

Atlantic States Marine Fisheries Commission

Summer Flounder, Scup, and Black Sea Bass Management Board

October 29, 2013
2:30-4:00 p.m.
St. Simons Island, GA

Draft Agenda

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

1. Welcome/Call to Order (*D. Pierce*) 2:30 p.m.
2. Board Consent 2:30 p.m.
 - Approval of Agenda
 - Approval of Proceedings from August 2013
3. Public Comment 2:35 p.m.
4. Summer Flounder Recreational Working Group Report 2:40 p.m.
 - Technical Committee Report (*J. McNamee*)
5. Review of Wave 4 data, if available (*K. Rootes-Murdy*) 3:15 p.m.
6. Overview of 2014 recreational management process for black sea bass 3:30 p.m.
(*K. Rootes-Murdy*) **Action**
 - Consider initiation of an addendum to allow for continuation of ad hoc regional measures
7. Other Business/Adjourn 3:55 p.m.

The meeting will be held at the King and Prince Beach & Golf Resort 201 Arnold Street, St. Simons Island, Georgia
800.342.0212

MEETING OVERVIEW

Summer Flounder, Scup, and Black Sea Bass Management Board Meeting
Wednesday, October 29, 2013
2:30-4:00 p.m.
St. Simons Island, Georgia

Chair: David Pierce (MA) Assumed Chairmanship: 10/27	Technical Committee Chair: Jason McNamee (RI)	Law Enforcement Committee Representative: Fresco
Vice Chair: vacant	Advisory Panel Chair: vacant	Previous Board Meeting: August 7, 2013
Voting Members: MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, NMFS, USFWS (12 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from August 7, 2013

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

4. Summer Flounder Recreational Working Group Progress Report (2:40-3:15 p.m.)

Background

- The Board established a working group to look review the summer flounder recreational fishery. The working group is focusing on methods to allow for equitable harvest opportunities for along the coast.
- The Working Group tasked the Technical Committee to model retention rates coastwide in the recreational fisheries at the state level
- The Summer Flounder Working Group has held two conference calls and have discussed the use of models in setting recreational measures
- The Summer Flounder Working Group will report to the Board its next steps
(**supplemental materials**)

Presentations

- The TC Chair and staff will provide an update on models considered in setting recreational measures
- Discussion of letter from Kathleen Moser, Asst. Commissioner, NYDEC (**briefing materials**)

Board actions for consideration at this meeting

- Review current work by the Technical Committee and provide further guidance on data and information needs

5. Review of Wave 4 data, if available (3:15-3:30 p.m.)
Background <ul style="list-style-type: none"> • Wave 4 harvest estimates should be posted before October 29, 2013 • Wave 3 harvest estimates were not close to the recreational harvest limit for Summer Flounder, Scup, or Black Sea Bass.
Presentations <ul style="list-style-type: none"> • Presentation of wave 3 and 4 MRIP harvest estimates for summer flounder, scup and black sea bass by K. Rootes-Murdy
Board actions for consideration at this meeting <ul style="list-style-type: none"> • None

6. Overview of 2014 recreational management process for black sea bass (3:30-3:55 p.m.)
Action
Background <ul style="list-style-type: none"> • Addendum XXIII to the Black Sea Bass FMP, which allowed for a combination of regional and state-by-state measures in 2013, expires on December 31, 2013. • The FMP only allows for a single set of coastwide recreational measures, unless a new addendum is initiated that allows for conservation equivalency.
Presentations <ul style="list-style-type: none"> • Staff will present possible management options for the 2014 black sea bass recreational fishery by K. Rootes-Murdy
Board actions for consideration at this meeting <ul style="list-style-type: none"> • Initiation of an addendum to allow for conservation equivalency in 2013 for the black sea bass recreational fishery or other measures

7. Other Business/Adjourn

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
August 7, 2013

**These minutes are draft and subject to approval by the Summer Flounder, Scup and
Black Sea Bass Management Board.
The Board will review the minutes during its next meeting.**

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2. **Approval of proceedings of February 2013 by consent** (Page 1).
3. **Motion to adjourn by consent** (Page 13).

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati (AA)	John Clark, DE, Administrative proxy
Bill Adler, MA (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Tom O'Connell, MD (AA)
Bill McElroy, RI (GA)	Bill Goldsborough, MD (GA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Rep. Craig Miner, CT (LA)	Jack Travelstead, VA (AA)
Lance Stewart, CT (GA)	Rob O'Reilly, VA, Administrative proxy
James Gilmore, NY (AA)	Cathy Davenport, VA (GA)
Pat Augustine, NY (GA)	Louis Daniel, NC (AA)
Tony Rios, NY, proxy for Sen. Boyle (LA)	Bill Cole, NC (GA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Marty Gary, PRFC
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Kelly Denit, NMFS
Tom Fote, NJ (GA)	
David Saveikis, DE (AA)	

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

Ex-Officio Members

Jason McNamee, Technical Committee Chair

Staff

Robert Beal
Toni Kerns

Kirby Rootes-Murdy
Kate Taylor

Guests

Taylor Daley, DNREC
Peter Burns, NMFS
Patrick Geer, GA DNR
Brandon Muffley, NJ DFW

Chip Lynch, NOAA
Jessica Coakley, MAFMC
Kiley Dancy, MAFMC
Raymond Kane, CHOIR

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 7, 2013, and was called to order at 5:15 o'clock p.m. by Chairman David G. Simpson.

CALL TO ORDER

CHAIRMAN DAVID G. SIMPSON: We're ready to convene the Fluke, Scup and Sea Bass Board. We'll try to move this along quickly if everyone is ready.

APPROVAL OF AGENDA

CHAIRMAN SIMPSON: The first order of business is to approve the agenda. Is everybody good with the agenda; any changes, additions, deletions? Seeing none; we'll consider it approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN SIMPSON: Approval of the proceedings from the February meeting; are there any issues with the proceedings? Seeing none; we'll consider those approved.

PUBLIC COMMENT

CHAIRMAN SIMPSON: Is there any public comment on items not on the agenda? We didn't have any on the list; nobody signed up. Seeing none; we move to the Summer Flounder Recreational Working Group Report that Jason is going to provide.

SUMMER FLOUNDER RECREATIONAL WORKING GROUP REPORT

MR. JASON E. McNAMEE: Thank you very much, Mr. Chairman. I've got a presentation. It is a lot of slides, so I'm going to go through it really quickly, because the Super Shuttle is on its way here for me and it waits for no man. I'm going to go through pretty quick. Hopefully, I'll be able to get you the relevant information.

We've been working over the past couple of weeks. You should all be very proud of your respective technical committee members. We

turned this stuff around pretty quick. The reason I bring that up is because it is not very consistent from state to state. We all work kind of uniquely. I'll try and guide you through what has changed with each of the different things.

We're going to lead off here with some data caveats. When we began discussing the tasks that came from the board and its subcommittee on this, this will look at reallocating or at least examining how landings are occurring in the summer flounder fishery. We think that this is a great idea. We've been talking about it at the technical committee for a while.

But the current task that we've been given, we have some misgivings; and again we're very positive about what we're trying to accomplish here. It is just the current way we're looking at it has raised some concerns amongst the technical committee members. What I'm going to do is go through the next six slides pretty quickly.

It kind of gives you some of the caveats that we've come up with and why we have some concerns about this specific way of analyzing this through looking at retention rates. That being said, we are going to proceed through; and then after the data caveats, we'll go through state by state, show you what we've come up with, and then I've got a summation slide at the end. Okay, the first data caveats slide right off the bat; any management strategy that is going to use North Carolina retention rates should be aware of the high degree of uncertainty.

North Carolina is going to be dependent on MRIP information. Because of that, you're relying on angler's knowledge, which is good, except for the fact that in North Carolina you've got three species that all look very similar. What they've found is there is a lot of confounding between those three species down in North Carolina. North Carolina information is going to have an even higher degree of uncertainty than you see in the other states.

Some states have small fluke fisheries that are not adequately sampled by MRIP. This is something we've talked about a lot, and it is

particularly problematic in states that are out on the edges of the species range; so to the south and to the north. You've got uncertainty in those situations as well.

There is also another consideration that came up in our discussions, and that is the consideration of targeted trips versus just all recreational fishing trips. It is an important consideration and there is a little example here. In Maryland there is a low retention rate, again just calculating this as total harvest versus total catch.

In Maryland it is low; the retention rate is low. But if you look at the targeted trips in Maryland, it is only about 7.5 percent of all recreational trips would actually target summer flounder; whereas, opposed to Delaware they have a higher degree of trips that are actually targeting summer flounder, and yet their retention rate ends up being just about the same. It is about 10 percent, a little less than that.

It is important to think about what source of data we're using and targeted trips may be one of the avenues we want to think about. To calculate retention rates, we're using estimates of both total catch and harvest, so we're basically doubling down on the uncertainty relative to the normal specification setting that we do in any given year when we're setting up our management for the following year. We go through that process every year.

Here we have to double the amount of information; and because we're using the same sorts of information to get harvest and catch estimates, we're also increasing the amount of uncertainty inherent in the assumptions and all of those aspects of the calculations. Calculating a retention rate for a given state based on its aggregated total harvest and aggregated total catch assumes that the retention rate is going to be uniform across modes, waves and areas.

What we've found is that is not a good assumption, and I'll show you a few slides on that. Retention rates are clearly a function of the type of the recreational fisheries that exist within a state and when and where they occur. There

are clear differences in retention rates between fishery modes, waves, areas and between combinations of these.

Here are a couple of graphical representations of what I'm talking about. Here is just harvest and catch. The Y-axis here is proportional standard error. The X-axis is the various states. What you see is there are high PSEs, but we know that already. I think the thing to really look at is how variable it is from state to state. There is no particular trend; it is high in Connecticut, low in New Jersey, but then pops back up in Maryland. Then the other thing to look at is there is also variability in PSEs for the catch, and they can be different. If you look at Rhode Island, for instance, it is one of the higher PSEs for harvest; but then it is a little bit on the low side for when you're looking at catch; so even within a state you have uncertainty and it is variable.

The next slide shows you how the retention rate can change from on the top graph there between modes, so you've got retention rate on the Y-axis, mode along the X-axis, and you can see it is different depending on which mode you're looking at. Now the error bars on there are not a measure of variability, but it shows a range, because this is a coast-wide estimate.

The middle dot is the mean for the coast, but then you can see the range goes in some cases, like shore, you can see the range is pretty massive as far as what the retention rate can be. The middle graph there is by wave, so you've got differences between waves. We narrowed it down to three, four and five as the best waves to look at. But you again see that there are differences between waves.

Then the final graph at the bottom there is by area, so inland, offshore. You can see that it depends where you are fishing, and that has a lot of impact on your retention rate. Currently we cannot satisfactorily estimate both catch and harvest at the mode, wave and area level for most states either due to very high PSEs or no collection of data.

We're just saying that it is important to consider wave, mode, and all these kind of broken down

categories, but we can't consider them at that level so we can group all of the information together into the state, aggregated at the state level. But, again, then you increase your reliance on the assumption that there is consistency across those various categories, and we've just shown that that is not necessarily the case.

One final one or maybe I have one more slide in this, but total catch estimates are based solely on angler-reported catch rates that are unobserved by agents. We need to get estimates of discards for this analysis and we're relying on angler-reported discards, and these are unobserved discards, so that could lead to increased uncertainty.

Then we were looking at length composition. This is going to be an important consideration for this analysis. Here are some considerations on the length composition. Again, season and area greatly influence the size composition and the availability of fish. The fishery mode affects the harvest retention rates, as well as it could also have effects on the length composition. Skill level of the angler is another consideration.

Observed discard size data from the MRIP survey; they are collected solely from the partyboat mode, so this is observed discards, and those are collected from one single mode in the recreational fishery, and that single mode only constitutes 2.2 percent of the entire fishery, and the little pie chart at the bottom just sort of shows you the magnitude.

We're basically applying the party boat, and that is that kind of orange slice there, to the whole rest of that pie. It is a pretty big assumption to make. All right, now we're going to get into the state information. In each case we're going to have a quick fishery description for each state. We're going to talk about the data sources that your technical committee representatives felt that were the best data sources for them to use for the analysis.

Then we'll show you some of that data. Again, I'm going to try to go through relatively quickly. In Massachusetts the recreational fluke fishery is

small relative to the total state recreational fishery, so the fishery that harvests fluke is not that big relative to all of the other species that they catch in Massachusetts.

The fluke fishery primarily occurs June through August in Massachusetts. It's geographically restricted to waters south of Cape Cod, so it is shallow, warmer waters of the Vineyard Sound, Nantucket Sound, Buzzards Bay; and the deeper colder waters where the larger fish could be harvested are pretty far offshore.

They are prohibitive for smaller vessels and more casual recreational fishers. The harvest and catch is almost exclusively from the private and rental mode. There are one or two party boats and approximately a dozen charterboats that target fluke in Massachusetts. The size of the fish available in Massachusetts is smaller than in the neighboring states to the west and to the south.

Massachusetts is not intending on using MRIP data. There is only headboat sampling for discards and there is infrequent sampling of the other modes. It was not deemed to be a reliable source of data for Massachusetts. Massachusetts proposes using two fishery-independent sources, the fall trawl survey from Massachusetts run by the DMF and then a tagging study also run by the DMF.

You will see on these slides that there is also a sample size associated with them. In some cases, I was able to break it out by year; in other cases it is just a total sample size. For the fall trawl survey, the total end – I think this is the total end for I think four years that we looked at for Massachusetts is 635. Then the tagging study is pretty variable. The total end is 864; but for the two years that we kind of itemized out, 2011 was 285; 2012 was about 200.

This is going to be a unique view. This is the only one that looks like this, but I'll try and explain this to you. The Y-axis here is length in centimeters. The X-axis is years, going all the way back to 1978. The dotted line in the middle there is the midline, so that is the average length from the entire dataset.

Then what you see are little length frequency distributions. It is really kind of a nicer view of this, because what you can see is how in any given year the length frequency distribution kind of varies around that average length. It gives you a sense of the variability that Massachusetts sees in its waters from year to year.

It is fairly consistent, but you do see every once in a while – for instance, if you look at 1986, you had a smaller distribution of fish in that year for whatever reason. Then you can also see from this graph that the magnitude of the fish caught in any given year by the trawl survey can be pretty different.

The ones where you can see those nice bell-shaped curves, they caught a lot of fish; and the ones that are really difficult to see; they didn't catch very many fish and that is why you can't see them. That is the Massachusetts DMF fall trawl survey. Here is some information from the tagging study, and this is just an aggregated set of data. We did look at it individually during other technical committee tasks that we worked on in the past.

It is relatively consistent if you are looking at years that are close to each other, but there is variability from year to year, as we just saw in the trawl survey as well, but you can see the length frequency. The vertical line on there is the current minimum size, so you can see the bulk of the Massachusetts fish is actually residing below what their current minimum size is.

Okay, the great state of Rhode Island; Rhode Island has a pretty significant fluke fishery. It is primarily harvested May through August, so it is a spring/summer fishery. Harvest and catch is predominantly from the private rental mode just like it was in Massachusetts. There are quite a few party and charterboats that target fluke in Rhode Island, so it is a popular party and charter target species in Rhode Island.

The majority of fishing occurs inshore and off the south coast, so that is Narragansett Bay and off the immediate south coast, but there is some harvest that occurs further offshore outside of

state waters in federal waters as well. Rhode Island also does not intend on using MRIP data for the same reasons I mentioned for Massachusetts.

But we do propose using two sources, one fishery independent and one fishery dependent. The fishery independent is the Rhode Island Trawl Survey data. On here you can see we average about 200 fish in any given year that we can attain lengths from our trawl survey. We also have a volunteer angler survey.

It is pretty new and it has gotten better over the years. We've got a pretty good dataset for the past couple of years. The further back you go, the worse the dataset gets. We'll be limited as far as how far back we can look with this dataset. You can see in 2012 we had almost 1,200 lengths to look at.

Here is the trawl survey data. This is now frequency on the Y-axis and length along the X-axis in centimeters. The dark vertical line on there is our current minimum size; and just like you saw for Massachusetts, the bulk of our fish actually exist, according to the trawl survey, below the current minimum size.

But you can see Rhode Island at least going back to 2010 is pretty consistent. The kind of bell-shaped curve in the length frequency distribution looks pretty similar year to year with that kind of weird drop off there in 2010. But if you use your imagination, it kind of has the same shape. Here is the volunteer angler data. We have a lot of discussions at the technical committee regarding the use of volunteer angler data and here you see why.

We've got this kind of bi-modal distribution and the reason is the fishery does not necessarily perform in the same way that fishery-independent data, a trawl survey would, so there could be differences in here. In Rhode Island we think we do see differences between how our fishery-dependent information and how our anglers are behaving and how they're catching fish relative to a fishery-independent data source that is really indicating what the population is in

the water and not necessarily how anglers might target that population.

Connecticut; the fluke fishing season in Connecticut takes place May through September. The spring fishery consists of larger vessels in the eastern portion of the state. They head into New York and Rhode Island waters near Block Island and Montauk Point. July through August is the peak wave. Fluke is available throughout the Sound during that wave.

Harvest rates and availability vary by depth and along the coast. In September the fish migrate offshore and no longer are available to Connecticut anglers. The fishery really shuts down in September for them. Most of the harvest that occurs in Connecticut is from targeted trips. Then the Connecticut Long Island Sound Trawl Survey indicates that the larger fluke tend to be in the deeper waters, so water greater than 60 feet in depth, which limits access for shore anglers and anglers with smaller vessels.

Connecticut also is not going to use MRIP data, but they are going to use Long Island Sound Trawl Survey data, and they also have a volunteer angler survey that they intend on using. There are a number of slides that look like this, and here it is kind of a different look. The graph at the bottom, what that is, it is the proportion relative to 14 inches. We set a threshold for ourselves at 14 inches and just looked at the population 14 inches and above.

The way that the Connecticut representative graphed his data was to set everything relative to that 14 inches. You can see how you get this decay function then from 14 inches, and you can see the amount of the harvest or the fish that are caught in each subsequent size. You can see that it gets less and less as you get bigger and bigger.

You can see the different color lines on this graph are the different years. There is some consistency from year to year, although if you look at the two extremes at the spots where they are the most separated, they are significantly

different, so there is a fair amount of variability in this dataset.

Then the same sort of information for their volunteer angler data; it basically looks pretty similar as far as the length frequencies that are being harvested between our trawl survey and their anglers. Again, there is some consistency from year to year; but if you again look at the years that are the furthest apart, right in the middle of the lines there you can see there can be a significant amount of separation at any given length.

New York; fluke is a very popular marine recreational fishery in New York. In 2008 to 2012, 29.5 percent of recreational trips targeted fluke. Then during the same time period, only 17.5 percent of these targeted trips were successful, so only about half of those – a little more than half were able to actually bring home a fluke.

The likely reason for the lack of success is the high minimum size that New York has used to not exceed its recreational harvest limit, and in fact I believe is one of the reasons we are talking about this. Fluke harvested in New York is occurring in both Bays and the ocean. The ocean fishery has increased in prevalence in recent years.

Harvestable fluke, so fluke that people can bring home is caught in waters that are pretty deep, two to four meters. The possession limits have been low in New York, two to four fish, and the season has been pretty short in most years. In general, fluke fishing occurs in New York May through September. The peak occurs in waves three and four.

The representative from New York just wanted to indicate that he believes people would fish April through October if they were provided that opportunity, but in many cases the season has been so short they aren't able to. It is hard to get a good read using recent information as to what distribution the season might actually be.

Seasonal cuts are unpopular, because they do not affect all anglers and businesses equally due to

variability in local fisheries in time and space. This was just a comment that the technical committee representative wanted to make. New York has a number of available datasets, so there is a NEMAP Trawl Survey, there is a Peconic Bay Trawl Survey, there is MRIP information, there is a private angler log that New York runs, and there is headboat sampling, so New York has undertaken its own headboat sampling and it could use that information.

Again, this is similar to what you saw for Connecticut. It is this kind of decaying proportion relative to 14 inches. You can see between these different data sources there is some consistency at least in the shape. It is just the proportion changes at any given length in New York. This is a look at all of the surveys together, and then we've got them broken out, and I'll tick through these pretty quick.

But this is the Peconic Bay Trawl Survey; this is the NEAMAP Trawl Survey, this is the MRIP data, and this is the private angler log; a little more variability in this one than the other ones. Then here is the headboat sampling. Again, you saw all of those kind of overlaid in that very first graph, and you can see that they're somewhat similar, but there is some variability. If you look at any individual length, there is variability inherent in these different surveys.

New Jersey has four distinct fisheries with two zones. What they refer to as the northern zone is north of Barnegat Inlet into Sandy Hook Raritan Bay. Then their southern zone is Barnegat Inlet south into Delaware Bay. The northern ocean goes June through September as their season; the peak is in July, August, and September.

Fish tend to be larger in size; the fleet consists of private, charter and party vessels. The northern bays, their season runs May through July. This is the season where harvest is occurring. The peak is in June and July; the fish are smaller and consists of private and charter and party vessels.

The South Ocean, July through August is their main season. Fish are medium in size, and this fishery consists of private vessels and charterboats. The southern bays, the season runs

May through July. The peak is in June and July; the fish are small and it's mostly private boats prosecuting in this fishery.

The northern region are almost an even split between the bays and the ocean. The southern region is predominantly from the bays. The timing of peaks and sizes may vary quite a bit. If the season was elongated in either direction, an earlier start and a later end – so basically the representative from New Jersey was just trying to indicate that there is a lot of variability, depending on where you are in New Jersey and what time of the year you are there.

If the season were extended, it would increase that variability. Okay, so available data in New Jersey; three sources; MRIP, there is a New Jersey volunteer angler survey, and then there is a New Jersey Ocean Trawl Survey. Here is the volunteer angler survey data. This is now a proportion of harvest versus length.

The different colors are year, so you can see some consistency at least in the distribution from year to year in New Jersey for this dataset. Here is a look at the MRIP data. You can see again this is proportion of harvest on the Y-axis; length in inches along the X-axis, and similar shape to the dataset we just looked at before.

This is the MRIP data, but you can see the high level of variability, probably due to the sample size. Then here is the ocean trawl data; the different colors are different years. There is a pretty remarkable level of consistency year to year from their ocean trawl survey. Okay, in Delaware the fluke fishery is predominantly a bay fishery.

Estimates of harvest from each location is that the majority of it is inland, so that is in the bay; about 13 percent of it is offshore, and the remainder is offshore less than three miles. They have an offshore fishery, a bay fishery, and then some fishing in between. The peak harvest waves are waves three and four. There is some harvest in waves two through six.

The main mode of harvest is the private rental mode, almost 90 percent. Delaware only has

MRIP data available to use according to the representative on the technical committee. That was the one that they were most comfortable with. Here is a table of the data. I'm not expecting people to actually read those numbers, but you can kind of look at it like a stem leaf plot and see that the majority of the fish are being harvested in similar size categories from year to year going back to 2010. Here is a graphical representation of the same thing, and it just bears that out.

You can see there is some consistency there, but you can also see that because this is reliant on MRIP data, we're not getting a good set of data for the discard information, and there is not a lot of information to the left of the minimum size. Okay, Maryland; the fluke fishery is in coastal bays, nearshore wrecks, and in the Chesapeake Bay.

There are no reliable estimates for the amount that is coming out of each area, but just an estimate is 10 percent is nearshore and in offshore wrecks; 10 to 30 percent is in Chesapeake Bay; and the remainder is from the Maryland coastal bays. Fish in the coastal bays are smaller than the offshore fish, and almost all fishing that targets flounder is drifting or bottom fishing.

Potentially Maryland can use two sources of data. There is a Maryland Offshore Trawl Survey and a Maryland volunteer angler survey. This is just like we looked at for the Connecticut where you have that kind of decaying function relative to 14 inches. You can see here there is some consistency in some years, but then there is a couple years where there is pretty high variability, some bigger fish showing up in that fishery.

Then the Offshore Trawl Survey data; same sort of thing; there is a couple years that are similar that had bigger fish and then a few more years that were sort of similar that had smaller fish available to them. There is a pretty decent amount of variability in these datasets. Okay, Virginia, the majority of recreational summer flounder landings occur from mid-April through August.

MRIP estimates that waves three and four account for 80 percent of the harvest on average over the last decade. Eighty percent of the harvest is also estimated to come from the private, rental mode and then about 15 percent from the shore mode. MRIP estimates that 60 to 99 percent of the wreck harvest comes from inland, averaging 87 percent for the '03 to 2012 period.

The Super Shuttle is waiting for me; sorry about that. We're almost done here. Actually, maybe I can just go to the very last slide. I've got to go; I apologize for that. There was a lot of work done here so there were a lot of slides. Thank you very much. We'll get this out via e-mail or something so you all can look at it, and I apologize for not being able to take questions, but feel free to e-mail me questions if you have any.

CHAIRMAN SIMPSON: Thanks for coming down, Jason. Toni will take us through the rest of it, and I think what we're going to do anyway is let folks digest this, look at the report on their own time, and then they can send us comments and suggestions for other approaches we might want to use. Certainly TC members can answer questions that any board members have. Toni, you're going to take it from here?

MS. TONI KERNS: Also available for Virginia is the VIMS Juvenile Trawl Data. That can be lagged anywhere from two to four years to estimate availability. Since I am not as familiar with the actual graphs, I'm going to ask Kate to maybe just slowly cycle through those since I won't be able to tell you much information on those graphs.

For North Carolina, the recreational fishery catches three flounder species though we are just managing the summer flounder species. From 1981 to 2001, over 50 percent of the flounder harvested were fluke. From 2002 to 2012, southern flounder made up the majority of the harvest in most years, and in 2009 to 2012, an average of 28 percent of the flounder harvested were fluke or summer flounder.

North Carolina does set their regulations so that they are consistent between their summer and southern flounder, because it is hard to tell the difference between the two for some folks. The three species have fairly similar morphologies and anglers are usually unable to distinguish them, especially with the discards that are reported in the MRIP samples.

Harvest is higher in the northern portions of the state, but they are caught throughout, and the percentage caught inshore versus ocean waters has varied from year to year. A small percentage of the total harvest is from ocean areas beyond three miles. For North Carolina, there is only one available data source; it is the MRIP information.

For the next step and what is important for the board to think about either today or in the next couple weeks to get feedback to the TC or Dave is, is this the analysis that the TC should be moving forward with in order to help provide information to the working group? The next step in the analysis would be to begin to analyze each individual state's chosen dataset.

They would use a similar methodology to the normal management specification-setting process, and the TC would begin to develop a set of management metrics that met a pre-chosen retention rate. Currently they were working on 14.7 retention rate for each state. Then they would begin with a reasonable minimum size based on a length frequency review.

Together they would remain within the bounds of the coast-wide recreational harvest, and so that is how they would craft regulations to present to the board. The TC also can develop a list of alternative approaches if the board desires that. I think this was one approach. This retention rate approach was what was developed by the working group in their conference call. If there are other approaches that the board wants the working group to consider, we can also do that. If needed, we can task the technical committee for that.

CHAIRMAN SIMPSON: Okay thanks, Toni. Any questions or comments? David.

DR. DAVID PIERCE: Yes, I greatly appreciate all the work done by the technical committee. However, I would like to back up a little bit, because I really have lost sight of the objective of this work. According to the documents we have before us, we are trying to come up with methods to allow for equitable harvest opportunities along the coast.

I think this is primarily an issue of New York and New Jersey, right? Why can't we just allocate from New Jersey to New York? It is unclear to me where this is leading. In light of all of the data caveats, in light of all of these different data sources that now the technical committee is going to look at, it is unclear to me whether that is going to bear any fruit.

Where is this leading us relative to acquiring or trying to achieve equitable harvest opportunities along the coast? It is a lofty goal; certainly a desirable goal. I'm not sure at this point in time whether we can get there because of the data shortfalls and where we are right now with the analyses. I would appreciate some further guidance as to what we're trying to accomplish and whether or not it is something that we can actually get to in light of the work done so far by the technical committee.

CHAIRMAN SIMPSON: Yes, and I actually think the technical committee struggled a little bit initially. What you heard was a progress report; we've assembled a bunch of data. But, yes, the idea behind this is to use some objective process to see if there is a rational basis for the different minimum sizes, different levels of restrictiveness each state has had to impose on their fishery based on the allocation that occurred based on 1998 catches.

Certainly, I would hope that they would make broader use of NEAMAP data so a consistent methodology from throughout the range of that survey, to see, for example, can we demonstrate that in fact fish are smaller in Massachusetts than they are in New York, and that is the reason why you have a 16.5 inch minimum size and New York has a 19-inch minimum size.

The idea of a retention rate is probably going to place more demands on the data than it can support; and certainly when you – notwithstanding the smaller PSEs on the catch estimates, I wanted to try this approach. I understood its limitations. Having last week been interviewed by an MRIP creel agent, I am really skeptical of this approach and in fact any estimates from MRIP.

The degree to which I had to coach the interviewer on what else they might want to ask, like did I let any fish go today, did any of these people catch anything today, were you going to ask that? This is not going to be a solution. I think the solution is to stop trying to use MRIP data so intensively to manage state waters fisheries.

I do think it will help to go through this exercise to understand. It will help me. It has helped me already to understand that New Jersey actually on average does seem to have smaller fish along their coast than New York or the Block Island Sound area, for example. It helped me understand why two neighbors might have different minimum sizes, maybe not as large as they are; because if you're fishing on this or that; next to this or that sides of the bridge abutment on the Verrazano, it is hard to understand why 17.5 works here and 19 up to 21 works over here.

I think for now in the end of a day, and the end of a long day, if we provide this to the board, give it some thought in terms of the direction we're going, if you have any advice on what they could look at to demonstrate – for example; make the point of Massachusetts' small minimum size. North Carolina; what is the rational basis for a 15-inch minimum size, eight-fish limit and no closed season?

Is that equivalent conservation to New York's 19-inch minimum size, three fish limit, is it, or four, four, I guess, and a shorter minimum size? That is ultimately the goal; is can we get there with the data we have? I'm not sure we really can, but we're trying to find a way out of the fix that we've gotten ourselves into, and it is just part of that. Pat.

MR. PATIRCK H. AUGUSTINE: I was looking for what the recommendations were going to be outside of this, and there aren't any. Maybe we look outside the box and say if the striped bass mode or method has worked since 1990, or whenever it became off the endangered species list, so to speak, and we decided to fish on it, and we went with two fish per, whatever, and the status of the stock of the fluke is what it is; isn't it time maybe we really step outside the box and say, hey, you can get three of these, no matter whether you are here or there.

In the case of North Carolina, we've talked about this over and over again that south of a certain area, whether it is Maryland or Virginia, whichever one it is, you seem to have a different size fish. You've got a variety of them in North Carolina. I've suggested earlier that we exempt North Carolina from whatever.

If we all can agree that they get 16 percent or 11 percent or 12 percent – now it doesn't matter, because they don't have many of them there that are legal size, anyway – we exempt that group or we definitely break a split in the region. Let's take the next step. Instead of going three regions, four regions and arguing between Connecticut and New York and New Jersey, look at the split in the middle. Take that as the next natural step and go from there.

But it just seems to me that Rip Cunningham put the gear out there or maybe we go with total number of inches. Well, maybe it is a reasonable approach. What would be the simplest, most direct way to have people take home fish? We looked at the chart up there. Craig and I were looking at it. It looked like 80 percent of your shore/bottom people were taking fish that weren't legal. There was retention of 80 percent. Well, is that because you've changed the minimum size? I don't know. What I'm saying is how can we simplify the process?

CHAIRMAN SIMPSON: That's what we're after, and this is sort of a data approach to that. Certainly, we have a lot of management to talk about. But in terms of what you saw, if you have questions or if you have thoughts about

other things the TC should do that we could direct them to, that is what we're looking for right now. Adam.

MR. ADAM NOWALSKY: Mr. Chairman, going back to what the original charge was of the subcommittee to explore alternate management options for the fishery; basically we're dealing with a management strategy that at the present time dates back 13 years. We're going back to something that was put in place in Amendment 9 I believe by the Mid-Atlantic Council in 2000 or thereabouts.

Principally those management strategies were to change size, season and bag limit every year to constrain the harvest to a particular level to meet rebuilding targets at that time. That is really the management strategy. That is the tools that I see what we've been dealing with for 13 years; size, season and bag limit.

I would like to see the TC take a look at and compile the years for each state where they've had the ability to liberalize or require the reduction and to take a look at the measure that they used – did they reduce fishing days; did they change their size in the bag limit – to see if they could come up with some summary of whether a change in season – you know, we've heard often that season is the best way to constrain catch. That is something the technical committee has come out with and repeatedly said.

But I would love to see if they could do a better evaluation of the management measures that have been put in place in response to a need to liberalize or reduce and see how that is performed. Maybe that would help inform us how our management strategy is working. We have those three tools, size, season and bag limit. That is our strategy we've been dealing with for 13 years. I think we need to be looking at how that works and then see if we can find another way out of the box moving forward. That would be my specific request.

CHAIRMAN SIMPSON: Okay, yes, and keeping in mind that the other thing we have to deal with is change in distribution of the stock. That was one of the things that led us here is that

the sizes composition is changing and the geographic distribution of the stock is changing. How do we stay light on our feet in terms of management and allow the fish to go where they are going to go and maintain some kind of equitable access to the resource?

That is the part that looking back won't help us; how was your performance in 1998? Well, this year there is a bunch of fluke in Long Island Sound. We could not have predicted that. I don't know how to respond to that; but how do we adjust management for that; you can't. I think some of this stuff is just beyond whether you used a season or a minimum size last year. It is just a dynamic process. You've got a suggestion for the TC to look at.

MR. JAMES J. GILMORE: I actually want to know what it is like, Dave, to actually have an MRIP interview. I never actually had that experience and not many people I know that fish ever have either. You'll have to write a little paper on that. I guess my question right now is – I mean, there are a couple of suggestions I can get, but I'm looking more at the schedule of this.

When we kind of kicked this thing off, we were trying to get – remember we had simply the coast-wide measures is what wasn't working for a lot of states, so we went to conservation equivalency state by state. Then last year we got to that is not working either, so now we need a different solution.

We had the one-year fix, and that got us through this year. Now we're hopefully that this process was either through the retention rates or looking at regional approaches or something was going to be the solution. We're rapidly approaching October and December when we've got to start making decisions about management.

I kind of agree with you, Dave, that retention rate thing sounded great, but maybe it is not going to pan out. If you are thinking it is not going to work out, now I'm really nervous about it. It sounds like we're going to need a 2014 fix, because we're going to be right into the same brick wall we hit last year.

We're suddenly going to have to adjust – you know if we go back to state-by-state conservation equivalency, I'm going to be saying; well, I can't raise my size limits. We're going to need something else, and I don't know what that is right now, but we need a fix for 2014 if one of these alternatives does not pan out. I wish I could be more specific, but we're going to have a do over in a few months if we don't come up with a solution.

MS. KERNS: I don't have your fix, but I have some potential things to think about as we go into annual meeting. One, the TC will be reviewing two or three projects that were done through the Mid-Atlantic Council and a couple other funded projects. The board has seen these projects as they have moved along; but those projects are all finalized.

One of them is the evaluation of a coast-wide measure using a different type of modeling. Then there is a different one that also looks at potentially using regional modeling. The TC will have a report on the use of all of those models for us at the annual meeting. Maybe one of those would be a potential fix; maybe one of those is the solution for the working group; I don't know.

But if not, we also can start brainstorming especially in that working group. If we can't get to a solution for next year, let's start thinking about a fix and have that possible fix for the annual meeting so that we can get it done in time for specification process.

MR. GILMORE: Just to follow up; the joint meeting in October with the council, summer flounder is going to be on that so is that a potential to talk about it at that meeting also?

MS. KERNS: We can talk about it with Chris Moore. Usually those are pretty full council meetings, and we'll see if there is time on that council agenda. If not, because this working group problem has been mostly a discussion of our board trying to come up with a solution for this conservation equivalency process, I think that if we talked about it at annual meeting, it

wouldn't prevent us from being able to move forward still in a timely fashion.

MR. FOTE: When we started working on this many years ago, we decided that when we got the big increases, when the quota went up to 40 million pounds and we started moving away from 28 million pounds, we were going to spread that out among the states equally, those increases that came.

Then we basically set an arbitrary figure for spawning stock biomass that we need to stay at. Even though we have proven that recruitment is not based on spawning stock biomass, that is in the plan. Why are we maintaining the highest level of spawning stock biomass when we don't need that for recruitment?

If you look at some of the years we had recruitment that was very high, it is when we had a lot lower numbers because of competition for food and everything else. But we arbitrarily set up this number, and that is where we're at. Now if we took 20 million pounds off this spawning stock biomass and spread that out among the states equally, it would be a nice solution to some of these problems in the quick fix.

I don't see any justification to basically keep the spawning stock biomass at the heaviest levels they have ever been recorded that we see right now and still have poor recruitment one year, and then all of a sudden you are knee jerking us and basically cutting back. That is the problem when you deal with what we're doing in this system, and it has been a problem since we got involved in basically looking at the cap.

When we looked at the years that we spread this out, remember initially when we put the plan in, states like North Carolina, Virginia and Maryland took a fantastic hit, because they were at 12 inches and 13 inches, where New York and New Jersey really didn't have to do anything for a couple of years, because we had eight fish at 14 inches, and we could fish like hell.

They were basically supplying us with fish to do that. That wasn't fair and equitable with that.

That is why we went state by state. We looked at years, and I always laugh, because every set of years they looked at, this was the worst one for New Jersey, but we didn't care. We're saying, we'll take the worse years, because it is still what we've been basically catching. I would really like to get a justification why we're at the spawning stock biomass when it is not tied into recruitment, because we've been sitting here for 10 years doing the same thing.

CHAIRMAN SIMPSON: Yes, that is a discussion to have with the Mid-Atlantic Council. Rob.

MR. ROB O'REILLY: Mr. Chairman, I'll send in some comments. It was a good presentation by Jason. What I see positive at this point is that this is very complex, as everyone knows. Meeting conservation equivalency has been the utmost challenge as far as being able to stay within the target.

We've been very much below target for about four years, and we all remember the years where there was exceedance of the target by quite a bit all around. Looking at retention rates, I would ask that – and I sent this to the working group at our last call – we might want to look at multi-year just to get an idea of how that is. For example, I think what I sent was 2008 through '12.

As one example, there are some definite influences from size limits or seasons depending on where you are. I'm not sure they could be mapped out the way Adam has suggested, because there is also variability such as year class, strength, economics that confound everything. In Virginia, for example, if you couldn't see on the graph, the current 2012 retention rate was 23 percent. However, it was 7 percent five years ago.

When you realize the size limit went from 19 down to 16.5 in 2012, you can definitely trace the change in retention rates. Other states are going to be similar; they are going to have a profound swing like that. Some states don't or will not. I really like what you've done to initiate this and with the help of Toni, the

technical committee seems to be working harder to try and get at some of these complexities. I think that is a real advantage for all of us.

The data sources; it is nice that we have NEAMAP; it is nice that in the Bay there is CHESMAP, but we're still trying to figure out how they apply to the fisheries themselves, because that is still a challenge. NEAMAP takes a spring and fall sample; CHESMAP takes five samples throughout the year and throughout the entire Chesapeake Bay.

There have been attempts to try and link those. The volunteer angler survey is the same way. I think this approach is going to help the technical committee work together to get a better understanding for us as well as to how we best use that data. That is a really positive step forward I think, and thank you.

MR. ROY W. MILLER: I am going to pass for now in lieu of the time. Thanks.

CHAIRMAN SIMPSON: Toni, we're going to forego the discussion of the omnibus and do what?

MS. KERNS: We'll, forego the discussion on omnibus. We were just reporting out on the request of a commissioner on what the Mid-Atlantic Council had submitted to NOAA. We'll send out the presentation that was developed to folks; and if anybody has a question, feel free to ask us and we'll answer that. The omnibus itself was on the supplemental materials.

Then we're also going to forego the FMP reviews in lieu of the time. We'll e-mail those out, and then just do an e-mail vote for approval. Just so you're not concerned that you won't know what is going on in those fisheries, at the joint meeting in October, Kylie goes through the Monitoring Committee report and the Fishery Performance report, which has almost identical information in it as the Fishery Management Plan Review, and so you will get a presentation on it this year.

As a reminder; that joint meeting is the second week in October. Typically we meet jointly on a Wednesday, which would be October 9th. I'm not 100 percent sure if that is the date or if we will have to have a day and a half of meeting, because we do summer flounder, scup, black sea bass and bluefish specifications at this joint meeting. I am going to look to Kylie and see if she will nod; Philadelphia, is that where it is October, or Jessica. Yes, it is in Philadelphia; and as soon as we have information on the exact date, I will send you guys an e-mail and do hotel and all that information.

ADJOURNMENT

CHAIRMAN SIMPSON: Are you going to share the presentation as it was with the group? If there is any other further input or thoughts or insights would be welcome here for our directions forward; that would be great. If there is nothing else for the board – and we will do another working group call between now and the annual meeting. If there is nothing else, we'll adjourn.

(Whereupon, the meeting was adjourned at 6:15 o'clock p.m., August 7, 2013.)

New York State Department of Environmental Conservation

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Joe Martens
Commissioner

October 9, 2013

To the members of the Atlantic States Marine Fisheries Commission (ASFMC) and the Mid-Atlantic Marine Fisheries Council (MAFMC):

Management of the summer flounder (fluke) fishery has been challenging for the East Coast states and a significant issue for New York. Since the mid-1990s there have been numerous management measures applied to address changes in the fishery, many of these measures implemented to comply with Magnuson Stevens Act (MSA) in rebuilding a depleted stock. The combined issues of poor data, changes in abundance and distribution, among other factors, have resulted in questionable management decisions. New York fishermen have endured significant hardship for many years with the hope that once the fishery had been rebuilt to MSA standards, the East Coast would return to a productive and equitable fishery for all states.

The summer flounder fishery was declared rebuilt by the National Marine Fisheries Service in 2012. The use of outdated data and management measures that no longer work is negatively impacting fluke management. Recent research by Richardson, et.al. "*Evaluation of changes in spatial distribution of Summer Flounder*" has demonstrated the stock has significantly changed over the last decade or more; fluke abundance has increased with the bulk of the population occurring off the south shore of Long Island between New Jersey and Rhode Island. Recent work by Wiedemann and other experts "*Evaluation of Management and Regulatory Options for the Summer Flounder Recreational Fishery*" has proposed new management approaches that provide an equitable and productive fishery for all East Coast states.

The Fishery Management Plan for the recreational summer flounder fishery contains state-by-state allocations that are based on obsolete, nearly ten year old survey data. Although New York has been allowed to slightly relax certain management measures related to minimum size limits, the allowable landing levels in New York remain artificially low based on the application of the same obsolete data. These inequities have only worsened as the percentage of summer flounder located off of New York's shores has grown since 1998 when the survey was taken yet New York's allocation remains the same. In 2011 (the last year for which complete data is available), recreational fishermen from New York caught more than 7,500,000 summer flounder. Because of the state's allocation, only about 375,000 of these fish could be legally harvested. This is a poor management practice.

New York's commercial allocation for summer flounder is also flawed. Much of the information used to develop New York's commercial quota is based on historic landings from the 1980s. The management strategy for summer flounder should take into account the regional nature of this fishery, increases in abundance of summer flounder, and the most current information about the distribution of fish. It is fundamentally unfair for outdated information

and an obsolete state-by-state model to dictate the allocation process for a species which is such a vital source of revenue (\$3.7 million) for New York's commercial fishermen.

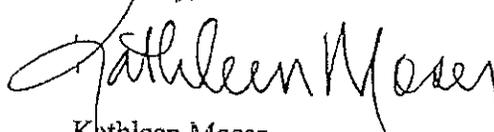
New York is requesting that you work with us in developing and implementing appropriate solutions to bring management into conformance with current science and understanding of the fishery and include adaptive strategies to provide for future changes in the fishery. New York State Department of Environmental Conservation will do everything possible during the October 30 Board meeting at the ASMFC annual meeting and the December 11 joint ASMFC/MAFMC meeting to accomplish these objectives.

In light of these concerns, New York intends to take the following steps to ensure that fair management strategies for summer flounder are implemented:

- Prior to the joint meeting in December, New York will be submitting to both the Commission and the Council recommendations for an overhauling of summer flounder management.
- New York intends to secure an outside expert to assist in developing solutions and provide additional scientific resources between now and the December 11 meeting.
- New York will make a motion at the December meeting for a vote on the management options that are identified in the above recommendations to the Council and Commission. This motion will include proposed amendments to summer flounder fishery management plans.

I believe by working together we can find solutions that are fair and equitable for all Atlantic Coast states. Thank you for your attention to this important matter.

Sincerely,



Kathleen Moser

Assistant Commissioner, Natural Resources

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