

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

**The Westin Alexandria**  
Alexandria, Virginia  
**May 10, 2017**

Approved August 3, 2017

Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board and the  
Mid-Atlantic Fisheries Management Council Meeting May 2017

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2. **Approval of proceedings of February 2017** by consent (Page 1).
3. **Main Motion: Move to select Alternative 2 from Section 3.0 for Addendum XXIX and Preferred Alternative 2 from Section 5 for Framework 10**  
Board: Motion by David Pierce; second by Tom Baum (Page 5).  
Council: Motion made by Tom Baum; second by Laurie Nolan (Page 5).
4. **Motion to Substitute: Move to substitute Alternative 1 for Alternative 2.**  
Board: Motion by Eric Reid; second by Mark Alexander (Page 6). Motion fails for lack of majority (4 in favor, 5 opposed, 3 abstentions) (Page 8).  
Council: Motion by Peter Hughes, seconded by Roger Mann (Page 6). Motion fails (Page 9).
5. **Main Motion: Motion to select Alternative 2 from Section 3.0 for Addendum XXIX and Preferred Alternative 2 from Section 5 for Framework 10.** Motion carried (Page 8).
6. **Move to approve Addendum XXIX as modified today** (Page 8). Board: Motion by Emerson Hasbrouck; second by Tom Baum. Motion carried (Page 9).
7. **Move to submit Framework 10 to the National Marine Fisheries Service for approval** (Page 10).  
Council: Motion by Steve Heins; second by Peter deFur. Motion carries by the Council (Page 10).
8. **Main Motion: Move to accept the staff recommendations to provide direction to move forward with the draft amendment** (Page 25).  
Council: Motion by Tony DiLernia; second by Howard King. Motion amended.  
Board: Motion by Emerson Hasbrouck; second by Eric Reid. Motion amended.
9. **Motion to Amend: Move to amend to drop landings flexibility (Alternative 4B) from the staff recommendations** (Page 27).  
Board: Motion by David Bush; second by Rob O'Reilly. Motion carries (8 in favor, 2 opposed, 2 abstentions) (Page 32).  
Council: Motion by Chris Batsavage; second by Peter Hughes. Motion fails due to lack of majority (9 in favor, 9 opposed, 2 abstentions) (Page 32).
10. **Main Motion: Move to accept the staff recommendations to provide direction to move forward with the Draft Amendment** (Page 33 ).  
Council: Motion by Tony DiLernia; second by Howard King. Motion carried (16 in favor, 3 opposed).  
Board: Motion by Emerson Hasbrouck; second by Eric Reid. Motion carried (8 in favor, 3 opposed, 1 abstention).

11. **Move to task the TC to review the recreational black sea bass MRIP harvest estimates over time, five years/ten years to identify highly variable state, wave, mode (other) combinations that contribute to harvest volatility. Generate a methodology to smooth problematic harvest estimates along with criteria that determine when smoothing is appropriate to avoid an ad hoc approach. The TC should consider some or all the following; high and low estimates, PSEs, preliminary versus final estimates, and regulatory changes (Page 42). Motion by Jim Gilmore; second by John Clark. Motion carried (Page 45).**
12. **Main Motion: For 2017, move to close the recreational black sea bass fishery in wave 6 (November 1-December 31) in state waters for the states of Massachusetts through New Jersey and maintain all other management measures from 2016 (Page 46).  
Board: Motion by David Pierce; second by John Bullard. Motion substituted.**
13. **Substitute motion: For 2017, move to impose a 5 fish possession limit for recreational black sea bass in Wave 6 in state waters, for the states of Rhode Island through New Jersey; and maintain all other management measures for 2017 (Page 53).  
Board: Motion by Bob Ballou; second by Mark Alexander. Motion becomes main motion.**
14. **Main Motion as Substituted: For 2017, impose a 5 fish possession limit for recreational black sea bass in wave 6 in state waters for RI through NJ and maintain all other management measures for 2017. Motion carried (Page 56).**
15. **Move to initiate an addendum for 2018 recreational black sea bass management; with options as recommended by the Working Group and Plan Development Team. Options for regional allocation shall include approaches with uniform regulations, for example number of days. Another alternative to the current north/south regional delineation, which is Massachusetts through New Jersey, and Delaware through North Carolina, such as those apply for summer flounder; that is one state region (Page 56).  
Board: Motion by David Pierce; second by John Clark. Motion carried (Page 57).**
16. ***Tabled Motion from February 2017:* motion to move to allow an experimental 2018 January/February Wave 1 recreational federally permitted for-hire fishery for black sea bass, with a 15 fish per person possession limit, a suspended minimum size limit, and zero discard policy; to allow for barotrauma and a mandatory trip reporting requirement (Page 63).  
Board: Motion by Steve Heins; second by Eric Reid. Motion substituted.  
Council: Motion by Tony DiLernia; second by Howard King. Motion substituted.**
17. **Motion to Substitute: Motion to substitute to initiate a framework/addendum to allow a 2018 and beyond January/February black sea bass recreational fishery, with the vessel participating being required to obtain a letter of authorization from GARFO; also a 15 per person possession limit, no minimum size, zero discard policy and require a call-in and call-out process and mandatory trip reporting. The fishery closes when the quota is met (Page 67).  
Board: Motion by Jim Gilmore; second by Rob O'Reilly. Motion carried. (10 in favor, 3 opposed) (Page 73).  
Council: Motion made by Tony DiLernia; second by Adam Nowalsky. Motion carried (13 in favor, 2 opposed. (Page 73).**

18. **Main Motion as Substituted: Move to initiate a framework addendum to allow a 2018, and beyond, Jan/Feb black sea bass recreational fishery with the vessel participating being require to obtain a letter of authorization from GARFO. Also, a 15 per person possession limit, no min size, zero discard policy, and require a call in and call out process and mandatory trip reporting. The fishery closes when the quota is met.**

Board: Motion carried (11 in favor, 2 opposed) (Page 73).

Council: Motion carried (13 in favor, 2 opposed) (Page 73).

19. **Main Motion: Motion that the Summer Flounder, Scup and Black Sea Bass Board recommend to the ISFMP Policy Board that the state of New Jersey be found out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan; if the state does not implement the following measures by May 21, 2017 (Page 75):**

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

**The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.**

Board: Motion by David Pierce; second by Bob Ballou. Motion carries (9 in favor, 1 opposed, 2 abstentions) (Page 77).

20. **Move to approve today the following measures for the 2017 New Jersey summer flounder recreational fishery based on conservation equivalency:**

- **Shore mode for Island Beach State Park only: 16-inch minimum size limit; 2-fish possession limit and 104-day open season (May 25-Sept 5)**
- **Delaware Bay only (west of the colregs line): 17-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**
- **All other marine waters: 18-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**

Board: Motion by Tom Baum; second by Rob O'Reilly (Page 82). Motion fails (Roll Call Vote: In Favor – NJ, DE, PRFC, VA; Opposed – MA, RI, CT, NY, MD, NC, USFWS; Abstentions – NMFS) (Page 88).

21. **Move to approve the following measures for 2017 NJ summer flounder recreational fishery based on conservation equivalency:**

- **Shore mode for Island Beach State Park only: 16-inch minimum size limit; 2-fish possession limit and 104-day open season (May 25-Sept 5)**
- **Delaware Bay only (west of the colregs line): 17-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**
- **All other marine waters: 18-inch minimum size limit; 3-fish possession limit and 104-day open season (May 25-Sept 5)**

**This is subject to the review and approval of the Technical Committee and subsequent Board consideration and approval.**

Motion by David Borden; second by John Clark (Page 88). Motion carried (11 in favor, 1 opposed) (Page 90).

22. **Motion to adjourn** by consent (Page 93).

## ATTENDANCE

### Board Members

Rep. Sarah Peake, MA (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Ray Kane, MA (GA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
David Pierce, MA (AA)	Mike Luisi, MD (Chair)
Bob Ballou, RI, proxy for J. Coit (AA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
David Borden, RI (GA)	Rachel Dean, MD (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	John Bull, VA (AA)
Mark Alexander, CT (AA)	Rob O'Reilly, VA, Administrative proxy
Sen. Craig Miner, CT (LA)	Chris Batsavage, NC, proxy for B. Davis (AA)
Jim Gilmore, NY (AA)	Doug Brady, NC (GA)
Emerson Hasbrouck, NY (GA)	David Bush, NC, proxy for Rep. Steinburg (LA)
Larry Herrighty, NJ (AA)	Martin Gary, PRFC
Tom Fote, NJ (GA)	John Bullard, NMFS
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	<b>Sherry White, USFWS</b>
Roy Miller, DE (GA)	

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

### Ex-Officio Members

Jason McNamee, Technical Committee Chair

Jason Snellbaker, Law Enforcement Representative

### Staff

Robert Beal  
Toni Kerns

Kirby Rootes-Murdy

### Guests

C. Mead Amory, VA Seafood Council  
Dave Bard, NOAA  
Tom Baum, NJ DFW  
Julia Beaty, MAFMC  
Rick Bellavance, NEFMC  
Howard Bogan, Brielle, NJ  
Kevin Chu, NOAA  
Kiley Dancy, MAFMC  
Jeff Deem, VMRC  
Peter deFur, MAMFC  
Kelly Denit, NMFS  
Laura Diedenck, NOAA  
Tony DiLernia, MAFMC  
Warren Elliott, MAFMC  
Skip Feller, VA Beach, VA  
Lindsey Fullencamp, NMFS  
Matthew Gates, CT DEEP  
Jack Greenberg, PEW Trust

Jon Hare, NOAA  
Victor Hartley, Ocean City, NJ  
Steve Heins, MAFMC  
Dewey Hemilwright, Wanchese, NC  
Peter Hughes, MAFMC  
Howard King, MAFM  
Aaron Kornbluth, PEW  
Wilson Laney, USFWS  
Arnold Leo, E. Hampton, NY  
Nicole Lengyel, RI DEM  
Roger Mann, MAFMC  
Chris McDonough, SC DNR  
Dan McKiernan, MA DMF  
Stewart Michels, DE DFW  
Chris Moore, MAFMC  
John Navratik, Mangate NJ  
Melissa Nills, NOAA  
Laurie Nolan, MAFMC

Derek Orner, NOAA  
H.D. Parsons, Lewes, DE  
Michael Pentony, NMFS  
Rebecca Peters, NOAA  
Robin Scott, Mangate, NJ  
Andy Shiels, PA Fish & Boat  
Ward Slacom, MAFMC  
Mark Sterling, VA Beach, VA  
Wes Townsend, MAFMC  
Jack Travelstead, CCA  
Scott Ward, NOAA  
Sherry White, USFWS  
Kate Wilke, TNC  
Andrew Cicchitti, Wildwood Crest, NJ  
Jim Cicchitti, Wildwood Crest, NJ  
Jeff Gutman, Pt. Pleasant, NY

Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board and  
the Mid-Atlantic Fisheries Management Council Meeting May 2017

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May 10, 2017, and was called to order at 1:05 o'clock p.m. by Chairman Michael Luisi.

**CALL TO ORDER**

CHAIRMAN MICHAEL LUISI: We welcome everyone. I would like to welcome everybody today to a meeting of the Summer Flounder, Scup and Black Sea Bass Management Board; convening with the Mid-Atlantic Fisheries Management Council. I will be serving as the Chair today for both the Board and the Council; as the Mid-Atlantic's Chairman.

My name is Mike Luisi; and I'm from the state of Maryland. Let me just say, my appearance here at the Board table has everything to do with what has been going on the last couple days in discussions regarding this meeting and how it's going to be carried off today. We have an enormous agenda, a very, very, very ambitious agenda.

I am going to do everything that I can do in my power to keep this meeting on schedule. That is going to be a difficult task. What I would ask from you as both Council members and Board members, is to direct questions very concisely. Comments that you need to make should in some way be part of the decision making process; rather than just being sure to put something on the record.

We have a lot of people at the table; and we have a lot of materials to cover. I also want to make it clear that when we have motions that we're considering, there will be opportunity for the public to provide comment on those motions; but that comment is probably going to need to be very limited.

I'm not going to be able to allow everyone to offer all of their thoughts. We may find

ourselves going back and forth between support and opposition; to the point where we've heard what we need to make a decision. I'm sorry for that but that is just the reality of what we're dealing with this afternoon.

We've set up the agenda today, there are going to be Board and Council actions that will need to happen as part of a few of the agenda items. Towards the end of the meeting the Council will no longer need to be a part of any decision making or motions. Once we get through the Wave 1 Black Sea Bass Fishery issue on the agenda, I plan to take a ten minute break; that way some council members that need to get back to the airport or get on the road, can do so. Then we'll bring everybody back. But everybody is welcome to stay; I just wanted to make sure everyone was aware of that.

**APPROVAL OF AGENDA**

CHAIRMAN LUISI: Moving forward to Item Number 1 on the agenda, we have an approval of the agenda. Are there any modifications or changes to the agenda? Emerson.

MR. EMERSON C. HASBROUCK, JR.: I know we have a very busy agenda today. But I would ask that under Other Business, if we have any time at all, I would like to initiate a discussion about RSA; and if we don't have time then maybe we can schedule that for another board meeting.

CHAIRMAN LUISI: We'll go ahead and hold off to that until Other Business. Even if we don't have the time, at least we can bring it up and decide on the plan forward for the RSA discussion. Any other modifications or changes to the agenda? Okay seeing none; consider the agenda approved.

**APPROVAL OF PROCEEDINGS**

CHAIRMAN LUISI: Our next item of business is approval of the proceedings from the February 2, 2017 meeting. Kirby just informed me that there are notes that were submitted by New Jersey regarding the proceedings; and we'll be



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making those modifications based on New Jersey's letter to the proceedings, which we are about to approve.

Is there any opposition to approving the proceedings with New Jersey's input? Seeing none; the proceedings are approved.

**PUBLIC COMMENT**

CHAIRMAN LUISI: Our next order of business is public comment. I would challenge anyone from the audience to discuss anything regarding black sea bass, scup or summer flounder that is not on this agenda.

But if you do have something that is not going to be part of the discussion today, I would offer the opportunity now to provide that comment. I do have one person on my list, Victor Hartley. Victor, were you planning to make comment regarding an issue that we'll be discussing today? Okay, so we'll go ahead and pass on that.

Please make sure when the time is right to get your hand over Steve Heins head so I can see you.

**SCUP ADDENDUM XXIX FOR FINAL APPROVAL**

CHAIRMAN LUISI: We're through public comment, moving on to Item Number 4; the Scup Addendum and Final Approval of Framework 10 for the Scup Framework. I'm going to turn to Kirby to make that presentation. Kirby, the microphone is yours.

**REVIEW OF MANAGEMENT OPTIONS**

MR. KIRBY ROOTES-MURDY: I am going to try to go through this presentation fairly quickly; as we have a lot of items to address today. In the presentation itself I am going to lay out the management options that are included in the draft addendum, the public comment summary, the Advisory Panel report, the Technical Committee report, I'll take any questions, and then it is for the Board to consider final action

on Draft Addendum XXIX, and for the Council to consider action on Framework 10.

The document development started in December of 2016. The Board approved the draft addendum for public comment in February of 2017. Public comment took place between February and March, 2017, and the Board is taking final action on this document today. Up here on the board is a decision tree basically, for the alternatives.

Alternative 1 and 2 don't have sub components to it, but it is important to note that for Alternative 3 there are accounting procedures that differ; depending on which one you select. There is A, B, and C and I'll go through those momentarily. Alternative 1 is to maintain the current trimester periods for start and end dates. It is important to note on the board right now the number of days in each of those trimesters, because those are modified in Alternatives 2 and 3. As you see there is Winter 1, there is the Summer Period, where you have state-specific shares, and Winter 2.

For Alternative 1, important note that was included in the addendum, if the winter period closes on or before April 15 then state permit holders can land scup from April 15 through the 30th and those landings are counted against the state share of the Summer Period quota for those states in which those landings occur in. Moving on to Alternative 2, this alternative proposes to move the month of October to the Winter 2 trimester period.

As you can see the dates change for the Summer Period and Winter 2. The Summer Period would run from May 1 through September 30th, and be truncated to 153 days. For Winter 2 it would increase to 92 days, and would start October 1st and run through December 31st. Alternative 3 moves the month of October to Winter 2, as well as the first two weeks of May to Winter 1.

Under this approach the Winter 1 and Winter 2 periods are extended and the Summer Period is

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truncated further. Winter 1 is increased to 135 days, Winter 2 maintains an increase of 92 days, and the Summer Period is reduced to 138 days. Under Alternative 3 there are the accounting procedures that differ.

For Alternative 3A, if the Winter 1 Period closes by April 15, then state permit holders can land scup from April 15 through April 30th, and those landings would count against the Summer Period state quota. After April 30th, the fishery is then closed from May 1 through May 15th, and officially opens again on May 16th. This is the Alternative 3A.

For Alternative 3B, if the Winter 1 Period closes prior to April 15, state permit holders can land scup from April 15 until May 15. That extends it a full month. Landings count against the Summer Period state quota, with the official start date maintained at May 16, but landings that are occurring in the early part of May before the 16th, the official start of the date, will count against the summer quota period.

Alternative 3C modifies it so that if the Winter 1 Period closes on or before April 30th, different from the previous two, April 30th, then state permit holders can land scup from May 1 through May 15th, and those landings count against the state quota. Again the official start under this Alternative 3 is May 16th.

This is just a summary again of the different alternatives that are included in the draft addendum.

#### **PUBLIC COMMENT SUMMARY**

MR. ROOTES-MURDY: Next I am going to move on to the Public Comment Summary. Public hearings were conducted in the month of March in the states of Massachusetts through New York. There were 19 people who attended those public hearings across four states.

There were written comments submitted. A total of eight comments were received, two of

which came from groups or organizations. In summarizing the total comments received, a majority of the comments we received were in favor of Alternative 1; status quo. The second most popular alternative was Alternative 3B, which shifted October to Winter 2, and the first two weeks of May to Winter 1. Equal numbers of comments were provided for unspecified options; as with Alternative 3. When it came to reasons cited in support of these alternatives, for those in support of status quo, concerns were raised over market stability and maintaining price; if the Alternative 2 or 3 were selected. There was also concern that there would be potentially negative impacts to the inshore smaller boat fleet, for those participants who take part in the Summer Period.

With that period getting truncated they would effectively disenfranchise some of them. There was also concern over the status of the resource, whether the resource is actually in as good a shape as the stock assessment states. Reasons cited in support of Alternative 3B, cited that it was the best opportunity to catch the state quota during the Summer Periods.

The reasoning behind that was that in having a shorter summer period; trip limits could be higher for longer periods of the year to allow fishermen to achieve that quota, both on the Winter 1 and 2 periods as well as the summer. There is also the potential, or reasons cited in support of it were the potential to convert regulatory discards into landings that might be happening currently under the current trip limits.

It was also cited that with the reduction in the summer flounder quota, there was an increase in interest for fishermen who have both permits to target scup, and that it would be advantageous to allow for-hire trip limits with a reduction in this other species.

### **ADVISORY PANEL REPORT**

MR. ROOTES-MURDY: Next is the AP Report. The AP call was held on April 19, and there were members from both the Commission and the Council's AP; a total of five participants.

Only three participants provided comment on the call, and there was one that was provided beforehand. One AP member was in favor of Alternative 1, two were in favor of Alternative 2, and one didn't specify any preferred alternative. Their concerns were primarily focused on discards.

Reasons cited in favor of Alternatives 1 and 2, mirrored those of the public comment that I just went through.

### **TECHNICAL COMMITTEE REPORT**

MR. ROOTES-MURDY: Next was a Technical Committee review of the draft addendum. The Technical Committee had no comments on the technical information or data that was used for the document. The TC noted that the changes in the quota periods may not have an impact on the spawning activity or population.

Essentially that removals whether in the summer or the winter, will have the same impact on the resource regardless of the time of year. Fishing efforts that is an increase in fishing efforts, would likely have more of an impact on a resource than any changes to the start or end dates for the quota periods.

The Technical Committee did coalesce around the idea that social economic study could be conducted, and would be beneficial for better understanding the dynamic between trip limits, market demand, and trying to better utilize the quota. There was the suggestion of mirroring it off of some of the efforts that have been going on with menhaden.

Lastly, the TC noted that we are awaiting the results of the stock assessment update for scup that will be completed later this year. What will

likely come out of those results may have more of an impact, in terms of management, than changes to quota start and end dates that are included in the alternatives for this addendum. Anecdotally there has been recent information from young-of-year surveys that are indicating that abundance remains very high; but that will need to be corroborated through the stock assessment. Next steps are for the Board to select an alternative and to approve the Addendum XXIX. As I said before, the Council will also vote on a preferred alternative for Framework 10. With that I'll take any questions.

CHAIRMAN LUISI: Before we get to questions, just so everyone is aware. The alternatives that need to be selected by both the Commission and the Board need to be the same alternatives. Therefore, we can accomplish that with one motion; which we'll get to in a second. But before we get to any motions, are there any questions for Kirby? Yes, David Pierce.

DR. DAVID PIERCE: Yes Kirby, I think we would all benefit by a reminder as to the trip limits in the different seasons; because if we modify the seasons, changing some months for example, the implications of large trip limits in different months. That might influence how people vote on this issue, what options they would prefer. Could you just repeat those for us?

MR. ROOTES-MURDY: I don't have the trip limits for the state-specific period right now off the top of my head; but what I do have are the federal trip limits. For Winter 1 it is 50,000 pounds during the Winter 1 Period. Then for Winter 2 it is between 12,000 and 18,000; depending on the amount of unused quota from Winter 1.

DR. PIERCE: With the option that would put, strangely enough, the month of May into the wintertime, the limit would be 50,000 pounds; an inshore limit basically, would be 50,000 pounds.

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MR. ROOTES-MURDY: That's right, for half of the month of May with Alternative 3, it would move the first two weeks of May into Winter 1.

CHAIRMAN LUISI: Any other questions for Kirby? Rob O'Reilly.

MR. ROB O'REILLY: The trip limits in the summertime are important, and overall the quotas are important for the summer as well as state specific; so the two most northern states have very small percentage of the quota, and the states from really Delaware south to North Carolina also have very small percentages.

States such as Rhode Island has 10,000 pounds per week in summer period in 2016. Massachusetts and New York 800 pound trip limits, 750 pounds for Connecticut, and also at a different date 1,500 pounds. New Jersey, 5,000 pounds, the other states don't have any trip limits. I just wanted to point that out since I had that opened to that page.

I also wanted to maybe ask a question whether the Technical Committee, I know there were some comments about not moving May 1 through 15 from the public about not disrupting the spawning. What I saw Kirby put up was that that really is not an impact that concerned the Technical Committee. Is that correct?

MR. ROOTES-MURDY: That is correct. As I said in the presentation, the Technical Committee noted that really a removal of fish in May versus August or December is the same. The spawning, while it's noted that that is an important time of year for the population; its overall impact on the population the TC was not able to differentiate that having a big impact.

**BOARD ACTION ON SCUP ADDENDUM XXIX**

CHAIRMAN LUISI: Any other questions for Kirby? Okay seeing no questions; I have already been corrected, but I mentioned before that I said the Board and the Commission, so the Board and the Council both need to take action

on these items or suggest action. I've asked staff to put a template for a motion up, which just needs to be filled with the alternatives that you would like to select. I would look to council members, board members to provide a thought on this and to make that selection. David Pierce.

DR. PIERCE: **I would move on behalf of the Board to select Alternative 2 from Section 3.0 for Addendum XXIX.** I'm not prepared to go with a preferred alternative from Section 5. I'm going to stick with just that alternative, Alternative 2. Move to select Alternative 2 from Section 3.0 for Addendum XXIX. That is the one that would move October to the Winter 2 period, and then May is left alone.

CHAIRMAN LUISI: David, that same alternative is in Section 5 of Framework 10. I wanted it to be all in one place so that we're making a decision jointly on this. **Can we add Alternative 2 from Section 5 of Framework 10?** Would you be comfortable with that?

DR. PIERCE: If it's the same, yes.

CHAIRMAN LUISI: Okay so David Pierce has made the motion on behalf of the Board. Do I have a second? Max, that is not the Council motion. That will be the Board motion. I need a second from a board member; Tom Baum. Tom.

**COUNCIL ACTION ON SCUP FRAMEWORK 10**

**MR. TOM BAUM: I would like to second the motion for the Board and make that same motion for the Council.**

CHAIRMAN LUISI: Okay, so Tom has seconded the motion by the Board and is offering the motion for the Council. Do I have another Council member, Laurie Nolan? Laurie has seconded for the Council. We have a motion on the table; any discussion on the motion? Steve Heins.

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MR. STEVE HEINS: I just want to point out in Alternative Number 3; if we were to move differently than this that the states have the option of setting landings limits different than the federal trip limits. If a state is concerned about 50,000 pounds in those first two weeks of May, the state could put alternative limits in place; 5,000 pounds for example.

CHAIRMAN LUISI: Thanks for the clarification, Steve. Were you suggesting a substitute? Not now. Okay, any other members? Yes, Mark.

MR. MARK ALEXANDER: When we had our hearings our industry was very vocal that they opposed any of these alternatives. They were very concerned about how this would affect the markets in Connecticut. There was a very nice study done by Dr. Steve Cadrin, as a response to an RFP that the New England Council put out.

They did a study that examined the market of yellowtail flounder in response to regulations. It was very enlightening in that when you disrupt the supply of local fish, you irreparably harm the local markets, and those markets no longer persist. The management strategy that is in place now for scup, results in periods where there are very high trip limits; and during those periods of times those fish bypass the local markets, so that there is not a consistent supply of fish to the local markets. As a result, where there used to be a fairly robust local market for scup in Connecticut, it doesn't exist anymore; because people are no longer familiar enough with the fish to purchase it. While these options seemingly spread out the supply of fish to a bigger part of the year, it is just more of the year with big trip limits when these fish aren't available to local markets.

Our industry and our department are very disappointed that this action did not consider any alternatives that might redistribute unused winter quota to the Summer Period. I know there might be difficulties in doing that and reconciling the amount of unused quota in Winter 1, but I think this action falls short of

maximizing the economic yield from this fishery. I'm going to oppose this motion.

CHAIRMAN LUISI: Okay thank you for offering that, Mark. Eric Reid.

**MR. ERIC REID:** I'll be as brief as possible. I oppose this motion. **I would like to make a motion on behalf of the Board to substitute Alternative 2 with Alternative 1.** Following Mark's comments, I would 100 percent support the public comment. As far as the market for scup, I really think that if we go status quo it gives us the ability to better analyze what we do now with a socio and economic analysis; because I'm a fish dealer. To say that the scup market is unstable is an understatement. I'll leave it at that, Mr. Chairman. If I get a second I can come back at it again.

CHAIRMAN LUISI: Okay so for process, we will need a second by the Board; but then we also need the motion to be made by the Council as well. Mark Alexander is going to second for the Board. Do I have council members who would like to? **Okay so that is Peter Hughes is making the motion on behalf of the Council.**

Do I have another council member? Yes, Roger Mann, was that Roger or Peter deFur? I couldn't see whose arm it was; Roger, okay. **Roger Mann is making the motion on behalf of the Council.** We have a substitute motion for discussion. Eric, would you like to offer any other thoughts now that we have a motion on the table?

MR. REID: The comments really have already been made by the public and by myself and Mr. Alexander. The problem with scup now is that there is no stability in supply. We have a total hog cycle; I remember that from my economic days, situation in the market. We have lost market share. We have driven customers away, because on Monday fish may be worth \$2.75 a pound.

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Two days later they might be worth \$0.50 a pound; in which case the customer that bought the ones at \$2.75 will never buy one pound of scup ever again in his life, because he just lost his shirt. Then by Friday it might be back up again. There is not stability in the market. We need socio and economic analysis to better distribute the quota, to maximize the economic yield of that biomass. Two doesn't do it, so status quo; we need the economic analysis to get a better shot at this job.

CHAIRMAN LUISI: Peter Hughes, on behalf of the Council, since you were the maker on behalf of the Council. Did you want to add any thoughts to the discussion?

MR. PETER HUGHES: Although I am the maker of the motion, I don't necessarily know that I'm going to vote for this motion. I do believe that status quo is good for the market place, and I understand Mr. Reid's reasoning behind it. But I thought it was important to get the motion on the board; but like I said, I don't know that I'll support my own motion.

CHAIRMAN LUISI: Any further discussion on the motion? Laurie Nolan.

MS. LAURIE NOLAN: I don't support the substitute motion. We do have problems in the marketplace with scup, but by sticking with no action, status quo, we're not fixing anything in that case either. We're just continuing a problem. The issue with Winter 2 is that it is a short season. It doesn't give the industry an opportunity to catch the fish. We look as if we're managing on a trimester period, but Winter 2 has two months to it.

What the industry asked for was to add October, to give it another month so that that Winter 2 quota would have an opportunity to get caught, it just doesn't have that opportunity. You hear the summer fleet complaining about low trip limits. You know if we're taking a month off the summer period, this might give us an opportunity to increase

the summer quota trip limits by a little bit; and get away from status quo and the problems that we're living with, with the scup fishery. I don't support the substitute motion.

CHAIRMAN LUISI: Okay, seeing no other comments I am going to turn to the audience. Can by show of hand members of the audience just indicate whether or not you have an interest in providing comment on this. Okay seeing one, Arnold, would you like to step to the microphone? My bridal party up here is taking up all the microphones, so somebody may have to get up; or you might have to go down to the public microphone.

MR. ARNOLD LEO: Arnold Leo; I am representing the fishing industry of the town of East Hampton, and the town's Fishery Advisory Committee has specifically requested that I support Alternative 2. We would of course be opposed to 1. The reason for 2 is that it does indeed provide an opportunity for greater catches in the latter part of the fall.

October being moved into Winter 2 would of course substantially increase what the inshore fisherman as well as the offshore fisherman could catch in the month of October. Moving October into Winter 2, shortening the Summer Period means that the daily quota in the summer would increase; because the total quota would stay the same, but the number of days would be reduced. Those were the reasons offered for support of Alternative 2. Thank you.

CHAIRMAN LUISI: Go ahead, guys, unplug. My microphone is still working with them being unplugged so I'll just go ahead and continue. There is no other comment from the audience; so I'm going to bring it back to the Board and to the Council. Are there any other thoughts before we caucus and take a vote on this substitute motion? Bob Ballou.

MR. ROBERT BALLOU: I do support the substitute for two reasons, one is I was very

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interested, as I think everybody was, in hearing from the public on this issue. I think that was exactly why we popped it and put it out for hearing. I was struck by how limited and sparse the public comment was. I think I counted a total coastwide; a total of 20 comments on this, what you would think would be a pretty significant issue. The majority of those comments were in favor of status quo. In keeping with that spirit, I would certainly support the substitute and maintaining status quo. The second reason is because if the annual quota continues to decline and landings remain the same or even increase, the sub-period quotas will come closer to being filled; and the under harvesting issue will essentially resolve itself. I see that as a trend. That may well play out, and this could very well be a solution in search of a problem in very short order. For that reason I'm supporting the substitute.

CHAIRMAN LUISI: One last comment, Mark Alexander.

MR. ALEXANDER: Thank you, Mr. Chairman for that opportunity. Yes, I just want to respond. Yes, in the summertime if you shorten the summer period the price may go up. But the problem is, you're shortening the period of time in which inshore and artisanal fishermen can sell their fish to local markets.

Without having those local markets available year round, those markets can't develop and persist; there is nobody to sell the fish to. I think we have to vote for Alternative 1, and drop back and think about this; do some more economic analysis, and figure out a better way to maximize the use of this resource.

CHAIRMAN LUISI: Okay with that said, seeing no other hands, let's take 30 seconds to caucus or let's take a minute to caucus, and we'll come back and call the question. On the table we have a motion to substitute Alternative 1, for Alternative 2. Before we vote, I want to clarify that the Council and the Board would need to

take like action; in order for any motion when a joint action is taken to pass.

In the past we have met as a Demersal Committee of the Whole; but that is not the case today. If you are a member from New England on the Demersal Committee of the Whole, and you're not a Mid-Atlantic Council member, you cannot vote on this as a council member. We are not convened as a Committee of the Whole.

This is just for Board consideration and for the members of the Mid-Atlantic Council. With all of that said, I am going to go to the Board vote first. I am going to call the question for the Board. **All those in favor of the substitute motion please raise your hand. That is 4 in favor. All those opposed same sign; that is 5 opposed, any null votes? Seeing none; any abstentions from the Board, 3 abstentions. Motion fails for a lack of majority.**

Given that that motion has failed, the overall substitute motion is now failed; and we're back to the main motion; which was to select Alternative 2. Does the Board need another opportunity to caucus on this? Okay seeing no other need to caucus I am going to call the question. **Move to select Alternative 2 from Section 3.0 for Addendum XXIX and Preferred Alternative 2 from Section 5 for Framework 10.**

All those members of the Board, who support this motion, please indicate by raising your hand. **That is 9 in favor, all those opposed same sign. That is 1 opposed, any null votes, seeing none; any abstentions, 2 abstentions. Motion carries, well motion carries the Board.** It is now time for the Council to take action.

**Is the Council ready for the question? All those Council members in favor of Alternative 2 please indicate by raising your hand. That is 20 in favor, all those opposed, seeing none, any abstentions? Seeing none; motion carries.** Kirby or Julia, is there any other actions that we need to take regarding the scup framework and addendum?

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MR. ROOTES-MURDY: Two more motions are needed, one for the Board to approve the document as modified today. The second is for the Council to recommend the Framework 10 be submitted to National Marine Fisheries Service.

CHAIRMAN LUISI: Can we bring those motions up? I know that they've been crafted.

MR. ROOTES-MURDY: Just give us a second as we get our results ready.

CHAIRMAN LUISI: Be thinking about whether or not you want to make that motion or second that motion. Okay so we have a motion on the board. The motion would be to approve Addendum XXIX as modified today. **Do I have board members who would like to make that motion, Emerson Hasbrouck, as a board member?**

MR. HASBROUCK: **So moved.**

CHAIRMAN LUISI: Do I have a second from another board member from another state? Tom Baum seconds the motion. Let's go ahead and dispense with this motion. It is only a Commission vote and it is a roll call vote. Do you need time at all? I don't see anybody that looks like they need time to discuss this on the Board. Kirby, are you going to call the roll?

MR. ROOTES-MURDY: I will call the roll; starting north to south, Commonwealth of Massachusetts.

DR. PIERCE: Yes.

MR. ROOTES-MURDY: Rhode Island.

MR. REID: Yes.

MR. ROOTES-MURDY: Connecticut.

MR. ALEXANDER: No.

MR. ROOTES-MURDY: New York.

MR. JAMES J. GILMORE, JR.: Yes.

MR. ROOTES-MURDY: New Jersey.

MR. BAUM: Yes.

MR. ROOTES-MURDY: Delaware.

MR. JOHN CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MR. ED O'BRIEN: Yes.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. ANDY SHIELS: Abstain.

MR. ROOTES-MURDY: Commonwealth of Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. CHRIS BATSAVAGE: Yes.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. SHERRY WHITE: Yes.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. MIKE MILLARD: Yes.

CHAIRMAN LUISI: It is 10 in favor, 1 opposed and 1 abstention.

MR. ROOTES-MURDY: That's correct.

CHAIRMAN LUISI: **Motion carries; back now to the Council.** Do I have Council member, **Steve Heins who would move to submit Framework 10 to National Marine Fisheries Service for approval? I need a second from the Council;**



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**Peter deFur.** We have a motion, move to submit Framework 10 to the National Marine Fisheries Service for approval.

All those in favor of the motion by the Council, please indicate by raising your hand. That is 19; all those opposed same sign, any abstentions? **Seeing none; I'm sorry, John, one abstention. Motion carries.** I believe that concludes our business on scup. Rob O'Reilly.

MR. O'REILLY: I know time is short. I just wanted to say that Julia, for the Council staff did a very thorough job in bringing all this information to us. Clearly the economic data that she compiled supported an October situation moving into Winter 2. I will add, although the May 1 to 15 did not likewise perform the same for inclusion in Winter 1.

I hope that's not lost; because earlier I mentioned just how small some of the state's quotas are during the summer. I just want to bring that to your attention. There is transferability during the summer period, so I think that is something that states with a very small quota and with a changing stock dynamics, can take advantage of too.

CHAIRMAN LUISI: Thanks Rob, and thanks for being brief with that. Okay we're going to move to our next item on the agenda. I do apologize. I didn't recognize Julia. Julia was the one who was up here a few seconds ago. She works on the scup side of this plan for the Council. There is a number of staff that share responsibilities on the summer flounder, black sea bass and scup for the Council.

**REVIEW OF THE SUMMER FLOUNDER DRAFT  
COMPREHENSIVE AMENDMENT RANGE OF  
ALTERNATIVES FOR COMMERCIAL USE**

CHAIRMAN LUISI: We have Kiley, who is at the table now, Kiley Dancy, and she will be presenting the Review of the Summer Flounder Draft Comprehensive Amendment Range of

Alternatives for Commercial Use. One thing I'll add before Kiley gets started is that in discussions with staff, both on the Commission and the Council, what they're looking for from this body today is some direction.

Not necessarily comment to all the alternatives, but whether or not we want to get rid of alternatives at this point or add additional things for consideration in the amendment. Be thinking about that as Kiley and Kirby kind of tag team this presentation; as to whether or not you would want to take any form of action today regarding the removal or the addition of alternatives to the commercial side of this comprehensive amendment. Kiley with that it's all you.

MS. KILEY DANCY: Good afternoon everyone. Kirby and I are going to be splitting this presentation up a little bit. I'm going to do the first half and he's going to do the second half. The discussion document provided for this meeting contains a range of draft commercial alternatives for this amendment.

The alternatives, as you probably noticed, are largely conceptual in nature at this point; and many of them do require some additional specificity eventually, in order to analyze their impacts. For example, there are approaches to revisiting state-by-state commercial allocations, but they don't include specific base years or other metrics to develop new percentages. Things like that we will eventually need to add some specificity for.

The goal of this meeting is for the Council and Board to provide feedback on the draft range, and specifically we are asking for some comments on prioritizing issues and alternatives for further consideration. We're looking for thoughts on the overall appropriateness of the range of alternatives, which alternative sets or specific sub-alternatives should be pursued for further analysis, and which should be dropped from consideration at this time and why.

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Any Council and Board proposals on additional specificity or how to go about adding details to a particular alternative, or how that alternative should work, and finally, this would be the appropriate time to add alternatives the Council and Board feel are missing. Unfortunately we do have a packed agenda today.

We don't have a lot of time in this presentation, so we can't go through all of the details in the discussion document, but Kirby and I will go through each alternative set and offer some comments from the FMAT and the Commercial Working Group and staff, and describe each alternative set.

Just a quick note on the current timeline for the action, it is included in the discussion document. This timeline as always is subject to change; particularly based on the feedback that we get today about the scope of issues that we're going to be pursuing for commercial issues. The current plan is for the Council and Board to identify priority draft alternatives, and comment on the range as prepared today. Then that will be refined by the FMAT and Working Group later this summer. Then in August we plan to come back to the Council and Board with a refined range of alternatives, including some added specificity and some initial impacts analysis.

In December, it is possible that the Council and Board could approve a Draft Public Hearing Document and a Draft EIS on the Council side, but as noted in the FMAT summary this might be unrealistic, in terms of timing; depending on the scope of issues pursued. Another option is that the Council and Board could identify preferred alternatives in December, and the Council could then later in February approve the Draft EIS, assuming that the entire range is included in what is identified in the selection of preferred alternatives in December.

The rest of the timeline is a little bit uncertain, depending on the actual range of options pursued for analysis; but we could be looking at

public hearings in early 2018 or spring 2018, and then rulemaking later in 2018. The issues we're going to be talking about today, just in terms of an overview. We have alternative sets for permits and latent effort, commercial allocation, safe harbor, landings flexibility, commercial data collection, and commercial discards.

Before we get into the details of the alternatives, I do want to note some general FMAT recommendations. The FMAT met last week on May 4, and had some overarching kind of recommendations and comments. First and foremost, for each issue the FMAT reiterated that some of the Council and Board's goals and priorities for some of these issues were a little bit unclear at this point; and that it would be beneficial to amendment progress if the group were to prioritize and clarify objectives for each issue.

Because there are so many ways to pursue all these issues in the document, additional guidance on, it's sort of difficult for the FMAT to evaluate whether we're making good progress in developing alternatives, if the overall goal of the amendment is just to reevaluate everything; that can kind of spiral out of control pretty quickly.

Some additional guidance on what the Council's objectives are for each of these issues would be helpful. We do understand there is a need for some back and forth between the technical teams and the Council and Board. But having a little bit more clear definition of where we're going would help identify more relevant alternatives; rather than trying to address everything conceivable in the summer flounder FMP.

Another note is the more options that we include in the document and more sub-options, the longer this process is going to take, the more intense the analysis needs to be and the more back and forth we're probably going to need between the Council and Board and the

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FMAT. In addition, the FMAT noted that the timeline that I just discussed is possibly feasible, if staff have no other priorities between now and December; but otherwise it might be overly ambitious.

It also depends on the range of alternatives that we discuss today. Another note on this, the timing is that the Council on the Council side, we do need to complete a draft environmental impact statement, so there is an extra step in this amendment; in that we do need to finalize a Draft EIS, and that also requires an additional public comment period. The Council needs to approve that Draft EIS prior to public hearings. Then that has a 45 day comment period, and it is important to note that we do kind of need a very solid range of alternatives prior to that approval of the Draft EIS, because if it is modified substantially after that point, we do need a supplemental comment period. We're trying to avoid that if at all possible. The key point is prior to approval of that Draft EIS we need a pretty solidly identified range of alternatives; and there can't be much modification after that without an additional comment period. I am going to talk about the first two alternative sets and then hand it over to Kirby; but the first is permits and latent effort.

Had a few general comments, first from the Working Group and the FMAT. The biggest is that this draft range, this document currently it contains only alternatives for federal moratorium permits. While state permits we do recognize may be an issue, and they might be even a bigger issue than the federal permits.

It is not entirely clear to the working group and the FMAT whether this action is the appropriate place to address those state permit issues. We're looking for a little bit of guidance from the Council and Board on whether this action should address state permit requirements. Permit structures and requirements vary quite a bit by state, as described in that document.

It is possible that the Commission's FMP could set minimum criteria for permits for states, but it isn't clear whether this is something the Council and Board would like to pursue through this action, or as suggested by the FMAT that this may be more appropriate for a Commission only action.

We have four main alternatives for this, with a couple sub-alternatives. The first is no action or status quo. Alternative 1B would be a requalification of the existing single tier federal moratorium permits. As noted here and in the document, there are a lot of different ways to do this, and we don't have sort of the many possibilities for sub options identified here; based on requalifying criteria.

The specificity that we need here eventually includes what those exact qualifying criteria would be, including possible base years for landings and/or effort. Alternative 1C would involve creating a tiered permit system, unlike what's currently in place; and 1C specifically would look at landings or effort qualifying criteria. Again, those criteria are to be determined.

Then Alternative 1C-2 would be some associated management measures associated with those tiers; because this option is really getting at looking at sort of a possibly a directed fishery versus incidental fishery permits, or different levels of participation in the fishery. If the desire is to manage those aspects of the fishery differently, there would need to be some sort of associated measures with these permits; in order to manage those differently.

That perhaps could be done later on in the process, but it is included here as a sub-option. Alternative 1D is also a tiered system, but it is based on gear type. The exact categories are to be determined; as noted in the document. The overwhelming majority of the landings were taken by the trawl fleet.

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Then again, there is a sub-option for management measures here, if the Council and Board would want to manage those gear-based tiers differently. If it's just the goal is to achieve a particular balance of access then that is maybe a different thing, but again that gets back to what are the Council and Board's goals for each of these issues. The next range of alternatives is for commercial allocation. This one we actually have quite a few draft alternatives, and the FMAT did note that the range here is a little bit probably extensive for what we need to do here. Some of them are going to end up having sub-options; so this is an area in particular that could benefit from some simplification and from narrowing the range.

Some FMAT members commented that these alternatives ranged a little bit in flexibility; depending on whose flexibility and how you're defining it. Some of them provide more flexibility in managing the annual coastwide quota; some of them provide more flexibility to individual states, and some to fishermen.

It is just one way to look at those alternatives. Also as noted in the document for both permits and commercial allocation, this document does not currently include any limited access privilege program such as catch shares or IFQs or sectors. Because it wasn't clear to any of the technical groups that the Council and Board really wanted to consider this option.

It has been mentioned only a few times throughout the process, and there didn't seem to be a lot of support for it, so it is as of now not included in this range; but if there is a desire to incorporate those approaches, we would request some guidance from the Council and Board to that affect today.

Otherwise, they won't be included in the document, but I will note that they could be done on an individual state basis; if there is a continuation of state-by-state quotas, or perhaps if there are regional quotas. Under some systems it could be done on a state level.

This is just referring to sort of the overall coastwide management.

On the subject of incorporating recent or current summer flounder distribution, the FMAT and working groups have discussed that it is possible to take some fishery independent survey data to tie that to current distribution and therefore to allocations; but what you really need to do is kind of agree on what surveys to use and what lines to draw, in order to take that survey data and attribute it to a given state.

If we don't have a process where there is a basic agreement about what to use and how this could easily kind of spiral into an overwhelming number of options. It's something that it is best approached kind of by agreeing what to look at first, and then looking at how it shakes out with the survey data.

But if there is guidance on perhaps other sources of data or other quantification methods to use that would be helpful to know at this point too. Then finally the FMAT and working groups did discuss the difficulty of accounting for the quotas that are currently in place; since they have been in place since 1993. If we were using more recent years than that it gets difficult to get away from the impacts of the current management regime.

That's something that needs to be given some thought. Getting into the actual range of alternatives here, I have four slides on this. The first option is no action or status quo. Alternative 2B would be revised state-by-state allocations. There could be any number of sub-options under this. Some general approaches that we have drafted here include 2B-1, which is a revised base year period. That would be a new set of base years, and if you're looking at landings alone in the more recent years, again this wouldn't be a very big departure from what we currently have; unless you can incorporate some effort metrics or something else to kind of consider there. Two-B-2 would be based on not

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a set number of years, but on a best year system over a certain time period; perhaps the best five-years of landings by each state. Like the options above, it is a little bit difficult to get away from the effects of the current management regime; but that's one option there.

Two-B-3 would be using a combination of the current allocation and recent distribution. Once we figure out how to take recent distribution information and translate that into allocation percentages, we could use let's say 50/50 for current or historical allocations; and then recent distribution.

The next set would be 2C and sub-options, which is a coastwide quota with seasonal periods. For summer flounder we do need to account for the seasonal migrations of summer flounder, and making sure to distribute the availability throughout the year to different fisheries in different states. A couple options here, there could be a coastwide quota on a trimester system.

The details of how that would work, whether it would be based on a certain set of base years or a strict split of the year into trimesters is to be determined. Two-C-2 would be a bimonthly quota system. This I think was originally considered when the allocations originally went into place in a state-by-state basis. That would kind of break the year into smaller time chunks that might help distribute the quota better throughout the entire year.

Two-C-3 would be again, measures that are associated with those types of systems, such as again, this would be on a coastwide basis. You would have the ability to land in any state, but you would need some measures to control harvest during each period. You would have perhaps trip limits, triggers for lowered trip limits, and rollover provisions for quota between periods and things like that. Alternative 2D is the scup quota model, which we heard a lot of support for in scoping.

That would be to implement a coastwide quota in the winter and state-by-state quotas in the summer; as was just discussed with the scup agenda item. This alternative set might need to be restructured a little bit, because it is a little confusing as written; but the first two options would be to look at quota period dates. Are they using the same quota period dates as scup, or if summer flounder is different enough to warrant using different dates for the summer and winter periods that could be an option as well; details of that to be determined?

Alternative 2D-3 would be looking at allocation between the quota periods, and then 2D-4 would be an option for looking at what the actual state-by-state summer flounder quotas are. The summer quotas could be the same as they are now, or there could be alternative base years that are used to divide the quota up by state in the summer period. Finally for commercial allocation, there is an option for a regional quota system that would work in theory similar to the current state-by-state setup; but on a regional basis.

There are some quota accounting and monitoring questions remaining with this. GARFO has indicated that like they monitor quota on a state-by-state basis currently, it is probably possible for them to monitor it on a regional basis; similar to the current system. But there are some questions about how exactly that would work. Then the options for specific regions and regional allocations are also something that needs to be added to this alternative set for some specificity if this is kept. The last option in this category is quota allocation by permit category. If there is a creation of tiered permits, either by levels of participation, landings or effort or gear type, there could be quota allocation used in conjunction with that; if that is the direction that the Council and Board would like to go. I think that about covers it for commercial allocation and Kirby is going to describe the rest of the Alternative 3.

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MR. ROOTES-MURDY: As Kiley said, I'm going to go through safe harbor, landings flexibility, monitoring, data collection, and then discards and then we're actually going to come back to Kiley to go over staff recommendations; as that is a part of the Council process. The next item as I said is landings flexibility in safe harbor.

These issues are addressed in the document starting on Page 24 through 28. As many of you are probably familiar with, safe harbor is generally understood as a general policy that allows vessels to seek shelter in non-home ports due to safety concerns; whether they're mechanical, due to injury to staff onboard, or weather.

But it should be noted that there currently is no uniformity between the state-by-state policies that are in place. Where this comes into effect with summer flounder, and specifically this amendment is the transferring of quota, and at times the efforts to land summer flounder under the guise of a safe harbor request.

Transferring of quota is allowed under the summer flounder plan; it is laid out in Amendment 5. It's a very formal process where the two states in which quota is being landed from one state to another for that vessel that is not a home port, it is administered between the two states; and then those requests are sent to the Regional Administrator to approve.

There are instances when safe harbor has been used as an effort to push a transfer, and those have not always been granted; between the two states, not necessarily at the Regional Administration level denying it. I will say that the document tries to lay out some of the ongoing work that is happening within the Commission's Law Enforcement Committee to address safe harbor policies on a state-by-state basis.

We have Jason Snellbaker, who is the LEC representative at the table, and after we get

done with our presentation he can address any questions you have regarding safe harbor. But that is where primarily we are trying to focus on this in the document. It should be noted on Page 25 that if the Board and Council are interested in making sure that safe harbor is something addressed through this amendment process.

They need to provide some more specific guidance to staff on the appropriateness of its inclusion; and specifically why it needs to be included, and whether alternatives related to safe harbor need to be drafted. The other component that is connected and related to safe harbor is landings flexibility.

This is a concept that was first brought up to staff through the scoping process that took place back in 2014. It was mentioned by a number of states as an interest; and the general concept was to allow for vessels to land in states that are non-homeport states, but to try to maximize market demand, and would do steam time if they were coming from further away on the coast. I wanted to note that on Page 26 we do lay out some of the drawbacks and concerns, specifically around equity and fairness; that is with regards to whether or not you would allow for a state to continue to benefit from a participation in the summer flounder fishery, if the resource say is not near that state. Because those vessels might not be steaming all the way back to their home port if the resource is not near.

Another drawback or concern that has been noted is the monitoring of state and coastwide quota that would become a little bit more burdensome under this approach; because of the possible quick nature in which quotas might be transferred, depending on a vessel leaving and not necessarily declaring what state it was going to go back to.

The last part is the effectiveness and law enforcement concerns over what the current state level trip limits are, and those

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requirements to ensure that they are abiding by the conditions of the permit, and helping the state monitor and stay within its current quota. We have, for safe harbor specifically, kind of three options included in the document.

The first is no action. That is 3A; 3B is to move towards a more uniform coastwide written safe harbor policy. Within it there are two kinds of components that could be pursued. Mandatory measures and this could be included into the Commission's process as part of our compliance criteria that we request the states submit annually in their compliance reports.

The second version would be 3B-2, which would be to have voluntary measures. The last alternative would be to possibly direct the states to develop their own policies that are more formalized. I will say that tomorrow morning the Policy Board will be hearing from a subcommittee of the Policy Board on some of the current discussions the LEC has been having on safe harbor.

Again, it should just be noted that if this is something that the Board and Council feel needs to be included in the amendment, we would look to have some more guidance; and it does not necessarily have to be included in the amendment. The second part is with landings flexibility, and we have a number of options.

We've tried to draft around the scoping comments we had received, and the general comments and feedback we've received from the Council and Board over the last year. The first is no action. The second would be to adopt a commercial landings flexibility policy. Within that 4B option there are sub-options for it.

The first would be to allow for the sale of landings in that state. Vessels could then sell to permitted dealers in that state in which they land. However, a quota transfer would be needed to attribute the landings to the vessel's permitted state; 4B-2 would require the transport of summer flounder by land to stay

associated with the vessels permit. For example, for fishermen with a Virginia permit would land summer flounder in a New York port, and then truck that fish down to Virginia with both states then accounting for the transfers.

It should be noted at this point that law enforcement has noted some concerns on whether this would be enforceable, because it is difficult to track a truck once it leaves one port and makes its way south; and how to ensure that if it did offload between a point of leave and its point of destination, where to track those landings to. The last sub-option under this approach of adopting a commercial landings flexibility policy would be to allow vessels to possess multiple state possession limits at one time. You could have for example, North Carolina and Virginia trip limit that the vessel would be operating under; and that vessel would then be able to land in both of those states, because they would have compatible trip limits. But again, with this option if it is to be included in the amendment moving forward, details specifically on how the states would like to see this play out are needed for staff to try to further develop these alternatives.

Again, we have some big questions that need to be addressed under this approach, specifically around quota transfers and accounting policy; as well as whether there is new permitting or licensing requirements that would be needed, or if it would further complicate the current permits that are in place.

That is landings flexibility in safe harbor. The next item is data collection and monitoring. This is included in the document on Pages 29 through 31. It should also be noted for this section that we're talking about data collection and monitoring specific to federal permits. Currently VTR, Vessel Trip Reports are required and must be submitted for those permit holders on a monthly basis.

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Dealers who are federally permitted must submit trip level reports on a weekly basis. What is not currently in place for those federal permit holders is a vessel monitoring system which pulls from satellite tracking to further monitor spatial components of the vessels trip that can be helpful in trying to better understand distribution of the resource and fishing effort across the ocean.

As I said that is not something that is currently in place for federal permit holders, but could be a possibility under this issue item. Last is the Northeast Fisheries Observer Program, as well as the At-Sea Monitoring Program. These two components try to get at collecting information on data and biological sampling.

Specific to data we're talking about catch, gear, fishing effort information, and under this issue item there are really a couple of main questions that should be considered by the Board and Council; and that is that should state level data collection and monitoring be addressed through this amendment.

Many perceived data collection problems are not specific to summer flounder. Trying to make this something that is specific to summer flounder in the amendment, if that is of the interest of the Board and Council we can do, but these issues are not necessarily unique to fluke. There is an ongoing fisheries dependent data visioning project that is being carried out through GARFO.

We have some GARFO staff here that might be able to answer questions on that project, if there are questions about it. But that ongoing project might actually address some of these issues that are specific to federal permit holders. Then again, if this is to be pursued a more focused problem statement is needed to ensure that these alternatives are addressing what is the perceived issue by the Board and Council.

The two action items that could be included under this issue as alternatives, the first would

be no action and the second 5B would be to require all federal summer flounder moratorium permit holders to have VMS onboard to record that information on their trip. In terms of what should be considered with that option, it is unlikely to improve the catch accounting that we currently have through the SAFIS system; but two possible benefits would be investigating enforcement, and possibly a fine scale effort information to better understand how that varies across the coast by vessels and area. The last issue item is summer flounder discards; and I have some stats up here that are included in the document.

Discards are addressed on Pages 32 through 34. From 2011 to 2015, commercial dead discards averaged about 796 metric tons, or approximately 8 percent of the total catch discarding; why fishermen are discarding has changed over time from '89 to 1995, 90 percent of the discards that we had from the observer program indicate that this was due to minimum size.

This was observed in both the trawl and scallop dredge tows. But in recent years, 2012 to 2016, there has been kind of a variation depending on the issue reason; there could be minimum size as being a reason that they're discarding. It could be a quota, a trip limit component; there could be high grading in an effort to select for a bigger fish.

Then there is also unaccounted for reasons. But the reasons why people have been discarding have changed over time, and it is variable. It also should be noted that this information comes from the Observer Program that has a limited scope, in terms of its coverage on the fishery. Key questions for the Board and Council to consider.

Should discards be addressed through this action, this amendment, or is this something that should be addressed more in the annual specification process or through a framework or



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an addendum; something that can move much quicker and in a shorter timeframe than our amendment?

Some options under other commercial alternatives that Kiley went through, in terms of allocation and permitting, may actually address some of the discarding concerns that have been raised in scoping that is something to keep in mind as well, in terms of alternatives that we've developed for the Board and Council to consider for this amendment; if you all hope to keep this issue in the document.

First is no action, the second is to include a spatial, temporal closure or gear restricted areas for the fishery. Six-C would actually focus primarily on accountability measures. This would be more in the Council's purview. It may not require an amendment to address this, and the ongoing black sea bass framework action to revise the commercial AMs will likely be expanded to address summer flounder and scup as well. Those are some things to keep in mind when thinking about discards; with regards to the amendment.

MS. DANCY: Just to wrap up, some of the key questions to reiterate. We're looking for guidance on priority alternatives to pursue for further analysis in this action, and then what is more appropriate to be split into a separate action addressed elsewhere; either through the Commission process, through a Council-only action, through the specifications process.

In the discussion document there is a list of issues that can be addressed through specifications relatively quickly; and that includes things like gear requirements and minimum fish size. Things like that are things that we can address through specifications, or other processes that we could use to address some of these issues. We really would like to know what to focus on in this action for commercial issues specifically; and it would be especially helpful at this point if the Council and Board sees alternatives, sub-alternatives in

there that are really not the direction that you all want to go with this amendment; it is helpful to drop them now, so we can focus on developing issues that are really going to address the Council and Board's priorities. Because the more that is in there the longer the analysis takes, the longer the back and forth takes, and then the longer the timeline stretches out.

Any guidance on the Council and Board's objectives for each issue, where possible, would be helpful. I know we're not going to get very detailed into each issue about objectives today; but just general guidance on feedback on this range of alternatives is helpful. Staff has a couple of recommendations at the end here, after we had sort of had a chance to think about some of the Working Group discussions and some of the FMAT discussions.

Upon reflection, staff is recommending as a starting point for the conversation today that the Council and Board prioritize the permits and latent effort issues, and the commercial allocation alternatives; because that seems very clear that there are many members around the table that want to pursue those issues.

Drop the sub-alternatives, again that are unlikely to meet the objectives or that don't seem realistic, or that don't seem worth pursuing at this point. For landings flexibility, staff would recommend including that. First of all, if it is an issue that the Council and Board determine that is a priority issue and at the same time, it is an issue that would need federal FMP changes or federal regulation changes to implement that the way that the Council and Board are envisioning it.

I think that kind of depends on the details of what is proposed; but if that requires federal changes that would need to be probably a joint action. If not that could likely be done through a Commission process. Given what Kirby had mentioned about the safe harbor discussions that are ongoing with the Commission, and a

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number of comments we have received about that really being a Commission and a state issue.

We are recommending dropping that from this action at that time and continuing to address that through the Commission's process. That also is applicable to multiple species other than summer flounder; although I think summer flounder is the focus of a lot of the concerns about safe harbor. But that is being discussed, as Kirby said through the LEC.

Then finally, we would recommend at this point dropping the commercial data collection and discards alternative sets, unless there is a specific problem or objective that can be identified; or unless any of the alternatives that were up there was really something that the Council and Board thinks are specifically worth pursuing.

Because with these two alternative sets we kind of struggled to draft alternatives; because we weren't exactly sure where the Council and Board wanted to go with those, and what the problems were to be addressed. Those are kind of summary recommendations as a starting point. I think that's all we have.

CHAIRMAN LUISI: Thank you Kylie and Kirby for your presentation. What I would like to do at this time is to have direct questions regarding the material that has been presented. I want to hold off on discussion regarding the recommendations that staff have provided on the alternative sets, until after we take direct questions on the material. Tony DiLernia.

MR. ANTHONY DiLERNIA: I would like to make some recommendations, but I would like to ask the staff some questions as I'm making these recommendations. The first is to prioritize permits and latent effort, I agree with that and I believe that we should proceed and focus on the permits and specifically latent effort. I think latent effort could be a real problem in this fishery.

Commercial allocation alternatives, so on the commercial allocation alternatives my question to the staff would be would that include the use of the scup model in the analysis? Yes it would, I saw Kiley nodding yes, and so if that is the case then I support both Items 1 and 2 in the prioritization.

MS. DARCY: It's in there right now, so if that is the direction the Council wants to go.

MR. DiLERNIA: So the scup model would be included in that; very good.

MS. DARCY: Yes, unless we are directed to take it out.

MR. DiLERNIA: The next bullet item, it says landing flexibility. I believe landing flexibility is something that we should look at, focus on, after all these quotas are 30 years old and we have climate change issues. Landing flexibility is something that we should very much be included in this amendment; so I am good with that.

I drop down to the final action, which says commercial data collection discard alternative sets from this action. Now, I thought I heard the staff say, and I want to clarify this, that we could address fish minimum size and perhaps the utilization of or changing mesh size. Currently, do we have that ability in the current plan?

MS. DARCY: Yes. Those are issues that can be addressed during specifications. In the document there is a list of everything that we can do annually through the specifications process; and that includes mesh size, gear requirements, and minimum fish size.

MR. DiLERNIA: All right thank you very much, because I personally believe to eliminate discards in this fishery, we should be increasing the minimum mesh size and eliminating the minimum fish size. The minimum fish size, the

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mesh size was included in the original, well in the amendment 30 years ago; because there were so few summer flounder that individuals resorted to the use of liners to catch as many summer flounders as they could.

Because the fishery now is strictly regulated by the quota, the incentive to utilize the liners and to cheat we'll say, in this fishery no longer exists. I believe that if we increase the minimum mesh size and left the minimum fish size along, we would eliminate a large number of the discards and that as cliché goes, convert discards into landings. Those are my recommendations.

CHAIRMAN LUISI: That was as close to a Rob O'Reilly question as you can get there. Sorry, Rob. Before I go to Rob, I am going to go to Chris Batsavage. Here's my plan. If we can get direct questions to staff regarding the material, then what I do plan to do is to step back through the recommendations and the alternative sets to get guidance. What I also will say is that if we do not feel that right now is the time to provide that guidance, I've been discussing with Bob and Chris the Executive Director of the Council, the opportunity that we may convene the Demersal Committee this summer, along with some selected Commissioners, to really try to dig down into these alternatives.

Know that there is a backstop to the discussion today, as far as kind of a Plan B if you will, because I did hear some concern; just from Board members this week that there might not have been enough time, given the distribution of these materials just a few days ago. They may not have the time to provide really in-depth guidance at this point. Bob, did you have something to add? Okay, so go ahead Chris Batsavage.

MR. BATSAVAGE: A question on the regional quota option. By region do you mean where the fish are landed, or where the fishing activity took place; such as statistical area? I'm

assuming that it was region where landed, but it wasn't clear; so I just wanted to make sure I understood.

MS. DARCY: Yes that was referring to the state of landings; similar to the state-by-state, just collections of states.

CHAIRMAN LUISI: Rob O'Reilly.

MR. O'REILLY: I'm going to behave here and save my comments. I was interested, Kirby first of all. I imagine the Law Enforcement Committee has also been working on the safe harbor provisions. I would say that I'm glad you asked whether it should be mandatory, voluntary, or a state comes up with a system.

Being in a state that has had that for 20 years, you know we have a very good system. I guess the question is, if you haven't run this through the Law Enforcement Committee is that intended? That is one question I'll ask, and I'll have just a couple more.

MR. ROOTES-MURDY: What I can offer is last fall, in October at our annual meeting; I brought this issue to the LEC to discuss a little bit further. Jason was in attendance, and maybe he might be able to provide some more context on how the LEC discussed it then and since; because it has been an ongoing discussion item.

MR. JASON SNELLBAKER: It has been discussed at length, without going into further detail. It has been discussed. We've kicked it around up, down and sideways; to be honest with you.

CHAIRMAN LUISI: Rob, did you have a follow up?

MR. O'REILLY: I've got a follow up for Kiley, and that is you know neither a borrower nor a lender be, but I assume when you look at some of these challenges that you're also combing through other council's what their actions have been, and also what the states have done. In particular you made the comment that the IFQ

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was not really latched onto in the scoping process; but it may be something that is best left up to the states, and I agree with that.

I think the landings are in the state, and if a state has already chosen to go the IFQ part with or without transferability that is good and that should solve that situation. I hope to keep it with the state. The last thing, just to double up on you just for a second, would be that if we had quantification of some of these provisions. For example, we know better when we see the answer, and if we can see some answers. For example, when we look at the 25 years of the same period that we looked for allocation, we at least if we're going to talk about other time periods such as you mentioned, such as perhaps older, newer or however that goes; that we see what that looks like.

I think what happens is we all pretty much have a rough idea, but it would be good to see that data. I think for the next time around, if there is anywhere where you can put some quantification; make it more of a menu for all of us to sort of have choices that might help a whole lot.

CHAIRMAN LUISI: Just to add to that. Kiley or Kirby, have you discussed, I assume the impact on states as we have in Maryland, and we have an IFQ for summer flounder. The alternatives that are coastal in nature, would that essentially eliminate that IFQ at the state level? I mean in order to become a full coastal fishery.

I would assume that the state of Maryland would not be given a piece of the pie and then just have them manage it as they choose to. Has that been discussed at all about what the implications would be for a state like mine that has an IFQ on some of the alternatives that are coastwide in nature?

MS. DARCY: We haven't really gotten that far yet into the impacts, but it has been brought up a couple of times that Maryland had ITQs and that a lot of these coastwide options would

probably not work with Maryland having an ITQ system. We haven't really gotten that far into exactly how that would work, and that is the kind of thing that if it's clear that that is not a direction that the Council and Board wants to go then we could knock that off. If it is, we can look into that in a little bit more detail.

CHAIRMAN LUISI: On my list I have Jim Gilmore, and then I'll come back to Howard King.

MR. GILMORE: It's a question for Kiley, and it really has to do with the 2B sections on allocation. I want to make sure I have this right. If you looked at the options you had under 2B, well you're trying to do a baseline, but the baseline is essentially problematic; because if you only had 7 percent, no matter which way you cut it the best you're going to get is 7 percent.

But then you also mentioned that looking at distribution was another way to actually get at that. Is that going to be separate or can you take distribution in addition to the history of allocations and work them together to come up with, maybe a more realistic picture of what the fishery is doing today?

MS. DARCY: Our Option 2B-3 would be a combination of the current or historical allocations and recent distribution; presuming that we can figure out a way to take recent distribution, and we can agree on data sources to use and how to divide that up, and turn that into state-by-state or other allocations.

That was an option where we could take, so in this draft an example is 50/50 current allocation and recent distribution. There can be a combination of that; we just need to put a little bit more thought into and perhaps get a little bit more guidance on that and how to take the current distribution and translate that into state-by-state quotas.

MR. ROOTES-MURDY: Just real quick I wanted to follow up on Kiley's point. This is Kirby. One

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thing that was mentioned, this discussion happened at the FMAT level, so please take a look at the FMAT summary; but we had Mark Terceiro on the call and he talked about how this could possibly play out.

As Kiley mentioned, what data you're using for this is key. You could maybe do it based on the surveys that are used in the current assessment; but not all states are represented through those surveys, so that would maybe bring up some questions of how useful bringing in other surveys that have been deemed as not useful for the assessment would be for then allocation. It gets complicated, and therefore we'll really need more specific guidance on what it is you guys are looking for, for distribution to be considered with allocation.

CHAIRMAN LUISI: Jim, follow up.

MR. GILMORE: Mike, your idea about doing maybe a workshop in the summer. I think this would be a great topic to brainstorm on; because you really need to sit down and think about how you get past that. We've had allocations for 30 whatever years and how do you really get a meaningful number out of this? That is a good suggestion. I definitely will either come to it or send a retiree to it.

CHAIRMAN LUISI: I'd rather you come to it, if that's okay. Mike Pentony, did you have something to follow up here? Okay let me go around the room then. Howard King.

MR. HOWARD KING: I generally support the staff recommendations, including dropping the commercial data collection; but is there a timeline for the fisheries dependent initiative that you mentioned, I think undertaken by the Regional Office with the Center?

MS. DARCY: I don't know specifically. I know that I included in the document, there is a link to a recent presentation about that project. You could go look at kind of what that looks like; and then I did hear that there is possibly

going to be something presented to the Council at the June, probably not in June, because I don't think it's on the draft agenda. But at one of the upcoming council meetings something would be presented to the Council as an update; but I'm not sure the broader timeline of that project.

CHAIRMAN LUISI: David Pierce.

DR. PIERCE: Yes Kiley or Kirby, on Page 3 there is a listing of the issues that are not included in this document. I'm unclear as to whether the commercial/recreational allocation reference is out of bounds and it will not be in this amendment; or is there a chance that it might be? Because it says the following amendment issues will be included in later documents for this amendment or separate action.

I know quite a few fishermen, recreational in particular; have said they would love to see this council and the commission deal with the commercial/recreational split. Is it out of bounds or is it still in play?

MS. DARCY: As far as we're concerned that is still understood to be a priority for the Council and Board; but as our understanding from the last few Council and Board meetings is that due to the delays with the revised MRIP time series and associated recreational issues, anything involved in the recreational fishery is going to be delayed a little bit.

We are focusing now on commercial alternatives to be split off into this action, into a separate action. Then everything under the umbrella of the Comprehensive Amendment that was initially started by the Council and Board will be addressed. But that issue specifically would be pushed off to the next action.

DR. PIERCE: The next amendment, okay. One final question, on Page 20 of the document there is reference to a point that was just made by Mike Luisi. Moving away from state-by-state

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quota system would represent a problem for states managing through ITQs, for example, Maryland.

I assume Maryland is the only state that is managing with ITQs, and the related question is, are those ITQs for federally permitted fishermen or just state permitted fishermen? I always had a question about how federally permitted fishermen could actually be managed by a state with ITQs.

CHAIRMAN LUISI: I believe that Maryland is the only state with an IFQ. I would have to go back through all the states to determine how they're managed. I mean you guys could tell me if there is someone else that has an ITQ. The way it works, and those fishermen are federally permitted.

We have our own permit that we issue through the state, and it's only issued to seven fishermen; based on qualifying criteria. Those seven fishermen are the individuals who get the lion share of the allocation that comes to our state. Now they're fishing in both state and federal waters, but they are state permitted, and in addition federally permitted.

DR. PIERCE: Okay thank you for the clarification, Michael. In the case of Maryland, let's say Maryland is the only state with an ITQ. Maryland would be faced with how to deal with the seven fishermen with ITQs, if indeed collectively the Board and the Council decided to go with a scup-like approach for summer flounder.

In other words, it would no longer be state-by-state; it would be well somewhat of a state-by-state summertime, for example. I'm just trying to figure out how many fishermen might actually be affected by this amendment if we went in that direction; specifically fishermen out of Maryland. It's a relatively small number.

CHAIRMAN LUISI: It's a small number, David, but I think when people hunt in a pack you

sometimes can't outrun the pack. Even though it's seven fishermen, I would have a terrible time trying to explain to those fishermen that what they have invested in and what the state over the last 20 year, how we've managed them, would be taken from them.

It would be awfully difficult, and I would be looking through this work to try to offset that in some way; even if it is an allocation. In some ways I view it as all the states would essentially, if we went coastwide, they would be pooling all of their quota together; and fishing under that pooled allowance. But maybe there is a way where states like mine that have an IFQ, would be able to take away from that pool. We only have a couple percent allocations. It is not a lot of fish, but for the seven individuals that have invested in those permits, because they are bought and sold; it would be really difficult for me.

MR. REID: I am trying to figure out how to put this into one question, because I have a lot of questions about the effect on vessel permits if we eliminate state-by-state landings. What happens to shore side infrastructure, efficiency, law enforcement et cetera, et cetera? I guess I'll condense my question.

Would it be okay if I took you up on your offer to have the Demersal Committee meet in the summer; and then I can ask my questions then? Would that be okay? That is my question. It's a very complicated issue, Mike; very little time to analyze this document. We've got no time today to really go into a very complicated issue. I would prefer to take you up on your Plan B.

CHAIRMAN LUISI: That's fine with me. I'm not going on vacation this summer so it's all good. Yes, so with that said there is no time today to get into the details of all of this. What I had thought, after seeing the presentation by staff, and maybe this is as good a time as any to follow up; is to go back to the staff recommendations.

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The FMAT has been talking about these issues. They are obviously providing a recommendation to us here today on priority, on things that need to be included, and then also dropped. Maybe we can focus on just this. Instead of getting into the details, we focus on the recommendations by the staff.

Maybe we can agree and reach a consensus as to forwarding the next draft of this amendment, based on the recommendations of the staff, and that we deal with the more complicated “get into the weeds” issues of the alternative sets; when we get together and have a full day or a day and a half as a workshop with the Demersal Committee and members of the Commission, to dig into all of this. I’ll look to your thoughts as to how to proceed in that way. Tony DiLernia.

MR. DiLERNIA: I would be happy to make a motion for the Council regarding how the staff should proceed. If you think a motion is in order, I would be happy to make one at this time.

CHAIRMAN LUISI: Yes, a motion wouldn’t hurt, Tony.

MR. DiLERNIA: I move that as the staff develops the amendment for the Summer Flounder Plan that they, can you put that other screen back up for me, please? Because I’m going to take your recommendations, I’m going to move with your two recommendations; that we accept the staff’s recommendations to prioritize permit and latent effort and commercial allocations. Number 2; include landing flexibility as a priority issue, and to look at federal FMP changes that may need to be implemented. That is what my motion includes.

CHAIRMAN LUISI: Tony, you’re not suggesting dropping safe harbor, the commercial side.

MR. DiLERNIA: I would drop safe harbor at this point. Because of the mesh size or the minimum size is included and is an action that we could take now without additional

amendment action or action on a federal level, I would drop also the commercial data collection at this point. To get things going, rolling, and quite frankly those first two items, the permit, latent effort, commercial allocations and with landings flexibility is going to take a lot of time, and a lot of debate. Just the issue that you brought up regarding how do we deal with the states such as yours, Mr. Chairman that has the individual ITQ system; if we went to some other type of landing flexibility requirements.

It is going to take a lot of effort. I believe those two items alone will be more than enough to keep our staff and our committee and our Council busy. I would drop the other two items; as per the staff’s recommendations.

CHAIRMAN LUISI: **Tony, would you consider just a motion to approve staff recommendations for the continued development of the Comprehensive Summer Flounder Amendment as language?**

MR. DiLERNIA: **I would be very happy to, thank you, yes.**

CHAIRMAN LUISI: Let me get a second from a Council member on that. Howard King seconds that. How about to the board? Emerson Hasbrouck.

MR. HASBROUCK: **Yes, I would make that same motion, but I also have some recommendations that I would like to make today.** Before we’re done with this part of the agenda, I would like to be able to make those recommendations.

CHAIRMAN LUISI: Absolutely. Okay so we have a council motion, the motion has been made by Emerson Hasbrouck on behalf of the Board. Do I have a second; Eric Reid? While Max is working on that essentially what it says on the screen is guidance to the FMAT to continue to develop and present the next draft of this amendment at a future meeting, by removing some alternative sets and prioritizing others. Is

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there any discussion on the motion? Dewey Hemilright.

MR. DEWEY HEMILRIGHT: I must be a long way away, not able to see me. I had some comments about ten minutes ago I was going to give, before a motion or something. It had to do with the landing flexibility. In reading the document on Page 28, I'm under the impression, and we had discussion about this the June, 2014 in New Jersey Meeting; that there was already voluntary landing flexibility between two states. Is that clear that that is already voluntary in place?

MS. DARCY: Yes, currently there is the ability to transfer quota. I think that is by agreement of the two states. I think that we when we hear about landings flexibility, we as staff have heard a couple of different ideas about how it might work. I think there are some other suggestions out there about exactly how that would work. That may or may not involve a quota transfer, and that kind of thing. As staff it has been a little hard to come up with alternatives; when every time we kind of ask about landings flexibility we get a different answer from different people.

But yes, currently you can transfer quota between two states by mutual agreement.

MR. HEMILRIGHT: A follow up. For 4A, it would really be status quo. There is already a voluntary landing flexibility, so it wouldn't be any landing flexibility, because there already is in place. We had a discussion about that a few years ago. That would be your status quo. There is already between two states that agree to flexibly land quota. That is already in place. What the other one would do would adopt mandatory landing flexibility policies. Is that two differences, or am I seeing something wrong?

MS. DARCY: I don't know that it would be, well yes it would be landings flexibility as a coastwide policy instead of kind of determined

on a state-by-state, case-by-case basis. It would be more of an open policy of being able to land wherever. There are details that I think Kirby mentioned that we are not exactly clear on; in terms of filling out this alternative.

There have been suggestions that you could land in any state, but have to truck the fish back to the permit state. There have been suggestions about tracking by permit. I think that is something entirely different than landing in a certain state and then transferring quota. There are a lot of different questions about how this would work. But yes, for status quo we would describe in the document that there is currently the ability on a voluntary basis for individual states to make that agreement for a quota transfer.

CHAIRMAN LUISI: Mike Pentony.

MR. PENTONY: I just had a couple of thoughts or a concern to raise just for consideration by the Board and the Council. I realize that it is very early in the development of this amendment, and we're not ruling anything out at this point. But I do want to just raise a couple of concerns regarding the safe harbor and the implications regarding that for the landings flexibility.

For context, as Dewey asked the question about the status quo landings flexibility, which is that states can request a quota transfer. That is really for any reason consistent with the intent of the FMP. The states can request transfer from one state to another. In the time that I've been with the Agency, we've never denied such a request made by both the receiving and the donating state; that is sort of context.

That includes safe harbor, but for any other reason we've approved those requests. But on the issue of the landings flexibility, you know the concern is that we're constrained by the data that we have available to us, and the timing of those data. We work very hard to



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post landings, particularly for summer flounder; where there are state-by-state allocations. Knowing your landings to the pound, or as near to the pound, is important for the state to know how to adjust measures throughout the season to achieve the states objectives for ensuring a longer season; and for us to make sure that we're closing the fisheries in concert with the states, so that we're a partnership closing the fisheries at the appropriate time, to get as close to without exceeding those state-by-state allocations.

Those landings data come in, we use only the dealer data that come in through SAFIS. For a landings week that ends on Saturday, the requirement under SAFIS, under the regulations, is that the dealer's report those landings by midnight Tuesday. By Thursday afternoon we are posting those updated landings to the website; and sharing that information, so people understand where we are relative to the quotas. Anything that complicates that process by requiring us to go through and look, not just at the landings reports by dealers, but look at the vessels that sold to those dealers and trace back what states those vessels are permitted in; is going to significantly complicate our ability to do that quota monitoring, and significantly complicate and probably extend the time period before we can post accurate and complete landings data on the web for everyone to have.

I also suspect it would complicate our ability to manage these quotas and know exactly, and project the appropriate closure dates. Again, not ruling anything out, I think we should stay closely involved in any further discussions on landings flexibility. I understand the issues. I understand what we're trying to achieve by putting those options on the table. But I feel I would be remiss if we didn't raise these concerns early; so that you don't hear them only at the very end of the process.

MR. ROOTES-MURDY: Just so that we have it down on record, now that you've heard from

Mike Pentony on this. We wanted to reiterate that the motion, you said staff recommendation. Now it is important to note we don't have those codified in any of the documents we gave out to you all.

We were going off of the presentation we were showing. What you want the staff to prioritize in the amendment moving forward are the permit and latent effort, commercial allocation alternatives, and landings flexibility. We will be dropping out safe harbor, commercial data collection and discard alternatives; is that correct?

CHAIRMAN LUISI: That's the way I interpreted the recommendation, it was essentially taking this screen shot and using it as a basis for continued development. But I'll ask the maker from both the Council and the Board if that is how you interpreted the motion as you made it. Tony.

MR. DiLERNIA: Yes, I agree with what Kirby just said, with the understanding that we can currently use our current FMP to address the minimum size and mesh size.

CHAIRMAN LUISI: Emerson.

MR. HASBROUCK: Yes, I agree with Tony, but also with the understanding that we can address or the Board can address safe harbor issues going forward independently ourselves.

CHAIRMAN LUISI: I believe that was part of the language; that the Commission could deal with that by itself, without being in this amendment. I'm going to take a few more comments; and then look to the audience very briefly, and then we'll call the question. Right now I have David Pierce, David Bush, and Rob O'Reilly.

DR. PIERCE: I had misunderstood Kirby, because I thought he said the staff recommendations as provided to us would mean that the safe harbor element would be out. But that has been clarified, it would be in

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actually; because if you could put the staff recommendation on safe harbor up on the screen again.

I could swear it said that that would be dealt with by the Commission. Where is it? Yes, drop safe harbor from this action and address through the commission process. That is telling me that okay; we're going to go with the staff recommendation, which means that Kirby in particular, being our staff is going to have to work with the Board to deal with safe harbor provisions. We can use much of what's in this document already as a way to move that forward. I can say that in Massachusetts we're working on that now, at the request of law enforcement that is seeking some better clarification as to what safe harbor exactly is; but also looking for some consistency between states.

This language could serve as a nice template for that. With regard to the landings restriction, the landings flexibility, Mike did a good job; Michael Pentony did a good job describing the federal concerns. I'm going to continue to insist that his concerns can be dealt with rather effectively, as well as the safe harbor issue, by going with a scup-like approach for summer flounder. Because we're really talking about winter fisheries, plus fishing offshore, getting into bad weather, needing a safe harbor; not so much during the summertime.

It's really a winter thing, which is what my staff always has to address; breakdowns, bad weather and all of that. There are some aspects to landings flexibility that I just will never support, and there are some aspects of it that I will support; but again, go with the scup-approach and things will work out rather well, I suspect. The motion that is on the screen, I would support that motion with an understanding that once again the safe harbor provisions will be dealt with by the commission.

CHAIRMAN LUISI: That's correct, David. The safe harbor provisions could be taken up as an

addendum by itself, without having a joint agreement with the Council on that. David Bush.

MR. DAVID BUSH: I've heard some good arguments, specifically the comments by Kylie and Mike as well, given the concerns of landings flexibility; and also the comment earlier in the presentation, when they were talking about how closely they were tied to the safe harbor provisions. If it would be all right with you, **Mr. Chairman, I would like to substitute a motion that would remove the Option 4B from the recommendations, or include it as one of the drop items; however that would best be worded.**

CHAIRMAN LUISI: David, I was having a sidebar with Chris. Can you just repeat what it was your intent was there?

MR. BUSH: Basically to change the "include" on the landings flexibility to "drop", given the comments that we've heard. It's going to overcomplicate a system that is already well worked out and fits specifically and tailored to each state already. I would move that we change that from "include" to "drop" in the landings flexibility portion. Obviously with Mr. DiLernia's comments earlier with mesh size, most certainly I would like to keep that intent with this motion.

CHAIRMAN LUISI: Okay so your motion to drop 4B, which that is the only other alternative in the document that is not status quo. Because there would be no other alternative, and I look to staff to give me some guidance on this. We would essentially be removing landings flexibility, and dropping it along with the safe harbor provisions and the other stuff that we said we would drop. I need to see it on the board. Is that a fair interpretation?

MR. BUSH: Yes, Mr. Chairman that would be it would be dealt with the commission process as necessary, if necessary in the future.

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CHAIRMAN LUISI: Okay, so we have a motion by David Bush to essentially remove landings flexibility from the Comprehensive Amendment to be dealt with maybe at a commission level only. Do I have a second from the Commission on that? Rob O'Reilly, second spot for the Commission.

**Now to the Council, do I have a like motion to remove landings flexibility from the Summer Flounder Comprehensive Amendment from the Council? Chris Batsavage makes that motion. Do I have a second on that motion? Peter Hughes.** Okay, so we have a motion to substitute, to drop landings flexibility Alternative B from the staff recommendations.

Essentially what that would do is it would remove it from the continued development for landings flexibility in the Comprehensive Amendment. From what I heard you say, David, this would not necessarily eliminate it from discussion at the Commission level, but it would be removed from the Comprehensive Amendment.

MR. BUSH: Yes that is correct.

CHAIRMAN LUISI: Okay, discussion on the motion. Eric Reid.

MR. REID: If this motion were to pass, does that preclude states from working out a side deal? States could do whatever they want with their quota. If that flexibility remains in place for states to cooperate, then I would support the motion.

CHAIRMAN LUISI: Even if this remained in there and status quo was selected, the states still have the opportunity to transfer quotas in this case. Rob O'Reilly.

MR. O'REILLY: Thank goodness. I have been waiting on a few items. I'm going to address the substitute motion first, which is the idea that came up was the Council and ASMFC will determine whether this is a priority. That is not

my intent when I heard the motion. That is not where I was thinking about. I was thinking it's time to determine whether or not this really is still as viable as it was two, two and a half years ago.

Before, I hadn't intended that staff has to go scurrying to collect all this information, provide all these analyses; because I don't know that there is the same level of support that I heard from two and two and a half years ago, when this first came up. Along those lines, I think what Dewey Hemilright is talking about, which has been I guess a little bit of an unknown.

Virginia, North Carolina since 2005 at least have had a system where you can have the Virginia and the North Carolina trip limit onboard a vessel that enters Virginia waters. Only the Virginia trip limit can be offloaded. Then the rest is down to North Carolina. That has been a system for about 12 years, and recently there have been some other states that at least have been informed of that system that that exists.

That is really the situation I think that Dewey was capturing; about the landings flexibility. One thing that would be important to Virginia, if there is anything done further on landings flexibility, is to outline all the methods that really are flexible; that do exist or can exist. One of them I thought is not to allow trucking of fish from one state to another. Because about six years ago that question came up, or maybe five years ago in the Mid-Atlantic Council, and I consulted with then Deputy Regional Administrator and the answer was no, you can't do that because once you come into the port, or actually come into that state waters, we'll choose Virginia. Then that is a landing. That is the possession limit. I really don't understand why that's even posed today. I can be wrong. That can be part of the plan. It's a part that I don't know about, but it would certainly complicate things.

Talking about landings flexibility, if you are a state you know that you have difficulty with

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monitoring. I mean you're doing all your best to figure out how to monitor your quotas, let alone safe harbor and keeping that all straight. Then imagine what landings flexibility would be like to the whole system.

I have to agree with Mike Pentony that there certainly are pitfalls that we haven't yet faced, and probably don't want to face. All in all, I am going to support this motion on the basis that it's been pushed today, and I really don't think landings flexibility, those who held to what they originally thought they wanted, is the same as it was two, two and a half years ago. I hadn't intended to get pushed to this situation, but I'm here; so thank you.

CHAIRMAN LUISI: David Pierce and then Laurie Nolan after David.

DR. PIERCE: Rob O'Reilly just covered what I was going to get into, which is 4B-3, allowing a vessel to possess multiple state possession limits at any one time; and it goes on from there. I'm working on that now with my industry, and with other states to work it out on our own; with a lot of enforcement officer input, as to what needs to be done to make sure that it can be monitored properly and enforced correctly. Yes, I would say that these are not needed. Rob is correct, and I would therefore support dropping the landings flexibility.

MS. NOLAN: We've been talking about the landing flexibility issue for a while. My understanding was that maybe through this amendment process, the imagination would expand and we would come up with some new formulas that might work for vessels who currently are not being accommodated in any way, shape or form; having multiple state permits.

I'll speak specifically to the New York vessels, who have perhaps a Virginia or a North Carolina permit; who have been begging for some kind of landings flexibility, because the fish are being

caught south of Montauk, and they have to steam down to Virginia or North Carolina to unload. I know we've discussed all the different aspects.

Just because you bought that state permit, it never meant you were going to be able to land them at home. I know we talked about all that. But I feel like there are some alternatives and compromises, where without getting into nitty gritty here, this would be the summer project when we all get together; that maybe those vessels would be allowed to land half that state's permit or that trip limit.

There could be compromises perhaps, and alternatives developed that would create flexibility across the board. Because New York vessels feel very left out. While this is occurring, and if it is occurring currently and the states can do it, and they are doing it. I don't understand the tracking issues; and suddenly by doing this we're not going to be able to keep track of it in a timely way. Everyone here is saying it is currently being done. Clearly it can be tracked. It can't be interfering completely with the tracking of the overall quota, or it would have been nixed by now. I just wish we could keep it in; because it has been this ongoing issue for probably seven years this has been on the table as a big issue. Because one state feels that they are not being considered and incorporated into the idea of landings flexibility. Maybe some kind of compromise could come out of a summer meeting, and some idea could be developed; and then it would be happening across the board.

All the states could then perhaps take advantage of it. I don't know. I wish we could leave it in for further development, and certainly to get the AP involved, to get everyone around the table to talk about this specifically; I think it came screaming out of public comment, landing flexibility.

CHAIRMAN LUISI: This substitute motion, I have a long list of individuals now to turn to. What I

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plan to do is to go through the list that I have from hands that have been raised, and then we're going to take up the question. There may not be time left after this issue is discussed to consider any additional actions to the amendment. We're going to stop, we have 15 minutes until three-thirty, and then we're going to take a break after we finalize this. Let me go through my list. I've got six people on the list; Adam you're first.

MR. ADAM NOWALSKY: First, I just wanted to clarify. This currently says it's a motion to substitute, which should it become the main motion says to me that all we're doing is dropping landings flexibility from the staff recommendations. But I think the intent is to accept the other staff recommendations to keep those in; which would make this more of an amendment to accept the staff recommendations except to drop landings flexibility. I just wanted to be clear on that with the intent of the motion.

CHAIRMAN LUISI: Yes that was what I believe the intent to be. Before we get to that point we would essentially accept the staff recommendation; as you just mentioned, Adam. With the exception of the recommendation on landings flexibility; if that's okay with the makers and everybody nod and that will be how we do it.

MR. NOWALSKY: Great, thank you for clarifying that. The other item I wanted to add is we're in year three of this process at this point. The Council website addresses what the amendment started out as; a Comprehensive Amendment, goals and objectives, quota allocation between recreational and commercial, commercial management measures, recreational management strategies.

We've pulled out recreational management. We've pulled out the quota allocation. We've got the goals and objectives on hold, and now we're down to two issues here. I can't believe we're going on three years, and we're down to

two issues. That is all we think is really important as the addressed more quickly items.

I've got grave concerns. I mean I think it is important that we've got staff time involved looking at these issues. We're making the decisions as we go through them, to pull things out. But what started out as a real comprehensive look at the fishery, is turning into a very targeted, almost scalpel-like impact to the fishery management plan moving forward.

It just gives me pause when we keep pulling things out, because somebody doesn't like them or we can't get to it quickly enough. What are we actually going to accomplish when we're done here? It gives me great concern about this motion specifically. I've got to hear the rest of the comments before I know how to move forward; to keep pulling things out of something that was supposed to be comprehensive.

MR. HUGHES: The flexibility being developed jointly through the council process and through the commission, it really kind of scares me; because flexibility to me is that I can take my boat anywhere and unload. If every person seated in this room today were a boat, and those fish were being caught in southern Long Island, every boat would go pack out on Long Island somewhere.

You're going to severely impact and hurt communities up and down this coast, where those boats used to go unload; and you're going to severely hurt and impact the fish houses that are associated with those communities. I think that the states do have agreements; and have the ability to make those agreements with other states already.

That is why I would favor the motion to substitute or amend or whatever. It says substitute on the board. That is why I would favor that and move forward with all the other alternatives in the document. I just think too

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many boats would move. It would be a colossal shift of unloading effort into different areas; that I think is really an unintended consequence.

MR. REID: I just want to point out to both the Council and the Commission that New York is not unique in a situation that those vessels are in. Rhode Island is in the same situation. We have boats with multiple state permits that have to travel a long way. I don't want anyone to think we're picking on New York. Perhaps again, we are not.

I really would have supported this motion for all the comments that have been made prior to that; including the show of cooperation between the state of North Carolina and Virginia as an example, Mr. Hughes comments, and of course Dr. Pierce's willingness to work with other states in a cooperative effort. It does worry me that the effective value of a state permit, fluke permit, will be adversely affected if this isn't handled pretty properly. Some of those permits are pretty pricey, so I support this motion.

CHAIRMAN LUISI: David, do you have any additional thoughts that haven't been already made or that you want to offer right now?

MR. BUSH: Yes, just very briefly. First, any parliamentary corrections that need to be made to the motion to get it to pass as intended are fine. Just very briefly, the concept is status quo allows the most flexibility there is. Once you go ahead and make it a coastwide program, you take away the ability for the states to say no. You're actually decreasing flexibility at that point.

CHAIRMAN LUISI: Okay I have two more speakers, Chris Batsavage and then Ton DiLernia; and then we're going to caucus.

MR. BATSAVAGE: Real quick, since most of my comments have already been made. Just to speak to Laurie's, I guess example of landings

flexibility versus what's going on now from an administrative standpoint; what's going on now like we do with Virginia is actually very straightforward

You need enforcement no matter what, but they're there to just make sure that the boat doesn't possess more than two states trip limits; and to make sure that only the home state's trip limit comes off the boat. There aren't any transfers or anything like that involved, where if you have boats that are going to the closest state to land another state's fish; that is where the administrative burden really comes in at the state level. The more that happens the greater the burden, and kind of goes to Mike Pentony's comments earlier about just trying to track the quotas on a real time basis.

MR. DiLERNIA: Earlier today we spent some time on scup, and we moved the quota around to control when it would be landed, during what period. Months, we moved months around as to when quota could and could not be landed. We very much like, this council very much wants to stay in the business of controlling landings.

I've heard some people object to the concept of the landings flexibility, but you made the recommendation that I've heard the discussion of a meeting, a workshop during the summer where these issues could be discussed. If this motion were to pass, well that discussion goes away this summer; and that's a discussion that needs to take place.

The Council clearly wants to stay in the business of controlling landings. Because we want to examine alternatives to flexibility, it doesn't mean we'll accept them; but we have an obligation to examine them. I would not support this motion, and include it including landings flexibilities in the original motion as I made it.

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I don't support eliminating it at this point, but let's go forward with it and let's see what happens when we discover we have time for more detailed discussions; because I can answer many of the questions that have risen around this table. You don't want me to do that today. You'll think I will be going on forever. I'll sound like I'm a love child between Rob O'Reilly and Jeff Kaelin. You look like you could go without that. Let's stop there.

CHAIRMAN LUISI: You'll be talking into a microphone that won't be amplified into the crowd. Let me look to the audience quickly. Is there anyone from the audience that would like to offer comment on the substitute motion? Okay I see one hand, yes sir, if you could keep your comments brief. There is a public microphone at the end of the table.

MR. MEADE AMORY: Hi, I'm Meade Amory with the Virginia Seafood Council. I thank the chairman and the Council and the Board members. A lot going on here so I want to just focus on one thing today; the landings flexibility, I think there is an issue with the definition of landings flexibility. It's never been defined.

There are quota transfers; there are states that allow possession of other states quotas in their states. A big problem is it hasn't been defined; other than several of the options that discuss just letting a boat land wherever he wants, another state's quota, any state he feels like landing. These options seem like enforcement nightmares and data collection nightmares.

Right now with the states currently allowing transfers from one state to the other, or allowing the different boats to possess a different state's quota coming through that state. We've got flexibility in the fishery. It's already built in, and that is expanding. States are talking to each other now about doing more and more of that. That is the best flexibility you could have, it's working well. Anything else would be a nightmare; an enforcement

nightmare and a data collection nightmare. I know Laurie mentioned that certain boats, say in New York where they bought permits in Virginia and Carolina. They knew when they bought those permits what the landing requirements would be. That is important to keep in mind. From the beginning in the scoping comments and all the way through this, the majority of the fishermen in the trawl industry have not supported any landings flexibility. What the states are doing now, there is no need for it, and the majority of the fishermen like to leave it the way it is; status quo, and no other sort of landings flexibility. Thank you very much for the opportunity.

CHAIRMAN LUISI: Okay let's take a one minute caucus, and we'll call the question. Okay if everybody can get back to their seats we're going to take action here. At the completion of this action we're going to take a short break. We're right on time which is great, but I know we have a lot of things to cover still today.

To clarify the actions, it was asked of me to just clarify what we're saying here. If you would support the amended motion, you are basically supporting the entire box within that staff recommendation; with the exception of their recommendation to include landings flexibility in future development of the amendment.

By supporting the amended motion that is what you're supporting. If you are in opposition of the amended motion, you would like to see that entire box that staff recommended move forward, with landings flexibility as something that we will further develop; perhaps at a meeting this summer, kind of a workshop meeting, where we would dig into it even more deeply.

With all of that said, we're going to go ahead and call the question for the Board. The motion is move to amend to drop landings flexibility, Alternative 4B from the staff recommendations. **All those on the Board in favor of the amended motion, please raise your hand. That is 8 in**

**favor, all those opposed same sign; that is 2 opposed; any null votes, any abstentions, 0 null votes, 2 abstentions. Okay to the Council.**

All those in favor please indicate by raising your hand. That is 9 in favor, all those opposed same sign. That is 9 opposed. Can those who opposed please raise your hand again. I thought I counted 9, but I'm getting a different – raise them high – it was 9; any abstentions, 2 abstentions. **Okay motion fails for a lack of majority.**

While the Board motion passed, the council motion fails the motion and we're back to the main motion on the table. **The main motion now is move to accept the staff recommendations to provide direction to move forward with the Draft Amendment.** We're going to go to the Board. **All those in favor by the Board, please indicate by raising your hand, that is 8 in favor, all those opposed same sign that is 3 opposed; any null votes, seeing none; any abstentions, 1 abstention.**

**To the Council, all those in support of the staff recommendations please indicate by raising your hand, 16 in favor. All those opposed; that is 3 opposed, abstentions, okay seeing none the motion carries.** Staff will move forward based on this action, and develop what they recommended regarding permits and latent effort, commercial allocation and landings flexibility.

I hope that you stay tuned for a message from me at some point soon about the potential; I need to work with Chris and Bob. But we will likely convene some type of workshop to dig into this over the summer; and I hope it doesn't conflict with any of your vacations that you have planned. Unless Kirby and Kiley have anything else we need to do right now, I think I will conclude this item on the agenda. Let's take a five minute break, get up and get some coffee; then we'll reconvene in five minutes to take up black sea bass.

(Whereupon a recess was taken.)

### **CONSIDER 2017 BLACK SEA BASS MEASURES**

CHAIRMAN LUISI: The next item on the agenda, if everyone could have their seats we're going to begin. The next item on the agenda is Item Number 6. I'll probably have to say it again, since there are a few people that aren't here right now. The next consideration will be for Board consideration and action only. There won't be any need for the Council to take an action after the presentation.

### **TECHNICAL COMMITTEE REPORT**

CHAIRMAN LUISI: Jason McNamee is stepping in for the Technical Committee Chair, Greg Wojcik, and Jason is going to provide us a presentation regarding black sea bass recreational measures for 2017. Kirby is also going to provide the Board with a presentation, and then we'll have to consider how to move forward as a Board only again after those presentations; Jason, with that said, the microphone is yours.

MR. JASON McNAMEE: As Mike said my name is Jason McNamee. I work for the Rhode Island Department of Environmental Management, pinch hitting for my colleague in Connecticut, Greg Wojcik today. I've not had this presentation for too long, so as I'm coming off the bench I hope you can be patient with me as we're going through this. Kirby can save me if I mess anything up.

A quick presentation outline, I'm going to give just a couple of slides on background; and then we're going to go through, we were given a set of tasks by the Board, thank you very much for that by the way. It is nice to get specific tasks that we can respond to at the Technical Committee. We're basically just going to tick through those tasks and provide our responses.

In addition, final harvest estimates came out in fact two days ago, and so we'll hit that right at the tail end of the presentation. Then I will stop



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for any questions that you have. Just to start off with a little bit of background. You all had a joint meeting back in February. At that time the recreational harvest limit for 2017 was raised, and there was much cheering and confetti and fireworks. But this is fisheries, and so the good times were short lived.

We found out at that time that the recreational harvest kept pace and then some with the increase in the harvest limit. But at the time it was status quo federal measures were the recommendation or was what was approved. In addition it was recommended to maintain 2016 harvest levels in the northern region states, so basically trying to keep everything at status quo; because the harvest limit and the harvest estimate weren't too far off from each other.

Then the preliminary 2016 data came out, and it was quite a bit higher than we had projected. That estimate came out at 5.62 million pounds, and that exceeded both the previous and the current 2017 recreational harvest limit. At that time the Board tasked the Technical Committee with evaluating the 2016 data.

As I mentioned, we really appreciated that it gave us really clear guidance as to the feedback you were looking for. We went through those tasks, we've completed them. Then one final note here, the last bullet as I've already indicated, 2016 final estimates came out on Monday; and it is important for you to remember when we did all this work and we developed our memo, we were still working on the preliminary data, not the final data. Task 1 that you asked us to cover. Using the Technical Committee's recommended measure of uncertainty, what is the uncertainty buffer around the 2016 harvest estimate? How does this compare to the 2017 recreational harvest limit?

How does the Technical Committee recommend incorporating the uncertainty of the harvest estimate into determining the harvest reduction needed to not exceed the 2017 RHL? That was

the task that you had given us. The first thing we did was we looked at the uncertainty, and what we had to work with were the PSEs; that is an uncertainty estimate produced by MRIP.

What we did was we made a couple of assumptions about what that PSE represented, and backed out the standard error from that; and from that standard error we then calculated a 95 percent confidence interval. That was the uncertainty that we applied to that recreational harvest limit. There was some discussion about this at the Technical Committee.

I'll offer that this is not necessarily a definitive approach at this point. I'll talk more about why that is, as we move through the presentation here. One of the things that we discussed on our last call was how do we, there was a lot of discussion about availability and the projected decline in spawning stock biomass for black sea bass, and so one of the things that we discussed was we could look at, we know that there was a big recruitment event in 2011.

That is the body of fish that we believe we've been fishing on, and one thing we could do, we have an age structured stock assessment. We could use that information. We have information on cohorts from that stock assessment, and we could look at that 2011 year class; and then kind of track it.

You see that number decay as it gets a year older and an age older, you can see that number go down; and from that we can make an estimate of how availability might decrease. That's one of the things we discussed. We also discussed possibly evaluating the 2016 harvest estimate differently than in previous years.

The one that we have up on this slide is averaging multiple years' harvest to dampen down the inter-annual variability that we all see in the MRIP data. One additional piece of information here, the New York TC member

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was briefed by the MRIP staff on ways to evaluate the 2016 Wave 6 harvest estimate.

I'll drill into that in a subsequent slide, but know that there was the estimate coming out of New York was extremely high, and so that Technical Committee member went and talked to the folks at MRIP; and just so you know that that happened, and I'm going to talk a little bit more about that in a slide or two down the road here.

Then the final bullet here, we had made recommendations to you about management. That previous recommendation on status quo measures we thought needed to be reevaluated. That was based on old news. We wanted the opportunity. We weren't tasked with doing that for our last call, and when we were tasked with doing that we have a completely different sense of the black sea bass universe at that point. Long story short, questions remain on the changes in harvest from Wave 5 to Wave 6 for 2016, and we hope to investigate those further. This is just a graphical representation of this idea of the MRIP estimate and the uncertainty around that estimate. Just to orient you to this plot along the Y axis, the vertical axis there; that is millions of pounds. Along the X axis that is year. The blue line is the harvest estimate coming out of MRIP.

You can kind of see it up there, the dashed gray lines; that is the upper and lower bound of the 95 percent confidence interval. Then the, I'll call it orangey line there is the recreational harvest limit. You can see there is a gap there, certainly a gap between the harvest estimate and the harvest limit; and even when you account for the lower bound there is still a bit of a gap there.

Okay, on to Task 2. The task that you gave to us was, by state identify 2016 wave and mode harvest estimates that are significantly higher than prior years. Describe the MRIP intercept data used to generate the 2016 and prior year

harvest estimates, and compare their associated percent standard errors.

Were there any changes that could help explain a harvest increase in 2016, such as changes to regulations or MRIP sampling methods? Is there reason to believe these harvest estimates will change from MRIP preliminary to final status, such as due to low sample size or incorporation of VTR effort data?

Here is our response. The preliminary 2016 harvest from New York was about 62 percent higher than in 2015. It is a whopping 138 percent higher than in the average from 2013 to 2015. Connecticut also increased in harvest from 2015 by about a half a million pounds. Rhode Island has been jumping up since 2003 by about 100K per year.

On the VTR data, what we learned last year was this data is not incorporated until the end of the year. When we're talking about recreational VTR data, we're talking about information coming out of the for-hire fleet; and there is this use of that information to adjust the effort metrics. It happens at the end of the year; and subsequent to the most recent years, it hadn't had much impact going from the preliminary to the final estimates.

But starting in 2015, there was a big impact from that information; and it comes in really late in the year. In fact, early in the following year is when it finally gets to the Technical Committee. On sampling, across the coast there hasn't been a substantial change in sampling; and so what we mean by that is the methodology is still MRIP.

It is still conducted in the same way. But there were a couple of things that we got wrapped around the axle on. One of them was we understand the weighting as it comes in and gets used in the estimates, but what's unclear to us is how that weighting gets developed and it interacts with things like site pressures. There are a lot of, or I'll say a lack of clarity on what

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exactly, how that weight comes into the dataset.

Just a general feeling from the group was that there are a lot of unanswered questions with the MRIP dataset that we were hoping to get a little more information on. A little bit more about our response to, I think we're on Task 2. The possession limit in New York for Wave 6 appeared to have an effect on harvest in 2016. The New York Wave 5 and 6 harvest increased from 2015, but Wave 4 decreased from 2015. There was a difference between information late in the year, and a little bit earlier in the year. To our understanding, the only thing that changed there was the possession limit. I've been alluding to this as we've been going along. There are a lot of questions that remained for the Technical Committee on the MRIP data. I've already talked a little bit about the intercept weighting. We would like to talk to MRIP a little bit more about that; how that gets calculated, not necessarily how it gets used.

Changes in the APAIS program, one of the things that we discussed, I'll use the New York example. As the states took over the APAIS program, what we found is the states are doing a lot of outreach. We're going out talking to groups, we're certainly doing that. In Rhode Island we're trying to get people more familiar with the program.

The other thing that has changed is now it is their guys. It is the state guys conducting this. They know these dudes. They are not strangers, they're not contractors. Our sense is that that could have introduced a bias that is not accounted for in any way; and would be, quite frankly, difficult to account for.

The point is, we might be getting now that it's the states that are running the program, we might be getting more positive interviews; as opposed to what was occurring in the past, in important locations like Montauk for instance. The PSE calculation, it is not that we don't understand the percent standard error itself.

What we don't understand is how the standard error gets calculated and then brought into the PSE.

That is something we would like a little more definition on. The MRIP methodology, they've rolled out changes year-to-year, and this is something that concerns us; because it feels at least in the past couple of years, as these pretty significant changes in the program have occurred. It feels like there is a lot more chaos in the estimates that are coming out year-to-year.

Then finally, the 2016 harvest in Wave 6 was unusually high, not just for black sea bass, but it seemed to be a shift across a number of species. We've noted three here; cod, tautaug, and scup. But there seem to be like a phase shift across a number of different species; and it wasn't just unique to black sea bass.

That would indicate a potential something going on, in not just the site interviews, but also the effort calculations. Task 3; would closing Wave 6, all or part in the northern region, or just Mass or New York, or just New York, reduce 2017 projected harvest, so that the 2017 recreational harvest limit is within the harvest estimates uncertainty buffer?

What bag limit for Wave 6 in the northern region, again or just Mass and New York or just New York, would reduce 2017 projected harvest so that the 2017 recreational harvest limit is within the harvest estimates uncertainty buffer? Our response reevaluated a couple of combinations of closing Wave 6.

What we found is that any combination that closes Wave 6 in particular, had to include New York, brings the projected harvest within 1 standard error of the 2017 recreational harvest limit. We've got now in the next bullet a bunch of reductions that are associated with closing; different combinations of states.

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This, Kirby was frantically doing the math here over the past day or so, so these actually represent current understanding. These are based on final estimates. If you close Wave 6 in Massachusetts through New Jersey, you would reduce 16.2 percent. If you closed Wave 6 in Massachusetts through New York it would be a 12.9 percent reduction; and if you just did New York, it would be a 12 percent reduction. One other idea that came up from one of the Technical Committee members was looking at this estimate not using the final or preliminary estimate; but calculating something different. The one that we had available to us on our call was this use of a ratio of Wave 5 to Wave 6 harvest from previous years.

We did look at that. We didn't have time to review it ahead of time; we were just presented with it during the call, which we appreciated. But the point is that the Technical Committee hasn't fully explored this due to the timing that we had. If you were curious about what was done there, it is included in the memo from New York that I'm assuming was in your meeting materials.

Task 4, I think we're getting close to the end here. Consider that the New York Wave 6 numbers at first appear unrealistic. Over the prior six years, 2010 through 2015, New York's recreational harvest in Wave 6 averaged about 26,000 pounds; yet 2016 Wave 6 has New York at over 887,000 pounds.

Was New York actually responsible for about 88 percent of the 2016 recreational harvest? There was both a question mark and an exclamation point; so you know that was an important statement. You can use the right voice in your head when you're reading that. Did New York's Wave 6 effort significantly increase in 2016; as compared to previous years?

The response as I had noted earlier, there was some correspondence between specifically New York's Technical Committee representative and MRIP. That correspondence, and then there

was a bit of a delay in the response coming back to him. That prevented a more in-depth analysis. I mean it was already late in the year, and then that delay just made it a little worse.

The New York staff Technical Committee member, he was briefed by MRIP about the mid mark in April. The report became available to the public on Monday. You can take a look at that. I just looked at it yesterday. The Technical Committee has not reviewed it yet. A couple of things that is kind of important to point out. It noted that lower fishing effort can influence variability. What we mean by that is species that have lower effort or the effort kind of comes in chunks, and it's very specific; something like tautaug or black sea bass. Variability can be high in species like that; just based on the nature of the fishery.

Then the staff also suggested something that got my ears to perk up a little bit. They suggested smoothing the information out using an approach; very specific they said using a Bayesian statistical approach. We're interested in exploring the approach that the New York Technical Committee representative brought forward; and also this wonkier approach of using Bayesian statistics.

We plan on doing that. We'll do it for the whole northern region, and we'll look at what it does to just New York; and you know give you that context if you wish. That was it for the tasks, and I'll just drop a couple of notes here on the final harvest estimates. Just some highlights for you. The MRIP released a final data on Monday. The final coastwide harvest is 5.18 million pounds; and so that is a little less than what we had for the preliminary estimate. The new reduction associated with that new harvest estimate is 17.3 percent coastwide; the coastwide harvest decreased by about 7.8 percent from that preliminary to the final estimate, so it's a fairly significant drop. The New York party and charter mode harvest decreased significantly in both Waves 5 and 6, from the preliminary estimate to the final

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estimate. This is within the year the preliminary to final estimates; that's what we're talking about there.

I'll throw this table up, I'll yammer for a minute here so you can take a look at it; but I won't walk all the way through it. But you can see that you've got all the states, and you can see the wave specific harvest estimates there. If you remember what your preliminary estimate was you can see the change in your state from this table.

Megan will flip back to it if you want. Massachusetts through Delaware and North Carolina decreased over all, their 2016 harvest from their preliminary to their final harvest estimate. The New York decrease was pretty big. That one decreased by about 265,000 pounds; split between Wave 5 and 6. You can see that split out there.

New York harvest actually increased from preliminary to final in Wave 4, and then the states of Maryland through Virginia also increased harvest from preliminary to final; but only by a pretty small amount. The Technical Committee, it just came out Monday, so we've not had a chance to look at that. We still, all of our questions from before remain, and now we've got probably even more. That's it for the Technical Committee report; happy to take any questions.

CHAIRMAN LUISI: Let me ask Kirby, Kirby do you think it would be best to complete the presentations, or should we just do Technical? Do you have anything that is going to reinforce what Jason has presented? Just let me know which way is best.

**MANAGEMENT MEASURES FOR 2017**

MR. ROOTES-MURDY: I'll go through mine real quick and then we can take questions for either/or that would be fine. Now we're going to move on to the actual management measures for 2017 black sea bass recreational

management measures. The background Jason went through, I think very succinctly, thank you for that.

Back in February the Board and Council voted on federal measures, maintaining status quo from 2016. But it was a little bit more vague when it came to the 2017 measures. It was trying to maintain harvest at 2016 levels, and again the assumption at that point we were working under was preliminary data through Wave 5 that then changed, and then changed again. What I have on the screen now is I have 2016 state measures.

It is important to look at those for Massachusetts through New Jersey; because under the addendum we've been working under for ad hoc regional management, those were in place in 2016. What happened following the February meeting is we were trying to over that two month period, do the analysis, try to make sense of this data; and hopefully get final data in time to provide the Board with enough information before this meeting to set measures.

That obviously didn't take place. A number of states went forward and implemented their state measures from 2016 for 2017, with a couple of states slightly changing the dates; but maintaining the same number of days. The next slide I have up here is what the state measures I have as of today. Well actually before this meeting, checking the state websites and checking with staff on what had been implemented. You'll see that there are asterisk for New York's measures. These are what their measures were last year. I will note that we did receive an e-mail over the course of this afternoon's meeting that they have since implemented for 2017 black sea bass measures that were status quo essentially from 2016, and they can elaborate on that if needed.

New Jersey has not yet implemented black sea bass management measures either, oh excuse me, at this point those are pending

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commissioner approval; and then for Delaware through North Carolina the status quo measures from 2016, which were the federal measures. Before the Board today for your consideration, final 2016 data, you all received the memo from staff; I believe it was yesterday, laying out what those final numbers are.

Then the action item is either to set or adjust 2017 black sea bass recreational management measures for those northern states of Massachusetts through New Jersey. Again, we are working under the Addendum XXVII provisions of ad hoc regional management that will expire on December 31st. With that I'll take any questions, or if you have questions for Jay on his presentation, we can handle those now.

CHAIRMAN LUISI: Before I get to questions, let me just make sure we're all on the same page, as far as what action we can or don't have to take here as a Board. We've already established and recommended federal measures be status quo. That has already happened. The states have taken it upon themselves. Between the February meeting and today, all the states with the exception of New Jersey have implemented status quo measures or very close to status quo measures from 2016.

With the new final estimates that are higher than what they were when those decisions were made in February, the Board now needs to determine whether or not to take additional action; as a result of that extra harvest that was added during the final release of data. The Board can either take additional action to account for that difference or do nothing. If the Board does nothing, everybody has in place what they have in place and we just move on without any other reactions by NOAA or the states.

MR. ROOTES-MURDY: Point of clarification there. In previous years we have operated under an if/then approach in setting measures, and this year in light of the assessment that we

were waiting on in December, there was the move to push that decision to February. At the February meeting the Board and Council set those federal measures, and we had again the broad motion to try to maintain harvest in 2017 at 2016 levels.

Again that was under the assumption that we were going to be very close to the 2017 RHL, the updated one. Now that we have final data that indicates that we are still, it would take an approximate 17 percent reduction from 2016 levels to get at that. I can't speak to what National Marine Fisheries Service would do.

In past years there has been the potential to have different measures that would be put in place for federal waters, if the reduction is not addressed by the state measures that are implemented through the Commission. That is just another thing to consider today in taking action.

CHAIRMAN LUISI: Okay and secondly to that. Even though we have the final estimates that came into us on Monday, there still seemed to be a lot of questions, Jason, regarding just how we might understand those data. That was clear in your presentation. With all that said, let's turn to the Board for questions regarding the presentations. Dr. Pierce.

DR. PIERCE: I've got two questions, and the first one is in your presentation you indicated that there were about five very major, very important questions unanswered regarding MRIP and how the calculations were done. This is very troubling, obviously. Why can we not get that information?

It is very critical for you and the rest of the Technical Committee, in order to perform the work you must do on our behalf. Why can we not get that information? What is the rationale for that; because it leaves us with so much uncertainty as to the validity of the numbers, if you could address that Jason?

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CHAIRMAN LUISI: What are you doing the next couple of hours, Tina? Jason do you have a comment to that? I realize that timing is of the essence here as well, regarding how much you had time to prepare for those answers. But maybe you could address Dr. Pierce's concern.

MR. McNAMEE: Mr. Chair, I'll take a shot at it. I guess this is the way that I'll approach the question. It is not that we're being refused information or anything like that. I guess when we went in, for instance to look at the PSE. There is a little bit of information on the PSE itself. But then to get more detail on well, what's under the hood there.

That is the stuff that there is no manual that kind of steps through the calculations that they go through. I guess at the Technical Committee, what we've requested, and whether that request has been passed along I'm not sure. But we requested to actually have a workshop with MRIP where they walk us through from that interview to that final estimate; not just the stuff that we've all seen before, but equations. We want the math.

That is the one thing. Again, it is not that they're being obstinate or something like that. I don't think we've ever asked for that directly before, but now we have. I'm optimistic that we'll get the opportunity to sit down with them step through it. But I will note that it's not something that is readily available that you can pull off the web or something like that. We did kind of look around for that type of information.

DR. PIERCE: Okay so I'm encouraged, but at the same time discouraged that here we are, and we're still not making enough progress regarding getting under the hood. It's just amazing. My second question relates to the figure that you showed; black sea bass landings relative to or compared to the RHL over all the years.

You notice the 95 percent confidence bounds around the harvest limits through time. We see

that in recent years 2015, '16, '17 notably, were below the number; meaning we've been above with our harvest, above the recreational harvest limit. One looks at that figure and we get concerned, obviously.

We're not doing enough it would seem. Now, my question is in our memo that I provided to the Board back in February, I highlighted a Mid-Atlantic Council Monitoring Committee conclusion. That conclusion was based upon the new assessment, this is from the monitoring committee, with the new benchmark stock assessment information analysis indicates that recreational harvest limits during the last few years would have been significantly higher, approximately double those implemented. That is a very important conclusion that was reached by the Monitoring Committee. I take that conclusion. I look at the figure you provided, and I see that we would have been in 2017, according to the Monitoring Committee, where we could have been is a harvest limit of about 5.64 million pounds.

Lo and behold that's where we were. My question is, have you and the Technical Committee in any way reacted to this information, this conclusion of the Monitoring Committee? Because I'm left with a very unsettling feeling that we're okay, yet we're not okay and more action is demanded of us.

Whereas if the red line, if the number was properly drawn according to the last assessment, and the Monitoring Committee conclusion. That red point at the end would be right on that blue point and we'd be all right. What can you say regarding that Monitoring Committee conclusion, relative to what we're now obliged to do?

MR. McNAMEE: I remember your comments to that affect. I guess the way that I interpreted them was thinking with our new understanding of the stock that orange or red line, it would have a different shape in the most recent years; but I guess, and I agree with that that it

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wouldn't have that big from that lower number jumping up, you know to that higher level in 2017.

But I guess what I don't think is right is that the terminal year number that is coming right out of the assessment. That recreational harvest limit is backing straight out of the process, using the stock assessment information. As far as that terminal year goes that information is right. As far as history, you're correct. There would be a much different look to that plot. But the final year would look the same.

CHAIRMAN LUISI: Bob Ballou.

MR. BALLOU: On this very slide Jason, if I'm not mistaken that final point source for the blue line was the preliminary harvest estimate 5.62. It looks to me like that lines up pretty well. The new estimate now, 5.18 would shift everything down; including that lower confidence interval. I'm just guessing now, but if I had to guess we would be within the lower confidence interval; if that were the approach used to assess harvest. Am I correct in that?

(Operator inattention: the CF card filled and needed to be changed.)

MR. GILMORE: I guess in terms of how we relate to what we're going to harvest in 2017, the one thing that wasn't said by Jason or Kirby was that fact that we all know. We're 200 plus percent over the target right now for the stock. We don't have a lot of risk going on right now. If we kind of like try to figure out what's going on with the MRIP numbers and maintain status quo.

When you're ready, Mr. Chairman, I do have a motion. It's a motion to get at maybe looking at these numbers, along with what Jason was talking about; maybe start averaging or smoothing, and have the TC to task them to do something to maybe look at what's going on with those numbers, because MRIP again is a work in progress. It's still all over the place, and

it is hopefully going to get better. But maybe this effort will help speed that along; so when you're ready.

CHAIRMAN LUISI: Okay seeing no other questions at this time, Jim, if you want to make that motion. What I would ask is whether or not the motion that you intend to make would provide guidance based on the Technical Committee work for this current year, still. It's May 10th today. We're still talking about 2017 recreational measures for black sea bass.

We can address your motion after it's made. But I think we need to be clear as a Board how we're going to proceed with 2017. Are we going to do nothing more than what has already been done, or are we going to take additional action based on the new MRIP estimates? With all of that said, Jim, please your motion when you have time.

MR. GILMORE: My intention is actually this would be for 2018, primarily because my good friend from the Commonwealth in Massachusetts is very concerned about if this number is real then 2018 there could be some real interesting management changes. Actually, Kirby has got a copy of the motion. Kirby, if you could put that up. Yes that is it. I will read it.

**Task the TC to review the recreational black sea bass MRIP harvest estimates over time, five years/ten years to identify highly variable state, wave, mode or other combinations that contribute to harvest volatility. Generate a methodology to smooth problematic harvest estimates along with criteria that determine when smoothing is appropriate to avoid an ad hoc approach. The TC should consider some or all the following; high and low estimates, PSEs, preliminary versus final estimates, and regulatory changes.** If I can get a second I'll talk a little more about it.

CHAIRMAN LUISI: Absolutely, is there a second to Jim's motion, which he just read? Seconded by John Clark, okay, Jim.



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MR. GILMORE: Simply again, you can look in the details in the memo that we included in the briefing materials. We're really trying to get at the root of this. I think Jay brought it up. I mean it's not only black sea bass. There are several of these estimates are just very volatile. If it was just this one number in black sea bass, maybe you can start believing it. But there seems to be an inherent problem; maybe in MRIP. We're going to have to come up with a different tool as we move forward.

If we start getting these extremely volatile and high numbers, or low numbers for that matter; that we have a way to deal with them so that we're not, I think the term we used before whipsawing the fishing community with these massive changes, because of the volatility of MRIP. That is really the intent of it. Again, if this would be to work through this year, so when we get to 2018 we have another tool in the tool box to maybe address this if we still have some crazy numbers.

CHAIRMAN LUISI: Thanks for that justification. Jason, may I just ask is there clear direction here, as far as the guidance that you're reading about from the motion that would task the TC accordingly?

MR. McNAMEE: Yes, I think so. In particular I think it gives us the ability to look at some of that advice we got from MRIP directly, for instance that Bayesian approach; and looking at things like that. This gives us latitude to check out a couple of things. I guess maybe one question I would have. You have this five years/ten years with question marks. My question is, are those two versions of the world you would like to see, or would you rather have the Technical Committee find some value in there that kind of makes some logical sense?

MR. GILMORE: I am just going to let the TC have some latitude, in terms of picking those, because you guys are better with the data than I am; so that was the intent.

CHAIRMAN LUISI: Let's take discussion on the motion. I've got Mark Alexander, and then I'll go around the table.

MR. ALEXANDER: I just have a question for the maker of the motion. It was brought up earlier that with the states taking over the conduct of APAIS that there may have been some bias introduced during the last year or two. Did you specifically leave that out of your motion on purpose, or is that something you thought might be considered as well?

MR. GILMORE: Well that I figured as being through the MRIP process. That is some of the things that they are already doing; and I think each one of the states is doing. I think that is being addressed as a separate. I mean if you want to include that. I was trying to keep the workload down for these guys.

There was issues about that we're all rolling this out. This was the first year for the pressure correct. There were different things that we're looking into. But I understand that the MRIP folks and well the APAIS folks are going to be evaluating that consistently as we move forward.

MR. NOWALSKY: With regards to this motion. I think given the theme of the terms of reference, we could probably benefit from a couple exclamation points in here, to go along with the question marks. That being said, when we looked at that slide with the harvest limit compared to the landings; and we heard the comment about at the very end of it that the harvest limit is now based on an updated stock assessment.

The landings are what they are. They would probably still be somewhat relative to what they are. From my perspective, if the RHL was where it should have been over the last number of years, we would be talking about a reduction; not from 15 inch size limits up and down the coast, but from 12.5 or 13 inches, with

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reasonable seasons, which I think is a discussion a lot more of us could stomach at that point.

I'm not going to dispute that the current RHL to landings ratio is right or wrong. I've certainly voiced my concerns about it over the years. But I don't think there is any dispute that where we're making these changes from today is the bigger problem, and it argues in favor for more of a reset.

The one area of concern I have with doing this review now is the MRIP re-estimation that is going to take place. I would love to hear some thought from the maker of the motion, perhaps from staff, about is now the time to do this versus waiting another year? Are we likely to get a different answer by looking at the re-estimation that is going to occur, or is this still a valid analysis to do now; and could be applied to the re-estimation when it's done?

CHAIRMAN LUISI: Jason or Jim.

MR. GILMORE: I'll go first. Again, this was something Adam, to have. Right now if we don't do anything and we get to the end of 2017, we're just going to be looking at possibly another lacking number that we have no way to maybe analyze, or maybe to deal with on a multi-year basis. This was just giving us another tool. I think this moving forward in parallel to what the other effort is going to be, I think is worthwhile; but I'll let Jason weigh in.

MR. McNAMEE: I think it's a good thought, but the method, it could have broader application; and so I think the development of it in this context I think is still okay. It might be that maybe things calm down. For instance, if we're using like a Bayesian statistical approach, and that wild variability from year-to-year kind of goes away, it is going to produce the same estimate as MRIP.

Like things will kind of normalize. I still think it's a valid thing to look at. I think beginning to develop some tools for this kind of stuff,

regardless of the uncertainty we have with the recalibration and all of that. I think it's still valid and a worthwhile endeavor; not a waste of time.

MR. ROOTES-MURDY: I think an important thing to piggyback off of this discussion, as Jay lay out; this is a helpful exercise for the TC to undertake to help us add more tools to our toolbox. But for the Board's consideration today, again we're talking about 2017 measures. I think it's important for the Board to keep in mind that whatever the Board chooses to do, whether it is status quo or do something different.

The RHL is set to be reduced in 2018. Keep in mind that if things remain, say status quo, and we have a harvest estimate in 2017 that is higher than the 2017 RHL, and higher than the 2018 RHL, there will be a need to address that through management action next year. I just want to make sure that that is clear to all the Board members; that if there is no action taken today with regards to measures in 2017, we are still facing a reduction in the RHL per the specifications we got out of the latest stock assessment.

CHAIRMAN LUISI: You stole my thunder, Kirby. I was getting to this as a tasking of the TC, which has been agreed upon by the representative, by Jason; that this is probably something that would be good to do. I would like to limit the discussion at this point; unless somebody wants to speak in opposition of this task. Do any Board members want to speak who are opposed to tasking the TC with this motion? Okay seeing no one who is opposed to this. Rob.

MR. O'REILLY: Not opposed, but I hope there is a time when the TC starts the exploration, and looks at all the variability they face. I think Mark Alexander's comment I agree with, about the change in who's doing the survey is important. There have been regulation changes throughout the six years or so; into the seventh

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year, for black sea bass recreationally above Delaware. Those are going to be things that I hope at some point the TC is able to say, yes we can go forward or no we can't. I think that's important to establish that.

CHAIRMAN LUISI: Seeing no one in opposition, I'm going to just read the motion into the record, and we'll call the question on this and then move onto the task that we need to deal with; which is the 2017 recreational measures. The motion is to task the TC to review the recreational black sea bass MRIP harvest estimates over time, five years/ten years to identify highly variable state, wave, mode (other) combinations that contribute to harvest volatility. Generate a methodology to smooth problematic harvest estimates along with criteria that determine when smoothing is appropriate to avoid an ad hoc approach. The TC should consider some or all the following; high and low estimates, PSEs, preliminary versus final estimates, and regulatory changes. **Is there any opposition by the Board for the motion? Okay seeing no opposition the motion carries unanimously by consent.** Thank you for that Jim, David Pierce.

DR. PIERCE: I would like to address 2017. Obviously many of us are concerned about what is going to happen in 2017. With the anticipation, the 2017 will very likely look like 2016; and they will have an extremely large catch of black sea bass. Something needs to be done in 2017, and I'm very sympathetic to all those states that would have to do something more.

But I say it is very likely, especially in looking at the limits that would be in place for Wave 6 in 2017, it is very likely that we're going to have through MRIP, through all the work that's done through extrapolations and all the procedures that they use to expand data. It is very likely that we're going to see, in New York notably, very, very high take of black sea bass; not just in New York, but New York of course stands right out.

New York always stands out in my mind, but anyways this way, not in a good way. For example, New York is going to have a 10 fish limit from November 1 through the end of December. At a 10 fish limit, we end up with a high probability that indeed we are going to have a problem, I think harvest estimates; because all it takes is a few intercepts at 10 fish, and bang the whole catch goes up to a skyrocketed amount.

It's the way they work, it's the way the calculations are done; and live with all of these extrapolations, and will continue to haunt many of us, because we don't necessarily believe those results. But we're still obliged to live by those results. Maybe this work by the TC will lead us in a different direction regarding the numbers, and what they eventually end up being calculated to be.

I'm convinced, and again Kirby made this point, I'm convinced that 2017 is going to be a real train wreck for us; and that the states collectively in the northern regions specifically, which includes New York of course, are going to have to take another dramatic cut in black sea bass harvest by the recreational fishery.

I've already taken in Massachusetts a number of cuts, frankly more than necessary, and other states have done the same thing. We could have had a much higher recreational harvest limit, but we didn't have them. There is going to be an overage, a major overage in 2017; I suspect. That has tremendous implications for 2018.

Now I look at the task, Task 3 that was covered, notably it means we're closing Wave 6, a lot of or part of in the northern region, reduced the 2017 projected harvest so that the 2017 RHL is within the harvest estimates uncertainty buffer. An answer was provided by Jason, and indeed I believe the answer is yes.

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I am obliged; I think we're all obliged to take a very serious look at Wave 6 and to take some action, even though it's May. But the consequences are going to be that 2018 will be a very shortened season for black sea bass, I suspect; and one that most of us if not all of us will have serious objections to. **I would move that all Wave 6 fishing from Massachusetts through New Jersey be closed.**

CHAIRMAN LUISI: Thank you for that motion, let's get it on the board and I'll ask for a second. Does that motion reflect?

DR. PIERCE: Yes, it reflects it. I'll acknowledge right away that I have no Wave 6 fish in Massachusetts. I only put it up there, because it was highlighted by the Technical Committee. Our black sea bass season ends in August. We had our harvest and there will be no more. But the other states that do have a very active Wave 6 fishery, and the potential for very high landings, they are going to have very liberal limits during that time period. That would be my motion.

CHAIRMAN LUISI: I just wanted to clarify, because you only mentioned New York and New Jersey; but Rhode Island and Connecticut were also part of this as well.

DR. PIERCE: I thought I said Massachusetts through New Jersey. I thought I did.

CHAIRMAN LUISI: Okay, I'm sorry.

DR. PIERCE: I'm acknowledging Massachusetts is closed already. It is the other states that will be opened, and they will have very significant harvest in 2017 if 2016 is any example; and if 2011 year class is still out there.

CHAIRMAN LUISI: Okay thank you. We have a motion made by Dr. Pierce. Is there a second to this motion by a member of the Board, not from Massachusetts? Is there a second to the motion? **Okay seeing no second to the motion,**

**motion fails or it's no longer a motion.** Motion dies.

Back to the discussion that we need to have, we do need to understand as a Board what consequences there are to taking action or taking no action at this point; and maintaining the 2016 regulations within the states. We're at a point in time where all of us mostly have our regulations in place that are status quo. The motion already failed, but if somebody else wants to, or David you want to remake the motion, we'll go back and consider it.

DR. PIERCE: **With your forbearance I'll make the same motion again and wait for a second.**

CHAIRMAN LUISI: Seconded by John Bullard. Discussion on the motion, Tom Fote.

MR. THOMAS P. FOTE: Well, if I wanted to be kidding around here I would basically suggest that we change it to August; since we only have a two fish bag limit in August, and it won't affect us; like Massachusetts is making this when it affects from New Jersey to New York and a few of the states that are open.

We've run into this problem before, and I'm sitting here thinking about, I was happy Jim didn't make the motion I did in 2001 or 2003; I can't remember the year anymore, because I'm getting older. When we found out New Jersey, we caught two-thirds of the recreational weakfish catch in New Jersey. The first motion I jumped up and made he says, well that's a new base year; we'll take two-thirds of the catch. Well everybody knows those numbers are ridiculous. Now we're sitting here in 2017, looking at 2016 and we still have numbers that nobody trusts and nobody respects. I mean the black sea bass numbers in 2001 for New York, in a two month period they caught more black sea bass; excuse me, tautaug than they had done in three previous years. Well, we shouldn't be suffering the consequences as fishermen when we have a stock that is at 230 percent of what it's supposed to be at.

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They were basically talking about making major reductions on a fishery that we basically have been cutting back all these years on. But we've been underestimating the stocks; because of what the SSC, because they don't have the confidence level in what the sea bass stocks, the information coming out of NMFS.

We shouldn't pay for the consequences of not having good information by NMFS. We should get Congress to appropriate the money to basically have where we can get the good information, so we don't run into this problem. But until we do, I'm not making fishermen suffer; because they have no say in this. They can't get the money to do it themselves, and we're basically punishing them every year for the lack of confidence of information, and numbers that are completely outrageous every year, so I don't know what to do at this time.

CHAIRMAN LUISI: David Borden.

MR. DAVID V. D. BORDEN: I'm opposed to the motion the way it stands. But I would like to go on record as actually supporting the sentiment of the motion. I'm not trying to split hairs here. The motion as far as I'm concerned is a blunt instrument. We have a really significant problem in one state, and you're going to penalize with this motion essentially all the states; because of that.

I think we need a more tailor-made motion that addresses the problem where the problem exists. I plan to vote against it. I would also point out, and I appreciate Kirby's comments about 2018, because this is a looming problem for the Commission in 2018. Not only that every single constituent seat that's represented by the people around this table are part of kind of a whole. The whole that we're not talking about, at least in this context, is the commercial fishery; the split.

In the plan, both in the federal plan and the interstate plan is 48/52. To the extent we have

recreational overages; that essentially is taking allocation from somebody else. If the reverse were true, I would be saying exactly the same thing. If the commercial people were over, I would want to take action on that and bring that back into sync with the plan. I think we have to do something, but not this.

MR. GILMORE: I'll start by saying I disagree we have a problem in one state. I think we have a problem with our estimates would really be the issue. We did ask MRIP, is this accurately predicting effort landing. I can't get a clear answer on that. Right now it's still like that is to the work in progress of this.

I will just add one simple thing. The states took over the APAIS last year, so it's our first year. If I go back to basic biology fisheries management, any assessment ever done; it is kind of a standard. You need a minimum of three years before you can start making conclusions about what's going on. We've got one data point. If you look at the five years before that we're talking about an order of magnitude difference. I've got five data points that are very low; new estimate, new data. Shoots up, we've got one data point. We're going to need multiple years before we can start saying, oh my God, the harvest in this particular area is a lot higher than we ever thought.

MR. CLARK: Not so much about this motion. I'm just concerned, as a state that matches the federal regulations. As we've been hearing about 2018, I'm just wondering, if we go over again this year, what type of effect this will have on the federal water regulations; and for our states in DelMarVa where we're fishing almost entirely in federal waters, if the size limit is increased greatly or the season is shortened, we're going to be suffering worse than those with state water fisheries, possibly. What are the ramifications of this for the federal versus state waters?

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CHAIRMAN LUISI: I'll add to that as being one of the states in DelMarVa. I think there is more consequence to the action in 2017; even that we should get some clarity on, not so much the overage into 2018. But I'll turn to GARFO maybe for an explanation on what consequence there could be to federal waters; as a result of the Board either taking action or not taking action, in this case for 2017 and/or for 2018, Mike or John.

MR. MIKE PENTONY: Thank you, John, and Mr. Chairman. There is not a whole lot I can say. We don't have a rule on the street yet, but we're obviously following this very closely. As you know, under the Council's plan we're required to implement regulations that constrain catch to the recreational harvest limit; which is 4.29 million pounds.

The process, the system that we've been using in this fishery and our other recreational fisheries for years is we used prior year's harvest, for a given set of measures, as an indication of next year's harvest under those same measures. If that harvest is higher than the recreational harvest limit, then we come up with more restrictive measures to try to constrain that catch.

If the recreational harvest limit is higher, we can liberalize those measures. When we talk about overages, in the recreational side it is going to remind everybody we're not talking about paybacks or concerned about overages. The 2016 recreational harvest limit could have been 6 million pounds; and we would be having the same conversation, because last year's catch was higher than this year's harvest limit. That's the issue that we have to deal with.

I will also point out that as we're touching on 2018, and what might happen next year. The 2018 recreational harvest limit is 3.66 million pounds; so it drops by over 600,000 pounds from 2017. If we're trying to predict what catch we might have this year, for a given set of measures. Think about how that's going to

translate into 2018, when the harvest limit is going down. Granted that is a projected, based on the information that we had in February; and that could change. But at least based on the advice of the SSC that is what we're looking at for 2018.

CHAIRMAN LUISI: John, did that address your question?

MR. CLARK: Yes, I mean just to follow up, Mike. As Mike said that the rule for this year has not been finalized; and we're opening our season on Monday, to match the federal waters. There could be an in-season adjustment apparently; that could be pretty drastic for those states like ours that are fishing on the federal regulations.

MR. LUISI: You're correct in that. What I would imagine, it would be an end-of-the-season adjustment; obviously it would have to be. Another thing that complicates it is that while we're fishing 100 percent in federal waters in our region, compared to the catch in the state waters in the northern region, it is minimal.

By taking action in federal waters, you're not necessarily solving the problem; given the amount of fish that the southern region is harvesting. Are there any other thoughts on this; Tom Fote? Just so you know I'm going to try to conclude this business in the next ten minutes. I'm going to take another comment or two, turn to the audience for a second, and then come on back to call the question.

MR. FOTE: I wanted to answer Dave's question about the commercial quota being over like the recreational. But we also were dealing with the commercial quota. There is not the percentage of error that we have in the recreational quota. It doesn't depend on outliers throwing everything out of whack.

I hope and I pray, because we've done this often enough that we have a commercial quota, it's followed, the landings are pretty accurate of when they're over, and they're usually over by a little bit; not these dramatic numbers that

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happen because of outliers. Because you're actually collecting good information on the commercial fishery, where on the recreational fishery we've been waiting to collect good information for 25 years; and we're still not there.

MR. BALLOU: I'm going to circle back to the issue that I raised earlier. I'm trying to reconcile the portion of the TC report that addressed, in response to one of the tasking questions, the confidence interval; the 95 percent confidence interval. My understanding is that was a question raised; how would that play out? My understanding is the TC responded and said here is how it would play out.

At the time, dealing with the preliminary estimate it played out in a way that didn't fall into those bounds. My understanding based on the question I asked Jason McNamee is that the math hasn't been done yet for the new estimate. But were it to be done, it could turn out that we're now within that 95 percent confidence interval. My question I guess to you, is how pressing a matter is this?

How relevant might that application of the 95 percent confidence interval be; and if it is relevant, and it seems like it might be, otherwise there wouldn't have been a tasking question asked. Is it possible that we can ride on that or base our decision if you will, on 2017 measures on the likelihood, possibility that we're within that 95 percent confidence interval? I'm just trying to understand the implications.

CHAIRMAN LUISI: Thanks for that question, Bob. I would have said two months ago, three months ago that it wouldn't matter whether or not the recreational harvest limit was within the confidence interval around the estimate. As you know, the point estimate has been what we've used in the past.

Reductions that have been needed have been calculated to a decimal point in some cases, in

order to achieve the RHL that is prescribed. Given actions that have recently been taken with summer flounder, and options that this Board has chosen to move forward with, didn't necessarily do that. There was a discussion and a justification; which is part of the conversation we're going to have in a little while, about moving forward in the terms of conservation equivalency as states. Right now there is a proposed rule out that allows the conservation equivalency to carry forward, even though the point estimate on paper, or the reduction needed on paper was not completely addressed.

It was more about the Option 5. I would have said months ago that there wasn't really any significance to that; but there might be more to it at this point. But I can't answer. It is hard to know what's going to happen, because it is so new. We don't have the experience to understand how all of that would factor into this discussion; any other comments? I'm going to the David's and then we'll call the question. David Bush.

MR. BUSH: The points that Bob just discussed, you know I understand the point is where you would normally base your decisions from. In the context of our current biomass and it's not trending down near any target or threshold at this point. I would have to believe that that would buy some latitude to make some decisions you might not ordinarily make. I find it hard to penalize fishermen in light of that.

CHAIRMAN LUISI: Last point, Dr. Pierce.

MR. PIERCE: I understand the opposition to the motion. I clearly understand the opposition. It's a very significant action that we would take. However, with what Mike Pentony said my understanding is that if we don't do something in 2017, something very meaningful, we are going to end up with a very high risk and a very high probability of there being almost no, if any, recreational fishery for black sea bass in 2018.

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I think that's very highly likely. That is a tremendous risk and an adverse consequence that none of us want to see as an outcome. Again, New York took 88 percent of the RHL in 2016. I know there are some questions about the data. Nevertheless, it stands. I will wager that they will have about 88 percent in 2017 as well, so 2018 we may as well prepare ourselves and our recreational fishing industry; for-hire as well as the guy and the gal fishing from the docks and fishing from the shore in small boats. Their fishery is not going to exist in 2018.

CHAIRMAN LUISI: Okay, I'm going to turn to the audience. Can I see a show of hands of anyone in the audience that would like to offer comment on this? Okay that is more than what we can do. Can I see a show of hands that would want to comment in support of this motion? Does anyone want to speak in support of the motion?

Okay seeing none in support, I'm going to take two comments. Jeff, I recognize you, and then Victor, was this what you wanted to address? Jeff, if you can keep your comments to a minute or two. We have a lot more to cover this afternoon. I'm going to keep the clock on you for two minutes, so if you can do me the favor for not hitting the pink button up here that would be great.

MR. JEFF GUTMAN: I appreciate that; but we did drive five hours through traffic to get here. At least I get my two minutes in. I'm a little confused, because I had one question for Kirby real fast. Did you say that New York Wave 5 and 6, for-hire was down; yet the numbers, I guess for private recreational was way up?

MR. ROOTES-MURDY: I have to double check the numbers, but I believe they decreased in 2016 and the private increased in 2016; so you're correct. But then I would have to go back and double check how they changed from preliminary Wave 6 to final numbers.

MR. GUTMAN: Just saying that seems to make these numbers even more anomalous. But I just want everybody to know, New Jersey as a state itself, fishes significantly more like the southern states. Anything, be it a decision on state levels to close something or a decision that will cause the federal waters to be closed in Wave 6 is significantly unfair to New Jersey; since New Jersey prosecutes the bulk of its fishing, I believe 85 or 86 percent in federal waters.

New Jersey as a state would be taking an undue hit, where other states to the north of New Jersey can mitigate the problem by doing something in state waters at different times during the year. But I think it should be noted that I'm here looking for an answer. I mean I'm trying to run a business. I mean we did this whole tap dance in February, and we're doing it again now.

I would like to ask Mr. Bullard, Mr. Pentony, what are we going to do? I mean I'm trying to run a business and I'm trying to sell trips for Wave 6. I have to do that now to survive. I need to know what to tell people. Right now, if Wave 6 is shut down, certainly for New Jersey in one form or another, state or federal; it is going to be the same result.

I mean New Jersey is down to a 24 day Wave 3 season, and 9 days in Wave 5. Our July and August, our Wave 4 fishing is two fish per person, it is a bycatch fishery for summer flounder fishermen. It's not a directed fishery at all. Those days are gone. We're talking that New Jersey is going to end up with not even a 35 day season if there is no Wave 6.

I would like to know what the Service plans to do in a situation where either state waters are closed, as in this motion, or whether we're in a situation where state waters remain open and the Service has to do something? Mike, I'm sorry before you speak. There are a number of guys here that are also in the same position here, and that is why a lot of people are here;



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because this is pretty darn important to the way we survive as businesses.

MR. PENTONY: Jeff, I understand your situation and I wish I could give you a clear answer. But as I tried to answer the earlier question, we haven't published a proposed rule yet; in part because we're waiting to see what measures this Board takes to address catch in the northern area. The recommendation from the Council and the Board for federal waters is to maintain status quo measures in federal waters.

But I think that was in part made, because the Council and the Board made similar recommendations in prior years contingent on the northern states addressing any required catch reduction. Now that we have the final MRIP numbers, we know what last year's catch was relative to this year's harvest limit; and the discussion today is to try to resolve what measures if any, the northern states will take through the Commission process to address that disconnect.

We are waiting to see what measures those might be, whether it's this motion or something else; before we can make a decision about what we might be able to do in federal waters, to address any shortfall or disconnect. I wish I could give you a better answer than that. But unfortunately that's all I can say.

MR. GUTMAN: Okay just last, will there be a comment period on that before you do it?

MR. PENTONY: Absolutely.

MR. GUTMAN: Thank you.

CHAIRMAN LUISI: Thank you, Jeff.

MR. HOWARD BOGAN: Howard Bogan; the vessel Jamaica, Brielle, New Jersey. I'm pretty much in the same position as Jeff and all the southern boats are. We're fishing in mostly federal waters. We need to know if Wave 6 is going to be open. We need it open. Also,

based on the uncertainty of recreational harvest, and how to measure it accurately, it seems like we go through this every year.

We have a stock that is 230 percent rebuilt. We're not even sure if we're measuring the catch properly. How can we have a hard quota system for recreational management? I don't see why that can't be a wider margin of error; because we know that these numbers aren't right. We know there is a wide variation.

Is there some way that we can have a system where we don't have to be so critical going by this hard quota system for recreational fishermen? Is there any way to do that? They used to do that years ago and now all of a sudden, was it because of law suits? What is the answer to that? Is there any way that we can have a little more leeway, margin of error? Like it was proposed, status quo, can that be done?

CHAIRMAN LUISI: I would say that it can be done. It can be a decision of the Board not to do anything in this case. But with that decision, it doesn't end. There is a federal decision that needs to be made, as Mike alluded to just a few minutes ago. That is the issue facing the Board right now.

Whether or not to take the action that is in this motion, to reduce harvest in 2017, as it related to the recreational harvest limit that is projected to be caught; or do nothing, and see what happens at the federal level. That is really where we are. It is difficult. There are no answers, as Mike said, until the Board decides on something today they're in a holding pattern.

MR. BOGAN: what can be done to change this in the future then on the federal level? If they are going to ultimately decide, what do we have to do to change that? Because this system, with the amount of fish that are out there, we're catching lots of fish, there are lots of them out

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there. We're not going to catch them on hook and line unless the stock is in great shape.

CHAIRMAN LUISI: To answer that question. I mean in order to change the format for which we manage at the federal level, we would have to have a Council initiative to make adjustments to how that's all done. There would need to be an amendment at the Council level to modify how the approach that we currently use is conducted.

MR. BOGAN: How long would that take?

CHAIRMAN LUISI: A couple years.

MR. BOGAN: I don't know what the answer is, but everybody here knows that the sea bass stocks are in great shape. We're saddled with crappy regulations for about seven years, and then they do a stock assessment and it justifies what we said. Now we're still looking at the same thing New Jersey already has. We're hardly ever open in New Jersey anymore. We used to be open all winter long.

We would go out January through March and catch sea bass. The summer used to be open, the fall, and now New Jersey is the 26th through the 18th with ten fish, two fish all summer, and then we're closed for some of the best fishing of the year inshore; and it opens up again. I mean New Jersey is certainly doing its part. The other states, they're only catching the fish because they're there. Something has to be done to change the system to be more fair.

CHAIRMAN LUISI: Thank you for your comments. I appreciate that. Okay I want to come back to the Board. Any last thoughts before we caucus? John Bullard.

MR. JOHN K. BULLARD: I supported, or the Service supported the original motion by New York to look at the issue of smoothing; because we certainly understand the frustration when you get a dramatic question mark/exclamation point kind of anomaly, or whatever you want to

call it on a data point, and the frustration that causes.

That is why we supported that motion. I understand the frustration from not just the two speakers, but all the people in the audience who are represented by those speakers, about the inability to plan. I seconded David's motion, because I thought, I mean if it didn't have a second I knew what was going to happen to the motion. But I seconded it, because this is something we have to talk about. The facts are there is one state that catches an awful lot of these fish. There are an awful lot of other states that are affected by what happens if we go over.

That is what David Borden was getting at. If you don't solve it one way, you still have to look at this, because there are an awful lot of other states whose fisheries hang in the balance here. We're constrained by rules and regulations; and so as frustrating as it may be to have this anomaly, we still have to act. What happens in 2017 if we don't constrain catch? Mike Pentony has laid out a picture that there are some worries about what may happen in 2018.

The fact is that states with very small quotas, or federal waters with small quotas, have very little influence over this. There is really only one state that can influence the outcome here; that's the state that has the largest catch. They can influence, to a large degree, how much we go over in the next year.

Again, I'm sympathetic to people who need to plan their trips months and months in advance. There are consequences for an awful lot of us around the table that have been voiced by John and others; and the Chair. I don't know what the Service is going to do in response. I don't know whether no action is the right thing to do; and if it is what we end up doing, what our response will be. We're in a tough spot here.

CHAIRMAN LUISI: Rick Bellavance.

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MR. RICK BELLAVANCE: Trying to characterize what is going to happen with this motion, and I'm not 100 percent sure it's going to do a ton. Closing in Wave 6 for one species like black sea bass that swim around with cod fish and porgies and every other thing, we're still going to catch them and we're still going to end up letting them go. At that time of year, Wave 6, the fish have moved off into deeper waters, into federal waters. I'm starting to think of the mortality of those fish that we're going to just be throwing back now.

I think it's in the best interest of preserving some kind of fishery in those months for the folks that go out. Maybe it doesn't need to be the same bag limits we have now, but they are just going to die anyway; so it doesn't make a ton of sense to me.

CHAIRMAN LUISI: With that let's go caucus for a minute, and we'll come back and call the question of the Board. We're faced with very challenging decisions. These are not easy decisions to make. Given the uncertainty that has been surrounding this, I'm going to take the liberty at this time to allow for additional thoughts before we vote on this motion; even though we caucused, I'm going to look around the table. Bob Ballou.

**MR. BALLOU: I would like to move to substitute; and the substitute motion would read; For 2017, move to impose a 5 fish possession limit for recreational black sea bass in Wave 6 in state waters, for the states of Rhode Island through New Jersey; and maintain all other management measures from 2016.** If there is a second I will speak briefly to it.

CHAIRMAN LUISI: Is there a second to that motion? Mark Alexander seconds. We have a substitute motion, which would allow for Wave 6 to remain open, with a reduction by half from what I heard. Is it about a half of the bag limit? I think Bob, maybe you would want to speak to

the motion, and I will look around the table for other thoughts.

MR. BALLOU: Sure, five fish is half of the possession limit in New York. New York has certainly been a focus of a lot of the discussion. It is a reduction for several states, including Rhode Island; and it therefore constitutes a significant reduction in Wave 6, to address the very valid concerns that have been raised around the table today.

CHAIRMAN LUISI: Other comments. Dave Pierce.

DR. PIERCE: But we really don't know what affect this will be. For example, in all those states how many trips revealed a catch of five or more fish? I don't know. Reducing it down in New York, and notably from 10 to 5; I assume it will have some effect, but I don't know how much. I suspect it won't be enough.

In addition, I'll just highlight the fact that this is for state waters only. Let's face it, November and December most of the black sea bass, I think, are in federal waters; in deeper waters, in colder waters. Any cut that occurs that is going to be really meaningful is going to have to include of course something that is done in federal waters as well. It is better than nothing, but certainly falls far short of the original motion.

CHAIRMAN LUISI: David, just to clarify. While the fish may be caught in federal waters, they'll need to be transported back through state waters; so the state waters regulations would be the limiting factor on that catch. Okay, I saw another hand or two. Adam Nowalsky.

MR. NOWALSKY: Again, I'll go back to my earlier comments. Mr. Bullard went on record in North Carolina saying, we missed the 2011 year class and as a result the recreational community, and the commercial community has paid; paid with dollars, paid with not being able to support their families to the level that

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they had, paid with their businesses, paid with their boats, paid with their docks.

I'm sure in some cases probably paid with their houses. Now we're going to sit here, after having been penalized for that for five years. We're probably going to take one of the most anomalous recreational estimates the country has probably ever seen, in the history of recreational estimates, and use that as a justification to basically eliminate the Wave 6 fishery. I am embarrassed. I don't know if I can turn around and look at the people behind me. I oppose the motion.

CHAIRMAN LUISI: Mark Alexander.

MR. ALEXANDER: Yes I supported this. We were thinking about this even before the motion was offered. Maybe one added benefit in a five-fish possession limit. I think I read somewhere in the TC report that lower bag limits reduce the probability of the real high bag intercept being expanded to crazy numbers. For this reason, and for the fact that this will result in some reduction in harvest; we're going to support this motion.

CHAIRMAN LUISI: Any other comments? All right, Tony DiLernia.

MR. DiLERNIA: Recreational success is based upon availability. The number of fish that we caught in New York while we're good, it's not that good. That number is stupid, excuse the technical term. Well, you keep saying 230 percent, 2.3 times the number of the target. As I said to Mr. Bullard in 2013, when they close the fishery because there are too many fish, yes there are too many fish and because there are so many fish people catch them.

Do they catch as many as they say we did in New York? No, we didn't. But there are a lot of fish there. Look beyond this room. Look beyond what is going on here. Just say to yourself, do you want to really begin to dismantle the Act? I mean you do something like this; you close Wave 6 because there are

too many fish. During the next reauthorization you are going to see amendments that will begin to dismantle the Act and the hard work that we've been doing. Do not do this. Thank you.

CHAIRMAN LUISI: Okay last comment, Tom Fote.

MR. FOTE: When I read the memo and basically looked at, well we should do this because you have a 10 fish bag limit. It's too much possibility of extrapolating those numbers that causes the high number that is not really valid. That's not the mistake of fisherman that is the mistake of MRIP again.

We're paying the consequences of bad data, and that is the real problem here. After 25, 27 years dealing with bad data in the reauthorization of the last Magnuson Act that said it was supposed to be corrected by 2009; and we're sitting here in 2017 with data that is even worse than it was in 2009, I said this is not the way we should be going. We shouldn't penalize fishermen, because we might extrapolate numbers wrongly in MRIP. That is a joke.

CHAIRMAN LUISI: Does the Board need time to caucus on this? Do we need maybe just a real minute, not a five-minute minute? But let's just caucus quickly. I need to speak with my commissioners. Okay we have a motion to substitute for the main motion, and that motion is for 2017 impose a 5 fish possession limit for recreational black sea bass in Wave 6 in state waters; for Rhode Island through New Jersey; and maintain all other management measures for 2017. Is the Board ready for the question?

**Okay all those states that supports the substitute motion please indicate by raising your hand. That is 9 in favor, all those opposed like sign. That is 2 opposed; abstentions, like sign. One abstention, motion carries. Okay, so we now have a main motion.** This is final action so the substitute becomes

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the main motion. We'll need a roll call vote in this case. Before we take the roll call, Adam do you have something very quick?

MR. NOWALSKY: Mr. Chairman, I would like to amend the main motion to allow for conservation equivalency. New Jersey in particular would look at simply removing our Wave 5 days entirely, to maintain the Wave 6 fishery.

CHAIRMAN LUISI: Adam, Bob is going to comment to that. I believe you have that option already; but Bob is going to comment.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes Adam, any state has the ability to use conservation equivalency; unless it is specifically not allowed within the document. Under the circumstance of New Jersey, you can demonstrate to the Technical Committee and Board there is a trade-off by closing Wave 5 days and allowing a higher bag limit in Wave 6. New Jersey has that ability.

MR. NOWALSKY: Thank you for that clarification on the record, and in that case I would withdraw the motion.

MR. GILMORE: Do all the states have that Bob, because you just said New Jersey? What about New York and the other states that are probably voting against this?

EXECUTIVE DIRECTOR BEAL: All states do. I was just referencing New Jersey, because Adam asked the question.

CHAIRMAN LUISI: Okay I'm going to read the main motion, and then I'm going to turn to, I guess it's Kirby to call the roll. The main motion is; for 2017 impose a 5 fish possession limit for the recreational black sea bass in Wave 6 in state waters; for Rhode Island through New Jersey, and maintain all other management measures for 2017, Kirby.

MR. ROOTES-MURDY: I'm going to go north to south. With sea bass we have a management unit that extends up to Maine. Maine is not present. Next is New Hampshire.

MR. DOUGLAS E. GROUT: Abstain.

MR. ROOTES-MURDY: Commonwealth of Massachusetts.

DR. PIERCE: Yes.

MR. ROOTES-MURDY: Rhode Island.

MR. BALLOU: Yes.

MR. ROOTES-MURDY: Connecticut.

MR. ALEXANDER: Yes.

MR. ROOTES-MURDY: New York.

MR. GILMORE: No.

MR. ROOTES-MURDY: New Jersey.

MR. NOWALSKY: No.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MR. ED O'BRIEN: Yes, reluctantly.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. DAVE BLAZER: Yes.

MR. ROOTES-MURDY: Commonwealth of Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. BATSAVAGE: Yes.

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MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. WHITE: Abstain.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. MILLARD: Yes.

CHAIRMAN LUISI: **Okay we have 9 in favor, 2 opposed, and 2 abstentions; Kirby is that correct?** You've got nine fingers, Kirby, I know that.

MR. ROOTES-MURDY: Nine in favor, 2 opposed and 2 abstentions is correct.

CHAIRMAN LUISI: **All right, motion carries.** That concludes our business under this agenda item. I'm going to move immediately into our new agenda item. David.

DR. PIERCE: I have another motion to make regarding black sea bass. This shouldn't take too long, Mr. Chairman. The motion has been given to Kirby, and this relates to 2018, preparation for 2018. It follows up on work that has already been done by the Board's Working Group, and it also follows up on work that has been done by the Plan Development Team; ongoing work and work that needs to be done.

**I would move to initiate an addendum for 2018 recreational black sea bass management; with options as recommended by the Working Group and Plan Development Team. Options for regional allocation shall include approaches with uniform regulations, for example number of days.**

**Another alternative to the current north/south regional delineation, which is Massachusetts through New Jersey, and Delaware through North Carolina, such as those apply for summer flounder; that is one state regions.**

That is my motion, Mr. Chairman, to provide the Board a particular with what I hope will be a way forward; subject to again the creativity of the Working Group and the Plan Development Team that has already done some good work.

CHAIRMAN LUISI: Thank you and I think it is important to understand that this work is ongoing, but this formalizes it through an addendum. Is there a second? John Clark seconds the motion; any discussion on the motion? Emerson.

MR. HASBROUCK: I'm wondering why this is needed. Don't we have the ability to go forward with regional management in 2018 without this?

MR. LUISI: Well, what I would say is, so we're starting an addendum that would consider alternative measures that we have not worked on before through these addenda that we continually address each year. Maybe Toni can offer some thought.

MS. TONI KERNS: Two things that I wanted to clarify, one the addendum that you are working off of expires at the end of this year; so you need to initiate another one. The second is just to control expectations that it is unlikely that we will give you a draft in August, but likely that we'll give you a draft in October with this information. But I expect that summer flounder will ask for the working group to get together this summer, so we will be doing this in conjunction with that same working group.

CHAIRMAN LUISI: Does that address your question, Emerson? Adam.

MR. NOWALSKY: When we've gone through the current black sea bass addenda, we've made great pains to stress that these have not been allocations. This motion specifically references regional allocations. Is that within the bounds of the FMP as it exists; given what I've heard we've done with the previous addenda? What's different about this than the

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previous addenda, where we've made great pains to state these are not allocations?

MS. KERNS: You can do allocations through addenda, it is just that it was the will of the Board to stress that they were not allocations previously. That was specifically mostly for summer flounder. In black sea bass, I think when we started doing this it was roughly 97 or 95 percent of the catch was mostly in the northern states; New Jersey north.

CHAIRMAN LUISI: Any other questions, comments regarding the motion? Seeing none; do the states need time to caucus on this? Raise your hand if you would like to have a caucus. Seeing none; let me read the motion into the record and we'll call the question for the Board. Move to initiate an addendum for 2018 recreational black sea bass management with options as recommended by the Working Group and Plan Development Team.

Options for regional allocations shall include approaches with uniform regulations, with an example of number of days and other alternatives to the current north/south regional delineation; Massachusetts through New Jersey and Delaware through North Carolina, such as those apply for summer flounder, one state region.

Is the Board ready for the question? All those in favor please indicate by raising your hand. **There are 12 in favor, all those opposed like sign, there is one opposed; any null votes, any abstentions? Seeing none; the motion carries.** Regarding black sea bass, and not regarding the Wave 1 fishery; is there anything else to come before us on this agenda item for recreational measures?

**REVIEW OF WHITE PAPER ON THE POTENTIAL  
EXPERIMENTAL RECREATIONAL WAVE 1 BLACK  
SEA BASS FISHERY**

CHAIRMAN LUISI: Thank you, I'm going to conclude that item on the agenda and move to

the next item, which is the review of the white paper on the potential experimental recreational Wave 1 black sea bass fishery; and there is a possible final action for this. This final action would be both a Board and Council action. I'm not going to provide any background, because I think Brandon, who is taking the lead on this for the Council, will offer that. Brandon.

MR. BRANDON MUFFLEY: I actually don't have a whole lot in terms of background, but I will give it in hopefully a couple sentences here. If you all remember at your February Board meeting and Council meeting, there was a motion put on the table to evaluate an experimental fishery in 2018.

That motion was tabled at the time, and brought for consideration while staff drafted a white paper to evaluate what a Wave 1 fishery may look like. It was brought back to this meeting for your consideration. I will try to be brief, and hit the highlights of the highlights of the white paper. There is a lot of detail in the white paper; in terms of analysis and sort of the caveats and assumptions that were made, in terms of the analysis and how I came to those.

I don't plan to go in any detail on those, but kind of hit those points where I think the Council and Board need to evaluate to make their decisions today; when it comes to their vote. With that said. Just to give a quick summary of what I plan to discuss. I just have a few slides, in terms of how the Wave 1 fishery has operated over the recent history.

I just want to touch upon that to kind of highlight those issues, and how it may be different from the rest of the recreational black

sea bass fishery. Then there are some projected catch options for the Board and Council to consider. I put it in air quotes kind of how you would allocate some catch to the Wave 1 fishery, and then therefore what those implications may mean for the rest of the

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recreational fishery. If you were to put an allocation in place, how you may implement the fishery going forward, and then I'll touch upon some data and biological considerations that I think need to be discussed. Then this was all talked about happening under an exempted fishing permit; so I'm going to kind of lay out some of the issues and procedures that may happen under the exempted fishing permit.

With that the first thing I want to look at and a lot of questions were raised. Well what is this sort of scope, and how many participants may participate in this Wave 1 fishery? The first evaluation was just looking at federal for-hire black sea bass permits. The other line is the total number of federal for-hire black sea bass permits that are issued each year, since 1997.

That was the first year, in terms of when that permit was required; because in 1996 was when black sea bass was added to the management plan. That is the total number of permits that are issued each year. The green line in the middle there is the total number of permits that actually report any black sea bass catch during any time of the year. On average there are about 306 permits actually report any black sea bass catch. That is about 44.5 percent of the total number of black sea bass permits actually report any catch.

Then to fine tune that even more, to look at what has actually happened during the Wave 1 fishery. It is sort of that gray line at the bottom. On average, 15 vessels actually report black sea bass catch during the Wave 1 fishery. Now it's varied from a low of 4 vessels to a high of 39 vessels in 2013; and that was the last year the sea bass fisheries was open.

Four percent of those active permits, those permits that have any black sea bass catch; actually have any catch reported during Wave 1. The universe of vessels that actually have any history of participating in the fishery is actually quite small. Then when you begin to look at the actual participation by fishermen

and by states, it is actually even smaller than that.

When you look at the proportion of catch, the majority of the catch in the Wave 1 fishery is coming out of three states. The overwhelming majority comes out of New Jersey; so 83 percent of the reported catch on VTRs is coming from New Jersey during the Wave 1 fishery, followed by New York and Virginia.

They make up 97 percent of the catch in Wave 1 is from those three states. When you look at the proportion of participation, which is the number of anglers within each state that are participating in Wave 1 on these for-hire vessels; it is a little bit more distributed. But again, those three states make up over 90 percent of the participation is actually taking place.

It is a fairly concentrated fishery, in terms of the number of vessels and number of states that are actually participating in the fishery. Just to give you a sense of what the catch has looked like over time, again back to 1996, looking at the VTR data. This is again just the Wave 1, and you see a steady increase in overall catch from 1996 to 2009. The fishery was closed, the Wave 1 fishery was closed in 2010; you see that dramatic drop off.

It was reopened in 2013, and catch essentially doubled in 2013, when that fishery reopened. The line kind of going above the catch bars is the number of trips that documented black sea bass catch during time; it obviously follows the catch trend pretty closely. But you will notice in 2012 and 2016, even though the fishery was closed, there were a fair number of trips that reported black sea bass catch during those years. Just two other notes to make, it is not reflected specifically in this graph; but I evaluated catch-per-angler during the Wave 1 fishery. The catch-per-angler at this time of the year is significantly higher than it is during the rest of the year; nearly five times higher. The catch-per-angler takes place in Wave 1, than it



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does during the rest of the fishery. You'll notice here that discards that sort of bluish color at the top of the bars that is the proportion of discards of the total catch, is actually relatively small during Wave 1.

It averages about 13 percent of the catch is actually discarded; which is quite small. The rest of the fishery during the rest of the year, 80 percent of the catch is discarded in the rest of the year. There is a high success rate and low discards during this time of the year. It does operate quite differently than the rest of the recreational fishery.

That is sort of the background in terms of the fishery itself. This is the first decision point that I see the Council and Board needing to make, in terms of are you going to allocate any sort of catch to the Wave 1 fishery, and if you do obviously any catch that occurs during Wave 1 needs to be evaluated against the recreational ACL and RHL.

Adjustments need to be made if you are going to put some portion of catch to Wave 1, adjustments need to be made to the rest of the recreational fishery; in order to constrain landings through the 2018 RHL. All of those things are under consideration here. I came up with four different options for consideration in a way that you could cap the amount of catch that you would give to the Wave 1 fishery.

I'll just kind of go through these relatively briefly, just to kind of give you the rationale behind where these different options came from, and what those implications may mean for the rest of the recreational fishery. Option 1 is an allocation of 250,000 pounds to the Wave 1 fishery. This was generated, I came up with what the 2013 catch was; that was the last year the fishery was open, and converted that into weight, assuming that the trends in interest and participation would likely continue if we reopened the fishery.

Assuming an expansion of the Wave 1 fishery compared to 2013. I increased the 2013 catch by 25 percent and came up with 250,000 pounds. If you give 250,000 pounds to Wave 1 that would require a 6.8 percent reduction to the rest of the recreational fishery. Now it gets to be quite cumbersome to try to evaluate what those implications are going to mean for the rest of the recreational fishery.

As we've talked about, we've been putting more and more constraining measures on the recreational fishery over the last five years. States have been getting more and more divergent, in terms of their measures. This was kind of taking a mish mash of data to try to evaluate what it might mean from a coastwide perspective, what it might mean for the different regions, or what it may mean for states.

I would caveat, so that if anything would be allocated to the Wave 1 fishery, sort of I would need to refine this with the Monitoring Committee and Technical Committee folks; to evaluate what those actual reductions would look like. These are here for examples. I think it's relatively in the ballpark, but something more concrete would need to be developed. But under Option 1, a 6.8 percent reduction under the coastwide measures would be about 12 days would need to be lost in Wave 3 or Wave 5. If you're looking at the southern region, which follows federal measures, you would need to lose 9 days in Wave 3 or 8 days in Wave 5. Then I came up with state-specific measures for New York and New Jersey; and I just chose them just because they make up a great proportion of the Wave 1 catch. I just used them as examples. But it would be about five days in Wave 4 for New York and 5 days in either Wave 3 or Wave 5 for New Jersey.

That is sort of the details for Option 1. The next option, Option 2, is just taking 3 percent of the 2018 RHL and moving that to the Wave 1 fishery. We're not actually reducing the RHL; we're just going to shift it over to the Wave 1 fishery, so 3 percent of the 2018 RHL is about

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110,000 pounds. Obviously 3 percent less in the RHL means a 3 percent reduction needs to happen in the rest of the recreational fishery.

You can see what a 3 percent reduction would mean, in terms of number of days under the different options. Option 3 is taking 3 percent of the 2018 RHL, and 3 percent of the 2018 commercial quota. A process similar to what the RSA program looked like a number of years ago. That would give you an allocation for the Wave 1 fishery of 215,000 pounds.

But the reductions would only need to be a 3 percent reduction, because that is where you're taking it out of the RHL, the 3 percent from the commercial sector would be an actual increase in the allocation. But I will point out, and it is pointed out in the white paper that this sort of option likely cannot occur.

We don't have an RSA program. We can't take quota from one sector and apply it to the other sector. That is now allowed within the FMP. We're putting in specifications now, setting the 2018 commercial quota. This isn't really an option that would actually be able to be implemented; but to give you a sense if you were to think about going down that road, this option was presented.

Then Option 4 is capping what I estimated the 2013 harvest to be; which is about 188,000 pounds; which would require a 5.2 percent reduction in the rest of the fishery. This is where I see would be your second decision. If you ultimately decide to give an allocation to Wave 1, how would we go about implementing this?

With the way I came up with sort of structuring this was the Council and Board would determine the number of vessels that you will allow to participate in this fishery. Then you would, depending on the number of vessels that you would allow, you would determine the number of trips that each of those vessels would be allowed; to come up with a total

number of trips allowed during the Wave 1 fishery.

Then I used, now this example here uses 2013 information only. I provide an example in the white paper that evaluates, uses data over a longer time series. But if you look at the average number of anglers on a trip during Wave 1, which was 26 anglers, their average catch was 15.5 black sea bass per trip.

You just kind of expand that out to determine the total catch under a particular number of vessels, and particular trips allowed in the fishery. I have two examples here; the top suite of numbers is to meet that target of 250,000 pounds, so that was the Option 1 on the previous slide. Then the bottom set of figures is to reach the target of about 109,000 pounds; so that was that Option 2 on the previous slide. I chose this number of vessels based off of sort of previous participation within the fishery. For example, I have 15 vessels would be allowed in the fishery. That is the average number of vessels that have participated, or at least documented catch during Wave 1. They would be allowed 20 trips per vessel for a total of 300 trips, which would meet the target of 250,000 pounds. That is the kind of way you follow it through, 39 vessels is the number of vessels that participated in 2013.

If you allowed all 39 vessels that would be eight trips per vessel, and I bumped that up to 45 vessels if participation continues to increase. If you allow 45 vessels into the fishery, they would be allowed seven trips. It is the same sort of scenario below. But I would caveat that these are just sort of projections; in terms of if the average number of anglers per trip is right, and if the average catch per angler is right.

If those variables are different and if our average weight of black sea bass that I used to make these calculations is right. If any of those variables that are used to make those projections is incorrect, obviously then the

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overall catch is going to be different from what I'm projecting here. It is just a note to caveat.

The way you can monitor the fishery under the EFP, and I'll get into some of those decision points later is there would be a mandatory call-in requirement for any vessel that is going to participate. A vessel could call in and say they are on trip 2 of 10, so assuming it would be GARFO; GARFO would be monitoring that call-in system and the number of trips being taken on an individual vessel basis on any total basis.

The fishery could be closed when 300 trips have been reached, and the vessel would be done participating in the fishery once it reached its targeted trips that it was allocated. If it was 10 trips, once that vessel reached its 10 trips it would be done in the fishery. If it fished every day from January 1st to January 10th, after that that vessel would be out of the fishery; because it took its 10 trips allowed during that fishery.

Other things that I think you need to consider, in terms of how we go about doing this. This would all be implemented, for-hire vessels would be required to submit e-VTRs that is part of the Mid-Atlantic Council has moved forward with an EVR framework that requires all federally permitted for-hire vessels to submit electronic vessel reports; that is likely to be finalized this year for implementation in 2018.

We would use this e-VTR process. However that information on VTRs is all self-reported, so there is a strong need to validate that information. It is probably even more critical that we validate this information under this sort of scenario; where we're allocating fish to this fishery that has implications for the rest of the recreational fishery.

Understanding and getting good data from those e-VTRs and validating what the information is that is coming out of those VTRs is really critical. There is going to be a need for some sort of dockside or at-sea observer program on some sort of subsample of these

trips; in order to validate the information that's coming across on these e-VTRs.

But going this route also provides an opportunity to collect really important and needed biological and fishery information. We have the ability under this system to collect total weight information and individual length and weight information, so we can get length and weight frequency information that we don't have on the Wave 1 fishery, or at this time of the year when the fish are offshore. There are some implications that we could use data that would be collected under this system that may be helpful for stock assessments, and for future management action. The Council and Board motion that was discussed in February did have a zero discard policy. I think it is something that we need to consider.

I don't think zero discards is likely going to be feasible. In the document I talk about the catch-per-trip. It is really high in Wave 1, and in 2013, more than half of the trips the average catch-per-angler was greater than 15 fish. There are going to be a lot of trips where anglers are catching way more than 15 fish.

If they have to keep all of those fish under a zero discard policy and a 15-fish bag limit; discards are going to happen. There is no way of getting around discards. With the high availability right now of black sea bass, and like I said in these higher catch rates, discards are likely still going to happen.

I also think there is the potential for high grading if the captain settles on a site where those first sea bass that come up are small; and they ask that captain to move, and they move to another site where the sea bass are larger and what folks want to take home. I think there is the opportunity for particularly again, where you have to keep all those fish; there is going to be a potential to high grade and dump those fish that are smaller.

Under that zero discard policy I think there are enforceability issues; particularly if there isn't

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any at-sea observer program taking place to monitor whether or not this zero discard policy is actually being effective and enforced. There may be other options that you may want to consider; such as the implementation or use of descending devices.

There is a lot of movement in terms of evaluating how successful those are on black sea bass, particularly at this time of the year where the fish are offshore in the deeper water. We're implementing a minimum hook size to kind of ensure that you're not catching those smaller black sea bass.

Then lastly, some items to consider under the exempted fishing permit. This is sort of, at least in my discussions with GARFO, since this was discussed in February. This is going to be a unique situation for an implementation of an exempted fishing permit. How do we go about implementing this, as there are a little bit of some question marks going forward?

But what I would see as some likely requirements of vessels that would participate, again sort of this submission of e-VTRs 48 hours after a directed trip is completed. That is part of the Council's e-VTR Framework. That will be a requirement, so 48 hours after a trip is completed they are going to have to submit a VTR. Again, this call-in requirement prior to a directed trip, I think is important.

I think we can add some additional conditions and reporting requirements for those vessels that do participate; either allow for at-sea or dockside observers to monitor and sample the catch that is taking place, and requiring the captains to collect additional information such as individual length and weight information on these fish. We're going to need weight information to begin with so that we know. Right now VTRs, all you are required to submit is total numbers of fish.

Well, we need to know what the weight of those fish are; so we can calculate what the

implications are for the rest of the fishery. Weight information is really needed, and then any vessel that is interested in participating in the Wave 1 fishery would need to apply to be considered. But in developing the EFP, part of the application requires that purpose and goals and justification of the fishery be provided.

We haven't really talked about what the goals and what the justification is for this Wave 1 fishery. I provided some examples of what some information we could collect out of, and how that may be useful. But I think the Council and Board need to come up with a strong rationale, in terms of why GARFO needs to consider issuing an EFP for this situation.

I think how we handle applicants; traditionally an EFP is issued to a state agency. They are conducting the research or they're having people conduct the research for them, or we're getting it to a university; and they're conducting the research. I know this is a little bit different when we're opening up a fishery, so who is the actual applicant for the exempted fishing permit?

Is it the Council? Is it each vessel that is interested is going to apply, and each individual vessel gets an exempted fishing permit? There are some of those nuances that need to be considered. If there is really high interest in the fishery and if the Council and Board decide to only allocate 15 vessels be allowed to participate in the fishery, but we get 50 vessels are interested. How do you make those decisions; in terms of who should actually participate?

Are there other reporting requirements that would need to be considered that we may want to put into this EFP? If it is decided to go down this road, I think after this meeting I would probably like to form a group of technical folks, and maybe even some Council and Board members to sort of flesh out the details of the EFP; and with GARFO, and figure out the best

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way to move forward and implement this. I think that is all I have.

CHAIRMAN LUISI: Any questions for Brandon?  
John Clark.

MR. CLARK: Thank you, Brandon that's interesting. What is the impetus from this? Where is this coming from? What information could you get from this fishery that you're not getting from other times of the year with black sea bass?

MR. MUFFLEY: Well I think the impetus was at the February meeting we got information about the positive status of the stock that there is high biomass, fishing mortality is low. This was an important fishery over time; so there was some interest in reopening the fishery, just to give fishermen access to a fishery that they used to have and they no longer do.

As I said, it depends on what we put in the EFP is I think the important information that we can get out of it. I mean we're already getting VTR information now, but I think additional biological information needs to be collected under this program that we're not collecting under VTRs; such as individual lengths and weights and some other biological information, to give us a sense of what the size distribution of the fishery is and what they are fishing on during this time of the year. Those are some of the biological benefits of data collection we could get under this.

CHAIRMAN LUISI: Okay any other questions for Brandon? ***Okay seeing none; why don't we put up the tabled motion for this meeting and I'll just offer some thoughts while that is going up.*** We certainly need to work off of the motion that was tabled for this meeting. But in preparation for this and having listened to the number of questions that Brandon has regarding moving forward, if we do decide to move forward here. I think we need to make a decision today as a joint body.

The first decision is whether or not we do this or not. If we decide we want to pursue this, we need to select that allocation that would be given to Wave 1, based on the options that Brandon presented. A lot of these questions that are being asked for guidance from us tonight, it can't happen tonight. It is six o'clock already, these are big decisions that we need to make. I don't want to force it and have those decisions be made quickly.

I would rather have the opportunity to think about it and have all of you think about it, and spend some time developing this. In handling the tabled motion, this is something we need to discuss. I guess I read the motion into the record and go from there. This was an approved Council and Board motion. Tony DiLernia made the motion by the Council, and it was seconded by Howard King.

**The Board made the motion, Steve Heins, and it was seconded by Eric Reid. We do have a motion for discussion; and that motion is to move to allow an experimental 2018 January/February Wave 1 recreational federally permitted for-hire fishery for black sea bass, with a 15-fish per person possession limit, a suspended minimum size limit, and a zero discard policy; to allow for barotrauma and a mandatory trip reporting requirement;** discussion on the motion. Tony DiLernia.

MR. DiLERNIA: While I have the floor, I understand it's a late hour but there are a number of issues I must discuss. First of all when I originally intended to offer this as an action at the February meeting, I had discussions with some of our federal representatives. It appeared that the only way to do this at the time was as an experimental fishery.

Well, the only way we could do an experimental fishery was for federally permitted vessels. My original intent was to have this motion apply to all recreational vessels; not just federally permitted vessels, which means for-hire vessels. I was disappointed that I wasn't going to be

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able to do that and so I proceeded with the motion that discussed an experimental fishery; which would eventually result in federally permitted vessels getting an experimental fisheries permit.

But as I discussed this with fellow council members, there appeared to be a number of recreational anglers, private recreational anglers in different states that felt that it was perhaps a resource grab, which it wasn't. That I was being unfair to them, recreational fishermen in states, private recreational fishermen; and that they had also participated in the fishery traditionally, and they wanted to be able to have the opportunity to participate again.

I went back and I thought about it and I said well, let's try to do it for 2018 as an experimental fishery with just federally permitted vessels, and then if things work out and if things are developing the way we like, as we develop regulations for 2019, we could open it up to everyone.

That was the premise that I was operating under. Brandon did a very good job, and the staff has gone a very good job of developing a white paper based on some of my thoughts and some of my recommendations. But it has come to my attention that there is another way that we could do this. It seems that any vessel, be it a federally permitted vessel or a private recreational vessel, can obtain from GARFO a letter of authorization that permits them to participate in the fishery. Well gee whiz. That is exactly what I would like to do. I don't want to restrict it to just for-hire vessels.

I would like to have it opened up to all recreational vessels. Let the recreational vessel apply for a letter of authorization, now with that is going to come requirements; a mandatory reporting requirement. Just think, we're going to have private recreational vessels mandatory reporting. Not a two week recall period versus MRIP, but rather writing down,

reporting exactly what they caught within 48 hours of their catch.

I think that information will be a big more accurate than some of the MRIP numbers that we've been getting. The zero discard policy, I would still encourage to go that route; because I believe the barotrauma that exists by having a minimum fish size in this fishery in the deep water, results in a tremendous waste of fish that are discarded.

You throw a short fish over the side, it has already been inflated; a dogfish will eat it. On a descending device, well you're just sending it down to the dogfish a little bit slower so he can get to it. The descending device is not going to work. You need to have a zero discard policy. Will there be some high grading? Yes. Let's face it. We have to admit reality.

There will be some high grading. But will it also affect the way people fish, the zero discard policy? Yes it will, because rather than spreading two anchors out over a couple thousand feet of rope. Sometimes it takes 45 minutes to set a set of anchors in really nasty weather. You're going to do a drift on the wreck first.

Once you do that drift and you take a peek at what is going on there. If you see a lot of small fish coming up off that wreck, you're going to move to the next wreck. It is going to affect angler behavior; it is going to affect captain's behavior, as far as observers are concerned. Some of my colleagues have suggested that we need to have some observers onboard.

Well, it is very simple. On a for-hire vessel anyone can go in plain clothes, pay their fare, fish and observe what is going on the vessel. That's the only sector that we can do this in. You can't do it on a commercial vessel, you can't do it on a private recreational vessel; but a for-hire vessel, any law enforcement agent can go on a vessel, pay their fare, and observe what is going on.

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Now that is for purposes of law enforcement. If you want to have observer coverage a little bit differently, take some of the MRIP samplers; put them on the boats. Let them watch what is going on. You can collect data. You can collect data using the letter of authorization. We can include the entire universe of recreational fishermen.

I believe this is something that we should be considering. Now you're going to say to me well, why should we consider this? We just reduced Wave 6 down to 5 fish; and now you're walking in here with saying Wave 1, 15 fish. Yes I understand that. But what we're trying to do is to restore fishing opportunity to the recreational community. There is a tradeoff here of four or five days. In New York if you did this with some of the poundage that you assigned to the fishery, New York and New Jersey have to give up four or five days each. Just think New York would give up five days fishing opportunity in exchange for 60 days of recreational opportunity during the months of January and February. Not just for for-hire vessels, for anyone. Recreational fishermen want to have the opportunity to go fishing.

I'll trade you five days during the summer, when there's a time that you can fish for other species in exchange for 60 opportunity days during the winter months; when there is not much left to fish for. This fishery was developed once we lost the codfish. Southern New England vessels, once we lost the codfish in the late eighties, early nineties, we developed this fishery offshore. For all those reasons, I believe that this is an action that we should take.

Now, my motion speaks to a recreational federally permitted fishery. I'm not sure how you want to go about doing this, Mr. Chairman, but I believe that we can initiate at this meeting a framework to create this 2018, January/February recreational fishery; with the

vessels that are participating obtaining a letter of authorization.

Now my final comments let me just say this. I want to thank the Agency, for being helpful and making some recommendations. I want to thank the staff for working on this paper. I want to thank Adam for working with me, and very hard in trying to make this happen for all recreational fishermen. I'm not sure how you want to proceed, Mr. Chairman, but I believe this is an action that we should be taking; and probably the best way to go about it would be to initiate a framework for 2018.

CHAIRMAN LUISI: Obviously you're changing the approach that was tabled to this meeting. There are a couple things. By going down the path of a framework that would mean the Board would take action to initiate an addendum as well; so like action by the Board to meet and discuss. The process of that would take six months, perhaps.

The second point, the work that Brandon did on the white paper was directed based on this motion. None of the analyses that we just had reported would apply, because now this could be thousands of thousands of recreational anglers versus a few charterboats. I just want to make that clear; that I don't think we can use all of the analyses that Brandon put in his white paper and apply it to how this would change as a result of your suggestion.

Now, in order to handle this motion, what we need to do to change it is to substitute for it. I think there are too many changes. We're not amending it by a word or two; this is a whole new entirely different path forward. I would offer that to you as the path that we need to take. We need a substitute for your previous motion, and the motion by the Board that we were discussing today; and consider that as a joint body.

MR. DiLERNIA: Yes, I agree with everything that you've said. Quite frankly that is why I initiated

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this action in February of '17, for January of '18. I know how long it takes us to do things. I mean I want to be able to get people the opportunity to plan. We're going to have time. We're going to have months to develop this framework, and to go forward with that.

Yes, I understand that the numbers that Brandon worked up in the white paper regarding the amount of fish to be allocated to Wave 1 was based on the VTRs. Now I'm expanding it to the universe of all recreational vessels. That number is going to have to change. But we don't know what that number may or may not be. That quite frankly is a number that we're going to have to figure out and decide upon based on how it effects. Quite frankly, each individual state is going to have to look at it and say, how does it affect the anglers in my particular state? What are the benefits and the cost of those benefits to my particular state?

You won't know that until you initiate the framework. We need to initiate the framework in order to keep this moving and keep it rolling along. After we initiate the framework, after we're done and people look at the numbers they'll say, no we just can't do this. If that is the case well, then they'll have to accept that vote.

But I'm convinced that if we start to do the work of the framework and we start to look at the numbers; and we consider this as something that eventually we will view favorably. I have, if you want me to withdraw my original motion and make another motion, or if you would like me to make a substitute motion; whatever is the pleasure of the Chair, I would be happy to follow.

CHAIRMAN LUISI: John or Mike.

MR. BULLARD: As Tony says he and Adam have spent some time talking to the Service about this. While it is a new approach, it doesn't necessarily mean it is a more complicated approach; it's just different. Like the EFP letter

of authorization is also controllable, and Brandon's paper, which is a good analysis, raised some questions.

One of the questions is what is the scientific purpose? Well, you need that in an EFP; you don't need that in a letter of authorization. Another question is who is the applicant? Well you need that in an EFP; you don't need that in a letter of authorization approach. There are some things that if you go down the road of a letter of authorization, all of a sudden some of these questions don't have to be answered.

I think that some of the analysis that Brandon's done is still good in this approach, in terms of while you might not know how many people would participate; you still have the ability to, once you do know how many LOAs are out there. You can determine or shut the season down once you hit it; because these people would be reporting every week.

You've got pretty fine tuning, in terms of controlling it. I think if we initiated this now, we've got time to put this together. If the Board and the Council want to go down this route, I think we may be able to do it. We certainly want to work with you, if it's the will of the Board and the Council.

CHAIRMAN LUISI: All right, so in order to move this along. Obviously the motion in front of us is not what you were intending. I would look to you, Tony to make a motion; and that motion would be in the form of a move to initiate a framework/addendum, so that actions are being taken by both the Council and the Board simultaneously to allow a Wave 1 fishery. Okay, if you have something.

MR. DiLERNIA: If I may read.

CHAIRMAN LUISI: Sure.

MR. DiLERNIA: I withdraw my original motion and I'm not sure parliamentary, Mr. King, can't we do that? No. Parliamentary, whatever, I



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have a new motion. Do you want the motion? I move to withdraw my original motion. All right, I move to substitute for my original motion. **My substitute motion is to initiate a framework/addendum action.**

For the council I'll make it to initiate a framework. Someone will have to make an addendum motion for the Board. **I move to initiate a framework to create a 2018 January/February black sea bass recreational fishery, with the vessels participating in the fishery being required to obtain a letter of authorization from GARFO. The fishery would establish a 15-fish per person possession limit.**

I would suspend the minimum size limit. **I would again establish a zero discard policy and require a call-in and call-out process, and require mandatory trip reporting; and for the fishery to close once the quota is met.** Whatever quota, we'll have to decide what that quota is at a future meeting. That is my substitute motion. I'm not sure if you got it all up there. That's good.

CHAIRMAN LUISI: Okay, so you're making that motion on behalf of the Council. The motion is made, do we have a second from a member of the Mid-Atlantic Council for this; Adam Nowalsky seconds the motion? Let me look to the Board, we're going to need like action by the Board; Jim Gilmore. Jim, would you add addendum next to framework here.

MR. GILMORE: **Yes, just exchange the word framework with addendum and everything else should be the same.**

CHAIRMAN LUISI: Let's just get it right here, so Jim has made the motion on behalf of the Board. I'll look for a second on behalf of the Board; Rob O'Reilly, discussion of the motion, Adam.

MR. NOWALSKY: Again, I appreciate Tony's efforts in getting this off the ground. I appreciate the Service's efforts in being willing

to work with both of us to provide us a path forward. We could use such a powerful phrase, and then put it in the power of ourselves here to work out the details.

But giving us a path forward is tremendous cooperation; and it's much appreciated here on all levels. Again, I'll certainly leave it to leadership to determine that the addendum is needed at the Commission level. I think it's just a function of the states opening their fisheries, perhaps. There might be some more conversation about that.

I'm not familiar enough with that LOA process to know that the Commission needs to take the complementary action. Obviously if it is, great we'll go through that process. With regards to the measures that are in here, I would suggest that these are measures that we use as a baseline when we start the framework process; and that we could have discussion about them during that framework process, to decide if they are in fact correct and whatever further analysis is done.

In talking with a lot of Council members prior to this meeting, there were a number of concerns about the EFP process; I think John did a great job of itemizing a lot of them. I think this addresses a lot of those concerns, gives us away forward, and also gives us the time through that framework process to make sure that we have any other information we need. I thank Council members, Commission members today for supporting this issue.

CHAIRMAN LUISI: Peter deFur.

MR. PETER deFUR: Thank you, Mr. Chairman. I think this question is mostly for Chris, in terms of where such an effort would fall in our annual work plan. I know that there is always a black sea bass effort in our work plan every year. But where does this fit in terms of completing the already overburdened efforts of staff?

EXECUTIVE DIRECTOR DR. CHRISTOPHER M. MOORE: That's an excellent question, Peter. I

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have no idea. Just sitting here listening to the conversation, we walked into the meeting talking about EFPs. Now we're talking about LOAs. I'm not even sure how the LOA process would work in this particular circumstance. I would have to have some conversations with GARFO.

But in terms of our workload, we would have to have two framework meetings back to back. We would have to make sure that those framework meetings occurred in time to allow for us to effect a change for January 1. That would mean June, right and August. I don't know if we could do August and October. We already have an agenda out for the June Council meeting, certainly this wasn't contemplated for June. I'm not sure how we could get it done.

CHAIRMAN LUISI: Rob O'Reilly.

MR. O'REILLY: I wanted to say that I support this motion. It's entirely different than what we had tabled, so it changes a lot of things; as far as my perception goes. I do think that Tony's indication that once we get sort of a straw man idea of what the states are planning; that it could be that it's overwhelming. I don't know that.

But I think it's worth trying. I had this motion back in 2013, and then a year later because of circumstances, RSA, things of that nature, it wasn't perceived very well. I think it is overdue to take a look at this. I am aware, as everyone else is around the table that we have to watch 2017 pretty carefully, and hope the action today helps out. We'll be watching that and we know that this fishery is very important to many.

CHAIRMAN LUISI: Dewey Hemilright.

MR. HEMILRIGHT: This could be real interesting with a letter of authorization, if you're not going to cap how many letters you're going to give out to everybody. Are you going to give 50,000 or whatever? It is kind of changing thinking

here what's going on with the amendment that was passed before; because I was thinking more of an exempted fishing permit with a limited number of vessels that you could get some biological sampling on.

With zero discards you could have high grading that you're not going to be able to control in any way, shape or form. I'm for people going fishing, but this is going to be real interesting. You know you're not putting – are you going to limit to 10,000 people or what is the amount of poundage here before we're going on? You need to put poundage of what is it going to be, when is this going to come up? Because I just see exempted fishing permit or what it started out to be; and this is totally different. But it will still be interesting for me to sit back and watch how this folds out; and who you're going to deny a permit to, or is everybody going to fill out a letter of authorization? This could be some hacked off folks, because they didn't get their letter to go fishing. With exempted fishing permit, you would have more control over your vessels.

Not only that with the headboats, you would put a percentage of 10 or 15 percent observers on there to get the data that you need, and you would have some that wouldn't have observers, some would. You would be able to see it a lot different. But it's interesting, but it's just where your limits are going to be was better with your exempted fishing permit, what it started out to be, and this I see it just kind of you are going to have to limit somebody; unless you're going to just put out 10,000 letters of authorization and everybody go fishing.

CHAIRMAN LUISI: I think to your first question about allocation. That would obviously be a part of the framework and the addendum. But to your second question I might turn to GARFO; if you have any response or not about the letter of authorization and how that process would work, if you guys want to address anything Dewey asked, or we would wait to see how this just flushes out.

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MR. PENTONY: Yes, I think Dewey hit on some important questions that I think would be fleshed out during the development of this framework adjustment. It's probably premature to try to answer all of them now; but dealing with the rough concept with the letter of authorization that we have in other fisheries, just as examples.

We have had letters of authorization that we issue for a seven-day period, and impose as conditions to fish under that letter of authorization; which exempt you from what the regulations would otherwise be, certain conditions for reporting, so a call-in prior to the trip, call-out after the trip with reporting through IVR.

We would only issue new LOAs for another seven day period; if the quota hadn't yet been reached. The idea is if we're getting that trip-by-trip reporting, and we're issuing LOAs that expire after seven days, then it is easier at least conceptually it is easier to contemplate that when we get sufficient data indicating that the quota has been reached. We simply stop issuing LOAs at that point; in order to preserve whatever allocation is established by the Council.

CHAIRMAN LUISI: John.

MR. BULLARD: I think, I mean this is going to be how this is worked out. But I think both are privileges. I think it's important to establish that up front that no one has a right to an LOA, any more than anyone has a right to an exempted fishing permit; and that to use Dewey's technical term, people may be hacked off, whether they don't get an LOA or whether they were excluded from an exempted fishing permit. In either case they might get hacked off.

EXECUTIVE DIRECTOR MOORE: Since you guys are in the mode of answering questions, I've got one for you. When I was addressing Peter's

question earlier, I talked about timing. Am I correct that the second framework meeting, if in fact we move forward with this, would have to occur by August; in order to get a change made by January 1 of 2018?

MR. PENTONY: I think that's correct, Chris. I'm don't know exactly when in October your meeting is, but yes I would imagine that if your second framework meeting isn't until October; expecting completion of the document, submission of the document proposed in final rule making by January 1st is not a realistic expectation.

EXECUTIVE DIRECTOR MOORE: I thought you would say that. Having the expectation that we would have the first framework meeting in June is probably not something that we could do. I can't imagine that we could turn around coming out of this meeting and put together a framework package for consideration of the June meeting; and actually have the Council consider it. That is a problem. We would have to think of some alternative that would involve, I don't know, something else.

But we certainly at this point do not have room on the June agenda, nor do we have time in terms of staff time to put together a package for the Council to consider. The first framework meeting, if again we decided to move forward with this. The first framework meeting would be August. That would be August, October, we would miss our January 1 start date. That would be a problem.

CHAIRMAN LUISI: All right thanks, Chris. I have a couple more commissioners and board members who want to speak. I'm going to try to limit this debate to the next ten minutes; because we still have a lot of things we need to cover tonight, and it's getting late. Right now I have David Borden and then David Pierce.

MR. BORDEN: I'll be brief. Although I applaud the advocates for this, I have some reservations and one of them I won't repeat what Chris just

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said. I think it's almost an impossible timeframe. If we had the details of the proposal before us, I think it would be realistic to expect that we could work through all the issues; but we don't have the details.

I for one want to know the details; particularly if it's going to have implications for other recreational fisheries. The other major concern I have about it is the Commission and the Council have vast work tasks on scup, sea bass and fluke. I need to know how this meshes with all of those other tasks. There is just a lot of uncertainty there.

The final point, when Brandon gave his excellent presentation he qualified it basically by saying that there were 39 vessels that had a history of participation. But in reality there are 300 potential party charter boats, and Brandon, correct me if I misstate the facts; that could potentially apply. Then we're going to open it up to all the recreational fishermen. At least my history with this process, I've never known NOAA to be willing to issue an unlimited number of LOAs.

DR. PIERCE: Got to love the optimism. Administratively difficult to do, tremendous monitoring challenges to overcome, timing problems, no real objectives for it; except to provide opportunities for fishing in Wave 1. There is no experiment behind this. There is nothing really behind this except to go fishing. As noted in that very well done presentation by Brandon, high availability, and high discards, they will be high grading.

We'll all have to reduce our recreational harvest within our individual states to account for what might be caught during the wintertime, January and February. Then of course there is the assumption, I think that the 2018 recreational harvest limit is still going to be significant or meaningful; and I don't think it will be. This is nothing I can support. This is a waste of time, and it diverts attention away from ASMFC staff and Council staff to do very important work on

other aspects of managing the black sea bass, fluke, to name just a few.

CHAIRMAN LUISI: Roy Miller.

MR. ROY W. MILLER: I'll be brief. I believe I'm the only one to raise this particular point, and my concern, which may be a function of my age; I don't know. I'm concerned, by opening this up to all vessels as opposed to just for-hire vessels from the original proposal, I'm concerned about safety considerations for those who might apply for these particular permits. We're almost creating a derby type fishery; very attractive to the average angler with a 20 foot boat, and those people have no business being that far offshore in January and February; so I just throw that concern out there for what it's worth.

CHAIRMAN LUISI: Last word, Tony.

MR. DiLERNIA: A waste of time, gee whiz. You know we wouldn't be in this position if 20 years or so ago when we said we want data collection for this fishery. Folks in the agency, not the present representation, but previously in the agency said, oh no this fishery is so small. We don't have to sample it. We don't have to do any work to document this fishery.

We don't want to do any work. Okay, so then we didn't do any work; and what happened? A lot of people that worked 62 months a year got put out of work, because government didn't want to do its work. Now we're saying, oh my goodness this is going to be more work for us. Yes it is. It is going to be more work for us so that other people can go to work.

We have to do this. On top of that think of the policy changes that you're initiating. You're getting recreational fishermen to go to the federal government and say, I want a letter of authorization to fish, and I agree to the mandatory reporting requirements that you're attaching to this. Think about where we've come; from people opposing a recreational fishing license, to the point now where people

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are saying, I'll sign up for this. Let me report what I catch.

That is light years away from where we were; and yet we're afraid to do it. Are we afraid to do anything different? Are we afraid to do anything new? Anything different and new is going to take work. Albert Einstein once said, "The definition of insanity is doing the same thing over and over and over again, and expecting a different result."

If we don't do something, if we don't change it, we're going to be doing the same thing over and over again; and the results are going to be the same. Pass this motion. Let's get this work done. If we have to start in February, because the agency can't start it in time for 2018, January 1st, well that may be what we have to do; but pass the motion. Let's get it done, and let's get the work done so that when we look at it in '19, we're not sitting around in '18 saying oh, we can't do it in '19; we have too many things to do. Pass the motion.

CHAIRMAN LUISI: Are there any members of the audience who would like to voice an opinion on this? Jeff. If I could ask you again to just keep it as short as you can, in support or in opposition.

MR. GUTMAN: Well I certainly echo the comments that Tony DiLernia made. I mean this has really gone down a real slippery slope here. I mean you are talking that you don't have time to do what people are being paid to do. I mean I can't even go to work the way this is. This is at the end of the day, everyone is tired, and nobody wants to do anything.

But for God's sakes, an hour ago everybody around here just approved a motion that in essence threw New Jersey under the bus; with no idea, nobody knows what the effect of a five-fish bag limit is going to be, if it is going to have any conservation effect or a limited conservation effect, or if we're going to preserve the RHL for 2018.

Nobody knows that; but you guys were quick to do that and undercut, basically you've eviscerated the fishery in New Jersey now in November and December. Now we've got to work with that. Now you're too lazy to go do anything here, it sounds like. This is just so people can go fishing. Isn't that what this is about? I mean to allow a sustainable fishery to exist and to manage it? I mean if we're not going to manage it then what is everyone doing here?

I mean we take out recreational fishermen in the wintertime. This is not somebody going out for fun. While it may help me from a business standpoint, these are recreational anglers that some of whom own private boats, and go on our boats because it is safer. Yes, there are a lot of anglers from North Carolina to Maine, or wherever they may be from, who come and fish on a handful of boats in the wintertime; because there are only a handful of boats that go do this.

But these are still taking recreational fishermen out, and these fishermen shouldn't be disenfranchised. They are no less important than the fishermen in July or August. To say that ah, we don't want to do it. We can't get around to it. Find a way. I mean this is ridiculous. Just so you know some of the numbers that Brandon threw out earlier are someone biased.

In 2012, Wave 6 was closed. Those wrecks stood there just accumulating fish, and then we were blessed with nice weather and the chance to go fishing in Wave 1, and that is why you saw such a high catch in Wave 1. Wave 1 there was a lot of fish around and we happened to have nice weather.

The reason there was a lot of fish around is because there was a low commercial quota at the time, and there was no fishing on those wrecks in November and December of that particular year. Lastly, with the LOAs, I don't

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think too many private boats are going to use LOAs. They're not going to go through the time and effort to do that; and to fulfill the requirements.

To tell you the truth, most of them, certainly most of them from probably Maryland up or maybe even Virginia. A lot of places, marinas, tell their private boaters they have to be out of the water by November 1st, certainly up our way they do. A lot of those people aren't even in the water. It is not like you have 10,000, 50,000 permits; as Dewey may have alluded to.

You're not going to have that because those boats are not going to be in the water, because their marinas don't even let them be in the water. I don't think you're going to have this tremendous effort; and I think that some people are going to fish on headboats, and some people are not. But we are taking recreational anglers out. They are deserving of going fishing at a time where historically they were allowed to fish, at a time that they look forward to; and used to look forward to all year. They would forego other fishing opportunities so that they could go at this time, and we should let them have it again.

CHAIRMAN LUISI: One more speaker.

MR. HOWARD BOGAN: Yes, Howard Bogan; I want to pretty much just echo what Jeff said. I've been doing offshore trips since the early eighties. We rarely see recreational vessels out there in January and February. This numbers of 10,000, 50,000 people looking for letters of authorization is a joke. Even in '13 when they opened it up, and it was great weather and great fishing, we still hardly saw any recreational vessels out there. This is not going to be some massive fishery that you're talking about. We do carry recreational people that like going out that time of year, and we should be able to fish then. It's not going to be a very big quota.

CHAIRMAN LUISI: Okay back to the Board. We need to dispense of this motion and take this action. I was just reminded that the garage closes at seven o'clock, so if anyone is planning to leave tonight. We have to just take action here. We're going to take a break. This Board and Council is going to decide right now whether or not to move forward with this action, and then we're going to take a short break; so those of us that have cars in the garage can move them. With that said, does the Board need to caucus on this? Do we need a one minute caucus? Doug.

MR. GROUT: Just a very quick question to help us on this. This motion is specific to 2018. Does that mean that we would have to go back and initiate another framework and addendum if we wanted to do this in '19 and '20 and beyond, or is the intent of this motion to initiate a framework and addendum to do this in January and February from now and in future years?

CHAIRMAN LUISI: The intent would be to have this done by January 1st. Whether or not that continues for future years could be something that is in the addendum. That is how I would interpret it.

MR. GROUT: It says allow a 2018, January/February black sea. It doesn't say. I would suggest that if the intent is that they want to get it in by '18, but they want the ability within the addendum to have it continue on; that it just say allow a January/February black sea bass recreational fishery.

CHAIRMAN LUISI: Let me look to the maker of the motion on that. Tony, so Doug was suggesting that instead of identifying this as 2018, you strike 2018 from this so that it would continue into the future and not just be for one year.

MR. DiLERNIA: I would be happy with that; as long as we don't lose the urgency of having this completed for 2018. I'm afraid if by removing that 2018 date, the urgency to have it done falls

by the wayside; as long as we have an understanding or to allow 2018/19, and beyond. What was the space guy who did that? To allow a 2018/19 and beyond, there you go, and I'm good with that. But I want the urgency in place for 2018.

CHAIRMAN LUISI: All right is everyone else that has a motion for this; are you okay with making that amendment? Well, one minute caucus. Then we're going to call the question. I'm going to read the motion into the record, and then we're going to ask the Board and Council for their vote. **Move to substitute to initiate a framework/addendum to allow a 2018 and beyond January/February black sea bass recreational fishery, with the vessel participating being required to obtain a letter of authorization from GARFO; also a 15-person possession limit, no minimum size, zero discard policy and require a call-in and call-out process and mandatory trip reporting. The fishery closes when the quota is met. Is the Board ready for the question? All those in favor of the substitute motion for the Board, please raise your hand; it is 10 in favor. All those opposed same sign, it is 3 opposed, any null votes, any abstentions, okay that is 0, 0.**

**For the Council, is the Council ready for the question? All those in favor of the motion, please indicate by raising your hand; that is 13 in favor. All those opposed; that is 2 opposed, any abstentions, okay seeing none, motion passes. We now have a substitute motion that is the main motion.** Do we need any additional time to caucus? I hope not, because I need to run across the street very quickly in about 30 seconds.

With that said, I'm not going to read the motion back into the record. **The substitute motion is now the main motion. We're going to take the Board vote first. All those in favor by the Board of the main motion, please indicate by raising your hand, 10 in favor, all those opposed; that is 2 opposed, any null votes, none, any abstentions, no abstentions.**

**For the Council, all those in favor of the main motion, please indicate by raising your hand; that is 13 in favor, all those opposed, 2 opposed, any abstentions? Okay, motion carries.** That concludes our business under this agenda item; let's take a ten minute break, and we'll come back and take up our last two issues. This is the last issue that the Council needs to weigh in on, so if Council members want to leave they are welcome to. Thank you, I'll be back in ten minutes.

(Whereupon a recess was taken.)

CHAIRMAN LUISI: I do apologize to all of you for not holding up my end of the bargain here; to keep us on track. I knew we weren't going to stay on track, I just was being optimistic. I am sorry that we are running so far over. We did discuss how many things were on this agenda, and realized that this may be the case.

But we only have two more issues to discuss tonight.

#### **REVIEW STATE COMPLIANCE WITH ADDENDUM XXVIII SUMMER FLOUNDER RECREATIONAL MEASURES**

CHAIRMAN LUISI: We're going to move to Item Number 8 on the agenda, which is to Review State Compliance with Addendum XXVIII Summer Flounder Recreational Measures. Kirby is going to give us a presentation, and there might be action that will come after Kirby's presentation, so Kirby when you're ready.

MR. ROOTES-MURDY: It is a pretty short presentation. First is background. The Board approved Addendum XXVIII in February of 2017. The addendum specified that states needed to notify the Commission of the measures they were going to implement by March 1st. The Board met via conference call on March 30th to review proposals from Massachusetts and Rhode Island for alternative measures for 2017 that differed from those that were spelled out

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in the Addendum XXVIII. Those proposals were not approved.

Moving forward, nearly all the states have both indicated their 2017 measures for summer flounder recreational fishery in 2017, and implemented them. New Jersey has not implemented measures. The next slide here shows what the approved measures were for 2017, as per the Option 5 that the Board selected. Then next we have the implemented measures for 2017 so far, the days in terms of the start and dates differ a little bit from previous years. But as you can note here, New Jersey has not implemented those measures yet. For the Board's consideration today, taking action for states/regions that have not implemented the provisions of Addendum XXVIII; and I'll take any questions now.

CHAIRMAN LUISI: Any questions for Kirby regarding his presentation? David Pierce.

DR. PIERCE: Just to make sure I've got this, Kirby. What states have not yet implemented their rules for 2017?

MR. ROOTES-MURDY: New Jersey.

DR. PIERCE: New York has?

MR. ROOTES-MURDY: Yes, as of this afternoon, New York has implemented those measures. They were signed by the governor, and I was sent notification of that.

DR. PIERCE: Okay I'm still confused. I thought New York was appealing on the fluke measures. What has happened relative to New York and fluke?

CHAIRMAN LUISI: I'm not aware of an appeal by New York on fluke. There is an appeal by New Jersey. Unless you guys know something I don't, Jim. There has been no appeal.

DR. PIERCE: It's late and I'm probably mixing up sea bass and fluke, so all right, thank you.

CHAIRMAN LUISI: Why don't I just clarify what we're asked to do here? I've been made aware of an alternative approach that New Jersey would like to discuss with the Board this evening. However, I feel that the question that the Board is being asked right now to decide upon is whether or not we want to make a recommendation to the Policy Board, to find any state that has not implemented fluke measures as a result of the decisions that were made on Addendum XXVIII; if we want to make a recommendation to the Policy Board to find them out of compliance.

That is the question before the Board. New Jersey is the only state that has not put forth those measures that were all part of the option that were voted on as part of Addendum XXVIII. That is the question. Do we want to make a motion? Does the Board want to take action to recommend to the Policy Board New Jersey being found out of compliance? I say that meaning that I view this issue and the recommendation to the Policy Board as a black and white issue. They are in compliance or they're out of compliance.

That is my interpretation of the idea behind the compliance measure. Now, I mentioned that New Jersey would like to present an alternative approach, after this action is taken on whether or not they're compliant or not. I would offer them that opportunity to make that appeal. That is the wrong choice of words, to propose what they're considering. But let's dispense with the issue over compliance now; and then we can turn to that.

DR. PIERCE: With that said and with that clarification then I would move to recommend to the Policy Board that New Jersey be ruled out of compliance.

EXECUTIVE DIRECTOR BEAL: Out of compliance motions have a lot of very specific, prescribed parts. In the anticipation that this may come up at this meeting, staff went ahead and pulled



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together a motion that Dr. Pierce, redo it if that is what you want, then we can go with that if you want to make changes to it that's fine. But there are a number of sort of prescribed pieces that need to be in a noncompliance motions.

DR. PIERCE: With that said, then I'll make the motion, which is the first one on the top, right? That is the one that you penned?

MR. ROOTES-MURDY: No, it is the whole thing.

DR. PIERCE: The whole thing.

CHAIRMAN LUISI: Start reading, Dr. Pierce.

DR. PIERCE: Wow, okay, standard stuff, okay the intent is obvious. Do I need to read that? I guess I do, don't I? I'll read it if need be, Mr. Chairman.

CHAIRMAN LUISI: I can read it or you can read it.

DR. PIERCE: I'll read it. I can see that far. **I would move that the Summer Flounder, Scup and Black Sea Bass Board recommend to the ISFMP Policy Board that the state of New Jersey be found out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan; if the state does not implement the following measures by May 21, 2017.**

**Shore mode for Island Beach State Park only, 17-inch minimum size limit, 2-fish possession limit, and 128-day open season, Delaware Bay only west of the COLREGS Line; 17-inch minimum size limit, 3-fish possession limit and 128-day open season. All other marine waters east of the COLREGS Line, 19-inch minimum size limit, 3-fish possession limit, and 128-day open season.**

**The implementation of these regulations is necessary to achieve the conservation goals and objectives; and there are shadows on the screen. I can't see that far. I'm reading over**

**here. I can read it, and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.** That is my motion, Mr. Chairman.

CHAIRMAN LUISI: Thank you David for reading that into the record. Do I have a second on this motion? Bob Ballou seconds the motion; discussion on the motion, any discussion? Tom. Tom, before I go to you, I think we've identified a typo or an error in this motion. I'm not going to ask you, David, to reread it. But the Delaware Bay only west of the COLREGS line should have been 18 inches; that was part of the Option 5 as it was described. With that Tom, did you have any comment?

MR. BAUM: I realize there is a motion on the floor. If this happens, then we'll get a chance to at least possibly discuss our alternative measures. I am not quite sure what happens after that; if there is another motion that could be contingent on these other measures. Maybe you can follow up with that.

CHAIRMAN LUISI: Yes, I would be happy to. I realize that there might be another motion regarding the alternative measures that you may suggest. This is not determining noncompliance; this is recommending to the ISFMP Policy Board whether or not this Board would recommend to the Policy Board a noncompliance finding. Tomorrow, depending on what actions are taken after this action is taken, I want to get this off the table; so that we can address your alternative proposal.

As Kirby mentioned, there were previous alternative proposals that were reviewed and the Board denied. There will be a follow-up action to this action; the way I'm seeing it take place, whether or not the Board would want to agree to allow New Jersey and/or now, the previous proposals from Massachusetts and Rhode Island to be put forth.

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All of this action today will go to the Policy Board, and the Policy Board I guess will be hearing the appeal; as well as making a final determination on whether or not to recommend noncompliance. Those actions will be taken up at a different time, if that makes sense. Okay, Bob.

EXECUTIVE DIRECTOR BEAL: I think one important thing to remember in this motion is that the Summer Flounder Board is recommending that the Policy Board and potentially the Full Commission find New Jersey out of compliance; if they haven't done something by May 21st. This isn't an immediate noncompliance finding.

It is an, if by date certain something hasn't happened in New Jersey, then letters could be sent off to the Secretaries of Commerce and Interior. This is not an immediate noncompliance finding. That window I think provides some of the opportunity that the Chair is speaking of to consider these alternative options that New Jersey appears to be potentially bringing forward.

MR. NOWALSKY: This motion is very specific regarding the number of days, size and possession limits. When we had a motion about black sea bass earlier about very similar measures, and we allowed for conservation equivalency, is the message here that it needs to be exactly these measures; pending other discussion or are we saying or something equivalent to those measures by May 21st?

EXECUTIVE DIRECTOR BEAL: I think, Adam, the wording is in there now because those are the suite of regulations that the Board has approved so far. If a new set comes forward, I think that at the Policy Board level those can and should be reconsidered at that time, to maybe changing the wording of this motion or incorporate the notion of conservation equivalency.

CHAIRMAN LUISI: Any other discussion on the motion? Seeing none; does anyone need to caucus on this? Raise your hand if you need to caucus. Seeing no hands; do I need to reread this to the record? Since it was only a few minutes ago, I'm going to let David – you're going to give me a pass on this one to reread it.

**We have a motion, essentially what this motion does is recommends to the Policy Board the finding of noncompliance; based on New Jersey's implementation of Option 5 regulations, which include what is listed here.** As Adam mentioned, when this comes up in front of the Policy Board tomorrow; depending on what further action this Board may consider tonight. Those modifications could be made at the Policy Board level, depending on whether or not the alternative approach that New Jersey is preparing right now to present is something that this Board would agree upon.

**All those in favor of the motion, please indicate by raising your hand. It is 9 in favor, all those opposed same sign, 1 opposed, null votes, seeing none; any abstentions, 2 abstentions. Okay this motion carries and will be made tomorrow to the Policy Board;** Tom, back to you on the alternative approach.

MR. BAUM: Yes, thank you, I did provide those measures to Toni. Back in February we made a plea to remain at 2016, or to postpone the motion. We didn't receive support. We made the plea to have time to figure out something that would work, work for our fishermen. Since then we filed an appeal on that February 2nd decision to the Commission. I believe it is on the agenda for tomorrow at the Policy Board.

We've also been working with NOAA. Our Commission has been working with NOAA. Our Technical Committee member has been working on basically a conservationally equivalent proposal. I believe at least one other person from the Technical Committee has seen it, but not everybody on the TC.

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The new option is based on both the harvest and the discards mortality. We find it more conservative than having a 19-inch size limit, 3-fish bag and 128-day season. Again, we were in consultation with NOAA Fisheries, and I believe the TC member from New York. I believe NOAA Fisheries supports this methodology.

Without further ado, we're proposing to have an 18-inch minimum size limit, a 3-fish bag limit and a season of 104-days; and that season would be May 25th to September 5th. Those dates are important because they get both of the major holidays in, being Memorial weekend, the whole weekend, and the Labor Day weekend.

As far as the methodology, in comparison these measures equate, as far as dead discards. At 19 inches we'll have all these extra dead discards, regulatory discards, the mortality from these discards; and we eliminate them by staying at 18 inches. We eliminate the majority of them. Compared to Option 5, going to 19 inches, the total mortality would be 1,195,155 fish as opposed to what our 18-inch size limit would do, would be 1,280,936 fish.

Depending on what percent of mortality rate you use for the discarded fish, if you use a 10 percent discard mortality rate, which is what is accepted, it would be a 23 percent reduction from our 2016 regulations. We're proposing to have an outreach and education blitz, as far as angler behavior and fish handling and releasing; so we would reduce that discard mortality by at least 2 percent.

That would bring us up to a 30 percent reduction from our 2016 regulations. Part of our education and outreach blitz, we would promote the NOAAs Fish Smart and Take Me Fishing applications through our social media. We would create videos specific to fluke handling that people can access on their smart phones, urge the for-hire fleet to show that video to their customers onboard; again through social media, and radio advertisements, local publications. We would

have posters and brochures to distribute, especially through our APAIS outreach. All the businesses, the bait and tackle shops, and also promote and looking into promoting the gear. Gear, especially larger size hooks, I believe there was Carl Benson and I can't remember the researcher's name, gave the Mid-Atlantic Council a presentation on hook sizes; that was J hook sizes. Basically it showed that the larger hook size you use was selective to the size of the fish you would harvest.

It eliminated those smaller size fish that you would catch. I did neglect to include in those measures that we would still maintain a shore-based fishery, shore-mode-only fishery for Island Beach State Park with a 2-fish bag, and a 16-inch size limit and a 17-inch size limit in the Delaware Bay, with a 3-fish bag limit; and also both would have that 104-day season. The added benefit to this is it maintains for the first time in who knows when, similar size limits in the same water body. I'll pause there and take questions.

CHAIRMAN LUISI: Okay does anybody have any direct questions for Tom on the proposal?

MR. CLARK: Is this a motion?

CHAIRMAN LUISI: No, not at this time. What I would like to do is take any direct questions. I noticed Jay is back up here, so if there are any technical questions that we might be able to answer, any questions directly to Tom. But at some point I'm going to look to New Jersey to make a motion that we could debate and decide upon and then take final action on that decision. I saw a couple hands. Who has a comment?

EXECUTIVE DIRECTOR BEAL: Tom, I have a quick clarification question. The 18 inch, 3 fish, 104 days, you know the holiday weekends included. Is that for your ocean fishery? Maybe you missed it, but what would happen with the Delaware Bay fishery and the one shore-based fishery?

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MR. BAUM: Yes, I covered that at the end. I didn't include it with the original measures. For Island Beach State Park, which was our shore mode only site that would be a 16-inch minimum size limit and a 2-fish bag limit; and the same season as the rest of the state, and for Delaware Bay it would be a 17-inch size limit, 3-fish possession limit, and the same 104-day season, the same dates.

CHAIRMAN LUISI: Let's do questions, and then Tom, I'll turn to you in a few minutes here to make a motion. Jim.

MR. GILMORE: Just another point of clarification. Tom had mentioned that this was approved by the New York TC member. My understanding was actually they provided some information for the spread sheet, but the entire thing was not approved. Okay, just wanted to clarify that. After we get a motion up we'll have further comments.

MR. CLARK: Tom, can you elaborate on what you said you vetted this with GARFO already? Is somebody from GARFO here to respond to that that this has already been cleared by them?

MR. BAUM: I'll turn to GARFO, but yes we were in consultation with them and their staff.

CHAIRMAN LUISI: I don't know; do you guys have anything to comment on?

MR. BULLARD: We've been in touch with New Jersey on this. It hasn't been fully analyzed, so I don't think it's something we can say we've approved. I don't know whether that was what Tom was saying. We have certainly been in discussions with them, yes.

MR. BALLOU: Tom, my question for you is has this been submitted as a conservation equivalency proposal in accordance with the Commission's conservation equivalency guidelines and policy, and along with that

reviewed by the Technical Committee; and if not, why not?

MR. BAUM: Well no, it hasn't been officially submitted. It would need to have gone through the TC. Why not? Well, we were going through the whole appeal process, and in the meantime our department staff, our Commissioner's staff working behind the scenes with the federal office as well. As our Commissioner had said back in February, he was going to exhaust all avenues, and this was one of them.

CHAIRMAN LUISI: David Pierce.

DR. PIERCE: Bob just covered it.

CHAIRMAN LUISI: Roy Miller.

MR. MILLER: Mr. Chairman, help us out procedurally. Ignoring the details of the proposal for the moment, procedurally my perception is we're unable to take action on this proposal at this point in time; since it hasn't been vetted by the Technical Committee. Apparently it hasn't been fully vetted by our federal partners either. Where are we? What is a reasonable path forward to entertain this proposal; so that it can be fully vetted and approved at perhaps some point in the future, or at least fully evaluated?

CHAIRMAN LUISI: I don't have a great answer for you, Roy. Why don't I try to spend a minute to just frame out where we have been and what may be in front of us as a result of action here. If you think back to February, the Board made a determination to go with the Option 5, and Option 5 came with a justification that was submitted by ASMFC to GARFO, regarding those actions as they would be taken by all of the states; based on the decision that was made by the Board.

That justification had a lot of details to it. In between the February meeting and this meeting, Massachusetts and Rhode Island submitted conservation equivalency proposals

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for the Board's consideration. Those conservation equivalency proposals were different than what the regulations would have been if Massachusetts and Rhode Island would have followed the recommendation of the Board for Option 5.

The Board at the time of consideration on those conservation equivalency proposals, which were vetted through the Technical Committee, denied those requests based on at the time, what the Board perceived to be a justification that was written, based on a unified approach along the coast of increased minimum size limits, reduced bag limits, and season structure. We are now being approached by New Jersey with an alternative look, another conservation equivalency proposal; but the Technical Committee review and the other parts that would have been considered have not happened. What faces the Board right now, this is how I see it, we need to decide if we want to continue down the path of reviewing New Jersey's conservation equivalency proposal; allowing for time for review and further board action at a later date, whether it is webinar.

We're going to have to do something very soon to make that happen. In that consideration of New Jersey's conservation equivalency proposal, the Board may want to reconsider the actions it took on the Massachusetts and Rhode Island proposals. Those are the different pieces of the puzzle that are kind of linking themselves together right now. I hope that that is clear enough. John, if you have something else to offer.

MR. BULLARD: Yes, Mike. I think you've, Mr. Chair, summarized this. I want to say something in addition to my earlier remarks; because similar to some discussions we've had earlier in the day, all of us around the table find ourselves in a difficult situation where there isn't a pure or right answer. There is just a situation in front of us. It is May 10th, and we are where we are.

The Fisheries Service has been working with New Jersey, and I've certainly had a lot of conversations with a lot of you about what is the best outcome. When I looked at Option 5, it seemed to me that one of the things, it had many advantages, but one of the disadvantages it had was that it required people to catch 19-inch fish in southern New Jersey, which is a trick.

As I said to a number of people, I think asking people to do things that they can't do is not a wise policy. Asking people to catch 19-inch fish in southern New Jersey is a pretty hard thing to do. I understand what led to frustration. New Jersey has tried to come up with an equivalent way to achieve conservation. Now, I wish they had done that earlier. It would have been a hell of a lot easier.

But we are where we are. Tom has laid out 3 fish, 104 days; that is a cut of 24 days. We don't have time to understand what that gets us. It's hard to say yes, the Service can approve it or any of us can look at it; because it is late in the day, and people are opening their seasons. But it is significant. All of us have to look at it against the other real options that are out there staring us in the face.

All of us are used to dealing with real choices. That is why I say, this isn't about like some other decisions we've made today, this isn't about pure right and wrong kind of things. This is about the real choices that are in front of us and making the best of it. Fortunately we've had some practice today.

CHAIRMAN LUISI: I'll clarify, based on my discussion with Bob. We're looking at; we have three different paths that we can take here. We can make the policy decision and approve this tonight if that is the Board's wishes, without any further review by the Technical Committee. We can approve this option tonight pending a Technical Committee review,

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or the third one was we go through the process of.

The second option would require a Technical Committee review, if the Technical Committee were to say that this conservation equivalency is equal to that for which Option 5 was, it would be approved or the Board could ask the Technical Committee to review it and then reconvene to discuss and determine at a later date. But again, it's May 10th, so that later date might be next week. This would have to happen very quickly. With all of that said and clarified, we'll take another comment or two and then Tom, I want to turn to you for a motion. Jim.

MR. GILMORE: Maybe one other option. We're trying to cram this thing down for a 21st start, 21st of May. Not to get into the details of this, but I mean this is procedurally a real difficulty; because we have a process and we're way past that. One other option would be to implement the regulations in Option 5, and then the fishery will open and they won't be out of compliance.

Then they can essentially put in that proposal, and that gives us a little bit more time. I mean I prefer the last option that we would essentially have the TC review it. We would have to set up a Board meeting by conference call or something to vote on it or whatever, and again with schedules; in a week or two that's not going to happen.

That last option I'm suggesting is maybe essentially let them file their regulations now, as an Option 5, and then we can consider this proposal, and I guess probably Rhode Island and Massachusetts if they wanted to raise theirs again; and that gives us some time to look at those without delaying the opening of the fishery.

CHAIRMAN LUISI: Thanks for that suggestion, Jim. Eric Reid.

MR. REID: I want to make this as short and as clear as possible. Rhode Island will not be able to have our proposal reexamined, because we proposed a later start date; but because we are in compliance, we cannot do what we wanted to do; which was more conservative than we needed to do to meet the requirements of Option 5, which by the way didn't meet the requirements of meeting the target anyway. To use Dewey's word, I got hacked. Let's be clear. Rhode Island will not have the ability to revisit their proposal, because we are in compliance.

CHAIRMAN LUISI: David Bush.

MR. BUSH: Yes just a quick question. If I heard you correctly the estimated reduction would be at 23 percent.

MR. BAUM: We're proposing; I'll use the term ad hoc methodology. Right now the discard mortality rate for summer flounder I believe, it's used up 10 percent. We are going to have an education blitz to our anglers and we're going to target to reduce that mortality rate; and estimate it to be 8 percent. Then it would be a 30 percent reduction from our 2016 regulations, yes.

MR. BUSH: The total would be 30.

MR. BAUM: Yes.

MR. O'REILLY: I think David asked the question I was interested in from before, but also the 23 percent reduction versus the 30 percent reduction. Are they on the same footing? In other words, is that done with the same type of analysis to get that difference? I realize that the information that is going to go to the public and everything else, I think you said adds about 2 percent or something like that. I wasn't sure. But I was interested in whether they were both done on the same footing. Then I did want to say for those who were Rhode Island and Massachusetts, who were on our conference call that there was a real impetus for a lot of us to sort of hold the line on Option 5. That was

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done, and the line has gotten a little bit blurred I think.

With a little bit of situation that we had then compared to now, I think we need to probably maybe take a little more time next time around. But this was a new way of looking at it. Option 5 is still supported by many of the regions, and the states in the region; and I think that's important. But perhaps time got us; now I kind of wish that Rhode Island would be able to do something.

CHAIRMAN LUISI: Okay Tom, so at this time I would like to get a formal motion on the table. I know that you provided staff with what we see on the board, but I'm also going to look to you to determine the path forward that we would take, how the Board would consider those three alternative paths; and the fourth one that Jim offered.

**MR. BAUM: I move to propose the following measures for New Jersey's 2017 summer flounder recreational fishery, based on conservation equivalency. The shore mode for Island Beach State Park only; a 16-inch minimum size limit, 2-fish possession limit, and 104-days open season, May 25th to September 5th.**

**Delaware Bay only; west of the COLREGS line, 17-inch minimum size limit, 3-fish possession limits, and 104-day open season, May 25th to September 5th. All other marine waters, I don't believe I need the east of COLREGS line, so I'll delete that; 18-inch minimum size limit, 3-fish possession limit, and 104-day open season, May 25th to September 5th. I would look for the board to approve these measures at this venue.**

CHAIRMAN LUISI: To clarify, you're asking for the approval this evening without technical review and further consideration by the Board. I just want to be clear on that.

MR. BAUM: I would love a TC review. I'm willing to put that in, so I would say Board

approval tonight pending timely TC approval. I don't know if I could put a date in there or not, and if I could I would actually put a due date in there; probably next week.

CHAIRMAN LUISI: All right, let us get clear on this, Tom and then I'll look for a second. My phone is dead, so I can't look at the calendar.

MS. KERNS: The 17th is a week from day.

CHAIRMAN LUISI: The 17th is a week from today. Tom, we have May 17th in there, which is a week from today. Is that how you want to move forward?

MR. BAUM: We could do it the 16th. Is that too tight?

CHAIRMAN LUISI: It's up to you.

MR. BAUM: I would say May 16th.

CHAIRMAN LUISI: Okay let's change that to May 16th, Russ; do you have something you would like to add before I look for a second clarification?

MR. RUSS ALLEN: Just to clarify our timing on things. We're going to have to have an emergency Marine Fisheries Council meeting, probably Tuesday or Wednesday next week to get them to approve it, and our commissioner to sign off on it by the end of next week to have it done by the 21st. We're on a kind of strict timeline too. We can play with the 16th or 17th, it doesn't really matter; as long as we can have that in hand for our Marine Fisheries Council at four o'clock on the 17th, it would be really nice.

EXECUTIVE DIRECTOR BEAL: The tricky part on putting a date here is you know you've got to find a date that works for the TC. It is hard to predict availability, and a week is not much time. The more time you can give the TC the better, but I understand the limitations that procedurally that New Jersey has.

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CHAIRMAN LUISI: Okay so for now we have the 16th in there. Given all the clarifications and discussions, I'm going to look for a second to Tom's motion.

MR. CLARK: The way this is written, New Jersey wants us to approve this tonight, and pending the approval of the Technical Committee. The way it's worded right now, it could be pending timely Technical Committee approval then we'll move to approve it. I just don't know which one they're actually asking right now.

CHAIRMAN LUISI: It's my interpretation that we are approving the measures, and if the Technical Committee can report back by the 16th, that those measures meet the conservation equivalency of Option 5. Right, Tom? I mean if the new measures meet the same level of reduction, based on Technical Committee review of the Option 5 measures, then we are essentially approving those tonight, and there will be no further action by the Board on this issue.

MR. CLARK: If the TC finds they don't meet the conservation equivalency then they are back to out of compliance? Okay, just checking.

MR. ROOTES-MURDY: Something that I think should be made clear to the Board right now, in terms of having the TC review this, and Jason maybe can elaborate on it if needed, is that we have a standard methodology for calculating reductions; and what is being proposed here on the board at least, are measures.

But we don't have a sense on how those measures are derived from either a standard methodology I mentioned, or whether possibly an ad hoc methodology was used. In trying to task the TC with determining if it meets conservation equivalency, it needs to be real clear if the TC are supposed to be evaluating it based on standard methodology or to be accepting the methodology that New Jersey is proposing at face value in achieving the reduction. Does that make sense?

CHAIRMAN LUISI: Yes it makes sense. I don't know how the Technical Committee will come to those conclusions. I look to Jay or Bob on this one.

EXECUTIVE DIRECTOR BEAL: I think part of that is a question to New Jersey. Can New Jersey develop or share the methodologies that they used to evaluate percent reduction associated with these measures, and the percent reduction in discard mortality associated with their blitz; what did you call it, the PR Blitz, Fishery Blitz or whatever it was.

MR. BAUM: I'm sorry, Bob. I didn't hear all your question, but if Mike would let me I do want to eliminate the pending timely technical committee approval by May 16th, as far as that process goes. Basically, because what the Board did today with sea bass, taking Wave 6 and basically eliminating that fishery. There was no TC review, methodology, approval or guidance from the TC on that; based on that I'm taking out the Technical Committee review.

CHAIRMAN LUISI: That's fine; this is still your motion without a second. Let's just get it right. I want to make sure everyone is clear. Any more questions regarding, just questions on the motion not comment on the motion at this point; since it's not a completed motion. All right seeing none; I'm going to ask.

Tom has removed the Technical Committee review, which means that if the Board approves this it happens tonight, and no further review and New Jersey would be approved to implement these measures. How that plays into tomorrow's discussion regarding compliance would be based on Policy Board interaction with this decision tonight. I'm going to look for a second. Rob O'Reilly seconds the motion, further discussion on the motion; David Pierce.

DR. PIERCE: You did a good job, Mr. Chairman, describing the Rhode Island and Massachusetts



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situation, subject to approval of the New Jersey proposal for 2017. I'm trying to work my way through this motion specific to how Massachusetts proposed measures that were not approved on a conference call should be reconsidered and then approved.

If this passes, I will make another motion specific to Massachusetts and measures for 2017. I was going to tack it onto this motion; but I don't want to complicate matters for New Jersey. Rhode Island I suspect is not going to be part of that initiative, since they've already said, or at least one has said that their season is already. I'll have Rhode Island speak for itself. I'll make a motion after this one, Mr. Chairman.

CHAIRMAN LUISI: That's fine, David, and yes Rhode Island has been clear in that they've lost their window of opportunity; based on the denial of their request by the Board. Just so you know, since the Board already took an action on the Massachusetts request, and it's being reconsidered, we're going to have to go through the reconsidered process.

Anybody can bring it up, but it will need a two-thirds majority vote in order to pass; while this vote tonight will just need a simple majority. Okay so we have a motion. We'll take a couple more comments on that motion. David Borden.

MR. BORDEN: Quick point, Mr. Chairman. From my perspective, I think it should be incumbent upon the state of New Jersey to submit the methodology that they used to do the calculations as part of the proposal, so that it's clear when it goes to the Technical Committee. Isn't that routine?

CHAIRMAN LUISI: It's not planning to go to the Technical Committee. We're looking at making a policy decision tonight to approve this with no further review. That is how the motion has been crafted. The Technical Committee review was eliminated from consideration. Jim Gilmore.

MR. GILMORE: I can't support the motion, because this is way outside the box. If we're going to really look into this, we need to have, you know in respect to first off what New York had gone through the development of Option 5, the effort we put in, what Rhode Island and Massachusetts did in terms of their proposal.

They submitted formal proposals that were reviewed by the TC; and then brought back to the Board. This very late, we think this will work; proposal is just too loose for me. I really couldn't support it unless we go back to what I mentioned before that it be submitted as a formal proposal so we can review it, have the TC review it, and then come back to the Board for approval.

MR. FOTE: A couple of years ago we got forced into going into a region with New York and Connecticut. It forced us to raise our size limit so they could bring their size limits down. We've been in that basically situation for a long time now. We had to raise it to 18 inches; we had 17 inches, just because we were in that region. We are now going to raise it to 19 inches.

Our fishermen, I'm sure they're not going to be happy when we inform them that they are going to lose 24 days of their season. How many of you around this room are going to your fishermen right now and telling them, we're going to cut off all of September. We're going to cut off all of May; you usually fish for 24 days, and basically be living with just 104 day season. That is a drastic cut by any means.

We've been stuck in this region. We've been abiding by the rules. We haven't pushed the overage. We didn't push; when we got the same thing with black sea bass, pushed into a region with Massachusetts. Massachusetts walked and they made a motion years ago; and then we've been stuck with that where we now basically get forced to go out.

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We never had a separate region where we belong on black sea bass, but that's another story. I'm just asking for relief for my fisherman. At 18 inches they were discarding a lot of fish, at 19 inches they're going to be discarding. We're killing more summer by discards than we are taking home now.

That is not how we should manage summer flounder. That is how you manage striped bass, because it is a lot of catch and release fishery along the coast; but that is not what we ever had for summer flounder. We're supposed to have sustainable stocks. I also, Amendment 5 I didn't support in the first place, because when you looked at it, we're living by a benchmark stock assessment for 2013.

In that benchmark stock assessment, they say recruitment is not based on spawning stock biomass. There is no reason for the commercial fishery and the recreational fishery to take a cut in quota on something they know will not make any difference on recruitment, but they did it because of poor recruitment.

That's a catch 22 here. We do measures that really have no purpose but to avoid law suits. I've been at this for a long time; it was actually '96 when we started getting sued, when the NMFS starts getting sued over a bunch of measures that were made. We've been suffering the consequence for years, whether it's black sea bass, whether it's scup or whether it's summer flounder. This has gotten to a point when my fishermen say, we've had enough. We can't live, the party boats are going out of business, tackle stores are going out of business.

We're down two million trips in New Jersey since 2007. Now, a lot of the other states, New York is down trips, and so is any of the Mid-Atlantic. We're down six million trips from 2007 to 2014. We're down 50,000 boats in New Jersey since 2007 to 2014. Yet, our catches go up. As a matter of fact it amazed me when Sandy hit in 2012, which was after the summer

flounder season, we looked at the next year and all of a sudden I get told by MRIP that I caught more fish in May and June of 2013 than I did in 2012.

I said, this makes no sense, we have no boats in the water, and nobody is fishing except for a few people. Well, in my comment I got from the person on MRIP says, well they were really good fishermen. They must have caught all the fish that nobody else was fishing for. I say, there aren't that many fishermen to catch those fish. We haven't really gotten length enough, and you just basically killed us on black sea bass.

We are not going to have a season, we do summer flounder, where fishermen stop fishing in September, Labor Day weekend, and they have nothing, nothing to fish for until when you open the black sea bass fishery. Now we're going to open it up with five fish. I mean you're killing a 1.1 billion dollar industry in New Jersey needlessly, whether it is black sea bass or whether it's summer flounder.

That is not what we're here to do. We're here to build sustainable fisheries that we can accommodate both commercial and recreational. It just doesn't happen lately, hasn't happened on black sea bass, hasn't happened summer flounder. We get a little relief on scup. But this is the wrong message we send. I started pointing out earlier today; these are going to be the ones that make us revisit the Magnuson-Stevens Act.

People might now be happy what comes out of the next Magnuson-Stevens Act if we keep making moves like this. I am kind of passionate. I've been sitting here, you notice quietly all day, not getting involved in a lot of issues; just sitting here listening. I am asking you, we need this. We need it for the fishermen of New Jersey. It's not going to hurt the stocks. It is not going to affect recruitment one iota, and that's why we're doing this. I'm just asking you to be

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helpful to us, because ? I don't think you want to see in New Jersey.

CHAIRMAN LUISI: I'm going to go to the audience and we'll take one comment. Victor.

MR. VICTOR HARTLEY: My name is Captain Victor Hartley. I own the Ocean City Fishing and Cruising fleet; one boat that primarily fishes for sea bass that has been tied to the dock this whole entire month, because I have nothing to fish for. Another boat, it strictly stays in the Bay and fishes for flounder.

If we have a 19 inch fish, I won't catch a fish all summer; maybe one or two, maybe I'll put 10 in the boat that I can actually count for. What I want to know, I've been coming to these meetings and I don't think they get me anywhere. Since 2007, 2008, we've went over twice. Since 2009 to 2013, we didn't even go over. Sometimes, in 2011 we hit 51 percent of the total quota out of 100. In 2014, 105 percent, 2015, 63 percent, and 2016 we hit 117 percent. All those years that we did not hit our quota throughout the whole entire eastern seaboard, they don't count for nothing. Now all of a sudden 2016, we have to take a 30 percent cut. We're not going to carry people for 5 sea bass in November and December. That is going to be a travesty.

I don't have striped bass and bluefish down the southern end of the state like they do up north. Now, if you make me and my family takes this 19 inch fish, like I said, we're not going to catch anything. I run a fuel business. I used to sell four million gallons of fuel in the state of New Jersey to boats. Last year, my wife told me we did a million gallons of fuel. We lost three million gallons over the last three or four years. I'm in both ends of the industry. Where is the three million gallons of fuel that I lost? It ain't going into the boats that I used to sell for.

Three party boats in my area, in Ocean City, just went out of business. There are three less boats. Like Tom said, but yet we're catching

more fish. Now you're going to hit us with this 19 inch fish, instead of making a motion tonight. Go without the Technical Committee and just give us this horrible cut to our season; because now in September I'm going to have nothing to fish for.

I can't fish for sea bass. I ain't going to have flounder. It's going to be another month of my boat being tied to the dock. I've already, when people were talking earlier. I've already lost my house over this, and one boat. I have one boat left, because I can't fish and can't pay my bills. I mean I don't know what you people do sitting here. You're making a salary. But I sure as hell aren't making a living.

CHAIRMAN LUISI: All right thank you, Victor. We're going to go ahead and caucus. Let's take a minute. Tom, it's time to caucus. Go ahead, I didn't see her. I apologize. Nobody raised their hand. Yes, Robin, please; if you could provide us your comments.

MS. ROBIN SCOTT: Usually you can hear me without, Robin Scott; owner of Ray Scotts Dock in Margate, New Jersey. Victor and I are stakeholder here, we're the couple from New Jersey that are. I implore all of you. I mean I've met many of you over these meetings, and I simply implore you to use your common sense.

I absolutely am abominated by having to cut 24 days out of my season. But I also know that I don't need a Technical Committee, no disrespect intended. I don't need any kind of quantification of what that does to reducing the flounder catch in New Jersey. Not only will we be under the 2017 proposed limits, we'll be under 2018 also.

I already know that; 24 days out of our prime fishing season. I'm 30 miles north of the Delaware Bay; and the Delaware Bay for the past couple years, we've had a 2-inch fish limit difference from the Bay that we share and the flounder size that we share with them. We've been compelled with 18-inch fish while they're

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taking 16; which are right sized. Four fish at 16-inches that's what we have in New Jersey, we have sandy bays and estuaries.

The little guys come back from the Continental Shelf, and hit New Jersey and then flow down to Virginia. The big guys go up to New York with the rocky areas and all the cool substrate and things like that. We all know the migration patterns of flounder. I implore you to allow us to stay in the business. Reduce the enormous amount of discards, target fewer of the female breeders, and preserve the fishery in New Jersey. Thank you so much.

MR. BAUM: Please, Mr. Chairman, I'll be a minute and you can cut me off. I just want to remind this Board. Back in 2009, when it was going through the process in February, they made a motion and passed a motion that said, any states that need to make reductions have to make 50 percent of those or more restrictive measures through a more restrictive season.

Since then, that motion was year specific, I believe; and it has never been followed up. I believe that year that was by the Technical Committee, I think there was a performance evaluation to see how measures performed. I'm sure New Jersey's measures performed actually very well. In 2006, the state of New York had an 18 inch size limit. In 2009 they had a 21 inch size limit. We don't want to end up at a 21 inch size limit.

We chose by state-by-state management measures through 2001 to 2013, when our Marine Fisheries Council met and they had to decide, should we go up an inch or should we reduce the season. Sometimes they went up a half an inch, and most times they restricted that season; because they did not want to end up with a 21 inch size limit. I don't want to see history repeat itself, because there has been a 21 inch size limit for a couple years. That is why we're in regional management. I understand that. But I don't want history to repeat itself.

MR. O'REILLY: Since I did second the motion, I appreciate a brief opportunity here to say why. When we started on Option 5, one of the things that were said by a board member was, this is an experiment. This is an experiment. Well apparently one-third of the states did not really want that experiment, they wanted something else.

I think we have to recognize that. I would love to have the Technical Committee review this, but I'm hearing problems on both sides of having that done; both from New Jersey and both from, rightly so with Bob Beal's comments on the Technical Committee. We didn't know at the time, Option 5 is going to be a good experiment. I didn't want Option 5, I wanted Option 1. But, I'm in a region and Option 5 made a lot of sense for good reasons to the region itself.

We all talked about it. I think we ought to keep that in mind. We also ought to keep in mind that the staff from New Jersey has been working in technical committees themselves for many, many years. I don't think, even though it's a little bit of a situation without overview by the Technical Committee that we need to have anything but concern for the timing of everything, and where we are today. That is why I supported the motion.

CHAIRMAN LUISI: We're going to go ahead and just caucus for a minute or two, and we'll come back and call the question. There is still some steam coming out from the other side of the table here. But I'm going to go ahead and read the motion and call the question, if everyone is ready. Move to approve today the following measures for the 2017 New Jersey summer flounder recreational fishery based on conservation equivalency, shore mode for Island Beach State Park only; 16-inch minimum size limit, 2-fish possession limit, and 104-day open season.

Delaware Bay only west of the COLREGS Line; 17-inch minimum size limit, 3-fish possession

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limit, and 104-day open season, all other marine waters; 18-inch minimum size limit, 3-fish possession limit and 104-day open season. Is the Board ready for the question? All those in favor, asked for a roll call vote. Kirby will call the roll.

MR. ROOTES-MURDY: Going north to south, we'll start with the Commonwealth of Massachusetts.

DR. PIERCE: No.

MR. ROOTES-MURDY: Rhode Island.

MR. BALLOU: No.

MR. ROOTES-MURDY: Connecticut.

MR. ALEXANDER: No.

MR. ROOTES-MURDY: New York.

MR. GILMORE: No.

MR. ROOTES-MURDY: New Jersey.

MR. BAUM: Yes.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MS. LYNN FEGLEY: No.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. SHIELS: Yes.

MR. ROOTES-MURDY: Commonwealth of Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. BATSAVAGE: No.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. WHITE: No.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. MILLARD: Abstain.

CHAIRMAN LUISI: **Okay the vote was 4 in favor, 7 opposed with one abstention. Motion fails.** That concludes our business under this. David.

MR. BORDEN: Not to delay this, Mr. Chairman. But is the opportunity here to make another motion, make the identical motion subject to the review and approval of the Technical Committee? Is that appropriate, in order?

CHAIRMAN LUISI: I would say it's a different motion, so if you want to make that motion.

**MR. BORDEN: I would like to make a motion, the identical motion and at the end of the motion add a provision that it is subject to the review of and approval of the Technical Committee.**

CHAIRMAN LUISI: Would you like to offer a date for that; since the discussion of the date seemed to be?

MR. BORDEN: No; as soon as possible.

CHAIRMAN LUISI: Can we modify what's on the board? Does that reflect your concern there? We have a motion that's the same motion but with Technical Committee review. John Clark would like to second that motion. Further discussion on the motion, I'm not going to entertain very many points, because I think we've debated it. But David, maybe you can offer your thoughts and then I'll go ask for one or two other comments.

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MR. BORDEN: I've been sympathetic to New Jersey from the start. Everyone around the table knows this is a difficult situation. But my primary concern and the reason I voted no before was we need to adhere to our policies, from my perspective. It is one of the key components of this process. It maintains the integrity of the process.

I think it is important to get a technical review. I also would add which follows up on I think it was Kirby's point earlier. I think that New Jersey should provide specific information as part of this, and I'm not going to include that in the motion, on the methodologies they used; so that they are clear to the Technical Committee when they do the review. That is normal operating procedure.

CHAIRMAN LUISI: Any additional? Yes.

MR. O'BRIEN: Just clarification. I agree a lot with what Dave just said, and I can read the motion; but would it go to the Technical Committee first and then come back to the Board or are we voting on it prior to it going to the Technical Committee? We approve it, and pending their approval, or which way are we doing it with this motion?

CHAIRMAN LUISI: We're approving it pending approval of the Technical Committee. There would be no further discussion by the Board if the Technical Committee approves the methodologies and the reductions that would come as a form or what's being proposed. Bob.

EXECUTIVE DIRECTOR BEAL: I think it should be clear on what happens if the Technical Committee does not endorse the reduction and these suites of measures being equivalent with the original suite. Just so everyone is clear on what happens if it doesn't add up.

CHAIRMAN LUISI: If it doesn't add up and it's not supported by the Technical Committee then since this motion is subject to that approval; the

motion is not approved. That's how I would interpret what is being talked about here. Jay.

MR. McNAMEE: Here is my concern from the Technical Committee. I have not seen this proposal, I know nothing about it, other than what you've offered today; nor does the rest of the Technical Committee, except for potentially two members. There is a standard part, easy enough to review and do the math. Then there's a part that I don't understand.

If there is not something that is quantifiable in that part of it, we're going to have difficulty. I am hesitating a little bit, but this basically puts a Board decision now back on the Technical Committee; which I don't think is proper. I think if we give some recommendations, some advice, it absolutely should come back to the Board; because it does not seem right to put that type of decision on a Technical Committee.

CHAIRMAN LUISI: Thanks for offering that Jay. Adam, I'll come to you, Jim after Adam.

MR. NOWALSKY: I agree with Jay entirely. When we got to this point of the motion, the first question we had in discussing is what are we asking the TC to approve it relative to? I think this motion can be perfected by referencing the 19-inch, 3-fish, 128-day season; and by saying we're looking for the approval of what we put forward as being at least/or more conservative than that proposal.

We're very confident that at the very least the standard methodologies included therein, if you chose to evaluate it only on those merits, will demonstrate it's at least and more conservative than the 19-inch, 3-fish, 128-day season. Whether that just stays on the record here as useful information to the TC or whether you need the motion changed; that would be my recommended path forward.

CHAIRMAN LUISI: Yes that's been mentioned a couple times already that essentially a comparison between the Option 5 regulations

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as they would have been in place in New Jersey versus the option that you're presenting here today, would be the comparison of the two. If they're equivalent or more conservative that would force the agreement or approval by the Technical Committee. David Pierce.

DR. PIERCE: Yes I completely agree with Jason. I think it's inappropriate to have the Technical Committee make the call; so I would move to amend the motion. Scratch out as soon as possible, and put in its place followed by Board consideration and decision.

CHAIRMAN LUISI: We have an amended motion to remove "as soon as possible" and replace with "followed by Board consideration and decision." Do I have a second on that; Bob Ballou seconds that.

MR. BORDEN: In the interest of time I'll accept that as perfection, if John Clark will.

MR. CLARK: Sure, I'm just confused. Is this like a double board approval then, so we have to approve it now, goes to the TC then it comes back and we approve it again?

CHAIRMAN LUISI: We're going to approve it. It's going to go to the TC. We're basically approving it to go to the TC. The process is the one where the Board has to take two actions. The Board is either going to not even send it to the TC or we're going to send it to the TC and revisit it to a follow up, and it is going to have to be some form of a webinar.

MR. CLARK: Sure that's cool.

CHAIRMAN LUISI: All right that's cool; I'll take that as an okay. Let me just see here. This is subject to review and approval by the Technical Committee and subsequent Board consideration and approval. I think that's fine, Bob. Does it sound okay to you? Any further discussion on this, do you need a minute to caucus? Anyone need a caucus time? Okay we'll have 30 seconds to caucus.

**I'm not going to read this full motion back into the record; but I will just make the point that I just made that by approving this motion we're approving this methodology and accompanied by the regulations that are in front of us would go to the Technical Committee.** The Technical Committee will review those in comparison to Option 5, and the Board would have another shot at approving that after Technical Committee review.

In sidebar while you were caucusing, we have no idea of the timeline of how this might happen. That is something that we're just going to have to do the best we can. I can't commit in any way as your chairman on when this action will be taken; but we'll have to start the process of scheduling meetings, webinars, and materials. That is just part of what this option is, okay.

**That is 11 in favor, all those opposed; that is 1 opposed, null vote, abstentions, so 0, 0, motion carries.** Are there any other agenda items regarding whatever we're talking about here; state compliance to come before us, before we move on to our final agenda item.

Okay seeing none; we are very late, Bob. I know you and I have had this conversation, and we talked about what might happen in the event that the sun starts to come up before we leave. I will turn to you. Bob wants to offer a few thoughts regarding the white paper. I think what we ultimately will do as a result of Bob's presentation, which I know will be brief; it's looking for a path forward. That is what we kind of need to agree on as a Board as to what Bob's going to present, so Bob.

**REVIEW WHITE PAPER ON SUMMER  
FLOUNDER RECREATIONAL SPECIFICATIONS**

MR. BALLOU: I have about a three hour presentation; but I think I can cut it down and make it a little less than that. Seriously, I did develop some prepared remarks, because I

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knew it would be late. I knew our cerebral capacity would be severely compromised. With the Board's indulgence, five minutes.

Five minutes to just read some remarks into the record. I think it would be easier to do it this way, and then I assure you that would be all, I think; we need to do on this item. The impetus for the white paper is set forth in the introduction section of the document; and I'll begin by reading from that paraphrasing just a bit. Achieving the necessary harvest reductions in 2017 via the process undertaken to develop Addendum XXVIII, (dramatic pause) was not easy. The addendum noted that the management program for 2017 will have shortcomings, with regard to addressing the issues and challenges associated with managing the recreational fluke fishery.

It is thus intended to be an interim program, while focusing on the development of a more comprehensive solution for the future. Moving forward the Board should reconsider the framework that has allowed regional management under conservation equivalency in recent years, and develop an approach that is more workable. The paper then lays out in glorious detail the background for the current management program and the annual specification process.

It then highlights challenges and questions for the Board to consider moving forward. The paper concludes with a section titled "Moving Forward." I agreed to contribute to the writing of that section and did so in a rather cursory way, given time constraints. I just want to offer a very brief and slightly revised take on that section.

First it seems abundantly apparent to me, and I think just as apparent for everyone else in this room; that we lack a clear vision for what we want the recreational fluke fishery to look like. What is it that we want to achieve? Step one in the process of moving forward needs to be some sort of visioning exercise.

That exercise (dramatic pause) won't be easy. We have diverse perspectives. But we have to try and get on the same page, in terms of our ultimate goal, before we roll up our sleeves and start working towards it. Second, we need to chart a course to realize our vision. That course as I see it has both a short term and a long term track.

The short term track involves that which can be done via the annual specification process. We already have the mechanisms in place to assess a range of options tailored to move us forward in accordance with our vision; under the conservation equivalency framework. It is what we have done since 2001, and it is what we have done every year since 2014 via annual addenda.

It is what we're going to have to do again this year, to establish our management program for next year. The key difference this year, which relates directly to this agenda item at this meeting, is that we should start the process earlier. Instead of waiting until our fall Commission meeting and December joint meeting to start figuring out the types of options we want to consider for our next addendum, the suggestion being offered today via this white paper is to essentially begin now; and allow the process to evolve and develop over the next eight months.

By the time we reach November or December, we have something that is well vetted and ready for public comment. The hope and expectation is that we'll be well positioned, or at least better positioned for final decision making in February; if not sooner. As set forth in the white paper, the key process related recommendation being offered today to the Board is to task the Board's recreational working group with the development of some preliminary management options; to be brought back before the Board for review and consideration at our next meeting in August.



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As noted earlier, those options should ideally flow from a visioning exercise. I would leave open the question of how that visioning should be undertaken. One thought is to simply solicit input from the Board through Kirby; and that input could be taken up by the Working Group, massaged and reported out as part of our homework assignment or maybe it makes more sense to workshop the process. Again, I leave that piece open for discussion. Lastly, I'll just speak very briefly to the second, longer term track that I referenced earlier.

As we have learned via presentations given at past meetings by Kylie and Kirby, there is a set of recreational fisheries issues that cannot be addressed solely by the Commission via the conservation equivalency framework. If they are to be considered, they require broader action; likely joint action via an amendment or perhaps a new framework/addendum combo.

Then I've got a bunch of issues here that would fall under that category; they've already been provided in past meetings by Kylie. It includes such things as a new F-based approach to managing the recreational fishery, sector separation, et cetera. As we know, the Council has decided to delay addressing recreational issues under the Comp Amendment process; based largely on the still pending updates to the MRIP data, which is likely to have a significant impact on the analysis of issues and options.

I suggest it would behoove the Board, with the support of its recreational working group and in coordination with the Council, to identify and stay focused on all management reforms needed to realize their vision for the fishery. Working through the CE process as our short term strategy and teeing up those complimentary, longer term issues requiring additional action by the Board and/or Council for consideration as soon as possible, ideally by next year. Although it is understood that the overall amendment process could take two or three years to fully complete.

The key is to move forward incrementally, with visioning and short term actions that map into our long game. With that Mr. Chairman and to everyone on the Board, I thank you for your time; particularly at this late hour, and this opportunity to sort of strategize a bit, and look forward to hearing other thoughts and perspectives, although maybe that's best done at a later time. But that is my presentation, thank you.

CHAIRMAN LUISI: Thank you Bob, for that. I think your short term path forward I think is something we can certainly do; and provide time for a discussion more so at the August meeting, when we convene again. But the recreational group that we've had, who's worked on issues, I think could meet sometime this summer. Is anybody opposed to following back up on this in August as the short term? David.

DR. PIERCE: Not opposed, but it seems to me that the Mid-Atlantic Council, with your leadership, Chris; that you've done a lot of work on this. You are already visioning regarding the recreational fishery. I don't recall where that ended up. But I think you did a lot of leg work on this already, and we can benefit from all that work that you and the Council did.

EXECUTIVE DIRECTOR MOORE: We did go through a visioning exercise about, how many years, three years ago? Yes, three four years ago that visioning project worked well. Bob was involved with that. That visioning project turned into a strategic plan, and that strategic plan drives the implementation plan that we use every year.

Some of the ideas that Bob has brought up are captured in that visioning document. I do think it's a good idea though to revisit those, and have a very specific sort of discussion with a larger group; including stakeholders to exactly what we're trying to do with the recreational fishery. I think that is a great idea. Some other things that you mentioned in your white paper,

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I've read it real quick, but we put an F-based, we've just put an RFP out for someone to do some of the work that you've talked about; including the step-based strategy for the recreational fishery.

We also have some ongoing work relative to looking at slot limits. You guys have heard Dr. Sullivan talk about it. We have another guy that's actually working on some of that as well. I think all that could coalesce into some really good ideas and some actions that could help, hopefully in 2018.

CHAIRMAN LUISI: All right thanks for that, Chris; any other thoughts? Adam.

MR. NOWALSKY: I just want to add Mr. Chairman that it's been a very long day. Despite feeling like I'm on the Oregon Trail with a broken down wagon, no food, no water, no bullets. That is what the recreational management process feels like at this point. But that being said, I think everyone that stayed here, gave this their full attention tonight.

I extend a word of thanks, and I feel like there are at least people working together on the issue. Despite the fact that my kids and I still haven't won that Oregon Trail card game, I will have faith that we can find a way to make it to the end here. Thank you.

CHAIRMAN LUISI: Let's talk offline after the meeting about thoughts for moving forward, and we'll loop Chris and Bob in as well. Okay that takes us to Other Business, and I'm sorry to report Emerson, but I think we've run out of time. Do you want to make a comment, maybe just to put it back on the record as to what your expectations might be for a future discussion? Now would be the time. But we're not going to have time to discuss it.

MR. HASBROUCK: I agree. Considering the late hour, we can postpone this discussion to the next Board meeting. I just want to get a conversation started again about RSA.

**ADJOURNMENT**

CHAIRMAN LUISI: We can do that. Is there any other new business, or other items to come before the Board? Motion to adjourn a 7 hour and 43 minute Board meeting, I call the meeting adjourned. Have fun tomorrow.

(Whereupon the meeting adjourned at 8:43 o'clock p.m. on May 10, 2017)