

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**The Westin Alexandria
Alexandria, Virginia
August 3, 2017
Approved October 2017**

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of May 2017** by Consent (Page 1).
3. **Postponed Motion from Spring Meeting: Move to postpone the New Jersey Appeal of the Summer Flounder, Scup, and Black Sea Bass Addendum XXVIII until the Summer/August ISFMP Policy Board Meeting.** Motion made by Adam Nowalsky; seconded by Pat Keliher.
4. **Move to postpone the New Jersey appeal of the Summer flounder, Scup, and Black Sea Bass Addendum XXVIII indefinitely or until hell freezes over** (Page 11). Motion by Russ Allen; second by Dennis Abbott. Motion carried (Page 12).
5. **Motion to Adjourn** by consent (Page 26).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Roy Miller, DE (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Doug Grout, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Ritchie White, NH (GA)	David Blazer, MD (AA)
Raymond Kane, MA (GA)	Rachel Dean, MD (GA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	John Bull, VA (AA)
Jason McNamee, RI, proxy for J. Coit (AA)	Chris Batsavage, NC, proxy for B. Davis (AA)
Mark Alexander, CT (AA)	David Bush, NC, proxy for Rep. Steinburg (LA)
Lance Stewart, CT (GA)	Sen. Ronnie Cromer, SC (LA)
Sen. Craig Miner, CT (LA)	Spud Woodward, GA (AA)
James Gilmore, NY (AA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Emerson Hasbrouck, NY (GA)	Rep. Thad Altman, FL (LA)
Russ Allen, NJ, proxy for L. Herrighty (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Tom Fote, NJ (GA)	Martin Gary, PRFC
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Sherry White, USFWS
Andy Shiels, PA, proxy for J. Arway (AA)	Kelly Denit, NMFS

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

Ex-Officio Members

Staff

Bob Beal	Lisa Havel
Toni Kerns	Shanna Madsen
Mike Schmidtke	Katie Drew

Guests

John Bullard, NMFS	Molly Masterton, NRDC
Kelly Cates, NOAA	Nichola Meserve, MA DMF
Kiley Dancy, MAFMC	Matthew Moran, Ofc. of Rep. LoBiendo, DC
Jeff Deem, VMRC	Brandon Muffley, MAFMC
Donna Delem, State of NJ, DC	Mike Rogers, Ofc. of Rep. Pollard, DC
Matt Gates, CT DEEP	Ariana Spawn, Ofc. of Sen. Booker, DC
Zach Greenberg, PEW	Jack Travelstead, CCA
Arnold Leo, E. Hampton, NY	

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, August 3, 2017, and was called to order at 8:06 o'clock a.m. by Chairman Douglas E. Grout.

CALL TO ORDER

CHAIRMAN DOUGLAS E. GROUT: Good morning everybody. If the Policy Board members could take their seats, welcome and we have an agenda before us.

APPROVAL OF AGENDA

CHAIRMAN GROUT: Are there any changes to this agenda or additions to the agenda that any member of the Policy Board would like to make? Seeing none; is there any objection to approving the agenda? The agenda is approved by unanimous consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN GROUT: We also in our packets have proceedings from our May, 2017 meeting. Are there any edits or changes to that? Seeing none; is there any opposition to approving those proceedings? Seeing none; the proceedings are approved by unanimous consent. This is our opportunity on the agenda for public comment. Is there anybody in the public that has something that they would like to bring before the Policy Board that isn't already on the agenda?

UPDATE FROM THE STATE DIRECTOR'S MEETING

CHAIRMAN GROUT: Seeing none; we will move on to our next agenda item, which is me providing you an update on the State Director's Meeting and the Executive Committee. As you might expect, one of our largest and most involved discussion items at the State Director's meeting was the fluke out-of-compliance decision by the Secretary of Commerce. We had Sam Rauch and John Oliver there, as well as

the Regional Administrator John Bullard there; although Sam provided most of the feedback and input on our discussion.

One of Sam's major points about the decision as we questioned him was that the Commission needed a stronger justification for Criteria 2. That is one of the reasons, as you see in the letter, that they did not agree with our out of compliance finding. That is just for those of you who are not aware that a state's failure to implement and enforce the measures in the management plan, are necessary for the conservation of the fishery in question.

We had considerable debate about that. The other thing that was brought forward by Sam was despite the uncertainty about how effective New Jersey's measures would be; the Secretary felt that they were likely to be equivalent in total conservation. As you know, New Jersey used the criteria of total mortality, while in our plan we are using harvest mortality as a measure.

He also made it quite clear that each future noncompliance finding will be evaluated on its own merits. There is nothing new or some precedent that has been set here. Obviously since this is the first time that a Secretary of Commerce has not agreed with a Commission's out of compliance finding recommendation, the Commission was very concerned that this was precedent setting. But he made it very clear that any future noncompliance findings will be evaluated on its own merits. That's essentially the discussion we had on fluke; and I'll tell you in my Executive Committee report. I'm going to provide you with an update of what the Executive Committee is making as a recommendation for further action on this. For now I'm going to go into some of the other things on the State Directors reports.

We had a discussion about ASMFC and NOAA Fisheries budget priorities. Typically our high priorities for budgets, and this is one of the main reasons we have this annual meeting with

NOAA Fisheries is to provide them with our priorities; are the Commission and Council line item budget, SEAMAP/NEMAP funding, ACCSP funding, Saltonstall-Kennedy funds, as well as IJ and Rec data collection funds.

For those of you who are unaware, last year there was an increase in the Council and Commission line item budget; and the Commission received roughly \$171,000.00 increase. We allocated it to state ACA programs. This is the first increase we've had in nearly ten years; and so we were very appreciative of that and we have been working over the past year to try and get some kind of an increase.

For your information, in the Presidents FY18 budget, he has put that line back to 2016 levels. The House has put forward a proposal to level fund at FY17 funding levels; which was what we just discussed. The Senate has a 1.6 million dollar increase to that line item for 2018 over the 2017 levels.

There is also some direction in that all of that increase should be directed to the international and interstate fisheries commissions. Obviously we're still at the beginning stages of the budget; but that's where we're at right now with our Council and Commission line item. NEMAP funding, we had a discussion about increasing shortfalls for both the NEMAP survey in the Mid-Atlantic and the Maine/New Hampshire trawl survey.

The ultimate, we finished discussion on this with the intent that there is going to be a NEMAP Summit this fall to develop plans for filling the funding gap or if we can't find funds to fill the gaps, to adjust the surveys to account for current funding levels. When we discussed SEAMAP funding, an issue was brought up about that there is a potential that NOAA Fisheries is currently evaluating whether they can eliminate the M and A fees, these are the administration fees that are assessed at the Regional level and at Headquarters level.

They are looking at the possibility of not having to have some of those taxes assessed – excuse me for using the word tax, Kelly – to help provide more funds to some of our grants; and this may help out SEAMAP. Also we had a discussion about ACCSP and Fisheries Information Network funding. One thing in the Senates current appropriations bill, it specifically allocates 22.5 million dollars in Fisheries Information Network funding.

We're going to be looking as what is that compared to previous years. Nobody at the meeting was quite clear on how that compared to previous years; but it was something that was specific wording in the Senate's language. For Saltonstall-Kennedy funds, the Commission was asked; we had a discussion with Sam about that and how we can better provide input into this.

It was decided the Commission would continue to provide a working list of priorities for the National Program portion of the funds. That is what we had discussion on for funding. Then we went on to have sort of a discussion about how implementation of APAIS is going with the states. Generally there has been a positive response. The states in general feel that things have been going well, and there have been some positive benefits to that. There have been some minor hiccups, as you would expect when a new entity takes over conducting a survey. Another thing that was brought forward by a number of states is there seems to be increased resistance on the part of the charterboat sector to participate in the surveys in some states.

We also received an update from the National Marine Fisheries Service on the Fishing Effort Survey and APAIS calibration and transition. As I think many of you know, we're transitioning to a new effort survey based on the license frame, which I think many of us believe will be an improvement over the coastal household telephone survey.

Some of the preliminary results from this are indicating that fishing effort in the private boat and the shore fishery are somewhere between two and six times higher than what the coastal household telephone survey is. As a result there is going to be a need to calibrate historical data to the new effort system.

They are going through a peer review, they just had a peer review in, I think it was May or June, of it. There is going to be a peer review of the final calibration and the re-estimation should be up and running sometime in 2018. Next there was a discussion on benchmark assessments versus operational assessments, primarily on how to incorporate new scientific information into benchmark assessments.

In addition we had a discussion on observer coverage requirements for small vessels with state permits; with or without federal permits. There is a concern that was expressed by one of our state directors that there is excess coverage burden going on; because these day boat trips are easier for the contractors to actually get their required samples on it.

They seem to be spending more time interviewing these or going out on sea sampling trips or observer trips on these smaller boats. Finally, the Regional Administrator, John Bullard, brought forward a request for ASMFC to potentially start considering tribal representation on ASMFC, or at the Council level.

Obviously both of those could be a heavy lift, because they will require an act of Congress to change the makeup or either ASMFC or the Council's to include tribal representation. That is my report from our meeting with NOAA Fisheries. Are there any questions on any of those items? Eric.

MR. ERIC REID: When you were speaking about the NEMAP funding, you said something about a summit this fall. What is that going to look like, Mr. Chairman?

CHAIRMAN GROUT: Toni, can you provide or Bob, can you provide a description of what that summit is going to be?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Sure. Yes Eric, we haven't planned it yet. But the idea is it's going to be bringing together the NEMAP Board and a number of the NEMAP technical groups that look at the structure of the survey and all the details of how it's conducted. In addition to just reviewing how it's going, they are going to try to answer two questions.

One is what additional sources of money can we find to round out the needs of the survey? The second question would be if we can't find additional funds, what do we do? How do we make up for that shortfall in the way the survey is conducted? Do we shrink the range of the survey? Do we keep the same range but reduce stations?

Whatever it might be, do we adjust the sort of post processing and things that are done at VIMS? All those things are probably fair game to talk about. The idea is getting everybody involved with NEMAP in the same room, and sort of talking about how it's going. You know NEMAP is at about a ten year maturity level.

That's where a lot of the assessments and stock assessment folks feel that the time series is long enough to incorporate that data into assessments. We had planned this summit prior to the budget shortfalls. We were going to focus on the technical aspects; but given that we had these budget issues, we're going to roll that into the same meeting now.

CHAIRMAN GROUT: Follow up?

MR. REID: It's more of a point than anything else. I'm sure you're aware that NEMAP goes in areas where the Bigelow can't go. They tend to catch more of the young of the year and very young fish; which are critical to the data. Anything that can be done to maintain the survey range is critical; not only to the NEMAP

itself but to the industry going forward. I strongly suggest we figure out a way to get them fully funded, and not just for one year for some amount of time.

EXECUTIVE DIRECTOR BEAL: Just as a quick follow up. You know Eric, you're exactly right. We had a lot of conversation about that on Monday. There are the state surveys that are kind of right up against the beach, there is the Bigelow that's way offshore, and NEMAP is that sort of no-man zone in the middle.

How do we make sure that's still covered? Then the other thing we talked about on NEMAP, which is unique to NEMAP, is the fact that it's on an industry boat by a trusted industry captain. A lot of the commercial side especially trusts that data and feels that is good data that needs to go in these assessments, so keeping all those aspects in consideration, we need to find a way to keep it going.

CHAIRMAN GROUT: Anything else on this report; any questions? Bob.

EXECUTIVE DIRECTOR BEAL: Sorry, don't mean to be talking the whole time. Back on the New Jersey fluke issue. A couple commissioners have asked me if we've gotten a response from the letter that we sent to the Secretary. As I think everyone knows, ASMFC sent a letter to the Secretary asking or expressing the concerns that ASMFC had over the decision on summer flounder.

The letter ultimately asked for additional information on what went into the decision by the Secretary to agree with New Jersey's position that their conservation equivalency was essentially close enough to what the Commission had done. I just want to let everyone know, we have not received a response to that letter. Sam Rauch indicated on Monday that if and when they put together a response, we may actually already have a lot of the information. He said since NOAA Fisheries has shared the documentation that New Jersey

provided. That was a big part of their decision. Sam also said they've asked the Secretary if there is any other documentation that the Secretary would like to provide to ASMFC, and they're still waiting for a response from the Secretary. We haven't received a response yet, and if we do we'll share it as soon as we do.

UPDATE FROM EXECUTIVE COMMITTEE MEETING

CHAIRMAN GROUT: Is there anything else? Okay the next thing is the Executive Committee met on Tuesday morning. Our three main agenda items was the Council/Commission line item and NOAA budget; again, the Secretary's decision regarding fluke and Bob Beal's contract. Under the Commission line item and NOAA budget, our continued goal is to get back to the original 28/72 split; where Commissions will get 28 percent of that line.

It got 28 percent of that line when we were first combined. It's been eroding over the past ten years, because of increases to the Council; any of the increases to that line have gone to the Councils over those ten years. The Executive Committee as I said, his goal is to get back to that 28 percent by whatever allocation direction we can provide.

I had mentioned in my previous report that the Senate bill has a specific language to only allocate any increase to the international and the three interstate fisheries commissions. The Executive Committee had previously supported having a 50/50 split of any increase; until we got back up to 28 percent, and after that any increase would be a proportional allocation of any change in the amount.

We're going to continue to go forward with that as our plan for trying to allocate any increase in this particular line. Also we had again a long and thorough discussion, as particularly the South Atlantic Board was well aware of, since we were over an hour late, about the

Secretary's decision on New Jersey's fluke compliance.

We had a discussion about lessons learned, and then we went into a closed session to decide what our next actions would be; what should we do at this point? The Executive Committee is recommending that the Commission leadership request a face-to-face meeting with the Secretary; with the goal of protecting the process.

In addition, the question needs to be put forward both by the Commission here and to the Secretary. Are the states via the Commission still the best entity to manage interstate fisheries? We would like to come forward with a specific ask to develop an MOA to better define the process that goes on between the initial out-of-compliance finding submittal by ASMFC, and when the Secretary's decision is made.

Specifically we're going to seek to insert the opportunity for ASMFC to also meet, either during the meeting that the states are afforded that a state that's been found out of compliance, either during that meeting or after that meeting. We felt there was a concern by the Executive Committee that after the state had had their opportunity to make their case before the Secretary of Commerce that we were not given the opportunity to more fully explain the reason for our decision.

We feel that that would be an important point in the future to have that opportunity. Also at this meeting, and in the conference call that the Executive Committee had on July 20, the Commission should be aware that we also discussed the possibility of taking legal action. But in both those meetings we chose other actions, first of all the letter and then this meeting. We chose other actions at this time. Finally, our Executive Director's contract will be up at the end of this year.

I made a recommendation to the Executive Committee that Bob's contract be extended for another five years. We all think he's done a fantastic job. He has consistently had positive performance reviews, and we're looking forward to having him on for at least another five years; and the Executive Committee agreed with that. Are there any questions about the Executive Committee report? Yes, Jim.

MR. JAMES J. GILMORE, JR.: I just wanted to make one comment, and this goes back to the noncompliance thing. In the meeting, both the Executive Committee and with the meeting on Monday was relative to that justification that the Commission did. I think it really hasn't been stated, but I personally and I hope all of us, disagree with that completely.

What I really wanted to state was that I think of all the justifications I've seen in my career that was one of the strongest ones in any part of habitat management I've ever seen. I think the staff for the Commission and the states, even the federal government that were involved did an exemplary job on that.

You shouldn't feel that there was any deficiency in what was done through that whole process. I just wanted to make sure that that I don't think is really what's going on here. Again, I think the justification was well done; and we'll get into hopefully that meeting and find out a little bit more about what really happened with that decision.

CHAIRMAN GROUT: Yes I agree with that and in fact the point was made to Sam that we do strongly disagree with his feedback that we could have done a better job of making an argument on the compliance determination Criteria Number 2. If you've all looked at the Technical Committee's report, it is a very strong justification; and we made that point to him, Ritchie.

MR. G. RITCHIE WHITE: I agree with your comments and Jim's. In thinking about this,

because we've been taken into a time when a decision like this can be made politically and not based on science, the people sitting around this table have to make a decision going forward whether this method of fisheries management is the best method; and whether we want to preserve it or not.

I think we have to take the Secretary of Commerce out of our process, and what I mean by that is that we have to not have out of compliance findings. The states have to think long and hard before entering into this, and thinking about what I believe will be a short-term gain for a state that may not be a long-term gain. I think it's up to us to make sure that this system is solid and goes forward, and that we don't use this change and political decisions to advance what we might perceive as a short-term gain for our individual state.

CHAIRMAN GROUT: Tom Fote.

MR. THOMAS P. FOTE: Once Ritchie opened up the box about political decisions. You know there have been a lot of political decisions made on summer flounder; and New Jersey has been the losing end of those political decisions over the last couple of years. That had a lot to do with it. I also think that our appeal process is not working. As a matter of fact two or three states wanted to appeal and they realized that it's an appeal process they can't win, so they didn't even bother doing it.

We truthfully had never put the formal request – appeal – had a hearing on it at the Policy Committee, because some of it was by the time you went through the document we sent in, the points that we thought were important, the same one you thought was important when you said to the Secretary of Commerce, we're completely ignored and we weren't even allowed to discuss those points.

If you're going to have an appeal process and people are going to buy into that; because that is the way it should have happened, it needs to

be more thorough and it needs to look more at the states; and it shouldn't be a small decision by a couple of individuals, whether the whole appeal goes through or not.

But yes, the summer flounder decision, when we were forced in a region that we did not want to go, never supported that region, and when two other states opted out just by saying on the telephone call; we don't want to be in a region together, and they were allowed to do that when we were not. It's political.

I mean New Jersey has the good fortune of being in the middle, because we're on the Mason/Dixon line, it runs through New Jersey. We get thrown back and forth as a ball sometimes, for the benefit of the people above us and people below us. Also, because of our historical fishery, and we get shots at these fish as they go back and forth in their migratory pattern.

We've had some of the biggest catches in that; that's historical catches; you know the same way Virginia uses that on menhaden. It's the same way we should be able to do that; and people want to go after those historical decisions. They find more ways of getting around it or those historical landings.

If we have felt, I think New Jersey had gotten more of an appeal process, gone through the proper channels and actually listened. I mean you can justify that we were out of compliance, but when you look to the conservation that was very iffy, whether we were doing more conservation or not. You should have given us a chance and that would have happened.

We tried at the Technical Committee, we tried at the Board. We tried at the appeal process, and we weren't getting a fair shake as we saw it, all three. I agree with Ritchie, we need to get the politics out of here. We need to be fair. When the states feel they're getting a fair share, and that's historically what we've done. We've listened to, whether it was Virginia,

whether it was New York. How do we basically enhance that? Sometimes it's just the figures.

We look at 2013 and I can pick out a number of examples when the Marine Recreational Survey we call MRIP now, has basically failed us. We get numbers like that from New York, numbers that New Jersey one year caught two-thirds of the recreational catch on weakfish; and we say those numbers are lousy, and they should be thrown out. If we were in business, we were in any other facility would look at the PSE on those numbers they would have thrown them out and said they are not verifiable. I know it's kind of long winded, but you know I felt strongly in what we did. I supported what we did, and I think it was the right thing. But the Commission needs to adjust how it does the appeal process, how it handles states; because we have gotten political in the last couple years. When states feel like they're not getting a fair and honest hearing, and they feel they are being politically picked on, then they are going to basically have to react.

CHAIRMAN GROUT: I have Dennis Abbott and Robert Boyles. Dennis.

MR. DENNIS ABBOTT: Monday when the Executive Committee met, during that conversation I noticed that Jason McNamee really was troubled by this decision. As we know, Jason is a great scientist; and I think he was responsible for putting together the technical justification for the noncompliance.

I know that he felt very bad about this. I could see it in his face. But, as far as getting a fair shake. I think that the administrative record would show that New Jersey did get a fair shake. It went through the complete Commission process. Ritchie White and I, Ritchie is a good guy and he takes me fishing now and then so that we can talk about these matters.

With each of us holding on to our striper rods, we talked about this and it became very clear

that the process, the Compact that we're dealing with was really being put in a bad place with this decision. Anyone that thinks this wasn't politics. If you can add up Christie, Trump and Ross and not come out with the fact that this wasn't a political decision, you've got blinders on.

In the end I think that the states really have to consider placing the Compact above their individual state issues. It may be difficult, as it was in this case difficult for Massachusetts and New York to go along with essentially what the federal government agency told us when we had to cut back on summer flounder catch.

It wasn't ASMFC really that came up with a 30 percent cut. It was the Feds that told us that. But we have to manage these species, because their health relies on the decisions that we make. But also, we can't allow for one sided decision making. Doug Grout alluded to that that they may have a conversation, and as I said during our Executive Committee meeting that we need more than a conversation, because the Secretary of Commerce sits there temporarily.

He may be there who knows, a week, a month, a year, four years or whatever. This could happen under another administration. But what did happen, really in my mind; and Ritchie and I spoke about it, really weakens the process that we're all engaged in and committed to. Also, I think that the process of conservation equivalency, I don't know if it needs another look, but we've generally when we've had conservation equivalency proposals offered.

They're generally, I don't know the percentages, but usually approved and rarely disapproved. Maybe in the future we have to ask the Technical Committee to be more detailed and provide clearer justification of noncompliance; when science is the issue as opposed to administrative issues.

But in this case, as Jim Gilmore stated a few minutes ago, he thought this was very

thorough. I'm sure Jason McNamee would tell you that they provided clear reasons for disallowing the noncompliance finding. I think on one side we have to do more, we have to do better. But the states really have to look at the big picture and look at the damage that was done. We can say that this is a one-issue or one-time thing. But it doesn't work that way. There are always precedents. Mark my words, I may not be around, but this will come up again, and now you have precedents. I'm concerned, and I think that at the end of the day it's very important that we place the Compact above all else.

CHAIRMAN GROUT: Robert Boyles.

MR. ROBERT H. BOYLES, JR.: Representative Abbott, thank you for what I would like to consider a great segue way to my remarks. Mr. Chairman, I think it's important that we recognize that the very constitution of this great nation holds matters of interstate commerce to be the purview of the Federal Government.

In the early 1940s when the country was engaged in some distractions around the globe, the Congress in its wisdom decided that there is a lot to be gained by states sitting in a body like this to cooperate, to commit to one another to work together on problems, challenges, and opportunities.

In 1993, the Congress established the Atlantic Coastal Act; that really put that idea, that concept, that ideal of interstate cooperation into what I would argue a more mature, modern, cooperative venue with both the carrot to encourage cooperation, as well as a stick to ensure cooperation once a decision had been made.

Clearly, South Carolina doesn't sit on the Summer Flounder Board, and so our interest in that particular management board may not be as great as other states. But I too share Representative Abbott's concerns about the efficacy of this institution as a place where we

can come together and work through problems, work through disagreements, and really provide a stable and a vigorous forum for discussions; to how to manage these great resources that we are blessed to have the privilege of being stewards of.

With that Mr. Chairman, I just would like to quote Dr. Franklin, who just before signing the Declaration of Independence remarked, as he concluded his comments, "We must indeed all hang together, or most assuredly we shall all hang separately." I think I speak for my colleagues in South Carolina that we're disappointed with what has brought us here.

But from our perspective, we remain committed to this Compact. We remain committed to each other, in terms of the belief that the states are the best place for these decisions to be made; and we will do our best to ensure that folks around here feel like they get a fair hearing. We are committed to continued cooperation.

CHAIRMAN GROUT: I have Roy Miller.

MR. ROY W. MILLER: Robert, I don't know if I can add to that eloquent presentation by you; but I have a practical suggestion for us to possibly consider. Having listened to Tom Fote's comments regarding the appeal process, and looking over the letter seeing who handled the appeal on behalf of the Commission. I'm wondering if we want to give consideration to adding a player or two or three to the appeal process, who are outside of the Commission process. In other words, not Commission members, not part of the Policy Board who originally voted on the compliance finding; and thereby giving a little bit of independent peer review, if you will, to future appeals process. I'm not saying go totally outside. Clearly we need Commission members; we need staff on that appeal process. But I'm just wondering if some fresh perspective from outside the Commission might give that appeals process a

little more objectivity in the eyes of those who maybe are on the negative side of that appeal.

CHAIRMAN GROUT: I'll just point out. I think that's a good discussion item, particularly in light of the fact that Commissioner Fote has suggested that we may need to relook at the appeals process that we have. I'll remind the Commission that we just recently revised our appeals process in the past two or three years; of which everybody on this Board at that time supported those revisions.

But I think if we find that something or if we feel that something still isn't perfect that it's an opportunity to move forward; and possibly look at this again in the future with your suggestion and any other suggestions that the Commissioners might have for revising our appeals process. Tom Fote.

MR. FOTE: I don't take going out of compliance lightly. As a matter of fact, I don't know who was sitting on the Board but Bob might have been here. Years ago because of my role as a legislative appointee on one of the Boards as a proxy, I voted New Jersey out of compliance. I took it seriously; and felt that they should put the regulation.

I caught a lot of heat from that back in my state; but that's what we did. Over the years we've basically gone out of compliance a few times, and automatically came right back into compliance as soon as we could. Part of the problem was we used to do striped bass by legislation; so it was always a long process.

One time we were supposed to get it done the state house flooded, and they had to postpone the whole vote on the thing; so it passed the date. I take it very seriously. But I also look at the way the law was written. The law was written for a particular purpose to basically help the Compact work, and it gave us a lot of power, an extreme lot of power to basically shut a state down by automatically going to the Secretary of Commerce.

But it also laid on the Secretary of Commerce to be the arbitrator sometimes, to look at what he thinks is the right move to make. I don't think the process failed us. They've supported us all the time. They've sent the letter to New Jersey every time they thought it. But this time they thought there was something valid with the arguments we made.

We should look at that as part of the system "working," not "not working." Because of all the noncompliance, as a matter of fact I've watched states say, well I can't say this out in public, but vote me out of compliance; because it forces me to do the right thing when I got back, and that's happened numerous times and we've done it, so it has worked.

To say the whole system is broken because of one instance where the Secretary of Commerce looks at an issue, felt that maybe it wasn't, with taking all the facts that were put out. You put a beautiful justification out, so did New Jersey. I think the system worked. The system before that needs to work a little better, and I thanked everybody. I support what Robert said and I support what Roy said. I mean I looked at it, I take it very seriously. We vote states out of compliance for specific reasons; but again we've got to look also when we vote them out. Just because they are not doing it, but it's not going to hurt the resource or it's not going to really affect anything; we need to take a chance once in a while, and thank you for your patience. I understand it's very hard.

It was hard for us. I mean I served this Commission off and on for 27 years. I don't take going out of compliance lightly, as I said, we've always got back into compliance as soon as we could; and I voted my state out of compliance when I had the opportunity. I'll leave it at that.

CHAIRMAN GROUT: Ray Kane.

MR. RAYMOND W. KANE: As you all know I'm a junior Commissioner here, but I sat in the

peanut gallery for years. I would like to start by commending Bob Beal and his staff and the Technical Committee. We've got nothing but good things from them over the years. I'm at a point sitting at the table; we can beat this up the rest of the day.

Decisions have been made. A lot of people aren't happy with it or we can live for today and tomorrow. I certainly hope because of this outcome, this previous outcome that we don't become hypercritical and paranoid in future FMPs.

CHAIRMAN GROUT: Adam.

MR. ADAM NOWALSKY: One of the biggest criticisms I've heard of the Secretary's decision is that somehow there is a sense that an individual state won here. We all lost; everyone around this table! I would make the argument NOAA Fisheries and even the Secretary of Commerce for being forced to get involved in this, and New Jersey lost.

For the first year in 18 years, I'm not running my own vessel this year. It didn't matter if it was three fish at 19 inches or three fish at 18 inches, with almost a month less season. Neither of those regulations served the public; and worse than that when we put forth a proposal that acknowledges that it kills more fish through discards than harvest. We are certainly not serving the resource we claim so ardently to protect.

The concerns about wanting to protect the process that's all well and good, when the process is working. But when it comes to recreational fisheries management, the process is not working. It's not, and it's unfortunate that it's had to come to this, and I certainly understand a lot of the criticisms are coming from those states that have not been as impacted by the recreational problems with data collection.

Using FMP processes that were put in place not to manage resources at very high levels of abundance, but that were put in place at a time solely for rebuilding purposes; and that purpose only. For those that say you're concerned about the process. You should be concerned about the process.

But sometimes it's okay to go ahead, have those concerns, have a third party step in; which is essentially what happened in this case, say take another look at what we're doing. I hope; I truly hope that we can use this as a stepping stone to something better. I sincerely hope that we can look at the information that was provided by the Secretary, and use that as a building block in making our appeals process stronger. Most importantly, recognizing that second element of the noncompliance findings, are the measures that we seek to enforce truly about conservation of the resource?

CHAIRMAN GROUT: Jay McNamee.

MR. JASON McNAMEE: I'm going to work off one of the comments that Adam just made, and it was a reference to reviewing information from the Secretary. What became very apparent to me during this past couple of days is there is nothing to review. We had a really rigorous process. New Jersey put forward a fair effort.

I appreciate Mr. Abbott's comments earlier, and I was on that technical review; but so were a lot of other people. Your state scientists, NOAA Fisheries scientists, Mid-Atlantic staff, it was not a single person it was a full technical review. We reviewed their work. We offered our advice on that work; and what happened subsequent to that is there was a process that occurred with the Secretary that second guessed what that technical body did, without any evidence, any information. There is nothing to review. I was told that bluntly.

That is the biggest issue with all of this, and my view is that process that occurred, it wasn't

much of a process after it left our table. I don't understand. I don't feel we can let that stand. I appreciate the idea by the Executive Committee to meet with the Secretary; because I think we really need to emphasize this point that we put forward a technical review, and were offered nothing in return as to why that technical review was deemed insufficient.

CHAIRMAN GROUT: Any other comments on this issue? Okay it was a good discussion. I do appreciate all the comments that our Commissioners have put forward here. This is obviously a very difficult issue. I look forward to working with all of you to continue to cooperatively manage our interstate fisheries for the benefit of the resource and our constituents here. That is what I have for Agenda Item Number 4. Oh Dan, go ahead one more?

MR. DAN McKIERNAN: Quick question, Doug. You had mentioned earlier that there was going to be a redraft of an MOU about noncompliance. Is that a task coming out of this discussion?

CHAIRMAN GROUT: We are going to request a meeting with the Secretary, a face-to-face meeting with Commission leadership and the Secretary; and one of our asks of him is to develop an MOA with the Secretary and NOAA Fishery and the Commission, to try and better define the process between when the Commission sends a letter of noncompliance to him, and when he makes his final decision.

One of the things that we would like to get in that is an opportunity, either in conjunction with or following when the state, who is by the ACA Act provided the opportunity to make their case before the Secretary that the Commission also be afforded that same opportunity.

MR. McKIERNAN: Who would be the signatories to that MOA?

CHAIRMAN GROUT: ASMFC; and hopefully the Secretary of Commerce.

MR. McKIERNAN: The head of NOAA or NMFS rather?

PUBLIC COMMENT

CHAIRMAN GROUT: Maybe even higher. I'll take one very brief comment. Can you go down to the public microphone?

MR. ARNOLD LEO: I'll just do it here. Arnold Leo; I represent the fishing industry of the town of East Hampton, Long Island. I just think it's worth hearing a word from the gathering mob that in New York already at one of our fisheries meetings, a very large group of fishermen are saying to the DEC on the tautog fishery, where there is a proposed 50 percent reduction in landings in Long Island Sound.

Well, why don't you just do what New Jersey did, go out of compliance and see what happens. My point is that this action by the Secretary of Commerce is definitely going to make it hard for the credibility of the environmental agencies in the states; you know to follow a kind of rational process of fishery management.

REVIEW AND CONSIDER NEW JERSEY APPEAL OF ADDENDUM XXVIII POSTPONED MOTION

CHAIRMAN GROUT: Okay anything else from the Board? All right our next agenda item was to take up a postponed motion that was moved concerning the appeal process that New Jersey put forward. Again, this had been that New Jersey's made a motion that was seconded by Pat Keliher to postpone consideration of New Jersey's appeal of Summer Flounder, Scup, and Black Sea Bass Addendum XXVIII until this particular Policy Board meeting. We need to somehow dispense with this. Russ.

MR. RUSS ALLEN: You have no idea how much I would like to dispense of this. **I would like to move to postpone the New Jersey appeal of**

the Summer Flounder, Scup and Black Sea Bass Addendum XXVIII indefinitely or until hell freezes over.

CHAIRMAN GROUT: Is there a second to that motion? Dennis Abbott. Don't forget hell freezes over in there. Is there any discussion on this motion? Seeing none; is there any objection to approving this motion? **Seeing none; the motion is approved by unanimous consent.** The next agenda item is Discuss the Secretary of Commerce Decision Regarding New Jersey's Summer Flounder Recreational Measures.

We just had a fairly lengthy and I think very fruitful discussion on this. Is there anybody that would like to add something to that discussion that we had? Seeing none; we'll move on to Agenda Item Number 7, Review Annual Performance of the Stocks.

REVIEW ANNUAL PERFORMANCE OF THE STOCKS

MS. TONI KERNS: As a part of our strategic planning process through 2018, we reviewed the performance of the stocks each year; also within our action plan, and we have been doing this since 2009. Really the goal of this here is to validate the status of each of the stocks, and look at the rate of progress that they're making, and if the Policy Board is not pleased with the process then to identify corrective actions and to give advice back to the Boards.

Each of the species is reviewed and has for the species that are of concern, depleted, or unknown, the document talks about how the Boards have been following the technical advice. That is where the advice back to the management boards from the Policy Board would come into play. In addition to feedback, we also can use this information to help guide staff as we create the 2018 action plan. We have five categories; rebuild/sustainable, recovering/rebuilding, concerned, depleted, and unknown. For this year black sea bass was

added to the rebuilt/sustainable category after the release of the stock assessment last year; and red drum and tautog for the Mass/Rhode Island proportion region of tautog were pulled into the recovering/rebuilding.

In the document there are tables that give the status of these rebuild/sustainable and the recovering/rebuilding stocks, and talks about different little caveats of the assessment, as well as when the next assessment will be. I'm going to go into some of the information on species of concern. For horseshoe crab, we are still looking for dedicated funding for the coastwide survey, or surveys of a broader regional geographical region.

Thanks to a lot of efforts by LoBiondo and Pallone's office, for 2017 we have secured funding for the survey. That funding was done through the SK funds, and NOAA dedicated the Commission's SK funds for the horseshoe crab survey. The 2018, both House and Senate also have the same direction for NOAA to find funds for the horseshoe crab survey as well, this was again thanks to LoBiondo and Pallone's office for that work on that.

Horseshoe crab is still looking to develop biological reference points; as well as a mechanism to include biomedical data and mortality estimates into regional assessments, without compromising data confidentiality. As the Board knows, the 2018 assessment that we will do is a regional assessment; but because of the confidentiality of the biomedical data, we're going to have to do that assessment pretty much behind closed doors in its entirety.

Then when we report out to the Management Board, it will have to be in trends and in code for a lot of it; because we won't be able to give the results, due to that confidentiality as well. For summer flounder, the retrospective patterns are evident in the assessment; and have substantial implications in the reliability of the model projections.

The stock is not overfished, but overfishing is occurring; and we have been seeing declines in the SSB for the past couple of years. We have not had a good recruitment class since 2010. In 2017 the probability of overfishing is higher than what is in the Mid-Atlantic Council's risk management policy.

It was also higher in 2016, and the results of the 2016 recreational harvest were about 114 percent of their recreational harvest limit. There is concern with the summer flounder stock; and the fact that we've been setting recreational measures that likely will exceed the RHL. Additional species of concerns are coastal sharks, as well as winter flounder.

For winter flounder, there will be a GARM assessment that will include winter flounder. The groundfish stocks will all be looked at through the Northeast Fisheries Science Center in the next coming year, I believe, and Gulf of Maine will be looked at. Previously the assessment is based on a swept area, estimated biomass, and this assessment was last completed in 2014.

The Commission's Board has been maintaining the same management measures since 2015 for the Gulf of Maine winter flounder stock. For depleted species, southern New England lobster. It's depleted, but overfishing is not occurring. The abundance is at 42 percent of the threshold, and the exploitation rate is below the threshold. Estimates of recruitment are near zero, or the lowest on record. The TC has advised the Board to use output controls, yet the Board continues to use input measures to manage the stock. The TC has advised 50 to 75 percent reductions in each of the LCMAs within southern New England, and previously the Board had approved a 10 percent reduction. Then at this past meeting the Board did not take any action to increase egg production; where at the previous meeting the Board had agreed to do a 5 percent increase. For northern shrimp, due to failed recruitment the stock is not expected to recover until at least this year;

although indications from the survey is that it will be further out from this year.

The Section has been implementing a moratorium since 2014; and is in the process of doing an amendment that looks at state quota. The last year we have seen a small uptick in information for a shrimp-survey abundance. We're hoping that that will be continued positive increase trends; but it is a very small uptick in response to these many years of moratorium.

For tautog, the 2016 assessment update indicates that the Long Island Sound and New Jersey/New York Bight regions are overfishing. The Long Island Sound, New York/New Jersey Bight and DelMarVa regions are overfished. The assessment proposed new reference points for each of these regions; and recommended that the Board manage the stock on a regional basis.

The Board initiated Draft Amendment 1, which is currently ongoing, which does consider regional management, regional reference points, and additional measures including a tagging program for tautog. For winter flounder, southern New England, the stock is at 23 percent of the SSB target. There have been some modest increases over the last decade; but the stock has remained at approximately a quarter of the target since the early 2000s.

Since 1981, recruitment has been declining, 2013 had been the lowest in the time series; where it was approximately 4 percent of the estimated recruitment in 1981, which was the highest in the time series. The 2014 recruitment estimate increased slightly, and the overall stock productivity yet still continues to decline.

In 2014 NOAA Fisheries extended the rebuilding timeframe to 2023; to allow for increased fishing opportunities while the stock rebuilt. Following the TCs advice, the Board maintained a 50 pound trip limit for non-federally-

permitted-commercial vessels for the 2017 fishery. NOAA Fisheries has reduced the state water subcomponent of the stock, so the state-water catch and the total stock-wide catch limit; but the allowable harvest levels are still very high, yet the actual harvest remains quite low.

The Board also had extended the recreational season from March 1st through December 31st, to increase fishing opportunities based on the species availability. Additional species that are depleted are American eel. We haven't had a recent stock assessment for eel in a while; so I wasn't going to repeat what I've been telling you for the past couple of years for all of these species.

For eel the assessment will be coming in 2018. The 2016 harvest was just over the coastwide cap. The Eel Board is going to have a working group get together to discuss how to manage the yellow eel landings; as well as looking at the quota for Maine for glass eel, and report back to the Board at the annual meeting.

For American shad, as we heard yesterday the TC does have some concerns about how to do a shad update; based on the issues that we had during the river herring assessment update. Because the significant portion of these assessments that are qualitative and the amount of time that has lapsed between the two assessments, and the turnover that we've had of folks on the Assessment Committee; it's hard to have the continuity of judgments from one assessment to the next.

In addition for shad, there have been some changes in studies on whether or not scales are appropriate for aging; which impacts some of the information coming out of the assessment. For shad, we're going to have the TC as well as the Assessment Science Committee look at that and figure out what's the best way forward for an assessment for shad; to provide some sound, stable management advice to the Management Board, and get back to you at the annual meeting.

We just heard about the river herring assessment update; so I'm not going to repeat that from what you heard yesterday. Then for weakfish, we have a weakfish assessment coming up in 2018. Landings have remained similar over the past couple years; so hopefully we'll get some new information out of this assessment update.

Then unknown species, for Jonah crab, the Jonah crab landings have increased six-fold since the early 2000s, with about 13.5 million pounds of Jonah crab landed in 2015. The status of the Jonah crab resource is unknown; and there is currently no data on juvenile recruitment. There are currently ongoing studies to look at age at maturity for U.S. waters in Jonah crab.

A lot of those efforts are being done by the state of Massachusetts. We are also at the same time investigating the annual migration patterns of Jonah crab. All of this information will be necessary in order to conduct a stock assessment. Once we have enough information then we will do our first stock assessment of Jonah crab. Additional species of unknown are Atlantic croaker, sturgeon, spot, and spotted sea trout. For both Atlantic croaker and spot, we had recent assessments that did not pass peer review.

But the Peer Review Panel felt that the status of the stock is doing all right, based on the trends and the indices. Although we did get information on Tuesday that we should look at the traffic light approach, which we use indexes to see how the stock is doing outside of the assessment time periods. We are looking to enhance those traffic light approaches, and will be bringing information back to the Board once that's been completed, and that is my full report.

CHAIRMAN GROUT: Any questions for Toni on this report? John Clark.

MR. JOHN CLARK: Thank you, Toni. This is kind of tangential to that; but you mentioned that for the horseshoe crab that was SK funded this year, but that's coming out of money that ASMFC would have gotten in SK that could go to other projects? I mean I'm glad the project is getting funded, but we've also up and down the coast have benefited from SK funding through ASMFC for other projects, like the striped bass tagging. I was just curious as to how the whole funding mechanism works there.

MS. KERNS: For this year NOAA determined and told us we would use our SK money for horseshoe crab. Often in the years past they've said you have \$500,000.00; decide how you want to use it. But this year we were told to use it for horseshoe crab. It was \$200,000.00.

CHAIRMAN GROUT: Chris Batsavage.

MR. CHRIS BATSAVAGE: Toni, for species that had a stock status from a previous accepted assessment, but then the next assessment doesn't pass peer review, does the status of that species switch to unknown at that point?

MS. KERNS: That is what we have done for most of the species, yes.

CHAIRMAN GROUT: Are there any other questions? I think this is important review that we do every year. The good news is that over the years we've been able to put into the rebuilt and rebuilding category. We've gone from 6 to 9 species, and if you include the recovered/rebuilding category, which we didn't have back when we started this process, we're up to 12.

We've also been able to knock down the number of unknowns from 8 to 5; and that's despite taking on additional species. Our concern here clearly has to be our concerned and depleted, which has actually increased from 10 to 12. All of these are species which we've been managing for a long time; except for coastal sharks.

I hope the Commission will take a good close look at this, and work together to try and move more into the rebuild and sustainable stocks.

**DISCUSS NEW ENGLAND FISHERY
MANAGEMENT COUNCIL PARTICIPATION ON
THE ATLANTIC HERRING SECTION**

CHAIRMAN GROUT: Okay the next is to discuss New England Fishery Management Council participation on the Atlantic Herring Section. Toni has a presentation. This was something that was brought up in the Coordinating Council.

MS. KERNS: Correct. The New England Fishery Management Council has expressed joining the Atlantic Herring Section, and this was done through discussions at the NRCC; as Doug just said. I think the purpose this was really done because of the last amendment that the Herring Section adopted; and the Council just really wants to have input on some of the measures that are being put forward through the Council.

I think things such as the carrier rules and transfers at sea were things of concern that they had expressed in the public comment. If there is interest in allowing this to occur, our guiding documents have provisions in them currently that don't allow for this to happen; so we would have to make some changes.

The ISFMP Charter only allows for council participation on management boards, it does not include Sections in that portion of the Charter. In addition, Amendment 1 in the Compact specifies that states may come together to form Sections; but there is no other jurisdictions that are allowed to do that. It's much more flexible to change the Charter than it is to change the Compact.

In order to make a change to the Compact, all the states would have to resign the Compact as well as Congress. If there is an interest in having the Council to have a voting seat on the Atlantic Herring Section, the least path of

resistance would be to change the Herring Section into a management board. The Policy Board would be the one that would make this decision.

I will note that the Atlantic Herring Section has not discussed whether or not they would want to give a voting seat to the New England Fishery Management Council. But in order for them to even allow that to happen, we would have to make these changes at this Board first.

CHAIRMAN GROUT: Ritchie White.

MR. WHITE: Did the Council give any rationale why they thought they needed a voting member; because we now allow a member to attend, and to speak, but does not vote?

MS. KERNS: I think I'll start and then Bob or Doug can fill in. They noted at the NRCC that the Commission has states that sit around the table on the New England Council, which have a voting seat; and that they were interested in a voting seat, because of the impact that the Sections decisions can have on federal vessels as well. Bob, do you have other?

CHAIRMAN GROUT: Just to point out that yes we did invite them to have a seat on the Section during the development of that management plan; but it was not a voting seat. I think because of the outcome of what we decided on that they were hoping that in future management measures that they would actually be able to participate and vote. Follow up Ritchie, and then Dennis.

MR. WHITE: I would think the first step in this is to have the Herring Section discuss this, and then make a recommendation back to the Policy Board.

MR. ABBOTT: I think it would be helpful if we really understood what they would gain by becoming a voting member. If we were to switch from being a Section to a Board, would we not also have to invite U.S. Fish and Wildlife

and the Feds to become members of the Board? Does that go along with it?

CHAIRMAN GROUT: Yes it would. We invite them under the process to be part of it. They don't always participate in it. But they have the opportunity under boards to participate; both services. Follow up.

MR. ABBOTT: Yes. Are there any boards that the Feds do not participate in; none that I know of?

MS. KERNS: I don't believe there are any boards that National Marine Fisheries Service does not sit on. But there are boards that Fish and Wildlife do not sit on.

CHAIRMAN GROUT: Pat Keliher.

MR. PATRICK C. KELIHER: I have mixed emotions on this. I mean there is obviously overlap between the Council and the Commission membership on both the Herring Section and the Council committee for herring. This is an obvious move, because of the disagreement on what they perceive as unfair impact to federal permit holders within the herring fishery.

We as states have the ability to impact federal permit holders with our rules and regulations and laws within the states. We do this with almost every one of our fisheries. I would tend to agree with Ritchie in this instance. I think this conversation should go back to the Herring Section, be fully vetted, and then a recommendation from the Section back to the Policy Board should be made.

CHAIRMAN GROUT: Bob.

EXECUTIVE DIRECTOR BEAL: I was going to make a number of the same comments that Pat made. You know this dialogue started at the NRCC, really over this number of different jurisdictional questions. Who has the authority to do certain things? ASMFC has spawning

closures that obviously extend out in the federal waters.

Those are solely in the ASMFC plan and not in the federal plan. There are things that the federal plan has that our plan doesn't have. As Pat referenced, there has been some disagreement on jurisdictions that the states have recently. The Council was hoping that if they had a greater integration into our process that some of these jurisdictional issues would be better addressed.

I'm not sure if they would or wouldn't, but that is where this was coming from. Referring it back to the Section probably makes a lot of sense. Any of these committees and boards and sections and everything else, there is a lot of overlap just by the state directors; regardless of the memberships.

All the states directors from Maine through Connecticut are on the New England Council and they're on our Section. Our Section goes a little farther south. There is a pretty considerable overlap already. But incorporating NOAA Fisheries and the Council is probably something worth discussing at the Section level.

CHAIRMAN GROUT: Okay, I think we have a direction forward. Is there any objection to having this be remanded to the Northern Shrimp Section for consideration? Excuse me, Atlantic Herring Section, not the Shrimp Section; I know where you stand on that but the Herring Section. Seeing none; we'll put that on the agenda for the next Herring Section meeting. Next we're going to Review and Consider Approval of Standard Meeting Practices. Toni.

**REVIEW AND CONSIDER APPROVAL OF
STANDARD MEETING PRACTICES**

MS. KERNS: We've had to push this document off a couple of meetings. I'm pleased that we can get through this today. This document, which was on your meeting materials, was

established in order to help Chairs have something in front of them that would potentially make meetings more effective and efficient.

On the front side of the document it has required elements, and it provides information on quorums and voting procedures as defined in the Commission's guiding documents; things like what is a quorum, who is present at the meeting, who has authority to vote, what constitutes a final action.

On the backside of the document are the discretionary elements that were developed; which can be used by the Chair in order to make things go a little smoother. It includes things for process, for things such as allowing everyone to speak once before giving a second opportunity to individuals to speak; only allowing folks to speak two times per motion at meetings.

Using the no objection clause, so when taking up motions, asking if there is no objection instead of taking individual votes; especially on final actions, where we would have to go around and do the entire roll call. If the meetings are getting quite lengthy, and we're really running short on time, the Chair could have the ability to limit the amount of time each speaker takes; then as well as potentially using the one in favor, one against method when running short on time as well. If the Board does approve this document for use, then what we'll do is we'll make a laminated copy and we'll sit it up here for Chairs to have a helpful reminder as we go through each of our management boards.

CHAIRMAN GROUT: Are there any questions about this? As she said, this came out as a suggestion by Collette when we had our last meeting management training. The Executive Committee went through this and the staff put this together. I think it's a good summary. Are there any questions about it? We need to approve this, Dennis Abbott.

MR. ABBOTT: Well, I would like to approve it, but I would also like to comment on it if I could.

CHAIRMAN GROUT: Go right ahead.

MR. ABBOTT: I think over the years we've seen a marked improvement on board Chairs. I mean just this week watching John Clark operate, and particularly watching Bob Ballou operate yesterday on menhaden; was a good example of how good meetings should be run. I think this becomes a good primer for board Chairs to have in front of them. But again, I complement the board Chairs that we've had, as we continue to do better after having our training with Collette and whatever and whatever.

CHAIRMAN GROUT: Further comments or questions on this? Is there any objection to accepting this by unanimous consent? Okay we have approved the new standard operating procedures for meetings. Thank you very much, and thank you Toni and staff for putting this together. It is now time for a Progress Update on our Sturgeon Benchmark Stock Assessment. Katie.

UPDATE ON THE 2017 ATLANTIC STURGEON BENCHMARK STOCK ASSESSMENT

DR. KATIE DREW: I'll keep this brief. The Sturgeon Stock Assessment report went to the Peer Review Panel this Monday, so they will have two weeks to review it and we will be having the Review Workshop August 14 through the 17th, for them to actually get together with the lead analysts and have a discussion.

They will have then two weeks or so to write their final report, and the materials will be available for the board meeting in October; to get the final sturgeon stock assessment report. It's going to look a lot like what you saw for river herring and eel; in that this is a very data poor species, and we're kind of working with a strange set of datasets to figure out some status for this species. It's on track for your

review in October. I'll take any questions you might have.

CHAIRMAN GROUT: John.

MR. CLARK: Thank you, Katie. I recall when this benchmark process got started. One of the goals, I think of the management board was hopefully it would help in the getting sturgeon delisted. From the rumors I've heard, there won't be that type of information that could really help in such a process.

DR. DREW: I think the real hang up is that NOAA has not set its recovery targets yet; so there is no way for us to show that we've met any kind of recovery target without that. Having said that there are not really good estimates of abundance or spawning stock biomass for this species, either at the DPS or at the coastwide level, which again, not knowing what NOAA is going to set their targets at, I think that is kind of what's going to hinder any question of delisting.

MR. CLARK: Do you know when NOAA will be setting those recovery targets?

DR. DREW: No, we have not received any information on that. To be honest, I think they were sort of hoping that we would come out with some really great recovery targets. I think their plan is to, not to put words in their mouth, but my understanding is their plan is to review this assessment report and see what they can do with that information; in terms of setting recovery targets.

MR. CLARK: If you put into this assessment that we've now hit the recovery targets that could do it, right?

DR. DREW: For sure, we put some benchmarks in there and they could decide those are great and we will go forward with that. But let's not get too optimistic here.

CHAIRMAN GROUT: Chris Batsavage.

MR. BATSAVAGE: Actually Katie, I think you pretty much answered my questions; and yes you're right, without a recovery plan there can't be any delisting or down-listing processes to begin for Atlantic sturgeon. Yes hopefully the assessment passes peer review and provides some information that maybe can inform future recovery plans for the DPSs.

CHAIRMAN GROUT: Dave.

MR. DAVID BUSH: I understand that there are certain requirements that need to take place for this, and obviously I appreciate that. I would like to express that this is an issue, especially in some of our areas where we're trying to make efforts to remove an invasive species; but yet this is the choke species that's right there with that. It is an urgent issue for us. In some of our areas we have blue cats that have made their way into areas where they never use to be.

Trying to bring their populations under control or bring them down, or even create a market for them to keep them from destroying our estuaries that are now being hampered by our efforts to protect the sturgeon. I guess until we find a big blue cat with a belly full of baby sturgeon, I'm not sure what we're going to do next. Anything we can do to put a little heat on this would be greatly appreciated.

CHAIRMAN GROUT: Adam.

MR. NOWALSKY: I appreciate the update from staff. As Chair of the Sturgeon Board, I also want to thank them for having reached out to me; Max in particular, in trying to keep me up to date. I just want to extend this note to Commissioners that as of right now for the annual meeting for the Sturgeon Board, we don't have a whole lot for the agenda beyond the review of this assessment. If there are any potential action items, or something that staff would like looked at leading up to that. I would ask that they get in touch with myself or staff in advance; so we can have that prepared for you.

CHAIRMAN GROUT: Are there any other questions or comments? Seeing none; thank you, Katie, I appreciate it. Next we're going to review and consider approval of the Assessment Schedule; Shanna.

REVIEW AND CONSIDER APPROVAL OF THE ASSESSMENT SCHEDULE

MS. SHANNA L. MADSEN: Diving right into the assessment schedule. I'm going to just run over some of the changes that have been made since the last time I spoke to you guys; I think May 2016. First of all, following the request of the Horseshoe Crab Management Board, we added a horseshoe crab benchmark assessment to the schedule in 2018.

SAW/SARC reviews were added to the schedule for Atlantic herring in 2018, and the 2019 summer flounder assessment was changed from an update to a benchmark at the Fall, 2016 NRCC meeting; with the potential to move it forward to 2018. The benchmark assessment for northern shrimp was moved back to spring, 2018, to accommodate a calibration study for the Summer Survey.

There is a necessary equipment change on the Summer Survey, so it requires some side-by-side-calibration tows. We also added a cobia SEDAR review to the schedule for 2019. During the call that the ASC had in the spring, we also got an update from the MRIP Transition Team. We discussed what that might mean for some of ASMFCs species.

Following their calibration model peer review, the re-estimation of the historical catch in effort could lead to some changes in stock statuses or quotas that would require management action. On the call, the ASC divided our ASMFC managed species into anticipated levels of impact; sort of based on the amount of recreational harvest that we typically see with these species. We looked at that and then compared it to the stock assessment schedule.

For now, mostly all of our potential high impact species, things like striped bass, are already on the stock assessment schedule in the very near future. The ASC decided to leave the assessment schedule as is. Once we actually get those calibrated numbers released, the ASC and the TCs can reevaluate the stock assessment schedule; and the timing, just based on the difference between those calibrated numbers and the previous numbers.

Jointly or cooperatively managed species, we said, you know that's kind of updated on the federal schedule. We just looked at the ASMFC species. Secondly, and I apologize for how awful this looks. This is the assessment schedule workload score sheet. You guys always get this when you receive the Excel file that contains the stock assessment schedule.

Essentially this workload score sheet is a way to calculate the workloads of the TC and the Stock Assessment Subcommittee members along our coast. Historically we update this on an annual basis; and it only includes benchmark stock assessments, and more recently we decided to add assessment updates to the score sheet.

The ASC has looked at this schedule and sort of realized that we're overlooking a lot of participation on other assignments that these folks are working on, on the other science committees, as well as tasks that are coming to us; either outside of a regular stock assessment. The ASC is going to kind of review this workload score sheet. We have a meeting in September planned. We're going to try to identify a more representative way of capturing scientist workload across the coast; which can kind of help with future task prioritization and will hopefully be able to bring some sort of improved score sheet to you guys at the annual meeting, is what we're hoping for. With that I will be happy to take any questions.

CHAIRMAN GROUT: Bob.

EXECUTIVE DIRECTOR BEAL: Can you switch back to the schedule? I think there is one update that probably needs to take place on this schedule; based on the last NRCC meeting in June. The summer flounder assessment will go through the SARC process in 2018, and that's to capture all the new recreational data, as well as some of the new methodologies being put forward by Pat Sullivan. I think that's the one update there.

Then while I'm speaking, the striped bass, SARC is in italics for next fall. That one is sort of tentatively put on the SARC schedule. We've been having trouble with getting species on the SARC schedule, to be kind of blunt. We're hoping to get that on the SARC schedule. We'll see how that goes, and we may need to find a different peer review venue toward the end of next year for the striped bass assessment.

CHAIRMAN GROUT: Are there any other questions, discussion? We need to approve this schedule as modified just now. I'm going to try and do it without a motion. **Is there any objection to approving this schedule as modified? Seeing none; it's approved by unanimous consent.** Finally we have a couple of reports from the Habitat and Artificial Reefs, as well as ACFHP from Lisa.

HABITAT COMMITTEE REPORT

DR. LISA HAVEL: I'll start out with our Habitat Committee report, which I haven't been able to give, I think over the past six months. This is what we've been doing for six months. The Habitat Committee met May 2nd and 3rd at the ASMFC offices in Arlington, Virginia. They received a presentation from Dr. Bob Orth from VIMS on Submerged Aquatic Vegetation in Chesapeake Bay.

They also checked in on Goal 4 progress from the Action Plan. This includes the SAV policy update, which I'll get into in a little bit; the progress on the Aquaculture Habitat Management Series document that they've

been working on, our 2017 Habitat Hotline, which will focus on submerged aquatic vegetation, as well as updating the species habitat fact sheets.

For the SAV policy update, this year marks the 20th anniversary of ASMFCs SAV policy. The Habitat Committee created a subcommittee, which then created a questionnaire to identify how ASMFC SAV policy has been implemented over the past 20 years; based on recommendations in the original policy.

We received results from nine states that have marine SAV within their borders. From these results, seven of the nine states have implemented a resource assessment and monitoring strategy. Three out of the nine states have evaluated the effectiveness of these measures they've put into place, to limit SAV damage. Five out of nine states have set restoration goals.

Eight out of nine states have identified the key reasons for SAV loss in their state. Six out of nine states have identified suitable areas for protection and restoration. Seven out of nine states have included SAV information in aquatic education programs, and eight out of nine states have supported SAV research. These graphs are all in your briefing material. The Subcommittee found that the goals in the original SAV policy are still relevant; and arguably the policy is more important now than ever. They would like to update the policy with new science and management issues; which includes adding new references, as well as adding some emerging issues such as aquaculture.

If you have any feedback on what you would like to see included in this SAV policy update, I would be happy to hear it. The Habitat Committee has also been working on a couple of letters to the Department of Interior. Last week we sent a letter to Secretary Zinke reiterating ASMFCs position on seismic testing.

Currently there is a comment period open for the 2019 to 2024 Outer Continental Shelf leasing. This closes on August 17, and the Habitat Committee wrote a draft letter; which was included in supplemental materials for Policy Board comments and edits, and possible approval. The draft letter includes a list of potential negative impacts to fish habitat; including noise, toxins, spills, blowouts and shoreline development.

The letter asks that BOEM does not lease on current and proposed HAPCs coming from the North Atlantic, Mid-Atlantic and South Atlantic Councils; as well as not leasing on any National Marine sanctuaries, parks and monuments; and these can be found in Massachusetts, Maryland, North Carolina, Georgia and Florida.

These suggestions are broad. For example, they do not include recommendations for seasonal closures in particular areas, boundaries, buffer zones for any of these areas. It's pretty general as it is now, and we're open to any comments or suggestions for anything to change or add to the letter.

CHAIRMAN GROUT: Are there any questions, first of all for Lisa about this and the SAV policy review? Seeing none; as Lisa pointed out, we have a letter in the packet in our briefing book, a draft letter that we're proposing to send to the Secretary. Are there any questions about the letter, any comments about the letter?

MS. KERNS: The letter is in the supplemental materials; if you're not familiar.

CHAIRMAN GROUT: I would like to see, is there any objection by the Policy Board to sending that letter as drafted right now? Yes, go ahead, Eric.

MR. REID: I have no problem with the letter. I am not sure if Hudson Canyon should be included as a proposed National Marine Sanctuary, because it's not here. I don't know what the status of that is; but there is some

activity on Hudson Canyon in the National Sanctuary.

MS. KERNS: We pulled it directly from the website.

CHAIRMAN GROUT: Any other comments or concern? Is there any objection to sending the letter? Seeing none; I see that approved by unanimous consent. Thank you. Now you have ACFHP.

DR. HAVEL: I still have a little more for Habitat.

CHAIRMAN GROUT: Okay, keep going.

DR. HAVEL: At the spring meeting, the Habitat Committee debated once again the merits of completing a document summarizing the Commission's HAPCs, Habitat Areas of Particular Concern for the 2018 Action Plan, and designating HAPCs where we haven't yet done so. There was a debate on whether the Commission should use the term HAPC, since it does not carry the same regulatory weight as the Federal HAPC designation.

The pros for using Habitat Areas of Particular Concern in a Commission context include consistency. It has been discussed twice in the past and approved by the Policy Board, and it would be beneficial possibly to try and initiate the use of HAPC in a broader term, similar to MSY, how MSY carries both a regulatory context, depending on when you use it, and also MSY is just a definition. There was argument in just saying HAPC could be a definition. Another pro is that we are currently using it in documents.

The cons are that using HAPC in a Commission context creates confusion for possibly staff, Commissioners, those reading these documents; and it could provide more work for the Commission in order to having to explain the difference in regulations, and how HAPC is designated between the Federal definition and the Commission definition. There was group

consensus from the Habitat Committee to continue using Habitat Areas of Particular Concern, but the consensus was not unanimous among the group.

I am open to feedback from you all, on whether a summary HAPC document, so it would be pulling all of the HAPC information from all the fishery management plans into one location, would be useful; whether we need to fill in the gaps for certain species, and whether we should continue using the term HAPC. If you all are interested in a document like this it would be added to the 2018 Action Plan.

CHAIRMAN GROUT: Okay, any feedback on this from the Policy Board here; one on whether we're using the definition, two, whether we want to bring all the HAPCs into a single document, and whether this document would be useful for us. Toni.

MS. KERNS: In addition, we are trying to get feedback of whether or not we should use the term HAPC or not, or if we should come up with some other term to use; because of the non-consent of the Habitat Committee, as well as in discussions with some Commissioners that I have had. The confusion of what it means to be an HAPC in the federal version versus the Commission; because we don't have any regulatory teeth associated with HAPCs for Commission documents. We really would like some feedback from you on this.

CHAIRMAN GROUT: Hands have gone up. I have John Clark, Roy and Chris.

MR. CLARK: I don't know if I have any way to clarify that; but I was just curious also. I know the regional planning bodies have come up with yet another term, I think they're using for, what is it Ecologically Rich Areas or something to that regard. Have you been working in conjunction with them also, Lisa, these regional planning bodies like the Mid-Atlantic and the New England?

DR. HAVEL: Not on that definition, no; but they do serve on the Habitat Committee.

CHAIRMAN GROUT: Roy Miller.

MR. MILLER: As I look over the list of Habitat Areas of Particular Concern that is in the appendix from the meeting materials for this discussion topic. I see specific banks and canyons and coral habitat, and identifiable marine landmarks and that kind of thing. Then I see summer flounder habitat. Summer flounder habitat sounds kind of vague to me. Isn't the entire Mid-Atlantic basically summer flounder habitat? Why would we pick out that particular species to be so general?

DR. HAVEL: Those in the letter to the Department of Interior, those are all of the Council HAPCs, so those are not necessarily the Commission HAPCs, which is a good example of how this is confusing. That list was pulled directly from the North Atlantic, Mid-Atlantic, and South Atlantic Fisheries Management Council websites.

There are certain areas, for example a particular canyon that are listed, but then there are also areas that are just summer flounder habitat; which does create some issues sometimes with artificial reefing, because South Atlantic Council designates artificial reefs as essential fish habitat, but if you put an artificial reef on, for example sand, you might be taking away other essential fish habitat; but all of that is the Council's definition of HAPC.

MR. MILLER: Just a follow up comment. If I were being asked to review offshore wind development proposals, for instance. Every single one of them is going to affect summer flounder habitat, because that is such a vast area; so therefore something as general as that lacks specificity, and therefore is not terribly useful from that standpoint, just a comment, thank you.

MR. BATSAVAGE: I think the confusion over HAPC and the Commission's habitat guidance versus the federal has been clearly stated here; and our agency is concerned about that confusion; with just our stakeholders, let alone the other folks that use this kind of information.

CHAIRMAN GROUT: Is there any other feedback on this, or questions, or comments? Ritchie.

MR. WHITE: If you're looking for a vote, I'm in favor of changing HAPC.

CHAIRMAN GROUT: Anybody else? I guess from my standpoint, as someone who sits on both the Council and the Commission, and formerly on the Regional Planning Body, I would concur with some of the comments here that we do need to come up with a separate term; because of the regulatory context.

Primarily from a way of making it clear to the public the difference, because we'll get asked questions on this; and it's a potential for misunderstanding from the public and some of our constituents on this. Has anybody given the two comments, and now three comments, does anybody disagree with that; that we should task the Habitat Committee with coming up with a different term from the prospect of the Commission's habitat areas that we are putting forward? Yes, John.

MR. CLARK: I'm just curious, Lisa. Did the Committee come up with any suggestions for different terms to use for this?

DR. HAVEL: The discussion always led to terms that are already there like, well the habitat just has to be essential. Well, we already have essential fish habitat. We spent some time on it, but did not come up with any recommendations; but we can do that for the annual meeting.

CHAIRMAN GROUT: Are there any further comments? Are we all comfortable with tasking the Habitat Committee with coming up with a

different term for the Commission purposes?
Yes, go ahead Mark.

MR. MARK ALEXANDER: I was just going to suggest as the Council's present person on the Regional Planning Body that you avoid the term Important Ecological Areas; that is fraught with all kinds of problems, and you don't want to use that one.

CHAIRMAN GROUT: Good point, okay I think you have your charge on this; any thoughts on having this all taking some of the, I'm trying to avoid using Habitat Areas of Particular Concern, Important Habitat Areas from a Commission perspective, and putting them all into a single document. Would that be useful to the Commission; or is just okay to have it in each plan; any feedback on that? Go ahead, Russ.

MR. ALLEN: Yes, I think it would be a great idea, because as we go through waterfront development permits and things of that nature; our folks in permitting always ask us, well where can we find some information that would help out? Instead of sending them to different plans, I think just one summary would be a real good idea.

CHAIRMAN GROUT: Any other feedback? Anybody object to tasking them with doing this? Okay you have your answer to those two questions.

DR. HAVEL: Great, thank you all. Finally for the Habitat Committee, we have a new Chair; January Murray from the state of Georgia, and a new Vice-Chair Marek Topolski from the state of Maryland. With that I'll take any further questions on the Habitat Committee.

CHAIRMAN GROUT: Pat.

MR. KELIHER: Could you give me just a 30 second or less overview of what you're doing with aquaculture related to habitat? I saw a reference earlier in your presentation.

DR. HAVEL: When I started as the coordinator for the Habitat Committee there was an ongoing document regarding aquaculture. We're trying to complete it this year. We're pulling a lot of information from the South Atlantic Council's document on aquaculture; but moving it throughout the entire coast.

It's just a summary of the different aquaculture practices. There is a list of them by state, the benefits, and the impacts to fish habitat for the species that we manage. It's just a summary document on aquaculture practices. I don't know the background on to how that got started; but I think it was charged by the Policy Board a few years ago.

MR. KELIHER: Follow up. I haven't seen the draft document, so I want to make sure that Maine has an opportunity to take a look at this. Obviously we've got a very robust aquaculture industry in the state. Our laws and regulations focus on ensuring flora and fauna associated with aquaculture is not impacted; and want to make sure that there are no negatives from what may come out of this document, based on how we promulgate our leases.

CHAIRMAN GROUT: Toni.

MS. KERNS: Pat, since you currently don't have a Habitat Committee member, is there a person that you could forward to myself or Lisa that we could touch base with to give us some input?

MR. KELIHER: Yes. The coastal program within the state of Maine has just been absorbed into the department, and my plan is to task somebody from that group and put them on the Habitat; so I'll definitely do that.

CHAIRMAN GROUT: Any other feedback, comments for Lisa on the Habitat Committee? Seeing none; Lisa, move forward.

ARTIFICIAL REEF COMMITTEE REPORT

DR. HAVEL: The other two updates will be more brief. First the Artificial Reef Committee report. The ASMFC and Gulf States Marine Fisheries Commission Artificial Reef Committees met February 7th and 8th in Jacksonville, Florida. They held discussions on HAPCs, the federal definition, permitting and reef deployment complications, and history resource survey requirements; solicited feedback from the 2016 National Artificial Reef Workshop that we co-hosted with NOAA Fisheries.

There were guest presentations about fish aggregating devices in Japan, as well as a presentation on northeast Florida's Offshore Reef Fisheries Independent Monitoring Program. Everyone provided state updates, and the next meeting will be hosted by the Gulf States Marine Fisheries Commission in early 2018.

I am currently serving as the Commission representative on a symposium that the Florida Fish and Wildlife Conservation Commission is hosting at the American Fisheries Society meeting in Tampa in about two weeks; so I've been on that Steering Committee to bring together presentations.

I am also leading the development of the South Atlantic Council's Artificial Reef Essential Fish Habitat Policy Document. We formed a subcommittee from North Carolina, South Carolina, Georgia, Florida and BOEM created a draft policy, which is no longer currently in our view. That actually was sent out. Well, the draft is finalized and it will be reviewed by the Council's Policy Board for approval and adoption in September. That is all I have for the Artificial Reef Committee. Does anyone have any questions?

CHAIRMAN GROUT: John.

MR. CLARK: It's not a question, I just wanted to announce that on the artificial reefs, we just

acquired one of the Cape May Louis ferries; and it will be sunk next year on the Del/Jersey/Land Reef, which is the reef that is jointly managed by Delaware, New Jersey and Maryland. I believe this is a fairly unique vessel to be sunk on the east coast. It's over 300 feet long, and with the big ferry structure, it's going to be considered a very good diving type of reef; because you'll have that big area to swim under there.

CHAIRMAN GROUT: Other questions, comments? Okay, Lisa.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT

DR. HAVEL: Finally, the Atlantic Coastal Fish Habitat Partnership update. The ACFHP Steering Committee met May 4th and 5th at the ASMFC offices in Arlington, Virginia. A full day of this meeting was dedicated to action planning. The group also received updates on science and data initiatives; the Melissa Laser Award recipient and collaboration with the National Fish Habitat partnership and other fish habitat partnerships.

For the past year and a half, we've been working on our five-year-conservation-strategic plan, as well as our two-year-action plan; and this was finalized and released on July 21, 2017, so it's a very new document for us. It includes goals, objectives, strategies and actions to accelerate the conservation of ACFHPs priority fish habitats; and it is available on the ACFHP website, as well as on the table right outside there.

We are also currently working on a business plan. We're on our fourth internal draft, and on track to be finalized for the end of this year. For our Science and Data Initiatives, we're moving forward on a southeast fish habitat mapping project. This is funded by NOAA; and it covers North Carolina to Florida.

We're working to spatially prioritize fish habitat areas for protection and restoration. We're working on GIS mapping and analysis, looking at habitat threats, first fish presence/absence, and habitat maps. We held a webinar with the Science and Data Committee on June 12, and we are planning a two-day meeting at the end of September.

We have been approved for U.S. Fish and Wildlife National Fish Habitat Action Plan funding for FY17. This funding will go towards ACFHP operations, website development, including putting the species habitat matrix, which was published back in 2016 online into a searchable database. It's also going to fund two conservation projects; one in Maine and one in North Carolina.

The Maine project is a Sheepscott River barrier removal. It includes both the Cooper Mill Dam and a Head Tide partial removal; and will open 71 river miles for Atlantic salmon, river herring, shad and other diadromous species. It includes extensive outreach to the community. This river is the southernmost Atlantic salmon river designated as critical habitat; and it is being led by the Atlantic salmon federation.

Our North Carolina project that we're working to support is in Bogue Sound. It is being led by the North Carolina Coastal Federation, and they are using recycled oyster shells placed on 300 feet of shoreline; to promote salt marsh growth. This is a nursery habitat for black sea bass and red drum, and a feeding ground for summer flounder. With that ACFHP would like to thank the Commission's continual support, and I'll take any questions.

CHAIRMAN GROUT: Are there any questions for Lisa? Okay, seeing none; thank you very much, Lisa. I appreciate your report.

ADJOURNMENT

CHAIRMAN GROUT: That brings us, since we have no noncompliance finding to other

business. Does anybody have any other business to bring before the Policy Board? Seeing none; this meeting is adjourned.

(Whereupon, the meeting was adjourned at 10:13 o'clock a.m., August 3, 2017.)