimum size limit, four fish creel, and no closed season will apply to both recreational and commercial hook and line fishers in 2014. All other regulations remain in place and no changes are anticipated for the remainder of the 2014 season.
- B. Monitoring: Commercial landings will be monitored monthly. Recreational landings will be monitored by the MRIP program. Fishery-independent monitoring will consist of two trawl surveys operating monthly from March to December.
- C. Changes: Recreational fishery regulations will be liberalized from the previous year.

## Figures and Tables

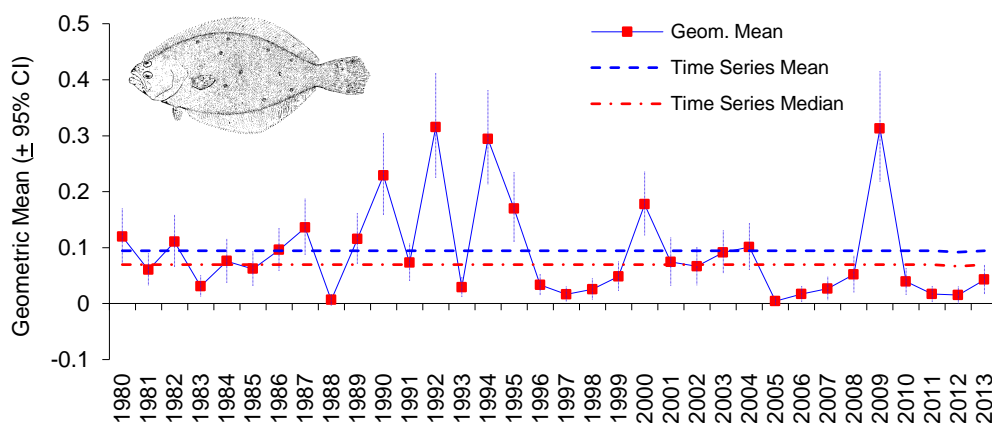


Figure 1. Index of young-of-the-year summer flounder abundance in Delaware Bay, time series (1990 – 2012) mean and time series median as measured by 16-foot trawl sampling.

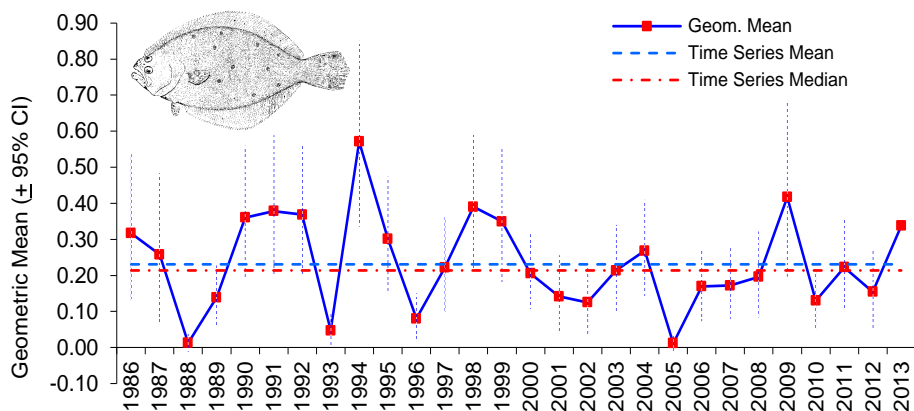


Figure 2. Index of young-of-the-year summer flounder abundance in the Inland Bays of Delaware, time series (1990 – 2012) mean and time series median as measured by 16-foot trawl sampling.

Table 1. Delaware Bay YOY index from DFW fishery-independent 16 ft. trawl survey.

| Obs | yr   | _FREQ_ | 95lowlim | geomn   | 95uplim |
|-----|------|--------|----------|---------|---------|
| 3   | 1980 | 139    | 0.07181  | 0.11964 | 0.1696  |
| 4   | 1981 | 149    | 0.03178  | 0.06029 | 0.08959 |
| 5   | 1982 | 171    | 0.06431  | 0.11039 | 0.15846 |
| 6   | 1983 | 173    | 0.01145  | 0.03086 | 0.05064 |
| 7   | 1984 | 174    | 0.03728  | 0.07579 | 0.11574 |
| 8   | 1985 | 175    | 0.03141  | 0.06193 | 0.09335 |
| 9   | 1986 | 173    | 0.05799  | 0.09571 | 0.13478 |
| 10  | 1987 | 161    | 0.08625  | 0.13576 | 0.18753 |
| 11  | 1988 | 173    | -0.00414 | 0.00637 | 0.017   |
| 12  | 1989 | 168    | 0.0709   | 0.11515 | 0.16123 |
| 13  | 1990 | 170    | 0.15746  | 0.22891 | 0.30478 |

|    |      |     |          |         |         |
|----|------|-----|----------|---------|---------|
| 14 | 1991 | 170 | 0.04467  | 0.07947 | 0.11542 |
| 15 | 1992 | 169 | 0.22485  | 0.31497 | 0.41173 |
| 16 | 1993 | 170 | 0.01108  | 0.02895 | 0.04714 |
| 17 | 1994 | 170 | 0.21233  | 0.29407 | 0.38131 |
| 18 | 1995 | 170 | 0.10861  | 0.16983 | 0.23442 |
| 19 | 1996 | 170 | 0.01404  | 0.03316 | 0.05263 |
| 20 | 1997 | 170 | 0.00295  | 0.01644 | 0.03012 |
| 21 | 1998 | 170 | 0.00629  | 0.02548 | 0.04503 |
| 22 | 1999 | 170 | 0.02243  | 0.04837 | 0.07497 |
| 23 | 2000 | 170 | 0.12168  | 0.17741 | 0.2359  |
| 24 | 2001 | 170 | 0.03232  | 0.07423 | 0.11785 |
| 25 | 2002 | 170 | 0.03305  | 0.0666  | 0.10125 |
| 26 | 2003 | 166 | 0.05315  | 0.09122 | 0.13067 |
| 27 | 2004 | 165 | 0.05952  | 0.10101 | 0.14412 |
| 28 | 2005 | 165 | -0.00274 | 0.00421 | 0.01121 |
| 29 | 2006 | 165 | 0.00304  | 0.01695 | 0.03105 |
| 30 | 2007 | 165 | 0.0062   | 0.02673 | 0.04769 |
| 31 | 2008 | 165 | 0.01958  | 0.05204 | 0.08553 |
| 32 | 2009 | 165 | 0.21807  | 0.31294 | 0.4152  |
| 33 | 2010 | 165 | 0.01605  | 0.03927 | 0.06303 |
| 34 | 2011 | 165 | 0.00304  | 0.01695 | 0.03105 |
| 35 | 2012 | 165 | 0.00038  | 0.01517 | 0.03018 |
| 36 | 2013 | 165 | 0.01632  | 0.0425  | 0.06934 |

Table 2. Delaware Inland Bays YOY index from DFW fishery-independent 16 ft. trawl survey.

| Obs | yr   | _FREQ_ | 95lowlim | geomn   | 95uplim |
|-----|------|--------|----------|---------|---------|
| 1   | 1986 | 63     | 0.12953  | 0.3171  | 0.53583 |
| 2   | 1987 | 48     | 0.06711  | 0.25782 | 0.4826  |
| 3   | 1988 | 55     | -0.01258 | 0.01268 | 0.0386  |
| 4   | 1989 | 68     | 0.05728  | 0.13885 | 0.2267  |
| 5   | 1990 | 61     | 0.18666  | 0.36054 | 0.5599  |
| 6   | 1991 | 47     | 0.19555  | 0.37828 | 0.58894 |
| 7   | 1992 | 60     | 0.19736  | 0.36837 | 0.5638  |
| 8   | 1993 | 60     | 0.00117  | 0.04729 | 0.09554 |
| 9   | 1994 | 59     | 0.33433  | 0.5714  | 0.85058 |
| 10  | 1995 | 59     | 0.14896  | 0.30102 | 0.4732  |
| 11  | 1996 | 59     | 0.01574  | 0.08043 | 0.14925 |
| 12  | 1997 | 60     | 0.09728  | 0.22221 | 0.36137 |
| 13  | 1998 | 60     | 0.21332  | 0.39008 | 0.59258 |
| 14  | 1999 | 60     | 0.1743   | 0.34953 | 0.55089 |
| 15  | 2000 | 60     | 0.10586  | 0.20539 | 0.31387 |
| 16  | 2001 | 54     | 0.038    | 0.14167 | 0.25569 |
| 17  | 2002 | 48     | 0.03222  | 0.12522 | 0.22659 |
| 18  | 2003 | 60     | 0.0992   | 0.21356 | 0.33982 |
| 19  | 2004 | 60     | 0.14155  | 0.26846 | 0.40949 |

|    |      |    |         |         |         |
|----|------|----|---------|---------|---------|
| 20 | 2005 | 60 | -0.0115 | 0.01162 | 0.03528 |
| 21 | 2006 | 59 | 0.07223 | 0.16942 | 0.27543 |
| 22 | 2007 | 60 | 0.0764  | 0.17222 | 0.27658 |
| 23 | 2008 | 60 | 0.08213 | 0.19598 | 0.32182 |
| 24 | 2009 | 48 | 0.19582 | 0.41735 | 0.67993 |
| 25 | 2010 | 60 | 0.05115 | 0.13007 | 0.21492 |
| 26 | 2011 | 60 | 0.10049 | 0.22253 | 0.3581  |
| 27 | 2012 | 55 | 0.04572 | 0.15439 | 0.27436 |
| 28 | 2013 | 60 | 0.16317 | 0.3378  | 0.53864 |

Table 3. Delaware Bay catch-at-age time series expressed as number per nautical mile taken from DFW fishery-independent 30 ft. trawl survey.

| Year | Age Class |      |      |      |      |      |      |      |      | Total |
|------|-----------|------|------|------|------|------|------|------|------|-------|
|      | 0         | I    | II   | III  | IV   | V    | VI   | VII  | VIII |       |
| 1991 | 1.44      | 1.13 | 0.18 | 0.04 | 0    | 0    | 0    | 0    | 0    | 2.79  |
| 1992 | 0.47      | 0.28 | 0.08 | 0    | 0    | 0    | 0    | 0    | 0    | 0.83  |
| 1993 | 0.04      | 1.56 | 0.73 | 0.07 | 0    | 0    | 0    | 0    | 0    | 2.4   |
| 1994 | 2.03      | 0.14 | 0.22 | 0.08 | 0    | 0    | 0    | 0    | 0    | 2.72  |
| 1995 | 0.95      | 1    | 0.28 | 0.1  | 0.07 | 0.02 | 0    | 0    | 0    | 2.41  |
| 1996 | 0.46      | 0.73 | 0.48 | 0.1  | 0.01 | 0    | 0.01 | 0    | 0    | 1.79  |
| 1997 | 0.03      | 0.12 | 0.49 | 0.47 | 0.11 | 0    | 0.03 | 0.01 | 0.01 | 1.27  |
| 1998 | 0.11      | 0.31 | 0.83 | 0.29 | 0.11 | 0.01 | 0    | 0    | 0    | 1.66  |
| 1999 | 0.2       | 0.06 | 0.77 | 0.47 | 0.16 | 0.03 | 0    | 0    | 0    | 1.69  |
| 2000 | 0.79      | 0.24 | 0.3  | 0.28 | 0.15 | 0.04 | 0.03 | 0.01 | 0    | 1.84  |
| 2001 | 0.34      | 1.55 | 0.49 | 0.26 | 0.1  | 0.02 | 0.01 | 0    | 0    | 2.77  |
| 2002 | 0.04      | 0.23 | 0.09 | 0    | 0.03 | 0    | 0    | 0    | 0    | 0.39  |
| 2003 | 0.15      | 0.14 | 0.29 | 0.15 | 0.07 | 0.03 | 0.02 | 0    | 0    | 0.85  |
| 2004 | 0.02      | 0.07 | 0.06 | 0.01 | 0.01 | 0.01 | 0    | 0    | 0    | 0.18  |
| 2005 | 0         | 0.3  | 0.11 | 0.02 | 0.01 | 0    | 0    | 0    | 0    | 0.44  |
| 2006 | 0.41      | 0.1  | 0.23 | 0.07 | 0.01 | 0.01 | 0    | 0    | 0    | 0.83  |
| 2007 | 0.11      | 0.14 | 0.83 | 0.09 | 0.07 | 0.02 | 0    | 0    | 0.01 | 1.29  |
| 2008 | 0.2       | 0.35 | 0.12 | 0.02 | 0.01 | 0.02 | 0.01 | 0    | 0    | 0.73  |
| 2009 | 0.45      | 0.49 | 0.1  | 0.09 | 0.01 | 0.01 | 0    | 0    | 0    | 1.16  |
| 2010 | 0.04      | 0.46 | 0.35 | 0.13 | 0.03 | 0.01 | 0    | 0    | 0    | 1.03  |
| 2011 | 0.36      | 0.24 | 0.19 | 0.07 | 0.05 | 0    | 0.01 | 0    | 0    | 0.92  |
| 2012 | 0.24      | 0.17 | 0.22 | 0.03 | 0.05 | 0    | 0    | 0    | 0    | 0.71  |
| 2013 | 0.17      | 0.14 | 0.03 | 0.01 | 0    | 0    | 0    | 0    | 0    | 0.35  |

Table 4. Delaware Commercial summer flounder landing 1990 -2013.

| YEAR | LANDINGS (LB) |
|------|---------------|
| 1990 | 1,930         |
| 1991 | 4,453         |

|      |        |
|------|--------|
| 1992 | 12,791 |
| 1993 | 7,602  |
| 1994 | 4,246  |
| 1995 | 4,263  |
| 1996 | 7,887  |
| 1997 | 4,370  |
| 1998 | 11,205 |
| 1999 | 7,482  |
| 2000 | 11,549 |
| 2001 | 7,484  |
| 2002 | 2,731  |
| 2003 | 5,522  |
| 2004 | 7,486  |
| 2005 | 5,559  |
| 2006 | 4,383  |
| 2007 | 5,258  |
| 2008 | 1,567  |
| 2009 | 2,909  |
| 2010 | 1,858  |
| 2011 | 837    |
| 2012 | 677    |
| 2013 | 913    |

Table 5. Commercial harvest by gear type.

| <b>YEAR</b> | <b>GILL NETS</b> | <b>HOOK &amp;<br/>LINE</b> | <b>FYKE<br/>NETS</b> | <b>FISH<br/>POT</b> | <b>TOTAL</b> |
|-------------|------------------|----------------------------|----------------------|---------------------|--------------|
| 1990        | 1,306            | 624                        |                      |                     | 1,930        |
| 1991        | 3,447            | 850                        | 156                  |                     | 4,453        |
| 1992        | 7,295            | 5,482                      | 14                   |                     | 12,791       |
| 1993        | 5,476            | 2,079                      | 47                   |                     | 7,602        |
| 1994        | 3,691            | 555                        |                      |                     | 4,246        |
| 1995        | 1,357            | 2,899                      | 7                    |                     | 4,263        |
| 1996        | 3,986            | 3,776                      |                      | 125                 | 7,887        |
| 1997        | 2,780            | 1,590                      |                      |                     | 4,370        |
| 1998        | 8,586            | 2,558                      |                      | 61                  | 11,205       |
| 1999        | 4,924            | 1,366                      | 1,192                |                     | 7,482        |
| 2000        | 7,971            | 3,578                      |                      |                     | 11,549       |
| 2001        | 5,713            | 1,564                      |                      | 207                 | 7,484        |
| 2002        | 1,252            | 1,479                      |                      |                     | 2,731        |
| 2003        | 3,858            | 1,657                      | 4                    | 3                   | 5,522        |
| 2004        | 6,595            | 846                        | 45                   |                     | 7,486        |
| 2005        | 4,731            | 868                        |                      |                     | 5,599        |
| 2006        | 3,048            | 1,277                      |                      | 58                  | 4,383        |
| 2007        | 4,139            | 934                        |                      | 185                 | 5,258        |
| 2008        | 1015             | 496                        |                      | 56                  | 1,567        |
| 2009        | 958              | 1,948                      |                      | 3                   | 2,909        |
| 2010        | 853              | 1,005                      |                      |                     | 1,858        |
| 2011        | 282              | 555                        |                      |                     | 837          |
| 2012        | 274              | 403                        |                      |                     | 677          |
| 2013        | 156              | 757                        |                      |                     | 913          |

Table 6. Delaware recreational estimates of the number of summer flounder landed (A+B1), 1990 – 2013.

| <b>YEAR</b> | <b>LANDINGS</b> |
|-------------|-----------------|
| 1990        | 135,538         |
| 1991        | 173,395         |
| 1992        | 286,281         |
| 1993        | 368,014         |
| 1994        | 230,479         |
| 1995        | 99,608          |
| 1996        | 480,946         |
| 1997        | 201,443         |
| 1998        | 218,933         |
| 1999        | 180,562         |
| 2000        | 335,664         |
| 2001        | 145,786         |
| 2002        | 106,837         |
| 2003        | 105,743         |
| 2004        | 111,362         |
| 2005        | 72,696          |
| 2006        | 88,149          |
| 2007        | 108,264         |
| 2008        | 35,227          |
| 2009        | 87,232          |
| 2010        | 53,512          |
| 2011        | 66,820          |
| 2012        | 45,474          |
| 2013        | 48,897          |



# Maryland's 2013 Summer Flounder (*Paralichthys dentatus*) Compliance Report to the Atlantic States Marine Fisheries Commission

Prepared for ASMFC

by:

Steve Doctor

Maryland Department of Natural Resources  
Fisheries Service  
Estuarine and Marine Fisheries Division

June 2014

## I. Introduction

The fishery is currently operating under Addendum XXV which allows for quota sharing of Summer Flounder quota within conservation equivalency. According to the 2012 assessment the Summer Flounder stock was not overfished and overfishing was not occurring in 2011 relative to the biological reference points established in the 2008 SAW 47 assessment. The fishing mortality rate (F) was estimated to be 0.241 in 2011, below the fishing mortality threshold reference point =  $FMSY = F35\% = 0.310$ . Spawning Stock Biomass (SSB) was estimated to be 57.020 metric tons (mt) = 125.708 million lbs in 2011, below the biomass target reference point =  $SSBMSY = SSB35\% = 60,074$  mt = 132.440 million lbs. The Summer Flounder stock reached the biomass target in 2010 and is considered rebuilt (Terciero 2012).

Summer Flounder are managed as one stock extending from North Carolina to Maine. Since 1980, 70% of the coastal commercial landings have come from the Exclusive Economic Zone (EEZ). Large variability in landings has occurred within and among the states and over time. Maryland's share of the coastal commercial quota is 2.04%. Maryland's share of the coastal recreational quota is 2.9%. The recreational fishery is actively pursued in the Atlantic Ocean and both the coastal back bays and, to a lesser extent, in the Chesapeake Bay.

Summer Flounder occupy Maryland waters where the salinity is greater than 10 parts per thousand. This includes the Maryland Coastal Bays, near shore Atlantic Ocean, and the Chesapeake Bay south of the Bay Bridge.

## II. Request for *De Minimis*

No de minimis status is requested.

## III. Previous Year's Fishery and Management Program

### A. Fishery Dependent Monitoring

Summer Flounder were measured on commercial trawlers working in near shore coastal waters. The trips occurred from one to seven miles from the Ocean City Inlet. From all trips combined, a total of 41 Summer Flounder were measured. Lengths ranged in size from 162 mm to 570 mm (Figure 1). The mean length was 397.4 mm and the mode was 395 mm.

### B. Fishery Independent Monitoring

Maryland has conducted a juvenile finfish trawl and beach seine survey in the Coastal Bays since 1972. Beginning in 1989, the Coastal Bays Fisheries Investigation Trawl and

Beach Seine Survey was performed following a standardized sampling protocol. Analyses presented in this report from that survey were from 1989 forward.

In 2013, a total of 748 Summer Flounder were collected in trawl (596 fish) and beach seine (152 fish) samples conducted on Maryland's Coastal Bays. Summer Flounder ranked 4<sup>th</sup> out of 72 species in overall finfish abundance.

GM indices of relative abundance were calculated and compared with the 1989-2013 time series grand mean. The point estimate of the time series grand mean was used as an indicator of central tendency of abundance, against which the 95% CIs of the GM indices of relative abundance were compared. The 2013 trawl index and the beach seine index were both equal to the grand mean (Figures 1 and 2).

### Maryland Coastal Bays Summer Flounder Trawl Index

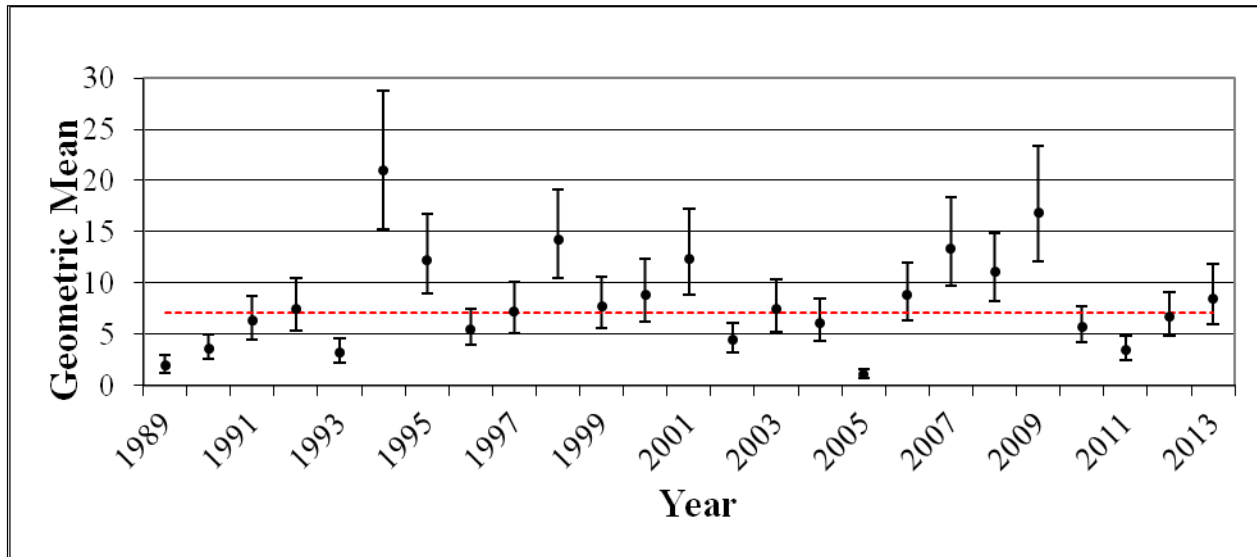


Figure 1. Summer Flounder trawl index of relative abundance (geometric mean) with 95% confidence intervals (1989-2013). Protocols of the Coastal Bays Fishery Investigation Trawl and Beach Seine Survey were standardized in 1989 (n=140/year).

## Maryland Coastal Bays Summer Flounder Seine Index

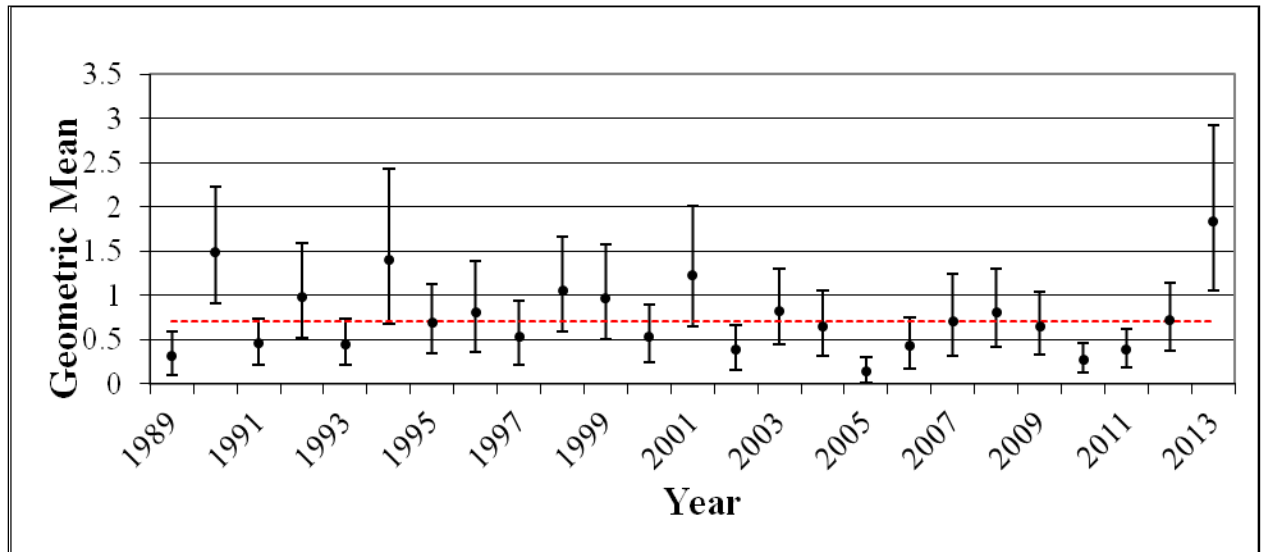


Figure 2. Summer Flounder beach seine index of relative abundance (geometric mean) with 95% confidence intervals (1989-2013). Dotted line represents the 1989-2013 time series grand mean. Protocols of the Coastal Bays Fishery Investigation Trawl and Beach Seine Survey were standardized in 1989 (n=38/year).

### C. Regulations

#### A. Recreational Fishery.

- (1) Minimum Size. An individual may not catch or possess summer flounder less than:
  - (a) 16.0 inches total length in the Atlantic Ocean, its coastal bays, and their tributaries; and in the Chesapeake Bay and its tidal tributaries.
- (2) Catch Limits. An individual may not catch or possess more than four summer flounder per day in the Atlantic Ocean and coastal bays, and in the Chesapeake Bay and its tidal tributaries.
- (3) The recreational season was open from March 28<sup>th</sup> through December 31<sup>st</sup> in 2013.

#### B. Commercial Fishery.

- (1) Quotas.
  - (a) The annual commercial quota for Maryland is established by the National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission.
  - (b) The annual commercial quota is divided into an allocation for:
    - (i) The Atlantic Ocean, its coastal bays, and their tributaries;
    - (ii) The Chesapeake Bay and its tidal tributaries;
    - (iii) The Potomac river; and
    - (iv) The harvest of Summer Flounder provided for in §B(3)(a) and
- (4) of this regulation.

(c) The annual commercial quota and allocations are subject to downward adjustment action if there are overages in the previous year's landings.

(d) Equal individual allocations shall be established for the portion of the annual commercial quota provided for in §B(1)(b)(i) of this regulation and allocated by permit to an individual that meets the requirements set forth in §C(5) of this regulation.

(e) An individual who possesses a Maryland summer flounder landing permit in accordance with §C of this regulation and lands more than the assigned permit allocation, including any quota transfers, shall have the overage deducted from the permit allocation for the following year.

(f) A Maryland summer flounder permit holder (permittee) may annually transfer up to 100 percent of the permittee's individual quota to another permittee upon notification of and approval by the Department. However, an individual may not hold more than 29 percent of the allocation for the total fishery.

(2) Minimum Size. An individual licensed to catch fish for commercial purposes may not catch or possess a summer flounder less than:

(a) The size limit set forth in §A(1) of this regulation if caught by hook and line; or

(b) 14 inches total length if caught by gear other than hook and line.

(3) Daily Catch Limits. An individual licensed to catch fish for commercial purposes may not catch, possess, or land more than:

(a) 100 pounds of summer flounder per day from the Atlantic Ocean, its coastal bays, and their tributaries unless in possession of a Maryland Summer Flounder landing permit; and

(b) 50 pounds of Summer Flounder per day from the Chesapeake Bay and its tidal tributaries.

(4) An individual licensed to catch fish for commercial purposes may not:

(a) Transfer Summer Flounder from one vessel to another vessel; or

(b) Land more than 5 percent by:

(i) Number of summer flounder under 14 inches as part of the daily limit for flounder caught by gear other than hook and line; or

(ii) Weight of Summer Flounder in excess of the daily catch limits established in §B(3) of this regulation.

(5) Summer flounder harvested for commercial purposes from Maryland waters of the Atlantic Ocean or from the waters of the Exclusive Economic Zone (EEZ) and landed in Maryland shall be sold to a dealer with a federal permit.

#### C. Licenses and Permits.

(1) A person shall be licensed to fish for commercial purposes in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, in order to catch, possess, or land summer flounder.

(2) A vessel which is used to catch, possess, or land summer flounder for commercial purposes from the waters of the Exclusive Economic Zone (EEZ) of the Atlantic Ocean shall be permitted by the National Marine Fisheries Service in accordance with 50 CFR §648.4.

(3) A permittee may catch, possess, or land Summer Flounder for commercial purposes on a vessel other than the vessel declared on the permittee's permit if in

possession of the permit issued to the permittee, and the undeclared vessel is permitted by the National Marine Fisheries Service.

(4) Declaration.

(a) Tidal fish licensees shall declare their intent to fish for Summer Flounder by August 31 of each year.

(b) A tidal fish licensee who has not declared by August 31 of the current year, and who has not declared by the August 31 deadline in any of the 3 preceding years, may apply until September 14 of the current year, or the next business day if September 14 occurs on a weekend, to the Director of Fisheries Service provided the licensee shows good reason why the application should be processed.

(c) An exception to the September 14 deadline will be considered only for an individual who can provide satisfactory documentation of a physical or mental incapacity that prevented that individual from meeting the declaration time period established in this subsection.

(d) The federally registered name or the State registration numbers of the permitted vessels owned by the permittee shall be indicated at the time of application for the permit and declared on the Maryland summer flounder landing permit.

(e) Any change in vessel ownership shall be reported to the Department so that a revised permit card may be issued.

(5) Summer Flounder Landing Permit.

(a) No more than seven Summer Flounder landing permits may be issued by the Department. The number of Summer Flounder landing permits is based on the reported catch and landing records of Summer Flounder in Maryland during 1998—2003.

(b) The Department may issue a permit to catch and land Summer Flounder in Maryland to a person who is licensed in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, owns or has a share of ownership in a federally permitted vessel, and:

(i) Declared or was eligible to declare, in the previous year, an intent to fish for summer flounder in accordance with §C(4) of this regulation in the previous year and has not transferred the permit;  
or

(ii) Received a summer flounder landing permit through a permanent business transfer in accordance with §C(7) of this regulation.

(6) Operators.

(a) An operator means an individual who is not a permittee and acts as an agent of a permittee.

(b) The name of the vessel on which the operator is working shall be declared on the Maryland summer flounder landing permit.

(c) An operator may catch, possess, or land summer flounder for commercial purposes on a vessel owned by a permittee if they are in possession of that permittee's permit.

(7) Permanent Transfer of a Landing Permit. The Department may approve the permanent transfer of a Maryland Summer Flounder landing permit to an individual

who applies to the Department requesting the transfer on forms provided by the Department.

(8) Temporary transfers of summer flounder landing permits are not permitted.

(9) Regardless of the number of authorized individuals with Maryland summer flounder landing permits on board any one federally permitted vessel, no more than two summer flounder quotas may be fished from one vessel per trip.

**D. Gear Restrictions.**

(1) A person who catches summer flounder for commercial purposes may not use a trawl net with stretched mesh size of less than 6 inches square or 5-1/2 inches diamond applied throughout the net, including the body, extensions, and cod end.

(2) For the purposes of measuring the required mesh sizes, at least 20 meshes shall be measured, of which:

(a) At least 12 meshes shall measure the minimum size or larger; and

(b) The remaining meshes may not measure more than 1/4 inch less than the minimum mesh size.

**E. Reporting and Penalties.**

(1) In addition to the requirements of Natural Resources Article, §4-206, Annotated Code of Maryland, an individual in possession of a Maryland summer flounder landing permit shall record the harvest of Summer Flounder on the permit daily and submit the completed permit to the Department within 14 days from the end of the summer flounder season.

(2) A dealer shall transmit information weekly, or as requested, on each summer flounder transaction through the Department-approved reporting system.

(3) The Department may withhold quota allocation for a summer flounder landing permit for failing to comply with §E(1) of this regulation during the previous season.

(4) The Department may deny an application for a Summer Flounder landing permit for failing to comply with §E(1) of this regulation during the previous season.

**F. General.**

(1) The Secretary may modify catch limits, size limits, quotas, or open or close a season in order to comply with species management through the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Summer Flounder, by publishing notice on the Fisheries Service website at least 48 hours in advance, stating the effective hour and date.

(2) The Secretary shall make reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.

(3) The Department shall make a reasonable effort to modify quotas to ensure that the Maryland portion of the coast-wide quota is harvested and not exceeded.

**D. Harvest by Gear Type**

**1. Commercial Landings**

Maryland allocates portions of their commercial quota to the Atlantic coastal waters, the Chesapeake Bay, and the Potomac River. The Potomac River quota is set aside from both Maryland and Virginia state quotas by agreement. The quota for Maryland in 2013 was 223,269 pounds. The Maryland commercial harvest in 2013 was 165,134 pounds (accessed May 27, 2014, National Marine Fisheries Service, Fisheries Statistics and Economics Division, Personal communication).

Maryland established individual fishing quotas for the Atlantic coastal waters including the Coastal Bays, and their tributaries. The individual fishing quota system assigns a specific quota per fisherman and allows fishermen to plan and manage the fishing business for best economic yield. In 2013 there were seven Summer Flounder harvesters permitted in Maryland. There is additional Maryland quota not allocated to IFQs to allow for some minimal bycatch on the coast and in the Chesapeake Bay.

## **2. Recreational Landings**

The 2013 recreational catch of Summer Flounder was estimated at 48,786 fish (PSE 23.8) with an estimated combined weight of 101,932 pounds (accessed May 27, 2014, National Marine Fisheries Service, Fisheries Statistics and Economics Division, Personal communication).

## **IV. Planned Management for 2014**

### **A. Summary of Regulations that will be in Effect**

The Code of Maryland Regulations (COMAR) pertaining to summer flounder (section 08.02.05.12) are online at URL: <http://www.dsd.state.md.us/comar/08/08.02.05.12.htm>  
<http://www.dsd.state.md.us/comar/comarhtml/08/08.02.05.12.htm>

Recreational management measures for Maryland in 2014 include a 16.0 inch minimum size with a four fish creel limit on the Atlantic coast and in the Chesapeake Bay, and open season from January 1<sup>st</sup> to December 31<sup>st</sup>.

### **B. Summary of Monitoring Programs that will be in Effect**

Maryland will continue monitoring the abundance and obtain measurements of summer flounder from the CBFITrawl and Beach Seine Survey and the MVASFS in 2012.

### **C. Highlights of Changes from the Previous Year**

Changes to minimum sizes and creel limits were necessary for compliance with regulatory requirements. All regulation changes are outlined in the section labeled, Summary of Regulations that will be in effect.

## **References**

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MARYLAND - VIRGINIA  
"Potomac River Compact of 1958"

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### **Summer Flounder** **2013 Annual Compliance Report** June 1, 2014

#### **I. Introduction**

Commercial harvest of summer flounder in the Potomac River in 2013 continued to decline, and was the lowest value on record for the third year in a row, dropping 45 percent from 2012.

#### **II. Request *de minimis*, where applicable. – N/A**

#### **III. Previous calendar year's fishery and management program**

##### A. Fishery Dependent Monitoring

Pound nets are the primary commercial gear for summer flounder. Haul seines, hook and line, and several miscellaneous gear types can occasionally contribute to the total summer flounder harvest.

Although the PRFC does not have a separate 'state-by-state quota' under the MAFMC/ASMFC FMP, a PRFC quota is set annually under an MD/VA/PRFC agreement to allocate landings from within in-state waters. During 2013, the PRFC commercial quota was 36,873 pounds.

##### B. Fishery Independent Monitoring – None.

##### C. Regulations in Effect

The minimum commercial size limit was 14 inches. The season was open January 1 through December 31, subject to daily harvest limits being imposed when 80 percent of the quota was landed and/or total closure if the quota was reached.

In 2011, it became mandatory for pound netters to properly install six PRFC approved fish cull panels in the sides of their pound nets. Studies have shown that sub-legal flounder are released alive when the fish cull panels are used.

The 2013 recreational and charter boat summer flounder regulations included a season of Jan. 1 through December 31, a 16-inch minimum size limit, and four fish per person per day creel limit.

##### D. Harvest

Summer flounder commercial harvest in 2013 was reported as 6,161 pounds, from the PRFC's mandatory commercial daily harvest reporting system. In addition to collecting harvest, the

mandatory reporting system also collects discards or releases. In 2013, a total of 10 pounds of undersize summer flounder were reported as released by commercial fishermen. The pound net fish cull panels also release undersize summer flounder before the net is fished; therefore an unknown amount of small fish were released/escaped from the net and were not reported.

The pound net fishery effort is expressed as ‘PN fished days’, which is one pound net fished one time (net-days fished). The fyke net effort is expressed as “FN fished days” and is one fyke net fished one time (net-days fished).

| <u>Harvest (lbs.)</u> | <u>Gear</u> | <u>Effort</u>      |
|-----------------------|-------------|--------------------|
| 6,133                 | Pound net   | 491 PN fished days |
| 28                    | Fyke net    | 5 FN fished days   |

For the private recreational fishery, results are reported and included as either MD or VA landings. Contact information is supplied to the NOAA for Hire survey for all charter boats licensed to operator in the Potomac.

**Tables and Figures:**

Table 1 shows the Potomac River commercial harvest of summer flounder from 1964 through the reporting year.

Table 2 shows the Potomac River charter boat harvest of summer flounder, and the estimated numbers and sizes of released summer flounder from 1993 through the reporting year.

Table 3 shows the Potomac River commercial pound net harvest of summer flounder from 1976 through the reporting year, including effort expressed as PN fished days and CPUE.

Figure 1 illustrates the Potomac River commercial summer flounder harvest (1964-2011).

Figure 2 illustrates the Potomac River commercial summer flounder harvest and pound net CPUE.

**IV. Planned management programs for the current calendar year**

A. Summarize regulations that will be in effect

The pound net fishery is a limited entry fishery, with a maximum of 100 licenses on a total riverwide basis. A pound net is defined as a fixed fishing device with one head, trap or pound measuring not less than 20 feet square at the surface of the water on the channel end and only one leader or hedging not less than 300 feet in length. We have no specific regulations for summer flounder, other than size limit, creel limit and quota as noted earlier

Effective January 1, 2011 – all pound nets in the Potomac River must have at least six PRFC approved fish cull panels properly installed in each pound net to help release undersize fish. These fish cull panels were being used by some pound netters on a voluntary basis prior to 2011. **As a conservation measure, PRFC fish cull panel devices may allow escapement of at least 83 percent of sublegal summer flounder.**

B. Summarize monitoring programs that will be performed

We will continue mandatory daily harvest reports.

C. Highlight any changes from the previous year. – None

Table 1

**Potomac River Commercial Harvest (lbs) for SUMMER FLOUNDER by gear type**

| YEAR  | HAUL SEINE | POUND NET | FYKE NET | GILL NET | H & L | MISC.   | LBS LANDED IN |          | TOTAL   |
|-------|------------|-----------|----------|----------|-------|---------|---------------|----------|---------|
|       |            |           |          |          |       |         | MARYLAND      | VIRGINIA |         |
| 1964  | -          | -         | -        | -        | -     | 41,275  | 18            | 41,257   | 41,275  |
| 1965  | -          | -         | -        | -        | -     | 46,354  | 512           | 45,842   | 46,354  |
| 1966  | -          | -         | -        | -        | -     | 59,883  | 430           | 59,453   | 59,883  |
| 1967  | -          | -         | -        | -        | -     | 105,500 | 31            | 105,469  | 105,500 |
| 1968  | -          | -         | -        | -        | -     | 83,547  | 340           | 83,207   | 83,547  |
| 1969  | -          | -         | -        | -        | -     | 33,395  | 79            | 33,316   | 33,395  |
| 1970  | -          | -         | -        | -        | -     | 20,496  | 639           | 19,857   | 20,496  |
| 1971  | -          | -         | -        | -        | -     | 14,736  | 611           | 14,125   | 14,736  |
| 1972  | -          | -         | -        | -        | -     | 23,738  | 870           | 22,868   | 23,738  |
| 1973  | -          | -         | -        | -        | -     | 85,648  | 2,367         | 83,281   | 85,648  |
| 1974  | -          | -         | -        | -        | -     | 46,922  | 1,856         | 46,066   | 47,922  |
| 1975  | -          | -         | -        | -        | -     | 77,915  | 3,799         | 74,116   | 77,915  |
| 1976  | -          | 47,513    | -        | -        | -     | 1,480   | 1,752         | 47,241   | 48,993  |
| 1977  | -          | 43,606    | 59       | 9        | -     | 12      | 2,289         | 41,397   | 43,686  |
| 1978  | -          | 58,616    | -        | 23       | -     | 537     | 4,356         | 54,820   | 59,176  |
| 1979  | 23         | 63,726    | -        | 501      | -     | -       | 2,708         | 61,542   | 64,250  |
| 1980  | -          | 76,081    | -        | 28       | -     | -       | 4,565         | 71,516   | 76,081  |
| 1981  | -          | 32,760    | -        | 92       | -     | -       | 2,293         | 30,559   | 32,852  |
| 1982  | 40         | 31,710    | -        | 57       | -     | -       | 1,193         | 30,614   | 31,807  |
| 1983  | -          | 84,095    | -        | 43       | -     | -       | 4,096         | 80,042   | 84,138  |
| 1984* | 25         | 37,627    | -        | -        | -     | -       | 2,059         | 35,593   | 37,652  |
| 1985  | 16         | 21,710    | -        | 50       | -     | -       | 1,502         | 20,274   | 21,776  |
| 1986  | -          | 77,730    | -        | 1        | -     | -       | 5,411         | 72,320   | 77,731  |
| 1987  | 108        | 118,050   | -        | -        | 111   | -       | 11,498        | 106,771  | 118,269 |
| 1988  | -          | 50,197    | -        | -        | -     | 2       | 5,205         | 44,994   | 50,199  |
| 1989  | -          | 18,414    | -        | -        | 0     | -       | 1,659         | 16,755   | 18,414  |
| 1990  | -          | 19,914    | 5        | -        | 0     | 1       | 1,695         | 18,225   | 19,920  |
| 1991  | -          | 27,007    | 2        | -        | 0     | 28      | 1,790         | 25,247   | 27,037  |
| 1992  | -          | 56,132    | -        | -        | 28    | 9       | 8,498         | 47,643   | 56,141  |
| 1993  | -          | 44,611    | -        | -        | 2     | -       | 2,577         | 42,034   | 83,547  |
| 1994  | 24         | 30,372    | 2        | -        | 0     | -       | 1,734         | 28,664   | 33,395  |

\* Since 1984, Summer & Winter flounder reported separately, previously combined as flounder.

Table 1 continued

**Potomac River Commercial Harvest (lbs) for SUMMER FLOUNDER by gear type**

| YEAR | HAUL SEINE | POUND NET | FYKE NET | GILL NET | H & L | MISC. | LBS LANDED IN |          | TOTAL  |
|------|------------|-----------|----------|----------|-------|-------|---------------|----------|--------|
|      |            |           |          |          |       |       | MARYLAND      | VIRGINIA |        |
| 1995 | -          | 49,973    | -        | -        | 0     | -     | 1,494         | 48,479   | 49,973 |
| 1996 | 107        | 36,066    | -        | -        | 0     | -     | 4,288         | 31,885   | 36,173 |
| 1997 | -          | 38,699    | 61       | -        | 0     | -     | 3,159         | 35,601   | 38,760 |
| 1998 | -          | 58,756    | 62       | -        | 0     | -     | 4,715         | 54,103   | 58,818 |
| 1999 | -          | 45,467    | 17       | -        | 0     | -     | 6,114         | 39,370   | 45,484 |
| 2000 | 8          | 49,026    | 43       | -        | 0     | 1     | 5,651         | 43,427   | 49,078 |
| 2001 | 59         | 30,761    | 1,007    | -        | 202   | -     | 7,140         | 24,913   | 32,053 |
| 2002 | -          | 40,774    | 31       | -        | 135   | 2     | 7,280         | 33,662   | 40,942 |
| 2003 | -          | 28,156    | 31       | -        | -     | 7     | 7,569         | 20,625   | 28,194 |
| 2004 | 3          | 35,576    | 39       | -        | 4     | 2     | 6,866         | 28,758   | 35,624 |
| 2005 | -          | 23,249    | 56       | -        | -     | 3     | 6,549         | 16,759   | 23,308 |
| 2006 | 29         | 29,718    | 98       | -        | -     | -     | 9,693         | 20,045   | 29,738 |
| 2007 | -          | 22,012    | 47       | -        | 1     | 9     | 7,405         | 14,664   | 22,069 |
| 2008 | -          | 27,164    | 109      | -        | 29    | 3     | 8,722         | 18,583   | 27,305 |
| 2009 | 27         | 24,719    | 11       | -        | 231   | -     | 13,387        | 11,601   | 24,988 |
| 2010 | 59         | 22,205    | 83       | -        | 55    | 20    | 3,535         | 18,887   | 22,422 |
| 2011 | 39         | 11,263    | 45       | -        | 5     | -     | 2,554         | 8,798    | 11,352 |
| 2012 | 100        | 11,015    | -        | -        | -     | 37    | 1,333         | 9,819    | 11,152 |
| 2013 | -          | 6,133     | 28       | -        | -     | -     | 316           | 5,845    | 6,161  |

Table 2

Potomac River  
Charter Boat Summer Flounder Catches

| <u>Year</u> | <u>Harvest</u> |               | <u>Released</u> |                        |
|-------------|----------------|---------------|-----------------|------------------------|
|             | <u># Fish</u>  | <u>Pounds</u> | <u># Fish</u>   | <u>Avg. Size (in.)</u> |
| 1993        | 150            | 226           | 170             | 13                     |
| 1994        | 10             | 14            | 66              | 7                      |
| 1995        | 347            | 358           | 29              | 11                     |
| 1996        | 40             | 48            | 22              | 12                     |
| 1997        | 22             | 41            | 5               | 10                     |
| 1998        | 77             | 101           | 155             | 9                      |
| 1999        | 17             | 26            | 124             | 14                     |
| 2000        | 43             | 44            | 224             | 14                     |
| 2001        | 30             | 65            | 503             | 14                     |
| 2002        | 35             | 57            | 60              | 14                     |
| 2003        | 4              | 8             | 0               | 0                      |
| 2004        | 38             | 37            | 113             | 12                     |

2005 through 2013 NOAA for Hire Survey

Table 3 **Potomac River Commercial Summer Flounder Pound Net Harvest**

| <u>Year</u> | <u>Pounds</u> | <u>Effort</u> | <u>CPUE</u> |
|-------------|---------------|---------------|-------------|
| 1976        | 47,513        | 3,977         | 11.95       |
| 1977        | 43,606        | 3,999         | 10.90       |
| 1978        | 58,616        | 4,030         | 14.54       |
| 1979        | 63,726        | 4,191         | 15.21       |
| 1980        | 76,081        | 4,308         | 17.66       |
| 1981        | 32,760        | *             |             |
| 1982        | 31,710        | *             |             |
| 1983        | 84,095        | *             |             |
| 1984**      | 37,627        | *             |             |
| 1985        | 21,710        | *             |             |
| 1986        | 77,730        | *             |             |
| 1987        | 118,050       | *             |             |
| 1988        | 50,197        | 4,140         | 12.12       |
| 1989        | 18,414        | 3,359         | 5.48        |
| 1990        | 19,914        | 3,026         | 6.58        |
| 1991        | 27,007        | 2,941         | 9.18        |
| 1992        | 56,132        | 3,049         | 18.41       |
| 1993        | 44,611        | 2,916         | 15.30       |
| 1994        | 30,372        | 3,086         | 9.84        |
| 1995        | 49,973        | 3,188         | 15.68       |
| 1996        | 36,066        | 2,673         | 13.49       |
| 1997        | 38,699        | 2,978         | 12.99       |
| 1998        | 58,756        | 3,023         | 19.44       |
| 1999        | 45,467        | 2,213         | 20.55       |
| 2000        | 49,026        | 2,333         | 21.01       |
| 2001        | 30,761        | 2,302         | 13.36       |
| 2002        | 40,774        | 2,256         | 18.07       |
| 2003        | 28,156        | 1,997         | 14.10       |
| 2004        | 35,576        | 2,117         | 16.80       |
| 2005        | 23,249        | 1,793         | 12.97       |
| 2006        | 29,718        | 1,602         | 18.55       |
| 2007        | 22,012        | 1,439         | 15.30       |
| 2008        | 27,164        | 1,494         | 18.18       |
| 2009        | 24,719        | 1,317         | 18.77       |
| 2010        | 22,205        | 1,099         | 20.20       |
| 2011        | 11,263        | 792           | 14.22       |
| 2012        | 11,015        | 1,196         | 9.21        |
| 2013        | 6,133         | 491           | 12.49       |

\* No effort data available for 1981 - 1987

\*\* Since 1984, Summer & Winter flounder reported separately, previously combined as flounder

Figure 1

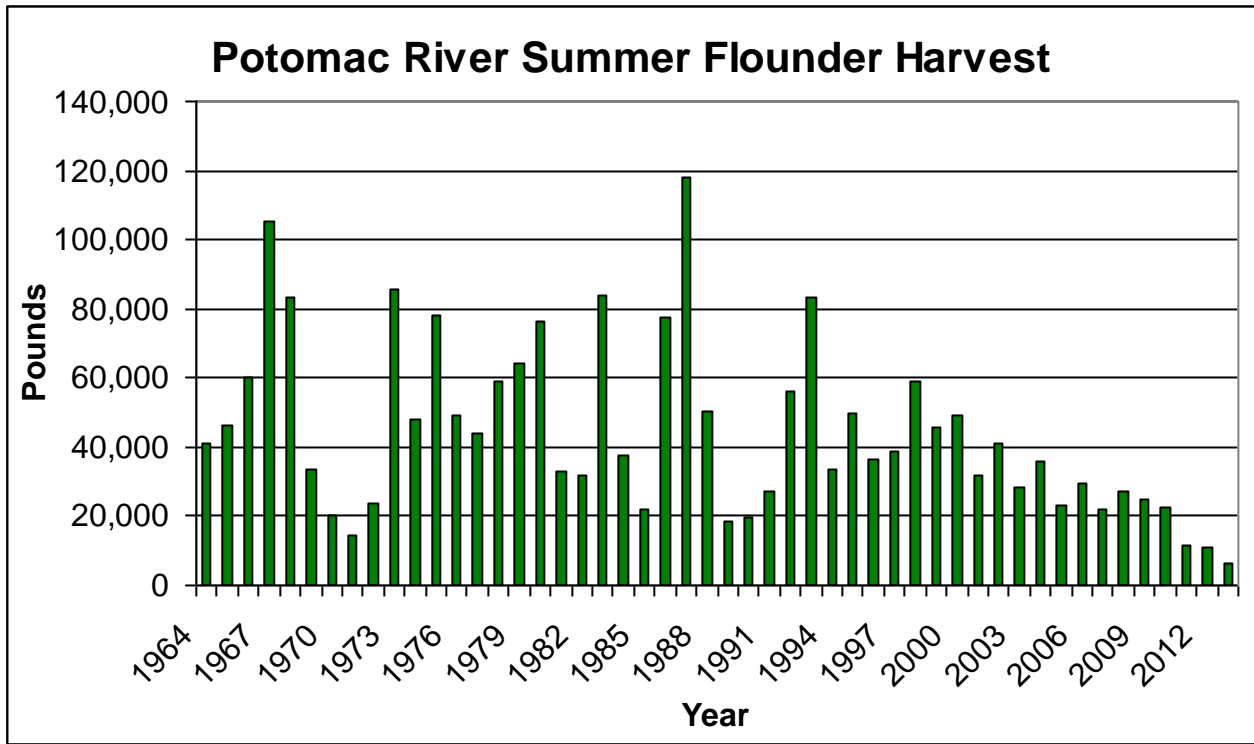
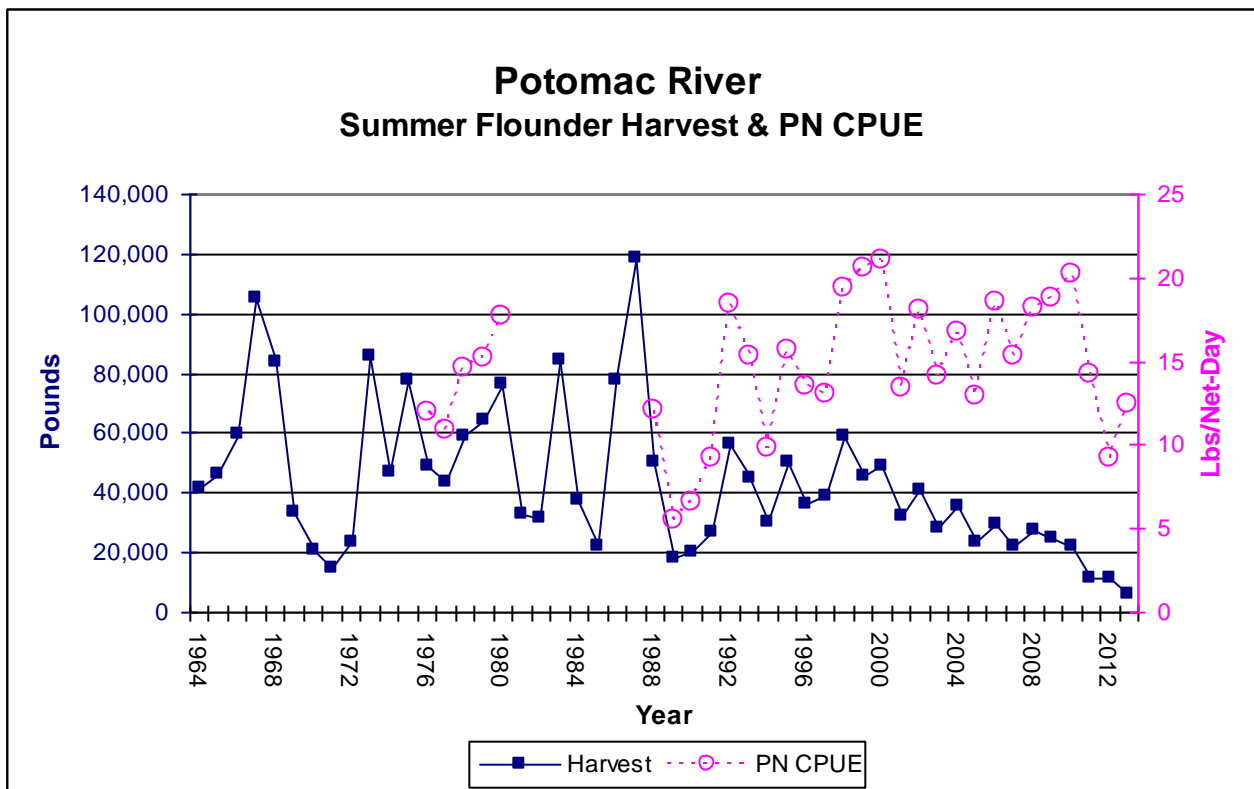


Figure 2





## A. *COMMONWEALTH of VIRGINIA*

### B. *Marine Resources Commission*

Molly Joseph Ward  
Secretary of Natural Resources

2600 Washington Avenue  
Third Floor  
Newport News, Virginia 23607

John M.R. Bull  
Commissioner

May 28, 2014

### **MEMORANDUM**

**TO:** Kirby Rootes-Murdy, Summer Flounder Fisheries Management Plan  
Coordinator  
Atlantic States Marine Fisheries Commission

**FROM:** Sally Roman, Fisheries Management Division  
Virginia Marine Resources Commission

**SUBJECT:** Virginia's 2013 Compliance Report for Summer Flounder

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#### **I. Introduction**

Virginia's 2013 initial allocation of commercial quota was 2,438,592 pounds of summer flounder, less the research set-aside (RSA). After adjustments to the quota were made, to account for transfers between states, the final 2013 commercial quota was 5,020,643 pounds. The preliminary estimate for 2013 commercial landings of summer flounder in Virginia is 4,868,842 pounds.

Virginia's recreational target landings were 418,000 fish in 2013. The Marine Recreational Fisheries Statistics Survey (MRIP) 2013 summer flounder landings estimate was 187,428 fish.

#### **II. Request for *de minimis*, where applicable**

N/A

*An Agency of the Natural Resources Secretariat*

[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646  
V/TDD



### **III. Previous calendar year's fishery and management program**

A. Activity and results of fishery-dependent monitoring (provide general results and references to technical documentation).

1. Commercial

The Virginia Marine Resources Commission (VMRC) Biological Sampling Program collects biological data from Virginia's commercial and recreational fisheries. A total of 5,276 lengths and 5,274 weights were taken from summer flounder sampled from Virginia's commercial and recreational fisheries (Table 1). Sampled fish ranged from 14 to 30 inches total length (TL) (Figure 1). There were 794 scale samples (of which 365 were paired scale otolith samples) collected and processed for ageing (Table 1). All aged fish were from the commercial fishery, except six fish sampled from the recreational fishery. Based on the scale samples, the ages of summer flounder sampled from the commercial fishery ranged from 1 to 14 years (Table 2).

2. Recreational

Virginia Game Fish Tagging Program

The Virginia Game Fish Tagging Program (VGFTP), a cooperative project of the VMRC Saltwater Fishing Tournament Program and the Virginia Institute of Marine Science's (VIMS) Sea Grant Marine Advisory Program, was initiated in 1995 to enhance data collection of selected species using recreational anglers, and to educate anglers. The program's primary funding source is revenue from Virginia's saltwater recreational fishing license sales. The VGFTP added summer flounder as a target species in 2000. Since then, over 72,924 summer flounder have been tagged and 7,668 have been recaptured. In 2013, 894 summer flounder were tagged and 128 were recaptured. Summer flounder have shown consistent patterns of within-year site fidelity to structure-oriented habitat based on results from the tagging program.

Virginia Saltwater Fisherman's Journal

In the summer of 2007, the VMRC introduced the Virginia Saltwater Fisherman's Journal, a voluntary online reporting system for recreational anglers (available at <https://www.vasaltwaterjournal.com>). Anglers can report their fishing activities including trip dates, locations, weather conditions, species caught, quantities, lengths, weights, disposition (i.e., kept or released), gears, baits, and more. The anglers can choose to make their information publicly available to other participants in the program. The data provide the VMRC anecdotal information on the distribution and sizes of recreationally caught species in the Chesapeake Bay, and the data have been used in management decisions regarding changes in recreational size limits. In 2013, participating anglers shared information on 31 summer flounder caught. Nine summer flounder were classified as kept fish, with a reported TL as either

19.5 or 20 inches. The other 22 summer flounder were classified as released, and ranged from 8 to 17 inches in TL.

#### Marine Recreational Information Program Biological Sampling

The access-point angler intercept component of the MRIP program interviews anglers at public access points to collect demographic information and individual catch data. The average weight of summer flounder samples landed (A+B1) in Virginia was 2.4 pounds, compared to 2.5 pounds in 2012. The length distribution of summer flounder sampled (A+B1) ranged from 16 to 26 inches (Figure 2), compared to a range of 15 to 25 inches in 2012.

#### B. Activity and results of fishery-independent monitoring (provide general results and references to technical documentation).

Summer flounder are among the species encountered by the Virginia Institute of Marine Science (VIMS) Juvenile Trawl Survey and the Chesapeake Bay Multispecies Monitoring and Assessment Program (ChesMMAP) Survey. Both surveys produce abundance indices for species of top commercial, recreational, or ecological importance in Virginia. The Juvenile Trawl Survey index of abundance is variable over the time series (1988 through 2013; Figure 3). The 2013 point estimate is 0.82, a decrease from the 2012 estimate of 2.03. The ChesMMAP survey provides an annual index of abundance for all age classes of summer flounder encountered, as well as, age-specific indices for ages 0 through 4 plus. All abundance indices show a similar declining trend. The age 0 index and the aggregated age class index show a more gradual decline, beginning in 2007, compared to the age 1 through age 4 plus indices. These indices show a gradual decline, followed up a small uptick in 2011, and then a sharp decline in 2012 and 2013. The Northeast Area Monitoring and Assessment Program (NEAMAP) Trawl Survey samples summer flounder from the coastal ocean waters of Virginia. While this program generates coastwide age-specific and aggregate age class indices of abundance, summer flounder is caught off the Virginia coast in both the spring and fall surveys. Indices by season have also shown a declining trend, with the 2013 indices being the lowest in the time series for the fall survey and second lowest for the spring survey.

Annual reports for the Juvenile Trawl Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/juvenile\\_surveys/data\\_products/index.php](http://www.vims.edu/research/departments/fisheries/programs/juvenile_surveys/data_products/index.php).

Annual summer flounder-specific reports for the ChesMMAP Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/ChesMMAP/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/ChesMMAP/index.php)

Annual summer flounder-specific reports for the NEAMAP Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/NEAMAP/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/NEAMAP/index.php)

C. Copy of regulations that were in effect, including a reference to the specific compliance criteria as mandated in the FMP.

A copy of Chapter 4 VAC 20-620-10 et seq., “Pertaining to Summer Flounder”, that was in effect for 2013 is provided in Appendix I.

1. Commercial

A Commercial Fisherman Registration License, or Seafood Landing License, and a Summer Flounder Endorsement License are required to land summer flounder in Virginia from federal waters. All registered commercial fishermen and seafood landing licensees are required to report daily harvest from Virginia tidal and federal waters to the VMRC on a monthly basis, if not selling to a federally-permitted dealer. Any vessel issued a valid federal summer flounder moratorium permit that is owned and operated by a legal Virginia Commercial Hook-and-Line Licensee, possessing a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of summer flounder. All licensed seafood buyers are required to use a certified scale for determining the weight of fish, shellfish, or marine organisms that are regulated by a harvest weight limit or quota, possession weight limit, or landing weight limit.

Virginia established a minimum size limit of 14 inches TL for summer flounder harvested by commercial gear (Subsection A of Chapter 4 VAC 20-620-50, Appendix I). The state is allocated an annual quota based on the state’s percentage share (21.32%) of the coast-wide quota for the commercial fishery. Virginia was allocated 2,438,592 pounds for the 2013 fishing year. Commercial harvest of summer flounder within state waters is limited to 300,000 pounds (Subsection B of Chapter 4 VAC 20-620-30, Appendix I). Of this amount, 142,114 pounds is set aside for harvest within the Chesapeake Bay. The remainder of the state’s quota is allocated for landings harvested offshore. The 2013 offshore harvest quota was divided into two periods: the second Wednesday in March through the second Monday in November (29.3%) and the second Monday in November through December 31 (70.7%). Commercial vessel possession and landings limitations are detailed in Section 40 of Chapter 4 VAC 20-620-10 et seq. (Appendix I), which includes the allowance that vessels may possess the combined total of the Virginia landing limit and the legal North Carolina landing or trip limit.

The harvest or landing of summer flounder for commercial purposes is prohibited after the commercial harvest or landings quota has been attained and announced as such (Section 30 of Chapter 4 VAC 20-620-10 et seq., Appendix I). It is also unlawful for seafood buyers to receive summer flounder when it has been announced that the commercial harvest or landings quota has been attained.

Required measures as mandated in the FMP

14" minimum size – Yes

5.5" diamond or 6" square minimum mesh – Not Applicable

5.5" mesh beyond the codend, for the entire net – Not Applicable

Prohibitions of transfers at sea - Not Applicable

2. Recreational

The state of Virginia requires a license to take or catch marine species for recreational purposes in tidal waters. Virginia lowered the minimum size limit to 16 inches TL in 2013, compared to 16.5 inches TL in 2012. The possession limit was four fish per person for the 2013 summer flounder recreational fishery. There was no closed season for the recreational fishery in 2013 (Sections 50, 60 and 70 of Chapter 4 VAC 20-620-10 et seq., Appendix I).

D. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses (when available).

1. Commercial

Virginia's initial commercial quota was 2,438,592 pounds, and after quota transfers between states, the final 2013 quota was 5,020,643 pounds. Several quota transfers occurred (2,601,909 pounds) between Virginia and North Carolina, to allow North Carolina vessels to land in Virginia. One transfer occurred (19,858 pounds) between Virginia and Massachusetts to allow Massachusetts vessels safe harbor to land in Massachusetts. The preliminary estimate of Virginia's 2013 commercial landings of summer flounder is 4,868,842 pounds (Table 3). As in previous years, the majority of summer flounder landed in Virginia have been harvested offshore (>3 miles), with the dominant gear type being otter trawl gear (Table 4). Commercial in-state harvest (including the Potomac River tributaries) totaled 50,245 pounds in 2013. The majority of the in-state commercial harvest (57%) was harvested in pound nets.

2. Recreational

The MRIP landings estimates of summer flounder in Virginia from 2004 to 2013 are available in Table 5. The MRIP estimated 187,428 fish (450,681 pounds) were landed and 514,404 fish were released alive in 2013.

3. Non-harvest losses

There are currently no estimates of non-harvest losses from any fisheries for flounder in Virginia.

E. Review of progress in implementing habitat recommendations.

N/A

**IV. Planned management programs for the current calendar year**

A. Summarize regulations that will be in effect (copy of current regulations if different from III c).

A copy of Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder", that is in effect in 2014 is provided in Appendix II.

1. Commercial

Virginia's initial harvest quota (less the RSA) for the 2014 commercial summer flounder fishery is 2,427,783 pounds. The offshore harvest quota is divided between two periods as in previous years, with a landing limit of 12,500 pounds for the first commercial period that began March 12, 2014. Landings are not allowed more than twice in a 20-day period for the first open period, compared to the 15 day-period in 2013. The second open period will allow for no more than two landings in a 15-day period (Section 40 of Chapter 4 VAC 20-620-10 et seq., Appendix II). All other commercial regulations in effect in 2013 will remain in effect in 2014.

2. Recreational

For 2014, Virginia is in a region with Delaware and Maryland, in accordance with the provisions of Addendum XXV to the Summer Flounder, Scup, and Black Sea Bass FMP. The 2014 recreational landings target for the region was established as 311,110 fish. The three states in the region have identical management measures: a 16 inch TL possession size limit, a 4-fish possession limit, and a year round open season (Sections 50, 60, and 70 of Chapter 4 VAC 20-620-10 et seq., Appendix II).

B. Summarize monitoring programs that will be performed.

Commercial harvest and landings of summer flounder in Virginia will continue to be monitored through the VMRC mandatory reporting system. The VMRC will continue to collect biological samples from Virginia's commercial and recreational fisheries as part of the agency's Biological Sampling Program and Marine Sport Fish Collection Project. The MRIP intercept interview and headboat sampling records will be processed to summarize any summer flounder observed and sampled from Virginia's marine recreational fisheries in 2014. The VGFTP will continue to include summer flounder as one of their target species in 2014. The Virginia Saltwater Fisherman's Journal will continue to be reviewed for reports of summer flounder. The VIMS fishery-independent surveys will continue, including the Juvenile Trawl Survey, ChesMMAAP, and NEAMAP.

C. Highlight any changes from the previous year.

The adaptive regional management approach for the summer flounder recreational fishery adopted in Addendum XXV to the Summer Flounder, Scup, and Black Sea Bass FMP places Virginia in a region with Delaware and Maryland for 2014. The states have identical management measures with a regional target of 311,110 fish.

Table 1. Number of summer flounder length, weight, and scale age samples collected from Virginia’s commercial and recreational fisheries by the VMRC Biological Sampling Program, by gear, for 2013.

| Gear Type   | Length Samples | Weight Samples | Age Samples |
|-------------|----------------|----------------|-------------|
| Gill Net    | 59             | 59             | 17          |
| Hook & Line | 13             | 13             | 7           |
| Haul Seine  | 5              | 5              | 0           |
| Pound Net   | 578            | 578            | 324         |
| Trawl       | 4,621          | 4,619          | 446         |
| Total       | 5,276          | 5,274          | 794         |

Table 2. Age-frequency distribution of summer flounder samples collected from Virginia’s commercial and recreational fisheries by the VMRC Biological Sampling Program, from scale ages for 2013.

| Age   | Number of Fish |
|-------|----------------|
| 1     | 39             |
| 2     | 181            |
| 3     | 171            |
| 4     | 164            |
| 5     | 75             |
| 6     | 62             |
| 7     | 33             |
| 8     | 20             |
| 9     | 22             |
| 10    | 9              |
| 11    | 8              |
| 12    | 3              |
| 13    | 4              |
| 14    | 3              |
| Total | 794            |

Table 3. Virginia's summer flounder landings (pounds) by jurisdiction and year, 1994 through 2013. The 2013 data are preliminary.

| Year  | State Waters | Federal Waters | Total      |
|-------|--------------|----------------|------------|
| 1994  | 118,376      | 2,440,332      | 2,558,708  |
| 1995  | 123,500      | 2,871,058      | 2,994,558  |
| 1996  | 143,533      | 1,875,039      | 2,018,572  |
| 1997  | 146,929      | 1,908,011      | 2,054,940  |
| 1998  | 212,429      | 2,184,126      | 2,396,555  |
| 1999  | 168,579      | 1,965,887      | 2,134,466  |
| 2000  | 184,783      | 1,878,166      | 2,062,949  |
| 2001  | 199,816      | 1,972,920      | 2,172,736  |
| 2002  | 180,817      | 1,909,348      | 2,090,165  |
| 2003  | 130,998      | 2,138,005      | 2,269,003  |
| 2004  | 155,931      | 2,697,495      | 2,853,426  |
| 2005  | 148,282      | 3,713,729      | 3,862,011  |
| 2006  | 147,819      | 2,321,508      | 2,469,327  |
| 2007  | 159,336      | 1,698,560      | 1,857,896  |
| 2008  | 198,286      | 1,486,999      | 1,685,285  |
| 2009  | 230,009      | 1,781,888      | 2,011,897  |
| 2010  | 290,014      | 2,304,093      | 2,594,107  |
| 2011  | 179,661      | 3,884,845      | 4,064,506  |
| 2012  | 139,848      | 3,982,410      | 4,122,258  |
| 2013* | 51,957       | 4,816,885      | 4,868,842  |
| Total | 3,309,192    | 49,831,303     | 53,142,207 |

\* Preliminary data

Table 4. Virginia's summer flounder landings (pounds) by gear type and year, 1994 through 2013. The 2013 data are preliminary. Other gear includes pots, traps, fyke net, trot line, hand harvest, scrape gear, cast net, and Scottish seine.

| Year  | Gill Net | Pound Net | Hook & Line | Haul Seine | Dredge    | Other     | Trawl      | Total      |
|-------|----------|-----------|-------------|------------|-----------|-----------|------------|------------|
| 1994  | 5,737    | 108,592   | 507         | 2,901      | 248,764   | 240       | 2,191,967  | 2,558,708  |
| 1995  | 2,822    | 116,832   | 1,377       | 2,352      | 138,762   | 195       | 2,732,218  | 2,994,558  |
| 1996  | 8,037    | 125,342   | 4,322       | 5,347      | 67,478    | 492       | 1,807,554  | 2,018,572  |
| 1997  | 3,752    | 131,263   | 3,204       | 7,780      | 19,151    | 942       | 1,888,848  | 2,054,940  |
| 1998  | 8,034    | 184,934   | 10,989      | 8,071      | 49,067    | 467       | 2,134,993  | 2,396,555  |
| 1999  | 10,524   | 143,954   | 9,173       | 3,556      | 73,486    | 767       | 1,893,006  | 2,134,466  |
| 2000  | 8,245    | 164,122   | 8,802       | 3,043      | 36,723    | 777       | 1,841,236  | 2,062,949  |
| 2001  | 6,274    | 166,607   | 22,202      | 3,004      | 55,470    | 1,867     | 1,917,312  | 2,172,736  |
| 2002  | 4,649    | 153,963   | 19,740      | 1,654      | 52,984    | 158       | 1,857,017  | 2,090,165  |
| 2003  | 7,539    | 106,421   | 14,184      | 1,475      | 74,306    | 215       | 2,064,863  | 2,269,003  |
| 2004  | 22,145   | 113,631   | 22,939      | 2,376      | 155,705   | 547,179   | 1,989,451  | 2,853,426  |
| 2005  | 76,763   | 116,395   | 17,060      | 4,546      | 638,604   | 740,474   | 2,268,169  | 3,862,011  |
| 2006  | 11,332   | 124,530   | 21,503      | 5,052      | 235,704   | 105,653   | 1,965,553  | 2,469,327  |
| 2007  | 26,613   | 108,884   | 24,931      | 4,593      | 216,898   | 247,660   | 1,228,316  | 1,857,896  |
| 2008  | 27,991   | 133,528   | 31,017      | 4,193      | 207,916   | 155,501   | 1,125,139  | 1,685,285  |
| 2009  | 46,615   | 131,974   | 54,631      | 2,305      | 211,463   | 347,659   | 1,217,251  | 2,011,897  |
| 2010  | 87,402   | 153,835   | 67,955      | 1,549      | 398,831   | 231,762   | 1,652,773  | 2,594,107  |
| 2011  | 26,935   | 116,070   | 54,222      | 337        | 453,145   | 644,239   | 2,769,558  | 4,064,506  |
| 2012  | 27,894   | 80,249    | 38,211      | 217        | 526,261   | 536,244   | 2,913,182  | 4,122,258  |
| 2013* | 6,620    | 28,556    | 16,289      | 32         | 605,386   | 1,174,410 | 3,037,551  | 4,868,844  |
| Total | 425,923  | 2,509,681 | 442,258     | 64,383     | 4,466,104 | 4,736,901 | 40,495,957 | 53,142,209 |

\* Preliminary data



Table 5. Virginia recreational summer flounder harvest and release estimates from the Marine Recreational Information Program, 2004 through 2013. The 2013 data are preliminary.

| Year  | Total Harvest (A+B1) |           | Released Alive (B2) |
|-------|----------------------|-----------|---------------------|
|       | Number of Fish       | Pounds    | Number of fish      |
| 2004  | 674,552              | 1,720,989 | 3,696,609           |
| 2005  | 684,272              | 1,730,817 | 2,509,013           |
| 2006  | 762,597              | 2,005,412 | 2,164,118           |
| 2007  | 397,041              | 1,311,429 | 3,023,421           |
| 2008  | 260,221              | 883,168   | 2,424,687           |
| 2009  | 289,075              | 917,153   | 3,613,064           |
| 2010  | 260,050              | 789,856   | 2,419,838           |
| 2011  | 317,674              | 880,639   | 1,986,983           |
| 2012  | 259,973              | 658,476   | 856,668             |
| 2013* | 187,428              | 450,681   | 514,404             |

\* Preliminary data

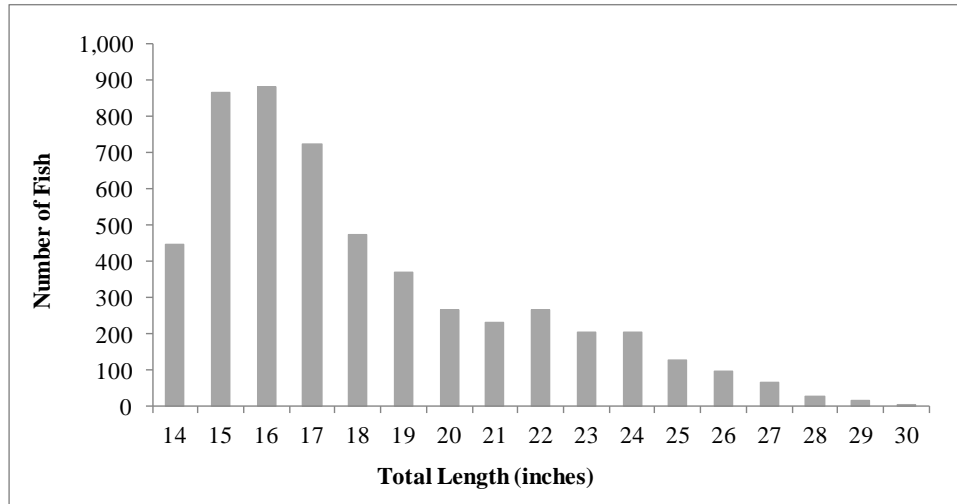


Figure 1. Length-frequency distribution of summer flounder samples collected from Virginia's 2013 commercial and recreational fisheries by the VMRC Biological Sampling Program, n=5,276.

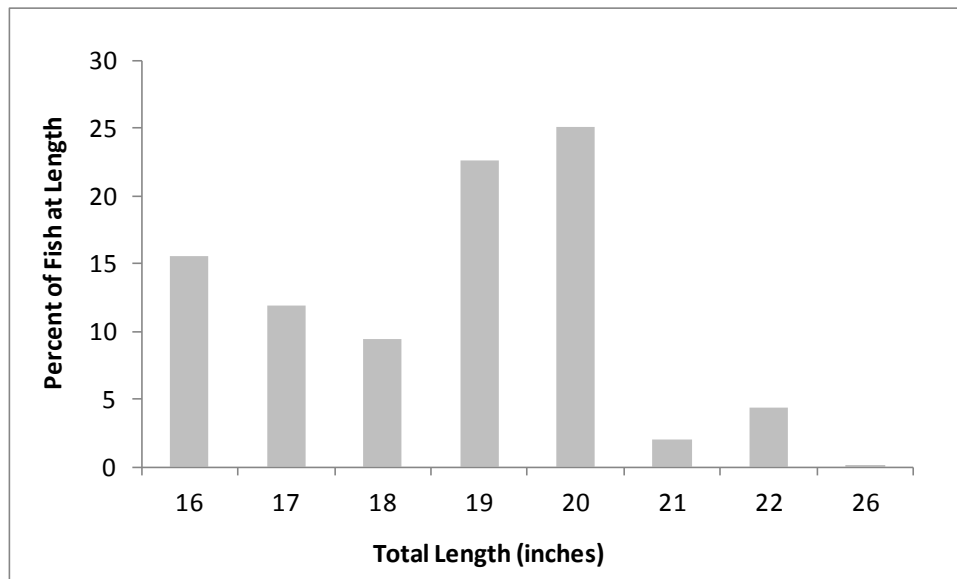


Figure 2. Length-frequency distribution of summer flounder samples collected from the Marine Recreational Information Program, for 2013.

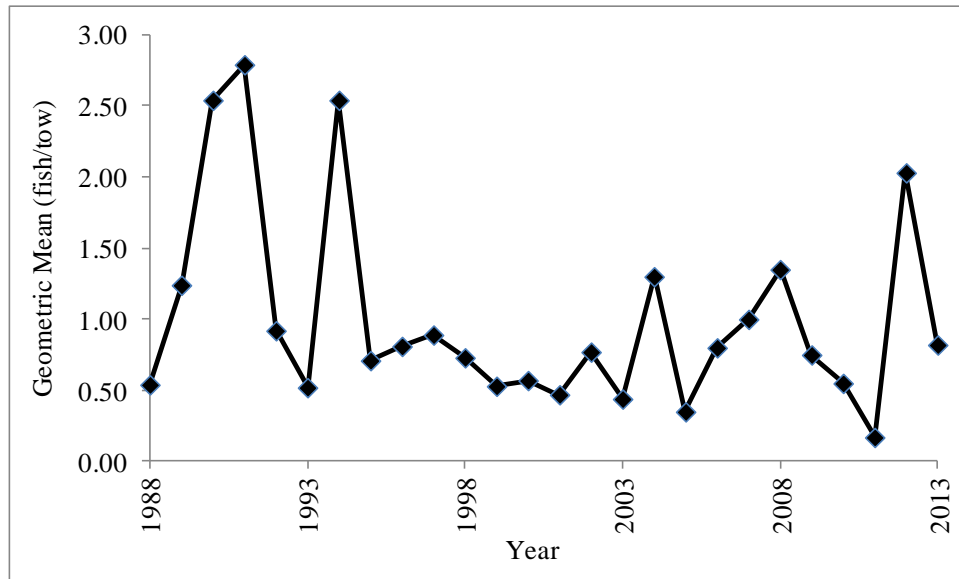


Figure 3. Annual Random Stratified Index of juvenile summer flounder relative abundance from the VIMS Juvenile Trawl Survey, 1988 through 2013.

**“PERTAINING TO SUMMER FLOUNDER”**

**CHAPTER 4VAC20-620-10 ET SEQ.**

**PREAMBLE**

This chapter establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and possession limits, minimum size limits, and a recreational possession and season limit.

This chapter is promulgated pursuant to the authority contained in §§28.2-201, and 28.2-204 of the Code of Virginia and amends and re-adopts, as amended, previous Chapter 4VAC20-620-10 et seq. which was promulgated March 27, 2012 and made effective on March 29, 2012. The effective date of this chapter, as amended, is March 1, 2013.

**4VAC20-620-10. Purpose.**

The purpose of this chapter is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

**4VAC20-620-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

"Chesapeake Bay and its tributaries" means all tidal waters of Virginia, excluding the Potomac River tributaries and the coastal area as defined in this section.

"Coastal area" means the area that includes Virginia's portion of the Territorial Sea and all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County, including areas east of the causeway from Fisherman Island to the mainland and the City of Virginia Beach, including federal areas and state parks fronting on the Atlantic Ocean and east and south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry.

“Land” or “landing” means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond, thence upstream to the District of Columbia boundary.

**“PERTAINING TO SUMMER FLOUNDER”**

**CHAPTER 4VAC20-620-10 ET SEQ.**

"Safe harbor" means that a vessel has been authorized by the commissioner to enter Virginia waters from federal waters solely to either dock temporarily at a Virginia seafood buyer's place of business or traverse the Intracoastal Waterway from Virginia to North Carolina.

**4VAC20-620-30. Commercial harvest quota and allowable landings.**

A. During each calendar year, allowable commercial landings of Summer Flounder shall be limited to a quota in total pounds calculated pursuant to the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992 (50 CFR Part 625); and shall be distributed as described in subsections B through G of this section.

B. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds of the annual quota described in subsection A of this section. Of this amount, 142,114 pounds shall be set aside for Chesapeake Bay-wide harvest.

C. From the first Monday in January through the day preceding the second Monday in November allowable landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 70.7% of the quota described in subsection A of this section after deducting the amount specified in subsection B of this section.

D. From the second Monday in November through December 31, allowable landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 29.3% of the quota, as described in subsection A of this section, after deducting the amount specified in subsection B of this section, and as may be further modified by subsection E.

E. Should landings from the first Monday in January through the day preceding the second Monday in November exceed or fall short of 70.7% of the quota described in subsection A of this section, any such excess shall be deducted from allowable landings described in subsection D of this section, and any such shortage shall be added to the allowable landings as described in subsection D of this section. Should the commercial harvest specified in subsection B of this section be projected as less than 300,000 pounds, any such shortage shall be added to the allowable landings described in subsection D of this section.

F. The Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments to any allowable landings described in subsections C and D of this section. It shall be unlawful for any person to harvest or to land Summer Flounder for commercial purposes after the commercial harvest or any allowable landings as described in this section have been attained and announced as such. If any person lands Summer Flounder after the commercial harvest or any allowable landings have been attained and announced as such, the entire amount of Summer Flounder in that person's possession shall be confiscated.

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G. It shall be unlawful for any buyer of seafood to receive any Summer Flounder after any commercial harvest or landing quota as described in this section has been attained and announced as such.

**4VAC20-620-40. Commercial vessel possession and landing limitations.**

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From the first Monday in March through the day preceding the second Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the first Monday in March.
3. Land in Virginia more than 12,500 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the first Monday in March.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the second Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

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1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
3. Land in Virginia more than a total of 10,000 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4 VAC 20-620-30 F.

E. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

F. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection I of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection I of this section.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder

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from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 9 p.m. to 7 a.m.

I. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

J. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30A has been taken.

**4VAC20-620-45. Repealed.**

**4VAC20-620-50. Minimum size limits.**

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 14 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 16 inches, total length,



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except that the minimum size of Summer Flounder harvested in the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to possess any Summer Flounder smaller than the designated minimum size limit.

E. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

**4VAC20-620-60. Possession limit.**

A. It shall be unlawful for any person fishing in any tidal waters of Virginia, except the Potomac River tributaries, with recreational hook and line, rod and reel, spear, gig or other recreational gear to possess more than four Summer Flounder. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by four. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

B. It shall be unlawful for any person fishing in the Potomac River tributaries with recreational hook and line, rod and reel, spear, gig or other recreational gear to possess more Summer Flounder than the possession limit established by the Potomac River Fisheries Commission for the mainstem Potomac River. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by the possession limit established by the Potomac River Fisheries Commission for the mainstem Potomac River. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

C. Possession of any quantity of Summer Flounder that exceeds the possession limit described in subsections A and B of this section shall be presumed to be for commercial purposes.

**4VAC20-620-70. Recreational fishing season.**

A. The recreational fishing season for any tidal waters of Virginia, except the Potomac River tributaries, shall be open year-round.

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B. The recreational fishing season for the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

C. It shall be unlawful for any person fishing recreationally to take, catch, or possess any Summer Flounder during any closed recreational fishing season.

D. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

**4VAC20-620-75. (Repealed.)**

**4VAC20-620-80. Penalty.**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

\*\*\*\*\*

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §§28.2-201 and 28.2-204 of the Code of Virginia, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on February 26, 2013.

**COMMONWEALTH OF VIRGINIA**  
**MARINE RESOURCES COMMISSION**

By: \_\_\_\_\_  
**Jack G. Travelstead**  
**Commissioner**

Subscribed and sworn to before me this \_\_\_\_\_ day of February, 2013.

\_\_\_\_\_  
Notary Public

**“PERTAINING TO SUMMER FLOUNDER”**

**CHAPTER 4VAC20-620-10 ET SEQ.**

**PREAMBLE**

This chapter establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and possession limits, minimum size limits, and a recreational possession and season limit.

This chapter is promulgated pursuant to the authority contained in §§28.2-201, and 28.2-204 of the Code of Virginia and amends and re-adopts, as amended, previous Chapter 4VAC20-620-10 et seq. which was promulgated February 26, 2013 and made effective on March 1, 2013. The effective date of this chapter, as amended, is March 31, 2014.

**4VAC20-620-10. Purpose.**

The purpose of this chapter is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

**4VAC20-620-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

"Chesapeake Bay and its tributaries" means all tidal waters of Virginia, excluding the Potomac River tributaries and the coastal area as defined in this section.

"Coastal area" means the area that includes Virginia's portion of the Territorial Sea and all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County, including areas east of the causeway from Fisherman Island to the mainland and the City of Virginia Beach, including federal areas and state parks fronting on the Atlantic Ocean and east and south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry.

“Land” or “landing” means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond, thence upstream to the District of Columbia boundary.

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"Safe harbor" means that a vessel has been authorized by the commissioner to enter Virginia waters from federal waters solely to either dock temporarily at a Virginia seafood buyer's place of business or traverse the Intracoastal Waterway from Virginia to North Carolina.

**4VAC20-620-30. Commercial harvest quota and allowable landings.**

A. During each calendar year, allowable commercial landings of Summer Flounder shall be limited to a quota in total pounds calculated pursuant to the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992 (50 CFR Part 625); and shall be distributed as described in subsections B through G of this section.

B. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds of the annual quota described in subsection A of this section. Of this amount, 142,114 pounds shall be set aside for Chesapeake Bay-wide harvest.

C. From the first Monday in January through the day preceding the second Monday in November allowable landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 70.7% of the quota described in subsection A of this section after deducting the amount specified in subsection B of this section.

D. From the second Monday in November through December 31, allowable landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 29.3% of the quota, as described in subsection A of this section, after deducting the amount specified in subsection B of this section, and as may be further modified by subsection E.

E. Should landings from the first Monday in January through the day preceding the second Monday in November exceed or fall short of 70.7% of the quota described in subsection A of this section, any such excess shall be deducted from allowable landings described in subsection D of this section, and any such shortage shall be added to the allowable landings as described in subsection D of this section. Should the commercial harvest specified in subsection B of this section be projected as less than 300,000 pounds, any such shortage shall be added to the allowable landings described in subsection D of this section.

F. The Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments to any allowable landings described in subsections C and D of this section. It shall be unlawful for any person to harvest or to land Summer Flounder for commercial purposes after the commercial harvest or any allowable landings as described in this section have been attained and announced as such. If any person lands Summer Flounder after the commercial harvest or any allowable landings have been attained and announced as such, the entire amount of Summer Flounder in that person's possession shall be confiscated.

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G. It shall be unlawful for any buyer of seafood to receive any Summer Flounder after any commercial harvest or landing quota as described in this section has been attained and announced as such.

**4VAC20-620-40. Commercial vessel possession and landing limitations.**

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From the second Wednesday in March through the day preceding the second Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 20-day period, with the first 20-day period beginning on the second Wednesday in March.
3. Land in Virginia more than 12,500 pounds of Summer Flounder during each consecutive 20-day period, with the first 20-day period beginning on the second Wednesday in March.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the second Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

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1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
3. Land in Virginia more than a total of 10,000 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4 VAC 20-620-30 F.

E. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

F. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection I of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection I of this section.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest

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bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 9 p.m. to 7 a.m.

I. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

J. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30A has been taken.

**4VAC20-620-45. Repealed.**

**4VAC20-620-50. Minimum size limits.**

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 14 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 16 inches, total length, except that the minimum size of Summer Flounder harvested in the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

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C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to possess any Summer Flounder smaller than the designated minimum size limit.

E. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

**4VAC20-620-60. Possession limit.**

A. It shall be unlawful for any person fishing in any tidal waters of Virginia, except the Potomac River tributaries, with recreational hook and line, rod and reel, spear, gig or other recreational gear to possess more than four Summer Flounder. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by four. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

B. It shall be unlawful for any person fishing in the Potomac River tributaries with recreational hook and line, rod and reel, spear, gig or other recreational gear to possess more Summer Flounder than the possession limit established by the Potomac River Fisheries Commission for the mainstem Potomac River. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by the possession limit established by the Potomac River Fisheries Commission for the mainstem Potomac River. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

C. Possession of any quantity of Summer Flounder that exceeds the possession limit described in subsections A and B of this section shall be presumed to be for commercial purposes.

**4VAC20-620-70. Recreational fishing season.**

A. The recreational fishing season for any tidal waters of Virginia, except the Potomac River tributaries, shall be open year-round.

B. The recreational fishing season for the Potomac River tributaries shall be the same as established by the Potomac River Fisheries Commission for the mainstem Potomac River.



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C. It shall be unlawful for any person fishing recreationally to take, catch, or possess any Summer Flounder during any closed recreational fishing season.

D. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia that were legally harvested in the Potomac River.

**4VAC20-620-75. (Repealed.)**

**4VAC20-620-80. Penalty**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §§28.2-201 and 28.2-204 of the Code of Virginia, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on March 25, 2014.

**COMMONWEALTH OF VIRGINIA**  
**MARINE RESOURCES COMMISSION**

By: \_\_\_\_\_

**John M. R. Bull**  
**Commissioner**

Subscribed and sworn to before me this \_\_\_\_\_ day of March 2014.

\_\_\_\_\_  
Notary Public



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

### 2013 North Carolina Summer Flounder Compliance Report

By

Tom Wadsworth

North Carolina Division of Marine Fisheries

May 29, 2013

Note: No confidential data are included in this report

#### **I. Introduction**

No executive summary is needed.

#### **II. Request for *de minimis*, where applicable.**

North Carolina does not request *de minimis* status for the 2014 fishing year.

#### **III. Previous calendar year's fishery**

a. Activities of fishery dependent monitoring (provide a brief review of results including monitoring of gear restrictions; prohibition of transfers at sea; and minimum size limit).

Commercial fishing activity is monitored through fishery dependent sampling conducted under Title III of the Interjurisdictional Fisheries Act (IJFA) and has been ongoing since 1982. North Carolina Division of Marine Fisheries (NCDMF) staff sampled commercial catches of summer flounder during dockside fishery dependent sampling of the winter trawl fishery. Information on areas fished and gear specifications as well as summer flounder length, age and aggregate weight data was obtained (Assessment of North Carolina Commercial Finfisheries, NCDMF Completion Reports, 1984-2013). Winter trawls account for ~99% of the annual summer flounder landings, although summer flounder are caught incidentally in other commercial fisheries. A total of 6,043 summer flounder were measured from 23 winter trawl catches in 2013. The fish ranged 332-794 mm in length with 90% measuring 370-670 mm. As in 2012, sample numbers (and landings) in 2013 were relatively low in North Carolina due to the inability of winter trawl vessels to enter Oregon Inlet, a major port for this fishery. Large portions of the North Carolina quota allocation was transferred to Virginia and other states. Age samples were collected from 1,202 fish caught by the winter trawl fishery; these data are used to calculate the North Carolina

winter trawl catch at age for summer flounder which is used in the annual coastwide stock assessment. A total of 440 summer flounder were measured from monitoring programs for other fisheries in North Carolina.

b. Activities of fishery independent monitoring (provide a brief review of results).

The North Carolina Division of Marine Fisheries (NCDMF) has conducted a stratified random trawl survey in Pamlico Sound (The Pamlico Sound Survey) since 1987 as a juvenile abundance index (JAI) for several economically important species, including summer flounder. The survey takes place in mid-June and mid-September with the samples collected in June serving as a JAI for summer flounder in North Carolina. A total of 1,169 summer flounder were caught in the survey in 2013 and the JAI value was 9.80. From 1987-2013 the average JAI was 9.82. The summer flounder JAI from the Pamlico Sound Survey is one of the recruitment indices provided for the annual coastwide stock assessment for summer flounder.

c. Regulations that were in effect for 2013.

The authority for management of flounder in North Carolina is found in North Carolina Fisheries Rule 15A NCAC 3M .0503 - FLOUNDER. The Fisheries Rule does not distinguish between the three species of paralicthid flounder (summer, southern and Gulf flounder) commonly found in North Carolina waters. With the exception of the size limit and season exemptions for flounder possessed and sold by flounder hatcheries or aquaculture operations, all of the current Fisheries Rule applies to flounder in the Atlantic Ocean. The following is a summary of the provisions of the Fisheries Rule that are most applicable to summer flounder:

Size Limits: Fisheries Rule 15A NCAC 3M .0503(a) specifies a 14 inch minimum size limit for flounder taken in commercial fisheries in the Atlantic Ocean. Fisheries Rule 15A NCAC 3M .0503(k) provides the Fisheries Director with proclamation authority to establish minimum size limits for flounder taken in recreational fisheries in the Atlantic Ocean and internal waters.

Season: The North Carolina season for landing ocean-caught flounder opens January 1st each year. By Rule, when 80% of the quota allocated to North Carolina by the FMP is projected to be taken, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean. However, in 2013 this rule was suspended to allow for an extra landings window in the spring. During the closed season, vessels may land a bycatch of up to 100 pounds of flounder per trip taken from the Atlantic Ocean. The combination of the reduction to a 100 pound trip limit when 80% of the allocated quota is taken and the authority to set trip limits by proclamation allows for the closed season retention of a small quantity of summer flounder that is taken as bycatch in other fisheries. The 2013 Atlantic Ocean flounder season was open for landings at North Carolina ports during four different windows: January 1-31, February 1-28, March 20 –April 5<sup>th</sup>, and December 1-10. Harvest limits were established for each opening period rather than for individual trips (see below).

Possession Limits: Fisheries Rule 15A NCAC 3M .0503(j) provides the Fisheries Director with proclamation authority to establish commercial trip limits for the taking of flounder from the Atlantic Ocean to assure that the quota allocated to North Carolina under the Fishery Management Plan (FMP) is not exceeded. Fisheries Rule 15A NCAC 3M .0503(k) provides the Fisheries Director with proclamation authority to establish recreational possession limits in the Atlantic Ocean and internal waters. Harvest

limits were 30,000, 15,000, 10,000 and 10,000 pounds during the respective openings. Different harvest limits were implemented in response to stock distribution, catch rates and the amount of quota that remained.

Commercial License: A license is required to land summer flounder from the Atlantic Ocean in North Carolina. Vessels landing 100 pounds or less are exempt from this licensing requirement. To be eligible for the license, the vessel must have been licensed by North Carolina, either through a resident or non-resident vessel license or a land or sell license during two of the three license years from July 1, 1992 to June 30, 1993, July 1, 1993 to June 30, 1994; or July 1, 1994 to June 30, 1995 and have landed 1,000 pounds or more of summer flounder each year for two of the three years.

Trawling: A trawl may not be used in the Atlantic Ocean from the North Carolina/Virginia line to Cape Lookout between October 1 and April 30 unless the trawl has a mesh size of 5 ½ inches or larger diamond mesh (stretched) or 6 inches or larger square mesh (stretched) applied throughout the body, extension(s) and the cod end (tailbag) (Fisheries Rule NCAC 3M .0503(a)). Fisheries Rule 15A NCAC 3M .0503(g) allows trawls, with mesh sizes smaller than 5 ½ inches, to be used or possessed on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel. Flynets, which may only be used north of Cape Hatteras, are exempt from this rule if they meet the specifications defining flynets (Fisheries Rule 15A NCAC 3M .0503(h)).

Other Applicable Rules and Statutes: North Carolina General Statute (G.S.) 143B-289.52(e) authorizes the North Carolina Marine Fisheries Commission (NCMFC) to adopt temporary rules at any time within six months of the adoption of a fishery management plan requirement by the Atlantic States Marine Fisheries Commission (ASMFC) or a Regional Fishery Management Council in order to comply with or implement these requirements. This statute allows North Carolina to adjust management measures to be in compliance with the fishery management plan. G.S. 113-168.2 requires any person who engages in a commercial fishing operation in North Carolina coastal waters to hold a Standard Commercial Fishing License. This statute also requires dealers to purchase only from fishermen who possess a license to sell the type of fish being offered and to report those transactions on a form provided by the North Carolina Department of Environment and Natural Resources. G.S. 113-168.4 specifies that it is unlawful for any person who takes or lands any species of fish under the authority of the NCMFC from coastal waters by any means, including mariculture operations, to sell, offer for sale, barter or exchange these fish for anything of value without holding a license required to sell the type of fish being offered. Fisheries Rule 15A NCAC 3I .0114 requires a fish dealer to complete all mandatory items on a North Carolina Trip Ticket for each transaction and report it to the NCDMF by the tenth day of the following month. Through this system, North Carolina monitors and records landings of finfish, including summer flounder, from both state and federal waters. Fisheries Rule 15A NCAC 3M .0503 (e) prohibits the transfer of flounder taken from the Atlantic Ocean from one vessel to another.

Has the state implemented the required measures as mandated in the FMP? (see below; please answer with either 'yes' or 'no')

Commercial

14" minimum size - yes

5.5" diamond or 6" square minimum mesh - yes

5.5" mesh beyond the codend, for the entire net - yes

Prohibition of transfers at sea - yes

Recreational (State specific for 2013)

Season: The season was open throughout the year.

Size Limit: The minimum size limit for flounder was 15 inches statewide.

Possession Limit: The possession limit for flounder statewide was 6 fish per person, per day.

d. Harvest broken down by commercial and recreational fisheries

| Year | Recreational (MRIP)<br>Harvest (numbers) | Recreational<br>Harvest (lb) | Flounder<br>Trawl (lb) | Gill Net<br>(lb) | Rod-n-<br>Reel (lb) | Shrimp<br>Trawl (lb) | Other<br>Commercial (lb)* | Total NC<br>Harvest (lb) |
|------|--|------------------------------|------------------------|------------------|---------------------|----------------------|---------------------------|--------------------------|
| 2004 | 156,967                                  | 221,019                      | 4,788,911              | 3,103            | 725                 | 13,392               | 37,996                    | 5,065,145                |
| 2005 | 101,212                                  | 145,175                      | 4,052,121              | 1,489            | 1,196               | 4,174                | 5,484                     | 4,209,639                |
| 2006 | 112,176                                  | 156,842                      | 3,942,626              | 16,505           | 362                 | 15,471               | 6,450                     | 4,138,255                |
| 2007 | 138,989                                  | 218,441                      | 2,654,131              | 3,011            | 1,506               | 3,790                | 7,672                     | 2,888,551                |
| 2008 | 43,510                                   | 64,571                       | 2,396,344              | 1,919            | 264                 | 4,627                | 3,449                     | 2,471,174                |
| 2009 | 74,641                                   | 103,867                      | 2,847,989              | 2,356            | 557                 | 5,171                | 2,967                     | 2,962,906                |
| 2010 | 77,157                                   | 111,539                      | 3,302,398              | 1,152            | 962                 | 4,381                | 2,098                     | 3,422,531                |
| 2011 | 60,422                                   | 100,543                      | 2,848,743              | 1,970            | 322                 | 1,881                | 1,206                     | 2,954,665                |
| 2012 | 63,135                                   | 101,642                      | 1,069,073              | 18,023           | 393                 | 2,436                | 293                       | 1,191,860                |
| 2013 | 44,941                                   | 70,874                       | 532,915                | 3,644            | 402                 | 4,114                | 586                       | 612,535                  |

\*All gears with confidential landings in one or more years of time-series summed in this column

**IV. Planned management programs for the current calendar year.** Summary of changes from previous years (from 2012-2013).

A. Summary of 2014 Regulations and Changes from 2013

The Fisheries Director used proclamation authority found in Fisheries Rule 15A NCAC 3M .0503(k) to implement various trip limits and associated harvest periods during the winter 2013 season as a means of managing North Carolina's summer flounder commercial quota. As in 2013, in 2014 there was a temporary suspension of the rule for North Carolina requiring the commercial portion of the quota to be allocated 80% to the winter fishery and 20% to the fall fishery. This was done because the commercial fishing industry requested an additional landing window in the spring. The minimum size limit will remain at 14 inches in the Atlantic Ocean commercial fishery as well as the commercial flounder fishery in internal waters. As in past years, the commercial flounder fishery in internal waters will be closed from December 1-31, 2014 as a management measure from the North Carolina Southern Flounder FMP. In internal and ocean waters, the size limit in the recreational fishery will remain at 15 inches and the possession limit will remain at 6 fish per person per day. The recreational measures were a result of the North Carolina Southern Flounder FMP.

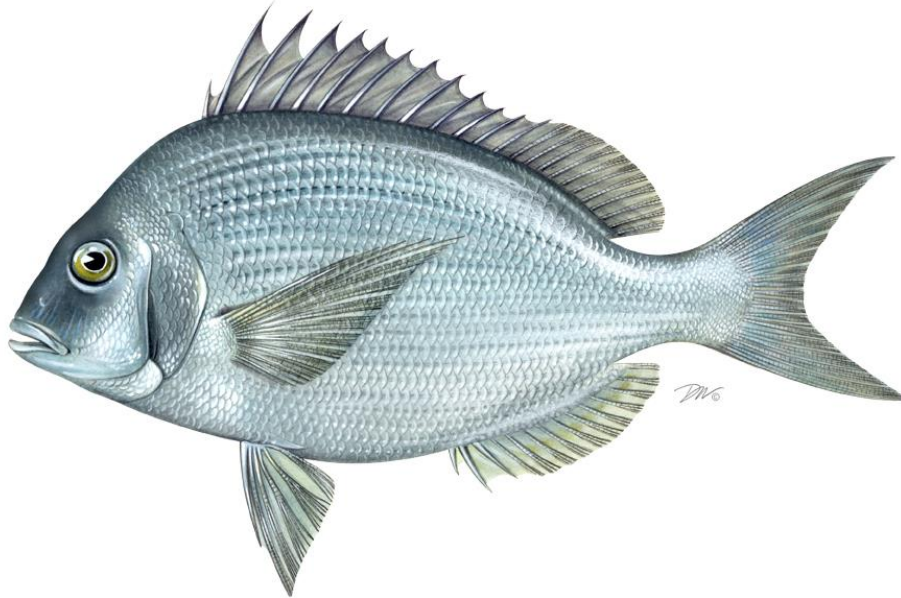
## B. Summary of Monitoring Programs That Will Be Performed

Monitoring programs will be the same as the previous fishing year. Summer flounder will be sampled during IJFA sampling of the winter trawl fishery. Scale samples for aging will also be collected from the various dependent and independent sampling the NCDMF conducts. The JAI for summer flounder in North Carolina will be estimated from the Pamlico Sound Survey.

**V. Law Enforcement Reporting Requirements** Please include in this section any law enforcement issues that occurred in the previous calendar year. If nothing substantial happened, you may omit this section.

No significant issues were reported

2014 REVIEW OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
FISHERY MANAGEMENT PLAN for the 2013 SCUP FISHERY  
**SCUP (*Stenotomus chrysops*)**



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## 2014 Review of the Atlantic States Marine Fisheries Commission Fishery Management Plan for Scup for the 2013 Fishing Year

### I. Status of the Fishery Management Plan

ASMFC management of scup was initiated as one component of a multi-species FMP addressing summer flounder, scup and black sea bass. The Commission approved the Fishery Management Plan for Scup in March 1996. Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP, which established revised overfishing definitions, identification and description of essential fish habitat, and defined the framework adjustment process, was approved by the Commission in October 1998.

The FMP included a seven-year plan for reducing fishing effort and restoring the stock. The primary concerns are excessive discarding of scup and near collapse of the stock. Management measures implemented in the first year of the plan (1996) included: dealer and vessel permitting and reporting, 9-inch commercial minimum size, 4-inch mesh restriction for vessels retaining over 4,000 pounds of scup, and a 7-inch recreational minimum size. The biological reference point to define overfishing is  $F_{MAX}$ , or  $F=0.25$ . To allow flexibility in addressing unforeseen conditions in the fishery, the plan contains framework provisions that allow implementation of time and area closures. Changes in the recreational minimum size and bag limit, or implementation of a seasonal closure, may also be established on an annual basis. Amendment 12 to the multi-species management plan changed the overfishing definition, with  $F_{MAX}$  serving as a proxy for  $F_{MSY}$ .

Addendum 1 to the Summer Flounder, Scup, and Black Sea Bass FMP explains the quota management procedure for management and distribution of the coastwide commercial quota that was approved in September 1996 and implemented as a coastwide Total Allowable Catch (TAC) in 1997. Addendum 1 to the Summer Flounder, Scup, and Black Sea Bass FMP also details the state-by-state quota system for the summer period (May through October) that was implemented in 1997. Each state receives a share of the summer quota based on historical commercial landings from 1983-1992.

In June 1997, the Commonwealth of Massachusetts filed a lawsuit against the Secretary of Commerce stating that the historical data used to determine the quota shares underestimated the commercial landings of scup. Massachusetts also stated that the resulting quota share discriminated against Commonwealth of Massachusetts residents. On April 27, 1998, the U.S. District Court voided the state-by-state quota allocations for the summer quota period in the federal fishery management plan, and ordered the Secretary of Commerce to promulgate a regulation that sets forth state-by-state quotas in compliance with the National Standards. The court order does not technically affect the state-by-state quota allocations that are included in the ASMFC Addendum 1 to the Summer Flounder, Scup, and Black Sea Bass FMP. The Summer Flounder, Scup, and Black Sea Bass Management Board developed three Emergency Rules to address the quota management during the summer quota period during 1999, 2000 and 2001.



Amendment 12 to the Summer Flounder, Scup and Black Sea Bass FMP established a biomass threshold for scup based on the maximum value of the 3-year moving average of the NEFSC spring bottom trawl survey index of spawning stock biomass (2.77 kg/tow, 1977-1979). The scup stock is overfished when the spawning stock biomass index falls below this value. Amendment 12 also defined overfishing for scup to occur when the fishing mortality rate exceeds the threshold fishing mortality of  $F_{MAX}=0.26$ .

In 2002, the Board developed Addendum V to the FMP in order to avoid the necessity of developing annual Emergency Rules for summer period quota management. Addendum V established state shares of the summer period quota based on historical commercial landings from 1983-1992, including additional landings from Massachusetts added to the NMFS database in 2000. State shares implemented by this addendum will remain in place until the Board takes direct action to change them.

Another significant change to scup management occurred with the approval of Addendum VII in February 2002. This document established a state specific management program for the 2002 recreational scup fishery based on the average landings (in number of fish) for 1998-2001. Only Massachusetts through New York (inclusive) were permitted to develop individual management programs. Due to the extremely limited data available, the Board developed specific management measures for the states of New Jersey, Delaware, Maryland, Virginia, and North Carolina. The addendum had no application after 2002.

Addendum IX established a state specific management program for the 2003 recreational scup fishery based on the average landings (in number of fish) for 1998-2001. Only Massachusetts through New York (inclusive) were permitted to develop individual management programs. Due to the extremely limited data available, the Board developed specific management measures for the states of New Jersey, Delaware, Maryland, Virginia, and North Carolina. The addendum had no application after 2003.

Addendum X allows for any unused quota from the winter I scup fishery to be rolled over into the winter II fishery period. It also increased the possession limit by 500 lbs per 500,000 pounds of scup that are rolled over. The addendum also establishes an alternative to the start date of the summer period. States can allow for landings of scup by state permit holders beginning on April 15<sup>th</sup>. If there is a closure prior to April 15<sup>th</sup>, state permit holders can land and sell scup caught exclusively in state waters to state and federally permitted dealers after April 15<sup>th</sup> and prior to the Federal opening of the summer period on May 1<sup>st</sup>.

Addendum XI, approved in January 2004, allows states to customize scup recreational management measures in order to deal with burden issues associated with the implementation of coastwide measures. It also sets a management process that minimizes the administrative burden when implementing conservation equivalency.

Addendum XIX, approved in August 2007, broadens the descriptions of stock status determination criteria contained within the Summer Flounder, Scup, and Black Sea Bass FMP to allow for greater flexibility in those definitions, while maintaining objective and measurable status determination criteria for identifying when stocks or stock complexes covered by the FMP are overfished. It establishes acceptable categories of peer-review for stock status determination criteria. When these specific peer-review metrics are met and new or updated information is available, the new or revised stock status determination criteria may be incorporated by the Commission directly into the annual management measures for each species.

Addendum XX sets policies to reconcile quotas overages to address minor inadvertent quota overages. It was approved in November 2009. It streamlines the quota transfers process and establishes clear policies and administrative protocols to guide the allocation of transfers from states with underages to states with overages. It also allows for quota transfers to reconcile quota overages after the year's end.

Addendum XXI approved in March 2011, established state-by-state measures, requiring states from Massachusetts to New Jersey, plus North Carolina to cut harvest by 37% to 43% to meet the coastwide recreational harvest.

Addendum XXII, approved in February 2012, establishes a regional management approach which allows the northern region states (Massachusetts to New Jersey) to collectively liberalize up to 57%. The southern region states (Delaware to North Carolina) have committed to implementing measures consistent with those recommended for federal waters (the 25 fish, 12.5 inches TL minimum fish size, and an open season from May 19 to October 14 and November 1 to December 31).

States with a declared interest in the Scup FMP are Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina. The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board serves as the species management board, and the Demersal Species Committee guides plan development for the MAFMC. The Summer Flounder, Scup, and Black Sea Bass Technical Committee addresses technical issues. Industry advice is solicited through the Scup and Black Sea Bass Advisory Panel, and annual review and monitoring is the responsibility of the Scup Plan Review Team.

## **II. Status of the Stock**

The assessment model for scup changed in 2008 from a simple index-based model to a complex statistical catch at age model. The new model incorporates a broader range of fishery and survey data than was used previously.

Recruitment at age 0 averaged 91.4 million fish during 1963-1983, during this period recruitment estimates are influenced mainly by the assessment model stock-recruitment relationship. Since 1984, recruitment estimates from the model are influenced mainly by the fishery and survey catches at age. Recruitment at age 0 averaged 104 million fish from 1984-2009. The 1999 and 2000 year classes are estimated to be the largest of the time series, at 207 and 184 million age 0 fish. With greatly improved recruitment and low fishing mortality rates since 1998, spawning

stock biomass (those fish that can reproduce) has steadily increased since to about 157,000 and 155,000 mt in 2008 and 2009, respectively.

The new reference points are  $F_{\text{target}} = F_{40\%} = 0.177$ .  $F_{40\%}$  is the rate of fishing that will result in 40% of the spawning potential of an unfished stock. The spawning stock biomass target is equal to  $SSB_{40\%} = 92,044$  mt or 202.92 million pounds. The 2012 stock assessment update indicates the current  $F$  is 0.040 and  $SSB$  is 410 million pounds, therefore overfishing is not occurring and the stock is rebuilt.

### **III. Status of the Fishery**

The reduced landings of scup in recent years are a reflection of low stock abundance and the effect of quota management. Commercial scup landings, which had declined by over 33% to 8.8 million pounds in 1998, increased to 15.6 million pounds in 1991, then dropped to the lowest value in the time series, 2.7 million pounds in 2000. Commercial landings then increased to almost 7 million pounds in 2002. Total landings have increased slightly each year to about 8.2 million pounds in 2001. The 2002 commercial landings of 3.8 million pounds were only about 15% of the over 48.5 million pound peak observed in 1960. For several years Rhode Island and New Jersey have harvested the largest share of the total commercial landings of scup. Landings were stable from 2003-2007 between 9.8 -9.0 million pounds, and declined to 5 year low of 5.2 million pounds in 2008. Since then landings have increased to 14 million pounds in 2011, 2012, and 2013 (14.6 million pounds).

The recreational fishery for scup is significant. Recreational fishermen accounted for 17 to 67% of total annual catches from 1985–2001. Recreational landings declined steadily from a 1986 value of 11.6 million pounds to 0.9 million pounds in 1998, the lowest value in the time series. Recreational landings then increased to 8.5 million pounds in 2003 and decreased in 2004 and 2005, 4.4 million pounds and 2.4 million pounds respectively. Since then landings increased to 5.1 million pounds in 2010, declined in 2011 and 2012 (3.1 and 3.6 million pounds), and increased to above 5 million pounds again in 2013 (5.34 million pounds).

### **IV. Status of Assessment Advice**

Technical advice to managers has cautioned rapid increases in quota to meet the revised maximum sustainable yield given uncertainties in recruitments. They advised a more gradual increase in quotas is a preferred approach reflective of the uncertainty in the model estimates and stock status.

A between assessment comparison provided another measure of assessment uncertainty due to historical changes in model estimates. The 2010 assessment estimates of  $SSB$  and  $F$  are intermediate with respect to the 2008 assessment and the 2009 update for the same years, while the size of the 2007 year class was overestimated in the 2008 assessment compared to the 2010 update.

The next benchmark assessment is scheduled for Summer 2015.

## V. Status of Research and Monitoring

Commercial landings data are collected by the NMFS Vessel Trip Report system and by state reporting systems. The NEFSC sea sampling program collects commercial discard information. Biological samples (age, length) of the commercial fishery are collected through NEFSC weighout system and by the state of North Carolina. Recreational landings and discard information is obtained through the Marine Recreational Fisheries Statistics Survey. The Commonwealth of Massachusetts collected length frequency information for the recreational fishery in 2001 as part of a federally funded effort to monitor the recreational and commercial directed fisheries. One non-directed fishery assumed to have substantial scup bycatch was also monitored. This monitoring effort decreased substantially in 2002 as the study received funding for one year. Fishery independent abundance indices are available from surveys conducted by the NEFSC, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and the Virginia Institute of Marine Science.

## VI. Management Measures and Developing Issues

Addendum 1 to the Scup FMP specifies the commercial quota management scheme. The annual coastwide quota is divided among three periods. The Winter I period is January through April, the summer period is May through October, and November and December make up Winter II. During the winter periods, the quota is coastwide and is limited by trip limits. The summer allocation is divided into state shares. When a winter period allocation is landed, the states and the NMFS must prohibit landings. When a state lands its summer allocation it is expected to close its fishery and the NMFS will close that state for landings by federally permitted vessels. The quota, as well as accompanying trip limits, will be set annually. [Note: The Federal FMP currently contains a coastwide commercial quota during the summer period due to the court decision described in Section I]. The Board has expressed interest in exploring alternative quota programs for scup.

### Scup FMP Compliance Criteria:

#### **COMMERCIAL FISHERY for 2013**

*The following management measures may change annually.*

Minimum size of possession: 9" Total Length

Minimum mesh and threshold: for large nets, no more than 25 meshes of 5 inch mesh in the codend, with at least 100 meshes of 5.0 inch mesh forward of the 5 inch mesh; and for small nets with codends (including an extension) less than 125 meshes, the entire net must have 4.5 inch mesh or larger throughout after 500 pounds in the winter period and 100 pounds in the summer. Otter trawls must have a minimum mesh size of 5" for the first 75 meshes from the terminus of the net and a minimum mesh size of 5" throughout the net for codends constructed with fewer than 75 meshes.

Threshold to Trigger Minimum Mesh Requirements: 500 pounds of scup from November 1 through April 30 and 200 pounds or more of scup from May 1 through October 31.

Maximum roller rig trawl roller diameter: 18"

Pot and trap escape vents: 3.1" round, 2.25" square

Pot and trap degradable fastener provisions: a) untreated hemp, jute, or cotton string 3/16" (4.8 mm) or smaller; b) magnesium alloy timed float releases or fasteners; c) ungalvanized, uncoated iron wire of 0.094" (2.4mm) or smaller

Commercial quota: 23.53 million pounds (adjusted for overages and research set-asides)

Winter I and II landing limits: Winter I = 10,613,157 lbs, 1,000 @ 80%; Winter II = 6,932,998 lbs

*The following required measures are not subject to annual adjustment:*

Vessel and dealer permitting requirements: States are required to implement a permit for fishermen fishing exclusively in state waters, and for dealers purchasing exclusively from such fishermen. In addition, states are expected to recognize federal permits in state waters, and are encouraged to establish a moratorium on entry into the fishery.

Vessel and dealer reporting requirements: States are required to implement reporting requirements for state permitted vessels and dealers and to report landings from state waters to the NMFS.

Scup pot or trap definition: A scup pot or trap will be defined by the state regulations that apply to the vessels principal port of landing.

Quota management requirements:

**Winter I and II:** States are required to implement landing limits as specified annually, States are required to notify state and federal permit holders of initial period landing limits, in-period adjustments, and closures. States are required to prohibit fishing for, and landing of, scup when a period quota has been landed, based on projections by NMFS. States must report landings from state waters to the NMFS for counting toward the quota

**Summer:** States are required to implement a plan of trip limits or other measures to manage their summer share of the scup quota. States are required to prohibit fishing for, and landing of, scup when their quota share is landed. States may transfer or combine quota shares. States must report all landings from state waters to the NMFS for counting toward the state shares.

### **RECREATIONAL FISHERY for 2013**

Addendum IX established a state-specific management program for Massachusetts through New York (inclusive), and specific management measures for the states of New Jersey, Delaware, Maryland, Virginia, and North Carolina.

*The following measures may change annually:*

#### **2013 Recreational Measures**

2013 Minimum size, possession limits and seasonal closure: Table 4

2013 Recreational Harvest Limit: 8.52 million pounds.

#### **2014 Recreational Measures**

2014 Minimum size, possession limits and seasonal closure: Table 5

2014 Recreational Harvest Limit: 7.92 million pounds

## **OTHER MEASURES**

**Reporting:** States are required to submit an annual compliance report to the Chairman of the ASMFC Scup Plan Review Team by June 1 of each year. This report should detail the state's management program for the current year and establish proof of compliance with all mandatory management measures. It should include landings information from the previous year, and the results of any monitoring or research programs.

*De minimis:* States having commercial landings during the summer period that are less than 0.1% of the summer period quota are eligible for *de minimis* consideration. States desiring *de minimis* classification must make a formal request in writing through the Plan Review Team for review and consideration by the Scup Management Board.

*This summary of compliance criteria is intended to serve as a quick reference guide. It in no way alters or supersedes compliance criteria as contained in the Scup FMP and any Amendments thereto.*

### **Compliance Issues**

The PRT found no compliance issues.

### **De Minimis**

The state of Delaware request *de minimis* status. The PRT notes Delaware meets the *de minimis* requirements.

## **VII. State Compliance with Required Measures**

Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina are required to comply with the provisions of the Scup FMP. All states implemented regulations in compliance with the requirements approved by the Board.

### **Scup FMP Compliance Schedule**

1996 and 1997 initial FMP compliance dates:

#### **Commercial Fishery**

##### **Quota Management Measures**

|  |         |
|--|---------|
| ability to implement and enforce period landing limits                   | 1/1/97  |
| ability to notify permit holders of landing limits and closures          | 5/1/97  |
| ability to close the summer fishery once the state share is harvested    | 5/1/97  |
| ability to close the winter fisheries once the period quota is harvested | 5/1/97  |
| Size limit   | 6/30/96 |
| Minimum mesh   | 1/1/97  |
| Pot and trap escape vents, degradable fasteners                          | 6/30/96 |
| Roller diameter restriction  | 6/30/96 |
| Vessel permit and reporting requirements, state                          | 1/1/97  |
| Dealer permit and reporting requirements, state                          | 1/1/97  |

#### **Recreational Fishery**

##### **Quota Management Measures**

|            |         |
|------------|---------|
| Size limit | 6/30/96 |
|------------|---------|

##### **General**

|   |              |
|---|--------------|
| States submit annual monitoring and compliance report | 6/1 annually |
|---|--------------|

## **2005 Annual Specifications**

### **Commercial**

|                          |         |
|--------------------------|---------|
| Winter I Landing Limits  | 1/1/05  |
| Winter II Landing Limits | 11/1/05 |

### **Recreational**

|  |         |
|--|---------|
| Massachusetts– New York (inclusive)                      |         |
| State specific minimum size, possession limit and season | 11/1/05 |
| New Jersey – North Carolina (inclusive)                  |         |
| Board-established regulations                            | 3/1/05  |



Table 1. Summary of scup management measures, 1999-2013.

| Management measures                         | 1999     | 2000     | 2001     | 2002              | 2003               | 2004               | 2005               | 2006     | 2007     | 2008     | 2009     | 2010     | 2011     | 2012     | 2013     |
|---|----------|----------|----------|-------------------|--------------------|--------------------|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| TAC (m lbs)                                 | 5.92     | 5.92     | 8.37     | 12.92             | 18.65              | 18.65              | 18.65              | 19.79    | 13.97    | 9.9      | 15.54    | 17.09    | 31.92    | 40.88    | 38.71    |
| Commercial TAC (m lbs)                      | 4.62     | 4.62     | 6.53     | 10.08             | 14.55              | 14.55              | 14.55              | 15.44    | 10.9     | 7.72     | 12.12    | 13.33    | 24.92    | 31.89    | 30.19    |
| Commercial quota-adjusted (m lbs)           | -        | 1.75     | 3.53     | 7.25 <sup>a</sup> | 12.10 <sup>d</sup> | 12.34 <sup>e</sup> | 12.23 <sup>f</sup> | 11.93    | 8.9      | 5.24     | 8.37     | 10.68    | 20.36    | 27.91    | 23.53    |
| Commerical. landings                        | 3.32     | 2.66     | 4.07     | 7.28              | 9.75               | 9.05               | 9.56               | 8.96     | 9.25     | 5.18     | 8.2      | 10.3     | 14.8     | 14.8     | 17.87    |
| Recreational TAC (m lbs)                    | 1.3      | 1.3      | 1.84     | 2.84              | 4.1                | 4.1                | 4.1                | 4.35     | 3.07     | 2.18     | 3.42     | 3.76     | 7.02     | 8.99     | 8.52     |
| Recreational harvest limit-adjusted (m lbs) | -        | -        | -        | 2.71 <sup>b</sup> | 4.01 <sup>d</sup>  | 4.01 <sup>e</sup>  | 3.96 <sup>f</sup>  | 4.15     | 2.74     | 1.83     | 2.59     | 3.01     | 5.74     | 7.55     | 7.55     |
| Recreational landings                       | 1.89     | 5.44     | 4.26     | 3.62              | 9.33               | 4.38               | 2.38               | 2.95     | 3.65     | 4.04     | 2.94     | 5.9      | 3.6      | 4.1      | 5.34     |
| Commercial fish size (in)                   | 9        | 9        | 9        | 9                 | 9                  | 9                  | 9                  | 9        | 9        | 9        | 9        | 9        | 9        | 9        | 9        |
| Min. mesh size (in, diamond)                | 4.5      | 4.5      | 4.5      | 4.5/5.0           | 4.5/5.0            | 4.5/5.0            | 5                  | 5        | 5        | 5        | 5        | 5        | 5        | 5        | 5        |
| Mesh threshold                              | 200/ 100 | 200/ 100 | 500/ 100 | 500/100           | 500/100            | 500/100            | 500/ 200           | 500/ 200 | 500/ 200 | 500/ 200 | 500/ 200 | 500/ 200 | 500/ 200 | 500/ 200 | 500/ 200 |

Table 2. Scup commercial landings by state 2004-2013 in pounds.

| <b>State</b>   | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>2009</b> | <b>2010</b> | <b>2011</b> | <b>2012</b> | <b>2013</b> |
|----------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Maine          | 2           |             |             |             |             |             |             |             |             |             |
| Massachusetts  | 775,940     | 1,134,759   | 1,088,148   | 1,104,316   | 527,325     | 718,751     | 1,030,688   | 1,243,810   | 2,005,268   | 1,094,975   |
| Rhode Island   | 3,457,498   | 3,423,611   | 3,671,250   | 3,892,671   | 2,133,001   | 1,785,994   | 4,298,595   | 6,335,391   | 6,309,321   | 4,689,540   |
| Connecticut    | 255,569     | 327,861     | 297,912     | 255,884     | 283,101     | 203,607     | 323,757     | 644,030     | 905,060     | 1,194,949   |
| New York       | 1,906,889   | 2,185,836   | 2,305,161   | 2,280,112   | 1,203,661   | 1,845,908   | 2,689,443   | 3,542,538   | 4,306,621   | 4,407,231   |
| New Jersey     | 1,891,086   | 1,914,358   | 1,392,868   | 1,575,144   | 773,829     | 1,528,545   | 1,550,249   | 1,966,479   | 978,531     | 2,033,083   |
| Delaware       | 2           | 0           | 0           | 3           | 0           | 0           | 0           | 9           | 1           | 4           |
| Maryland       | 47,200      | 927         |             |             |             | 9,000       | 27,183      | 54,229      | 8,263       | 315,374     |
| Virginia       | 448,574     | 287,891     | 80,292      | 22,579      | 95,939      | 211,576     | 371,376     | 620,480     | 339,868     | 913,113     |
| North Carolina | 523,554     | 351,609     | 139,420     | 66,856      | 205,703     | 244,337     | 102,745     | 308,907     | 4,098       | 28,394      |
| Coastwide      | 9,274,058   | 9,627,665   | 9,065,404   | 9,259,713   | 5,222,559   | 6,547,718   | 10,394,036  | 14,715,873  | 14,857,031  | 14,676,663  |

Table 3. Scup recreational landings, 2004-2013, by state in numbers of fish.

| <b>State</b> | <b>2004</b>      | <b>2005</b>      | <b>2006</b>      | <b>2007</b>      | <b>2008</b>      | <b>2009</b>      | <b>2010</b>      | <b>2011</b>      | <b>2012</b>      | <b>2013</b>      |
|--------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| <b>MA</b>    | 280,938          | 203,201          | 218,996          | 75,860           | 150,031          | 874,952          | 1,023,248        | 836,156          | 1,795,634        | 1,850,909        |
| <b>RI</b>    | 816,894          | 430,747          | 470,286          | 353,450          | 632,839          | 139,576          | 398,178          | 567,697          | 497,505          | 816,837          |
| <b>CT</b>    | 217,031          | 213,131          | 107,479          | 108,528          | 115,821          | 359,845          | 1,346,631        | 1,194,680        | 921,010          | 2,126,257        |
| <b>NY</b>    | 1,876,972        | 859,156          | 1,677,998        | 1,596,391        | 1,450,861        | 1,460,314        | 1,990,339        | 714,789          | 592,238          | 978,444          |
| <b>NJ</b>    | 61,959           | 70,952           | 241,567          | 86,073           | 72,697           | 141,861          | 610,660          | 42,223           | 113,332          | 100,419          |
| <b>DE</b>    | 518              | 3,870            | 319              | 2,365            | 1,338            | 821              | 0                | 40               | 86               | 0                |
| <b>MD</b>    | 65,949           | 85,192           | 58,386           | 157,360          | 89,729           | 36               | 11               | 7                | 0                | 0                |
| <b>VA</b>    | 10,999           | 8,507            | 0                | 586              | 3,920            | 527              | 5,284            | 10,413           | 1,425            | 1,238            |
| <b>NC</b>    | 0                | 0                | 0                | 0                | 0                | 0                | 0                | 27               | 148              | 0                |
| <b>Total</b> | <b>3,331,260</b> | <b>1,874,756</b> | <b>2,775,031</b> | <b>2,380,613</b> | <b>2,517,236</b> | <b>2,977,932</b> | <b>5,374,351</b> | <b>3,366,032</b> | <b>3,921,378</b> | <b>5,874,104</b> |

**Table 5. 2013 State Scup Recreational Measures**

| State                  | Minimum Size (inches)                                       | Possession Limit   | Open Season                           |
|------------------------|---|--|---------------------------------------|
| Massachusetts For Hire | 10  | 45 fish from May 1- June 30;<br>30 fish from July 1- Dec 31  | July 1- December 31                   |
| Private Angler         | 10  | 30 fish; private vessels with 6 or more persons aboard are prohibited from possessing more than 150 scup per day | May 1- December 31                    |
| Rhode Island For Hire  | 10  | 30 fish from May 1-Aug 31 and Nov 1-Dec 31; 45 fish from Sept 1-Oct 31   | May 1- December 31                    |
| Private Angler         | 10"; and 9" or greater for shore mode at 3 designated sites | 30 fish  | May 1- December 31                    |
| Connecticut For Hire   | 11  | 20 fish from May 1-Aug 31 and Nov 1-Dec 31; 45 fish from Sept 1-Oct 31   | May 1- December 31                    |
| Private Angler         | 10.5; and 9" for shore mode at 46 designated sites          | 20 fish  | May 1- December 31                    |
| New York For Hire      | 10  | 30 fish from May 1-Aug 31 and Nov 1-Dec 31; 45 fish from Sept 1-Oct 31   | May 1- December 31                    |
| Private Angler         | 10  | 30 fish  | May 1- December 31                    |
| New Jersey             | 9   | 50 fish  | Jan 1-Feb 28 and July 1 – December 31 |
| Delaware               | 8   | 50 fish  | All Year                              |
| Maryland               | 8   | 50 fish  | All Year                              |
| Virginia               | 8   | 50 fish  | All Year                              |
| North Carolina         | 8   | 50 fish  | All Year                              |

**Table 6. Scup Landings by period.**

| <b>Year</b> | <b>Period</b> | <b>Commercial Quota</b> | <b>Trip Limits</b> | <b>Landings (lbs)</b>  | <b>Date Closed</b> | <b>% of Quota Landed</b> |
|-------------|---------------|-------------------------|--------------------|------------------------|--------------------|--------------------------|
| 2002        | Winter I      | 3,517,300               | 10,000/1,000       | 3,063,836              | --                 | 87.1                     |
|             | Summer        | 2,556,595               | --                 | 1,223,202              | --                 | 47.8                     |
|             | Winter II     | 1,179,502               | 2,000              | 1,135,769              | 2-Dec              | 96.3                     |
| 2003        | Winter I      | 5,602,495               | 15,000/1,000       | 3,752,176              | --                 | 66.9                     |
|             | Summer        | 4,521,879               | --                 | 4,407,785              | --                 | 97.5                     |
|             | Winter II     | 1,979,689               | 1,500              | 1,592,624              | --                 | 80.4                     |
| 2004        | Winter I      | 5,568,920               | 15,000/1,000       | 3,587,841              | --                 | 65.5                     |
|             | Summer        | 4,808,455               | --                 | 4,055,207              | --                 | 84.5                     |
|             | Winter II     | 1,967,825               | 1,500              | 1,407,733 <sup>f</sup> | --                 | 82.2                     |
| 2005        | Winter I      | 5,518,367               | 15,000/1,000       | 3,684,768              | --                 | 66.8                     |
|             | Summer        | 4,764,806               | --                 | 4,001,662              | --                 | 89.5                     |
|             | Winter II     | 1,987,718               | 1,500              | 1,380,444              | --                 | 74.6                     |
| 2006        | Winter I      | 3,554,991               | 30,000/1,000       | 3,626,237              | --                 | 102                      |
|             | Summer        | 4,647,569               | --                 | 3,219,929              | --                 | 69.3                     |
|             | Winter II     | 3,729,581               | 2,000/1,000        | 2,115,323              | --                 | 56.7                     |
| 2007        | Winter I      | 4,012,895               | 30,000/1,000       | 3,400,934              | --                 | 84.8                     |
|             | Summer        | 3,464,914               | --                 | 4,254,987              | 21-Sep             | 122.8                    |
|             | Winter II     | 1,417,991               | 2,000/1,000        | 1,590,747              | --                 | 112.2                    |
| 2008        | Winter I      | 2,291,699               | 30,000/1,000       | 2,356,716              | --                 | 102.8                    |
|             | Summer        | 1,437,558               | --                 | 1,935,074              | 16-Jul             | 134.6                    |
|             | Winter II     | 940,948                 | 2,000/1,000        | 892,318                | --                 | 94.8                     |
| 2009        | Winter I      | 3,777,443               | 30,000/1,000       | 3,774,583              | --                 | 99.9                     |
|             | Summer        | 2,930,733               | --                 | 3,072,340              | --                 | 104.8                    |
|             | Winter II     | 1,334,791               | 2,000/1,000        | 1,356,961              | --                 | 101.7                    |
| 2010        | Winter I      | 4,964,716               | 30,000/1,000       | 4,740,681              | --                 | 95.4                     |
|             | Summer        | 4,286,759               | --                 | 4,175,206              | --                 | 97.4                     |
|             | Winter II     | 1,754,325               | 2,000/1,000        | 1,482,669              | --                 | 84.5                     |
| 2011        | Winter I      | 6,897,648               | 30,000/1,000       | 5,648,867              | --                 | 81.9                     |
|             | Summer        | 7,930,504               | --                 | 6,349,749              | --                 | 80.1                     |
|             | Winter II     | 3,245,500               | 2,000/1,000        | 2,556,214              | --                 | 78.8                     |
| 2012        | Winter I      | 12,589,558              | 50,000/1,000       | 5,190,370              | --                 | 41.2                     |
|             | Summer        | 10,870,390              | --                 | 6,326,576              | --                 | 58.2                     |
|             | Winter II     | 11,635,321              | 8,000              | 2,484,470              | --                 | 21.4                     |
| 2013        | Winter I      | 10,613,157              | 50,000/1,000       | 7,431,296              | --                 | 70.0                     |
|             | Summer        | 9,163,877               | --                 | 7,684,995              | --                 | 83.9                     |
|             | Winter II     | 6,932,998               | 8,000              | 2,324,250              | --                 | 33.5                     |

# **Commonwealth of Massachusetts Division of Marine Fisheries**



## **ATLANTIC STATES MARINE FISHERIES COMMISSION SCUP FISHERY MANAGEMENT PLAN 2013 COMPLIANCE REPORT**

May 1, 2014

Prepared by

Paul G. Caruso  
Senior Marine Fisheries Biologist

## **I. Introduction**

The following represents the Commonwealth of Massachusetts Division of Marine Fisheries (MDMF) 2013 FMP compliance report for scup as required by the ASMFC Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. There were no significant changes to the regulations for the commercial fisheries in 2013. Commercial landings were 1,094,975 pounds as compared to 1,416,412 pounds in 2012, and the 2013 quota of 1,978,050 lbs. Thus, the commercial fishery harvested 55% of the allocated summer period quota. The estimated harvest from the recreational fishery increased to 1,850,909 fish.

## **II. Request for *de minimis* status**

Not applicable.

## **III. Review of previous year fishery and management program**

### **A. Activity and results of fisheries dependent monitoring**

In 2013 MDMF conducted no monitoring of the directed commercial fisheries for scup, but sampled two non-directed fisheries (the squid and summer flounder trawl fisheries) that occasionally have substantial scup bycatch.

Aggregate commercial landings were estimated from data collected by the MDMF Quota Monitoring Project. Recreational fisheries aggregate catch and landings estimates were generated from data collected by the Marine Recreational Information Program (MRIP).

### **B. Activity and results of fishery independent monitoring**

Our 2013 fisheries independent monitoring program for scup consisted of our synoptic spring and fall trawl surveys. This coast-wide survey conducts approximately 100 twenty-minute tows in state waters with a random stratified design. Abundance indices (stratified mean number and weight per tow) include data from all strata south of Cape Cod (Figure 1). The abundance of adult scup in 2013 decreased substantially from 2012 levels. However, measured YOY production was up relative to 2012 levels (Figure 2). Limited age and maturity samples were also collected during the survey. All age samples from the survey cruises were forwarded to the NMFS Northeast Fisheries Science Center Laboratory in Woods Hole.

## C. Regulations in effect in 2012

### 1. Recreational Fishery (322 CMR 8.06)

- Permit required to conduct “For-Hire” operations

| Recreational Sector | Minimum Size | Open Season            | Possession Limit  |
|---------------------|--------------|------------------------|---|
| Private             | 10.0”        | May 1 –<br>December 31 | 30 fish;<br>150 per vessel with 5 or more<br>anglers aboard |
|                     |              |                        |   |
| For-hire            | 10.0”        | May 1 – June 30        | 45 fish   |
|                     |              | July 1 – Dec 31        | 30 fish   |

### 2. Commercial Fishery

#### Permitting & Reporting (322 CMR 6.12, 6.27 & 7.01)

- Regulated fishery permit (in addition to a commercial fishing permit) required for commercial fishermen to possess scup.
- Dealers must be permitted to purchase scup.
- Mandatory dealer and fisherman’s catch reporting.
- Limited entry provisions for the fish pot fishery.

#### Gear Marking & Specifications (322 CMR 4.13, 6.12, 6.15 & 12.03)

- Year-specific trap tag with permit number must be attached to trap’s cross member.
- Pot limit of 50 scup pots; 200 combined sea bass and scup, or 350 if two permit holders fish from the same vessel.
- Two unobstructed escape vents or openings in the parlor section measuring at least 3.1” in diameter or 2.25” square required.
- All buoys and traps must bear fisherman’s permit number.
- Use of floating line at the surface prohibited.
- Positively buoyant ground line prohibited.
- Buoy lines comprised of positively buoyant line except the bottom portion of the line which may be a section of floating line, not to exceed 1/3 overall length of the buoy line.
- Marking:
  - 1) Traps require a single buoy (7”x 7” or 5”x 11”); stick optional with no flag.
  - 2) Trawls: East end – double buoy and one or more 3’ sticks.  
West end – single buoy with 3’ stick and flag.
- All fish traps require ghost panel.
- Trawl maximum length: 2000 feet.
- Use of trawls is prohibited in the waters of Gosnold (M.G.L c.130 §37).



- All vessels must display buoy color scheme.
- No tending or lifting of pots from ½ hour after sunset to ½ hour before sunrise.

In addition, the Commonwealth retained all of the other direct and indirect fisheries management measures that apply to scup. Among those were:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for all commercial fisheries other than rod and reel.
- Numerous area/time closures to otter trawling and gillnets.
- Minimum mesh size restrictions for the trawl and gillnet fisheries.
- A night closure to mobile gear in waters of Nantucket and Vineyard Sounds.
- Buzzards Bay closed year round to all mobile gear.

#### **D. 2013 Harvest**

The estimate of the 2013 commercial harvest is 1,177,392 fish, calculated by dividing the landed weight (1,094,975 lbs) by 0.93 pounds per fish (MDMF 2003 sea sampling data). These are the most recent commercial catch data available from MDMF, and are considered provisional at this time. Trends in the commercial harvest are plotted in Figure 3.

There is no current estimate of commercial losses from discard mortality because there are no existing estimates of discarded commercial catch or gear-specific mortality rates. Observed scup discards from monitored commercial fisheries have been minimal in past years with the largest discards coming from the pot and weir fisheries. Since those fisheries operate in shallow waters and the catch is immediately culled, additional losses are assumed to be relatively small in comparison to landings.

The recreational losses from 2012 are estimated at 2,009,223 fish. This number was derived from the MRIP estimated Type A and B1 aggregate catch (1,850,909 fish, PSE 13.8) plus 15% of the B2 catch (1,055,428, PSE 14.2), representing an estimate of catch/release mortality. Recreational fishery harvest trends are plotted in Figure 4.

#### **E. Progress in implementing habitat recommendations**

Not applicable.

### **IV. Planned 2014 Management Program**

#### **A. Regulations for 2014**

##### **1. Recreational Fishery (322 CMR 8.06)**

- Permit required to conduct “for-hire” fishing operations

| Recreational Sector | Minimum Size | Open Season                             | Possession Limit   |
|---------------------|--------------|---|--------------------|
| Private             | 10"          | May 1 – December 31                     | 30 fish            |
|                     |              |   |                    |
| For-hire            | 10"          | May 1 – June 30<br>July 1 – December 31 | 45 fish<br>30 fish |

## 2. Commercial Fishery

### Permitting & Reporting (322 CMR 6.12, 6.27 & 7.01)

- Regulated fishery permit (in addition to a commercial fishing permit) required for commercial fishermen to possess scup.
- Dealers must be permitted to purchase scup.
- Mandatory dealer and fisherman's catch reporting.
- Limited entry provisions for the fish pot fishery.

### Gear Marking & Specifications (322 CMR 4.13, 6.12, 6.15. 6.28 & 12.03) –

#### *Status quo*

- Year specific trap tag with permit number must be attached to trap's cross member.
- Pot limit of 50 scup pots; 200 combined sea bass and scup, or 350 if two permit holders fish from the same vessel.
- Two unobstructed escape vents or openings in the parlor section measuring at least 2 1/2" in diameter, two inches square, or 1 3/8" by 5 3/4" required.
- All buoys and traps must bear fisherman's permit number.
- Use of floating line at the surface prohibited.
- Positively buoyant ground line prohibited.
- Buoy lines comprised of positively buoyant line except the bottom portion of the line which may be a section of floating line, not to exceed 1/3 overall length of the buoy line.
- Marking:
  - 3) Traps require a single buoy (7"x 7" or 5"x 11"); stick optional with no flag.
  - 4) Trawls: East end – double buoy and one or more 3' sticks.  
West end – single buoy with 3' stick and flag.
- All fish traps require ghost panel.
- Trawl maximum length: 2000 feet.
- Use of trawls is prohibited in the waters of Gosnold (M.G.L c.130 §37).
- All vessels must display buoy color scheme.
- No tending or lifting of pots from 1/2 hour after sunset to 1/2 hour before sunrise.
- 9" minimum size

In addition, the Commonwealth retained all of the other direct and indirect fisheries management measures that apply to scup. Among those are:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for all commercial fisheries other than rod and reel.
- Numerous area/time closures to otter trawling and gillnets.
- Minimum mesh size restrictions for the trawl and gillnet fisheries.
- A night closure to mobile gear in waters of Nantucket and Vineyard Sounds.
- Buzzards Bay closed year round to all mobile gear.

### **B. 2014 Monitoring Program**

The 2014 monitoring program for scup will continue to derive fisheries independent indices of abundance from our synoptic trawl survey, and collect scup age and growth parameters and samples from limited sampling of commercial fishermen's catches, directed market sampling, and opportunistically from trawl survey catches.

For aggregate recreational catch and harvest data, the Division will rely on the MRIP survey. Aggregate commercial catch data will continue to come from the MDMF Quota Monitoring Project as well as mandatory monthly logbook submission by all commercial fishermen.

### **C. Changes from previous years monitoring program**

None.

### **V. Plan Specific Requirements**

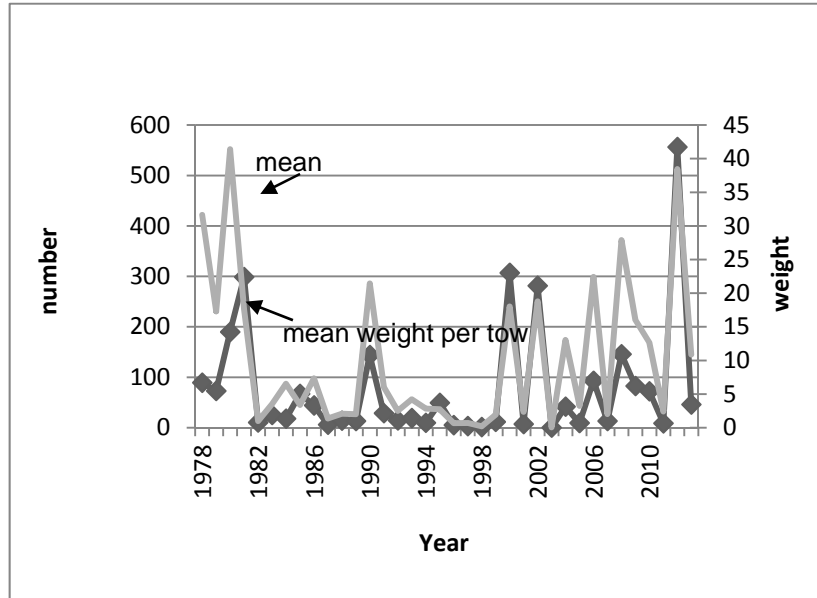
Not applicable.

### **VI. Law Enforcement Reporting Requirements**

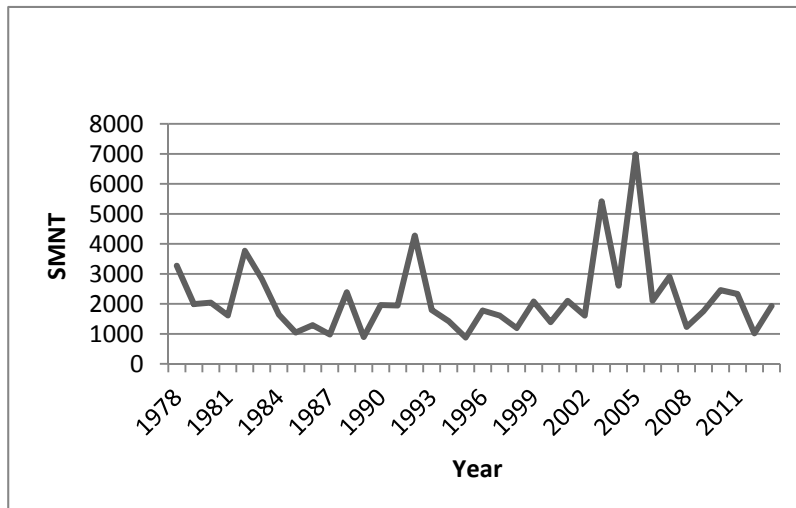
Not applicable.

## VII. Figures

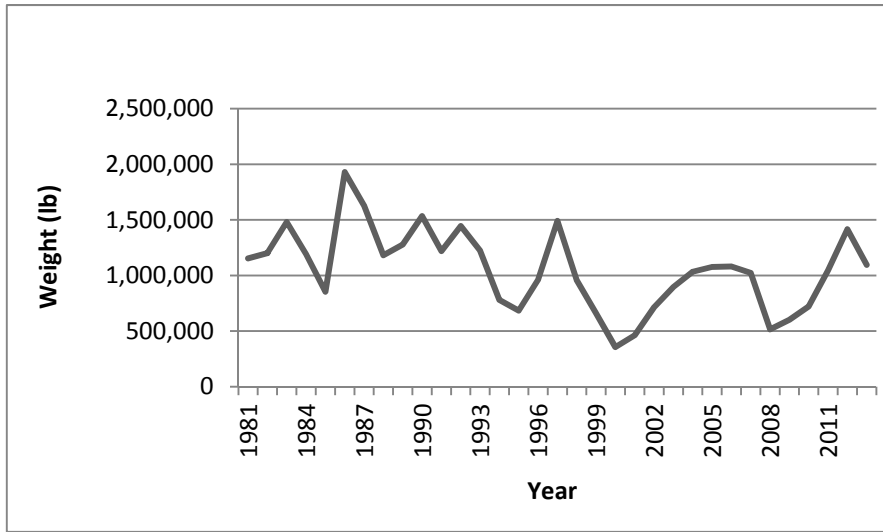
**Figure 1.** Fisheries-independent trawl survey adult indices.



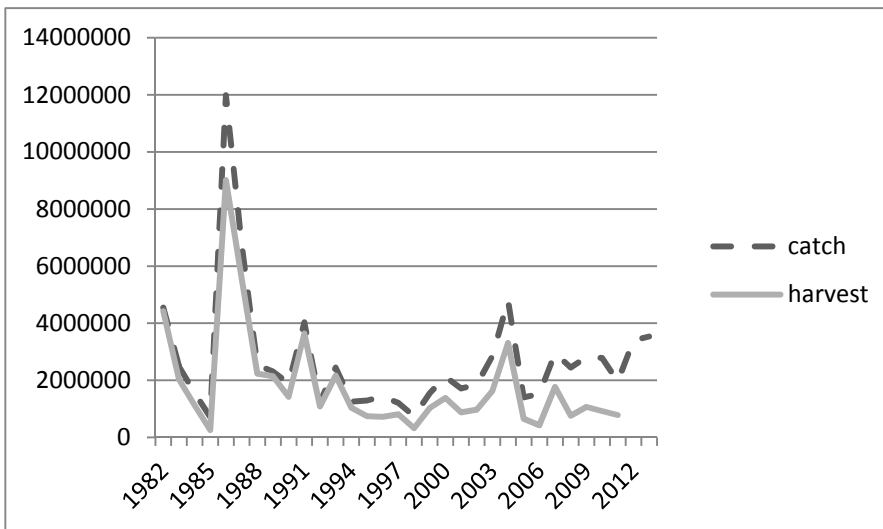
**Figure 2.** Fisheries-independent trawl survey YOY indices.



**Figure 3.** Commercial harvest trends.



**Figure 4.** Recreational harvest trends.





Rhode Island  
Department of Environmental Management

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**DIVISION OF FISH AND WILDLIFE**

3 Fort Wetherill Road  
Jamestown, RI 02835

401 423-1920  
FAX 401 423-1925  
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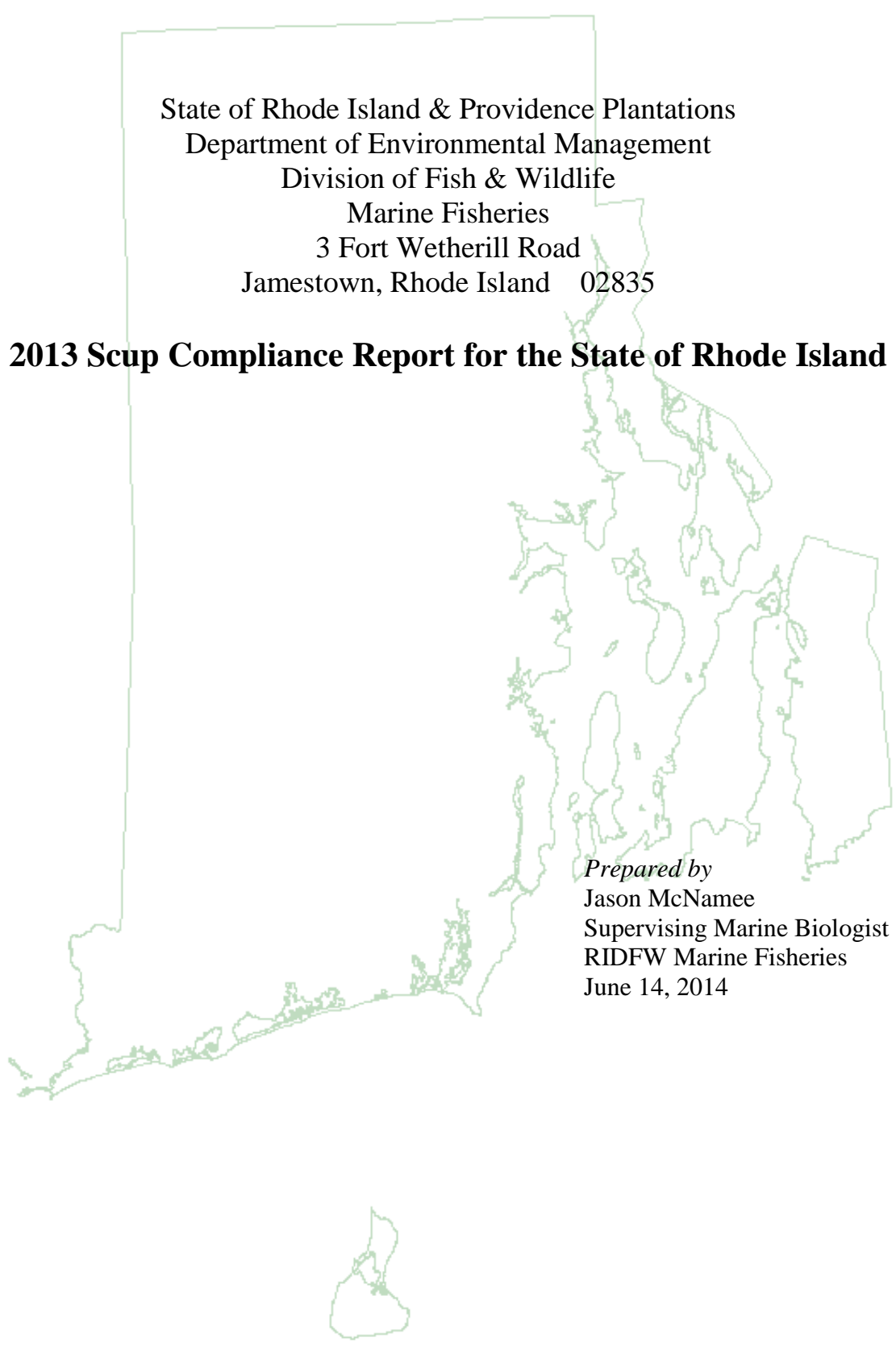
TO: Kirby Rootes-Murdy

FROM: Jason McNamee, Supervising Marine Biologist

DATE: June 14, 2014

SUBJECT: Rhode Island Annual Compliance Report for Scup

Please find Rhode Island's 2013 annual compliance report for scup. If you have any questions, you may contact me directly at 401.423.1943.

A light green outline map of Rhode Island is positioned in the background. The map shows the state's irregular coastline, including the Narragansett Bay and the surrounding islands. The text is centered over the upper portion of the map.

State of Rhode Island & Providence Plantations  
Department of Environmental Management  
Division of Fish & Wildlife  
Marine Fisheries  
3 Fort Wetherill Road  
Jamestown, Rhode Island 02835

## **2013 Scup Compliance Report for the State of Rhode Island**

*Prepared by*  
Jason McNamee  
Supervising Marine Biologist  
RIDFW Marine Fisheries  
June 14, 2014

## Rhode Island's 2013 Annual Compliance Report for Scup

### I. Introduction

No executive summary is needed.

### II. Request for *de minimis*, where applicable.

RI does not request *de minimis* status.

### III. Previous calendar year's fishery

a. Activities of fishery dependent monitoring (provide a brief review of results including monitoring of gear restrictions and minimum size).

The RIDFW Marine Fisheries Section utilizes the Standard Atlantic Fisheries Information System (SAFIS) reporting system to monitor landings of quota-managed species, including scup. Based on information collected under this system, Rhode Island commercial scup landings for 2013 were approximately 4,689,540 pounds.

Estimates of recreational fishery statistics for Rhode Island are obtained from the MRFSS online data query (NMFS, Fisheries Statistics and Economics Division, Silver Spring, MD, pers. comm.). Recreational harvest (Type A + B1) of scup in Rhode Island for 2013 was 816,837 fish.

b. Activities of fishery independent monitoring (provide a brief review of results).

The RIDFW Marine Fisheries Section operates a seasonal trawl survey to monitor finfish resources (Olszewski 2013). Scup biomass indices updated for 2013 were calculated as mean weight per tow. Estimated relative biomass of scup in RI for 2013 during the fall component of the survey was 18.45 kg/tow, a decrease from the 2012 estimate (39.77 kg/tow). The spring component decreased from 3.13 kg/tow in 2012 to 0.11 kg/tow in 2013.

The RIDFW Marine Fisheries Section also operates a seasonal beach seine survey to monitor finfish resources (McNamee 2013). Juvenile scup abundance indices updated for 2013 were calculated as mean number per haul. Estimated relative abundance of scup in RI for 2013 during the survey was 0.37 fish/haul.

c. Copy of regulations that were in effect for 2013. Has the state implemented the required measures as mandated in the FMP? (see below; please answer with either 'yes' or 'no')

#### **Commercial – The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

9" minimum size

4.5" minimum mesh size for entire net or 4.5" diamond mesh in codend (for large trawl nets)

Threshold to trigger minimum mesh requirements: (500 lbs for January - March; 100 lbs from April- December)

2.5" circular escape vents, 2" square escape vent, or 1.375" X 5.75" rectangular escape vent for pots/traps. Two vents required in parlor portion of pot/trap.



**Recreational – The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

General recreational fishery

10” minimum size

Season from May 1 – Dec 31

Bag limit of 30 fish per person per day

Party and charter recreational fishery

10” minimum size

Season from May 1 – Aug 31 at 30 fish per person per day

Season from Sept 1 – Oct 31 at 45 fish per person per day

Season from Nov 1 – Dec 31 at 30 fish per person per day

Special Area Provisions: While fishing from shore at India Point Park in Providence; Conimicut Park in Warwick; and Stone Bridge in Tiverton anglers may possess up to 30 scup 9 inches or greater in length from May 1, through December 31

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses (when available):

| Year | Commercial (lbs) | Recreational (harvest in fish) |
|------|------------------|--------------------------------|
| 2004 | 3,425,242        | 816,894                        |
| 2005 | 3,423,611        | 430,747                        |
| 2006 | 3,643,288        | 470,286                        |
| 2007 | 3,931,766        | 353,450                        |
| 2008 | 2,151,454        | 632,839                        |
| 2009 | 3,618,677        | 139,576                        |
| 2010 | 4,298,595        | 398,178                        |
| 2011 | 6,335,391        | 567,697                        |
| 2012 | 6,309,321        | 497,505                        |
| 2013 | 4,689,540        | 816,837                        |

Note: Commercial landings may contain RSA pounds. Data from NMFS and MRIP websites.

**IV. Planned management programs for the current calendar year**

There will not be any major changes to RI’s scup management in 2014 from what was in place in 2013 aside from the addition of 4 other sites to our special recreational area provisions, namely:

Special Area Provisions: While fishing from shore at Rocky Point, Warwick; East and West Walls (Harbor of Refuge), Narragansett; Fort Wetherill, Jamestown; and Fort Adams, Newport; anglers may possess up to 30 scup 9 inches or greater in length from May 1, through December 31

State of Connecticut  
Compliance Report for Scup  
June 1, 2014

**I. Introduction**

The Atlantic States Marine Fisheries Commission requires states to submit an annual report by June 1 of each year to show compliance with the Fishery Management Plan (FMP) for scup. This document fulfills that compliance requirement. This report includes commercial and recreational fishery statistics, monitoring activities and management measures during 2013.

**II. Request for *de minimus*, where applicable.**

N/A

**III. Previous calendar year's fishery and management program.**

a. Activity and results of fishery dependent monitoring.

All commercial fishermen submitted either Commercial Fisheries Catch Logs or NMFS Fishing Vessel Trip Reports on a monthly basis. Connecticut Department of Energy and Environmental Protection (CTDEEP) Marine Fisheries Division (MFD) staff entered fishermen reports into the Connecticut Marine Fisheries Information System (MFIS). Seafood dealers with a federal permit submitted their reports electronically to the National Marine Fisheries Service (NMFS) via the Standard Atlantic Fisheries Information System (SAFIS). Dealers with only state permits submitted reports to the CTDEEP and MFD staff entered the reports into SAFIS. Harvest was monitored by combining fishermen and dealer reports.

Recreational catch and harvest is monitored through the Marine Recreational Information Program (MRIP). The NMFS contractor conducts both the interview (intercept) and telephone portions of the survey. Monitoring of recreational harvest from Enhanced Designated Shore Sites was also performed by CT staff.

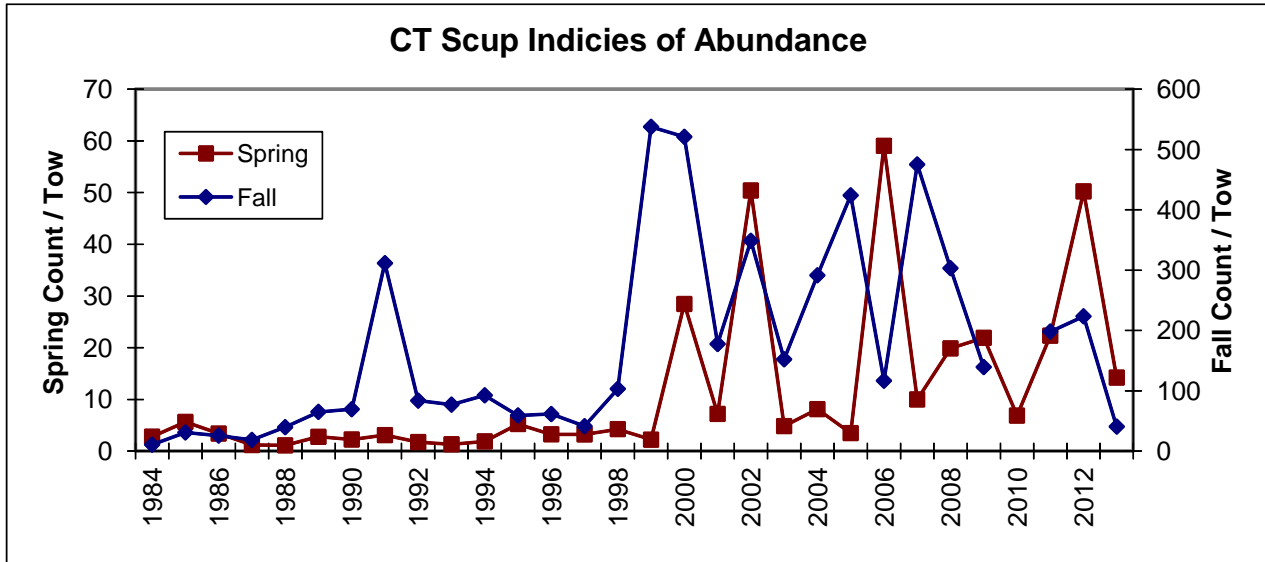
b. Activity and results of fishery independent monitoring.

Scup have been monitored through the Long Island Sound Trawl Survey since 1984. Spring (April, May & June) and fall surveys (September & October) are conducted each year.

Survey results are summarized in detail in annual reports to the US Fish and Wildlife Service and are available online at CT DEEP's website:

[http://www.ct.gov/deep/cwp/view.asp?a=2696&q=322660&depNAV\\_GID=1647](http://www.ct.gov/deep/cwp/view.asp?a=2696&q=322660&depNAV_GID=1647)

Due to catastrophic engine failure of the R/V John Dempsey, the Long Island Sound Trawl Survey sampling was not conducted in 2010. Both the spring and fall indices dropped significantly in 2013.



**Figure 1: Indices for Scup from the Long Island Sound Trawl Survey.** *Indices reflect mean catch in numbers per standardized research trawl tow.*

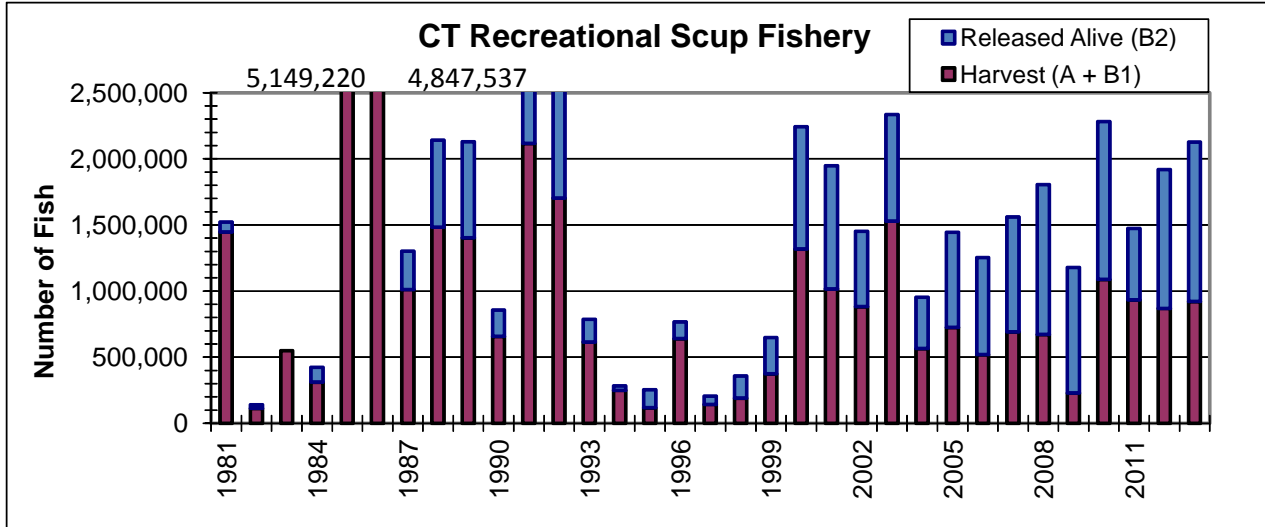
c. Copy of regulations that were in effect.

Regulations required under the Scup FMP are in the Regulations of State Agencies sections: 26-142a-6 (commercial fishing gear specifications including: trawl mesh size 26-142a-6(g)(4)(A), and 26-142a-6(g)(6), and fish pot specifications: 26-142a-6(h)). Other regulations include 26-142a-8a(b) (commercial minimum size), 26-159a-4(a) (sport minimum size), 26-159a-7(a) (creel limits), 26-159a-15 (Scup commercial moratorium and landing limits), 26-159a-20 (sport closed season), and 26-159a-22 (Compliance with Interstate Fishery Management Plans).

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses.

Preliminary 2013 landings show that in the Connecticut commercial fishery, 1,194,949 pounds of scup were landed. Otter trawls accounted for 98% of the commercial harvest, less than 2% came from several other gears.

Also in 2013, Connecticut anglers caught 2,126,257 fish, landing 920,298. B2 catches totaled 1,205,959 fish. Assuming a 10% discard mortality rate, the estimate of dead discards is 120,595 fish. Commercial non-harvest losses are unknown.



**Figure 2. Connecticut Scup Harvest (A + B1) and Released Alive (B2).**

e. Review of progress in implementing habitat recommendations.

Not applicable.

**IV. Planned management programs for the current calendar year.**

a. Summarize regulations that will be in effect (provide copy if different from IIIc).

There are status quo regulations for 2014.

**Table 1. Connecticut Recreational Scup Fishery Regulations.**

| Year | Fishing Mode                            | Open Season     | Creel Limit | Minimum Length |
|------|---|-----------------|-------------|----------------|
| 2013 | Private/rental boat and shore fishermen | May 1 – Dec 31  | 20 fish     | 10.5 inches    |
|      | Passengers on party/charter boats       | May 1 – Aug 31  | 20 fish     | 11 inches      |
|      |   | Nov 1 – Dec 31  | 20 fish     | 11 inches      |
|      | Designated shore sites                  | Sept 1 – Oct 31 | 45 fish     | 11 inches      |
|      |   | May 1 – Dec 31  | 20 fish     | 9 inches       |

**Commercial**

9” minimum size

5.0” minimum diamond mesh

Threshold to trigger minimum mesh requirements: (500 lbs 11/1 - 4/30; 200 lbs from 5/1 - 10/31)

3.1” circular escape vent of equivalent size.

b. Summarize monitoring programs that will be performed.

Monitoring programs described above: commercial logbooks, dealer reports, MRIP, fishery independent LIS Trawl Survey will be continued.

c. Highlight any changes from the previous year.

None.

**V. Plan specific requirements**

None.

# New York State Department of Environmental Conservation

## Division of Fish, Wildlife & Marine Resources

### Bureau of Marine Resources

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

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Joe Martens  
Commissioner

## 2013 Compliance Report to the ASMFC for Scup

### I. Introduction

### II. Request for *de minimis* Not applicable.

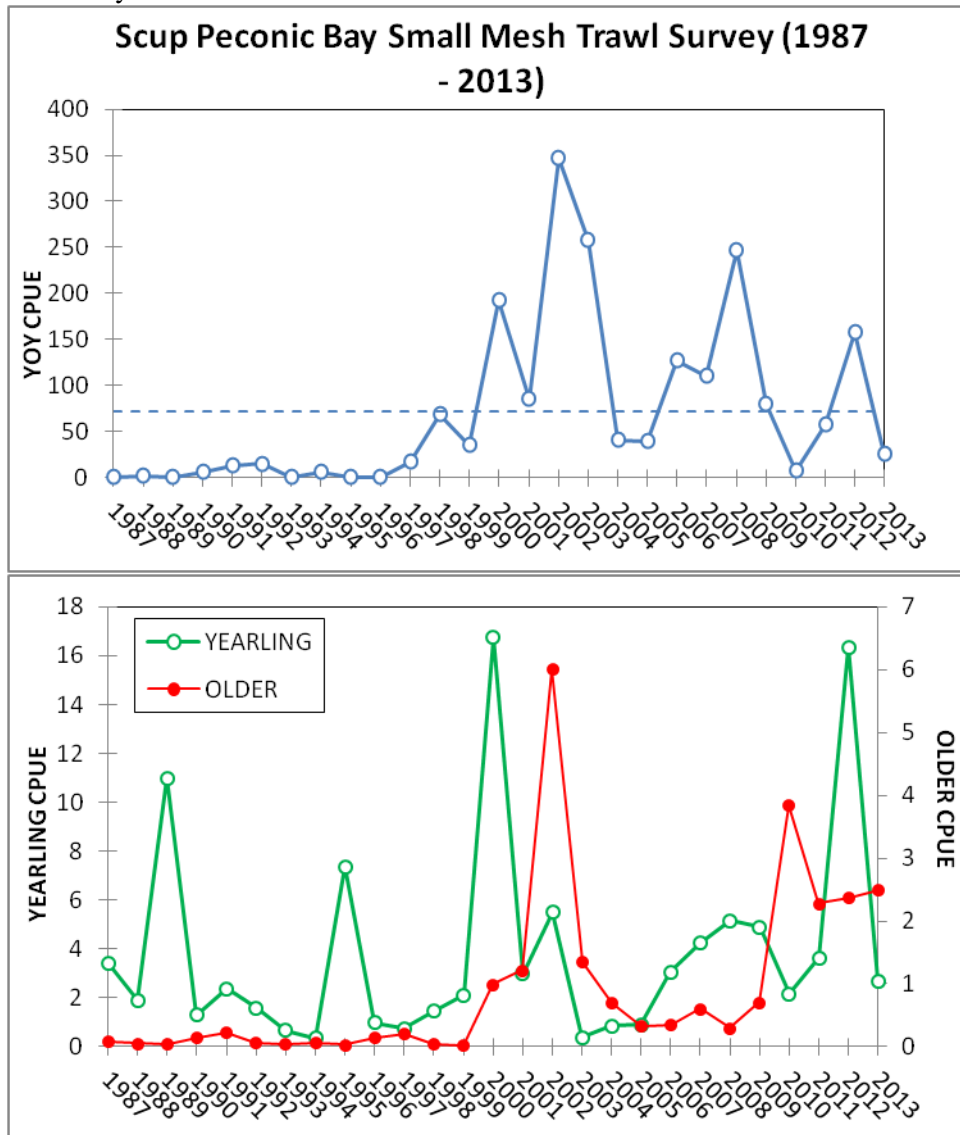
### III. Previous calendar year's fishery and management program

#### a. Activity and results of fishery dependent monitoring

Commercial: see table at end of document for quota monitoring and quota management data.

#### b. Activity and results of fishery independent monitoring

Peconic Bay Small Mesh Trawl Survey: In 2013, 362 tows were conducted in the Peconic Bays yielding 8,215 scup, ~81% of which were YOY. The index CPUE of YOY scup is 24.85, well below the time series average of 71.7 and the second lowest in the last 16 years. The yearling CPUE was also slightly below the time series average while the index of older fish has been consistently high for the last 4 years.



**c. Regulations in effect**

See Appendix B

Recreational Regulations: 10.0” minimum size limit  
 30 fish possession limit  
 Open season May 1 – December 31  
 \*For-Hire “Bonus” 45 fish possession September & October

Commercial Regulations: See quota distribution plan (Appendix A)  
 9” minimum size - Yes  
 5.0” minimum diamond mesh - Yes  
 Threshold to trigger minimum mesh requirements (500lbs 11/1-4/30; 200lbs 5/1-10/31) - Yes  
 3.1” circular escape vents, 2.25” square escape vent, or rectangular escape vent of equivalent size. - Yes

**d. Harvest**

| YEAR   | COMMERCIAL LBS |             |              |         |           |           |           | RECREATIONAL NO. FISH |               |
|--|----------------|-------------|--------------|---------|-----------|-----------|-----------|-----------------------|---------------|
|  | GILL NET       | HOOK & LINE | NOT REPORTED | OTHER   | POUND NET | TRAWL     | TOTAL     | HARVEST (A+B1)        | RELEASED (B2) |
| 2004   | 11,674         | 77,165      | 604,874      | 31,015  | 5,304     | 1,176,857 | 1,906,889 | 1,876,972             | 3,514,103     |
| 2005   | 31,447         | 198,651     | 649,698      | 128,950 | 550       | 1,176,540 | 2,185,836 | 859,156               | 1,737,255     |
| 2006   | 14,022         | 18,414      | 1,739,921    | 14,107  | 2,505     | 516,192   | 2,305,161 | 1,677,998             | 2,621,812     |
| 2007   | 2,289          | 15,399      | 1,851,060    | 33,467  | 790       | 377,107   | 2,280,112 | 1,596,391             | 1,963,724     |
| 2008   | 2,006          | 12,219      | 984,076      | 30,469  | 4,008     | 170,883   | 1,203,661 | 1,450,861             | 2,838,176     |
| 2009   | 465            | 23,876      | 1,649,185    | 46,697  | 230       | 125,455   | 1,845,908 | 1,460,314             | 2,124,306     |
| 2010   | 659            | 22,435      | 2,074,785    | 93,130  | 215       | 498,219   | 2,689,443 | 1,990,339             | 1,864,138     |
| 2011   | 668            | 12,974      | 2,488,890    | 18,773  | 164       | 1,021,069 | 3,542,538 | 714,789               | 997,520       |
| 2012   | 811            | 104,991     | 3,092,923    | 169,300 | 1,184     | 937,412   | 4,306,621 | 592,238               | 1,235,278     |
| 2013*  | 1,036          | 12,545      | 3,372,752    | 119,549 | 1,470     | 899,879   | 4,407,231 | 978,444               | 1,841,184     |
| Commercial data 2004-2012 is from NMFS Fisheries Statistics    |                |             |              |         |           |           |           |                       |               |
| Commercial data 2013 is from ACCSP Confidential Dealer Reports |                |             |              |         |           |           |           |                       |               |
| All recreational data is from MRIP queries as of 5/30/2014     |                |             |              |         |           |           |           |                       |               |

**IV. Planned management programs for the current calendar year**

**V. Law Enforcement Reporting Requirements**

Weekly summary of scup commercial landings for 2013 in New York State

| Week | Trip Limit (in lbs.) | Landings (in lbs) | Late Entries | Total Landings | Period Dates           | Average daily catch in lbs. | Unadjusted cumulative landings for year |
|------|----------------------|-------------------|--------------|----------------|------------------------|-----------------------------|---|
| 1    | 50,000               | 31,977            | 2,298        | 34,275         | Jan 1 to Jan 5         | 4,896                       | 34,275                                  |
| 2    | 50,000               | 69,681            | 4,332        | 74,013         | Jan 6 to Jan 12        | 10,573                      | 108,288                                 |
| 3    | 50,000               | 18,791            | 2,247        | 21,038         | Jan 13 to Jan 19       | 3,005                       | 129,326                                 |
| 4    | 50,000               | 38,669            | 2,764        | 41,433         | Jan 20 to Jan 26       | 5,919                       | 170,759                                 |
| 5    | 50,000               | 105,945           | 5,040        | 110,985        | Jan 27 to Feb 2        | 15,855                      | 281,744                                 |
| 6    | 50,000               | 73,048            | 42,310       | 115,358        | Feb 3 to Feb 9         | 16,480                      | 397,102                                 |
| 7    | 50,000               | 11,869            | 4,220        | 16,089         | Feb 10 to Feb 16       | 2,298                       | 413,191                                 |
| 8    | 50,000               | 40,476            | 28,558       | 69,034         | Feb 17 to Feb 23       | 9,862                       | 482,225                                 |
| 9    | 50,000               | 207,049           | 5,368        | 212,417        | Feb 24 to March 2      | 30,345                      | 694,642                                 |
| 10   | 50,000               | 79,182            | 30,180       | 109,362        | March 3 to March 9     | 15,623                      | 804,004                                 |
| 11   | 50,000               | 49,462            | 43,760       | 93,222         | March 10 to March 16   | 13,317                      | 897,226                                 |
| 12   | 50,000               | 78,372            | 2,195        | 80,567         | March 17 to March 23   | 11,510                      | 977,793                                 |
| 13   | 50,000               | 100,908           | 7,097        | 108,005        | March 24 to March 30   | 15,429                      | 1,085,798                               |
| 14   | 50,000               | 77,959            | 42,895       | 120,854        | March 31 to April 6    | 17,265                      | 1,206,652                               |
| 15   | 50,000               | 139,364           | 23,245       | 162,609        | April 7 to April 13    | 23,230                      | 1,369,261                               |
| 16   | 50,000               | 174,380           | 12,955       | 187,335        | April 14 to April 20   | 26,762                      | 1,556,596                               |
| 17   | 50,000               | 113,958           | 0            | 113,958        | April 21 to April 27   | 16,280                      | 1,670,554                               |
| 18   | 1,500                | 170,120           | 25,240       | 195,360        | April 28 to May 4      | 27,909                      | 1,865,914                               |
| 19   | 1,500                | 83,033            | 11,120       | 94,153         | May 5 to May 11        | 13,450                      | 1,960,067                               |
| 20   | 1,500                | 35,181            | 59,306       | 94,487         | May 12 to May 18       | 13,498                      | 2,054,554                               |
| 21   | 1,500                | 74,539            | 21,673       | 96,212         | May 19 to May 25       | 13,745                      | 2,150,766                               |
| 22   | 1,500                | 82,767            | 82,995       | 165,762        | May 26 to June 1       | 23,680                      | 2,316,528                               |
| 23   | 2,000                | 142,380           | 10,151       | 152,531        | June 2 to June 8       | 21,790                      | 2,469,059                               |
| 24   | 2,000                | 88,014            | 42,129       | 130,143        | June 9 to June 15      | 18,592                      | 2,599,202                               |
| 25   | 2,000                | 113,042           | 40,881       | 153,923        | June 16 to June 22     | 21,989                      | 2,753,125                               |
| 26   | 2,000                | 76,311            | 42,011       | 118,322        | June 23 to June 29     | 16,903                      | 2,871,447                               |
| 27   | 500                  | 39,170            | 29,546       | 68,716         | June 30 to July 6      | 9,817                       | 2,940,163                               |
| 28   | 500                  | 34,743            | 7,307        | 42,050         | July 7 to July 13      | 6,007                       | 2,982,213                               |
| 29   | 100                  | 11,671            | 6,050        | 17,721         | July 14 to July 20     | 2,532                       | 2,999,934                               |
| 30   | 100                  | 12,679            | 23,421       | 36,100         | July 21 to July 27     | 5,157                       | 3,036,034                               |
| 31   | 100                  | 11,327            | -6,241       | 5,086          | July 28 to Aug 3       | 727                         | 3,041,120                               |
| 32   | 100                  | 6,960             | 4,284        | 11,244         | Aug 4 to Aug 10        | 1,606                       | 3,052,364                               |
| 33   | 100                  | 11,831            | -14,030      | -2,199         | August 11 to August 17 | -314                        | 3,050,165                               |
| 34   | 100                  | 7,501             | 21,752       | 29,253         | August 18 to Aug 24    | 4,179                       | 3,079,418                               |
| 35   | 100                  | 41,547            | 21,977       | 63,524         | Aug 25 to Aug 31       | 9,075                       | 3,142,942                               |
| 36   | 100                  | 1,985             | 9,641        | 11,626         | Sept 1 to Sept 7       | 1,661                       | 3,154,568                               |
| 37   | 100                  | 10,365            | 7,125        | 17,490         | Sept 8 to Sept 14      | 2,499                       | 3,172,058                               |
| 38   | 100                  | 8,046             | 1,655        | 9,701          | Sept 15 to Sept 21     | 1,386                       | 3,181,759                               |
| 39   | 100                  | 10,477            | 9,659        | 20,136         | Sept 22 to Sept 28     | 2,877                       | 3,201,895                               |
| 40   | 100                  | 16,480            | 4,442        | 20,922         | Sept 29 to Oct 5       | 2,989                       | 3,222,817                               |
| 41   | 100                  | 30,960            | -47,187      | -16,227        | Oct 6 to Oct 12        | -2,318                      | 3,206,590                               |
| 42   | 100                  | -14,354           | 27,098       | 12,744         | Oct 13 to Oct 19       | 1,821                       | 3,219,334                               |
| 43   | 8,000                | 69,672            | 0            | 69,672         | Oct 20 to Oct 26       | 9,953                       | 3,289,006                               |
| 44   | 8,000                | 106,346           | 13,556       | 119,902        | Oct 27 to Nov 2        | 17,129                      | 3,408,908                               |
| 45   | 8,000                | 61,569            | 31,756       | 93,325         | Nov 3 to Nov 9         | 13,332                      | 3,502,233                               |
| 46   | 8,000                | 63,952            | 24,570       | 88,522         | Nov 10 to Nov 16       | 12,646                      | 3,590,755                               |
| 47   | 8,000                | 111,052           | 35,973       | 147,025        | Nov 17 to Nov 23       | 21,004                      | 3,737,780                               |
| 48   | 8,000                | 64,936            | 6,278        | 71,214         | Nov 24 to Nov 30       | 10,173                      | 3,808,994                               |
| 49   | 8,000                | 95,569            | 64,471       | 160,040        | Dec 1 to Dec 7         | 22,863                      | 3,969,034                               |
| 50   | 8,000                | 42,945            | 24,936       | 67,881         | Dec 8 to Dec 14        | 9,697                       | 4,036,915                               |
| 51   | 8,000                | 33,110            | 45,611       | 78,721         | Dec 15 to Dec 21       | 11,246                      | 4,115,636                               |
| 52   | 8,000                | 21,880            |              | 21,880         | Dec 22 to Dec 28       | 3,126                       | 4,137,516                               |
| 53   | 8,000                |                   |              | 0              | Dec 29 to Dec 31       | 0                           | 4,137,516                               |



Appendix A.

## 2013 SUMMER SCUP DISTRIBUTION

The 2013 summer scup quota allocation provided by the United States Department of Commerce, National Marine Fisheries Service to the State of New York **is anticipated to be 1,450,019** pounds. DEC's quota distribution plan for scup in 2013 follows. The purpose of this distribution is to fully utilize the available scup quota for the maximum benefit to New York's fishery and to minimize the likelihood of a closure.

| <b>2013 Summer Scup Quota Distribution</b> |                            |             |                    |                |
|--|----------------------------|-------------|--------------------|----------------|
|  | Dates                      | Quota (lbs) | Initial trip limit | % Distribution |
| Period 1                                   | <b>May - June</b>          | 870,011     |                    | 60%            |
|  | <b>May</b>                 |             | 1,500              |                |
|  | <b>June</b>                |             | 2,000              |                |
| Period 2                                   | <b>July - August</b>       | 290,004     | 1,000              | 20%            |
| Period 3                                   | <b>September - October</b> | 290,004     | 1,000              | 20%            |

Provisions to the quota distribution plan—

1. Any period's unused allocation will roll over to the next period. Currently, the Fishery Management Plan does not allow for one year's unused quota to be rolled over to the next year.
2. As per regulations, holders of a summer flounder fixed gear permit (pound net/trap net) will be exempt from any scup fishery closures. In the event of a closure, a daily trip limit will be established for the fixed gear fishery.
3. DEC may adjust this quota distribution plan if the level of harvest is different from what was projected to ensure maximum utilization of the scup resource and prevent the state allocation from being surpassed.
4. The final 2013 quota allocation is subject to change by adjustments made by the National Marine Fisheries Service.



NEW JERSEY DIVISION OF  
**Fish and Wildlife**  
P.O. Box 400  
Trenton, NJ 08625-0400  
David Chanda, Director

## Memorandum

TO: Kirby Rootes-Murdy, Fisheries Management Plan Coordinator  
Atlantic States Marine Fisheries Commission

FROM: Peter Clarke, Fisheries Biologist  
NJ Division of Fish and Wildlife

DATE: 22 May 2014

SUBJECT: 2013 Summer Flounder, Scup and Black Sea Bass Compliance Report

Attached is the subject report. If you have any questions or need anything else please contact me.

STATE OF NEW JERSEY  
ASMFC Compliance Report for Scup  
Calendar Year 2013

I. Introduction

This report has been prepared to satisfy Atlantic States Marine Fisheries Commission (ASMFC) compliance reporting requirements for scup. No significant changes in monitoring or regulations occurred. Daily commercial trip limits for scup remained the same in 2013 as 2012. Dealers and fishermen were notified of trip limits, seasons and quotas and are reflected in Table 2. The scup recreational fishing regulations were unchanged in 2013 compared to 2012 and remain 50 fish at 9 inches with a season from January 1 to February 28 and July 1 to December 31.

II. Request for de minimus status: Not Applicable.

III. Previous Calendar Years Fishery and Management (2013):

a. Fishery Dependent Monitoring

Commercial scup landings were monitored through daily and/or weekly SAFIS dealer reports listing landings by vessel. These reports are used to administer commercial quotas Table 2. Commercial landings were also available through the National Marine Fisheries Service. Recreational harvest was monitored through the Marine Recreational Information Program.

b. Fishery Independent Monitoring

Scup abundance and size composition have been monitored through New Jersey's Ocean Stock Assessment Survey since 1988. The survey is conducted five times a year. Annual survey indices expressed as #/tow and weight/tow for scup are listed on Table 4.

c. Copies of Regulations for 2013.

Required FMP mandates were met.

Commercial and recreational regulations are attached as Appendix I and II.

#### IV. Planned Management Programs for 2014

Commercial landings of scup will continue to be monitored via SAFIS electronic dealer reporting for quota management. All New Jersey Scup Dealers were notified that the NJ Department of Environmental Protection will accept SAFIS reporting as an approved method to satisfy state reporting requirements beginning January 1, 2007. This action was taken to eliminate the duplicate reporting requirements that had been in effect. Trip limits and quotas will be modified as per ASMFC direction. The recreational fishing regulations for scup in 2014 will remain the same as 2013 with a 50 fish possession limit, 9 inch size limit, and an open season from January 1 to February 28 and July 1 to December 31.

**Table 2. New Jersey Commercial Scup Landings Data: 2013**

| Season   | Quota      | Coastwide Landings | NJ Landings | Percent of Quota Landed | NJ % of Coastwide Landings | Trip Limit                                    |
|--|------------|--------------------|-------------|-------------------------|----------------------------|---|
| WINTER 1 Coastal (Jan.1 - Apr. 30)                           | 10,631,157 | 7,124,491          | 1,707,033   | 67%                     | 24%                        | 50,000/trip with a max of 7 trips per week    |
| SUMMER State Share(May 1 - October 31) 2.9% of coastal quota | 273,951    |                    | 37,189      | 28.79%                  |                            | 5,000/trip up to 7 trips per week             |
| WINTER 2 Coastal (Nov 1- Dec. 31)                            | 6,932,998  | 618,392            | 288,861     | 8.92%                   | 47%                        | 8,000/day with a maximum of 7 trips per week. |

**Table 4.** Annual abundance indices (arithmetic mean stratified number and weight [kg] per tow) of scup, summer flounder, and black sea bass taken in bottom trawl surveys of New Jersey coastal waters. Means are based on data pooled for five survey cruises each year (January, April, June, August, October [+December in 1989]).

| Year | Samples (n) | Scup    |        | Summer Flounder |        | Black Sea Bass |        |
|------|-------------|---------|--------|-----------------|--------|----------------|--------|
|      |             | Number  | Weight | Number          | Weight | Number         | Weight |
| 1989 | 193         | 72.75   | 2.75   | 1.33            | 0.58   | 1.58           | 0.25   |
| 1990 | 171         | 74.72   | 3.77   | 2.43            | 1.04   | 1.42           | 0.26   |
| 1991 | 189         | 200.61  | 6.17   | 3.32            | 1.38   | 4.10           | 0.57   |
| 1992 | 191         | 222.70  | 7.16   | 3.98            | 1.77   | 2.32           | 0.33   |
| 1993 | 187         | 256.91  | 5.21   | 7.19            | 2.69   | 3.01           | 0.49   |
| 1994 | 186         | 86.45   | 3.30   | 2.39            | 1.04   | 0.64           | 0.13   |
| 1995 | 188         | 27.13   | 2.08   | 7.24            | 3.00   | 1.84           | 0.26   |
| 1996 | 189         | 30.81   | 1.04   | 8.06            | 3.53   | 2.90           | 0.62   |
| 1997 | 187         | 52.09   | 3.82   | 13.80           | 7.49   | 40.21          | 0.62   |
| 1998 | 188         | 220.05  | 4.88   | 8.05            | 4.09   | 4.36           | 0.29   |
| 1999 | 186         | 209.10  | 10.30  | 9.66            | 5.03   | 2.48           | 0.30   |
| 2000 | 186         | 262.66  | 6.67   | 6.35            | 3.64   | 7.14           | 1.76   |
| 2001 | 186         | 163.37  | 4.32   | 4.80            | 2.68   | 5.52           | 1.25   |
| 2002 | 188         | 568.07  | 25.73  | 14.45           | 9.97   | 25.23          | 2.86   |
| 2003 | 188         | 804.08  | 10.19  | 8.54            | 6.06   | 5.43           | 1.34   |
| 2004 | 187         | 449.12  | 11.70  | 9.22            | 5.96   | 3.29           | 0.60   |
| 2005 | 186         | 147.98  | 4.19   | 9.63            | 4.22   | 1.21           | 0.23   |
| 2006 | 186         | 943.63  | 16.52  | 9.10            | 5.03   | 4.54           | 0.50   |
| 2007 | 187         | 1185.54 | 38.27  | 7.98            | 4.94   | 15.64          | 1.95   |
| 2008 | 186         | 141.17  | 3.19   | 5.41            | 2.85   | 2.76           | 0.62   |
| 2009 | 186         | 205.66  | 6.04   | 7.33            | 3.90   | 6.64           | 1.21   |
| 2010 | 186         | 141.11  | 2.21   | 9.41            | 4.52   | 2.20           | 0.34   |
| 2011 | 186         | 101.74  | 5.13   | 5.84            | 3.27   | 3.62           | 0.55   |
| 2012 | 186         | 131.73  | 5.83   | 7.53            | 3.99   | 7.15           | 0.63   |
| 2013 | 186         | 12.72   | 0.50   | 6.41            | 3.51   | 3.88           | 0.66   |

**Appendix I. N.J.A.C. 7:25-18.1** Size, season, and possession limits. 2013

(a) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or group of species, except as otherwise specified elsewhere in this subchapter.

| <u>Common Name</u>         | <u>Scientific Name</u> |
|----------------------------|------------------------|
| Black Sea Bass             | Centropristis striata  |
| Scup (Porgy)               | Stenotomus chrysops    |
| Summer Flounder<br>(Fluke) | Paralichthys dentatus  |

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

| <u>Species</u>  | <u>Minimum Size<br/>(inches)</u> |
|-----------------|----------------------------------|
| Black Sea Bass  | 11                               |
| Scup (Porgy)    | 9                                |
| Summer Flounder | 14                               |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below:

| <u>Species</u>             | <u>Minimum<br/>Size<br/>In Inches</u> | <u>Open Season</u>                    | <u>Possession<br/>Limit</u> |
|----------------------------|---------------------------------------|---------------------------------------|-----------------------------|
| Black Sea Bass             | 12.5                                  | May 19 – Aug 8                        | 15                          |
|                            |                                       | Sept 27-Oct 14                        | 20                          |
|                            |                                       | Nov 1 – Dec 31                        | 20                          |
| Scup (Porgy)               | 9                                     | Jan. 1—Feb. 28, and<br>July 1—Dec. 31 | 50                          |
| Summer Flounder<br>(Fluke) | 17.5                                  | May 5—Sept. 24                        | 5                           |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(e) Except as provided in (e)2 and (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.

1. A shark may be eviscerated and the head and tail removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the precaudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark or dogfish, except after fishing has ceased and such shark or dogfish has been landed as specified in (e) above.

2. A person may use parts of one legal sized summer flounder as bait. The carcass of the fish minus the fillets, commonly known as the rack, of the summer flounder used must be retained by the person and counted as part of the person's daily bag limit for that day. The rack shall be kept fully intact so it can be measured for minimum size limit. One summer flounder caught on the person's current fishing trip can be used for this purpose. No parts of fish caught on previous fishing trips shall be in possession. No other species of flat fish or fish listed under (b) or (c) above shall be used for this purpose.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (c) above at sea;

2. For purposes of this section, party boats are defined as vessels that can accommodate 15 or more passengers as indicated on the Certificate of Inspection issued by the United States Coast Guard for daily hire for the purpose of recreational fishing;

3. The Special Fillet Permit shall be subject to the following conditions:

i. Once fishing commences, no parts or carcasses of any species specified in (c) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (c) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (c) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (c) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fish of any species less than the minimum size limit specified in (c) above shall be filleted and no fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

| <u>Species</u> | <u>Minimum Fillet or Part Length</u> |
|----------------|--------------------------------------|
| Black Sea Bass | 5 inches                             |
| Scup           | 4 inches                             |

vi. Fish carcasses from the previous trip shall be disposed of prior to commencing fishing on a subsequent trip;

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner of the Special Fillet Permit according to the following schedule:

(1) First offense: 60 days suspension;

(2) Second offense: 120 days suspension; and

(3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. In calculating the period of suspension or revocation applicable under (f)3vii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-



year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

ix. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (b), (c), (d) or (e) above shall be liable to a penalty of \$ 30.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(m) Wanton waste of fish is prohibited.

1. Fish of any species, taken by any means, which are purposely killed shall become part of the fisherman's daily possession limit and shall be removed from the waters from which they were taken and from adjacent lands. This subsection shall not apply to those fish which are released while still alive and subsequently die or to those fish taken inadvertently by net (bycatch) and subsequently die.

(n) Any person violating the provisions of (h) through (l) above shall be liable for a penalty of \$ 100.00 for each fish taken or possessed. Each fish taken or possessed shall constitute a separate and distinct offense.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons, minimum size limits and possession limits specified in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. §5104(b) or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. The Department shall publish notice of any such modification in the New Jersey Fish and Wildlife Digest and the New Jersey Register, and shall submit a news release to individuals on the Division outdoor writers' mailing list.

(q) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule. After any instructions, signals or other communication from an authorized law enforcement officer indicating the officer's intent to perform an inspection, it shall be unlawful for any person to dispose of fish, fish parts or any other matter in any manner until such time as the inspection is complete. Violation of this provision shall subject the violator to the penalties established pursuant to N.J.S.A. 23:2B-14.

(r) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division.

## Appendix II. Commercial Regulations

### N.J.A.C. 7:25-18.12; Commercial fishing seasons, quotas, and trip limits.

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. After December 31, 2002, a vessel shall not land more than 100 pounds of black sea bass during the period of January 1 through March 31 or more than 50 pounds of black sea bass during the period of April 1 through December 31 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Black Sea Bass Permit. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Black Sea Bass Permit shall complete and submit an application provided by the Department by December 31, 2002 that includes information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified in (h)1ii below. Applications for a New Jersey Black Sea Bass Permit received after the above date shall be denied.
  - ii. To be eligible for a New Jersey Black Sea Bass Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold a minimum cumulative total of 10,000 pounds of black sea bass in New Jersey during the period 1988 through May 3, 2001;
    - (2) The vessel shall have possessed a valid Federal Black Sea Bass Moratorium Permit or appropriate New Jersey gear license for each year of submitted landings documentation; and
    - (3) Documented proof of landings shall consist of one or more of the following:
      - (A) Weigh-out slips totaling the weight harvested;
      - (B) A notarized statement from the applicant and the purchaser(s) attesting to the weight harvested (a copy of the business records the statement(s) must accompany the application);
      - (C) Other documentation similar to that in (h)1ii(3)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.
2. The New Jersey Black Sea Bass Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in a black sea bass fishery, may have on board the gear type(s) listed on that vessel's New Jersey Black Sea Bass Permit.
3. The owner of a vessel permitted pursuant to this sub-section not pending revocation or court action may transfer his or her Black Sea Bass Permit, upon application to the Department, as follows:
  - i. To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a black sea bass permit; or
  - ii. Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a Black Sea Bass Permit based on the harvesting history of the vessel being sold.
4. Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
5. Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.
6. A vessel possessing a valid Black Sea Bass Permit to commercially harvest black sea bass by angling or hook and line and when operating under the permit shall be subject to the following:
  - i. Crew size shall be limited to no more than five persons, including the captain; and
  - ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire the Black Sea Bass Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.
7. A vessel that does not possess a New Jersey Black Sea Bass Permit shall be permitted to land not more than 100 pounds of black sea bass during the period of January 1 through March 31, or not more than 50 pounds of black sea bass during the period of April 1 through December 31 on any trip provided the amount of black sea bass landed from any vessel

shall not exceed 10 percent, by weight, of the total weight of all species landed and sold. Vessels taking black sea bass by angling or hook and line that do not possess a New Jersey Black Sea Bass Permit shall be subject to the possession limits established in N.J.A.C. 7:25-18.1 and the seasonal by-catch limits and 10 percent criteria specified above.

8. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.
  - i. The Commissioner, or his or her designee, shall implement annual and seasonal black sea bass quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon four days public notice. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - ii. Ten percent of the New Jersey annual black sea bass quota shall be allocated each year for by-catch landings when any of the seasons for the directed commercial fishery defined in (h)8iii below are closed. The by-catch landings shall be divided between seasons as identified in (h)8iii below at the same percentage apportioned to each season specified at (h)8iii below.
    - (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
    - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed black sea bass fishery quota.
  - iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
    - (1) January 1-April 15: 38.8 percent, 750 pound trip limit and a maximum of two days per week or 1,500 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (2) April 16-June 30: 20.6 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (3) July 1-September 30: 13.5percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (4) October 1-December 31: 27.1 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (5) If a minimum of 50,000 pounds of the New Jersey black sea bass quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year.
    - (6) Any daily landings of black sea bass not exceeding 100 pounds during the period of January 1 through March 31 or 50 pounds during the period of April 1 through December 31 shall not be applied to maximum weekly landings days during any season as specified in (h)8iii(1) through (4) above, provided the amount of black sea bass landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
  - iv. No vessel shall have in possession or land and no dealer shall accept from any one vessel or person more than the lesser of the daily trip limit of black sea bass set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission in any one calendar day.
  - v. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders.

- vi. Once the season has been closed for the directed commercial black sea bass fishery, no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or purchase any black sea bass landed in New Jersey in excess of the by-catch allowances specified in (h)1 and 7 above and provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or buy any black sea bass landed in New Jersey.
- vii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (h)7v above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- viii. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- ix. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following season. The amount overharvested shall also be deducted from the following years seasonal quota in pounds and reallocated to the season from which it was deducted the previous year.
- x. Any vessel participating in the black sea bass fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the trip being called in. For example, "this will be my third landing this week." Notification shall include phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.
- 9. After December 31, 2002, no dealer shall accept or purchase any black sea bass from any vessel or harvester unless such dealer is in possession of a valid New Jersey Black Sea Bass Dealers Permit. A New Jersey Black Sea Bass Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:
  - New Jersey Black Sea Bass Dealers Permit
  - Nacote Creek Research Station
  - PO Box 419
  - Port Republic, NJ 08241
- 10. After December 31, 2002, no dealer shall accept or purchase from any one vessel more than the amounts of black sea bass specified at (h)1 above unless said vessel is in possession of its valid New Jersey Black Sea Bass Permit.
- 11. After December 31, 2002, any harvester or vessel landing black sea bass in New Jersey for the purpose of sale shall sell all black sea bass to a permitted New Jersey Black Sea Bass Dealer.
- 12. All permitted New Jersey Black Sea Bass Dealers shall provide daily reports during the period January 1 through April 15 and weekly reports during the period April 16 through December 31 to the Division listing the amount of black sea bass landed on a daily basis and any other information that may be required by the Commissioner. If no black sea bass were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number listed on the reporting form no later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
- 13. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the required documentation to an application shall result in the denial of the permit.

- ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of black sea bass landed as specified in (h)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
- iii. Failure to comply with the provisions of (h)6 above, criteria under which a vessel may harvest black sea bass by angling or hook and line, (h)8 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)9 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)10 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to (h)1 and 7 above, and (h)11 above, selling black sea bass to a non-permitted dealer shall result in the suspension during open season(s) or revocation of the vessel's and/or dealer's Black Sea Bass Permit according to the following schedule:
  - (1) First offense: 60 days suspension;
  - (2) Second offense: 120 days suspension;
  - (3) Third offense: permanent revocation;
- iv. In calculating the period of suspension or revocation applicable under (h)13iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Black Sea Bass Dealers Permit suspended or revoked shall not land or permit the landing of any black sea bass at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Black Sea Bass Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(i) The following provisions are applicable to the commercial harvest of summer flounder:

- 1. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (i)3 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Summer Flounder Permit shall complete and submit an application provided by the Department. Applicants applying to use hook and line shall submit their applications no later than May 31, 1994. Applicants applying for a New Jersey Summer Flounder permit for any other gear type shall submit their applications no later than January 1, 2000. Applications for a New Jersey Summer Flounder Permit received after the above dates shall be denied.
  - ii. To be eligible for a New Jersey Summer Flounder Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold at least 1,000 pounds of summer flounder in each of two years during the period of 1985-1992;
    - (2) The vessel shall have possessed a valid New Jersey otter trawl, pound net, or gill net license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of

summer flounder landed and sold in (i)1ii(!) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 to November 2, 1988 or vessels providing documentation of harvest by hook and line are exempt from this requirement; and

- (3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl, pound net or gill net license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in the directed summer flounder fishery, may only have on board the gear type(s) listed on that vessel's New Jersey Summer Flounder Permit.

- (1) The owner of a vessel permitted pursuant to this subsection not pending revocation or court action may transfer his or her Summer Flounder Permit, upon application to the Department, as follows:

- (A) To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a New Jersey Summer Flounder Permit; or

- (B) Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a New Jersey Summer Flounder Permit based on the harvesting history of the vessel being sold.

- (2) Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.

- (3) Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.

iv. A vessel possessing a valid New Jersey Summer Flounder Permit to commercially harvest summer flounder by angling or hook and line and when operating under the permit shall be subject to the following:

- (1) Crew size shall be limited to no more than five persons, including the captain; and

- (2) The vessel shall not carry any passengers for hire. When carrying passengers for hire the New Jersey Summer Flounder Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.

v. A vessel that does not possess a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder during the period of May 1 through October 31, or not more than 200 pounds of summer flounder during the period of November 1 through April 30 on any trip provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold, except that vessels taking summer flounder by angling or hook and line shall be subject to the possession limits established in N.J.A.C. 7:25-18.1.

2. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (i)3 below and such agreement indicated otherwise.

- i. Ten percent, but no more than 200,00 pounds of the of the New Jersey annual summer flounder quota, shall be allocated each year for by-catch landings when any of the six seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the six seasons as identified at (i)2ii below at the same percentage as for the directed fishery specified at (i)2ii below or as modified by the Commissioner.

- (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
  - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed summer flounder fishery quota.
  - (3) For the purpose of this section, all directed fishery seasons identified at (i)2i below shall start on the first Sunday of the applicable month.
- ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
- (1) January-February: 28 percent, 2,500 pound trip limit and a maximum of two days a week or 5,000 pound trip limit and a maximum of one day a week that a vessel may land summer flounder;
  - (2) March - April: 11 percent, 2,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder;
  - (3) May-June: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (4) July-August: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (5) September - October: 29 percent, 750 pound trip limit and a maximum of four days that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds;
  - (6) November - December: 11 percent, 1,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds; and
  - (7) Any daily landings of summer flounder not exceeding 100 pounds during the period of May 1 through October 31 or 200 pounds during the period of November 1 through April 30 shall not be applied to maximum weekly landings days during any season as specified in (i)2ii(1) through (6) above, provided the amount of summer flounder landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
- iii. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of summer flounder in any one calendar year.
- iv. Any vessel participating in a directed summer flounder fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the tip being called in. For example, "This will be my third landing this week." Notification shall include a phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.

- v. If a minimum of 100,000 pounds of the New Jersey summer flounder quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year or until the quota specified in (i)2 above is landed, whichever occurs first.
- vi. The Commissioner, or his or her designee, shall close the season for the directed and/or by-catch commercial summer flounder fishing season upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all permitted New Jersey Summer Flounder Dealers and New Jersey Summer Flounder Permit holders.
- vii. Once the season has been closed for the directed commercial summer flounder fishery, no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey in excess of the by-catch allowances specified in (i)1 above and provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any summer flounder and no dealer or person shall accept or buy any summer flounder landed in New Jersey.
- viii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (i)2vi above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- ix. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- x. If the quota for any of the first five seasons is exceeded, the amount overharvested shall be deducted from the following season.
- xi. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (i)2i and ii above.
- xii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.
- xiii. All New Jersey Summer Flounder Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Summer Flounder Program  
 Nacote Creek Research Station  
 PO Box 419  
 Port Republic, NJ 08241

- (1) The monthly report shall include, but not be limited to, the following information: name, New Jersey Summer Flounder Permit number of the vessel, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which summer flounder are landed. New Jersey Summer Flounder Permit holders who also possess a Federal summer flounder permit and are required to report monthly to the Federal government may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
- (2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.



3. Pursuant to Amendment 5 of the Mid-Atlantic Fishery Management Council's Summer Flounder Management Plan, the Commissioner may enter into agreements with other states to transfer or combine summer flounder commercial quotas. Such agreements shall specify the terms and conditions under which vessels not in possession of a New Jersey Summer Flounder Permit may land summer flounder in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.
4. No fish dealer shall accept any summer flounder from any vessel or harvester unless such dealer is in possession of a valid New Jersey Summer Flounder Dealers Permit. A New Jersey Summer Flounder Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Summer Flounder Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

5. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (i)1 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.
6. No vessel shall land and no dealer shall accept any summer flounder which have been frozen, filleted or processed in any way. Only whole, fresh summer flounder may be landed, except that by-catch amounts of summer flounder as specified in i(1) above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.
7. Any harvester or vessel landing summer flounder in New Jersey for the purpose of sale shall sell all summer flounder to a permitted New Jersey Summer Flounder Dealer.
8. All permitted New Summer Flounder Dealers shall provide daily reports during the period January 1 through February 28 and weekly reports during the period March 1 through December 31 to the Division listing the amount summer flounder landed on a daily basis by size category and any other information that may be required by the Commissioner or as a result of any agreement with other states pursuant to (i)3 above. If no summer flounder were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division not later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
9. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the application by May 31, 1994 for use of hook and line or to attach the required documentation to the application shall result in the denial of the permit.
  - ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of summer flounder landed as specified in (i)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
  - iii. Failure to comply with the provisions of N.J.A.C. 7:25-18.14(i)2, minimum mesh sizes, (i)2iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (i)2iv above, failure of notification of landing of summer flounder, (i)2vii above, landing summer flounder after the directed fishery and/or by-catch season has been closed, (i)2xiii above, failure to submit accurate and timely monthly reports, (i)5 above accepting more than by-catch amounts from non-permitted vessels, (i)6 above accepting any summer flounder other than fresh product, or N.J.S.A. 7:25-18.14(a), (b), (d), (e), (f) or N.J.S.A. 23:3-46 through 47 shall result in the suspension during open seasons or revocation of the vessel's New Jersey Summer Flounder Permit or the dealers New Jersey Summer Flounder Dealers Permit according to the following schedule:
    - (1) First offense: 60 days suspension;
    - (2) Second offense: 120 days suspension;

(3) Third offense: permanent revocation;

- iv. In calculating the period of suspension or revocation applicable under (i)9iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Summer Flounder Dealers Permit suspended or revoked shall not land or permit the landing of any summer flounder at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Summer Flounder Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(k) The following provisions are applicable to the commercial harvest of scup:

- 1. Annual coastwide scup quotas and daily trip limits for the periods of January 1 through April 28 and November 1 through December 31, and an annual New Jersey scup quota for the period from May 1 through October 31 shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission. All landings of scup in New Jersey during the period from May 1 through October 31 shall be applied to the New Jersey scup quota.
  - i. Any closure of the scup fishery by the National Marine Fisheries Service in adjacent Federal waters or any closure which includes New Jersey marine waters during the periods January 1 through April 28 and November 1 through December 31 would automatically close New Jersey to commercial landings of scup.
  - ii. The Commissioner, or his or her designee, shall implement annual and seasonal scup quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon two days public notice. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - iii. The Commissioner, or his or her designee, shall close the season for the commercial scup fishery upon two days public notice of the projected date the New Jersey seasonal quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Scup Dealer Permit holders and Federal scup moratorium, permit holders that are New Jersey residents.
  - iv. Once the season has been closed for the commercial scup fishery, no vessel shall land any scup and no dealer shall accept any scup landed in New Jersey.
  - v. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (k)1iii above.
  - vi. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following year's quota for that season.
- 2. No vessel shall have in possession or land and no dealer shall accept from any vessel more than the lesser of the daily trip limits set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission for the season of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealers shall accept from any one vessel more than the daily trip limit of 5,000 pounds of scup during the season of May 1 through October 31 or as provided for in (k)2i above.

- i. If a minimum of 25 percent of the New Jersey scup quota is projected to remain unlanded as of October 1 in any calendar year, then there shall be a 10,000 pound trip limit for the remainder of the season or until the season is closed as provided in (k)1i above.
  - ii. The trip limit for scup shall be two trips per week (Sunday through Saturday) with landings not to exceed 50,000 pounds during any two-week period from January 1 through April 28 and a daily limit as established by the National Marine Fisheries Service from November 1 through December 31. During the period of January 1 through April 28, the daily trip limit will be reduced to 1,000 pounds when it is projected that 80 percent of the period quota will be harvested.
3. No fish dealer shall accept any scup from any vessel or harvester unless such dealer is in possession of a valid New Jersey Scup Dealer Permit. A New Jersey Scup Dealer Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Scup Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

4. A harvester or vessel shall not land scup for the purpose of sale or sell any scup unless such harvester or vessel is in possession of a valid scup moratorium permit issued by the National Marine Fisheries Service.
5. Any harvester or vessel landing scup in New Jersey for the purpose of sale shall sell all scup to a permitted New Jersey Scup Dealer.
6. All permitted New Jersey Scup Dealers shall provide weekly reports to the Division listing the amount of scup landed on a daily basis and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (k)9 below. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
7. All scup moratorium permit holders landing scup in New Jersey shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Scup Program  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

- i. The monthly report shall include, but not be limited to, the following information: name, scup moratorium permit number, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which scup are landed. Scup moratorium permit holders may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
8. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
- i. Failure to comply with the provisions (k)1iv above, landing or accepting scup after the season has been closed; (k)2 above, landing or accepting more than the daily trip limit; (k)3 above, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (k)4 above, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (k)5 above, selling scup to a non-permitted fish dealer; or (k)6 and 7 above, failure to submit accurate and timely reports, shall result in the suspension during the open seasons or revocation of the dealer's New Jersey Scup Dealer Permit according to the following schedule:

- (1) First offense: 60 days suspension;
- (2) Second offense: 120 days suspension;
- (3) Third offense: permanent revocation;

ii. In calculating the period of suspension or revocation applicable under (k)8i above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

9. Pursuant to Amendment 8 of the Mid-Atlantic Fishery Management Council's Fishery Management Plan for the Summer Flounder and Scup Fishery, the Commissioner may enter into agreements with other states to transfer or combine scup commercial quotas. Such agreements shall specify the terms and conditions under which vessels may land scup in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.

#### **N.J.A.C. 7:25-18.14**

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.
2. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

- (1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;
- (2) The first body (belly) section of the net consists of 35 meshes or more of eight inches stretch mesh webbing or larger;
- (3) 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 two inch stretch mesh.

(p) Special provisions applicable to a directed scup fishery are as follows:

1. The possession of more than 500 pounds of scup during the period of November 1 through April 30 and more than 200 pounds of scup during the period of May 1 through October 31 on board a vessel or landed from a vessel shall constitute a directed fishery for scup.

2. A person utilizing an otter or beam trawl in a directed fishery for scup shall not use a net of less than 5.0 inches stretched mesh inside measurement applied for a minimum of 75 continuous meshes forward of the terminus of the net.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (p)2 above shall not contain any meshes less than 5.0 inches stretched mesh inside measurement throughout the entire net.
  3. The possession of any net with a mesh less than the minimum specified in (p)2 above on board a vessel in a directed fishery for scup is prohibited unless it is not available for immediate use as defined in (b) above.
- (q) Special provisions applicable to a directed black sea bass fishery are as follows:
1. The possession of more than 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period of April 1 through December 31 on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass for the purpose of requiring minimum mesh sizes as defined in (q)2 below.
  2. A person utilizing an otter or beam trawl in a directed fishery for black sea bass shall not use a net of less than 4.5 inches stretched diamond mesh or 4.0 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified in this paragraph on board a vessel in a directed fishery for black sea bass is prohibited unless it is not available for immediate use as defined in (b) above.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (q)2 above shall not contain any meshes less than 4.5 inches stretched diamond mesh or 4.0 inches stretched square mesh inside measurement throughout the entire net.



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF FISH & WILDLIFE  
89 Kings Highway  
Dover, Delaware 19901

OFFICE OF THE  
DIRECTOR

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## Delaware Scup Compliance Report

R. Wong, G. Glanden; May 19, 2014

### I. Introduction

Scup regulations were unchanged in 2013. Commercial landings and recreational landings remained low.

### II. Request for *de minimis* status

Delaware does not have a directed commercial fishery for scup in state waters. Four pounds of scup were reported landed during the 2013 commercial fishing season (Table 1). Delaware is requesting *de minimis* status for commercial scup landings during the 2014 fishing season.

### III. Previous year's fishery and management program

#### A. Fishery-Dependent Monitoring

All landings are submitted monthly by commercial fishers to the Division of Fish and Wildlife.

#### B. Fishery-Independent Monitoring

A fishery-independent 30 ft. trawl survey conducted annually in Delaware's coastal waters provides an index of abundance for scup (Figures 1, 2).

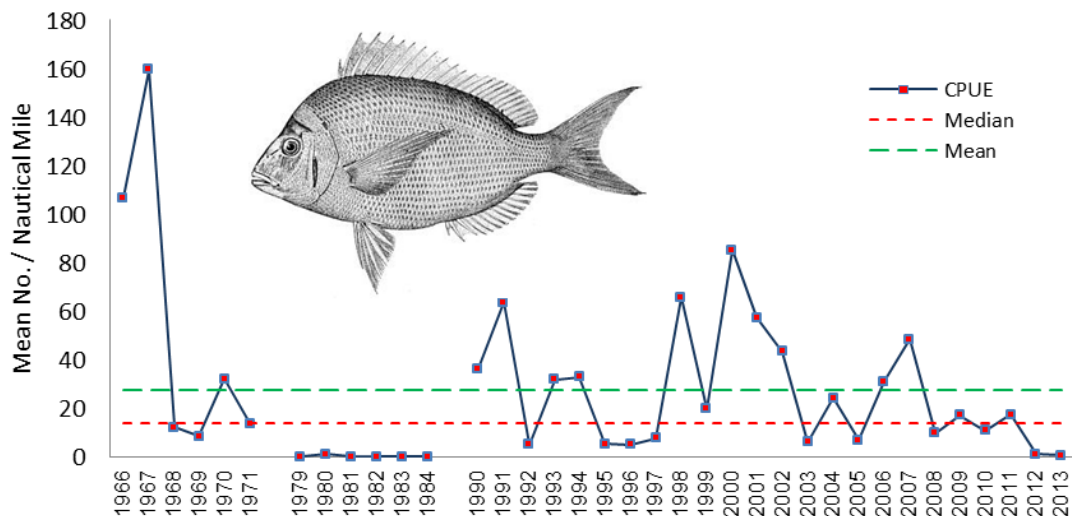


Figure 1. Fishery-independent 30 ft. trawl survey index of abundance.

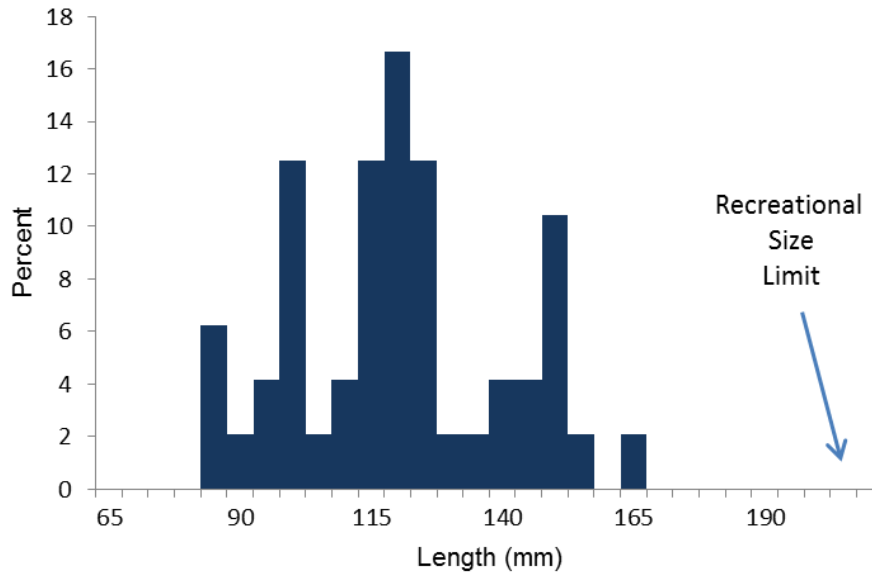


Figure 2. Scup length composition from fishery-independent 30 ft. trawl survey.

C. Regulations (2013)

1. Commercial regulations

Commercial regulations were the same as those in 2012. The minimum commercial size limit is 9 inches. The implementation of this size limit is an Atlantic States Marine Fisheries Commission (ASMFC) Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass Amendment 13 compliance requirement for *de minimis* status.

2. Recreational regulations

Recreational regulations were the same as those in 2012. The minimum size limit is 8 inches, the creel limit is 50 fish per day, and there is no closed season.

D. Harvest (2013)

1. Commercial landings

Four pounds of scup were landed commercially in Delaware in 2013 (Table 1).

Table 1. Delaware commercial scup landings by gear type 1996 –2013.

| Year | Pots | Gill Net | Hook and Line | Total     |
|------|------|----------|---------------|-----------|
| 1996 | 37   | 2        |               | <b>39</b> |
| 1997 |      |          | 53            | <b>53</b> |
| 1998 |      | 2        |               | <b>2</b>  |
| 1999 |      |          |               |           |
| 2000 |      |          | 6             | <b>6</b>  |
| 2001 |      |          |               |           |
| 2002 |      |          |               |           |

|      |   |   |   |   |
|------|---|---|---|---|
| 2003 |   |   |   |   |
| 2004 |   | 2 |   | 2 |
| 2005 |   |   |   |   |
| 2006 |   |   |   |   |
| 2007 |   |   | 3 | 3 |
| 2008 |   |   |   |   |
| 2009 |   |   |   |   |
| 2010 |   |   |   |   |
| 2011 | 9 |   |   | 9 |
| 2012 | 1 |   |   | 1 |
| 2013 | 4 |   |   | 4 |

2. Recreational landings

Recreational landings of scup in Delaware have fluctuated from year to year. For example, the MRIP catch estimate for 1991 was 440,195 scup landed by recreational fishers, whereas the 2012 estimate was only 86 (Table 2). The 2013 MRIP preliminary estimate for scup landed by recreational anglers in Delaware was 0 fish.

| <b>YEAR</b> | <b>LANDINGS</b> |
|-------------|-----------------|
| 1990        | 52,978          |
| 1991        | 440,195         |
| 1992        | 20,051          |
| 1993        | 5,090           |
| 1994        | 33,768          |
| 1995        | 933             |
| 1996        | 384             |
| 1997        | 5,837           |
| 1998        | 4,685           |
| 1999        | 492             |
| 2000        | 1,353           |
| 2001        | 1,055           |
| 2002        | 552             |
| 2003        | 1,218           |
| 2004        | 518             |



|      |       |
|------|-------|
| 2005 | 3,870 |
| 2006 | 319   |
| 2007 | 2,365 |
| 2008 | 1,338 |
| 2009 | 821   |
| 2010 | 0     |
| 2011 | 40    |
| 2012 | 86    |
| 2013 | 0     |

IV. **Planned Management Programs for 2014**

A. All management measures described above will remain in effect for 2014.

# MARYLAND'S 2013 ANNUAL COMPLIANCE REPORT FOR SCUP

Prepared for ASMFC

by:

Steve Doctor

Maryland Department of Natural Resources  
Fisheries Service  
Estuarine and Marine Fisheries Division

June 2014

## **I. Introduction**

Scup are managed under Amendment 13 which divides the quota between the recreational (22%) and commercial (78%) fisheries. Scup stock status was last assessed in December 2008 and summarized in the report of the Northeast Data Poor Stocks Working Group (NEFSC CDR 09-02). The review panel concluded that overfishing is not occurring, and that the stock is not overfished. A similar conclusion was reached with the 2011 update of the assessment. Juvenile Scup are commonly caught in Black Sea Bass pots in the fall by commercial Sea Bass potters, and commercial trawl landings have increased considerably in the past two years. Recreationally Scup are rarely caught.

## **II. De minimus** N/A

## **III. Previous calendar year's fishery and management program**

### Monitoring Programs

Scup data are collected from Maryland's Coastal Bays Finfish Investigation trawl and seine survey. A total of 140 trawl and 38 seine hauls are conducted annually. In 2013, two Scup were caught by trawl and 0 Scup were caught by seine.

## **Regulations**

### A. Minimum Size.

(1) Recreational. A recreational angler may not catch or possess a Scup less than 8 inches in total length.

(2) Commercial. A commercial tidal fish licensee may not catch or possess Scup less than 9 inches in total length.

### B. Commercial Gear Restrictions.

#### (1) Trawls.

(a) Except for a person landing less than a total of 500 pounds of Scup from November 1 through April 30 or 100 pounds of Scup from May 1 through October 31, a person may not use a trawl with:

- (i) Mesh less than 4 1/2 inch stretched mesh size;
    - (ii) More than 25 meshes in the codend with more than 100 continuous meshes of 5 inch mesh forward of the codend; or
    - (iii) Mesh size less than 4 1/2 inches throughout the trawl net for trawl nets with codends less than 125 meshes.
  - (b) A person may not use a roller rig trawl with a roller diameter in excess of 18 inches to catch Scup.
- (2) Pots and Traps. A pot or trap used to catch Scup shall have:
- (a) An escape vent of at least a:
    - (i) 3.1 inch diameter round opening, or
    - (ii) 2.25 inch square opening; and
  - (b) Hinges or fasteners on one panel or door made of one of the following degradable materials:
    - (i) Untreated hemp or jute string of 3/16 inch in diameter or smaller,
    - (ii) Magnesium alloy fasteners, or
    - (iii) Ungalvanized or uncoated iron wire of 0.062 inch in diameter or smaller.

#### C. Catch Limits.

(1) Commercial Catch Limits. A coastwide quota and daily catch limit to be shared by all Atlantic states will be established and published by National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission.

(2) A commercial tidal fish licensee may not catch, possess, or land more pounds of Scup daily than as set forth in §C(1) of this regulation.

(3) Recreational Catch Limits. An individual may not catch or possess more than 50 Scup per day.

#### D. General.

(1) The Secretary may modify or set a season or catch limit by publishing notice in a daily newspaper of general circulation at least 48 hours in advance of the modification, stating the effective hour and date.

(2) The Secretary shall make reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.

#### Harvest

#### Recreational Fishery

Harvest: Maryland's 2013 recreational Scup harvest was 0 fish (May 27, 2014, National Marine Fisheries Service, Fisheries Statistics and Economics Division, Personal communication).

#### **IV. Planned management programs for the current year (2014).**

Recreational Fishery: Same as 2013, described above.

Commercial Fishery: Same as 2013, described above.

Monitoring Programs: Same as 2013, described above.

#### **References**

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# COMMONWEALTH of VIRGINIA

## Marine Resources Commission

2600 Washington Avenue  
Third Floor  
Newport News, Virginia 23607

Molly Joseph Ward  
Secretary of Natural Resources

John M.R. Bull  
Commissioner

May 28, 2014

### MEMORANDUM

TO: Kirby Rootes-Murdy, Scup Fisheries Management Plan Coordinator  
Atlantic States Marine Fisheries Commission

FROM: Sally Roman, Fisheries Management Division  
Virginia Marine Resources Commission

SUBJECT: Virginia's 2013 Compliance Report for Scup

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#### I. Introduction

Virginia's commercial fishery for scup continues to be managed by a nine-inch total length minimum size limit. Commercial possession limits, gear restrictions, and harvest quotas for the three quota periods are monitored and amended as necessary, in order to remain in compliance with the interstate fishery management plan. Virginia's recreational scup fishery continues to be managed by an eight-inch total length minimum size limit and a 50 fish possession limit.

#### II. Request for *de minimis*, where applicable

N/A

#### III. Previous calendar year's fishery and management program

A. Activity and results of fishery-dependent monitoring (provide general results and references to technical documentation).

N/A

B. Activity and results of fishery-independent monitoring (provide general results and references to technical documentation).

The Virginia Institute of Marine Science (VIMS) Juvenile Trawl Survey and the Chesapeake Bay Multispecies Monitoring and Assessment Program (ChesMMAAP) Survey encounter scup. Both surveys produce abundance indices for species of top

commercial, recreational, or ecological importance in Virginia. The JTS abundance index for scup in 2012 was 0.74, an increase from the 2011 value of 0.22. The abundance indices for all ages (0 through 1) for 2013 are among the lowest in the ChesMMap time series.

The Northeast Area Monitoring and Assessment Program (NEAMAP) Trawl Survey samples black sea bass from the coastal ocean waters of Virginia. While this program generates coastwide age-specific and aggregate age class indices of abundance, the species is observed in the both spring and fall surveys off the coast of Virginia. The spring indices show a decline over the time series, with the exception of a high value for 2012, followed by a steep decline in 2013. All of the fall indices also show a steady decline since the beginning of the survey in 2008. The lowest value in the aggregated age class time series was in 2013.

Annual reports for the Juvenile Trawl Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/juvenile\\_surveys/d\\_ata\\_products/index.php](http://www.vims.edu/research/departments/fisheries/programs/juvenile_surveys/d_ata_products/index.php).

Annual scup-specific reports for the ChesMMap Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/ChesMMap/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/ChesMMap/index.php)

Annual scup-specific reports for the NEAMAP Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/NEAMAP/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/NEAMAP/index.php)

C. Copy of regulations that were in effect, including a reference to the specific compliance criteria as mandated in the FMP.

Chapter 4 VAC 20-910-10 et seq., "Pertaining to Scup (Porgy)", describes Virginia's scup regulations that were in effect for 2013. This regulation has been in effect since February 29, 2012 (Appendix I).

Required measures as mandated in the FMP

9" minimum size - Yes

5.0" minimum diamond mesh – Not Applicable

Threshold to trigger minimum mesh requirements: (500 lbs 11/1-4/30; 200 lbs from 5/1-10/31) – Not Applicable

3.1" circular escape vents, 2.25" square escape vent, or rectangular escape vent of equivalent size - Yes

D. Harvest broken down by commercial and recreational losses.

The commercial scup fishery operates in federal waters, and fish are landed in Virginia. Virginia's commercial scup landings by year (2004 through 2013) and quota period are included in Table 1. Scup landings in 2013 are preliminary

(913,113 pounds). The majority of landings (754,460 pounds) occurred during the Winter I period (January 1 through April 30). During the Summer period (May 1 through October 31), 13,884 pounds were landed, and 144,769 pounds were landed during the Winter II period (November 1 through December 31). Commercial landings by gear type are included in Table 2. Since the fishery operates almost exclusively in federal waters, harvest from gear types other than trawl gear is a minor component of the total.

The Marine Recreational Information Program (MRIP) estimates of landings of scup in Virginia from 2004 through 2013 are in Table 3. The MRIP estimated 1,238 fish (2,453 pounds) were harvested (Type A+B1) and 3,173 fish were released alive (Type B2) in 2013.

E. Review of progress in implementing habitat recommendations.

N/A

#### **IV. Planned management programs for the current calendar year**

A. Summarize regulations that will be in effect (copy of current regulations if different from III c).

All regulations for scup will remain the same as 2013, with the exception of the summer period quota and recreational possession limit. The summer period quota will increase to 14,105 pounds from 13,085 pounds. Chapter 4 VAC 20-910-10 et seq., "Pertaining to Scup (Porgy)", describes Virginia's scup regulations that were in effect for 2013. This regulation has been in effect since February 29, 2012 (Appendix II). The recreational possession limit will decrease from 50 fish to 30 fish, to be consistent with recently passed federal measures. The recreational possession limit will be adopted at the June Commission meeting, so is not included in Appendix II.

B. Summarize monitoring programs that will be performed.

The VIMS Juvenile Trawl Survey, ChesMMAP, and NEAMAP surveys will continue in 2014.

C. Highlight any changes from the previous year.

N/A

Table 1. Virginia commercial landings of scup (pounds), by year and quota period, 2004 through 2013. 2013 data are preliminary.

| Year  | Period    |        |           | Total     |
|-------|-----------|--------|-----------|-----------|
|       | Winter I  | Summer | Winter II |           |
| 2004  | 272,410   | 8,333  | 4,009     | 284,752   |
| 2005  | 172,306   | 6,664  | 3,946     | 182,916   |
| 2006  | 76,317    | 42     | 1,246     | 77,605    |
| 2007  | 16,335    | 5,890  | 354       | 22,579    |
| 2008  | 86,709    | 2,301  | 6,635     | 95,645    |
| 2009  | 210,172   | 163    | 1,241     | 211,576   |
| 2010  | 346,058   | 827    | 24,491    | 371,376   |
| 2011  | 596,166   | 2,053  | 22,261    | 620,480   |
| 2012  | 260,525   | 497    | 78,846    | 339,868   |
| 2013* | 754,460   | 13,884 | 144,769   | 913,113   |
| Total | 2,791,458 | 40,654 | 287,798   | 3,119,910 |

Table 3. Virginia recreational scup landings (A+B1) and release estimates (B2) from the Marine Recreational Information Program (2004 through 2013).

| Year | Total Landings Numbers (A+B1) | Total Landings Pounds (A+B1) | Released (B2) |
|------|-------------------------------|------------------------------|---------------|
|      | 2004                          | 10,999                       |               |
| 2005 | 8,507                         | 8,279                        | 63,940        |
| 2006 | 0                             | 0                            | 75,605        |
| 2007 | 586                           | 362                          | 22,404        |
| 2008 | 3,920                         | 1,039                        | 8,262         |
| 2009 | 527                           | 128                          | 18,635        |
| 2010 | 5,284                         | 5,498                        | 23,081        |
| 2011 | 10,413                        | 2,633                        | 7,739         |
| 2012 | 1,425                         | 2,317                        | 61,438        |
| 2013 | 1,238                         | 2,453                        | 3,173         |



**Appendix I.**

**VIRGINIA MARINE RESOURCES COMMISSION  
PERTAINING TO SCUP  
CHAPTER 4VAC20-910-10 ET SEQ.**

**PAGE 1 OF 3**

**PREAMBLE**

This chapter establishes minimum size limits, gear restrictions, and quotas for the harvest of scup (porgy). This chapter is promulgated pursuant to the authority contained in §28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4VAC20-910-10 et seq., which was adopted on October 25, 2011 and made effective November 1, 2011. The effective date of this chapter, as amended, is February 29, 2012.

**4VAC20-910-10. Purpose.**

The purpose of this chapter is to (i) reduce fishing mortality and increase the size of the scup spawning stock; (ii) improve yield from the commercial and recreational fisheries; (iii) promote compatible measures between the states and federal fishery jurisdictions; and (iv) maintain compliance with the Interstate Fishery Management Plan for Scup as required by the Atlantic Coastal Fisheries Cooperative Management Act (16 USC §5101 et seq.).

**4VAC20-910-20. Definitions.**

The following words and terms, when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

"Scup" means any fish of the species *Stenotomus chrysops*, commonly referred to as porgy.

**4VAC20-910-30. Minimum size limits.**

A. The minimum size of scup harvested by commercial fishing gear shall be nine inches total length.

B. The minimum size of scup harvested by recreational fishing gear including, but not limited to, hook and line, rod and reel, spear, and gig shall be eight inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to catch and retain possession of any scup smaller than the above designated minimum sizes in subsections A and B of this section

**Appendix I.**

**VIRGINIA MARINE RESOURCES COMMISSION**

**PAGE 3 OF 3**

**PERTAINING TO SCUP**

**CHAPTER 4VAC20-910-10 ET SEQ.**

E. It shall be unlawful for any person to sell, trade, barter, or offer to sell, trade or barter any scup less than nine inches, total length.

**4VAC20-910-40. Gear restrictions.**

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting scup or to land in Virginia scup harvested by fish pots which are not constructed as follows:

1. With an escape vent of 2.25 inches square dimension or 3.1 inches diameter circular dimension, and
2. With hinges and fasteners on one panel or door made of the following materials:
  - a. Untreated hemp, jute, or cotton string of 3/16 inches diameter or smaller,
  - b. Magnesium alloy, timed float releases or similar magnesium alloy fasteners, or
  - c. Ungalvanized or uncoated iron wire of 0.094 inches diameter or smaller.

**4VAC20-910-45. Possession limits and harvest quotas.**

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 50,000 pounds of scup.
2. Land in Virginia more than a total of 50,000 pounds of scup during each consecutive 7-day landing period, with the first 7-day period beginning on January 1.

B. When it is projected and announced that 80% of the coastwide quota for this period has been attained, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than a total of 1,000 pounds of scup.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 8,000 pounds of scup.

**Appendix I.**

**VIRGINIA MARINE RESOURCES COMMISSION**

**PAGE 3 OF 3**

**PERTAINING TO SCUP**

**CHAPTER 4VAC20-910-10 ET SEQ.**

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to 13,085 pounds.

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than 50 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 50. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

**4VAC20-910-50. Penalty.**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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**Appendix II.**

**VIRGINIA MARINE RESOURCES COMMISSION  
PERTAINING TO SCUP  
CHAPTER 4VAC20-910-10 ET SEQ.**

**PAGE 1 OF 3**

**PREAMBLE**

This chapter establishes minimum size limits, gear restrictions, and quotas for the harvest of scup (porgy). This chapter is promulgated pursuant to the authority contained in §28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4VAC20-910-10 et seq., which was adopted on October 25, 2011 and made effective November 1, 2011. The effective date of this chapter, as amended, is February 29, 2012.

**4VAC20-910-10. Purpose.**

The purpose of this chapter is to (i) reduce fishing mortality and increase the size of the scup spawning stock; (ii) improve yield from the commercial and recreational fisheries; (iii) promote compatible measures between the states and federal fishery jurisdictions; and (iv) maintain compliance with the Interstate Fishery Management Plan for Scup as required by the Atlantic Coastal Fisheries Cooperative Management Act (16 USC §5101 et seq.).

**4VAC20-910-20. Definitions.**

The following words and terms, when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

"Scup" means any fish of the species *Stenotomus chrysops*, commonly referred to as porgy.

**4VAC20-910-30. Minimum size limits.**

A. The minimum size of scup harvested by commercial fishing gear shall be nine inches total length.

B. The minimum size of scup harvested by recreational fishing gear including, but not limited to, hook and line, rod and reel, spear, and gig shall be eight inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to catch and retain possession of any scup smaller than the above designated minimum sizes in subsections A and B of this section

**Appendix II.**

**VIRGINIA MARINE RESOURCES COMMISSION**

**PAGE 2 OF 3**

**PERTAINING TO SCUP**

**CHAPTER 4VAC20-910-10 ET SEQ.**

E. It shall be unlawful for any person to sell, trade, barter, or offer to sell, trade or barter any scup less than nine inches, total length.

**4VAC20-910-40. Gear restrictions.**

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting scup or to land in Virginia scup harvested by fish pots which are not constructed as follows:

1. With an escape vent of 2.25 inches square dimension or 3.1 inches diameter circular dimension, and
2. With hinges and fasteners on one panel or door made of the following materials:
  - a. Untreated hemp, jute, or cotton string of 3/16 inches diameter or smaller,
  - b. Magnesium alloy, timed float releases or similar magnesium alloy fasteners, or
  - c. Ungalvanized or uncoated iron wire of 0.094 inches diameter or smaller.

**4VAC20-910-45. Possession limits and harvest quotas.**

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 50,000 pounds of scup.
2. Land in Virginia more than a total of 50,000 pounds of scup during each consecutive 7-day landing period, with the first 7-day period beginning on January 1.

B. When it is projected and announced that 80% of the coastwide quota for this period has been attained, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than a total of 1,000 pounds of scup.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 8,000 pounds of scup.

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to 13,085 pounds.

**Appendix II.**

**VIRGINIA MARINE RESOURCES COMMISSION**

**PAGE 3 OF 3**

**PERTAINING TO SCUP**

**CHAPTER 4VAC20-910-10 ET SEQ.**

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than 50 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 50. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

**4VAC20-910-50. Penalty.**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

### 2013 North Carolina Scup Compliance Report

By

Tom Wadsworth

North Carolina Division of Marine Fisheries

May 29, 2013

Note: No confidential data are included in this report

#### **I. Introduction**

No executive summary is needed.

#### **II. Request for *de minimis*, where applicable.**

North Carolina does not request *de minimis* status for the 2013 fishing year.

#### **III. Previous calendar year's fishery**

a. Activities of fishery dependent monitoring (provide a brief review of results including monitoring of gear restrictions and quota management for the winter I & II and summer periods; minimum size).

Commercial fishing activity is monitored through fishery dependent sampling conducted under Title III of the Interjurisdictional Fisheries Act (IJFA) and has been ongoing since 1982. North Carolina Division of Marine Fisheries (NCDMF) staff sampled commercial catches of scup during dockside fishery dependent sampling of the winter trawl fishery. Information on areas fished and gear specifications as well as scup length and aggregate weight data was obtained from the catches (Assessment of North Carolina Commercial Finfisheries, NCDMF Completion Reports, 1984-2013). The winter trawl fishery accounts for nearly all of the scup landings north of Cape Hatteras. However, in 2012 and 2013 landings from the winter trawl fishery in North Carolina decreased substantially, due in part to the inability of winter trawl vessels to enter Oregon Inlet for part of the season both years. A total of 261 scup from 8 winter trawl catches were measured in 2013. The scup ranged from 192 mm to 389 mm fork length (FL) with 90% measuring 215-389 mm.



b. Activities of fishery independent monitoring (provide a brief review of results).

No North Carolina fishery-independent finfish survey is designed to sample scup. Scup have not been caught in any of North Carolina's fishery independent surveys north of Cape Hatteras to date

c. Regulations that were in effect for 2013.

### **Commercial Fishery**

The authority for management of scup in North Carolina is found in North Carolina Fisheries Rule 15A NCAC 3M .0512 – COMPLIANCE WITH FISHERY MANAGEMENT PLANS

(a) In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans or to implement state management measures, the Fisheries Director may, by proclamation, take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means and methods; and
- (6) Require submission of statistical and biological data.

(b) Proclamations issued under this Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to G.S. 113-221.1.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.4;*

*Eff. March 1, 1996;*

*Amended Eff. October 1, 2008.*

Other Applicable Rules and Statutes: North Carolina General Statute (G.S.) 143B-289.52(e) authorizes the North Carolina Marine Fisheries Commission (NCMFC) to adopt temporary rules at any time within six months of the adoption of a fishery management plan requirement by the Atlantic States Marine Fisheries Commission (ASMFC) or a Regional Fishery Management Council in order to comply with or implement these requirements. This statute allows North Carolina to adjust management measures to be in compliance with the fishery management plan. G.S. 113-168.2 requires any person who engages in a commercial fishing operation in North Carolina coastal waters to hold a Standard Commercial Fishing License. This statute also requires dealers to purchase only from fishermen who possess a license to sell the type of fish being offered and to report those transactions on a form provided by the North Carolina

Department of Environment and Natural Resources. G.S. 113-168.4 specifies that it is unlawful for any person who takes or lands any species of fish under the authority of the NCMFC from coastal waters by any means, including mariculture operations, to sell, offer for sale, barter or exchange these fish for anything of value without holding a license required to sell the type of fish being offered. Fisheries Rule 15A NCAC 3I .0114 requires a fish dealer to complete all mandatory items on a North Carolina Trip Ticket for each transaction and report it to the NCDMF by the tenth day of the following month. Through this system, North Carolina monitors and records landings of finfish, including scup, from both state and federal waters.

In accordance with, or as authorized under Fisheries Rule 15A NCAC 3M .0512, the following management measures were implemented in the commercial fishery for scup in the Atlantic Ocean north of Cape Hatteras in 2013:

Season: The Winter I harvest period was open in North Carolina from January 1 through April 30. The Summer harvest period was closed due to North Carolina's small commercial quota and minimal incidental catch during this harvest period. The Winter II harvest period opened on November 1 and closed on December 31, in accordance with the Fishery Management Plan (FMP).

Size Limit: The minimum size was 9 inches.

Possession Limit: No person was authorized to land or possess aboard a vessel more than 50,000 pounds of scup from January 1 through April 30 (Winter I Harvest Period). No person was authorized to land or possess aboard a vessel more than 8,000 pounds of scup per trip north of Cape Hatteras during the Winter II Harvest Period (November 1–December 31).

Allowable Gear: The minimum mesh size for the commercial scup trawl fishery was 5 inches stretched mesh with a minimum length of 75 meshes from the terminus of the net. For small nets with a cod end less than 75 meshes, the entire net shall consist of 5-inch stretched mesh.

Has the state implemented the required measures as mandated in the FMP? (see below; please answer with either 'yes' or 'no')

#### Commercial

9" minimum size - yes for federal waters

5.0" minimum diamond mesh - yes

Threshold to trigger minimum mesh requirements: (500 lbs 11/1 - 4/30; 200 lbs from 5/1 - 10/31) - yes

3.1" circular escape vents, 2.25" square escape vent, or rectangular escape vent of equivalent size. - yes

#### Recreational (state specific for 2013)

Season: The season was open throughout the year.

Size Limit: The minimum size limit for scup north of Cape Hatteras was 8 inches in state waters

Possession Limit: The possession limit for scup north of Cape Hatteras was 50 fish per person, per day in state waters

d. Harvest broken down by commercial and recreational fisheries

| Year | Recreational (MRIP)<br>Harvest (numbers)* | Recreational<br>Harvest (lb)* | Flounder<br>Trawl (lb) | Other Commercial<br>(lb)** | Total NC Harvest<br>(lb) |
|------|---|-------------------------------|------------------------|----------------------------|--------------------------|
| 2004 | 0   | 0                             | 341,679                | 181,875                    | 523,554                  |
| 2005 | 0   | 0                             | 323,999                | 27,610                     | 351,609                  |
| 2006 | 0   | 0                             | 139,403                | 17                         | 139,420                  |
| 2007 | 0   | 0                             | 10,833                 | 56,023                     | 66,856                   |
| 2008 | 0   | 0                             | 169,114                | 36,589                     | 205,703                  |
| 2009 | 0   | 0                             | 136,019                | 108,001                    | 244,020                  |
| 2010 | 0   | 0                             | 82,165                 | 20,580                     | 102,745                  |
| 2011 | 27  | 6                             | 235,505                | 73,378                     | 308,889                  |
| 2012 | 148                                       | 195                           | 3,903                  | 0                          | 4,098                    |
| 2013 | 0   | 0                             | 26,312                 | 2,082                      | 28,394                   |

\*Harvest PSEs over 50.0 for all years

\*\*All gears with confidential landings in one or more years of time-series summed in this column

**IV. Planned management programs for the current calendar year.** Summary of changes from previous years (from 2012-2013).

A. Summary of 2014 Regulations and Changes from 2013

The Fisheries Director used proclamation authority found in Fisheries Rule 15A NCAC 3M .0512 to implement Winter I trip limits and associated harvest periods during the winter 2014 season as a means of managing North Carolina's scup commercial quota. Winter II trip limits and associated harvest periods will be implemented in November and December. The season and trip limits were the same as 2013 for Winter I but may change for Winter II based on remaining quota and catch rates. The minimum size limit will remain at 9 inches in the Atlantic Ocean commercial fishery. The size limit in the recreational fishery in state waters north of Cape Hatteras will remain 8 inches and the possession limit will remain 50 fish per person, per day. In federal waters the size limit was reduced from 10 inches to 9 inches in 2014, but the bag limit and season remained the same.

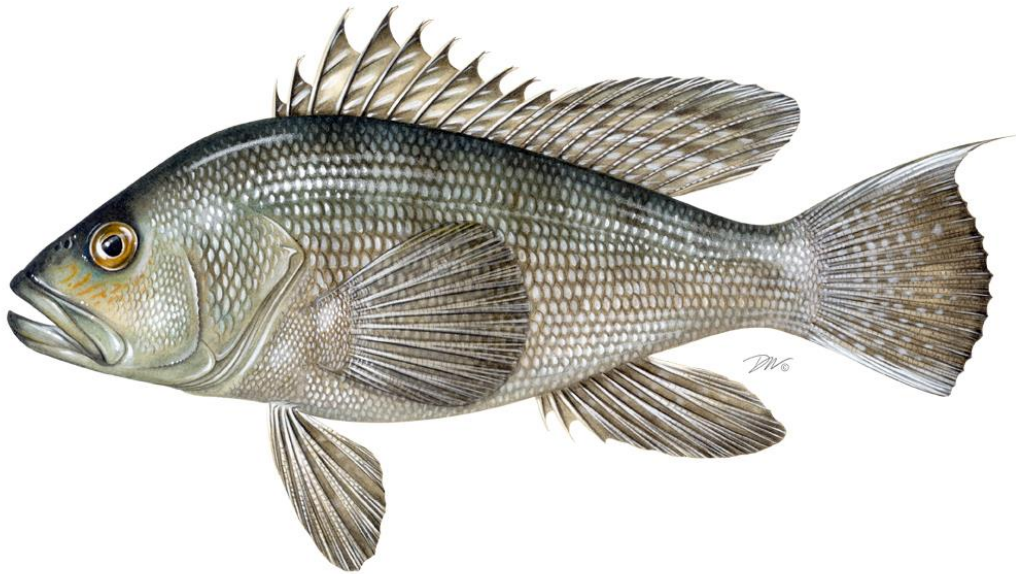
B. Summary of Monitoring Programs That Will Be Performed

Monitoring programs will be the same as the previous fishing year. Scup will be sampled during IJFA sampling of the winter trawl fishery.

**V. Law Enforcement Reporting Requirements** Please include in this section any law enforcement issues that occurred in the previous calendar year. If nothing substantial happened, you may omit this section.

No significant issues were reported

2014 REVIEW OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
FISHERY MANAGEMENT PLAN FOR the 2013 Black Sea Bass Fishery  
**Black Sea Bass (*Centropristis striata*)**



Prepared by:

Kirby Rootes-Murdy (ASMFC)

Black Sea Bass Plan Review Team  
Kirby Rootes-Murdy, Chair  
Paul Caruso, MA

July 2014

## 2013 Review of the Atlantic States Marine Fisheries Commission Fishery Management Plan for Black Sea Bass

### I. Status of the Fishery Management Plan

ASMFC management of black sea bass was initiated as one component of a multi-species fishery management plan (FMP) addressing summer flounder, scup, and black sea bass. In 1990, summer flounder was singled out for immediate action under a joint ASMFC and Mid-Atlantic Fishery Management Council (MAFMC) plan. Further action on the scup and black sea bass plan was delayed until 1992 to expedite the summer flounder FMP and subsequent amendments. The joint Black Sea Bass FMP was completed and approved in 1996. The MAFMC approved regulations for black sea bass as Amendment 9 to the Summer Flounder FMP in May 1996.

The management unit of the Black Sea Bass FMP includes all black sea bass in U.S. waters in the western Atlantic Ocean from Cape Hatteras, North Carolina north to the Canadian border. Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina have declared an interest in black sea bass. The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board and the MAFMC Demersal Species Committee guide development of the FMP. Technical issues are addressed through the Summer Flounder, Scup, and Black Sea Bass Technical Committee and the Black Sea Bass Monitoring Committee. The Black Sea Bass Plan Review Team conducts annual reviews and monitors compliance and the Scup and Black Sea Bass Advisory Panel provide industry input and advice.

The objectives of the FMP are to reduce fishing mortality to assure overfishing does not occur, reduce fishing mortality on immature black sea bass to increase spawning stock biomass, improve yield from the fishery, promote compatible regulations among states and between federal and state jurisdictions, promote uniform and effective enforcement, and to minimize regulations necessary to achieve the stated objectives. The FMP currently defines overfishing as fishing in excess of  $F_{MSY}=F_{40\%}$ , or  $F=0.42$ . It defines overfished as the spawning stock biomass being below  $SSB_{MSY}=SSB_{40\%}=12,537$  mt. The FMP intends to reduce fishing mortality by a coastwide commercial quota allocated by state, and a recreational harvest limit constrained through the use of minimum size, possession limit, and seasonal closures.

Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP was approved by the Commission in October 1998 and established revised overfishing definitions, identification and description of essential fish habitat, and defined the framework adjustment process.

Addendum IV, approved on January 29, 2001, provides that upon the recommendation of the relevant monitoring committee and joint consideration with the Council, the Board will decide the state regulations rather than forward a recommendation to NMFS. Addendum IV also made the states responsible for implementing the Board's decision on regulations.

Starting in 1998, the fishery was subject to lengthy closures and had some significant quota overages. Fishery closures occurring as a result of exceeded quotas resulted in increased discards of legal sized black sea bass in mixed fisheries for the remainder of the closed period. A

significant financial hardship for the fishing industry resulted from a decrease in market demand caused by a fluctuating supply. To address these issues, the Management Board enacted a series of Emergency Rules in 2001 that established initial possession limits, triggers, and adjusted possession limits. These measures helped reduce the length of fishery closures, but the rapidly changing regulations confused fishermen and added significant administrative burden to the states. To simplify the process for all parties, the Board approved Addendum VI to provide a mechanism for initial possession limits, triggers, and adjusted possession limits to be set during the annual specification setting process without the need for further Emergency Rules.

Amendment 13, approved by ASMFC in May 2002, implemented a federal, coastwide annual quota that is managed by ASMFC using a state-by-state allocation system. The Amendment was implemented in 2003 and 2004. State-specific shares are listed in Table 1.

Amendment 13 also removed the necessity for fishermen who have both a NER BSB permit and a SER S/G permit to relinquish their permits for a six-month period prior to fishing south of Cape Hatteras during a northern closure.

Addendum XII, approved in 2004, continues the use of a state-by-state allocation system, managed by the ASMFC on an annual coastwide commercial quota.

Addendum XIII modifies the FMP so that, within a given year, TALs for the summer flounder, scup, and/or black sea bass can be specified for up to three years.

Addendum XIX continues the state-by-state black sea bass commercial management measures, without a sunset clause. This addendum also broadens the descriptions of stock status determination criteria contained within the Summer Flounder, Scup, and Black Sea Bass FMP to allow for greater flexibility in those definitions, while maintaining objective and measurable status determination criteria for identifying when stocks or stock complexes covered by the FMP are overfished. It establishes acceptable categories of peer-review for stock status determination criteria. When these specific peer-review metrics are met and new or updated information is available, the new or revised stock status determination criteria may be incorporated by the Commission directly into the annual management measures for each species.

Addendum XX sets policies to reconcile quotas overages to address minor inadvertent quota overages. It was approved in November 2009. It streamlines the quota transfers process and establishes clear policies and administrative protocols to guide the allocation of transfers from states with underages to states with overages. It also allows for quota transfers to reconcile quota overages after year's end.

The commission initiated Addendum XXV in October of 2013. The addendum offers the continuation of ad-hoc regional management measure options to alleviate the differences between state by state measures among the states along the coast. The Addendum XXV will be voted on at the ASMFC Winter Meeting in February 2014, with the approved measures to take effect in 2014.

## II. Status of the Stock

The assessment model for black sea bass changed in 2008 from a simple index-based model to a complex statistical catch at length model incorporating a broad range of fishery and survey data. The fishery catch is modeled as a single fleet with indices of stock abundance from NEFSC winter, spring, and autumn surveys. A model averaging approach was adopted using the average of results from ten candidate models. There appears to be some consistent retrospective bias in F and SSB estimates but less so in recruitment.

Recruitment at age 1 averaged 26.4 million fish during 1968-1999 and in 2000, peaked at 56.0 million fish. The 2000 and 2002 year classes are estimated to be the largest of the time series, at 56.0 and 39.3 million age 1 fish. With greatly improved recruitment and declining fishing mortality rates since 2000, SSB has steadily increased since to about 11,158 mt in 2011. The inter-model variation bounds the biological reference point and suggests that black sea bass has reached or exceeded  $SSB_{MSY}$ .

The new reference points are  $F_{MSY} = F_{40\%} = 0.44$  and  $SSB_{MSY} = SSB_{40\%} = 10,886 \text{ mt} = 24$  million lbs. The stock biomass threshold of  $\frac{1}{2} SSB_{MSY} = \frac{1}{2} SSB_{40\%} = 5,443 \text{ mt} = 12$  million lbs. The current F is 0.21 and SSB is 24.6 million lbs, therefore overfishing is not occurring and the stock is rebuilt.

## III. Status of the Fishery

The commercial fishery is allocated 49% of the total allowable landings (TAL) for black sea bass. The principle gears used in the fishery are pots, otter trawl and handline. After peaking at 218 million pounds in 1952, commercial landings markedly decreased in the '60s and have since ranged from 1.3 to 4.4 million pounds. From 1988 to 1997 landings averaged 2.86 million pounds. In 1998 a quota system was incorporated into management and state-by-state share were introduced in 2003, since 1998 landings have ranged from 2.86 to 3.53 million pounds with a decrease in landings in 2010, 2011, followed by an increases in 2012 and 2013 to 2.02 million pounds in 2013 (Table 2 and 3). Commercial discards are generally less than 441,000 pounds per year.

The recreational fishery is allocated 51% of the TAL for black sea bass. After peaking in 1985 at 12.35 million pounds, recreational harvest averaged 3.75 million pounds annually from 1988 to 1997. Recreational harvest limits were put in place in 1998 and harvest ranged from 1.1 to 3.24 million pounds from 1998 to 2013 (Table 4). In 2013, recreational harvest was 2.33 million pounds. Recreational discard are somewhat higher than commercial ranging from 220,500 to 1,764,000 pounds per year.

## IV. Status of Research and Monitoring

Commercial landings information is collected by the Vessel Trip Reporting system and dealer reports. States are also required to collect and report landings data. Sea sampling data from the NEFSC sea sampling program are used to estimate discards. The NEFSC weigh-out program provides commercial age and length information. Recreational landings and discards were estimated through the Marine Recreational Fisheries Statistics Survey until 2008, with the



Marine Recreational Information Program (MRIP) replacing it for all data collected from 2008 to present.

Fishery-independent surveys are conducted in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Virginia, and North Carolina. The Virginia Game Fish Tagging Program has targeted black sea bass since 1997. Data from the tagging program will be used to develop an analytical, age-based model. Recruitment and stock abundance data are provided by the NEFSC spring, autumn, and winter trawl surveys.

## **V. Status of Assessment Advice**

The new reference points and stock status determinations should be used with caution due to the uncertainty in the natural mortality estimate, the model input parameters, residuals patterns in model fit, and significant uncertainty associated with managing a protogynous species (i.e. individuals change sex from female to male)

The next benchmark stock assessment is scheduled for 2016.

## **VI. Status of Management Measures and Developing Issues**

Currently there are no developing black sea bass FMPs.

### **VII. Black Sea Bass Compliance Criteria**

#### **2012 Commercial Fishery Requirements**

Minimum size of possession: 11"

Minimum mesh: larger nets are required to possess a minimum of 75 meshes of 4.5" diamond mesh in the codend or the entire net must have a minimum mesh size of 4.5" throughout; smaller nets must have 4.5" mesh or larger throughout

Mesh Threshold: 500 lbs for January-March and 100 lbs for April-December

Maximum roller rig trawl roller diameter: 18"

Pot and trap escape vents: 2 ½" for circular, 2" for square, and 1-3/8 x 5-3/4" for rectangular. Must be 2 vents in the parlor portion of the trap

Pot and trap degradable fastener provisions: a) untreated hemp, jute, or cotton string 3/16" (4.8 mm) or smaller; b) magnesium alloy timed float releases or fasteners; c) ungalvanized, uncoated iron wire of 0.094" (2.4mm) or smaller. The opening covered by a panel affixed with degradable fasteners would be required to be at least 3" x 6".

Commercial quota: 1.71 million pounds

Pot and trap definition: A black sea bass pot or trap is defined as any pot or trap used by a fisherman to catch and retain black sea bass.

#### **2013 Recreational Fishery Requirements**

See Table 6.

Recreational harvest limit: 2.26 million pounds

#### **Other Measures**

Reporting: States are required to submit an annual compliance report to the Chair of the Black Sea Bass Plan Review Team by June 1st. The report must detail the state's management program for the current year and establish proof of compliance with all mandatory management measures.

It should include landings information from the previous year, and the results of any monitoring or research programs.

*This summary of compliance criteria is intended to serve as a quick reference guide. It in no way alters or supersedes compliance criteria as contained in the Black Sea Bass FMP and any Amendments thereto. Also please note that the management measures may change annually.*

## **VII. Compliance**

States and jurisdictions required to comply with the provisions of the Black Sea Bass FMP are: Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Potomac River Fisheries Commission, Virginia, and North Carolina. All states implemented regulations in compliance with the requirements approved by the Board.

All states appear in compliance with the FMP provisions for fishing year 2012.

### **Black Sea Bass FMP Compliance Schedule**

#### **Commercial**

|   |        |
|---|--------|
| 9" Size Limit   | 1/1/97 |
| 10" Size Limit  | 1/1/98 |
| 11" Size Limit  | 1/1/02 |
| Minimum mesh and threshold provisions                     | 1/1/02 |
| Pot and trap escape vents and degradable fasteners        | 1/1/97 |
| Roller diameter restriction                               | 1/1/97 |
| States must report to NMFS all landings from state waters | 1/1/98 |

#### **Recreational**

|  |        |
|--|--------|
| Size Limit   | 1/1/97 |
| Harvest Limit  | 1/1/98 |
| Ability to implement possession limits and seasonal closures | 1/1/98 |

#### **General**

|                          |               |
|--------------------------|---------------|
| Annual compliance report | Annually, 7/1 |
|--------------------------|---------------|

## **VIII. Recommendations**

Table 1. State by state allocation for annual quota.

| <b>State</b>   | <b>% Allocation</b> |
|----------------|---------------------|
| Maine          | 0.50%               |
| New Hampshire  | 0.50%               |
| Massachusetts  | 13%                 |
| Rhode Island   | 11%                 |
| Connecticut    | 1%                  |
| New York       | 7%                  |
| New Jersey     | 20%                 |
| Delaware       | 5%                  |
| Maryland       | 11%                 |
| Virginia       | 20%                 |
| North Carolina | 11%                 |

Table 2. Black Sea Bass Commercial Landings by State (2004-2013) in thousands of pounds.

Source: National Marine Fisheries Service Commercial Landings Data (July 2014)

| State     | 2004      | 2005      | 2006      | 2007      | 2008      | 2009      | 2010      | 2011      | 2012      | 2013      |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| ME        |           |           |           |           |           |           |           |           |           |           |
| NH        | 336       |           |           |           |           |           |           |           |           |           |
| MA        | 382,389   | 510,162   | 596,480   | 442,136   | 316,722   | 148,470   | 260,181   | 287,666   | 248,463   | 282,100   |
| RI        | 435,733   | 293,976   | 273,161   | 356,542   | 226,925   | 128,053   | 241,892   | 185,709   | 187,806   | 237,951   |
| CT        | 24,867    | 17,522    | 10,445    | 10,123    | 15,554    | 17,854    | 21,422    | 20,485    | 17,677    | 22,735    |
| NY        | 240,517   | 244,074   | 295,078   | 265,940   | 201,222   | 123,287   | 200,463   | 177,997   | 153,347   | 155,788   |
| NJ        | 697,085   | 543,733   | 494,352   | 480,112   | 424,667   | 204,213   | 305,294   | 293,609   | 310,427   | 420,766   |
| DE        | 83,728    | 72,931    | 87,381    | 63,431    | 60,700    | 50,259    | 76,913    | 82,436    | 82,351    | 104,898   |
| MD        | 283,605   | 336,662   | 350,385   | 170,909   | 159,453   | 125,643   | 203,088   | 182,711   | 140,861   | 219,321   |
| VA        | 393,269   | 443,644   | 305,871   | 189,875   | 211,500   | 164,524   | 263,563   | 274,446   | 391,384   | 493,155   |
| NC*       | 881,261   | 690,043   | 777,659   | 472,931   | 484,507   | 614,734   | 400,879   | 272,189   | 61,187    | 88,242    |
| Coastwide | 3,422,790 | 3,152,747 | 3,190,812 | 2,451,999 | 2,101,250 | 1,577,037 | 1,973,695 | 1,777,248 | 1,593,503 | 2,024,956 |

Table 3. 2014 Black Sea Bass Commercial State by State Quotas (pounds)\*

| State | 2013 Quota | 2013 transfers as of 11/13 | 2013 Quota after transfer | 2014 ASMFC Quota* |
|-------|------------|----------------------------|---------------------------|-------------------|
| ME    | 10,850     |                            |                           | 10,850            |
| NH    | 10,850     |                            |                           | 10,850            |
| MA    | 282,100    |                            |                           | 282,100           |
| RI    | 238,700    | 96                         | 238,796                   | 238,700           |
| CT    | 21,700     |                            |                           | 21,700            |
| NY    | 151,900    |                            |                           | 151,900           |
| NJ    | 434,000    | 721                        | 434,721                   | 434,000           |
| DE    | 108,500    |                            |                           | 108,500           |
| MD    | 238,700    |                            |                           | 238,700           |
| VA    | 434,000    | 155,662                    | 589,662                   | 434,000           |
| NC    | 238,700    | -156,479                   | 82,221                    | 238,700           |
| Total | 2,170,000  |                            |                           | 2,170,000         |

\*2014 allocations are adjusted with 3% from the TAL deducted for the RSA program. 2013 Harvest estimates are from the NOAA Fisheries Quota Monitoring Report and are not final numbers, 2014 shares may be adjusted for overages after NMFS published the final landings in the summer of 2014:

[http://www.nero.noaa.gov/ro/fso/reports/reports\\_frame.htm](http://www.nero.noaa.gov/ro/fso/reports/reports_frame.htm)

Table 4. Black Sea Bass Recreational Landings by State (2004-2013) in pounds.

Source: National Marine Fisheries Service MRIP (2004-present)

| State            | 2004             | 2005             | 2006             | 2007             | 2008             | 2009             | 2010             | 2011             | 2012             | 2013             |
|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| NH               |                  |                  |                  |                  |                  |                  |                  |                  | 4,587            | 18,060           |
| MA               | 224,338          | 365,186          | 149,993          | 153,869          | 365,108          | 626,082          | 999,914          | 318,379          | 1,049,251        | 675,563          |
| RI               | 49,694           | 164,960          | 67,076           | 59,566           | 82,072           | 50,290           | 238,039          | 85,912           | 226,130          | 148,417          |
| CT               | 37,897           | 119              | 4,684            | 41,941           | 99,848           | 1,025            | 23,029           | 13,758           | 261,163          | 252,602          |
| NY               | 194,743          | 230,832          | 455,213          | 563,199          | 528,613          | 844,746          | 965,767          | 399,030          | 542,688          | 682,867          |
| NJ               | 42,593           | 80,214           | 140,931          | 136,564          | 26,378           | 36,190           | 28,357           | 46,609           | 993,093          | 30,273           |
| DE               | 1,311,011        | 904,999          | 690,651          | 1,086,652        | 827,511          | 763,593          | 779,105          | 181,695          | 49,967           | 471,442          |
| MD               | 19,571           | 93,475           | 136,064          | 49,002           | 32,603           | 40,681           | 41,386           | 51,714           | 42,173           | 9,928            |
| VA               | 58,889           | 49,312           | 105,134          | 64,954           | 51,974           | 112,339          | 28,987           | 26,753           | 2,599            | 31,339           |
| NC               | 274,340          | 229,893          | 151,075          | 196,134          | 90,977           | 145,208          | 138,961          | 95,004           | 7,082            | 17,970           |
| <b>Coastwide</b> | <b>2,213,076</b> | <b>2,118,990</b> | <b>1,900,821</b> | <b>2,351,881</b> | <b>2,105,084</b> | <b>2,620,154</b> | <b>3,243,545</b> | <b>1,218,854</b> | <b>3,178,733</b> | <b>2,338,461</b> |

Table 5. 2013 recreational management measures for black sea bass by state.

| State  | Minimum Size (inches) | Possession Limit | Open Season   |
|--|-----------------------|------------------|---|
| Massachusetts<br>(Private and For-hire)                              | 14                    | 4 fish           | May 11- October 31  |
| Massachusetts<br>(For-hire with Letter of Authorization from MA DMF) | 14                    | 10 fish          | May 11- June 14   |
|  |                       | 20 fish          | July 1- August 11<br>September 1- October 10                              |
| Rhode Island   | 13                    | 3 fish           | June 15- August 31  |
|  |                       | 7 fish           | September 1- December 31  |
| Connecticut<br>(Private and Shore)<br>For-hire*                      | 13                    | 3 fish           | June 15- August 31  |
|  |                       | 8 fish           | September 1- October 29   |
|  |                       | 8 fish           | June 15-November 30   |
| New York   | 13                    | 8 fish           | July 10- December 31  |
| New Jersey   | 12.5                  | 20 fish          | May 19- August 8;<br>September 27- October 14;<br>November 1- December 31 |
| Delaware   | 12.5                  | 15 fish          | January 1- February 28  |
|  |                       | 20 fish          | May 19 - October 14 and<br>November 1 - December 31                       |
| Maryland   | 12.5                  | 15 fish          | January 1 - February 28   |
|  |                       | 20 fish          | May 19 - October 14 and<br>November 1 - December 31                       |
| PRFC   | 12.5                  | 15 fish          | January 1 - February 28   |
|  |                       | 20 fish          | May 19 - October 14 and<br>November 1 - December 31                       |
| Virginia   | 12.5                  | 15 fish          | January 1 - February 28   |
|  |                       | 20 fish          | May 19 - October 14 and<br>November 1 - December 31                       |
| North Carolina (North of Cape Hatterass 35° 15'N Latitude)           | 12.5                  | 15 fish          | January 1 - February 28   |
|  |                       | 20 fish          | May 19 - October 14 and<br>November 1 - December 31                       |

\*Party/Charter Vessels enrolled In Monitoring Program

Table 6. 2014 recreational management measures for black sea bass by state.

| State   | Minimum Size (inches) | Possession Limit | Open Season                                    |
|---|-----------------------|------------------|--|
| New Hampshire   | 13                    | 10 fish          | January 1-December 31                          |
| Massachusetts   | 14                    | 8 fish           | May 17-September 15                            |
| Massachusetts For-Hire vessels with MA DMF Letter of Authorization) | 14                    | 8 fish           | May 17-May 31                                  |
|   |                       | 20 fish          | September 1-September 30                       |
| Rhode Island  | 13                    | 3 fish           | June 29- August 31                             |
|   |                       | 7 fish           | September 1-December 31                        |
| Connecticut (Private & Shore)                                       | 13                    | 3 fish           | June 21-August 31                              |
|   |                       | 8 fish           | September 1-December 31                        |
| Connecticut (Authorized party/charter monitoring program vessels)   | 13                    | 8 fish           | June 21-December 31                            |
| New York  | 13                    | 8 fish           | July 15-December 31                            |
| New Jersey  | 12.5                  | 3 fish           | July 1-August 31                               |
|   |                       | 15 fish          | May 19-June 30;                                |
|   |                       |                  | September 1- 6;                                |
|   |                       |                  | October 18-December 31                         |
| Delaware  | 12.5                  | 15 fish          | May 19-September 18;<br>October 18-December 31 |
| Maryland  | 12.5                  | 15 fish          | May 19-September 18;<br>October 18-December 31 |
| Virginia  | 12.5                  | 15 fish          | May 19-September 18;<br>October 18-December 31 |
| North Carolina, North of Cape Hatteras (N of 35°                    | 12.5                  | 15 fish          | May 19-September 18;<br>October 18-December 31 |



**Commonwealth of Massachusetts  
Division of Marine Fisheries**



**ATLANTIC STATES MARINE FISHERIES COMMISSION  
BLACK SEA BASS FISHERY MANAGEMENT PLAN  
2013 COMPLIANCE REPORT**

May 1, 2014

Prepared by

Paul G. Caruso

Senior Marine Fisheries Biologist

## **I. Introduction**

The following represents the Commonwealth of Massachusetts Division of Marine Fisheries (MADMF) 2013 compliance report as required by the ASMFC Summer flounder, Scup, and Black Sea Bass Fishery Management Plan. There were no significant changes in black sea bass monitoring in 2013 except for some limited market sampling of commercial catch. However, both recreational and commercial regulations were substantially changed. The estimated recreational harvest was 252,247 fish. Commercial daily possession limits were adjusted and the commercial season was delayed to extend the season. The commercial fishery landed 329,223 pounds or 117% of the allocated quota (282,100 lbs).

## **II. Request for *de minimis* status**

Not applicable.

## **III. Review of previous year fishery and management program**

### **A. Activity and results of fisheries dependent monitoring**

There was no monitoring of the directed commercial fisheries for black sea bass by the MDMF Fisheries Dependent Sampling Program in 2013. Total harvest estimates were generated from data collected by the MDMF Quota Monitoring Project (commercial) and the Marine Recreational Information Program (MRIP) (recreational). The recreational black sea bass fishery was monitored during MRIP sampling of the recreational fishery (all modes).

### **B. Activity and results of fishery independent monitoring**

The 2013 fisheries-independent monitoring program for black sea bass consisted of limited age and maturity sampling and local abundance data (stratified number and weight per tow) from our synoptic spring and fall otter trawl surveys. This coast-wide survey conducts approximately 100 twenty-minute tows in state waters with a random stratified design. The abundance index for black sea bass includes data from all strata south of Cape Cod from the spring survey (Figure 1). Adult abundance continues to be at the highest levels noted in the 1993-2013 time period. Figure 2 depicts the trend in our young of the year (YOY) numbers from the fall survey.

### **C. Regulations in effect in 2013**

#### ***1. Recreational Fisheries (322 CMR 8.06)***

- Permit required to conduct “for-hire vessel” fishing operations
- 14" minimum size
- Open season from May 11 to October 31 at 4 fish for all modes,
- Open season from May 22-June 14 at 10 fish, and 20 fish from July 1-Aug 11 and September 1 to October 10 only for exempted “for hire”

vessels with a Letter of Authorization.

## 2. *Commercial Fisheries*

### Permitting & Reporting Requirements (322 CMR 6.27 & 7.06)

- Black sea bass endorsement required to fish commercially.
- Regulated fishery permit required for use of fish pots, a limited entry fishery.
- Dealer authorization required to purchase sea bass.
- Annual reports required of commercial pot fishermen and dealers.

### Gear Marking & Specifications (322 CMR 4.13, 6.12, 6.15 & 12.03)

- Year-specific trap tag with permit number must be attached to trap's cross member.
- Pot limit of 200 combined sea bass and scup, or 350 if two permit holders fish from the same vessel.
- Two unobstructed escape vents or openings in the parlor section measuring at least 2 1/2" in diameter, @ 2" square, or 1 3/8" by 5 3/4" required.
- All buoys and traps must bear fisherman's permit number.
- Use of floating line at the surface prohibited.
- Positively buoyant ground line prohibited.
- Buoy lines comprised of positively buoyant line except the bottom portion of the line which may be a section of floating line, not to exceed 1/3 overall length of the buoy line.
- Marking:
  - 1) Traps require a single buoy (7"x 7" or 5"x 11"); stick optional with no flag.
  - 2) Trawls: East end – double buoy and one or more 3' sticks.  
West end – single buoy with 3' stick and flag.
- All fish traps require ghost panel.
- Trawl maximum length: 2000 feet.
- Use of trawls is prohibited in the waters of Gosnold (M.G.L c.130 §37).
- All vessels must display buoy color scheme.
- No tending or lifting of pots from 1/2 hour after sunset to 1/2 hour before sunrise.
- Degradable Hinges and Fasteners. It is unlawful for any person to take or attempt to take fish from waters under the jurisdiction of the Commonwealth by use of pots without a panel or door with hinges and fasteners made of one of the following degradable materials:
  - (a) untreated hemp, jute, or cotton string of 3/16" (4.8 mm) diameter or smaller;
  - (b) magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

- (c) ungalvanized or uncoated iron wire of 0.094" (2.4 mm) diameter or smaller.
- Escape Vents.
  - (a) It is unlawful for any person to take or attempt to take scup from waters under the jurisdiction of the Commonwealth by use of pots without at least two unobstructed escape vents or openings in the parlor portion of the pot measuring at least 3.1 inches in diameter or 2.25 inches square.
  - (b) It is unlawful for any person to take or attempt to take black sea bass from waters under the jurisdiction of the Commonwealth by use of pots without at least two unobstructed escape vents or openings in the parlor portion of the pot measuring at least 2 1/2" in diameter, two inches square, or 1 3/8" by 5 3/4".

Additionally, the Commonwealth retained all of the other direct and indirect fisheries management measures that apply to black sea bass. Among those were:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for the lobster pot, fish pot, gillnet and mobile gear fisheries.
- Numerous area/time closures to otter trawling and gillnets including a seasonal closure for gillnets in waters south of Cape Cod which precludes a directed gillnet fishery for sea bass in state regulated waters and a prohibition on night trawling in Nantucket and Vineyard Sounds.
- Minimum mesh size restrictions for the trawl and gillnet fisheries. Requires trawl mesh size > 6.5 inches in cod end, 6" in net body except during squid season April 23 - June 9, but may be extended until June 15 dependent on discard and by-catch levels.

#### **D. 2013 Harvest**

Commercial landings were 329,223 pounds (117 % of quota) up 32% from 248,463 pounds in 2012 (Figure 3). There is no current estimate of local commercial losses from discard mortality because there is no local estimate of discarded commercial catch. However, since most commercial catches of black sea bass come from fisheries that operate in very shallow waters on gear types with low levels of discard mortality, we assume that additional losses from the discard of commercial catch are small relative to the total catch.

The recreational harvest estimate (252,247 fish, PSE 16.7) was down substantially relative to the 2012 estimated harvest (Figure 4). Total recreational losses from 2013 are estimated at 428,766 fish. This number was derived from the MRIP estimated type A and B1 aggregated catch (252,247 fish, PSE 16.7) plus 15 % of the B2 catch (1,176,796 fish, PSE 16.7) representing an estimate of recreational catch/release mortality (Bugley and Shepherd).

## E. Progress in implementing habitat recommendations

Not applicable.

## IV. Planned 2014 Management Program

### A. Regulations for 2014

#### 1. Recreational Fisheries (322 CMR 8.06)

- Permit required to conduct “for-hire” fishing operations
- 14" minimum size all modes
- 8 fish daily bag/possession limit from May 17 – to September 15
- Special LOA fishery for applying For Hire vessels – May 11 to May 31 and September 1 – September 30 at 20 fish bag limit.

#### 2. Commercial Fisheries

##### Permitting & Reporting Requirements (322 CMR 6.27 & 7.06)

- Black sea bass endorsement required to fish commercially.
- Regulated fishery permit required for use of fish pots, a limited entry fishery.
- Dealer authorization required to purchase sea bass. CMR 6.27 (2)
- Annual reports required of commercial pot fishermen and dealers.

##### Gear Marking & Specifications (322 CMR 4.13, 6.12, 6.15 & 12.03) – *Status quo*

- Year specific trap tag with permit number must be attached to trap’s cross member.
- Pot limit of 200 combined sea bass and scup, or 350 if two permit holders fish from the same vessel.
- Two unobstructed escape vents or openings in the parlor section measuring at least 2 1/2” in diameter, two inches square, or 1 3/8” by 5 3/4” required.
- All buoys and traps must bear fisherman’s permit number.
- Use of floating line at the surface prohibited.
- Positively buoyant ground line prohibited.
- Buoy lines comprised of positively buoyant line except the bottom portion of the line which may be a section of floating line, not to exceed 1/3 overall length of the buoy line.
- Marking:
  - 3) Traps require a single buoy (7”x 7” or 5”x 11”); stick optional with no flag.
  - 4) Trawls: East end – double buoy and one or more 3’ sticks.  
West end – single buoy with 3’ stick and flag.
- All fish traps require ghost panel.
- Trawl maximum length: 2000 feet.
- Use of trawls is prohibited in the waters of Gosnold (M.G.L c.130 §37).
- All vessels must display buoy color scheme.

- No tending or lifting of pots from ½ hour after sunset to ½ hour before sunrise.

Additionally, the Commonwealth retained all of the other direct and indirect fisheries management measures that apply to black sea bass. Among those are:

- Commercial fishing permit required for the sale of all fish and shellfish.
- Limited entry permits for the lobster pot, fish pot, gillnet and mobile gear fisheries.
- Numerous area/time closures to otter trawling and gillnets including a seasonal closure for gillnets in waters south of Cape Cod which precludes a directed gillnet fishery for sea bass in state regulated waters, prohibition on night trawling in Nantucket and Vineyard Sounds and no trawling in Buzzards Bay.
- Minimum mesh size restrictions for the trawl and gillnet fisheries. Requires trawl mesh size > 6.5 inches in cod end, 6" in net body except during squid season April 23 - June 9, but may be extended until June 15 dependent on discard and by-catch levels.

#### **B. 2014 Monitoring Program**

The 2014 fisheries monitoring program for black sea bass will continue to derive fisheries-independent indices of abundance from our synoptic trawl survey, and collect limited age and growth parameters and samples from the survey as well as the opportunistic sampling of commercial fishermen's catches. MRIP sampling of all recreational modes will continue to collect aggregate recreational catch and harvest data. For commercial catch data, we will rely on the MDMF reporting system, annual dealer reporting, and monthly logbook submission from all commercial fishermen as well as limited catch length sampling at the dealers.

#### **C. Changes from previous years monitoring program**

None.

#### **V. Plan Specific Requirements**

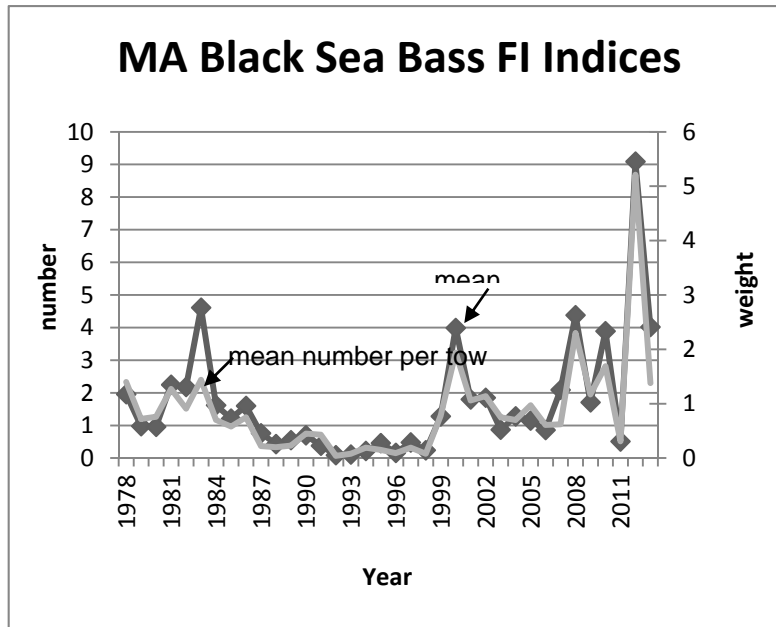
Not applicable.

#### **VI. Law Enforcement Reporting Requirements**

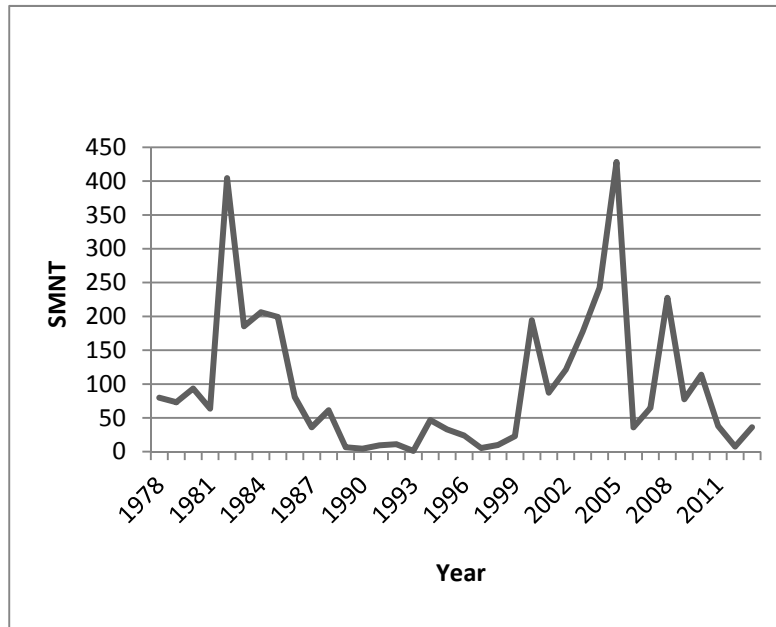
Not applicable.

## VII. Figures

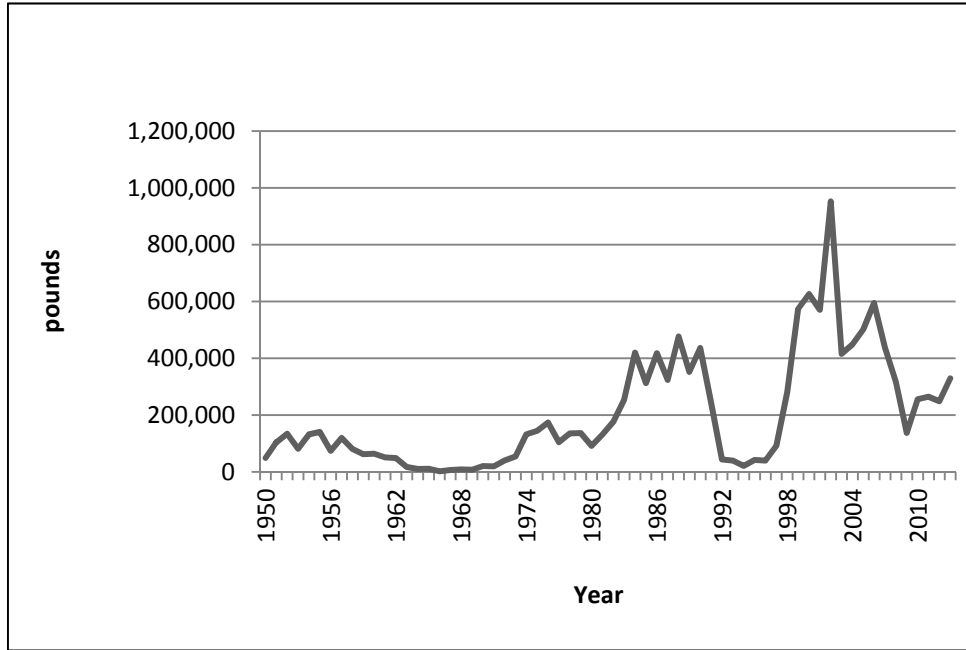
**Figure 1.** Fisheries-independent trawl survey adult indices.



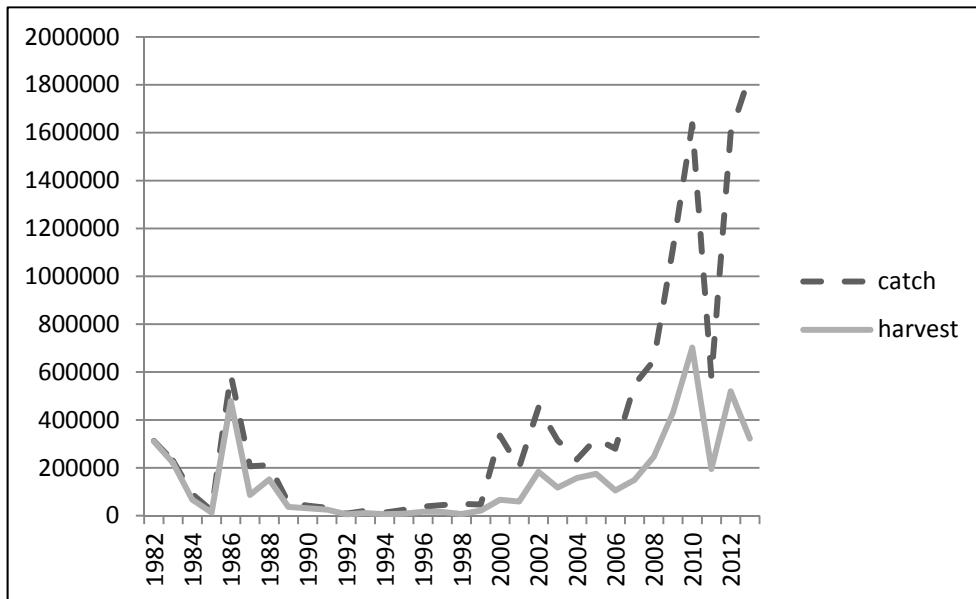
**Figure 2.** Fisheries-independent trawl survey YOY index.



**Figure 3.** Commercial fishery harvest trends.



**Figure 4.** Recreational catch trends.







Rhode Island  
Department of Environmental Management

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**DIVISION OF FISH AND WILDLIFE**

3 Fort Wetherill Road  
Jamestown, RI 02835

401 423-1920  
FAX 401 423-1925  
TDD 401 831-5508

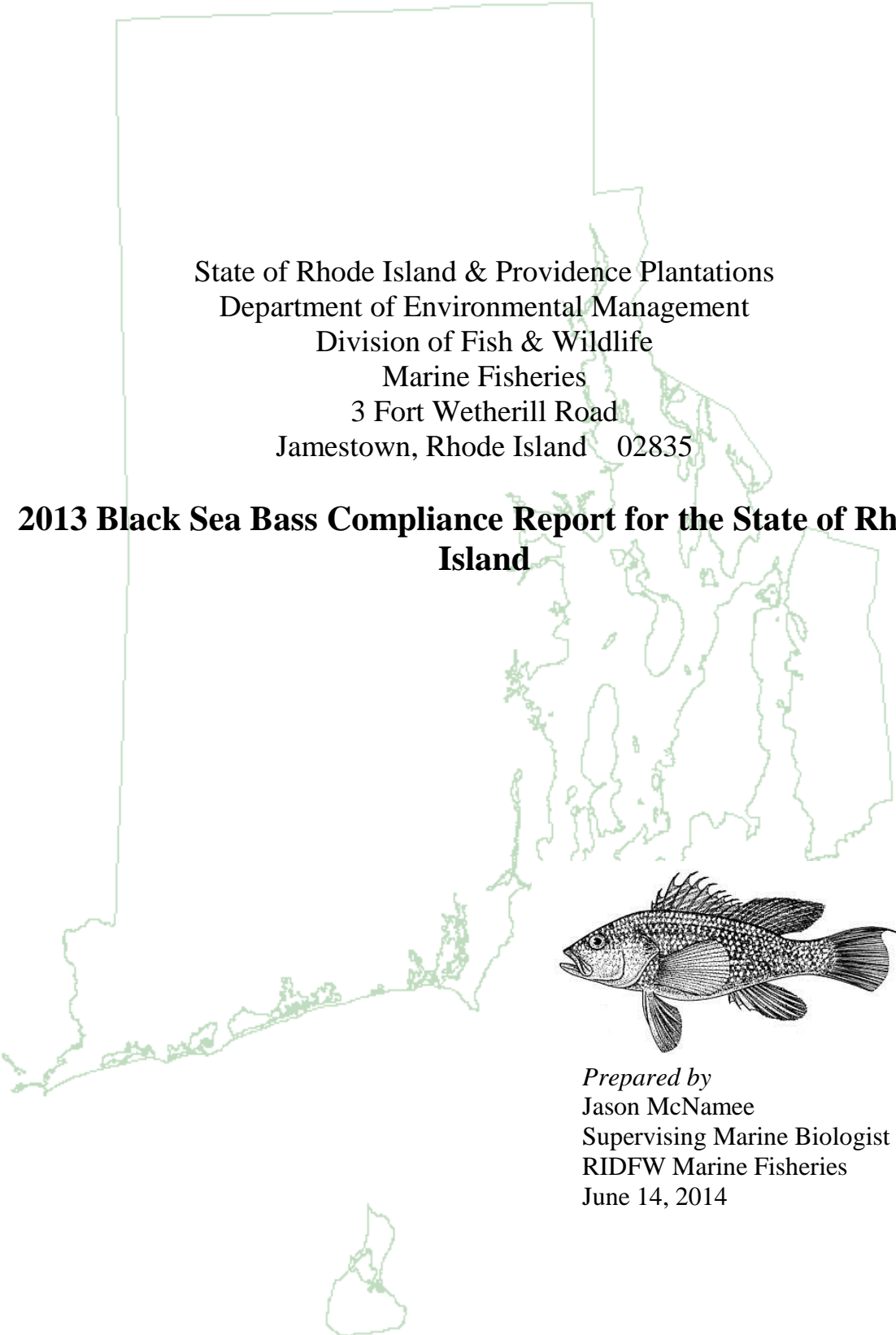
TO: Kirby Rootes-Murdy

FROM: Jason McNamee, Supervising Marine Biologist

DATE: June 14, 2014

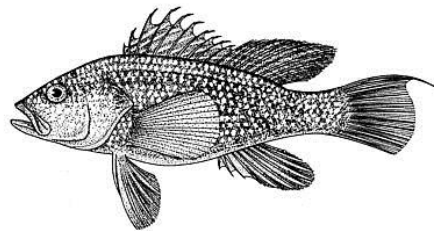
SUBJECT: Rhode Island Annual Compliance Report for Black Sea Bass

Please find Rhode Island's 2013 annual compliance report for black sea bass. If you have any questions, you may contact me directly at 401.423.1943.



State of Rhode Island & Providence Plantations  
Department of Environmental Management  
Division of Fish & Wildlife  
Marine Fisheries  
3 Fort Wetherill Road  
Jamestown, Rhode Island 02835

**2013 Black Sea Bass Compliance Report for the State of Rhode  
Island**



*Prepared by*  
Jason McNamee  
Supervising Marine Biologist  
RIDFW Marine Fisheries  
June 14, 2014

## **Rhode Island's 2013 Annual Compliance Report for Black Sea Bass**

### **I. Introduction**

No executive summary is needed.

### **II. Request for *de minimis*, where applicable.**

RI does not request *de minimis* status.

### **III. Previous calendar year's fishery**

a. Activities of fishery dependent monitoring (provide a brief review of results including monitoring of gear restrictions and minimum size).

The RIDFW Marine Fisheries Section utilizes the Standard Atlantic Fisheries Information System (SAFIS) reporting system to monitor landings of quota-managed species, including black sea bass. Based on information collected under this system, Rhode Island commercial black sea bass landings for 2013 were approximately 237,951 pounds.

Estimates of recreational fishery statistics for Rhode Island are obtained from the MRFSS online data query (NMFS, Fisheries Statistics and Economics Division, Silver Spring, MD, pers. comm.). Recreational harvest (Type A + B1) of black sea bass in Rhode Island for 2011 was 71,185 fish.

b. Activities of fishery independent monitoring (provide a brief review of results).

The RIDFW Marine Fisheries Section operates a seasonal trawl survey to monitor finfish resources (Olszewski 2013). Black sea bass biomass and abundance indices updated for 2013 were calculated as mean number per tow and mean weight per tow, respectively. Estimated relative biomass of black sea bass from the fall survey in RI for 2013 was 0.95 kg/tow, a decrease from the 2012 estimate (1.04 kg/tow). The relative abundance demonstrated a decrease from the previous year with an estimate of 3.11 fish/tow for 2012 compared to 12.30 fish/tow observed in 2013. It is important to note that analyzing the fall leg of the trawl survey may not be entirely appropriate for this species. The migratory patterns of this species only makes them susceptible to trawl gear while they are moving, therefore the fall survey may be offset from this movement and may miss the fish in any given year. A generalized linear modeling approach may benefit analysis of biomass and abundance for this species in the future.

c. Copy of regulations that were in effect for 2013. Has the state implemented the required measures as mandated in the FMP? (see below; please answer with either 'yes' or 'no')

### **Commercial – The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

11" minimum size

4.5" minimum mesh size for entire net or 4.5" diamond mesh in codend (for large trawl nets)

Threshold to trigger minimum mesh requirements: (500 lbs for January - March; 100 lbs from April-December)

2.5" circular escape vents, 2" square escape vent, or 1.375" X 5.75" rectangular escape vent for pots/traps. Two vents required in parlor portion of pot/trap.

**Recreational – The state of RI had the following regulations in place for 2013, which meet the FMP requirements**

13” minimum size

Season from June 15 – Aug 31 at 3 fish per person per day

Season from Sept 1 – Dec 31 at 7 fish per person per day

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses (when available):

| Year | Commercial (lbs) | Recreational (harvest in fish) |
|------|------------------|--------------------------------|
| 2004 | 435,733          | 27,387                         |
| 2005 | 293,976          | 85,458                         |
| 2006 | 273,163          | 41,021                         |
| 2007 | 356,542          | 44,024                         |
| 2008 | 226,927          | 52,303                         |
| 2009 | 128,067          | 35,972                         |
| 2010 | 241,892          | 160,427                        |
| 2011 | 211,587          | 50,203                         |
| 2012 | 204,063          | 102,548                        |
| 2013 | 237,951          | 71,185                         |

Note: Commercial landings may contain RSA pounds. Data from NMFS and MRIP websites.

**IV. Planned management programs for the current calendar year**

The only major change to RI’s black sea bass management in 2014 from what was in place in 2013 will be a delay in the start date from June 15 until June 29.

State of Connecticut  
Compliance Report for Black Sea Bass  
June 1, 2014

**I. Introduction**

The Atlantic States Marine Fisheries Commission requires states to submit an annual report by June 1 of each year to show compliance with the Fishery Management Plan (FMP) for black sea bass. This document fulfills that compliance requirement. This report includes commercial and recreational fishery statistics, monitoring activities and management measures during 2013.

**II. Request for *de minimus*, where applicable.**

N/A

**III. Previous calendar year's fishery and management program.**

a. Activity and results of fishery dependent monitoring.

All commercial fishermen submitted either Commercial Fisheries Catch Logs or NMFS Fishing Vessel Trip Reports on a monthly basis. Connecticut Department of Environmental Protection (CTDEEP) Marine Fisheries Division (MFD) staff entered fishermen reports into the Connecticut Marine Fisheries Information System (MFIS). Seafood dealers with a federal permit submitted their reports electronically to the National Marine Fisheries Service (NMFS) via the Standard Atlantic Fisheries Information System (SAFIS). Dealers with only state permits submitted reports to the CTDEEP and MFD staff entered the reports into SAFIS. Harvest was monitored by combining fishermen and dealer reports.

Recreational catch and harvest is monitored through the Marine Recreational Information Program (MRIP). The NMFS contractor conducts both the interview (intercept) and telephone portions of the survey.

b. Activity and results of fishery independent monitoring.

Black sea bass have been monitored through the Long Island Sound Trawl Survey since 1984. Spring (April, May & June) and fall surveys (September & October) are conducted each year. Survey results are summarized in detail in annual reports to the US Fish and Wildlife Service and are available online at CT DEP's website:

[DEEP: Long Island Sound Trawl Survey](#)

Due to catastrophic engine failure of the R/V John Dempsey, the Long Island Sound Trawl Survey sampling was not conducted in 2010.

c. Copy of regulations that were in effect.

Regulations required under the Black Sea Bass FMP are addressed in Regulations of State Agencies sections: 26-142a-6: commercial fishing gear specifications (26-142a-6(g)(4)(A) and 26-142a-6(g)(7): trawl mesh size, and 26-142a-6(h): fish pots), 26-142a-8a(b) (commercial minimum size), 26-159a-4(a) (sport minimum size), 26-159a-7(a) (creel limits), and 26-159a-16 (black sea bass commercial moratorium and landing limits) and 26-159a-20 (sport closed season), and 26-159a-22 (compliance with interstate fishery management plans).

d. Harvest broken down by commercial (by gear type where applicable) and recreational, and non-harvest losses.

Preliminary 2013 landings show that in the Connecticut commercial fishery 22,735 pounds of black sea bass were landed. Otter trawls accounted for 78% of the commercial harvest while fish pot catches accounted for 3% and 18% are from unknown gears.

Connecticut anglers caught 1,385,053 fish in 2013, keeping 106,877 (PSE of 25.8%) and releasing 1,278,176 (PSE of 20.0%) alive. Discard losses are unknown in either fishery.

e. Review of progress in implementing habitat recommendations.

Not applicable.

**IV. Planned management programs for the current calendar year.**

a. Summarize regulations that will be in effect (provide copy if different from IIIc).

On April 7, 2011 the minimum length was increased to 13 inches and the season change to being open July 1 through October 1 and November 1 through December 31.

Commercial fishery minimum size is 11 inches and landings are managed by quota, utilizing a series of trip limits.

See sections referenced in IIIc above in attached copy of Connecticut Marine Fisheries Regulations.

b. Summarize monitoring programs that will be performed.

Monitoring programs described above: commercial logbooks, dealer reports, MRFSS, fishery independent LIS Trawl Survey will be continued.

c. Highlight any changes from the previous year.

None.

**V. Plan specific requirements**

None.

# New York State Department of Environmental Conservation

## Division of Fish, Wildlife & Marine Resources

### Bureau of Marine Resources

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

Phone: (631) 444-0430 • Fax: (631) 444-0434

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

## 2013 Compliance Report to the ASMFC for Black Sea Bass

### I. Introduction

### II. Request for *de minimis* Not applicable.

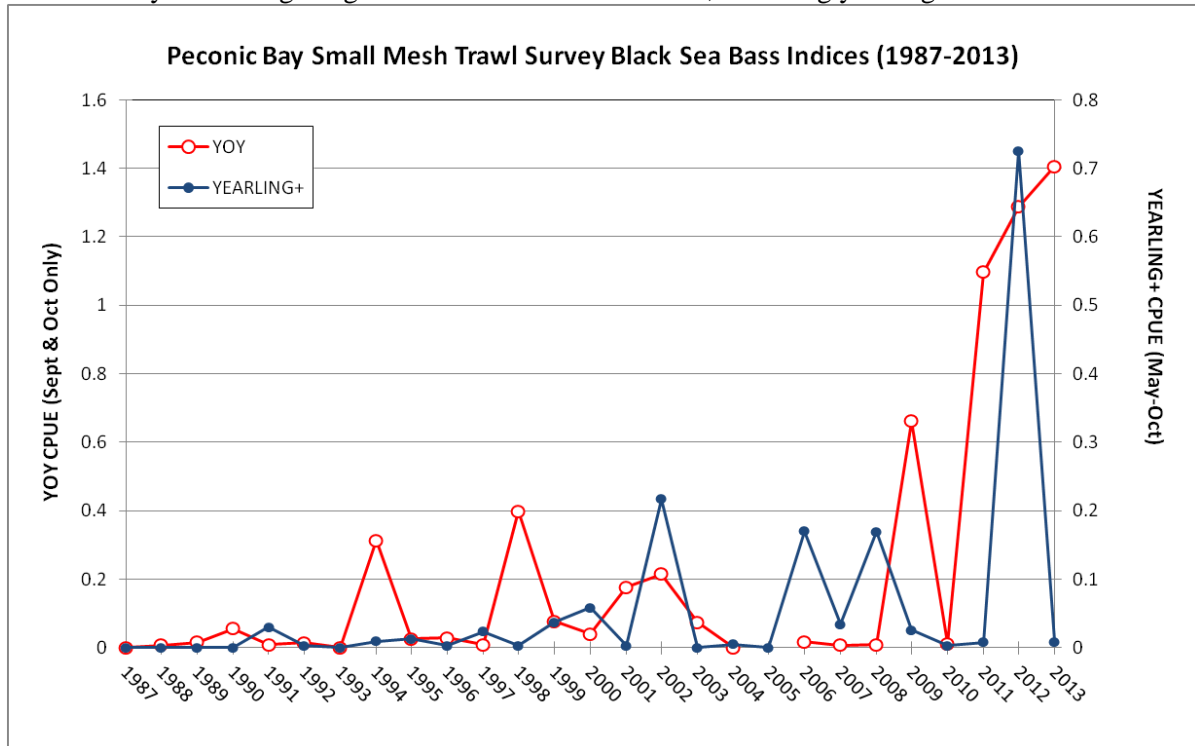
### III. Previous calendar year's fishery and management program

#### a. Activity and results of fishery dependent monitoring

Recreational: NYSDEC staff conducted limited sampling of head-boats targeting black sea bass throughout the fishing season and measured ALL kept and discarded fish from 40 individual anglers spread across 4 trips (7/17 - 8/22). Out of the 154 black sea bass that were caught, 55% were kept by anglers, 94% of which were 13" or greater.

#### b. Activity and results of fishery independent monitoring

Peconic Bay Small Mesh Trawl Survey: In 2013, 362 tows were conducted in the Peconic Bays, yielding 176 black sea bass, only 3 of which were not YOY. The average YOY CPUE (September and October tows only – 123 tows) of 1.4 black sea bass per tow is the time series high and significantly higher than the time series average of 0.23. YOY catch has been very high from 2011 – 2013 but only 2012 caught significant numbers of older fish, including yearlings.



**c. Regulations in effect**

See Appendix B

Recreational Regulations:

13.0” minimum size limit  
8 fish possession limit

Open season July 10 – December 31

Commercial Regulations:

See quota distribution plan (Appendix A)

11” minimum size - Yes

4.5” minimum mesh size for entire net or 4.5” diamond mesh in codend (for large trawl nets) - Yes

Threshold to trigger minimum mesh requirements: (500 lbs for January - March; 100 lbs from April- December) - Yes

2.5” circular escape vents, 2” square escape vent, or 1.375” X 5.75” rectangular escape vent for pots/traps. Two vents required in parlor portion of pot/trap. - Yes

**d. Harvest**

| Year  | COMMERCIAL LBS |             |              |        |           |         |         | RECREATIONAL NO. FISH |               |
|-------|----------------|-------------|--------------|--------|-----------|---------|---------|-----------------------|---------------|
|       | GILL NET       | HOOK & LINE | NOT REPORTED | OTHER  | POUND NET | TRAWL   | TOTAL   | HARVEST (A+B1)        | RELEASED (B2) |
| 2004  | 85             | 15,433      | 40,839       | 20,370 | 1,016     | 162,774 | 240,517 | 133,431               | 624,886       |
| 2005  | 3,379          | 39,996      | 59,758       | 42,580 | 439       | 97,922  | 244,074 | 143,275               | 1,070,834     |
| 2006  | 2,701          | 20,599      | 185,691      | 26,087 | 211       | 59,789  | 295,078 | 268,526               | 1,326,650     |
| 2007  | 5,898          | 22,871      | 151,974      | 35,293 | 306       | 49,598  | 265,940 | 409,697               | 1,548,973     |
| 2008  | 1,169          | 9,956       | 134,380      | 29,942 | 237       | 25,538  | 201,222 | 259,511               | 1,654,692     |
| 2009  | 220            | 10,083      | 89,242       | 13,070 |           | 10,672  | 123,287 | 566,483               | 1,235,556     |
| 2010  | 304            | 11,504      | 123,676      | 32,299 |           | 32,680  | 200,463 | 543,243               | 1,163,303     |
| 2011  |                | 12,240      | 116,914      | 25,645 |           | 23,198  | 177,997 | 274,473               | 892,843       |
| 2012  | 865            | 17,662      | 95,468       | 16,890 | 653       | 21,809  | 153,347 | 321,516               | 2,470,577     |
| 2013* | 1,115          | 14,653      | 89,006       | 28,678 | 169       | 22,167  | 155,788 | 340,811               | 1,321,177     |

Commercial data 2004-2012 is from NMFS Fisheries Statistics

Commercial data 2013 is from ACCSP Confidential Dealer Reports

All recreational data is from MRIP queries as of 5/30/2014

**IV. Planned management programs for the current calendar year**

*Changes*

Recreational (for 2014 fishing season): Minimum size limit and possession limit remain the same. Season length reduced by 5 days and starts on July 15 and extends through the end of December.

**V. Law Enforcement Reporting Requirements**



Appendix A.

## 2013 Black Sea Bass Quota Distribution

The 2013 black sea bass quota allocation provided by the United States Department of Commerce, National Marine Fisheries Service to the State of New York is **anticipated to be 151,900** pounds. DEC's quota distribution plan for black sea bass is as follows:

### 2013 Black Sea Bass Quota Distribution

|          | Dates                  | Quota (lbs) | Initial trip limit | % Distribution |
|----------|------------------------|-------------|--------------------|----------------|
| Period 1 | January 6 - January 26 | 6,230       | 50                 | 5%             |
| Period 2 | May 22 - June          | 50,646      | 50                 | 33%            |
| Period 3 | July - August          | 42,914      | 50                 | 28%            |
| Period 4 | September -<br>October | 36,784      | 50                 | 24%            |
| Period 5 | November -<br>December | 15,327      | 50                 | 10%            |
|          |                        |             |                    |                |
|          |                        |             |                    |                |

The principles governing this determination are as follows;

- 1) Trip limits are established to distribute quota allocation over each period and to prevent closures if possible. Consequently, initial period trip limits may be set at modest levels.
- 2) Overharvest/underharvest from Period 1 will be deducted from/added to Period 5. Overharvest/underharvest from Periods 2 through 4 will be rolled into the next period.
- 3) The final 2013 quota allocation is subject to change by adjustments made by the National Marine Fisheries Service.



NEW JERSEY DIVISION OF  
**Fish and Wildlife**  
P.O. Box 400  
Trenton, NJ 08625-0400  
David Chanda, Director

## Memorandum

TO: Kirby Rootes-Murdy, Fisheries Management Plan Coordinator  
Atlantic States Marine Fisheries Commission

FROM: Peter Clarke, Fisheries Biologist  
NJ Division of Fish and Wildlife

DATE: 22 May 2014

SUBJECT: 2013 Summer Flounder, Scup and Black Sea Bass Compliance Report

Attached is the subject report. If you have any questions or need anything else please contact me.

STATE OF NEW JERSEY  
ASMFC Compliance Report for Black Sea Bass  
Calendar Year 2013

I. Introduction

This report has been prepared to satisfy Atlantic States Marine Fisheries Commission (ASMFC) compliance reporting requirements for black sea bass. No significant changes in monitoring occurred. Several regulatory changes occurred. Daily commercial trip limits for black sea bass were changed for 2013. Dealers and fishermen were notified of any changes concerning trip limits, seasons and quotas. These changes are reflected in Table 3. The black sea bass recreational fishing regulations were changed from 25 fish at 12.5 inches with an open season from May 19 to September 3, September 23 to October 14, and November 1 to December 31 in 2012 to 15 fish at 12.5 inches from January 1 to February 28, and 25 fish at 12.5 inches from May 19 to August 8, September 27 to October 14, and November 1 to December 31 in 2013.

II. Request for de minimus status: Not Applicable.

III. Previous Calendar Years Fishery and Management (2013):

a. Fishery Dependent Monitoring

Commercial black sea bass landings were monitored through daily and/or weekly SAFIS dealer reports listing landings by vessel. These reports are used to administer commercial quotas Table 3. Commercial landings were also available through the National Marine Fisheries Service. Recreational harvest was monitored through the Marine Recreational Information Program.

b. Fishery Independent Monitoring

Black sea bass abundance and size composition has been monitored through New Jersey's Ocean Stock Assessment Survey since 1988. The survey is conducted five times a year. Annual survey indices expressed as #/tow and weight/tow for black sea bass are listed on Table 4. Black sea bass aging has been conducted since 2010. Results are expressed in number collected per year and average age at length and can be found in Figure 2.

c. Copies of Regulations for 2013.

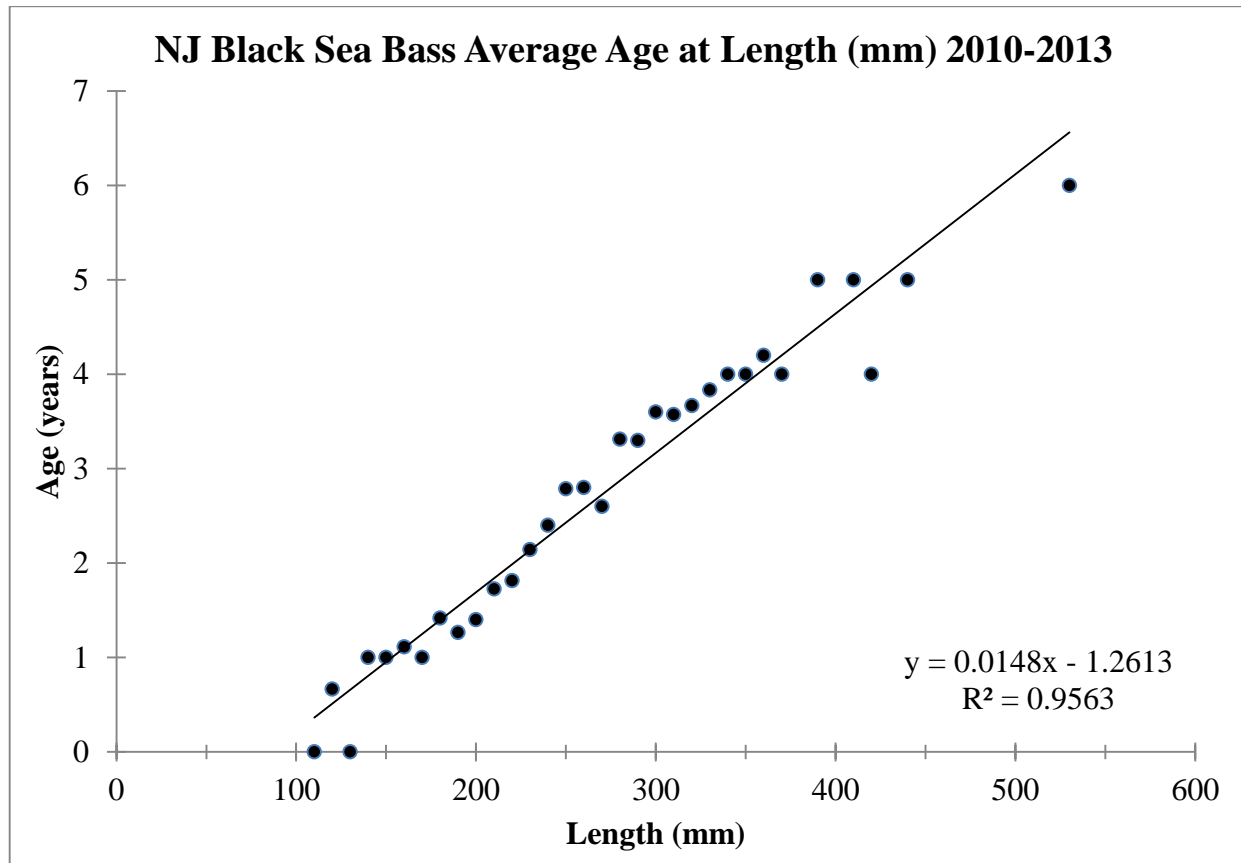
Required FMP mandates were met.

Commercial and recreational regulations are attached as Appendix I and II.

#### IV. Planned Management Programs for 2014

Commercial landings of black sea bass will continue to be monitored via SAFIS electronic dealer reporting for quota management. All New Jersey Black Sea Bass Dealers were notified that the NJ Department of Environmental Protection will accept SAFIS reporting as an approved method to satisfy state reporting requirements beginning January 1, 2007. This action was taken to eliminate the duplicate reporting requirements that had been in effect. Trip limits and quotas will be modified as per ASMFC direction. The recreational fishing regulations for black sea bass changed from 15 fish at 12.5 inches from January 1 to February 28, and 25 fish at 12.5 inches from May 19 to August 8, September 27 to October 14, and November 1 to December 31 in 2013 to 15 fish at 12.5 inches from May 19 to June 30, 3 fish from July 1 to August 31, 15 fish from September 1 to September 6, and 15 fish from October 18 to December 31 in 2014.

**Figure 2.** Annual black sea bass aging results expressed in numbers of fish collected per year and average age at length for all years combined.



**Table 3. New Jersey Commercial Black Sea Bass Quota Summary: 2013**

| NJ Commercial Black Sea Bass Quota Summary |                         |                         |                   |                        |                |                   |                        |                                     |             |              |                              |  |
|--|-------------------------|-------------------------|-------------------|------------------------|----------------|-------------------|------------------------|-------------------------------------|-------------|--------------|------------------------------|--|
| 2013                                       |                         |                         |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Coastwide ACL (Rec and Com):               |                         | 5,500,000               |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| RSA:                                       |                         |                         |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Coastwide Landings ACL Less RSA:           |                         |                         |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Coastwide Commercial Quota (CCQ):          |                         | 2,170,000               |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| NJ Annual Quota (20% CCQ):                 |                         | 434,000                 |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Previous year overage:                     |                         | 0                       |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Total Adjusted Quota:                      |                         | 434,000                 |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Total Pounds Harvested:                    |                         | 420,766                 |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Percent of Quota Harvested:                |                         | 96.95%                  |                   |                        |                |                   |                        |                                     |             |              |                              |  |
| Season                                     | Original Directed Quota | Adjusted Directed Quota | Directed Landings | Overage (-) / Underage | By-Catch Quota | By-Catch Landings | Overage (-) / Underage | Trip Limits                         | Total Quota | Total Landed | Total Overage (-) / Underage |  |
| 1  | Jan 1 to April 15       | 151,553                 | 128,763           | 22,790                 | 16,839         | 0                 | 16,839                 | 1,500 x 2 or 3,000 x 1              | 168,392     | 128,763      | 39,629                       |  |
| 2  | April 16 to June 30     | 80,464                  | 120,093           | 81,169                 | 38,924         | 8,940             | 8,940                  | 1,000 x 2 or 2,000 x 1              | 129,033     | 81,169       | 47,864                       |  |
| 3  | July 1 to Sept 30       | 52,731                  | 100,595           | 37,886                 | 62,709         | 5,859             | 5,859                  | 500 x 4 or 1,000 x 2                | 106,454     | 37,886       | 68,568                       |  |
| 4  | Oct 1 to Dec 31         | 105,853                 | 174,421           | 172,948                | 1,473          | 11,761            | 11,761                 | 1,000 x 6 or 2,000 x 3 or 6,000 x 1 | 186,182     | 172,948      | 13,234                       |  |
|  | Total                   | 390,600                 | 420,766           |                        | 43,400         | 0                 |                        |                                     | 434,000     | 420,766      | 13,234                       |  |

**Table 4.** Annual abundance indices (arithmetic mean stratified number and weight [kg] per tow) of scup, summer flounder, and black sea bass taken in bottom trawl surveys of New Jersey coastal waters. Means are based on data pooled for five survey cruises each year (January, April, June, August, October [+December in 1989]).

| Year | Samples (n) | Scup    |        | Summer Flounder |        | Black Sea Bass |        |
|------|-------------|---------|--------|-----------------|--------|----------------|--------|
|      |             | Number  | Weight | Number          | Weight | Number         | Weight |
| 1989 | 193         | 72.75   | 2.75   | 1.33            | 0.58   | 1.58           | 0.25   |
| 1990 | 171         | 74.72   | 3.77   | 2.43            | 1.04   | 1.42           | 0.26   |
| 1991 | 189         | 200.61  | 6.17   | 3.32            | 1.38   | 4.10           | 0.57   |
| 1992 | 191         | 222.70  | 7.16   | 3.98            | 1.77   | 2.32           | 0.33   |
| 1993 | 187         | 256.91  | 5.21   | 7.19            | 2.69   | 3.01           | 0.49   |
| 1994 | 186         | 86.45   | 3.30   | 2.39            | 1.04   | 0.64           | 0.13   |
| 1995 | 188         | 27.13   | 2.08   | 7.24            | 3.00   | 1.84           | 0.26   |
| 1996 | 189         | 30.81   | 1.04   | 8.06            | 3.53   | 2.90           | 0.62   |
| 1997 | 187         | 52.09   | 3.82   | 13.80           | 7.49   | 40.21          | 0.62   |
| 1998 | 188         | 220.05  | 4.88   | 8.05            | 4.09   | 4.36           | 0.29   |
| 1999 | 186         | 209.10  | 10.30  | 9.66            | 5.03   | 2.48           | 0.30   |
| 2000 | 186         | 262.66  | 6.67   | 6.35            | 3.64   | 7.14           | 1.76   |
| 2001 | 186         | 163.37  | 4.32   | 4.80            | 2.68   | 5.52           | 1.25   |
| 2002 | 188         | 568.07  | 25.73  | 14.45           | 9.97   | 25.23          | 2.86   |
| 2003 | 188         | 804.08  | 10.19  | 8.54            | 6.06   | 5.43           | 1.34   |
| 2004 | 187         | 449.12  | 11.70  | 9.22            | 5.96   | 3.29           | 0.60   |
| 2005 | 186         | 147.98  | 4.19   | 9.63            | 4.22   | 1.21           | 0.23   |
| 2006 | 186         | 943.63  | 16.52  | 9.10            | 5.03   | 4.54           | 0.50   |
| 2007 | 187         | 1185.54 | 38.27  | 7.98            | 4.94   | 15.64          | 1.95   |
| 2008 | 186         | 141.17  | 3.19   | 5.41            | 2.85   | 2.76           | 0.62   |
| 2009 | 186         | 205.66  | 6.04   | 7.33            | 3.90   | 6.64           | 1.21   |
| 2010 | 186         | 141.11  | 2.21   | 9.41            | 4.52   | 2.20           | 0.34   |
| 2011 | 186         | 101.74  | 5.13   | 5.84            | 3.27   | 3.62           | 0.55   |
| 2012 | 186         | 131.73  | 5.83   | 7.53            | 3.99   | 7.15           | 0.63   |
| 2013 | 186         | 12.72   | 0.50   | 6.41            | 3.51   | 3.88           | 0.66   |

**Appendix I. N.J.A.C. 7:25-18.1** Size, season, and possession limits. 2013

(a) For the purpose of this subchapter, the following common names shall mean the following scientific name(s) for a species or group of species, except as otherwise specified elsewhere in this subchapter.

| <u>Common Name</u>         | <u>Scientific Name</u> |
|----------------------------|------------------------|
| Black Sea Bass             | Centropristis striata  |
| Scup (Porgy)               | Stenotomus chrysops    |
| Summer Flounder<br>(Fluke) | Paralichthys dentatus  |

(b) A person shall not purchase, sell, offer for sale, or expose for sale any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

| <u>Species</u>  | <u>Minimum Size<br/>(inches)</u> |
|-----------------|----------------------------------|
| Black Sea Bass  | 11                               |
| Scup (Porgy)    | 9                                |
| Summer Flounder | 14                               |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below:

| <u>Species</u>             | <u>Minimum<br/>Size<br/>In Inches</u> | <u>Open Season</u>                    | <u>Possession<br/>Limit</u> |
|----------------------------|---------------------------------------|---------------------------------------|-----------------------------|
| Black Sea Bass             | 12.5                                  | May 19 – Aug 8                        | 15                          |
|                            |                                       | Sept 27-Oct 14                        | 20                          |
|                            |                                       | Nov 1 – Dec 31                        | 20                          |
| Scup (Porgy)               | 9                                     | Jan. 1—Feb. 28, and<br>July 1—Dec. 31 | 50                          |
| Summer Flounder<br>(Fluke) | 17.5                                  | May 5—Sept. 24                        | 5                           |

1. Total length for black sea bass shall be measured along the midline from the tip of the snout to the end of the central portion of the tail, not to include tail filaments.

(e) Except as provided in (e)2 and (f) below, a person shall not remove the head, tail or skin, or otherwise mutilate to the extent that its length or species cannot be determined, any species with a minimum size limit specified at (b) or (c) above or any other species of flatfish, or possess such mutilated fish, except after fishing has ceased and such species have been landed to any ramp, pier, wharf or dock or other shore feature where it may be inspected for compliance with the appropriate size limit.



1. A shark may be eviscerated and the head and tail removed prior to landing, provided that the alternate length as measured from the origin of the first dorsal fin to the precaudal pit (located just forward of the origin of the upper lobe of the caudal or tail fin) is not less than 23 inches in length. The fins may not be removed from a shark or dogfish, except after fishing has ceased and such shark or dogfish has been landed as specified in (e) above.

2. A person may use parts of one legal sized summer flounder as bait. The carcass of the fish minus the fillets, commonly known as the rack, of the summer flounder used must be retained by the person and counted as part of the person's daily bag limit for that day. The rack shall be kept fully intact so it can be measured for minimum size limit. One summer flounder caught on the person's current fishing trip can be used for this purpose. No parts of fish caught on previous fishing trips shall be in possession. No other species of flat fish or fish listed under (b) or (c) above shall be used for this purpose.

(f) Special provisions applicable to a Special Fillet Permit are as follows:

1. A party boat owner may apply to the Commissioner for a permit for a specific vessel, known as a Special Fillet Permit to fillet species specified at (c) above at sea;

2. For purposes of this section, party boats are defined as vessels that can accommodate 15 or more passengers as indicated on the Certificate of Inspection issued by the United States Coast Guard for daily hire for the purpose of recreational fishing;

3. The Special Fillet Permit shall be subject to the following conditions:

i. Once fishing commences, no parts or carcasses of any species specified in (c) above and no flatfish parts or carcasses shall be discarded overboard; of the species specified at (c) above, only whole live fish may be returned to the water;

ii. No carcasses of any flatfish or species listed at (c) above shall be mutilated to the extent that its length or species cannot be determined;

iii. All fish carcasses of species specified at (c) above shall be retained until such time as the vessel has docked and been secured at the end of the fishing trip adequate to provide a law enforcement officer access to inspect the vessel and catch;

iv. No fillet of any flounder or other flatfish shall be less than eight inches in length during the period of May 1 through October 31 or less than five inches in length during the period of November 1 through April 30;

v. No fish of any species less than the minimum size limit specified in (c) above shall be filleted and no fillet of any species listed below shall have the skin removed and no fillet shall be less than the minimum length in inches specified below.

| <u>Species</u> | <u>Minimum Fillet or Part Length</u> |
|----------------|--------------------------------------|
| Black Sea Bass | 5 inches                             |
| Scup           | 4 inches                             |

vi. Fish carcasses from the previous trip shall be disposed of prior to commencing fishing on a subsequent trip;

vii. Violation of any of the provisions of the Special Fillet Permit shall subject the captain and permit holder to the penalties established pursuant to N.J.S.A. 23:2B-14 and shall result in a suspension or revocation, applicable to both the vessel and the owner of the Special Fillet Permit according to the following schedule:

(1) First offense: 60 days suspension;

(2) Second offense: 120 days suspension; and

(3) Third offense: Revocation of permit, rendering the vessel and the owner not eligible for permit renewal regardless of vessel ownership.

viii. In calculating the period of suspension or revocation applicable under (f)3vii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three-

year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

ix. Upon receipt of the notice of suspension but prior to the suspension or revocation of the Special Fillet Permit, the permittee has 20 days to request a hearing from the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1.1. If a request for a hearing is not received by the Department within 20 days of the permittee's receipt of the notice of suspension, the permit suspension or revocation will be effective on the date indicated in such notice.

(g) Any person violating the provisions of (b), (c), (d) or (e) above shall be liable to a penalty of \$ 30.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(m) Wanton waste of fish is prohibited.

1. Fish of any species, taken by any means, which are purposely killed shall become part of the fisherman's daily possession limit and shall be removed from the waters from which they were taken and from adjacent lands. This subsection shall not apply to those fish which are released while still alive and subsequently die or to those fish taken inadvertently by net (bycatch) and subsequently die.

(n) Any person violating the provisions of (h) through (l) above shall be liable for a penalty of \$ 100.00 for each fish taken or possessed. Each fish taken or possessed shall constitute a separate and distinct offense.

(p) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the fishing seasons, minimum size limits and possession limits specified in this section by notice in order to maintain and/or to come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission pursuant to 16 U.S.C. §5104(b) or to maintain consistency with any Mid-Atlantic Fishery Management Council plan adopted by the National Marine Fisheries Service. The Department shall publish notice of any such modification in the New Jersey Fish and Wildlife Digest and the New Jersey Register, and shall submit a news release to individuals on the Division outdoor writers' mailing list.

(q) All persons aboard any fishing vessel subject to this rule shall immediately comply with instructions and signals issued by a conservation officer, a marine police officer or other law enforcement officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for the purpose of enforcement of this rule. After any instructions, signals or other communication from an authorized law enforcement officer indicating the officer's intent to perform an inspection, it shall be unlawful for any person to dispose of fish, fish parts or any other matter in any manner until such time as the inspection is complete. Violation of this provision shall subject the violator to the penalties established pursuant to N.J.S.A. 23:2B-14.

(r) Pursuant to N.J.S.A. 23:10-21 and 21.1, any gear used in the violating of the provisions of this subchapter may be seized and forfeited to the Division.

## Appendix II. Commercial Regulations

### N.J.A.C. 7:25-18.12; Commercial fishing seasons, quotas, and trip limits.

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. After December 31, 2002, a vessel shall not land more than 100 pounds of black sea bass during the period of January 1 through March 31 or more than 50 pounds of black sea bass during the period of April 1 through December 31 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Black Sea Bass Permit. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Black Sea Bass Permit shall complete and submit an application provided by the Department by December 31, 2002 that includes information on name, address, vessel name, vessel documentation or registration number, gear and landings criteria as specified in (h)1ii below. Applications for a New Jersey Black Sea Bass Permit received after the above date shall be denied.
  - ii. To be eligible for a New Jersey Black Sea Bass Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold a minimum cumulative total of 10,000 pounds of black sea bass in New Jersey during the period 1988 through May 3, 2001;
    - (2) The vessel shall have possessed a valid Federal Black Sea Bass Moratorium Permit or appropriate New Jersey gear license for each year of submitted landings documentation; and
    - (3) Documented proof of landings shall consist of one or more of the following:
      - (A) Weigh-out slips totaling the weight harvested;
      - (B) A notarized statement from the applicant and the purchaser(s) attesting to the weight harvested (a copy of the business records the statement(s) must accompany the application);
      - (C) Other documentation similar to that in (h)1ii(3)(A) or (B) above may be accepted at the discretion of the Commissioner after his or her review.
2. The New Jersey Black Sea Bass Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in a black sea bass fishery, may have on board the gear type(s) listed on that vessel's New Jersey Black Sea Bass Permit.
3. The owner of a vessel permitted pursuant to this sub-section not pending revocation or court action may transfer his or her Black Sea Bass Permit, upon application to the Department, as follows:
  - i. To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a black sea bass permit; or
  - ii. Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a Black Sea Bass Permit based on the harvesting history of the vessel being sold.
4. Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.
5. Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.
6. A vessel possessing a valid Black Sea Bass Permit to commercially harvest black sea bass by angling or hook and line and when operating under the permit shall be subject to the following:
  - i. Crew size shall be limited to no more than five persons, including the captain; and
  - ii. The vessel shall not carry any passengers for hire. When carrying passengers for hire the Black Sea Bass Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.
7. A vessel that does not possess a New Jersey Black Sea Bass Permit shall be permitted to land not more than 100 pounds of black sea bass during the period of January 1 through March 31, or not more than 50 pounds of black sea bass during the period of April 1 through December 31 on any trip provided the amount of black sea bass landed from any vessel

shall not exceed 10 percent, by weight, of the total weight of all species landed and sold. Vessels taking black sea bass by angling or hook and line that do not possess a New Jersey Black Sea Bass Permit shall be subject to the possession limits established in N.J.A.C. 7:25-18.1 and the seasonal by-catch limits and 10 percent criteria specified above.

8. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.
  - i. The Commissioner, or his or her designee, shall implement annual and seasonal black sea bass quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon four days public notice. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - ii. Ten percent of the New Jersey annual black sea bass quota shall be allocated each year for by-catch landings when any of the seasons for the directed commercial fishery defined in (h)8iii below are closed. The by-catch landings shall be divided between seasons as identified in (h)8iii below at the same percentage apportioned to each season specified at (h)8iii below.
    - (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
    - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed black sea bass fishery quota.
  - iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
    - (1) January 1-April 15: 38.8 percent, 750 pound trip limit and a maximum of two days per week or 1,500 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (2) April 16-June 30: 20.6 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (3) July 1-September 30: 13.5percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (4) October 1-December 31: 27.1 percent, 500 pound trip limit and a maximum of two days per week or 1,000 pound trip limit with a maximum of one day per week that a vessel may land black sea bass.
    - (5) If a minimum of 50,000 pounds of the New Jersey black sea bass quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year.
    - (6) Any daily landings of black sea bass not exceeding 100 pounds during the period of January 1 through March 31 or 50 pounds during the period of April 1 through December 31 shall not be applied to maximum weekly landings days during any season as specified in (h)8iii(1) through (4) above, provided the amount of black sea bass landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
  - iv. No vessel shall have in possession or land and no dealer shall accept from any one vessel or person more than the lesser of the daily trip limit of black sea bass set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission in any one calendar day.
  - v. The Commissioner, or his or her designee, shall close the season for the commercial black sea bass fishery upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Black Sea Bass Permit holders.

- vi. Once the season has been closed for the directed commercial black sea bass fishery, no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or purchase any black sea bass landed in New Jersey in excess of the by-catch allowances specified in (h)1 and 7 above and provided the amount of black sea bass landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any black sea bass and no dealer or person shall accept or buy any black sea bass landed in New Jersey.
- vii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (h)7v above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- viii. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- ix. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following season. The amount overharvested shall also be deducted from the following years seasonal quota in pounds and reallocated to the season from which it was deducted the previous year.
- x. Any vessel participating in the black sea bass fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the trip being called in. For example, "this will be my third landing this week." Notification shall include phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.
- 9. After December 31, 2002, no dealer shall accept or purchase any black sea bass from any vessel or harvester unless such dealer is in possession of a valid New Jersey Black Sea Bass Dealers Permit. A New Jersey Black Sea Bass Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:
  - New Jersey Black Sea Bass Dealers Permit
  - Nacote Creek Research Station
  - PO Box 419
  - Port Republic, NJ 08241
- 10. After December 31, 2002, no dealer shall accept or purchase from any one vessel more than the amounts of black sea bass specified at (h)1 above unless said vessel is in possession of its valid New Jersey Black Sea Bass Permit.
- 11. After December 31, 2002, any harvester or vessel landing black sea bass in New Jersey for the purpose of sale shall sell all black sea bass to a permitted New Jersey Black Sea Bass Dealer.
- 12. All permitted New Jersey Black Sea Bass Dealers shall provide daily reports during the period January 1 through April 15 and weekly reports during the period April 16 through December 31 to the Division listing the amount of black sea bass landed on a daily basis and any other information that may be required by the Commissioner. If no black sea bass were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number listed on the reporting form no later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
- 13. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the required documentation to an application shall result in the denial of the permit.

- ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of black sea bass landed as specified in (h)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
- iii. Failure to comply with the provisions of (h)6 above, criteria under which a vessel may harvest black sea bass by angling or hook and line, (h)8 above, exceeding daily trip limits and landing black sea bass after the season has been closed, (h)9 above, accepting or purchasing black sea bass without a New Jersey Black Sea Bass Dealers Permit, (h)10 above, accepting or purchasing from any non-permitted vessel more than the amount of black sea bass stipulated pursuant to (h)1 and 7 above, and (h)11 above, selling black sea bass to a non-permitted dealer shall result in the suspension during open season(s) or revocation of the vessel's and/or dealer's Black Sea Bass Permit according to the following schedule:
  - (1) First offense: 60 days suspension;
  - (2) Second offense: 120 days suspension;
  - (3) Third offense: permanent revocation;
- iv. In calculating the period of suspension or revocation applicable under (h)13iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Black Sea Bass Dealers Permit suspended or revoked shall not land or permit the landing of any black sea bass at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Black Sea Bass Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(i) The following provisions are applicable to the commercial harvest of summer flounder:

- 1. A vessel shall not land more than 100 pounds of summer flounder during the period of May 1 through October 31 or more than 200 pounds of summer flounder during the period of November 1 through April 30 in New Jersey on any one trip unless said vessel is in possession of a valid New Jersey Summer Flounder Permit to participate in the directed fishery for summer flounder. Vessels fishing under the special terms of a quota transfer or combination program as provided in (i)3 below may be exempt from this requirement if such terms specify that a New Jersey Summer Flounder Permit is not necessary to land summer flounder in New Jersey. The permit shall be issued in the name of the vessel and the owner and for the specific gear type(s) used to qualify for the permit.
  - i. Applicants for a New Jersey Summer Flounder Permit shall complete and submit an application provided by the Department. Applicants applying to use hook and line shall submit their applications no later than May 31, 1994. Applicants applying for a New Jersey Summer Flounder permit for any other gear type shall submit their applications no later than January 1, 2000. Applications for a New Jersey Summer Flounder Permit received after the above dates shall be denied.
  - ii. To be eligible for a New Jersey Summer Flounder Permit, the vessel's owner shall meet the following criteria:
    - (1) The vessel shall have landed and sold at least 1,000 pounds of summer flounder in each of two years during the period of 1985-1992;
    - (2) The vessel shall have possessed a valid New Jersey otter trawl, pound net, or gill net license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of

summer flounder landed and sold in (i)1ii(!) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 to November 2, 1988 or vessels providing documentation of harvest by hook and line are exempt from this requirement; and

- (3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl, pound net or gill net license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder Permit shall be on board the vessel to which it is issued at all times. The permit is valid from the date of issuance and for any subsequent years unless revoked as part of a penalty action. The vessel, when engaged in the directed summer flounder fishery, may only have on board the gear type(s) listed on that vessel's New Jersey Summer Flounder Permit.

- (1) The owner of a vessel permitted pursuant to this subsection not pending revocation or court action may transfer his or her Summer Flounder Permit, upon application to the Department, as follows:
  - (A) To his or her replacement vessel, provided the replacement vessel is not greater than 10 percent larger in vessel length, gross registered tonnage and net tonnage and not more than 20 percent greater in horsepower than the originally permitted vessel. The vessel being replaced shall no longer be eligible for a New Jersey Summer Flounder Permit; or
  - (B) Along with the sale of his or her vessel to a new owner. The owner selling the vessel shall no longer be eligible for a New Jersey Summer Flounder Permit based on the harvesting history of the vessel being sold.

- (2) Transfer of a permit to a new vessel shall be limited to the same gear type(s) of the originally permitted vessel.

- (3) Applicants for permit transfer shall complete an application provided by the Department, and no permit may be transferred without prior approval of the Department.

iv. A vessel possessing a valid New Jersey Summer Flounder Permit to commercially harvest summer flounder by angling or hook and line and when operating under the permit shall be subject to the following:

- (1) Crew size shall be limited to no more than five persons, including the captain; and
- (2) The vessel shall not carry any passengers for hire. When carrying passengers for hire the New Jersey Summer Flounder Permit is not valid and the recreational possession limits and seasonal restriction as specified in N.J.A.C. 7:25-18.1 apply.

v. A vessel that does not possess a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder during the period of May 1 through October 31, or not more than 200 pounds of summer flounder during the period of November 1 through April 30 on any trip provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight, of the total weight of all species landed and sold, except that vessels taking summer flounder by angling or hook and line shall be subject to the possession limits established in N.J.A.C. 7:25-18.1.

2. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (i)3 below and such agreement indicated otherwise.

- i. Ten percent, but no more than 200,00 pounds of the of the New Jersey annual summer flounder quota, shall be allocated each year for by-catch landings when any of the six seasons for the directed commercial fishery are closed. The by-catch landings shall be divided between the six seasons as identified at (i)2ii below at the same percentage as for the directed fishery specified at (i)2ii below or as modified by the Commissioner.

- (1) Any by-catch not landed during the season allocated shall be added to the directed fishery quota of the following season except during the last season.
  - (2) If any of the by-catch allowance has not been landed by December 1 in any calendar year the remaining amount shall be added to the directed summer flounder fishery quota.
  - (3) For the purpose of this section, all directed fishery seasons identified at (i)2i below shall start on the first Sunday of the applicable month.
- ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after deducting the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landings days in each week (Sunday through Saturday) as follows:
- (1) January-February: 28 percent, 2,500 pound trip limit and a maximum of two days a week or 5,000 pound trip limit and a maximum of one day a week that a vessel may land summer flounder;
  - (2) March - April: 11 percent, 2,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder;
  - (3) May-June: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (4) July-August: 10.5 percent, 500 pound trip limit and a maximum of four days per week that a vessel may land summer flounder, or 250 pound trip limit and a maximum of seven days a week that a vessel may land summer flounder;
  - (5) September - October: 29 percent, 750 pound trip limit and a maximum of four days that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds;
  - (6) November - December: 11 percent, 1,000 pound trip limit and a maximum of three days per week that a vessel may land summer flounder, except as follows:
    - (A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 3,000 pounds; and
  - (7) Any daily landings of summer flounder not exceeding 100 pounds during the period of May 1 through October 31 or 200 pounds during the period of November 1 through April 30 shall not be applied to maximum weekly landings days during any season as specified in (i)2ii(1) through (6) above, provided the amount of summer flounder landed from any vessel shall not exceed 10 percent by weight, of the total weight of all species landed and sold.
- iii. No vessel shall have in possession or land and no dealer shall accept from any one vessel more than the daily trip limit of summer flounder in any one calendar year.
- iv. Any vessel participating in a directed summer flounder fishery shall notify the Department of the time and place of unloading of the vessel at least two hours in advance of such unloading. Such unloading shall not occur except between the hours of 6:00 A.M. and 6:00 P.M. from November 1 through April 30 and 6:00 A.M. and 8:00 P.M. from May 1 through October 31. The vessel shall also report how many times that week (Sunday through Saturday) the vessel will have landed, including the tip being called in. For example, "This will be my third landing this week." Notification shall include a phone call to (609) 748-2050 unless changed by notice to permit holders via first class mail.



- v. If a minimum of 100,000 pounds of the New Jersey summer flounder quota remains unlanded as of December 1 in any calendar year, the Commissioner, or his or her designee, may set a daily trip limit for the remainder of that calendar year or until the quota specified in (i)2 above is landed, whichever occurs first.
- vi. The Commissioner, or his or her designee, shall close the season for the directed and/or by-catch commercial summer flounder fishing season upon two days public notice of the projected date the seasonal percentage of the annual quota shall be caught. Public notice shall include letters by first class mail to all permitted New Jersey Summer Flounder Dealers and New Jersey Summer Flounder Permit holders.
- vii. Once the season has been closed for the directed commercial summer flounder fishery, no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey in excess of the by-catch allowances specified in (i)1 above and provided the amount of summer flounder landed from any vessel shall not exceed 10 percent, by weight of all species landed and sold. If the entire season and/or annual quota including the by-catch allowance has been landed, then no vessel or person shall land or sell any summer flounder and no dealer or person shall accept or buy any summer flounder landed in New Jersey.
- viii. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (i)2vi above.
  - (1) The Commissioner, or his or her designee may set daily trip limits when reopening a prematurely closed season.
- ix. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.
- x. If the quota for any of the first five seasons is exceeded, the amount overharvested shall be deducted from the following season.
- xi. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (i)2i and ii above.
- xii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.
- xiii. All New Jersey Summer Flounder Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Summer Flounder Program  
 Nacote Creek Research Station  
 PO Box 419  
 Port Republic, NJ 08241

- (1) The monthly report shall include, but not be limited to, the following information: name, New Jersey Summer Flounder Permit number of the vessel, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which summer flounder are landed. New Jersey Summer Flounder Permit holders who also possess a Federal summer flounder permit and are required to report monthly to the Federal government may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
- (2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.

3. Pursuant to Amendment 5 of the Mid-Atlantic Fishery Management Council's Summer Flounder Management Plan, the Commissioner may enter into agreements with other states to transfer or combine summer flounder commercial quotas. Such agreements shall specify the terms and conditions under which vessels not in possession of a New Jersey Summer Flounder Permit may land summer flounder in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.
4. No fish dealer shall accept any summer flounder from any vessel or harvester unless such dealer is in possession of a valid New Jersey Summer Flounder Dealers Permit. A New Jersey Summer Flounder Dealers Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Summer Flounder Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

5. No dealer shall accept from any vessel more than the amounts of summer flounder specified at (i)1 above unless said vessel is in possession of its valid New Jersey Summer Flounder Permit.
6. No vessel shall land and no dealer shall accept any summer flounder which have been frozen, filleted or processed in any way. Only whole, fresh summer flounder may be landed, except that by-catch amounts of summer flounder as specified in i(1) above may be landed frozen provided that each fish is individually frozen whole and can be individually weighed and measured without thawing.
7. Any harvester or vessel landing summer flounder in New Jersey for the purpose of sale shall sell all summer flounder to a permitted New Jersey Summer Flounder Dealer.
8. All permitted New Summer Flounder Dealers shall provide daily reports during the period January 1 through February 28 and weekly reports during the period March 1 through December 31 to the Division listing the amount summer flounder landed on a daily basis by size category and any other information that may be required by the Commissioner or as a result of any agreement with other states pursuant to (i)3 above. If no summer flounder were landed, a report to that effect shall be required. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division not later than 10:00 A.M. on the following day for daily reports and 12:01 P.M. on Monday following the week's end for weekly reports or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
9. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
  - i. Failure to submit the application by May 31, 1994 for use of hook and line or to attach the required documentation to the application shall result in the denial of the permit.
  - ii. Falsification or misrepresentation of any information on an application including documentation provided to verify the amount of summer flounder landed as specified in (i)1ii(3) above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.
  - iii. Failure to comply with the provisions of N.J.A.C. 7:25-18.14(i)2, minimum mesh sizes, (i)2iii above, landing, possession or accepting in excess of the daily trip limit for summer flounder, (i)2iv above, failure of notification of landing of summer flounder, (i)2vii above, landing summer flounder after the directed fishery and/or by-catch season has been closed, (i)2xiii above, failure to submit accurate and timely monthly reports, (i)5 above accepting more than by-catch amounts from non-permitted vessels, (i)6 above accepting any summer flounder other than fresh product, or N.J.S.A. 7:25-18.14(a), (b), (d), (e), (f) or N.J.S.A. 23:3-46 through 47 shall result in the suspension during open seasons or revocation of the vessel's New Jersey Summer Flounder Permit or the dealers New Jersey Summer Flounder Dealers Permit according to the following schedule:
    - (1) First offense: 60 days suspension;
    - (2) Second offense: 120 days suspension;

(3) Third offense: permanent revocation;

- iv. In calculating the period of suspension or revocation applicable under (i)9iii above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.
- v. Any person who has had his or her New Jersey Summer Flounder Dealers Permit suspended or revoked shall not land or permit the landing of any summer flounder at his or her facility during the suspension or revocation under the provisions of another permittee's New Jersey Summer Flounder Dealers Permit.
- vi. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(k) The following provisions are applicable to the commercial harvest of scup:

- 1. Annual coastwide scup quotas and daily trip limits for the periods of January 1 through April 28 and November 1 through December 31, and an annual New Jersey scup quota for the period from May 1 through October 31 shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission. All landings of scup in New Jersey during the period from May 1 through October 31 shall be applied to the New Jersey scup quota.
  - i. Any closure of the scup fishery by the National Marine Fisheries Service in adjacent Federal waters or any closure which includes New Jersey marine waters during the periods January 1 through April 28 and November 1 through December 31 would automatically close New Jersey to commercial landings of scup.
  - ii. The Commissioner, or his or her designee, shall implement annual and seasonal scup quotas and daily trip limits determined by the Atlantic States Marine Fisheries Commission upon two days public notice. The implemented quotas and limits shall also be reflected in this subsection through a notice of administrative change in the New Jersey Register, in accordance with N.J.A.C. 1:30-2.7.
  - iii. The Commissioner, or his or her designee, shall close the season for the commercial scup fishery upon two days public notice of the projected date the New Jersey seasonal quota shall be caught. Public notice shall include letters by first class mail to all New Jersey Scup Dealer Permit holders and Federal scup moratorium, permit holders that are New Jersey residents.
  - iv. Once the season has been closed for the commercial scup fishery, no vessel shall land any scup and no dealer shall accept any scup landed in New Jersey.
  - v. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated events resulting in the quota not being landed by the projected date, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days public notice. Public notice shall be made as specified in (k)1iii above.
  - vi. If the quota for any season is exceeded, the amount overharvested shall be deducted from the following year's quota for that season.
- 2. No vessel shall have in possession or land and no dealer shall accept from any vessel more than the lesser of the daily trip limits set by the National Marine Fisheries Service or the Atlantic State Marine Fisheries Commission for the season of January 1 through April 30 and November 1 through December 31 and no vessel shall have in possession or land and no dealers shall accept from any one vessel more than the daily trip limit of 5,000 pounds of scup during the season of May 1 through October 31 or as provided for in (k)2i above.

- i. If a minimum of 25 percent of the New Jersey scup quota is projected to remain unlanded as of October 1 in any calendar year, then there shall be a 10,000 pound trip limit for the remainder of the season or until the season is closed as provided in (k)1i above.
  - ii. The trip limit for scup shall be two trips per week (Sunday through Saturday) with landings not to exceed 50,000 pounds during any two-week period from January 1 through April 28 and a daily limit as established by the National Marine Fisheries Service from November 1 through December 31. During the period of January 1 through April 28, the daily trip limit will be reduced to 1,000 pounds when it is projected that 80 percent of the period quota will be harvested.
3. No fish dealer shall accept any scup from any vessel or harvester unless such dealer is in possession of a valid New Jersey Scup Dealer Permit. A New Jersey Scup Dealer Permit may be obtained by completing an application supplied by the Department and submitting it to:

New Jersey Scup Dealers Permit  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

4. A harvester or vessel shall not land scup for the purpose of sale or sell any scup unless such harvester or vessel is in possession of a valid scup moratorium permit issued by the National Marine Fisheries Service.
5. Any harvester or vessel landing scup in New Jersey for the purpose of sale shall sell all scup to a permitted New Jersey Scup Dealer.
6. All permitted New Jersey Scup Dealers shall provide weekly reports to the Division listing the amount of scup landed on a daily basis and any other information that may be required by the Commissioner or as a result of an agreement with other states pursuant to (k)9 below. Such report shall be faxed to the Division at the number specified on the reporting forms supplied by the Division no later than two days following the week's end or sent by any other method approved by the Department. For the purpose of this provision, the week shall begin on Sunday and end on Saturday.
7. All scup moratorium permit holders landing scup in New Jersey shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than 15 working days following the end of the reported month at the following address:

New Jersey Scup Program  
Nacote Creek Research Station  
PO Box 419  
Port Republic, NJ 08241

- i. The monthly report shall include, but not be limited to, the following information: name, scup moratorium permit number, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, gear type used to harvest, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which scup are landed. Scup moratorium permit holders may submit the "STATE" copy of their Federal log book in satisfaction of the New Jersey reporting requirements.
8. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:
- i. Failure to comply with the provisions (k)1iv above, landing or accepting scup after the season has been closed; (k)2 above, landing or accepting more than the daily trip limit; (k)3 above, accepting scup from a vessel without first having obtained a valid New Jersey Scup Dealer Permit; (k)4 above, landing for the purpose of sale or selling scup without first having obtained a valid scup moratorium permit; (k)5 above, selling scup to a non-permitted fish dealer; or (k)6 and 7 above, failure to submit accurate and timely reports, shall result in the suspension during the open seasons or revocation of the dealer's New Jersey Scup Dealer Permit according to the following schedule:

- (1) First offense: 60 days suspension;
- (2) Second offense: 120 days suspension;
- (3) Third offense: permanent revocation;

ii. In calculating the period of suspension or revocation applicable under (k)8i above, the number of previous suspensions shall be reduced by one for each three-year period in which the permit holder does not commit any other violation subject to this subsection, provided, however, that if more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subparagraph; therefore, a permit holder who incurs more than one suspension in a three year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without violation. The reduction in suspensions provided in this subparagraph applies only to determination of suspension periods; all prior suspensions shall be taken into account in calculating monetary penalties in accordance with N.J.S.A. 23:2B-14.

9. Pursuant to Amendment 8 of the Mid-Atlantic Fishery Management Council's Fishery Management Plan for the Summer Flounder and Scup Fishery, the Commissioner may enter into agreements with other states to transfer or combine scup commercial quotas. Such agreements shall specify the terms and conditions under which vessels may land scup in New Jersey, as well as how the landings will be applied to the quota. Any agreement developed by the Commissioner and any other state is not valid until such time as it has been reviewed and approved by the Northeast Regional Director of the National Marine Fisheries Service.

#### **N.J.A.C. 7:25-18.14**

(l) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder during the period of May 1 through October 31 or the possession of more than 200 pounds of summer flounder during the period of November 1 through April 30 on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.
2. A person utilizing an otter or beam trawl in the directed fishery for summer flounder shall not use a net of less than 5.5 inches stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement. The mesh size shall be applied throughout the body, extensions and cod end portions of the net upon adoption in the Federal Register of essentially the same criteria. Until such time, the mesh size shall be applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph, on board a vessel engaged in a directed fishery for summer flounder is prohibited unless such net is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

- (1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;
- (2) The first body (belly) section of the net consists of 35 meshes or more of eight inches stretch mesh webbing or larger;
- (3) 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 two inch stretch mesh.

(p) Special provisions applicable to a directed scup fishery are as follows:

1. The possession of more than 500 pounds of scup during the period of November 1 through April 30 and more than 200 pounds of scup during the period of May 1 through October 31 on board a vessel or landed from a vessel shall constitute a directed fishery for scup.

2. A person utilizing an otter or beam trawl in a directed fishery for scup shall not use a net of less than 5.0 inches stretched mesh inside measurement applied for a minimum of 75 continuous meshes forward of the terminus of the net.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (p)2 above shall not contain any meshes less than 5.0 inches stretched mesh inside measurement throughout the entire net.
  3. The possession of any net with a mesh less than the minimum specified in (p)2 above on board a vessel in a directed fishery for scup is prohibited unless it is not available for immediate use as defined in (b) above.
- (q) Special provisions applicable to a directed black sea bass fishery are as follows:
1. The possession of more than 500 pounds of black sea bass during the period of January 1 through March 31 or more than 100 pounds of black sea bass during the period of April 1 through December 31 on board a vessel or landed from a vessel shall constitute a directed fishery for black sea bass for the purpose of requiring minimum mesh sizes as defined in (q)2 below.
  2. A person utilizing an otter or beam trawl in a directed fishery for black sea bass shall not use a net of less than 4.5 inches stretched diamond mesh or 4.0 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified in this paragraph on board a vessel in a directed fishery for black sea bass is prohibited unless it is not available for immediate use as defined in (b) above.
    - i. Nets not large enough to accommodate the number of minimum meshes listed in (q)2 above shall not contain any meshes less than 4.5 inches stretched diamond mesh or 4.0 inches stretched square mesh inside measurement throughout the entire net.



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL  
DIVISION OF FISH & WILDLIFE  
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DIRECTOR

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## **Delaware Black Sea Bass Compliance Report**

**R. Wong, G. Glanden; May 19, 2014**

### **I. Introduction**

Delaware implemented a commercial quota system in 2003 as part of the compliance requirement detailed in the Atlantic States Marine Fisheries Commission's (ASMFC) fishery management plan (FMP), Amendment 13. Delaware allocated 96% of its 2013 commercial quota (108,500 pounds) to the pot fishery by use of individual transferrable quotas (ITQ's), which were calculated for six individuals that qualified with historical landings criteria. Each 2013 pot fishery ITQ was 17,360 pounds. The remaining four percent of the quota was divided amongst 13 commercial hook and line fishers that qualified based on reported landings between 1994 through 2001. Each 2013 commercial hook and line ITQ was 333 pounds.

Delaware's recreational regulations were changed to match federal regulations in May 2013.

### **II. Request for *de minimis* – N/A**

### **III. Previous year's fishery and management program**

#### **A. Fishery-Dependent Monitoring**

Commercial fishers qualified to land black sea bass in Delaware were required to call in their landings after each trip and within one hour of packing out the catch. An interactive voice response system (IVR) was established and maintained in order to track landings relative to individual quotas in real time. In addition, commercial harvesters are also required to submit monthly landings reports and these are used as a cross reference to the IVR reports.

#### **B. Fishery-Independent Monitoring**

A fishery-independent 16 ft. trawl survey is conducted monthly in Delaware's coastal waters to assess relative abundance of both juvenile and adult finfish. Information from this survey is used to produce a young of the year black sea bass index (Figure 1).

#### **C. Regulations (2013)**

##### **I. Commercial regulations**

An 11 inch minimum size restriction is in place for commercially landed black sea bass and all pots must have two rectangular escape vents measuring 1.375 inches by 5.75 inches in the parlor section of the pot; or a circular vent 2.5 inches in

diameter; or a square vent with sides 2 inches inside measure. Delaware implemented a regulation on May 10, 2006, that excludes the caudal filament as part of the total length measurement.

Six individuals qualified, based on historical landings data, to participate in the black sea bass pot fishery and land black sea bass in Delaware under the state's IFQ quota system. Each individual was allocated 17,360 pounds. In addition, 13 people qualified for allocation under the commercial hook and line category and each person was allocated 333 pounds of black sea bass that could be landed in Delaware for commercial purposes.

Any overage of an individual's allocation will be subtracted from that individual's allocation the next year and distributed to those individuals in the appropriate fishery that did not exceed their quota. No individual overage occurred during 2013.

2. Recreational regulations

The 2013 regulations were composed of a minimum size of 12.5 inches and a 15 fish daily creel limit during the January 1 through February 28 season, and a 25 fish daily creel limit during the May 19 through October 14 and the November 1 through December 31 seasons. Regulations were the same as those in 2012.

D. Harvest (2013)

1. Commercial landings

Total reported commercial landings for black sea bass were 104,898 pounds, which was 97% of the quota allocated to Delaware for the 2013 fishing season. Pot fishermen landed 99 percent of the reported commercial landings (Table 2).

2. Recreational landings

Delaware's recreational harvest estimates for black sea bass are generated from the Marine Recreational Information Program (MRIP). The intercept sampling level has been enhanced three times (3X) the base NMFS allocation since 1998.

Recreational anglers landed 25,344 black sea bass during the 2013 fishing season, a 37% decrease from 2012 landings (Table 3).

**IV. Planned Management Programs for 2014**

Delaware's 2014 commercial quota has been adjusted to 108,822 pounds based on the ASMFC calculations of the state-by-state allocation program. All commercial measures described above will remain in effect for 2014. Delaware's recreational fishery regulations will be consistent with the federal regulations to be finalized in May-June 2014. The federal recreational regulations are proposed as 12.5" size limit, 15 bag, and open season 5/19 to 9/18, 10/18 to 12/31.



## Figures and Tables

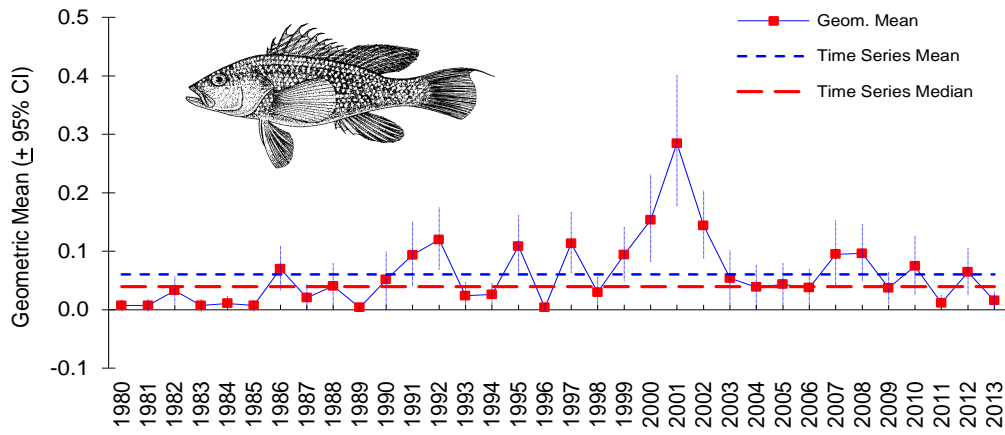


Figure 1. Index of YOY abundance, geometric and arithmetic means, and median, from the DFW fishery-independent 16 ft. trawl survey.

Table 1. Recent recreational regulations including proposed 2014 regulations.

| Year | Size | Bag | Open Season                  |
|------|------|-----|------------------------------|
| 2012 | 12.5 | 15  | 1/1 to 2/28                  |
| 2012 | 12.5 | 25  | 5/19 to 10/14, 11/1 to 12/31 |
| 2013 | 12.5 | 20  | 5/19 to 10/14, 11/1 to 12/31 |
| 2014 | 12.5 | 15  | 5/19 to 9/18, 10/18 to 12/31 |

Table 2. Delaware commercial black sea bass landing by gear types  
1990 – 2013.

| <b>YEAR</b> | <b>POTS</b> | <b>GILL NETS</b> | <b>HOOK &amp; LINE</b> | <b>TOTAL</b> |
|-------------|-------------|------------------|------------------------|--------------|
| 1990        | 148,400     | 170              | 1,074                  | 149,644      |
| 1991        | 187,400     | 76               | 2,166                  | 189,642      |
| 1992        | 179,070     | 4                | 7,569                  | 186,613      |
| 1993        | 83,665      | 26               | 2,103                  | 85,794       |
| 1994        | 67,323      | 48               | 921                    | 68,292       |
| 1995        | 145,254     | 187              | 6,712                  | 152,153      |
| 1996        | 161,246     |                  | 4,902                  | 166,148      |
| 1997        | 148,743     |                  | 7,779                  | 156,522      |
| 1998        | 75,894      | 4                | 2,390                  | 78,288       |
| 1999        | 82,442      |                  | 2,785                  | 85,227       |
| 2000        | 38,304      | 5                | 2,045                  | 40,354       |
| 2001        | 20,029      | 0                | 1,845                  | 21,874       |
| 2002        | 7,887       | 4                | 2,862                  | 10,753       |
| 2003        | 89,650      |                  | 1,089                  | 90,739       |
| 2004        | 87,011      |                  | 942                    | 87,956       |
| 2005        | 62,622      | 389              | 543                    | 63,554       |
| 2006        | 79,265      |                  | 930                    | 80,195       |
| 2007        | 62,734      |                  | 756                    | 63,490       |
| 2008        | 60,322      |                  | 378                    | 60,700       |
| 2009        | 49,878      |                  | 381                    | 50,259       |
| 2010        | 76,849      |                  | 66                     | 76,915       |
| 2011        | 82,087      |                  | 349                    | 82,436       |
| 2012        | 81,976      |                  | 375                    | 82,351       |
| 2013        | 104,169     |                  | 729                    | 104,898      |

Table 3. Delaware recreational estimates of the number of black sea bass landed (A+B1), 1990 – 2013.

| <b>YEAR</b> | <b>LANDINGS</b> |
|-------------|-----------------|
| 1990        | 112,557         |
| 1991        | 391,395         |
| 1992        | 195,532         |
| 1993        | 236,758         |
| 1994        | 66,328          |
| 1995        | 192,282         |
| 1996        | 69,584          |
| 1997        | 91,082          |
| 1998        | 51,628          |
| 1999        | 36,744          |
| 2000        | 146,350         |
| 2001        | 198,035         |
| 2002        | 607,419         |
| 2003        | 303,825         |
| 2004        | 111,985         |
| 2005        | 50,445          |
| 2006        | 128,841         |
| 2007        | 72,514          |
| 2008        | 24,695          |
| 2009        | 50,470          |
| 2010        | 22,448          |
| 2011        | 42,961          |
| 2012        | 40,141          |
| 2013        | 25,344          |

# Maryland's 2013 Black Seas Bass (*Centropristis striata*) Compliance Report to the Atlantic States Marine Fisheries Commission

Prepared for ASMFC

by:  
Steve Doctor

Maryland Department of Natural Resources  
Fisheries Service  
Estuarine and Marine Fisheries Division

June 2014

## **I. Introduction**

The Black Sea Bass stock was most recently assessed in December 2008 and summarized in the report of the Northeast Data Poor Stocks Working Group (NEFSC CDR 09-02). In this report, the review panel concluded that overfishing is occurring, but the stock is not overfished. This determination was reaffirmed during the 53rd Northeast Regional Stock Assessment in 2012. In Maryland, Black Sea Bass are pursued almost entirely in the Exclusive Economic Zone (EEZ) both recreationally and commercially.

Black Sea Bass recreational management allows for states to set their own regulations using conservation equivalency. The background for these changes and the framework for setting regulations is documented in Addendum XXII (March 2012). Maryland regulations remained consistent with current and previous federal recreational measures.

The Black Sea Bass commercial fishery is managed by a state-by-state allocation system as mandated by Addendum XIX to the FMP. Maryland's commercial allocation under this addendum is 11% of the annual coastal commercial target.

## **II. Request for *De Minimis***

No de minimis status is requested.

## **III. Previous Year's Fishery and Management Programs**

### **A. Fishery Dependent Monitoring**

MDNR does not have any fishery-dependent monitoring programs for Black Sea Bass. Data are occasionally collected from the recreational for-hire fishery, but no samples were collected in 2013.

### **B. Fishery Independent Monitoring**

Maryland's Coastal Bays Fisheries Investigation Trawl and Beach Seine Survey regularly encounter Black Sea Bass. In 2013 a total of 56 juvenile Black Sea Bass were collected in trawl (47 fish) and beach seine (9 fish) samples conducted on Maryland's Coastal Bays. Black Sea Bass were ranked 18<sup>th</sup> out of 72 species in overall finfish abundance. GM indices of relative abundance were calculated and compared with the 1989-2013 time series grand mean. The point estimate of the time series grand mean was used as an indicator of central tendency of abundance, against which the 95% CIs of the GM indices of relative abundance were compared. The 2013 trawl and beach seine indices were both equal to the standardized grand means (Figures 1 and 2).

## Black Sea Bass Trawl Index Maryland Coastal Bays

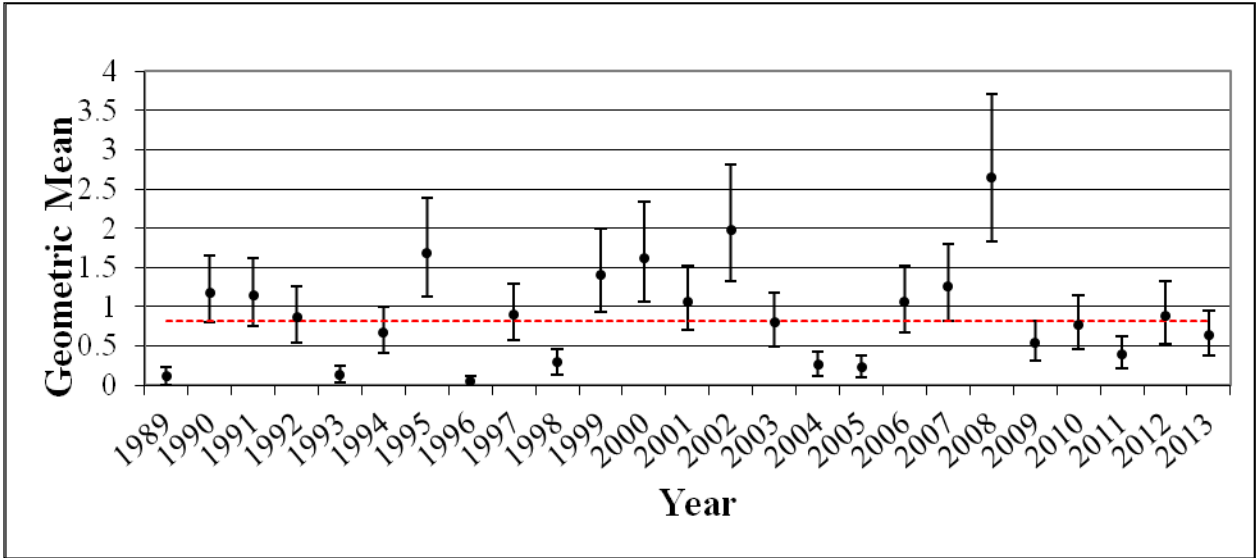


Figure 1. Black Sea Bass trawl index of relative abundance (geometric mean) with 95% confidence intervals (1989-2013). Dotted line represents the 1989-2013 time series grand mean. Protocols of the Coastal Bays Fishery Investigation Trawl and Beach Seine Survey were standardized in 1989 (n=140/year).

## Black Sea Bass Seine Index Maryland Coastal Bays

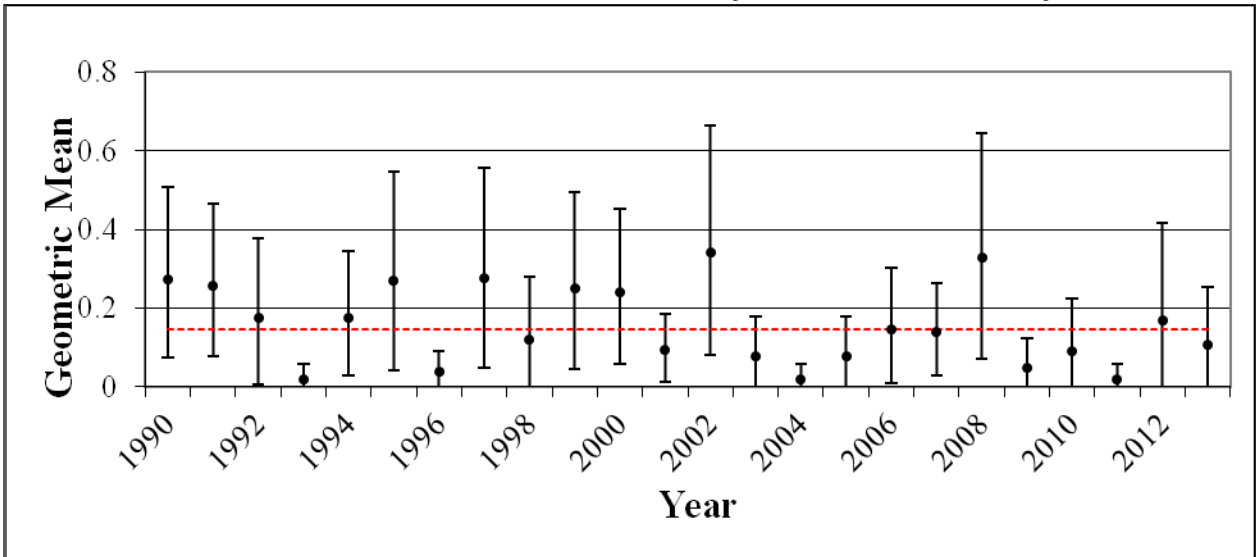


Figure 2. Black Sea Bass beach seine index of relative abundance (geometric mean) with 95% confidence intervals (1989-2013). Dotted line represents the 1989-2013 time series grand mean. Protocols of the Coastal Bays Fishery Investigation Trawl and Beach Seine Survey were standardized in 1989 (n=38/year).

### **C. Previous Year's Fishery and Management Program**

A Chesapeake Bay and Atlantic Coast Black Sea Bass FMP was developed in 1993 by the NOAA Chesapeake Bay Program. Maryland and Virginia have a cooperative management plan for black sea bass within the Chesapeake Bay.

#### **A. Recreational.**

- (1) **Minimum Size.** A recreational angler may not catch or possess a black sea bass less than 12.5 inches in total length.
- (2) **Catch Limit.** A recreational angler may not catch or possess more than 20 black sea bass per day.
- (3) **Season.** The recreational season for catching black sea bass was January 1 to February 28 with a creel of 15 fish, May 19 to October 14, and November 1 through December 31 with a creel of 20 fish.

#### **B. Commercial.**

- (1) **Minimum Size.** An individual who harvests black sea bass for commercial purposes may not catch or possess a black sea bass less than 11 inches in total length, excluding the tail filament.
- (2) **Quotas.**
  - (a) The annual quota for Maryland is 11 percent of the annual Atlantic coast quota determined by the National Marine Fisheries Service.
  - (b) **Quota Allocation.**
    - (i) The total pounds of black sea bass that may be harvested by a black sea bass landing permit holder who applies for a permit for 2011 and subsequent years shall be based on the proportion of the total black sea bass harvest allocated to the permit holder in the previous year.
    - (ii) In addition to the quota allocation, as described in §B(2)(b)(i) of this regulation, the Department shall reallocate equitably among permit holders the quota of any permit holder who fails to apply for a permit for the following year, or who leaves the fishery without transferring the permit.
  - (c) A Maryland black sea bass landing permit holder (permittee) may annually transfer up to 100 percent of the permittee's individual quota to another permittee upon notification of and approval by the Department. However, an individual may not hold more than 20 percent of the total fishery allocation.
  - (d) An individual who possesses a Maryland black sea bass landing permit in accordance with §C of this regulation and lands more than the assigned permit allocation, including any quota transfers, shall have the overage deducted from the permit allocation for the following year.
- (3) **Daily Catch Limits.** A vessel that does not have an individual on board who possesses a valid Maryland black sea bass landing permit may not catch, possess, or land more than 50 pounds of black sea bass per day.
- (4) Black sea bass harvested for commercial purposes from Maryland waters of the Atlantic Ocean or from the waters of the Exclusive Economic Zone (EEZ) and landed in Maryland shall be sold to a federally permitted dealer.

#### **C. Licenses and Permits.**

(1) A person shall be licensed to fish for commercial purposes in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, in order to catch, possess, or land black sea bass.

(2) A vessel which is used to catch, possess, or land black sea bass for commercial purposes from the waters of the Exclusive Economic Zone (EEZ) of the Atlantic Ocean shall be permitted by the National Marine Fisheries Service in accordance with 50 CFR §648.4.

(3) A permittee may catch, possess, or land black sea bass for commercial purposes on a vessel other than the vessel declared on the permittee's permit if in possession of the permit issued to the permittee, and the undeclared vessel is permitted by the National Marine Fisheries Service.

(4) Declaration.

(a) A tidal fish licensee shall declare their intent to fish for black sea bass by August 31 of each year.

(b) A tidal fish licensee who has not declared by August 31 of the current year, and who has not declared late in any of the 3 preceding years, may apply until September 14 of the current year, or the next business day if September 14 occurs on a weekend, to the Director of Fisheries Service, provided the licensee shows good reason why the application should be processed.

(c) An exception to the September 14 deadline will be considered only for an individual who can provide satisfactory documentation of a physical or mental incapacity that prevented that individual from meeting the declaration time period established in this subsection.

(d) The federally registered name or the State registration numbers of the permitted vessels owned by the permittee shall be indicated at the time of application for the permit and declared on the Maryland black sea bass landing permit.

(e) Any change in vessel ownership shall be reported to the Department so that a revised permit card may be issued.

(5) Black Sea Bass Landing Permit.

(a) No more than 14 black sea bass landing permits may be issued by the Department. The number of black sea bass landing permits is based on the reported catch and landing records of black sea bass in Maryland during 1996—2001.

(b) The Department may issue a permit to catch and land black sea bass in Maryland to a person who is licensed in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, owns or has a share of ownership in a federally permitted vessel, and:

(i) Declared or was eligible to declare, in the previous year, an intent to fish for black sea bass in accordance with §C(4) of this regulation and has not transferred the permit; or

(ii) Received a black sea bass landing permit through a permanent business transfer in accordance with §C(6) of this regulation.

(6) Permanent Transfer of a Landing Permit. The Department may approve a permanent transfer of a Maryland black sea bass landing permit to an individual who applies to the Department requesting the transfer on forms provided by the Department.

(7) Temporary transfers of black sea bass landing permits are not permitted.

(8) Operators.

(a) An operator means an individual who is not a permittee and acts as an agent of a permittee.

(b) The name of the vessel on which the operator is working shall be declared on the Maryland black sea bass landing permit.

(c) An operator may catch, possess, or land black sea bass for commercial purposes on a vessel owned by a permittee and in possession of that permittee's permit.

(9) Regardless of the number of authorized individuals with Maryland black sea bass landing permits on board a federally permitted vessel, no more than two black sea bass quotas may be fished from one vessel per trip.

D. Gear Restrictions.

(1) Trawls.

(a) Except for an individual possessing less than 50 pounds of black sea bass per trip, an individual may not use a trawl to catch black sea bass with mesh less than 4-1/2 inches stretched mesh size throughout the net or a minimum of 75 meshes in the codend.

(b) An individual may not use a roller rig trawl with a roller diameter in excess of 18 inches.

(2) Pots and Traps. A pot or trap used to catch black sea bass shall have:

(a) An unobstructed escape vent of at least a:

(i) 2-1/2 inch diameter circular opening;

(ii) 2 inch by 2 inch square opening; or

(iii) 1-3/8 inch by 5-3/4 inch rectangular opening; and

(b) Hinges and fasteners on a panel or door made of one of the following degradable materials:

(i) Untreated hemp or jute string of 3/16 inch in diameter or less;

(ii) Magnesium alloy fasteners; or

(iii) Ungalvanized, uncoated iron wire of 0.094 inch diameter or smaller.

E. Reporting and Penalties.

(1) In addition to the requirements of Natural Resources Article, §4-206, Annotated Code of Maryland, an individual in possession of a Maryland black sea bass landing permit shall record the harvest of black sea bass on the permit daily and submit the completed permit to the Department within 14 days from the end of the black sea bass season.

(2) A dealer shall transmit information weekly, or as requested, on each black sea bass transaction through the Department-approved reporting system.

(3) The Department may withhold quota allocation for a black sea bass landing permit for failing to comply with §E(1) of this regulation during the previous season.

(4) The Department may deny an application for a black sea bass landing permit for failing to comply with §E(1) of this regulation during the previous season.

F. General.

(1) The Secretary may modify catch limits, size limits, quotas, or open or close a season in order to comply with species management through the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Black Sea Bass, by publishing notice on the Fisheries Service website at least 48 hours in advance, stating the effective hour and date.

(2) The Secretary shall make a reasonable effort to disseminate public notice through various other media so that an affected individual has reasonable opportunity to be informed.

(3) The Department shall make a reasonable effort to modify quotas to ensure that the Maryland portion of the coastwide quota is harvested and not exceeded.



## D. Harvest by Gear Type

### 1. Commercial Landings

In 2013 there were eleven pot fishermen and three trawlers that met the minimum requirements to receive a Maryland Black Sea Bass landing permit. A permit is required to commercially land more than 50 pounds of Black Sea Bass a day in Maryland.

Maryland's 2013 commercial Black Sea Bass harvest was 219,321 pounds (accessed May 27, 2014, National Marine Fisheries Service, Fisheries Statistics and Economics Division, Personal communication). NMFS data are confidential.

### 2. Recreational Landings

Based on MRIP estimates, Maryland's 2014 recreational Black Sea Bass harvest was 7,734 fish (PSE 41.4) with a combined weight of 9,944 pounds (accessed May 27, 2014, National Marine Fisheries Service, Fisheries Statistics and Economics Division, Personal communication). The time series data shows some variability and a general decline in harvest since 2000, both in numbers of fish and total pounds. 2013 is exceptionally low as was 2004.

| Estimate Status | Year | Common Name    | Total Harvest (A+B1) | PSE  | Harvest (A+B1) Total Weight (lb) | PSE  | Landings (no.) without Size Information |
|-----------------|------|----------------|----------------------|------|----------------------------------|------|---|
| FINAL           | 2000 | BLACK SEA BASS | 433,588              | 33.0 | 455,723                          | 34.1 | 0                                       |
| FINAL           | 2001 | BLACK SEA BASS | 118,882              | 26.1 | 134,856                          | 30.5 | 0                                       |
| FINAL           | 2002 | BLACK SEA BASS | 336,610              | 16.7 | 484,659                          | 17.3 | 0                                       |
| FINAL           | 2003 | BLACK SEA BASS | 240,748              | 18.7 | 265,995                          | 20.7 | 30,219                                  |
| FINAL           | 2004 | BLACK SEA BASS | 15,529               | 36.4 | 19,446                           | 38.6 | 0                                       |
| FINAL           | 2005 | BLACK SEA BASS | 91,018               | 20.0 | 94,569                           | 20.0 | 0                                       |
| FINAL           | 2006 | BLACK SEA BASS | 120,803              | 16.1 | 135,906                          | 16.0 | 0                                       |
| FINAL           | 2007 | BLACK SEA BASS | 38,669               | 24.1 | 49,046                           | 26.4 | 0                                       |
| FINAL           | 2008 | BLACK SEA BASS | 26,429               | 18.1 | 33,550                           | 22.2 | 0                                       |
| FINAL           | 2009 | BLACK SEA BASS | 33,082               | 22.2 | 40,554                           | 27.6 | 0                                       |
| FINAL           | 2010 | BLACK SEA BASS | 36,018               | 16.8 | 41,507                           | 16.5 | 0                                       |
| FINAL           | 2011 | BLACK SEA BASS | 47,445               | 17.9 | 51,730                           | 20.2 | 0                                       |
| FINAL           | 2012 | BLACK SEA BASS | 33,080               | 38.4 | 42,174                           | 35.1 | 0                                       |
| PRELIMINARY     | 2013 | BLACK SEA BASS | 7,534                | 41.4 | 9,944                            | 41.9 | 0                                       |

Figure 3. Black Sea Bass MRIP estimates 2000-2013. National Marine Fisheries Service,

Fisheries Statistics and Economics Division, Personal communication) accessed May 27, 2014.

#### **IV. Planned Management for 2014**

##### **A. Summary of Regulations that will be in Effect**

The Code of Maryland Regulations (COMAR) pertaining to black sea bass (section 08.02.05.21) are online at URL: <http://www.dsd.state.md.us/comar/08/08.02.05.21.htm>. Maryland's recreational black sea bass regulations for 2014 include a 12.5 inch total length minimum size limit, 15 fish/day creel limit, and an open season from May 19 until September 18<sup>th</sup>, and October 18<sup>th</sup> through December 31<sup>st</sup> or as determined by NMFS. All other regulations will remain the same as in 2013.

##### **B. Summary of Monitoring Programs that will be in Effect**

Maryland will continue to monitor the abundance of juvenile black sea bass in the Coastal Bays Fisheries Investigation Trawl and Beach Seine Survey. Length data from the recreational harvest on selected head boats out of Ocean City, Maryland will be collected if time allows.

##### **C. Highlights of Changes from the Previous Year**

No changes were necessary to maintain compliance with regulatory requirements.

#### **V. Plan Specific Requirements**

Not Applicable

#### **VI. Law Enforcement Requirements**

Not Applicable

#### **References**

Northeast Data poor Stocks Working Group. 2009. The Northeast Data Poor Stocks Working Group Report, December 8012, 2008 Meeting. Part A. Skate species complex, Deep sea red crab, Atlantic wolfish, Scup, and Black sea bass. US Dept Commerce, Northeast Fisheries Science Center, Ref Doc. 09-02; 496p.  
<http://www.nefsc.gov/publications/crd/crd0902/>

Northeast Fisheries Science Center. 2012. 53rd Northeast Regional Stock Assessment Workshop (53rd SAW) Assessment Report. US Dept Commerce, Northeast Fish Sci Cent Ref Doc. 12-05; 559 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026,

National Marine Fisheries Service, Fisheries Statistics and Economics Division. Commercial landings. December 28, 2013. [http://www.nero.noaa.gov/ro/fso/reports/reports\\_frame.htm](http://www.nero.noaa.gov/ro/fso/reports/reports_frame.htm). Accessed on May 27, 2014.

National Marine Fisheries Service, Fisheries Statistics and Economics Division. Marine Recreational Fisheries Statistical Survey. December 31, 2013. Accessed May 27, 2014. <http://www.st.nmfs.gov/st1/recreational/queries/custom/index.html>. Accessed on May 27, 2014.



MARYLAND - VIRGINIA  
"Potomac River Compact of 1958"

## Potomac River Fisheries Commission

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### *Black Sea Bass* **2013 Compliance Report** June 1, 2014

The Potomac River Fisheries Commission has "declared an interest" in black sea bass and has complied with the provisions of the black sea bass management plan.

The PRFC's 2013 commercial restrictions for black sea bass included a minimum size limit of 11 inches and an open season, January 1 through December 31. There were no trawl or sea bass pot fisheries in the Potomac River. Recreational and charter fisheries had a 12.5 inch minimum size limit (excluding tail filament) with a possession limit of 20 fish per day. The open season for recreational and charter fisheries was May 19 through October 14, and November 1 through December 31.

We believe the regulations that were in effect bring this Commission into compliance with the provisions of the black sea bass management plan.

We would also like to report there was no commercial harvest of black sea bass in the Potomac River during 2013. Any recreational or charter boat harvest would have been reflected in the Maryland/Virginia MRIP data.

An artificial reef was constructed on a 50-acre site in the lower Potomac River in 2008. Material used was concrete rubble from demolition of the old Woodrow Wilson Bridge. This new reef should enhance fisheries habitat in the Potomac River.



# COMMONWEALTH of VIRGINIA

## Marine Resources Commission

2600 Washington Avenue  
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Newport News, Virginia 23607

Molly Joseph Ward  
Secretary of Natural Resources

John M. R. Bull  
Commissioner

May 28, 2014

### MEMORANDUM

TO: Kirby Rootes-Murdy, Black Sea Bass Fisheries Management Plan  
Coordinator  
Atlantic States Marine Fisheries Commission

FROM: Sally Roman, Fisheries Management Division  
Virginia Marine Resources Commission

SUBJECT: Virginia's 2013 Compliance Report for Black Sea Bass

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#### I. Introduction

In 2013, Virginia maintained all ASMFC mandated gear restrictions, possession limits, and harvest quotas that apply to black sea bass for the both commercial and recreational fisheries. Landings from the 2013 commercial fishery remained below the state's quota. The recreational fishery was managed on a regional basis, with a coastwide recreational harvest limit (RHL). Virginia was in the southern region with Delaware, Maryland, and North Carolina. Preliminary recreational data indicate the RHL was exceeded in 2013. Confidential data are included in this report.

#### II. Request for *de minimis*, where applicable

N/A

#### III. Previous calendar year's fishery and management program

A. Activity and results of fishery-dependent monitoring (provide general results and references to technical documentation).

The 2013 Virginia commercial black sea bass fishery continued to be managed as a limited entry fishery with two distinct sectors: a directed fishery (managed with an individual transferable quota system (ITQ)) and a bycatch fishery. A permit is required to participate in either fishery, and no individual may participate in both fisheries at the

same time. Allocation of ITQ shares and possession limits for the bycatch sector are included in Chapter 4 VAC 20-950-10 (Appendix I).

The directed fishery receives the majority of the state quota (394,000 pounds in 2013). The bycatch fishery quota has been 40,000 pounds per year for the past several years including 2013. There were 45 permittees in the directed fishery and 56 permittees in the bycatch fishery for 2013. Both sectors of the fishery remained under sector-specific quotas for 2013.

B. Activity and results of fishery-independent monitoring (provide general results and references to technical documentation).

Black sea bass are among the species encountered by the Virginia Institute of Marine Science (VIMS) Juvenile Trawl Survey (JTS) and the Chesapeake Bay Multispecies Monitoring and Assessment Program (ChesMMAAP) Survey. Both surveys produce abundance indices for species of top commercial, recreational, or ecological importance in Virginia. The JTS abundance index for black sea bass in 2012 was 0.19. This value is below the time series mean of 0.70 and a decline from 2011 (0.65). The abundance indices for all ages (0 through 2) for 2012 are the lowest in the ChesMMAAP time series.

The Northeast Area Monitoring and Assessment Program (NEAMAP) Trawl Survey samples black sea bass from the coastal ocean waters of Virginia. While this program generates coastwide age-specific and aggregate age class indices of abundance, the species is observed in the spring survey off the coast of Virginia. Index values have been relatively stable throughout the relatively short time-series of this survey. All indices of abundance show a large increase from 2012 to the highest index observed in the relatively short time series.

Annual reports for the Juvenile Trawl Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/juvenile\\_surveys/data\\_products/index.php](http://www.vims.edu/research/departments/fisheries/programs/juvenile_surveys/data_products/index.php).

Annual black sea bass-specific reports for the ChesMMAAP Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/ChesMMAAP/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/ChesMMAAP/index.php)

Annual black sea bass-specific reports for the NEAMAP Survey can be found on the VIMS website:  
[http://www.vims.edu/research/departments/fisheries/programs/multispecies\\_fisheries\\_research/abundance\\_indices/NEAMAP/index.php](http://www.vims.edu/research/departments/fisheries/programs/multispecies_fisheries_research/abundance_indices/NEAMAP/index.php)

C. Copy of regulations that were in effect, including a reference to the specific compliance criteria as mandated in the FMP.

Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," describes Virginia's black sea bass regulations that were in effect in 2013. The chapter was amended two times over the course of 2013. The first amendment established the

recreational fishery management measures for the year. The second amendment lowered the recreational fishery possession limit for Wave 1 (January and February) and established the 2013 commercial quota. The final 2013 chapter is included in Appendix I.

The initial commercial harvest quota in 2013 was 434,000 pounds, of which 394,000 pounds were allocated to the directed fishery and 40,000 pounds to the bycatch fishery. Transfers of commercial quota from North Carolina in 2013 totaled 108,644 pounds, and were granted for North Carolina vessels requesting safe harbor. The majority of requests were attributed to vessel safety concerns because of continued shoaling of the Oregon Inlet Channel in North Carolina. The final 2013 Virginia commercial quota was 542,644 pounds.

Required measures as mandated in the FMP

11" minimum size – Yes

4.5" minimum mesh size for entire net or 4.5" diamond mesh in codend – Not Applicable

Threshold to trigger minimum mesh requirements: (500 lbs for January – March; 100 lbs. from April – December) – Not Applicable

2.5" circular vents, 2" square escape vent, or 1.375" X 5.75" recent angular escape vent for pots/traps. Two vents required in parlor portion of pot/trap - Yes

The recreational fishery had an open season of January 1 through February 28, May 19 through October 14, and November 1 through December 31, with a 12.5 inch total length (TL) minimum size limit, a 20 fish possession limit for Wave 1, and a 15 fish possession limit for the remainder of the open season.

D. Harvest broken down by commercial and recreational losses.

The National Marine Fisheries Service provides final landings data of black sea bass that were harvested in federal waters, and those data are preliminary for 2013. Virginia's preliminary 2013 landings, which include harvest from state and federal waters, plus quota transfers from North Carolina, totaled 493,155 pounds (Table 1), which was lower than the final quota of 542,644 pounds. Trawl gear and hook and line gear land the majority of black sea bass.

The Marine Recreational Information Program (MRIP) survey estimated 21,219 fish (33,594 pounds) were landed in 2013, and 589,678 black sea bass were released (Table 3).

E. Review of progress in implementing habitat recommendations.

N/A

**IV. Planned management programs for the current calendar year**

- A. Summarize regulations that will be in effect. (copy of current regulations if different from III c).

Chapter 4 VAC 20-950-10 et seq., "Pertaining to Black Sea Bass," (effective date: May 1, 2014; Appendix II) describes Virginia's black sea bass regulations that are in effect for 2014. The recreational season is May 19 through September 18 and October 18 through December 31. The possession limit is 15 fish for the entire season, and the minimum is 12.5 inches TL. These measures are in compliance with Addendum XXV to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. The 2014 commercial quota has been established as 434,000 pounds, of which 394,000 pounds is assigned to the directed fishery and 40,000 pounds to the bycatch fishery.

- B. Summarize monitoring programs that will be performed.

The VMRC Mandatory Harvest Reporting Program will continue in 2014. The VIMS Juvenile Trawl Survey, ChesMMAP, and NEAMAP surveys will continue in 2014.

- C. Highlight any changes from the previous year.

See IV-A above.

Table 1. Virginia commercial landings of black sea bass (2004 through 2013). 2013 data are preliminary.

| Year  | Pounds  |
|-------|---------|
| 2004  | 393,269 |
| 2005  | 443,644 |
| 2006  | 305,871 |
| 2007  | 189,875 |
| 2008  | 211,500 |
| 2009  | 164,524 |
| 2010  | 263,563 |
| 2011  | 274,446 |
| 2012  | 391,384 |
| 2013* | 493,155 |

Table 3. Virginia recreational black sea bass landings and release estimates from the Marine Recreational Information Program (2004 through 2013). 2013 data are preliminary.

| Year  | Total Landings<br>Numbers<br>(A+B1) | Total Landings<br>Pounds<br>(A+B1) | Released<br>(B2) |
|-------|-------------------------------------|------------------------------------|------------------|
| 2004  | 46,181                              | 63,556                             | 1,247,214        |
| 2005  | 34,412                              | 41,813                             | 1,116,698        |
| 2006  | 83,292                              | 112,322                            | 1,355,169        |
| 2007  | 36,152                              | 60,093                             | 1,270,572        |
| 2008  | 38,045                              | 51,421                             | 1,250,562        |
| 2009  | 114,805                             | 145,181                            | 1,152,730        |
| 2010  | 29,718                              | 24,702                             | 524,697          |
| 2011  | 18,964                              | 26,747                             | 444,036          |
| 2012  | 4,076                               | 2,599                              | 883,384          |
| 2013* | 21,219                              | 33,594                             | 589,678          |



**“PERTAINING TO BLACK SEA BASS”**

**CHAPTER 4VAC20-950-10 ET SEQ.**

**PREAMBLE**

This chapter establishes minimum size limits, gear restrictions, and quotas for the harvest of black sea bass. This chapter is promulgated pursuant to the authority contained in §§28.2-201 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4VAC20-950-10 et seq. which was promulgated February 26, 2013 and made effective February 26, 2013. The effective date of this chapter, as amended, is May 1, 2013.

**4VAC20-950-10. Purpose.**

The purposes of this chapter are to (i) reduce fishing mortality in the black sea bass fishery to ensure that overfishing does not occur, (ii) increase the spawning stock biomass, (iii) improve the yield from the fishery, and (iv) distribute shares of the black sea bass quota to those fishermen who demonstrate a previous history of participation in the fishery.

**4VAC20-950-20. Definitions.**

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

"Black sea bass" means any fish of the species *Centropristis striata*.

“Land” or “landing” means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

**4VAC20-950-30. Minimum size limit.**

A. The minimum size for black sea bass harvested by commercial fishing gear shall be 11 inches, total length.

B. The minimum size of black sea bass harvested by recreational gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 12-1/2 inches, total length.

C. It shall be unlawful for any person to possess any black sea bass smaller than the minimum size limit, as designated respectively, in subsections A and B of this section.

D. It shall be unlawful for any person to sell, trade, or barter, or offer to sell, trade, or barter any black sea bass less than 11 inches, total length.

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**“PERTAINING TO BLACK SEA BASS”**

**CHAPTER 4VAC20-950-10 ET SEQ.**

E. Total length shall be measured along the lateral midline from tip of nose to tip of tail excluding the caudal fin filament.

**4VAC20-950-40. Gear restrictions.**

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting black sea bass or to possess or to land in Virginia black sea bass harvested by fish pots which are not constructed as follows:

1. With two escape vents of 2-1/2 inches diameter circular dimension, or 2 inches square dimension, or 1-3/8 inches by 5-3/4 inches rectangular dimension.
2. With hinges or fasteners on one side panel or door made of the following materials:
  - a. Untreated hemp, jute, or cotton string of 3/16 inches or less diameter;
  - b. Magnesium alloy, timed float releases (pop-up devices), or similar magnesium alloy fasteners; or
  - c. Ungalvanized or uncoated iron wire of 0.094 inches or less in diameter.

**4VAC20-950-45. Recreational possession limits and seasons.**

- A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 20 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally eligible to fish, multiplied by 20, during any open season described in subsection D of this section, except January 1 through the last day of the February 2013 open season. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.
- B. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass from January 1 through the last day of February 2013. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally eligible to fish, multiplied by 15, from January 1 through the last day of February 2013. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately

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C. Possession of any quantity of black sea bass that exceeds the possession limit described in subsections A and B of this section shall be presumed to be for commercial purposes.

D. The open recreational fishing seasons, in 2013, shall be from January 1 through the last day of February, May 19 through October 14, and from November 1 through December 31.

E. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

**4VAC20-950-46. Directed fishery and bycatch fishery permits.**

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery, or to possess, harvest, or sell black sea bass, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B and C of this section, unless that person meets the requirements described in 4VAC20-950-48.2.

B. A person shall be considered eligible for a directed commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit; and
2. That person shall have landed and sold in Virginia at least 10,000 pounds of black sea bass from July 1, 1997 through December 31, 2001.

C. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit; and
2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997 through December 31, 2001.

**4VAC20-950-47. Commercial harvest quotas.**

A. The 2013 commercial black sea bass directed fishery quota is 394,000 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed

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fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The 2013 commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the quota overage shall be deducted from the following year's bycatch fishing quota.

**4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.**

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in Virginia in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

**Appendix I.**

**VIRGINIA MARINE RESOURCES COMMISSION**

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**“PERTAINING TO BLACK SEA BASS”**

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D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;
2. Possess aboard a vessel or land in Virginia more than 1,000 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, *Loligo* squid, and Atlantic mackerel on board the vessel; or,
3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. Any hardship exception quota granted by the commission prior to October 27, 2009, shall be converted to a percentage of the directed fishery quota based on the year in which that hardship exception quota was originally granted. The hardship exception quota shall not be transferred for a period of five years from the date the commission granted that hardship exception quota.

G. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

**4VAC20-950-48.1. Individual transferable quotas.**

A. Shares of the directed fishery quota, in pounds, held by any permitted fisherman in the directed fishery may be transferred to another person, and such transfer shall allow the transferee to harvest, possess and land black sea bass in Virginia in a quantity equal to the shares of the directed fishery quota transferred. Any transfer of black sea bass shall be limited by the following conditions.

1. Commercial black sea bass shares of the directed fishery quota shall not be transferred in any quantity less than 200 pounds.

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2. No person permitted for the directed fishery may hold more than 20% of the annual directed fishery quota.

3. No transfer of shares of the black sea bass directed fishery quota shall be authorized unless such transfer is documented on a form provided by the commission and approved by the commissioner.

B. Transfers of all or a portion of person's share of the directed fishery quota may be permanent or temporary. Transferred quota shall only be used by the transferee for black sea bass landed in Virginia. Permanent transfers of shares of directed fishery quota shall grant to the transferee that transferred share of the quota for future years, and the transferor loses that same transferred share of the directed fishery quota in future years. Temporary transfers of shares of the directed fishery quota shall allow the transferee to harvest that transferred share of the directed fishery quota during the year in which the transfer is approved. Thereafter, any transferred share of the directed fishery quota reverts back to the transferor.

**4VAC20-950-48.2. Alternate vessel authorization requirements.**

A. Any person possessing a directed fishery permit may authorize an alternate vessel to harvest, possess and land any portion of his individual fishery quota, provided the following conditions are met:

1. The directed fishery permit holder has submitted a completed and notarized alternate vessel authorization form to the commission.

2. The alternate vessel named on the authorization form holds a federal Black Sea Bass Moratorium Permit and that alternate vessel either holds a Virginia Seafood Landing License or that alternate vessel's owner and operator holds a Commercial Fisherman Registration License.

3. The alternate vessel authorization has been accepted and approved by the commissioner.

4. The alternate vessel maintains copies of the alternate vessel authorization form and the permit of the directed fishery quota owner at all times while serving as the alternate vessel.

B. No authorization for an alternate vessel to land black sea bass shall extend for more than 60 days from the date the commissioner approves the authorization. After 60 days, any unused portion of quota authorized for the alternate vessel shall revert to its directed fishery permit holder.

**Appendix I.**

**VIRGINIA MARINE RESOURCES COMMISSION**

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**“PERTAINING TO BLACK SEA BASS”**

**CHAPTER 4VAC20-950-10 ET SEQ.**

**4VAC20-950-49. Reporting requirements.**

A. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within one hour of landing, the Marine Resources Commission's Law Enforcement Operations Division to report his name and the name of the vessel, his permit number, the location where catch will be offloaded, and the estimated weight of the landing of black sea bass.

B. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within 24 hours of landing, the Marine Resources Commission's Interactive Voice Recording System to report the name of the permit holder and the name of the vessel that landed the black sea bass, date of landing, the permit number and the weight of black sea bass landed.

C. Any buyer of black sea bass from a directed fishery permittee, a bycatch fishery permittee, or an authorized alternate landing vessel shall maintain records of all purchases for the current year and prior year and make those records available to the Marine Resources Commission upon request.

**4VAC20-950-50. Penalty.**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

**Appendix I.  
VIRGINIA MARINE RESOURCES COMMISSION**

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**“PERTAINING TO BLACK SEA BASS”**

**CHAPTER 4VAC20-950-10 ET SEQ.**

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This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on April 23, 2013.

**COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION**

**BY:** \_\_\_\_\_  
**Jack G. Travelstead**  
**Commissioner**

Subscribed and sworn to before me this \_\_\_\_\_ day of April, 2013.

\_\_\_\_\_  
Notary Public



**“PERTAINING TO BLACK SEA BASS”**

**CHAPTER 4VAC20-950-10 ET SEQ.**

**PREAMBLE**

This chapter establishes minimum size limits, gear restrictions, and quotas for the harvest of black sea bass. This chapter authorizes the aquaculture of black sea bass and sets forth the conditions required for black sea bass culture. This chapter is promulgated pursuant to the authority contained in §§28.2-201 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4VAC20-950-10 et seq. which was promulgated March 25, 2014 and made effective April 1, 2014. The effective date of this chapter, as amended, is May 1, 2014.

**4VAC20-950-10. Purpose.**

The purposes of this chapter are to (i) reduce fishing mortality in the black sea bass fishery to ensure that overfishing does not occur, (ii) increase the spawning stock biomass, (iii) improve the yield from the fishery, (iv) distribute shares of the black sea bass quota to those fishermen who demonstrate a previous history of participation in the fishery, and (v) encourage safe black sea bass aquaculture practices.

**4VAC20-950-20. Definitions.**

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

"Black sea bass" means any fish of the species *Centropristis striata*.

“Land” or “landing” means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

**4VAC20-950-30. Minimum size limit.**

- A. The minimum size for black sea bass harvested by commercial fishing gear shall be 11 inches, total length.
- B. The minimum size of black sea bass harvested by recreational gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 12-1/2 inches, total length.
- C. It shall be unlawful for any person to possess any black sea bass smaller than the minimum size limit, as designated respectively, in subsections A and B of this section, except as described in 4VAC20-950-70.

**“PERTAINING TO BLACK SEA BASS”**

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D. It shall be unlawful for any person to sell, trade, or barter, or offer to sell, trade, or barter any black sea bass less than 11 inches, total length, except as described in 4VAC20-950-70.

E. Total length shall be measured along the lateral midline from tip of nose to tip of tail excluding the caudal fin filament.

**4VAC20-950-40. Gear restrictions.**

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting black sea bass or to possess or to land in Virginia black sea bass harvested by fish pots which are not constructed as follows:

1. With two escape vents of 2-1/2 inches diameter circular dimension, or 2 inches square dimension, or 1-3/8 inches by 5-3/4 inches rectangular dimension.
2. With hinges or fasteners on one side panel or door made of the following materials:
  - a. Untreated hemp, jute, or cotton string of 3/16 inches or less diameter;
  - b. Magnesium alloy, timed float releases (pop-up devices), or similar magnesium alloy fasteners;
  - or
  - c. Ungalvanized or uncoated iron wire of 0.094 inches or less in diameter.

**4VAC20-950-45. Recreational possession limits and seasons.**

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally licensed to fish, multiplied by 15. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of black sea bass that exceeds the possession limit described in 4VAC20-950-45 A shall be presumed to be for commercial purposes.

C. The open recreational fishing seasons, in 2014, shall be from May 19 through September 18 and October 18 through December 31.

D. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

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**4VAC20-950-46. Directed fishery and bycatch fishery permits.**

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery or to possess, harvest, or sell black sea bass, except as described in 4VAC20-950-60 and 4VAC20-950-70, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B and C of this section, unless that person meets the requirements described in 4VAC20-950-48.2.

B. A person shall be considered eligible for a directed commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit; and
2. That person shall have landed and sold in Virginia at least 10,000 pounds of black sea bass from July 1, 1997, through December 31, 2001.

C. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit; and
2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997, through December 31, 2001.

**4VAC20-950-47. Commercial harvest quotas.**

A. The 2014 commercial black sea bass directed fishery quota is 394,000 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The 2014 commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the quota overage shall be deducted from the following year's bycatch fishing quota.

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**4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.**

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in Virginia in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;
2. Possess aboard a vessel or land in Virginia more than 1,000 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Longfin squid, and Atlantic mackerel on board the vessel; or,

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3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. Any hardship exception quota granted by the commission prior to October 27, 2009, shall be converted to a percentage of the directed fishery quota based on the year in which that hardship exception quota was originally granted. The hardship exception quota shall not be transferred for a period of five years from the date the commission granted that hardship exception quota.

G. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

**4VAC20-950-48.1. Individual transferable quotas.**

A. Shares of the directed fishery quota, in pounds, held by any permitted fisherman in the directed fishery may be transferred to another person, and such transfer shall allow the transferee to harvest, possess and land black sea bass in Virginia in a quantity equal to the shares of the directed fishery quota transferred. Any transfer of black sea bass shall be limited by the following conditions.

1. Commercial black sea bass shares of the directed fishery quota shall not be transferred in any quantity less than 200 pounds.
2. No person permitted for the directed fishery may hold more than 20% of the annual directed fishery quota.
3. No transfer of shares of the black sea bass directed fishery quota shall be authorized unless such transfer is documented on a form provided by the commission and approved by the commissioner.

B. Transfers of all or a portion of person's share of the directed fishery quota may be permanent or temporary. Transferred quota shall only be used by the transferee for black sea bass landed in Virginia. Permanent transfers of shares of directed fishery quota shall grant to the transferee that transferred share of the quota for future years, and the transferor loses that same transferred share of the directed fishery quota in future years. Temporary transfers of shares of the directed fishery quota shall allow the transferee to harvest that transferred share of the directed fishery quota during the year in which the transfer is approved. Thereafter, any transferred share of the directed fishery quota reverts back to the transferor.

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**4VAC20-950-48.2. Alternate vessel authorization requirements.**

A. Any person possessing a directed fishery permit may authorize an alternate vessel to harvest, possess and land any portion of his individual fishery quota, provided the following conditions are met:

1. The directed fishery permit holder has submitted a completed and notarized alternate vessel authorization form to the commission.
2. The alternate vessel named on the authorization form holds a federal Black Sea Bass Moratorium Permit and that alternate vessel either holds a Virginia Seafood Landing License or that alternate vessel's owner and operator holds a Commercial Fisherman Registration License.
3. The alternate vessel authorization has been accepted and approved by the commissioner.
4. The alternate vessel maintains copies of the alternate vessel authorization form and the permit of the directed fishery quota owner at all times while serving as the alternate vessel.

B. No authorization for an alternate vessel to land black sea bass shall extend for more than 60 days from the date the commissioner approves the authorization. After 60 days, any unused portion of quota authorized for the alternate vessel shall revert to its directed fishery permit holder.

**4VAC20-950-49. Reporting requirements.**

A. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within one hour of landing, the Marine Resources Commission's Law Enforcement Operations Division to report his name and the name of the vessel, his permit number, the location where catch will be offloaded, and the estimated weight of the landing of black sea bass.

B. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within 24 hours of landing, the Marine Resources Commission's Interactive Voice Recording System to report the name of the permit holder and the name of the vessel that landed the black sea bass, date of landing, the permit number and the weight of black sea bass landed.

C. Any buyer of black sea bass from a directed fishery permittee, a bycatch fishery permittee, or an authorized alternate landing vessel shall maintain records of all purchases for the current year and prior year and make those records available to the Marine Resources Commission upon request.

**“PERTAINING TO BLACK SEA BASS”**

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**4VAC20-950-50. Penalty. (REPEALED)**

**4VAC20-950-60. Black sea bass aquaculture facility permit.**

A. Any person operating an aquaculture facility in which any black sea bass will be cultured, possessed, offered for sale, or sold shall possess a black sea bass aquaculture facility permit for that facility that was obtained from the commissioner.

1. The black sea bass aquaculture facility permit shall allow the facility to import black sea bass eggs, fry, and brood-stock from captive brood-stock facilities.

2. A black sea bass aquaculture facility permit is not transferable.

B. The application for a black sea bass aquaculture facility permit shall list the name and address of the applicant, the type and location of that facility, and an estimate of production capacity. A black sea bass aquaculture facility permit shall be valid for ten years, from the date of issue, and may be renewed by the commissioner. The issuance and continuation of any person’s black sea bass aquaculture facility permit are contingent on that designated facility being open for inspection by the Marine Resources Commission for the purposes of determining compliance with this chapter.

C. The original of the black sea bass facility aquaculture permit shall be maintained by the permittee and prominently displayed at the location of the permitted aquaculture facility. A copy of such permit shall be used as evidence of authorization to transport black sea bass to and from the permitted aquaculture facility.

**4 VAC20-950-70. Sale, records, importation, and release of black sea bass.**

A. All black sea bass produced by an aquaculture facility and permitted by 4VAC20-950-60 shall be packaged, prior to sale, with a printed label indicating the product is of aquaculture origin. When packaged and labeled according to these requirements, such fish may be transported and sold at retail, at wholesale, or commercially until reaching the consumer.

B. Any black sea bass that measures less than the lawful minimum size described in 4VAC 20-950-30, but are the product of a permitted aquaculture facility in another state, may be imported into Virginia for the consumer market. Any fish shall be packaged and labeled in accordance with the provisions contained in subsection A of this section.

C. Under no circumstance shall any black sea bass produced by an aquaculture facility be placed into Virginia waters without written permission from the commissioner.

**Appendix II.**  
**VIRGINIA MARINE RESOURCES COMMISSION**  
**“PERTAINING TO BLACK SEA BASS”**  
**CHAPTER 4VAC20-950-10 ET SEQ.**

**4VAC20-950-80. Penalty.**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

\*\*\*\*\*

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on April 22, 2014.

**COMMONWEALTH OF VIRGINIA**  
**MARINE RESOURCES COMMISSION**

**BY:** \_\_\_\_\_  
**John M. R. Bull**  
**Commissioner**

Subscribed and sworn to before me this \_\_\_\_\_ day of April 2014.

\_\_\_\_\_  
Notary Public





## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

### 2013 North Carolina Black Sea Bass Compliance Report

By

Tom Wadsworth

North Carolina Division of Marine Fisheries

May 30, 2013

Note: No confidential data are included in this report

#### **I. Introduction**

No executive summary is needed.

#### **II. Request for *de minimis*, where applicable.**

North Carolina does not request *de minimis* status for the 2013 fishing year.

#### **III. Previous calendar year's fishery**

a. Activities of fishery dependent monitoring (provide a brief review of results including monitoring of gear restrictions and minimum size).

Commercial fishing activity is monitored through fishery dependent sampling conducted under Title III of the Interjurisdictional Fisheries Act (IJFA) and has been ongoing since 1982. North Carolina Division of Marine Fisheries (NCDMF) staff sampled commercial catches of black sea bass during dockside fishery dependent sampling of the winter trawl fishery. Information on areas fished and gear specifications as well as black sea bass length and aggregate weight data was obtained from the catches (Assessment of North Carolina Commercial Finfisheries, NCDMF Completion Reports, 1984-2013). In the past, winter trawls accounted for most of the black sea bass landings north of Cape Hatteras. However, in 2012 and 2013 landings from the winter trawl fishery in North Carolina decreased substantially, due in part to the inability of winter trawl vessels to enter Oregon Inlet for part of the season both years. A total of 913 fish from 12 winter trawl catches and 134 black sea bass from two fish pot catches north of Cape Hatteras were measured in 2013. The black sea bass measured ranged 229-611 mm with 90% measuring 280-480 mm. As in 2012, sample numbers (and landings) for the winter trawl fishery in 2013 were relatively low in North Carolina due to the inability of most of these vessels to enter

Oregon Inlet, a major port for the fishery. Large portions of the North Carolina quota allocation was transferred to Virginia and other states.

b. Activities of fishery independent monitoring (provide a brief review of results).

No North Carolina fishery-independent finfish survey is designed to sample black sea bass. Black sea bass are rarely caught in any of North Carolina's fishery independent surveys north of Cape Hatteras and none were measured in 2013.

c. Copy of regulations that were in effect for 2013.

### **Commercial Fishery**

The authority for management of black sea bass in North Carolina is found in the following North Carolina Fisheries Rules:

#### 15A NCAC 3M .0512 – COMPLIANCE WITH FISHERY MANAGEMENT PLANS

(a) In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans or to implement state management measures, the Fisheries Director may, by proclamation, take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means and methods; and
- (6) Require submission of statistical and biological data.

(b) Proclamations issued under this Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to G.S. 113-221.1.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.4;*

*Eff. March 1, 1996;*

*Amended Eff. October 1, 2008.*

**Other Applicable Rules and Statutes:** North Carolina General Statute (G.S.) 143B-289.52(e) authorizes the North Carolina Marine Fisheries Commission (NCMFC) to adopt temporary rules at any time within six months of the adoption of a fishery management plan requirement by the Atlantic States Marine Fisheries Commission (ASMFC) or a Regional Fishery Management Council in order to comply with or implement these requirements. This statute allows North Carolina to adjust management measures to be

in compliance with the fishery management plan. G.S. 113-168.2 requires any person who engages in a commercial fishing operation in North Carolina coastal waters to hold a Standard Commercial Fishing License. This statute also requires dealers to purchase only from fishermen who possess a license to sell the type of fish being offered and to report those transactions on a form provided by the North Carolina Department of Environment and Natural Resources. G.S. 113-168.4 specifies that it is unlawful for any person who takes or lands any species of fish under the authority of the NCMFC from coastal waters by any means, including mariculture operations, to sell, offer for sale, barter or exchange these fish for anything of value without holding a license required to sell the type of fish being offered. Fisheries Rule 15A NCAC 3I .0114 requires a fish dealer to complete all mandatory items on a North Carolina Trip Ticket for each transaction and report it to the NCDMF by the tenth day of the following month. Through this system, North Carolina monitors and records landings of finfish, including black sea bass, from both state and federal waters.

In accordance with, or as authorized under Fisheries Rule 15A NCAC 3M .0512, the following management measures were implemented in the commercial fishery for black sea bass in the Atlantic Ocean north of Cape Hatteras in 2013:

Season: Harvest seasons were established and adjusted by proclamation to constrain black sea bass landings to North Carolina's quota. The 2013 Atlantic Ocean black sea bass season North of Cape was open for landings at North Carolina ports during: January 1- February 28, March 13 –April 15<sup>th</sup>, May 1- November 30<sup>th</sup>, December 1-10 and December 15-31<sup>st</sup>. Harvest limits were established for opening windows (usually multiple within these time periods) rather than for individual trips (see below). The season opening May 1<sup>st</sup>- November 30<sup>th</sup> was only for fish pots and hook and line.

Possession Limit: Possession limits are listed by opening window below:

Trawl, fish pot and hook and line fisheries:

3,000 pounds: January 1-31

2,000 pounds: February 1-28; March 13 –April 15

3,500 pounds: December 1-10; December 15-31

Fish pot and hook and line fisheries:

2,500 pounds: September 1-31; October 1-31; November 1-15; November 16-30

1,500 pounds: May 1-31; August 1-31;

500 pounds: June 1-30; July 1-31

Size Limit: The minimum size was 11 inches.

Allowable Gear:

Trawls: The following gear restrictions apply when 100 or more pounds of black sea bass are possessed on board a vessel:

1. No person may use or possess on deck:
  - (a) Trawl nets with a cod end (tailbag) less than 4 ½ inches (hung on a diamond) applied throughout the cod end for at least 75 continuous meshes forward of the terminus (end) of the net; or
  - (b) Trawl nets with a cod end less than 75 meshes (including an extension) with a mesh size less than 4 ½ inches (hung on a diamond) applied throughout the net.
2. Tailbag liners of any mesh size or double hung cod ends may not be used or possessed on deck of a vessel.
3. Rollers used in roller rig or rock hopper trawl gear shall be no longer than 18 inches in diameter.

Fish Traps/Pots: Black sea bass pots or traps must conform with the Federal rule requirements for escape vents specified in 50 CFR 648.144 (b)(2) and for degradable fasteners specified in 50 CFR 648.144 (b)(3)(i), (ii) and (iii). (See Section IV.H). Specifically:

1. Pot and trap escape vents: 2 ½ inches for circular, 2 inches for square, and 1-3/8 x 5-3/4 inches for rectangular escape vents. Must be 2 vents in the parlor portion of the trap.
2. Pot and trap degradable fastener provisions: a) untreated hemp, jute, or cotton string 3/16 inches (4.8 mm) or smaller; b) magnesium alloy timed float releases or fasteners; c) ungalvanized, uncoated iron wire of 0.094 inches (2.4mm) or smaller. The opening covered by a panel affixed with degradable fasteners would be required to be at least 3 inches x 6 inches.

#### Permits:

Finfish dealers may not buy more than 100 pounds of black sea bass caught north of Cape Hatteras per day per commercial fishing operation unless the dealer has a valid Black Sea Bass – North of Cape Hatteras Dealer Permit from the North Carolina Division of Marine Fisheries. Permits will be issued only to those licensed fish dealers holding a valid license as authorized in G.S. 113-169.3. Dealers must abide by all conditions of the Black Sea Bass-North of Cape Hatteras Dealer Permit as set out in Proclamation FF-43-2003, dated November 10, 2003. Dealers possessing a Black Sea Bass – North of Cape Hatteras Dealer Permit shall report daily by noon through FAX transmittal (252-726-3903) to the Division of Marine Fisheries black sea bass landings from the Atlantic Ocean for the previous day. In addition, federal regulations for Fisheries of the Northeastern United States specify in 50 CFR Part 648.4(a)(7) that “any vessel of the United States that fishes for or retains black sea bass in or from the EEZ north of 35°15.3’ N. lat., the latitude of Cape Hatteras Light, NC, must have been issued and carry on board a valid black sea bass moratorium permit, except for vessels other than party or charter vessels that observe the possession limit established pursuant to §648.145.”

Has the state implemented the required measures as mandated in the FMP? (see below; please answer with either 'yes' or 'no')

Commercial

11" minimum size - yes

4.5" minimum mesh size for entire net or 4.5" diamond mesh in codend (for large trawl nets) - yes

Threshold to trigger minimum mesh requirements: (500 lbs for January - March; 100 lbs from April- December) - yes

2.5" circular escape vents, 2" square escape vent, or 1.375" X 5.75" rectangular escape vent for pots/traps. Two vents required in parlor portion of pot/trap. - yes

Recreational (state specific for 2013)

Season: January 1- February 28<sup>th</sup>; May 19 through October 14 and from November 1 through December 31

Size Limit: The minimum size limit for black sea bass north of Cape Hatteras was 12.5 inches.

Possession Limit: The possession limit for black sea bass north of Cape Hatteras was 15 fish per person, per day for January 1-February 28<sup>th</sup> and 20 fish per person per day for the remainder of the season.

d. Harvest broken down by commercial and recreational fisheries

| Year | Recreational (MRIP) Harvest (numbers) | Recreational (MRIP) Harvest (lb) | Flounder Trawl (lb) | Rod-n-Reel (lb) | Other Commercial (lb)* | Total NC Harvest (lb) |
|------|---------------------------------------|----------------------------------|---------------------|-----------------|------------------------|-----------------------|
| 2004 | 2,648                                 | 2,775                            | 242,823             | 21,946          | 110,115                | 377,658               |
| 2005 | 5,605                                 | 16,752                           | 325,152             | 10,840          | 32,408                 | 385,152               |
| 2006 | 18,829                                | 28,358                           | 229,886             | 4,890           | 99,304                 | 362,438               |
| 2007 | 8,517                                 | 21,867                           | 88,501              | 3,708           | 103,251                | 217,327               |
| 2008 | 9,353                                 | 11,491                           | 156,346             | 1,706           | 50,674                 | 220,217               |
| 2009 | 3,307                                 | 7,044                            | 116,076             | 2,571           | 58,101                 | 183,792               |
| 2010 | 10,850                                | 16,268                           | 91,528              | 4,402           | 12,066                 | 124,264               |
| 2011 | 30,975                                | 47,320                           | 83,021              | 9,336           | 6,148                  | 145,825               |
| 2012 | 3,664                                 | 7,154                            | 24,136              | 13,431          | 23,620                 | 68,341                |
| 2013 | 8,002                                 | 9,994                            | 53,020              | 7,826           | 27,396                 | 98,236                |

\*All gears with confidential landings in one or more years of time-series summed in this column

**IV. Planned management programs for the current calendar year.** Summary of changes from previous years (from 2012-2013).

A. Summary of 2014 Regulations and Changes from 2013

The Fisheries Director used proclamation authority found in Fisheries Rule 15A NCAC 3M .0512 to implement trip limits and associated harvest periods as a means of managing North Carolina's black sea bass commercial quota. 2014 season and opening period length and trip limits will be different than 2013 for the black sea bass commercial fishery north of Cape Hatteras but this depends on the remaining quota and catch rates. The minimum size limit will remain at 11 inches in the Atlantic Ocean commercial fishery. The size limit in the recreational fishery in state waters north of Cape Hatteras will remain 12.5 inches. However, the recreational bag limit decreased from 20 fish for most of 2013 to 15 fish per person, per day in 2014. The season was not open in January and February as in previous years, the 2014 season will be May 19-September 18 and October 18-December 31.

B. Summary of Monitoring Programs That Will Be Performed

Monitoring programs will be the same as the previous fishing year. Black sea bass will be sampled during sampling of the winter trawl and fish pot fisheries.

**V. Law Enforcement Reporting Requirements** Please include in this section any law enforcement issues that occurred in the previous calendar year. If nothing substantial happened, you may omit this section.

No significant issues were reported