

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

**Atlantic Sands Hotel**  
**Rehoboth Beach, Delaware**  
**October 20, 2008**

Approve February 2009

**TABLE OF CONTENTS**

**Call to Order ..... 1**

**Approval of Agenda..... 1**

**Approval of Proceedings ..... 1**

**Public Comment..... 1**

**Review of Preliminary Estimates for Summer Flounder ..... 1**

**Update on Slot Limits ..... 1**  
    **Status Update of Draft Addendum for Maximum Size Limits..... 1**  
    **Technical Committee Report..... 1**

**Discussion of Postponed Motion ..... 11**

**Law Enforcement Committee Report on Filleting-at-Sea Regulations ..... 12**

**State Compliance Review of Black Sea Bass Regulations..... 15**

**Adjourn..... 15**

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1)
2. **Approval of proceedings of August 19, 2008 by consent.** (Page 1)
3. **Move that the board take no action on slot limits at this time** (Page 7). Motion by Fentress Munden; second by Bill Adler. Motion failed (Page 8).
4. **Move To postpone consideration of the postponed motion on mandatory regions until the February 2009 meeting** (Page 11). Motion by Pat Augustine; second by Roy Miller. Motion carried (Page 11).
5. **Move to begin the process of an addendum to prohibit the filleting of summer flounder, black sea bass and scup with the exception of partyboats and other means that will be enforceable (Page 14).** Motion by Tom McCloy; second by Willard Cole.  
  
**ABOVE MOTION REWORDED ON PAGE 21:** Move that we begin an addendum to prohibit the filleting at sea of summer flounder, scup and black sea bass with any exceptions approved by the LEC. Motion failed (Page 15).
6. **Motion to adjourn by consent.** (Page 15).

## **ATTENDANCE**

### **Board Members**

David Pierce, MA, proxy for P. Diodati (AA)	Tom O'Connell, MD (AA)
William Adler, MA (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Bill Goldsborough, MD (GA)
Mark Gibson, RI (AA)	Steve Bowman, VA (AA)
Everett Petronio, Jr. RI (GA)	Jack Travelstead, VA, Adm. Proxy
David Simpson, CT (AA)	Kyle Schick, VA, proxy for C. Davenport (GA)
James Gilmore, NY (AA)	Del. Lynwood Lewis, VA (LA)
Pat Augustine, NY (GA)	Louis Daniel, NC (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Fentress Munden, NC, Adm. Proxy
Tom McCloy, NJ, proxy for D. Chanda (AC)	Bill Cole, NC (GA)
Erling Berg, NJ (GA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Gilbert Ewing, NJ, proxy for Asm. Fisher (LA)	Harry Mears, NMFS
Roy Miller, DE, proxy for P. Emory (AA)	Jaime Geiger, USFWS
Bernie Pankowski, DE, proxy for Sen. Venables (LA)	A.C. Carpenter, PRFC

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

### **Ex-Officio Members**

Rich Wong, Technical Committee

Joe Meyers, Law Enforcement Committee

### **Staff**

Robert Beal  
Vince O'Shea  
Kate Taylor

Toni Kerns  
Brad Spear

### **Guests**

Rep. Mitch Needleman, FL

Bob Ross, NMFS

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Swan Ballroom of the Atlantic Sands Hotel, Rehoboth Beach, Delaware, October 20, 2008, and was called to order at 2:00 o'clock p.m. by Chairman Jack Travelstead.

### **CALL TO ORDER**

CHAIRMAN JACK TRAVELSTEAD: Good afternoon. Welcome to the Summer Flounder, Scup and Black Sea Bass Management Board. I think we have a quorum so we'll go ahead and get started.

### **APPROVAL OF AGENDA**

CHAIRMAN JACK TRAVELSTEAD: Staff is passing around a revised agenda. You will note that we will not be considering an addendum on slot sizes at this meeting, but you will receive an update.

Are there any other changes to the agenda? Seeing none, it stands as printed.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN JACK TRAVELSTEAD: You also have the proceedings of the August 19<sup>th</sup> meeting. Are there any corrections or additions to the minutes? Seeing none, those stand as printed.

### **PUBLIC COMMENT**

CHAIRMAN JACK TRAVELSTEAD: Public comment; has anyone signed up for public comment?

MR. ROB WINKLE: Rob Winkle, New Jersey State Federation of Sportsmen's Clubs. Mr. Chairman, my comments are related to the item on the agenda concerning fish fillets. It might be better use of the time if I saved my comments until after Mike Howard's report so that I don't repeat some points that he may make.

### **REVIEW OF PRELIMINARY ESTIMATES FOR SUMMER FLOUNDER**

CHAIRMAN TRAVELSTEAD: Yes, why don't we do that. We will get to that item on the agenda, though. Anyone else? Okay, we're going to move along. Toni is going to update us on where we are with the addendum dealing with slot limits and where we are with the recreational harvest so far this year.

MS. TONI KERNS: On Thursday the preliminary estimates from the recreational fishery came out. Up

on the screen you will see the Waves 1 through 4 estimated landings. On the far right column you will see the overages that the states have accrued with the information of these preliminary estimates. All states but Delaware, Virginia and North Carolina are over their 2008 target for the summer flounder recreational fishery.

Of the states that are currently over their target, the only states are still open are Rhode Island and Maryland. All other states are closed that are over their target. Are there any questions on these harvest estimates for summer flounder?

MR. THOMAS McCLOY: Just a question on whether Delaware, Maryland and North Carolina still have a fishery; is their season still open or not?

MS. KERNS: All of those states are still open and will continue to be open until the end of the year.

### **UPDATE ON SLOT LIMITS**

MS. KERNS: Okay, moving on to the slot limits, the technical committee has been working on putting together information regarding slot limits and tool to evaluate slot limits. Rich is going to go through some new information on slot limits and also reiterate the concepts that he brought forward at the last board meeting.

### **STATUS UPDATE OF DRAFT ADDENDUM FOR MAXIMUM SIZE LIMITS**

We're still working on a tool to evaluate actual slot limits, and that's why we haven't come forward with an addendum yet because the board asked that we put examples of slot limits and how those would affect the fishery. Until we have that tool, we did not bring forward this addendum.

CHAIRMAN TRAVELSTEAD: Before Rich gets started, keep that question in mind. That's the question for the board today is what slot limits do you want the technical committee to evaluate? After Rich gets, we're going to ask you that question.

### **TECHNICAL COMMITTEE REPORT**

MR. RICH WONG: Like Toni said, we have some new information but mostly this will be a recap of what we went through at the last meeting in August. In order to introduce a slot limit and for keeping within the confines of how we manage a quota, we have to know what the total catch looked like in the most recent year.

In particular we need to know what the discards are because now we're opening up harvest on a segment of the catch that was previously discarded. A very important consideration is that the discard data is only available from the headboat mode, from the MRFSS. Now there are some volunteer angler surveys that do provide a bit of information, but by and large the discard information just comes from the headboat mode.

Now, what this means is that when the MRFSS staff creates a table, a slot and a bag table for guidance for next year's management restriction, they're only going to use the data from the headboat mode. They assume that the headboat catch rates and the size frequencies are the exact same as all of the other modes.

What I did at the last meeting was I tried to show everyone what the total catch looked like in 2007. We did this by applying the length frequencies from the headboat mode, the discards from the headboat mode and applied that to all of MRFSS estimated discards of B-2s, and that combined that with the length frequency of the known landings.

This is what a catch distribution looks like. The main point here is that you're talking about tens of millions of fish at the smaller size limits, 14, 16, 18 inches. This is a lot of fish considering that the target in 2007 was only about 2 million fish. This graph shows the same thing. You see the target in 2007 or the new target giving us a 16- to 18-inch slot would be around 3.5 million fish.

There were about 8 million fish caught between 16 and 18 inches; and when you consider the 10 percent discard mortality on the other fish that are thrown back, it's almost 10 million fish at 16 to 18 inches. Now there are advantages, of course, to the slot limit. One, like I said, is that you could harvest more fish for a given quota in weight, and then you would constrict the age distribution of the harvest to younger fish, mostly ages two and three year olds.

I guess the benefit to that is that you would have slightly more males at these younger age classes than females. When we did some yield modeling, we saw that yield per recruit decline slightly. The spawning stock biomass per recruit increased slightly or marginally. The benchmark Fs or target Fs would probably be a little lower.

But overall the effects of moving to a slot limit would be nominal or muted because most of the harvest is commercial, anyway. Sixty percent of the harvest

theoretically should be commercial harvest. Now, any type of recruitment of these older fish in other fisheries, of course, would defeat any of the advantageous in terms of yield and spawning stock biomass per recruit.

The technical committee recommended that the board really restrict the slot exploration to just to the coast-wide approach. The main point here is that there is just an immense availability of smaller fish that are caught each year within the smaller size limits of a slot. The huge numbers of fish caught to smaller sizes it is likely that the bag limit would be very low.

Preliminarily I talked to the MRFSS staff today and he said that their slot limit bag analysis showed that it would – anything over one fish would grossly exceed the quotas, but that is preliminary and he wanted me to note that. Of course, the advantages that you could harvest some more fish at a given weight – you can harvest more fish at a given weight. That's one of the advantages of the slot.

In talking to the Center staff, it's likely that the fishing mortality rate would go higher when the next assessment was conducted. Now, how this affects the stock status is largely unknown. We just wouldn't know until we conducted the next assessment. Some other considerations are if the board does decide to explore regional or state slot limits against the advice of the technical committee, then all of the state quotas will have to be given in weight.

Then each of the states would convert that quota in weight to quota in numbers using their own specific mean weights. The implications of this is that the states that have smaller mean weights would have larger than normal quotas, and states with very large mean weights or large fish would have smaller than normal quotas or numbers.

Now, last year I wrote a memo that described the factors that might be affecting overages. For reasons that are virtually impossible to pinpoint some states, using size, bag and season restrictions, typically exceed their targets by 10, 20, 30 percent. Now, when you realize this potential propensity for overages and then you have an availability of 10 or 20 million fish, then that margin for error is increased by order of magnitude.

To compound the uncertainty about how well we could predict what the harvest will be at a given slot, again, we're limited to data that only comes from one mode, the headboat mode. When we looked at the

volunteer angler survey data, the boat anglers typically caught or discarded less – let's put it this way – shore-mode anglers typically discarded more fish per every keeper than boat mode.

For transparency sake, the sample sizes were very small for the shore mode, about a hundred fish total. So you could see that this could affect the MRFSS analysis that uses only the headboat data because when the table evaluates, say, a reduction relative the landed fish; so when the boat-mode anglers or headboat anglers land more keepers, then it could tend to overestimate the reduction at a given slot limit and bag limit.

So given there are more smaller fish being harvested, there is the risk of overfishing, and how will this affect the rebuilding trajectory – you know, we have a rebuilding goal for two years to reach at 2012. This is an experiment and it's something that how well we can predict the harvest is more uncertain than normal. Do we want to conduct this experiment before it reaches the rebuilding goal; that's the question you might want to consider? If you have any questions, I'll be glad to answer.

CHAIRMAN TRAVELSTEAD: Questions. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman, excellent presentation. It cleared up a lot of questions for me. We're assuming that in the future that we're still going to be relying very heavily on the MRFSS reporting. However, if we have to implement a recreational angler registry and we'll still have the ability to work with the landings' information from the partyboat, charterboat and headboat, are we making an assumption that we shouldn't even consider this until the recreational registry is in place; that we should continue along the line of managing this stock until the recreational register is in full swing to get a better picture?

MR. WONG: Well, to my knowledge, the registry would help refine the effort estimates, but until we start the MRFSS or the survey starts to sample the discarded catch in all of the modes, then it would still be a problem even with the new registry and the survey.

CHAIRMAN TRAVELSTEAD: Any other questions? Dave.

MR. DAVID SIMPSON: That was a good presentation. I guess I have a point and a question. I think the shortage of length data is something that we deal for every species, and for every assessment we

always have to do something to estimate the size composition of the discards so that we can assign ages to them.

I know for many years we took – we settled for less than ideal estimates of the size composition. In other words, very rarely does a technical committee actually do the proper expansions of length frequencies to wave, state, fishing mode and so forth. Typically they take all the lengths that occurred on the coast and said that's exactly what everyone's catch and just scale it up.

We've dealt with significant sources of error in the past, so the little bit of differences I see there between shore and boat mode don't concern me a whole lot. In fact, I think it would be conservative to use the boat mode because your short fish are probably closer to legal size than if you looked at the shore mode, so they're more likely to fall in any slot we would consider.

The other thing that is a little bit bigger, I guess, is since the management objective is now to achieve an F-40, 40 percent MSP, 30 or 40 percent MSP, dependent on, you know, where we are; instead of F-max, what opportunity does that create for a slot limit? It gets more complicated the more you think about it in terms of trying to figure out what your target fishing rate is for the year by age and so forth, but it seems to me that it creates some real opportunity to fish a little bit harder on younger fish, which on smaller fish which will be – you know, a higher proportion of which will be males.

So in terms of percent of MSP, egg production, that's a good thing. It's sort of analogous to what we talked about this morning with striped bass where we talked about slot limits in specific cases. So I wondered if the technical committee had thought about that end of it before the analysis of the slot limit, actually looking at what the new management objective offers in terms of new ways to assess what the impact of the recreational fishery taking more fish, say, at younger ages and fewer at older ages would be?

MR. WONG: Yes, Dave, when we did the SSB per recruit modeling, that was taken into consideration. I mean, what we saw was that there is a slight increase in the spawning biomass per recruit when you move it down to the smaller sized fish. It wasn't a lot; it wasn't much at all. That's because when we did the modeling, we included the commercial harvest as well into this fishery selectivity.

So, if that's why that issue was purely a recreational fishery, yes, you'd have a substantially more benefit – a greater benefit to fishing on the younger fish. At those ages, at two and three years olds, that's when the stock starts to shift from predominantly male to mostly female; and still, you know, age two and three, you're talking – it's not that far from – it's not a huge difference in sex ratio like it is at age six or seven. You know, just crossing over that 50 percent around one or two resolved, but those are good points and we did consider them, yes.

MR. EVERETT A. PETRONIO, JR.: Just a quick question – obviously, it's a very technical area and the models are fairly complex, but my question was one regarding the potential that we're almost like what I would call reverse double counting. I guess my real question was in the event that we start to retain more – if something like this concept were to go forward, was the potential benefit for the retention of smaller fish measured against the ability then to have less discards or more discard mortality.

When you made your presentation, there was quite a bit – obviously, discard mortality is very high given the high size limits now. I know you mentioned that, gee, your retention limit would have to be very low given the abundance of those small fish that presently are in the stock. Would you see some substantial gains or reduction in the discard mortality due to people catching their limit quicker, not fishing as long? I guess the question is, is the fact that fishermen are going to be done earlier and probably discarding less included in this analysis?

MR. WONG: Yes, that's a very difficult question to answer because, for one, we don't know what the behavior of the anglers will be. I mean, if you go to a slot will they stop fishing if they catch their one fish in the first ten minutes or will they keep fishing until they get that upper range of the slot limit or is it just for the fun of it? They don't know.

Like I said, there is still going to be a large number of fish discarded regardless of the slot limit. We're talking about 20 million fish caught a year; and whatever the target is, 3 million fish or 2.5 million fish at a minimum size limit or a 3.5 million fish at a slot limit, there is some savings there, I suppose, but for the most part most of the fish caught are going to be discarded.

MR. PETRONIO: A quick followup, if I may. It just strikes me that we're almost being penalized because there are too many fish, which drives me crazy when we're going to higher and higher reductions; and now

we're up against it, and we say, "Gee, we have all these fish and the problem is we catch too many". I'm having a hard time reconciling that.

CHAIRMAN TRAVELSTEAD: Any other questions? Where do you want to go with this? The technical committee would like some examples of slot limits with or without trophy fish to evaluate. Once we have that, we could bring back a draft addendum to the board either at the December meeting or at the February meeting for your consideration. If it's December, it would be at the council meeting. Pat.

MR. AUGUSTINE: Mr. Chairman, what is the smallest minimize size, with the exception of North Carolina; is it New Jersey at 18-1/2? It that the least.

CHAIRMAN TRAVELSTEAD: Maryland has 18-1/2.

MR. AUGUSTINE: Mr. Chairman, did the technical committee look at where the greatest number of discards might be? The tighter the span is, I'm assuming that's going to increase the discards, but did you come up with a number that might be the minimum we might want to look at, like 16-1/2? It seems to me that 16-1/2 might be a great minimum up to 18-1/2 or 19, but I'm not sure a two-inch spread is going to give us any savings and the discard rate will be through the ceiling. Can the technical committee respond to that?

MR. WONG: We don't know exactly what the bag limit is going to be – an associated bag limit will be with a given slot. That's why we need a specific slot limit example that we can test or analyze.

MR. AUGUSTINE: Two fish in the slot.

CHAIRMAN TRAVELSTEAD: Say that again, Pat.

MR. AUGUSTINE: Yes, two fish in the slot, what it would look like would be –

CHAIRMAN TRAVELSTEAD: Pat, I think the technical committee needs the slot size, and then they're going to tell us how many fish you can have in that slot.

MR. AUGUSTINE: Is that the idea of pulling in a number of fish and then working a range of – and I suggested 16-1/2; you go from 16 to 18 – 16/12 seems to give you two decent sized fillets although very thin, but 16 just seems to be for – to the north in



particular because we're inundated with very large fish.

I think New Jersey is at 18-1/2, so we seem to be 200 and some odd thousand fish over in New York this year than everybody else. North is way over size so anything less than 16 they would say is a throwback anyway. I would say 16-1/2 to 19 because I don't know that a two-inch slot range would be big enough to accommodate the need for charterboats. That would be for all, so 16-1/2 to 19; two-fish bag limit.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I just had a question about something I think I heard Rich say, and that was in order to do the slot limits they would have to be implemented coastwide, so does that mean that we would have to have a coast-wide set of regulations to implement a slot limit? I'm asking that because of the difficulty that we've had in the past trying to adopt coast-wide regulations for this fishery.

MR. WONG: Well, the data definitely deteriorates as you move from a coastwide to a substrata. We did not recommend going to other than a coast-wide approach. We are also recommending that not just because it's driven by data limitations but because of the rebuilding – the need to meet a rebuilding goal in two years.

CHAIRMAN TRAVELSTEAD: So the technical reason is pretty sound. It sort of leads you to coastwide if you want to do slot limits, but without seeing the slot limits I'm not sure you want to go to coastwide, but it could be something attractive to a state there that might change their vote on that issue. Jim.

MR. JAMES GILMORE: It's sort of a chicken-and-egg question, really. I'll put it back at you guys. We can probably sit here and come up with all different numbers for slot limits, but in terms of how much effort it takes to do an evaluation of one limit, how many combinations could you do realistically? I had three down here I'd like to look at, but if you can do six for the same effort, but if you can only do two, I mean, that's going to really refine the numbers we're going to give you.

MR. WONG: We should limit it. In fact, the person that's writing the program and doing the code isn't even a member of the technical committee. This is extra work for him that he doesn't need to do, so we do want to limit his workload. I would keep it to less than ten definitely, between five and ten. I have the

recommendation of no more than six from the commission.

CHAIRMAN TRAVELSTEAD: Jim, let's hear your options that you've come up with.

MR. GILMORE: The first one that came up essentially was that 16 to 18, because that was the one I think we kicked around and some of the numbers were based on, so that was the first one. The 17 to 19 seemed to be one I preferred just based upon the way the landings were coming in, and there seemed to be lots of larger fish that might be a good number -- then the one that Pat had for the 16-1/2 to 19. Those are the three I thought were the most realistic.

I was also thinking back in the days when everybody had 14 inches and maybe we want to look at that, also, but then, again, I was getting to the point where I don't want to make too much work for the staff.

CHAIRMAN TRAVELSTEAD: Keep in mind you also have the option of whether or not you add a trophy fish or not on those options, too, and I suppose they could evaluate any that we come up with or without a trophy fish. Red.

MR. RED MUNDEN: Mr. Chairman, I guess it's time that North Carolina waded in on this. As we've said many, many times coast-wide size limits just do not work for North Carolina. If you go back to the information that Toni put on the board at the beginning of the board meeting, when we looked at the MRFSS data, Waves 1 through 4, North Carolina has harvested less than half of its target for this fishing year.

Last year our size limit was 15 inches. We came very, very close to exceeding our target or maybe we went a little bit over, so we took a very conservative approach and increased the size limit for summer flounder by a half inch and look at what happened. Anything above what we have would totally devastate our southern flounder fishery.

We find summer flounder and southern flounder in the same area around our inlets. Nothing has been discussed here today that the North Carolina Division of Marine Fisheries can support. The other two members may say, well, we could go along with it, but my agency cannot support 16 inches, 16-1/2, two fish. Rich has said that it would have to be coastwide for it to work, and I can assure you that coastwide will not work for North Carolina. Thank you, Mr. Chairman.

DR. DAVID PIERCE: In getting ready for this meeting I reflected on the minutes of our last meeting and the motion specific to this issue. I must admit I'm a bit confused now because at our last meeting we did say we would develop an addendum to include the use of slot limits as a tool in the box.

Okay, fine, enough, so we'll put it in the box as a tool, and now I see that we are, according to this agenda before us now, we're going to review a draft addendum for maximum size limits. Now, there is no addendum in front of us right now, I don't believe, so this conversation leads me to believe that there is actually now a move afoot, before we have the addendum with the tool in the box, we're going to move forward with an addendum that would involve slot limits.

Now, when the presentation was given by Rich on behalf of the technical committee, he reminded us that he was reviewing some things that were said at the last meeting and I guess giving us some new insights. Frankly, when he went through his whole list, I said to myself it's a tool in the box, but I don't want to use that tool now, especially in light of what he just said.

You know, we only have discard estimates from the headboat fishery; if we go with the slot limit, the yield per recruit will decline; we will have to operate with F targets that are much lower than what we're working with now; the effects will be muted due to the 60 percent commercial share for the commercial fishery; we'll have, in all likelihood, an immense pool of smaller fish to be caught; and the bottom line would be that with a slot limit we would have very – I underscored the word “very” – restrictive bag limits or closures.

I think he said, after further consideration, over one fish as a bag limit could lead to grossly exceeding quotas. Then it goes on from there. He indicated that with a slot limit there is a much larger margin for error in our calculations' projections; a propensity for overages. I listened to all of that and I concluded that I don't want to go with this particular tool; put it in the box, yes, but as it stands right now there is a lot going against slot limits.

I just urge everyone to reflect upon the points that he made and to remember that it's just a tool in the box. If someone wants to actually move forward now with a specific addendum with the bells and the whistles for a slot a limit, okay, but I'm not going to support it.

CHAIRMAN TRAVELSTEAD: David, you make a good point. The purpose of asking for examples of slot limits from the board today is simply to shed more light on the issue, such that it can be a part of an addendum that may or may not go out to public comment. The board can certainly today decide it wants to go no further with slot limits and can end that debate immediately. That's up to the board.

We're not trying to imply anything by simply asking for your suggestions for certain slot limits. It's merely to be more informative in the document to show what they achieve or what they don't achieve. David.

MR. SIMPSON: Dr. Pierce made basically the points I wanted to make that at some point we were just talking about adding an alternative management tool in the toolbox, and that is a maximum size that presumably would be used to set a slot and preserve a bonus fishery, a trophy fish size category as well. In terms of timing, yes, this is a difficult time.

We just heard about overages for 2008, which was my worse-case scenario for moving forward with this concept that I think has a lot of support in the industry and in part because people want to find a way to deal with dead discard issue, and this is one way to perhaps approach that. Yes, we only have a couple of years left to rebuild, so this would be a tricky time to introduce a new very different type of management strategy.

All that having been said, I'll also say that I really did think I'd be able to get some of my people to work on this between the August the meeting and this one and it didn't happen, so we fell short as well. I think there are a whole lot of things that need to be looked at. I understand the technical committee's reluctance and reservations and trepidation and oh, my God, and what will happen if, and all that kind of stuff is really easy to do.

I mean, if anyone puts a line in the water we could go over. I know because we did it again this year without a slot limit. But, I still think especially with the change in our reference point, this creates a much bigger opportunity than I think the technical committee has explored thus far, because there are some advantages toward the SSB type of calculations with slot limits, with fishing at smaller sizes.

Clearly, we're not worried about squeezing the last yield per recruit out of this fishery because a adopted a very much lower fishing rate than F-max this last go round. F-max is 0.58, so that shouldn't be a

concern to the group. Finally, in terms of the sizes to be looking at, I think more in terms of ages; what age should we start harvesting at in the recreational fishery?

I would suggest this fishery should have access to fish that are age two and older. That's my general approach to this; that generally mature fish, that's probably around 16 inches, age two, and look at approaches where the recreational fishery can get 40 percent of the resource from age two and up. You know, right now we're giving up a lot of those fish and forcing a lot of the fishing mortality on the females in the course of doing so. So, if the technical committee needs guidance, I would say craft alternatives that allow reasonable access to age two and older fish.

MR. GILMORE: David Pierce, I'm just reiterating what Jack had said. I mean, our interest in this was just to get information about slot limits because back in New York for the last year that seemed to be the silver bullet a lot of the fishermen were looking for. I can't tell you how many discussions I had about slot limits are going to fix this whole problem.

So, until we had some real data on that and some analysis as to whether it made sense or not, we really didn't want to go there, but that's what we're in for right now is just to find out efficacy of it; and if it's not going to work, it's not going to, but if it's got a chance we need to at least find out.

MR. MUNDEN: Mr. Chairman, based on the information provided by Rich from the technical committee, I move that this board take no action on slot limits at this time.

CHAIRMAN TRAVELSTEAD: I have a motion from Red Munden: is there a second to the motion? Seconded by Bill Cole.

MR. ROBERT E. BEAL: The seconder can't be from the same state as the maker of the motion.

CHAIRMAN TRAVELSTEAD: I'm reminded the seconder cannot be from the state. Is there a second to the motion? Bill Adler seconds the motion. Comments on the motion. Pat.

MR. AUGUSTINE: Mr. Chairman, here we go protecting status quo. The information that has been presented to this board in the last couple of years as to what the options are that we can actually do to address how we prosecute this fishery, it just seems

to me that some of us may have had our head in the sand.

It looks like the background on what we are doing today was to ask the technical committee and the PDT to initiate an addendum using maximum size limits, slots, and trophy regulations. The Chair went on to report the use of slot limits in the summer flounder fishery. It takes us 18 months or longer I think to do an addendum, maybe at least a year.

The idea again was to have another tool in the box. We aren't moving anywhere on regional management. We aren't going anywhere on state by state. All of us are over with the exception of three states, including I believe Virginia, Delaware and North Carolina. The fish obviously moved and they're being caught. We have no flexibility in this plan

I guess when the fish finally come back to North Carolina and the northern states have the same problems you are, we're probably going to say the same thing. Anything you put on the table we're going to reject. I think we have to look outside the box. We're trying to live up to – although National Standard 1 doesn't apply, it's about the fish, but it also applies to the fishermen.

Forget the economic impact on smaller quotas and larger minimum sizes and the economic impact on fisheries, bait shops, bait and tackle people, the general economy, marinas and so on. The issue is we're not buying into what our responsibility is here. I think if we ever got to a point, as Mr. Munden has said, where we ended up with regional and North Carolina was out of the box, if you will, because you're not even in the same fishery, then maybe we would move forward.

But in the meantime we have one state in this particular case – no offense, Mr. Munden and Mr. Cole, driving the process, and I just think we've got to be big enough to stand up to what we have to do here. As far as the motion is concerned, I could not support it. It's another tool in the box. We're delaying what we have to do.

But other than coast-wide slot size where we could encompass most of the states, we would all be on somewhat level ground, but we're going to continue with conservation equivalency and continue down this road of bargaining chips and being mad at each other because we don't see the inefficiency of the system.

And regional, which mostly is the right way to go, but the states who have the fish want to remain the haves; and because the fish have move, you're going to become the have nots. You're going to have the quota and not the fish. It just seems if we don't take into consideration what is happening to all our species that we fish on, that they're continuing to move along the coast, farther north and farther east, I don't know what our primary fish will be. Maybe it will be spiny dogfish, so there is no way I could support this motion. Thank you, Mr. Chairman.

MR. McCLOY: I think, as Mr. Gilmore said earlier, we've heard the use of slot limits be described as the savior of the summer flounder fishery, as we have in other fisheries also. From my perspective, I think it's important to at least go through the motions, look at some options that can then be rejected if that's what the board feels is necessary.

Therefore, to stop the process now I think is a disservice to the public because if we don't do the analysis, then slot limits are going to be the best thing since sliced bread in the public's mind. What I would suggest is that we not support this motion but let North Carolina offer some options that would work for them as a slot and then have the evaluation done. If that doesn't work, well, then, we have a lot more information upon which to make a decision.

MR. PETRONIO: I couldn't agree more with Tom. I came down here with an interest today in slot limits given the fact that since the last meeting I've had multiple people come up to me and ask me about them. Sitting here and note the presentation that I heard today, I have some very serious questions about whether or not I would support it even if it was on the table as this point.

But, I think fleshing out what slot limits do and do not do is exceptionally important. I took a big gulp when I heard about potentially one fish and a very small one at that. Maybe that's not going to help us at all. All information is good information when you're making such an important decision, so I strongly oppose this motion simply because if and when we have to make this decision I want to have the best information available. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Further comments on the motion? Harry.

MR. HARRY MEARS: Mr. Chairman, just a clarification. Given our discussions so far this afternoon, I would like to ask the maker of the motion a question; whether or not this motion

essentially would direct the staff and the board not to move forward with an addendum for having slot limits as a potential tool in the toolbox?

I'm getting a little confused over some of the discussion here concerning what needs to take place before we would even be able to look at slot limits, which I thought is where we were heading during the last meeting, to go forward with an addendum; to kind of indicate we don't know the answers yet, but we're going to potentially look at slot limits and analyze them as time goes on before we make a decision versus making a decision now whether or not a slot limit approach is the correct type of management strategy or not. So, once again, I guess my question is would this essentially kill or stop an addendum to further review the potential use of slot limits in the summer flounder fishery?

CHAIRMAN TRAVELSTEAD: My interpretation is the answer is yes, but let's hear from the maker of the motion. Red.

MR. MUNDEN: That was the intent, Mr. Chairman. Based on the information provided by the technical committee, I do not feel it is wise to go forward with this addendum at this time.

CHAIRMAN TRAVELSTEAD: Any final comments?

MR. GILBERT EWING: Being new I just want to ask a question as to is it necessary to make an addendum to get the information that we want? Can't we get the information that we're looking for without have it in an addendum form?

CHAIRMAN TRAVELSTEAD: The answer to that is yes, and that's sort of the way we're proceeding, although assuming this motion didn't pass, you would ultimately see an addendum for your further consideration either in December, with the Mid-Atlantic Council's approval, or in February. I mean, if you don't want to move along with the addendum until you see the information, that's another option that's available to you. Any final comments? Seeing none, we'll take a minute to caucus and then we'll vote.

(Whereupon, a caucus was held.)

CHAIRMAN TRAVELSTEAD: Are you ready to vote? All those in favor of the motion please raise your right hand; opposed, same sign; abstentions; null votes. The motion fails. Further discussion by the board on this issue? David.

DR. PIERCE: Regarding, again, the desire by the board to move forward with – well, following up on the decisions that we made at our last meeting, I would ask that if any board member offers up any specific slot to be examined, that that board member also reflect on the specific motions at the last meeting because I'm having a bit of a difficult time reconciling just a slot versus the intent of the maker of the motion.

Pat Augustine, at the last meeting, for example, he said – and this was adopted – “move to develop an addendum to include the use of a slot size/trophy fish combination as a management tool in the summer flounder fishery.” So, we're talking about a slot, but I don't think that's exactly what Pat had in mind at the time. Now, maybe I'm misunderstanding it, Pat, but I thought you meant a slot and then the opportunity to have a big fish; right?

MR. AUGUSTINE: Yes.

DR. PIERCE: Right, so there is more to this than meets the eye relative to an analysis that would need to be done to follow up on those actions of this board at our last meeting; similarly, the fourth motion that was adopted, because there are two motions that were adopted. Which action that we adopted at the last meeting really is going to be pursued in an aggressive way by this board, staff specifically, once we offer up some numbers?

MR. AUGUSTINE: I did specifically say “a slot-sized fish”, and I didn't use any particular numbers, but 16-1/2 to 19 or any combination, and a trophy fish, meaning over a maximum number, which would be – and I'd pick one of the air; well, not really because a 24-inch fish is a darned summer flounder. Similarly, in New York we have a 28 and over fish and a trophy fish that happens to be over 40 inches.

That seems to satisfy the anglers' desire to have a trophy fish. But, then Dave Simpson came forward and massaged that motion and said “a maximum fish”, and I think we were both talking about the same except using different language to describe it. When I read my motion, I said “slot” range of fish, from here to here, and over – another size up here as a secondary fish. That was the explanation.

MR. ROY MILLER: Mr. Chairman, notwithstanding the motion that Pat made at the last meeting, are we precluded from charging the technical committee with examining some specific slot proposals such as those articulated by Jim Gilmore and/or Pat prior to preparation of a draft

addendum? It may be that if the seasons and bag limits are so onerous with the slot suggestions offered by the New York commissioners, that we may not want to proceed to the addendum process and thus we could save ourselves that particular unnecessary step.

EXECUTIVE DIRECTOR O'SHEA: I'm hearing maybe a bit of different views as to the process here. I think my question is that in order to consider using slots, the first step would be to approve an addendum simply authorizing or allowing the board to use slots. If that were to be approved down the road, there would then be a second decision and action by the board each year as we go through the specifications' process to perhaps authorize the use of a particular slot for a particular fishery. I'm thinking that's where we are in the process. I'm not sure, if that's correct, that other people see it that way as well.

CHAIRMAN TRAVELSTEAD: Right, I think Roy was asking wouldn't we be better off seeing the results of the technical committee's analyses before we go any further toward any addendum. I think that's an option that's out there for us. David.

MR. SIMPSON: I think, as I said and others have, there is a lot to think about in actually implementing a slot limit and the timing is bad right now. I can't imagine doing one for next year or 2010. We don't have time to do it in 2009, and at this point I can't see doing it in 2010. I do think it's important for the commission to move ahead with an addendum that would at least put the maximum size option in the toolbox so that we have, so that when the time is right it's in place and has been described.

The next step would be to look at that point in time what are the viable options. Maybe we have more data at that point where we can deal with some of the geographic differences and the size distribution of fish and those very real concerns that people have in terms of availability. If this gets all bundled up into it has to be done this one certain way that isn't palatable to anyone, well, it dies right then and there, and I think it's fair to the concept.

I think it would be important for the board to just move ahead with the addendum, to implement a maximum size; that's it. You would explain to the public that this would be used for some – or it would be a necessary component of a slot limit concept with or without a bonus fishery and leave it at that. The details we'll work out in Step 2.

MR. McCLOY: Mr. Chairman, I have to disagree with Mr. Simpson because we have had some

preliminary discussions about this addendum with our fishermen, which I'm sure all of you have, also. Unfortunately, the devil is in the details. If they can only keep one fish, I don't think they're going to want to talk about slots anymore. If they can't have a big fish, I don't think they're going to want to talk about slots anymore.

So, it's important that we get information out there. And, yes, it may change over time as the stock changes and we become rebuilt, but at the same time I think there is a lot to be said for getting some information analyzed, getting that out to the public and seeing what their reaction is before we're committed to go through the whole addendum process.

CHAIRMAN TRAVELSTEAD: Other thoughts on this? I tend to agree with Tom. If we don't have to go down the addendum process yet, maybe we shouldn't waste our time. It seems to me it will be a lot easier decision about whether we go with an addendum once we have the complete report from the technical committee on exactly what some of these slots look like and what they achieve or don't achieve.

If we could have, for instance, that information from the technical committee by the December meeting, we could at that meeting, depending upon what we see at that time, either proceed down the road to do an addendum or not. And if it's to not proceed, then we will have not wasted any further time on the issue. That's my own thoughts. Any other comments? David.

DR. PIERCE: I agree with your approach, Mr. Chairman. I think that's the wise course of action, so why doesn't someone who strongly favors the slot limit offer up some very specific ideas as to what the technical committee can look at; and then when we get back together in December, we would at least be able to address those concerns of those states that relate to the desire to find out whether it will work or not, how receptive might the industry be to that slot limit approach.

That's a good idea, Mr. Chairman, and, again, board members who would like it please offer up a specific idea. I know there has been some discussion already, but I'd like to hear something very specific.

MS. KERNS: David, I can read off what I have so far. I would like the board that the number of options that we look at should try to be limited because the individual that is putting together this analysis has

another job and this is not part of his job. He was doing this as a favor to the technical committee. The short time period between this meeting and the first week of December should be taken into consideration and the number of analyses that we ask this individual to do.

DR. LOUIS DANIEL: Mr. Chairman, I feel like I have to make one comment on the one comment that was made on the earlier motion that we were trying to come up with status quo. That I don't think is fair. We went from 15 to 15-1/2 and eight fish, and our harvest is half of what it was last year; whereas, other states are over by a significant amount.

So I don't think it's fair to claim that was a status quo move because we have taken that effort. But, my concern from North Carolina's perspective is we did go to 15-1/2 and eight and it has cut our harvest in half, so the discussions about a 16-1/2 inch start on a slot limit is a 95 percent reduction in North Carolina's fishery.

I just want to make sure it's clear on the record that our objection to the slot limits is not to maintain status quo and it is not to protect the flounder. It is just that that is not an option that's palatable to North Carolina. The other issue that none of you all face that we do is the impact on our southern flounder fishery. In developing these slots based just on summer flounder in North Carolina, you are looking at a huge reduction.

I'm really surprised to hear the comments on wanting a slot and especially if you don't have that trophy fish. I know in North Carolina the fishery is for the big fish. I mean, that's what people want is the big fish and people are tailored to catching those. So if you're only having a two-fish bag limit with one over a slot limit, what have you really accomplished?

I would support moving forward to looking at these things, but I think we need a slot that starts at 15 inches and not at 16-1/2, so maybe to 15 to 18 with one over or something like that to sort of make sure that you've covered the geographic areas; or, go ahead as we've heard rumors of, maybe just removing North Carolina from that consideration of a slot limit in the future and let us continue as long as we can stay below our harvest levels. Thank you for letting me have this opportunity.

CHAIRMAN TRAVELSTEAD: Here is what I've heard so far in the way of suggestions; 16 to 18, 17 to 19, 16-1/2 to 19, 14 to some number, and I think, Louis, you just said 15 to 18 or somewhere in that

range. I've also heard two mentions of trophy sizes; 24 to 28. We can't spend all day on this, and we don't have a lot time left, but if you have other suggestions let's hear them now.

Otherwise, what I would suggest is we give this list to the technical committee; and if in the next couple of weeks you come up with another one you want analyzed, send it to Toni and she'll pass it on to the technical committee, as long as we don't end up with 15 or 20 of these options. I think we have pretty much covered the range with what we have. Jim.

MR. GILMORE: Toni, the trophy, though, has to be evaluated for each one of those size groups because it affects the landings. If we did five that has to be evaluated with the trophy and without a trophy, so that would be ten iterations right there; is that correct?

MS. KERNS: And, Jim, your trophy, if I'm correct from what we've discussed at the technical committee, it's just greater than 24 or greater than 28. Rich tells me that it shouldn't take much time to evaluate the trophies, so we can look at greater than 24 and then we'll also look at greater than 28.

CHAIRMAN TRAVELSTEAD: Any final suggestions? Pat.

MR. AUGUSTINE: Is it within the purview of the board to consider one of the options of exempting North Carolina from this, or does that take a –

CHAIRMAN TRAVELSTEAD: I think that's a decision for another day –

MR. AUGUSTINE: I understand.

CHAIRMAN TRAVELSTEAD: -- assuming we move down the road with slot limits. We haven't even decided that we're going to go with slot limits yet.

MR. AUGUSTINE: Yes, and this is going to be strictly based on coastals, right, Rich?

CHAIRMAN TRAVELSTEAD: That's what the technical committee is telling us, yes. Any final comments on this or are you ready to proceed the way it has been suggested? Okay, so in the next week or so you come up with another one, get it to Toni as quickly as you can.

## DISCUSSION OF POSTPONED MOTION

CHAIRMAN TRAVELSTEAD: Okay, we're going to move on with the agenda. Item 5, there was a postponed motion for mandatory regions. Toni, do you have anything on that?

MS. KERNS: The motion that the board postponed was "move to develop an addendum to include a mandatory regional management tool for summer flounder in the FMP". This motion was by Pat Augustine and seconded by Roy Miller. It was postponed to the annual meeting.

CHAIRMAN TRAVELSTEAD: Let me ask in light of our previous discussion, is that motion somewhat moot at this point until we get additional information?

MR. AUGUSTINE: Yes, Mr. Chairman, I think temporarily it is due to the workload that we're faced with. Assuming that the technical committee and the PDT will do a job – or at least the technical committee will do a job on supplying the information for slot sizes, I would not want it to go away permanently, and I would like to bring it back at the next meeting. I would suggest we table any decision on this motion until a date certain, which would be I believe the December meeting, Mr. Chairman, or would it be more appropriate for the spring meeting.

CHAIRMAN TRAVELSTEAD: February.

MR. AUGUSTINE: Yes, for the February 2009 meeting.

CHAIRMAN TRAVELSTEAD: You're suggesting just holding the motion over until February?

MR. AUGUSTINE: Yes, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Tom, did you have your hand up?

MR. McCLOY: I did but I don't need to comment now, thanks.

CHAIRMAN TRAVELSTEAD: That was a motion, Pat, to –

MR. AUGUSTINE: Yes, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: -- postpone until February. Is there a second to that motion? Seconded by Roy. Comments on the motion? Is there any objection to the motion? Then the motion

is approved and we'll put that back on the agenda for the February meeting. Thank you.

## **LAW ENFORCEMENT COMMITTEE REPORT ON FILLETING-AT-SEA REGULATIONS**

**CHAIRMAN TRAVELSTEAD:** Mike Howard, we're going to move to Item 6, the Law Enforcement Committee Report on Filleting-at-Sea Regulations.

**MR. MIKE HOWARD:** In your packet and on the CD should have been three reports. One was a survey of states with fillet regulations. The other was a copy of the regulations, and one was a somewhat disorganized summary. I'd like to summarize the three points that I think are important for this board and answer the questions reference to fillets.

First, the Law Enforcement Committee is in complete agreement that regulations that prohibit filleting, mutilation or anything that distorts the size, the identification of, or the species is less enforceable than having a regulation that prohibits it. If you prohibit it, it's good enforcement practice. Having said that, there are a couple of states that don't have specific regulations on filleting of summer flounder.

The second point, after everybody is in agreement that if you had a no-fillet law at sea, is are current laws enforceable and does this filleting issue, which is an issue, affect enforceability of the plan. I must say that to the degree that people hide fillets that come from illegal fish is about the same problem to some extent as those who hide whole fish, and that's pretty well in agreement.

For the time it takes a person to fillet fish at sea, whether you're in a small boat or big boat, and hide it without being detected with the blood and the dried scales, there is just as much problem with people hiding illegal, undersized whole fish. I think this board, in its consideration, should also consider that when you write a plan, if your intention is that fish be landed whole, especially in the recreational fishery, that you include it in the plan just like you did with the striped bass.

Creating a proposal here or an amendment or whatever that task the states to implement those laws may be very difficult, especially if you sat here and listened to the last conversation on just trying to look at slots. Therefore, if you want recreational fishermen to land fish whole, it should be part of your plan. That would be easily made consistent throughout the states and, of course, easily enforced.

I would also be remiss if I didn't mention that there are plans that will allow bycatches and fillets in the commercial sector. Maine has a 25-pound fish limit. When you're dealing with tons of commercial, we just need to know what the board wants. Maine says in that fishery, which is a directed fishery of tons of fish, the pounds doesn't usurp and plans.

There are very many complicated issue when it comes to filleting, but the key point is that fillet laws assist law enforcement when you prohibit filleting. Even with retaining carcasses, there are people being caught as recently as last week with retaking carcasses back on board so they can keep undersized.

The last thing in dealing with filleting at sea is the fact that the most effective law enforcement tool we have is our officers in uniform on patrol in marked units, aggressively checking in a friendly way boats and inspecting their catches, followed by successful prosecution with good fines and plainclothes patrols to monitor that everybody is following the majority of the good fishermen out there. Questions, please.

**CHAIRMAN TRAVELSTEAD:** Questions of Mike? Bill.

**MR. WILLIAM A. ADLER:** Mr. Chairman, if I may, what was one of the problems, if I can remember, why they wanted to fillet at sea? Was it charterboats and the turnaround period that they needed when they came in? Wasn't that one of the issues; do you remember?

**MR. HOWARD:** Yes, that is an issue. For instance, and I'll just use New Jersey as an example, they issue permits to charterboats that allow some filleting at sea and they have to keep the carcass. They issue a permit to boats that are allowed to do that. The other issue is states with no regulation on whether or not you can fillet and putting the burden on the officer to prove that the fillet was from a legal species or a species whose size and weight, et cetera, was covered under an FMP. So there are states without adequate laws, and then there are some fillets allowed in certain species under certain plans.

**MR. CARPENTER:** Mr. Chairman, we have a provision in our regulation that requires retention of the carcass, and it was put in primarily for the charterboat fishery where the mates, many of them make their day's work based on their ability to fillet for the customers on the way in. So, we have found that and as far as I know we haven't had a problem with that particular provision that has worked for us.



MR. GILMORE: We have a similar provision, A.C., but the problem that our law enforcement guys had is that they essentially keep the racks, but they don't necessarily keep them together. That seems to be where the problem is, is that there is I guess some indication that some of the racks are kept and the fillets leave and then later on, if they get short of fish, they don't have to match the racks up.

The question really goes back to the Law Enforcement Committee, because we posed the question that that separation of the racks from the fillets is part of the problem, at least in New York; is there a possibility that if we added in that those had to be essentially kept together until they were leaving the boat, would that solve part of that problem? Secondly, does that create another problem in terms of what they're going to do with the racks once they get back to shore?

MR. HOWARD: It increases the enforceability by making sure each fisherman maintains his own racks and fillets in his possession. There is a tradeoff because it becomes cumbersome when four or five people go on a non-commercial headboat. However, in the recent case made you have to have the ability to ensure that the racks weren't taken on board the boat.

If 30 people are fishing and an officer goes on board, his tendency, unless he has good information, is to look at the racks and not the total number of fillets. You count the racks, look at the size of the racks, look and see if the fillets sort of match up; and unless you put a spy person on board or an undercover officer, which happened in this case and found out that the captain was in cahoots with his customers, and he brought racks for his customers and then he's got a problem.

CHAIRMAN TRAVELSTEAD: Rob Winkle, do you want to speak to this issue?

MR. WINKLE: This is a very unpopular issue, but since the size limits particularly of summer flounder is the key way that we try to keep the recreational fishery within the quota, it's extremely important that we get compliance with that size limit. And when a state has a law that will allow an individual to totally circumvent the size limit without any charges or action against him, it totally undermines the plan.

My good friend, Mike Howard, I just would correct one thing. If you read the summary that Deputy Chief Meyer from New Jersey wrote, you will see that the only exemption to landing fluke whole in

New Jersey is a partyboat. That was done because a partyboat is open to the general public, and at any time we put an undercover officer on board, he can observe exactly what is taking place and enforcement action can be taken. That's the only exception. The other issue besides the plan's success is it's a fairness issue.

The honest fishermen up and down the Atlantic coast expect that when they comply with the law, that an enforcement officer, when he encounters someone who has violated the law will be able to take action. What prompted us to originally adopt these regulations was we had fishermen – and you know how fluke fishermen work.

There is like 30 or 40 boats working on the same school of fish, same area of fish, and they're throwing back now probably ten to one, if not more. We would have honest fishermen call and report that a particular boat did not throw a single fish back. We would send officers there. We would inspect them. The honest guy is at the dock with three legal fish.

He sees us inspect this boat and nothing is done because they got 30 pounds of fillets that are skinned. So we forced the issue because we felt it was important to the success of the plan and compliance that we be able to enforce these regulations against the guys who were circumventing it.

Remember, we only inspect probably less than 10 percent of the recreational fishermen as it is. So, you've got a nine out of ten chance that you won't be inspected; and then if you are inspected and you have fish in the box, then they can be measured. But if you fillet those fish and conceal those fillets, it's highly unlikely that it will ever be detected.

The other point I think that needs to be made is, as I said, it's very unpopular. I know of some states that have taken action to try and put in place a no-fillet law, and they have not been successful. I think the only right way to handle this is to make it a compliance issue. It takes the pressure off those individual states, and they have to comply with the plan. That's really a fairness issue; it levels the playing field.

You have these exceptions, and I have read all the regulations, and the dilemma is it just creates loopholes and it makes it more difficult for the officers. It makes clear-cut situations confrontational, and it really needs to be remedied. We fought this fight and bit the bullet in 1986. I think it's really important because as the size limit moves up the incentive to violate, when people are

throwing back, as I said, tremendous numbers of 17, 17-1/2 inch fish, that they're going to be tempted, and it's going to result in the plan being unsuccessful. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Rob. Any questions or comments from the board? Tom.

MR. McCLOY: Well, you know, Rob has been retired for a couple of years now so he doesn't know of all the exemptions we have. There is one more. Just to keep everybody on the same page, in the last year we have the ability for recreational fishermen to essentially fillet one legal-sized summer flounder, to use that summer flounder for bait if they choose to. They must retain the rack. From what we've heard from the enforcement people, there aren't too many people filleting 18-inch summer flounder for bait. Thanks, Rob, for those comments.

Mr. Chairman, if I may, I think the point that Rob made is not lost on me, at least, because we have gone through this process not just for summer flounder but every single fish that has a minimum size limit. I think with the exception of the partyboat permit, no other fish recreationally can be filleted at sea. To me it is a compliance issue because from my perspective you cannot enforce a minimum size limit if you allow landing of parts.

I don't necessarily agree with Mr. Howard's assessment that we need to do an addendum or anything like that to require no filleting. It seems to me that most of the states around the table already have those provisions in effect; or, if they have exceptions, have requirements that make enforcement of those exceptions much more feasible.

I don't know where we go from here, but from New Jersey's perspective, I would like to encourage those states that don't have a prohibition on filleting to put one in place, because I think it will greatly help all of us and all of our fishermen from a fairness perspective. Thank you.

CHAIRMAN TRAVELSTEAD: Other comments? Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, on the catch estimate that comes out of MRFSS is based on the intercept surveys, and I'm just wondering if anybody even knows what the intercept person does when they open up a cooler and it's filled with fillets of fluke.

CHAIRMAN TRAVELSTEAD: Where does the board want to go with this? It wasn't on the agenda as an action item today. Do you want continue discussion to another meeting? Tom.

MR. McCLOY: I guess I have a question then. Does the board believe that a fillet law is possible under the current plan or do we need an addendum to mandate states to implement a no-fillet law?

MS. KERNS: To make it a compliance measure for the plan, it would need to be part of an addendum.

MR. McCLOY: I move that we begin the process of an addendum to prohibit the filleting of summer flounder, black sea bass and scup, with the exception of partyboats and other means that will be enforceable.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Second by Bill Cole. Comments on the motion? It's a motion to proceed with an addendum. A.C.

MR. CARPENTER: Could I ask Tom what he means by "other enforceable regulations" and why we except the partyboats but not the charterboats?

MR. McCLOY: We only allow a partyboat fillet permit which has 15 passengers or more. The rationale was, as Mr. Adler indicated, the turnaround time on trips and the ability for the mates to get tips. I don't necessarily have a problem with some of the other states that have exemptions to their law.

Some states have individual anglers can fillet their fish provided they retain the rack. If that's enforceable – and that's up to the Law Enforcement Committee to decide – then those would be those other categories that I was trying to refer to, but not characterize very well.

CHAIRMAN TRAVELSTEAD: Tom, does the motion on the screen meet your satisfaction? Other comments on the motion? There was a gentleman who had his hand up. Would you like to speak to the motion?

MR. ED WAWCHESKI: My name is Ed Wawcheski. I am here as a recreational angler. I do know the answer to the question about the intercept survey. It is conducted in accordance with the Privacy Act of 1974. Therefore, all information that is collected on that survey would not be turned into law enforcement. That's all I can add.

CHAIRMAN TRAVELSTEAD: Thank you. Are you ready to vote on the motion? Tom.

MR McCLOY: If I could try a refinement here?

CHAIRMAN TRAVELSTEAD: Yes, go ahead.

MR. McCLOY: Why don't we just take the "exception of partyboats" out of there and just put down "with any exceptions approved by the Law Enforcement Committee"?

MR. CARPENTER: I think that solves my problem.

MR. SIMPSON: I just don't know about this one. With all the talk we've had about slot limits and all the issues and we don't have time to work on an addendum for something like that. To right now begin an addendum to develop a measure that, I don't know it hasn't been demonstrated to me what the extent of this problem is and to what extent it compromises management objectives; and the inconvenience at a minimum that would cause fishermen up and down the coast, I can't support it.

I understand the sentiment behind it. I understand that occasionally law enforcement people are frustrated that they can't make a nice, clean pinch that they would like to make. I think it is a little bit too much beyond the scale of the problem.

CHAIRMAN TRAVELSTEAD: Further comments? Seeing none, we'll take a minute to caucus. Then we'll vote. While you're caucusing I'll read the motion: Move that we begin an addendum to prohibit the filleting at sea of summer flounder, scup and black sea bass with any exceptions approved by the LEC. Motion made by Mr. McCloy and seconded by Mr. Cole.

(Whereupon, a caucus was held.)

CHAIRMAN TRAVELSTEAD: Ready to vote? All those in favor of the motion please raise your right hand; opposed, same sign; abstentions; null votes. The motion fails on a tie. Anything further on this agenda item? Let's move into Item 7, state compliance.

## **STATE COMPLIANCE REVIEW OF BLACK SEA BASS REGULATIONS**

MS. KERNS: The Plan Review Team went through the 2007 state measures. The inconsistencies found with the FMP regarded the commercial black sea bass pot vent size. On January 1, 2007, it was

determined that two vents were now required for black sea bass pots, and the circle vent increased from 2-3/8 to 2-1/2 inches.

The states of Maryland, New York and Connecticut were inconsistent with these two regulations of the plan. All three states have started to implement those rules within their state regulations. The fishermen in Maryland are all federal waters fishermen, so therefore their pots have already changed to those new requirements because the regulations in federal waters do reflect that change. Are there any questions there?

CHAIRMAN TRAVELSTEAD: Any questions or any comments from the three states? Seeing none, do you have anything else?

MS. KERNS: The last issue with looking over states' regulations for the black sea bass in the recreational fishery, the regulation is 12 inches total length. The board agreed in 2005 not to include the tendril in that measurement. The tendril is the wisp coming off the end of the black sea bass. In the regulations, for some states it's not clear that the tendril is not included in that measurement.

The plan review team just recommended that states include language at the end of their size limit regulations to say "not including the tendril". I can provide states with this picture which I borrowed from New Jersey, I believe, but they would like to include those in any public information that they give out for fishermen to see.

It would also help with the plan review team if that language were also included in your regulations. I spoke with the Law Enforcement Committee and they enforce the no-tendril rule when they are out on the water and haven't found it to be a problem. It's more of an informative, easier-to-read regulation.

## **ADJOURN**

CHAIRMAN TRAVELSTEAD: Any questions of Toni on any of this? I take it from your report that the three states on the sea bass issue are moving to correct those and will have that done momentarily. Anything further for the board? We are adjourned.

(Whereupon, the meeting was adjourned at 3:47 o'clock p.m., October 20, 2008.)