

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

The Westin Alexandria
Alexandria, Virginia
May 11, 2017
Approve August 2017

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 2017** by Consent (Page 1).
3. **Move to postpone the New Jersey appeal of the Summer flounder, Scup, and black Sea Bass Addendum XXVIII until the next ISFMP Policy Board Meeting** (Page 6). Motion by Russ Allen; second by David Bush. Motion carried (Page 9).
4. **Move on behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to NEFMC supporting the preferred alternatives developed by the NEFMC in their Deep Sea Coral Amendment** (Page 10). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 10).
5. **Motion on behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to Department of Interior reiterating the Commissions previous letter to President Obama regarding what is now the NE Canyons and Seamounts Marine National Monument** (Page 10). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 11).
6. **Motion on behalf of the American Lobster Board recommend the ISMFP Policy Board send a letter to NOAA recommending to fully adopt Addenda XXI and XXII** (Page 11). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 11).
7. **Motion on behalf of the Atlantic Herring Section recommend the ISFMP Policy Board send a letter to NEFMC requesting participation in the oversight of the Research Set-Aside Program** (Page 11). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 12).
8. **Main Motion**
Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures by May 21, 2017:
 - **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
 - **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
 - **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP. (Page 35). Motion by David Pierce on behalf of the Summer Flounder, Scup and Black Sea Bass Board. Motion amended.

9. **Motion to Amend**

Move to amend to include “or equivalent measures as approved by the Summer Flounder Board”.
Motion by Robert Boyles; second by Andrew Shiels. Motion carries (12 in favor, 4 abstentions).

Main Motion as Amended

Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017:

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

Motion carried (13 in favor, 1 opposed, 2 abstentions) (Page 42).

10. **Motion to Adjourn** by consent (Page 43).

ATTENDANCE

Board Members

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

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

Ex-Officio Members

Staff

Bob Beal	Katie Drew
Toni Kerns	Ashton Harp

Guests

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May 11, 2017, and was called to order at 8:09 o'clock a.m. by Chairman Douglas E. Grout.

CALL TO ORDER

CHAIRMAN DOUGLAS E. GROUT: Good morning, this is a meeting of the ASMFC Policy Board, my name is Doug Grout; I'm Chair of the Commission. Everybody welcome, we had a very long night last night. Hopefully we'll be able to move things through fairly smoothly today. We have an agenda here.

There are a couple of letters that some of our Board's requested that the Policy Board consider moving forward.

APPROVAL OF AGENDA

CHAIRMAN GROUT: Because of some flight schedules, instead of taking it up under Other Business, I would like to insert motions from the Lobster Board after Item Number 5, and also a letter that the Herring Section has asked us to write immediately after the Lobster Board letters; again, between Items 5 and 6.

With that change are there any other changes or additions to the agenda that anybody would like to make? Seeing none; are there any objections to approving the agenda as modified? Seeing none; the agenda is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN GROUT: Also in your meeting briefing materials, there are the proceedings from our February meeting.

Are there any modifications or additions to that? Seeing none; are there any objections from the Board to approving those minutes? Seeing none; I see the proceedings approved.

PUBLIC COMMENT

CHAIRMAN GROUT: Now we have the opportunity for public comment. This is public comment on things that are not on the agenda. I don't have anybody signed up for public comment. Is there anybody that wanted to make that comment?

EXECUTIVE COMMITTEE REPORT

CHAIRMAN GROUT: Seeing none; we will now move on to the Executive Committee Report.

Yesterday we met and you'll have to give me a minute to pull that up. At the Executive Committee yesterday, we approved the 2018 Proposed Budget. There was very little change between last year's budget and this year's budget. We also discussed an advisory panel white paper that was put together regarding advisory panel members serving on boards.

The option that we are going to bring forward to you at a future meeting is to modify our procedures; that once an AP member is assigned as either a board specific proxy or an ongoing proxy to a board, for which he serves as an advisor, the new proxy must step down from the AP as a state appointed new member.

Again, we'll bring this forward to you at the August meeting for your consideration, as a modification to our process. Also, we had a discussion about our technical committee meeting weeks. Originally this was something that was set up to make things more efficient for our technical committee members that are on multiple technical committee memberships. We're going to move forward with actually; apparently we had gotten to a point where we're using more webinars. There was some concern that technical committee members were reserving three weeks out of the year, and then they would end up not meeting.

There was some concern about whether this was still the most efficient and effective way to handle things. What the Executive Committee

decided to do was to do a poll of the technical committee members, to see if this is still a valuable tool for them; something that would help them out.

Then we're also going to try and have each board Chair and Plan Coordinator put together like a two to three meeting outlook of what we're thinking is going to happen with these particular boards; to sort of give us an idea whether we need to have the technical committee meet during those periods.

Other than that we also had an overview from Bob on some of the budget items that are going through the house, I mean through Congress right now. Finally, we did a performance review of Bob Beal and his efforts here. I'm pleased to say that we think that he's done an outstanding job, and we hope that he will continue on with us for many years to come; that being said; are there any questions about my report here?

**REVIEW AND CONSIDER THE NEW JERSEY
APPEAL OF ADDENDUM XXVIII TO THE
SUMMER FLOUNDER FISHERIES
MANAGEMENT PLAN**

CHAIRMAN GROUT: Okay, thank you very much and now we'll move on to Agenda Item Number 5, and this is to Review and Consider the New Jersey Appeal of Addendum XXVIII to the Summer Flounder Fisheries Management Plan. The way we're going to handle this is Toni is going to give an overview of the appeal, and then our response letter to the state of New Jersey.

Then we will give Bob Martin an opportunity, about 15 minutes to present the appeal to the Board for consideration. Then we will have Board discussion about it. With the appeal there will be a requested action from New Jersey. I'll turn it over to Toni, who will give an overview of our process and the appeal.

MS. TONI KERNS: In your briefing materials there were a couple of pieces that go along with

this, first was Addendum XXVIII, which is the document that New Jersey is appealing for the Summer Flounder, Scup and Black Sea Bass Board. There is also the description of the Commission's appeal process, the letter from New Jersey appealing the Addendum, the response letter from the Commission leadership to the New Jersey's letter.

Then earlier this week I e-mailed out to the Policy Board a response letter from the state of New Jersey to the Commission's leadership letter. Those are all of your supporting documents to this. The Commission's appeal process states that once the Commission receives an appeal we have 15 days for the Commission leadership to review that appeal, and determine the merits of whether or not that appeal should be brought forward to the ISFMP Policy Board for their consideration.

Commission leadership in this case is made up of the current Chair and Vice-Chair as well as the past Chair. Any appeal that comes before the ISFMP Policy Board must be justified with one of the following criteria. The decision is not consistent with the FMP. It doesn't follow our process. There is insufficient, inaccurate, incorrect or application of the technical information. The historical landings period is not adequately addressed and the management actions resulting in unforeseen circumstances or impacts. The state of New Jersey is appealing the Summer Flounder, Scup, Black Sea Bass Addendum XXVIII. This addendum was approved for public comment in December of 2016. It is addressing the 2017 summer flounder recreational fishery for the coast.

The document itself looked at a decrease in the 2017 recreational harvest limit to account for the declining status of the stock. The spawning stock biomass has been declining for summer flounder, and there was a 30 percent reduction required in the overall quota; from 2016 to 2017. The addendum proposed measures to meet the 2017 RHL.

This document was taken out for public comment over the winter. After we went out for public comment, the working group that pulled together this document noticed that there was an error in the document. It was found prior to the February Board meeting, and that error was e-mailed out to the Summer Flounder, Scup and Black Sea Bass Board before the meeting.

The Chairman recognized the error that was in the document at the meeting; and I'll discuss how he went through that. But it was recognized prior to the approval of the document. The document was approved in February; with an implementation date of March 1st. All states were to let the Commission know of their regulations by that date; and the date in which their regulations would actually be implemented in their home state.

New Jersey sent us a letter appealing on several appeal criterions. The first criterion that I am going to go through is their Criteria 2, The Failure to Follow Process. The one bullet that Commission leadership found that there was a justification to bring this appeal forward to the Policy Board was on inaccuracies in the draft addendum that was subject to public comment.

New Jersey did correctly identify that there was an error in the text, which was found prior to the 2017 meeting when the document was approved. Information on the area, which was described in the calculation of the specific measures as specified in the revised addendum language memo, was actually sent to the Board prior to the meeting.

The Chair noted the error and its late correction at the start of the meeting; and suggested that the Board proceed with its consideration of the draft, since the tables that were taken out for public comment, which included the actual example measures that would be implemented in each of the states, were correct.

No Board member objected to moving forward with the process. Also importantly, the actual option that was approved in the final version of the addendum did not have any errors in it. Moving on, there were a series of other claims that New Jersey appealed. All of those claims were rejected by leadership to bring forward to the Policy Board to be considered; and I'll go through all of those now.

There are two criteria's under failure to follow process. One is failure to include the enhanced opportunity of the shore fishing permit in the draft addendum; as well as failure to consider public comment. New Jersey's appeal letter is correct in observing that the draft addendum did not discuss the Shore Mode Program itself. However, staff notified the state that the Shore Mode Program could still be included under the addendum at the joint meeting with the Mid-Atlantic Council in December of 2016. That is prior to the document being taken out for public comment. This was consistent with how we move forward with the Shore Mode Program in the previous year. It also was not included in the actual draft addendum or final addendum document.

Secondly, there was a failure to properly consider public comment as one of the appeal criterion. Leadership rejected that claim that the Commission did not properly consider public comment. The Board was presented an overview of the comment; detailed information regarding each of the hearings was included in the briefing materials for members of the Board to review prior to the meeting.

There was adequate opportunity for a public comment; and the Board did have the benefit of that comment before making its decision. The next criteria were insufficient, inaccurate or incorrect appeal of the technical information; specifically their ability and untimeliness of the MRIP data is not appropriate for yearly management approach.

Leadership also rejected this claim. When considering final action on the addendum, the Commission fully acknowledges and takes into account uncertainty in MRIP harvest estimates. It recognizes that there are confidence intervals around those MRIP estimates that constrain our ability to precisely project impacts of differing management measures.

The Commission is constrained in its ability to address this variability; given that summer flounder is jointly managed with the Mid-Atlantic Council and it falls under the Magnuson-Stevens Conservation Act for management. One of the mandates of Magnuson is that there is an establishment of an annual recreational harvest limit, and an associated management measures that seek to constrain us to this RHL.

In considering the 2016 harvest estimate, relative to the 2017 RHL, the Commission determined that a reduction was needed to constrain coastwide harvest. This determination was based on 2016 MRIP harvest estimate; and the harvest estimates have been deemed the best available science for recreational harvest at this time.

Until there is another data source, or until interpretation of federal law changes, the Commission is obligated to use the previous year's MRIP dataset to set the following year's measures. Then the last criteria, which was also rejected by the leadership for review of the appeal for the ISFMP Policy Board was Criteria 5, management actions resulting in unforeseen circumstances or impacts to increases in the fishery resource waste.

There were four bullets that they considered; disproportionate removal of large breeding females, unfairness and inequity among member states, failure to consider economic and social impacts, and compliance and data collection issues. None of these issues were considered by leadership as unforeseen circumstance or impact.

To the contrary, each of these factors was actually considered and discussed by the Board at either the December, 2016 joint meeting as they were developing and initiating the draft addendum. That was with compliance issues, data collection issues as well at the Commission's 2017 winter meeting, where we discussed social and economic impacts thoroughly; and were also included in briefing materials for both of those meetings. I'm not going to get into all of the details. But there is a lot of information on each of those points in the letter. Yesterday the Summer Flounder Board met for a little while. At that Board meeting the Board recommended that the ISFMP Policy Board find New Jersey out of compliance for failing to implement the measures of Draft Addendum XXVIII. After they did that, New Jersey brought forward an alternative set of management measures that could be considered conservation equivalent to the ones that are in Draft Addendum XXVIII.

The Board tasked the TC to review those measures, and then they will meet back again to hear the Technical Committee's comments and consider those management measures; as soon as we can get the TC together, and then we'll have a Board conference call to do so. That is where we stand as of right now. I'll take any questions.

CHAIRMAN GROUT: Any questions for Toni? Seeing none; I would now like to turn this over to Bob Martin from New Jersey, if you would like to come up to the microphone and present your justification for the appeal, and a remedy.

MR. BOB MARTIN: Thank you, Mr. Chairman, for the opportunity to speak to the Commission this morning. Before I discuss the question of New Jersey's appeal, I would like to discuss New Jersey's proposed revised management plan for summer flounder. I want to first thank the Management Board for considering our proposal last night.

I would also like to thank NOAA Fisheries for their willingness to listen and consider additional ideas around our quotas. Although we would have preferred to have our proposal approved last night, we understand and respect the Board's desire to follow established processes. We look forward to the Technical Committee's review of our proposal.

We will certainly provide the Committee with any and all information they need to ensure that our proposal substantially achieves the conservation equivalency. We all share the same goals, have a long term, thriving fluke stock and secondly, lowering the total mortality of harvested and discarded fish.

Our proposal meets these goals. As I shared with the Commission in February, and as the management committee heard yesterday, the Option 5 will have a devastating impact on the state of New Jersey. This is why we have worked hard to come up with an acceptable alternative. In New Jersey, if anglers are limited to a 19 inch fish, the impact on New Jersey will be severe.

According to recent analysis done by the economists at Montclair State University, Option 5 could cost the State's economy as much as 750 million dollars. It will also destroy thousands of jobs. I would be glad to share the results of that study with the Commission once it has been finalized and peer reviewed.

In addition, setting the size limit at 19 inches will have an unintended consequence of driving down recruitment rates. That is because 90 percent of the 19 inch fish off New Jersey's waters are females; capable of breeding. The last thing any of us want is to target the females responsible for increasing recruitment.

We want to insure the health of our summer flounder stock this summer and for years to come. For clarity's sake, I would like to review New Jersey's proposed alternative to the ASMFCs Option 5. While we appreciate the

traditional approach is to focus on harvest reductions, our approach also considers the reduction of total fish mortality. We are proposing 104-day season instead of the 128-day season. This is a significant concession by the state of New Jersey; and we are also proposing limits on both fish and on the number of bag limits.

An 18-inch fish with a bag limit of three in coastal waters, a 17-inch fish with a bag limit of three in Delaware waters, and a 16-inch fish with a bag limit of two as part of the shore-based enhanced fishing opportunity program at Island Beach State Park. The season will begin on May 25, and will end on September 5.

We also believe we can reduce the dead discard rate from 10 percent where it is today, to at least 8 percent in New Jersey in the future. To achieve this we initiate a targeted public education campaign. We will leverage the resources that NOAA has created as part of its Fish Smart campaign. The state will invest significant resources to work diligently with anglers to drive down the dead discard rate.

I should also point out that even by just setting the size limit at 18 inches versus 19 inches, our proposal will reduce the overall mortality in fluke fishery by reducing the number of discards. As a result, we will reduce the total mortality of both harvested and discarded fish by nearly 300,000 when you compare that to the 2016 quotas and for Option 5 by almost 200,000 fewer fish.

While we achieve at least the 8 percent dead discards, there will be 400,000 fewer dead fish than in the 2016 quotas, and about 250,000 fewer than under Option 5. New Jersey's option with the significant reduction in the length of the season to 104-days, the 18-inch fish, the bag limit of three, will cut the harvest by 23 percent.

With an 8 percent discards, we reduce the total dead discards, compared to 2016, by 30

percent. Reducing total mortality is our goal we all share; especially the recreational fishing industry in the state of New Jersey and our proposal achieves that. Mr. Chairman, once again I appreciate the Commission's consideration of our proposal.

I am confident that when the Technical Committee reviews the science and the analytics behind our proposal, they will agree that it achieves the conservation equivalency. Our experts at New Jersey Marine Fisheries are confident that our proposal achieves what we stated on the conservation equivalency; and we consulted with NOAA Fisheries to ensure that we're meeting basic thresholds of conservation equivalency before bringing this up to this group.

Given the fact that the Technical Committee still has to review our proposal, and the final Commission approval has been pushed off to next week, New Jersey wishes to table our appeal pending the final outcome. I'm sure you can appreciate the need for New Jersey to keep all its options on the table until this matter is concluded.

Should our proposal be approved, we will immediately withdraw our appeal. Mr. Chairman, I would like again to express my thanks to the Summer Flounder Management Board and to the Commission and to NOAA for considering our alternative to Option 5 for the coming season. The state of New Jersey remains strongly committed to the prudent management of our fisheries. We look forward to continuing to work with you closely in achieving these goals. Thank you, Mr. Chairman.

CHAIRMAN GROUT: Thank you, Mr. Martin, is there anybody on the Board that has any questions for Mr. Martin? Okay seeing none; I believe I heard that your suggested remedy right now for today would be a motion to table. Russ.

MR. RUSS ALLEN: Yes, I would like to move to table New Jersey's appeal of Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass FMP until after the next Summer Flounder, Scup and Black Sea Bass Management Board meeting. I'll go slower if I have to.

CHAIRMAN GROUT: We'll wait until that gets up on the board before I ask for a second, but thank you very much for that motion. Russ, Bob Beal, we had a question about the process here with this.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Russ, I think in your motion you mentioned that you wanted to postpone this until the next Summer Flounder Board meeting. Should it be the Policy Board meeting; since that is the group that handles the appeals? I know you want to have the Tech Committee review and then the Summer Flounder Board meeting; but if the decision is to withdraw that it would essentially be withdrawing from the Policy Board.

MR. ALLEN: However you think it's best, Bob.

EXECUTIVE DIRECTOR BEAL: Policy Board probably would be better.

CHAIRMAN GROUT: You're comfortable with that and is that a postpone motion or a table motion?

EXECUTIVE DIRECTOR BEAL: I think technically it is a motion to postpone until time certain. But we can get wrapped up in parliamentary stuff pretty quickly. I think the move to postpone is probably more appropriate.

CHAIRMAN GROUT: Are you comfortable with that?

MR. ALLEN: Yes I'm comfortable with that.

CHAIRMAN GROUT: Is there a second to this motion? David. Is there any discussion on the motion? Ritchie White.

MR. RITCHIE WHITE: I guess just to try to understand this. I'm trying to understand the timing and what regulations go into effect at what times. If the conservation equivalency either is or is not approved by the Technical Committee, at that point New Jersey will be putting in some regulation.

I guess what is that regulation? Then the Policy Board, unless there is a special Policy Board meeting, then that is going to be August. What is the regulation that goes into effect? If the Technical Committee does not approve the conservation equivalency, what does New Jersey propose to have for regulations that would go into effect within the next few weeks or whenever that time period ends that the Technical Committee decides and August? Then whatever is determined in August, how fast can New Jersey react to any changes that would be done at the August Board? I'm trying to get a sense of how much fishing is going to occur under what regulations?

MR. ALLEN: We expect that the Technical Committee will approve, or at least give it the okay for the Board, and then it is up to the Board to decide what to do after that. I don't have any qualms in that. I think it will go through, because we've done a lot of work to get it to that point. With that said, we plan to have our regulations in place next week; with those regulations.

Knowing that the Board might not be able to get together before then and approve that. But at least we would have that piece in place already. The notice that we have to do is already done. The Commissioner has already said he will sign it. He just talked about it. We can have that done by next week. No matter when the Board decides on anything, we have to have that in place before May 21st, because that is when the old regulations start up. We have to have that done next week, so that will be done.

Then the season doesn't start in this until May 25th, so it gives the Board some more time to whether or not they approve it. Then we would have a whole other thought process to worry about, whether the Board approves it or not. I think that answers your question. We're doing everything we can to make sure this works. You know we're putting a lot of time into it.

CHAIRMAN GROUT: Follow up.

MR. WHITE: I understand that part. Are you suggesting that there be a special Policy Board meeting then, or the August meeting? Those regulations would stay in effect until August, even if the Technical Committee does not approve them. Is that?

MR. ALLEN: Me and Ritchie can have this talk outside. The reason I said in the beginning to the Board meeting itself was because that is where the process should end; obviously, once that's approved. I don't think it will be disapproved. I think it will be approved then that will be that. It's more of a process type thing we're talking about now; as far as the appeal goes.

If everything goes as we expect, the appeal is gone. It will be a moot point anymore, so I don't think I need to worry about that. It will come up at the August Board meeting, and we can just table it forever or however the process in Roberts Rules is to do that. We don't expect the appeal to be going forward any more. I think we're going to all be pretty happy on how this all works out; once the Technical Committee gets this, reviews it, and sees exactly what we did.

Peter Clark did most of the work, but Jeff Brust, who is really respected around this table as an assessment scientist, has really gone through this. He is the one to make sure all the numbers were right. We've had people check it, we've had people that are outside our agency check it; in the DEP that are research scientists that do this work.

We're pretty confident everything should move forward pretty well. Like I said, we're willing to do whatever it takes. However the process takes us we will do it. We would love to just say goodbye to it today if we could, but obviously we have to wait and make sure the Summer Flounder, Black Sea Bass, Scup Board agrees with us.

EXECUTIVE DIRECTOR BEAL: I know some of the states obviously were not sitting in on the Summer Flounder Board, luckily for them at eight-thirty or so last night. But there was a noncompliance finding motion forwarded to this Policy Board that is going to be addressed later in this meeting. I think we're starting to wrap up potential noncompliance finding with the appeal.

The appeal, as Russ mentioned is a procedural issue that is handled by the Policy Board. The next Policy Board will take place in August. I think controlling the comfort level of the Board, as to when New Jersey is going to implement what regulations, and if noncompliance letters should be sent to NOAA Fisheries. I think that discussion is part of the later agenda item on noncompliance. I think we have to keep noncompliance and the appeal a little bit separate.

CHAIRMAN GROUT: I agree. Robert.

MR. ROBERT H. BOYLES, JR.: Bob said what I was going to suggest.

CHAIRMAN GROUT: Eric Reid.

MR. ERIC REID: I really appreciate all the effort that New Jersey has made, as well as the Commission on this issue. My question is for New Jersey. They talked about a substantial amount of outreach to make this work for the state, and for the Commission I suppose. Some of it was on fish handling.

My question to New Jersey is, is that something you are going to go forward with now, which

would be to your advantage? I understand a lot of it has to do with the outcome of this whole thing. But just to gauge New Jersey's commitment, are they going to go ahead and do the portion of their public outreach that is applicable at this moment?

CHAIRMAN GROUT: Russ, do you have a response?

MR. ALLEN: Sure. Actually, we're going to have an update call with our constituents this afternoon. That is where it will start, because we've committed to that. We've already talked to all of them, and they're all onboard on moving this forward. That is JCAA, RFA, United Boatmen, all our constituent groups and JOA; you know everybody that is involved in New Jersey Fisheries is already onboard with this.

We're planning on putting out PSAs, brochures, short videos that can be popped up on phones. We're doing the whole works; and it starts today, as soon as we get done with this and move it forward. Because we are going to talk to them again and say this is what we're doing. It's a regardless of what happens in anything else that is going to happen regardless. That is where we're going to be.

MR. THOMAS P. FOTE: I think this is an example, not just for what we do in summer flounder, but we should do it with a bunch of species. We did this years ago on bluefish, when we were doing a catch and release, and we did it on striped bass. But it fell by the wayside how do we do catch and release. NMFSS has been pushing it for years under the Skillful Angler Program, if I'm right, and other programs have been doing it. Maybe this should be part of every plan that we put out is basically do this type of communication to our constituents when it comes to hook and release mortality. When we start killing more fish for hook and release mortality than we do taking home to eat that is a problem. We need to figure out a good way of reducing it. This is a start to that problem.

CHAIRMAN GROUT: Chris Batsavage.

MR. CHRIS BATSAVAGE: I appreciate New Jersey's attempt to help anglers learn better ways to release fish safely, and I agree with Tom; it is something that should be done with a lot of species, not just summer flounder. A question I have is with something like this there is usually kind of a learning education process, just as far as better handling practices.

Despite putting out all the education outreach stuff, these people don't just learn it overnight; especially during the summertime, I suspect there will be more than just the hardcore anglers. You're going to have a lot of traveling, vacationing anglers who maybe aren't as avid as a lot of the constituents that you reach out to. The question is are you concerned that you may not have the realized benefits the first year of this initiative, compared to what you might see a few years later; trying to get this information out.

MR. ALLEN: It is a great question, Chris. We've already, as Commissioner Martin said, we did a survey in a month, and had 26,000 responses. We sent out to 130,000 anglers, and we got 26,000 responses that quick. Some of the major questions in there were about fish handling and things of that nature.

I made a mistake when I replied to Eric before that we're starting it today. We actually started it already, to get it in people's heads to do that. The goal is to make sure all our for-hire fleet is onboard with this, and they will have that. I mean that is probably where the biggest amount of discard mortality is in the first place.

They're onboard, and they're going to make sure that we have brochures to hand out to everybody that comes on. That's where you're talking about the people just coming in for a weekend or something like that. We're going to have it at bait and tackle shops, where everybody else is going, so the brochures will be there. It will be part of our guides.

We have our digest coming out in a few weeks that is going to have an article in there talking about fish handling techniques; and that is sitting there at every bait and tackle shop up and down New Jersey coast. We're doing all that work already. We've also committed to when we were discussing this with NOAA, talking about having a survey done at different points within the season; to see if anybody is getting this information and to make sure it's working.

I think we're going to do everything we need to do. If someone has a suggestion on how to make this even better, just remember that the 10 percent is an average of different studies. It was 7 to 16 percent, I think if memory serves me correctly for the stock assessment. It was averaged out to 10. We may even bring that further down than 8 percent. But I think just a 2 percent drop is tremendous in the amount of fish it saves.

MR. ADAM NOWALSKY: I'll just also add, Chris that while the proposal talks about decreasing discards specifically in New Jersey, these are public information documents that will be available. We would sincerely hope that other jurisdictions would take them, distribute them, make them available, promote them, and imagine if we could take that information through this initiative that starts in New Jersey, and reduce the discards by 2 percent up and down the entire coast. Imagine the benefit we could generate at that point.

CHAIRMAN GROUT: Further discussion on this motion? Seeing none; do you need time to caucus on this? I'll give you 30 seconds to caucus. **Okay, are you ready to vote? All those jurisdictions in favor raise your hand. Any opposed any abstentions, any null votes; the motion carries 17 to 0 to 0 to 0.** Thank you very much, and now we are on to the Lobster Board. We have motions for the Policy Board to consider three letters, I believe it is or two letters, two. David Borden, Chair.

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING THE DEEP
SEA CORAL AMENDMENT**

MR. DAVID V.D. BORDEN: Mr. Chairman, do you want me to make the motion first or just provide some background first for context?

CHAIRMAN GROUT: Why don't you make each motion one at a time, and then make a little context for each one.

MR. BORDEN: On behalf of the American Lobster Board, recommend the ISFMP Policy Board send a letter supporting the preferred alternatives developed by the New England Regional Fishery Management Council in their Deep Sea Coral Amendment.

CHAIRMAN GROUT: Rationale.

MR. BORDEN: Okay so the rationale here and I'll try to keep this simple in the interest of time. The New England Council has been developing a Deep Sea Coral Amendment for some time. That amendment is not in the final stages of development. The Council authorized it to go out to public hearing with preferred alternatives; the timing of all that is that the public hearings will be taking place in the next month.

The Council intends to finalize its position on the amendment, and submit it to NOAA at the end of June or July. The importance here is that this really is our last opportunity to influence that process. A number of us around the table, including the Commission Chairman, have participated in that process. The Council adopted preferred alternatives, and they were overwhelmingly endorsed by the members of the Council.

As your representative on that Board, I voted for all of the preferred alternatives; as I think most of the New England Council representatives on the Commission did. All this is a suggestion that we send a letter that the

Commission Chair be authorized to send a letter to the New England Council Chairman, essentially advocating the preferred alternatives that were identified by the Committee.

CHAIRMAN GROUT: Any questions on the Board? Mark.

MR. MARK ALEXANDER: Just one comment. The first sentence I think should be amended to indicate that the letter is going to the Council. It doesn't say who it's going to.

CHAIRMAN GROUT: Are you okay with that? Okay. **This was a motion by the Board, so it doesn't need a second. Are there any objections to this motion? Seeing none; that motion is passed, next.**

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING NEW
ENGLAND CANYON AND SEAMOUNT
NATIONAL MONUMENT**

MR. BORDEN: The second motion is on behalf of the American Lobster Management Board; recommend that the ISFMP Policy Board send a letter to Department of Interior reiterating the Commission's previous letter to President Obama regarding what is now the New England Canyon and Seamount National Monument. On behalf of the Board I make that motion.

CHAIRMAN GROUT: The motion doesn't need a second. Could you speak to the motion?

MR. BORDEN: Okay, so the canyon issue is obviously related to the coral issue. These are quite lengthy issues. Just by way of background I'll remind everybody that President Obama declared I think 4,500 square miles of territory in the Atlantic, five canyons, as part of a national monument under the 1906 Antiquities Act.

The Commission attempted previously to affect that determination, and submitted a letter in which they recommended that the monument boundaries be set at 900 meters and seaward from that. The reason for that was an attempt by the Commission to hold the fisheries resources that are being prosecuted in that area harmless from the effects of the monument.

President Trump now has signed an Executive Order, which essentially directs the Department of Interior to review all of the monuments, which includes the monument that I just referenced. That solicitation is going to be in the Federal Register, I think next week. Megan has a copy of the solicitation; which we'll circulate to the entire Commission.

There is a 60-day comment period, as with the previous issue. We have a limited period of time to respond to this. The suggestion from the Lobster Board is basically to submit, authorize the Chair to submit a letter. The key provisions of the letter will be to endorse managing marine resources in the monument area via the Magnuson and Council process.

It will talk about the need for transparency in the process, and it will also fold in the recommendations that you just authorized on establishing a management boundary at 600 meters; similar to the New England Council position. I'm happy to take questions.

CHAIRMAN GROUT: Any questions for the Board? Seeing none; are there any objections to sending this letter? Seeing none; the motion is approved. Item Number 3.

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING ADOPTION
OF ADDENDA XXI AND XXII**

MR. BORDEN: Okay final issue and this will be quick. On behalf of the Lobster Management Board, recommend that the ISFMP Policy Board send a letter to NOAA recommending full adoption of Addenda XXI and XXII.

CHAIRMAN GROUT: Motion from the Board does not need a second. Would you like to speak to this?

MR. BORDEN: Okay, the background here is there were two provisions of those addenda that the National Marine Fisheries Service decided to not or at least temporarily not implement in those provisions related to a declining trap cap for Area 3, and trap banking for Area 2. The trap cap proposal in Area 3, under the current regulations offshore boats are entitled to fish up to, I think it is 1,945 traps. The provision in the addendum is basically to lower that cap over time – five years. The provision was endorsed by the offshore lobster industry. It has the benefit of reducing vertical lines in the water; which are a concern in terms of protected species.

NOAA wanted to delay action on it until they saw the final action from the Lobster Board, which have been taken. This is nothing more than a restatement of our policy and a request that they implement both of those provisions; which have already been adopted by the Commission.

CHAIRMAN GROUT: Any discussion on this motion? Seeing none; is there any objection to approving this motion? The motion is approved, thank you. We now have a letter from the Herring Section that I'll turn to Herring Section Chair, Ritchie White to bring forward.

**ATLANTIC HERRING SECTION
RECOMMENDATIONS REGARDING
PARTICIPATION IN THE OVERSIGHT OF THE
RESEARCH SET-ASIDE PROGRAM**

MR. WHITE: I'll read the motion and then speak to it a little bit. On behalf of the Atlantic Herring Section, recommend the ISFMP Policy Board send a letter to New England Fisheries Management Council requesting participation in the oversight of the Research Set-Aside Program.

CHAIRMAN GROUT: By the Section, it doesn't need a second.

MR. WHITE: The Section is aware of and approves of the amount of harvest that is part of the Research Set-Aside. The Section though does not participate in how that is prosecuted, and there is concern about when it is harvested and where it is harvested; because in the past there has been some gear conflict issues. The Section would like to be involved in how this fishery is prosecuted, so that is the basis.

CHAIRMAN GROUT: Any questions for Ritchie White? **Seeing none; is there any objection from the Board to passing this motion? Seeing none; the motion is approved.**

UPDATE ON THE CLIMATE CHANGE WORKING GROUP

CHAIRMAN GROUT: Now we'll move on to Agenda Item Number 6. This is an update on the Climate Change Working Group. I'm going to be Toni Kerns.

Just as the Chair of the group, I will tell you that we had a very long and fruitful meeting on Monday morning and we are still in the process of fleshing out our white paper. We probably are going to need a meeting or webinar to finalize it. But our intent is to have something for you, the Policy Board to consider; either at the summer or the fall meeting.

I think it will contain a number of tools that many of the management boards could use to adapt their management; at least to consider for adapting their management in the face of any changes that they see in these species, due to climate change, any questions?

REVIEW AND DISCUSS 2017 COMMISSIONER'S SURVEY RESULTS

CHAIRMAN GROUT: Seeing none; we'll now move on to Item Number 7, and this is to Review and Discuss 2017 Commissioner's

Survey Results. Deke Tompkins is going to present the results.

MR. DEKE TOMPKINS: We have our 2017 Commissioners Survey results. Thank you to the 26 people who filled out the survey this year. We are down from the mid-30s the past two years, so a little bit less participation. As you can see across the board there was a decrease in satisfaction on 14 of the 15 questions. The top three questions with the biggest drop in satisfaction you can see here. That was satisfaction with cooperation between commissioners to achieve our vision, satisfaction with Commission's ability to manage rebuilt stocks, and comfort level with reacting to new information and adapting to meet the Commission goals. Then from the written comment section there were some themes that emerged. These are somewhat listed in the order that they appeared by frequency. Climate change and impacts appeared throughout all the questions, pretty much.

Scarcity of fiscal resources, issues with data, and then a big theme was individual states promoting their interest over the coast as a whole. There were a lot of requests for more socioeconomic analyses; and I think this week is a pretty good example of the meeting week agendas being very full. With that I'll take any questions.

CHAIRMAN GROUT: Any questions? John Clark.

MR. JOHN CLARK: Thank you, Deke. I was just curious. With the questions where you had the big drops, I wonder how closely related they are to decisions the Board has just taken before the survey came out. I was looking at that big drop, and I am wondering if that had anything to do with the flounder; and the managing of the rebuilt stocks.

MR. TOMPKINS: The survey was open from March 14 through April 7. I think you can read into the time how you like. I am not saying if it

was taken at a different time it may have been different, but.

MR. CLARK: This year in particular, I just think the whole process with flounder, for example, was such that I think a lot of people were unhappy with it, and might have colored their answers on that question in particular; because of course flounder was considered rebuilt very recently.

CHAIRMAN GROUT: Yes, I saw two issues here, one the rather thin participation in this and that can affect things; especially where we're talking roughly a third of the commissioners did not respond to this. Whether those commissioners respond could affect things minimally or considerably. I encourage in the future that you take the time and it usually only takes about half an hour to really spend some time working on this.

The other thing that I had noticed here, and it may relate to what John and Deke were saying as reasons is we had most of these questions were kind of flat, during the period 2010 to 2013, and then suddenly we had this bump up in '14 and '15. It seemed like we were doing real good, we had made some improvements. Then we've seen some modest declines, but then we have the sharp decline right now. It could be a result of specific actions that have been taken over this past year. David Borden.

MR. BORDEN: Just a question, not a question on the survey. Do you want the discussion to be integrated with the presentation, or do you want the discussion to follow? In other words, are we in just questions at this point?

CHAIRMAN GROUT: In this case I would have both questions and discussion at this point.

MR. BORDEN: I would like to just make the point actually; I've discussed this point with the Chairman. I actually think dissatisfaction is rising. I think that this is a real reflection on the process; and so that everybody understands it, I

have the utmost respect for the process, the staff, and all the commissioners here. I'm not criticizing anyone. Having been involved in this process for a number of years, and being out of it for almost ten years and then coming back into it recently, I just don't see personally that we have a sustainable model at this point. The reason I say that, if you look at the way we're making decisions. I'm specifically talking about the recreational fisheries.

We're doing these annual specification packages that are almost invariably at the last minute. We get the information at the last minute; we put tremendous pressure on our own staff. We put tremendous pressure on all the stock assessment people to do the work. As a result of that the information we're getting is good. I think it's accurate.

But the decision process doesn't really have a lot of time to deal with this. What we end up with is this cycle where we are kind of yo-yoing the regulations on an annual basis. What I view is that we have to figure out a way to smooth the decisions out; and take a little bit longer timeframe. In other words, and I don't have the answer to it, I would point out.

But if we had a system where we had two-year specifications for recreational measures instead of one, then it would take a lot of that urgency out of it. I would also point out from having worked in a state agency. Having the state agencies have to deal with these types of issues and communicate the hundreds of thousands, millions of constituents at the last minute, is really undesirable.

None of the state agencies like to do this at the last minute. If you're on the opposite side of the issue, if you're on the recipient side of the issue, you don't want to be a member of the party charterboat trying to schedule bookings, and not know what the regulations are. I think my answer to it, as I said I don't have the answer to it.

But I think the way forward to kind of reverse this trend, because I think it is going to accelerate, personally. I think at some point we need a really directed discussion by the Commissioners on how we do business; and maybe come up with some new models on how to deal with these issues.

CHAIRMAN GROUT: I certainly see your point, and the only question I would have for the Board; is this really something specific to the Fluke, Black Sea Bass, Scup Board? As I see other species, important recreational species that we manage like bluefish, striped bass. We do try to keep regulations fairly consistent over the years. It seems like it is very much, from my perspective tied to that Board is that your feeling? Then I'll move on to the other.

MR. BORDEN: That actually, I think is a good point that you raised. Some of our species I think work well. But I don't think we can apply all of the same rules to those. We may need different rules for specific species; and deal with them accordingly.

CHAIRMAN GROUT: Dave Pierce and then Tom Fote and then Dennis Abbott.

DR. DAVID PIERCE: Granted when I filled out this questionnaire my responses were colored by what was happening with discussions about recreational fisheries management. Overall the Commission is doing a very good job, and for the most part my ratings were very positive. However, relative to the summary of all of the finding, I really don't know how to interpret these finding regarding we're less satisfied now than we were a couple of years ago or last year. I don't know how to interpret this; because if you look at the Y axis, the differences in the ratings are so small. We're not looking at a change in rating from like 8 to 4, we're looking at very small changes frankly, and these are small changes that came about perhaps because different people took the survey this year versus last year.

There are a lot of unknowns in this particular assessment of our performance. I would much rather just focus on the comments that people actually took the time to write. That is where we'll gain some insight as to how we're doing now versus the year before and the year before that. Again, like the commission progress, the first one, questions 1 and questions 2, and I looked that we dropped from 8.1 to 7.6 from 2016 to 2017.

Frankly that has no influence on me whatsoever. I can't interpret that but I don't conclude that we've made less progress; based upon this analysis. Again, if we've made less progress, each and every one of us will make that decision as a personal perspective; depending upon how things have gone for us.

MR. TOM FOTE: It is interesting I'm following Dave, because let's look at what happened last night on black sea bass; and this is where it comes into play. There is a reason that we're supposed to take cuts, because it was overage in the region. A motion was put on the table and voted on with people not understanding how that worked out.

The states that actually were being penalized were states that did not go over. The person making the motion took no hit whatsoever. Some of the states in that black sea bass, like New Jersey, are going to lose a 10 fish, go from 15 fish to 5 fish; and that state gets no cuts at all, because they have no season during the end.

There was none of that part of the decision process explaining how this is going to affect the states equally in that region. Basically, one state got the short end of the stick, and two others got penalized; when maybe they weren't the problem. I don't know what Connecticut was; I don't know where Rhode Island was. But we got penalized for what happened in the winter season.

Where one of the states has increased its catch, it took no herring whatsoever and was quick to make the motion to do that. That is when we see that it is not fairly being distributed. If we were taking the survey after that vote last night, yes I would have been really mad; because most of the time on Black Sea Bass, Summer Flounder, and Scup, I blame because it is a cooperative plan and we're stuck with a lot of decisions that we can't affect like on sea bass.

We're forced to make cuts because it is a joint plan. But when we do things on this one that does conservation equivalency, and makes decisions like this at the spur of the moment, without all the members understanding. This other state is voting for it, because they figure well we'll get it done; because they don't want to be impacted.

But they unfairly treated New Jersey, because we took a 10 fish cut when we weren't the problem. We caused none of the problem, we weren't over last year. We could understand why we would be upset over this; and not feel like we're being treated fairly at the Commission level. If it was basically going on this now, you would assume that; if I had basically filled out a survey.

MR. DENNIS ABBOTT: If you could put up the overall graph that you had. I do agree with Dave Borden that there is a negative trend with things going on. But again that graph makes it look worse than it is, because it only runs from 6.6 to 8.4. We're really seeing a change from 8.25 to 7.5, so three-quarters of a number. Yes there is some diminishment of things in people's mind.

I also find that the participation is really disappointing at this point, where you've roughly got about half of the people. You know 26 out of 45 plus PRFC, whatever it is they've added, Potomac River. There could have been however many more participants. If we want to blame it on Black Sea Bass and Scup, about six

of our states don't even participate in those species.

I don't think we should lay it on to those factors. We also don't know who the 26 were that filled out the survey. We don't really have a good snapshot, in my opinion, of where we are. I was wondering. I think it might be curious, at least to me, if in a future survey that we broke it down by maybe the LGAs and state directors; to see if there is any correlation between what the LGAs think and what the state directors think.

I think that would be interesting. It would still be a blind survey, but I would like to have consideration of breaking it down that way. Maybe the LGAs are expressing a lot more disappointment. Maybe it is the opposite. I don't know the answer to that. But it would be an interesting answer. Another thing that factors in here is you can look from year to year.

But if you look around the table, there are a lot of faces that change. I've been here for 21 years; and there are only less than a handful of people that have been here that long. Some people on their first, second, third year, and surely they view things differently than other people like Dave Borden said.

He's watched the goings on with the Commission for many more years than I have. Anyway, I think we have to not take this survey with a grain of salt. We really need to do something to improve our participation and give this survey a lot of thought; because it can be very helpful.

CHAIRMAN BORDEN: Ritchie White.

MR. WHITE: I agree with Dave. I think, Dave, you're on to something. I think that it's not just summer flounder. I think striped bass is another example. I don't mean what we just went through this week, because a number of years ago when the population was lower, the New England states pushed very hard to try to

lower mortality; because they wanted to see more fish.

I think it is an expectation of the anglers, knowing that we can react more quickly than the Council or the Service. We're viewed as an entity that can change things if they don't like it. I think that is a strength for us. I think in this instance that it can be a weakness as well. How we kind of switch that I don't know.

But I like Dave bringing it up, and I think it's something we ought to investigate further; because it does create more staff time and expense, when we're quickly reacting to anglers that are upset with what's going on. I think it is an important issue, and I think we ought to address it somehow.

MR. NOWALSKY: I hear a comment of not sure who filled out the survey. I'm willing to go on the record and say I filled out the survey. I am also willing to say that when you look at some of the major themes, including self-interest. When you look at some of the downtrends in the graphs, I'm willing to say that I'm an element of it.

While I certainly haven't been here as long as many of you, I have certainly been here more long than some. To that end, when I think about the public constituency literally in tears at the public microphone last night, over a species that is perhaps in the best biological shape of any we manage in black sea bass.

We have some very hard decisions we have to make. American lobster, weakfish, winter flounder, northern shrimp, they are hard decisions; because there are factors impacting our ability to manage these species that quite frankly are out of our control. Then we take a species like black sea bass, where we're simply making bad decisions.

There is no other way around it. They are simply bad decisions. We can try to dress up the graph and say, well it is only a small range.

But out of the time series there, the reality is that number of the overall satisfaction is the second lowest in the time series. When we look at those three other major question areas, one of those is the second lowest in the time series, two of the other ones are the lowest in the time series.

When we have boards making decisions, 11 member boards making decisions that are negatively impacting only two of the states on the board primarily, we have a real problem with ourselves. We have a real problem with our public perception; and that problem is real, and we need to do something about it.

We just got done talking about the New Jersey appeal. There is certainly a lot that went on behind the scenes. I know a lot of questions about the process, a lot of people concerned about the fact that New Jersey had to go to NOAA Fisheries first; in terms of trying to get some relief on this.

I know a lot of people here with military backgrounds. You respect the chain of command. That is not something to be taken lightly; to break that chain of command. But when it lets you down, you have no choice but to go outside of it; no choice, and on that particular issue that is only the tip of the iceberg.

If we do not react in a positive manner, it is only the beginning. I have confidence in all of us as individuals to make good decisions. I hope that we can find a way to make better decisions; and I agree with the element that certainly these recreational issues are one of the largest that are holding us back.

MR. FOTE: When only 26 people respond, I think, of course I estimate on surveys it is the people that care and the people that are involved. We have 45 commissioners; there weren't 45 commissioners at this meeting. A lot of people don't show up, some of the

proxies do show up. But some people didn't show up altogether.

There are not a lot sitting at the table, there wasn't a lot sitting at the table from other states yesterday. The people that put most of time to fill out surveys are the people that are involved in the process and want their comments made. I don't look at the 26 as a bad number. I mean when we just did a survey of 130,000 anglers, we say we got 26,000. When you get 20 percent of the people you survey, and that is what my background is in marketing management. That is a good response. When you get 26 out of 45 that is a good response; because they are the people that are actively involved and they care and they basically took the time to write the survey.

I did fill out the survey, and mine was similar comments to what Adam just said. I mean there are some real problems that have come out in the last couple of years that we're not dealing with certain things in a fair and equitable manner; and we just see that. Also, I think because you have new commissioners.

Now some of us have been around a long time, understands the ups and downs of the commission; and we look at it and realize where we started from, when LGAs didn't even have a seat at the table. There were five members of a board deciding what we were doing. We've come a long way, and maybe we're just getting a little complacent in the way we handle things and make motions too late at night on things we aren't really looking at what we're doing.

MR. JASON McNAMEE: Okay time for a little optimism. Relatively new to this part of the process, and no plans on going anywhere any time soon, so I need to have hope and optimism for this process. I think there is reason to be. David Borden talked about a new model. We're developing those new models; things like our risk and uncertainty policy that we're working on. That is a way forward here.

That is a way we're going to be able to structure our decision process in a better way; to have a little more guidance, so we're not rudderless as we're moving along here. The pain and the challenges that we faced with our recreational fisheries this year, sometimes you need a kick in the pants to move in the right direction. I think we got that this year, and again I'm optimistic. We've got an RFP that came out from the Mid-Atlantic looking at new techniques for how we manage some of our recreational fisheries.

I think you've got a lot of good ideas coming out of your technical committees for better ways of doing business in recreational fisheries and others. I think this was a challenging meeting week. But we've set up ourselves to be optimistic and to be successful moving forward. We just need to be able to embrace those changes and try those new techniques.

MR. GILMORE: Just a quick note, and I didn't say it yesterday, but it is kind of along the lines of Adam's comments. It is something I learned many years ago. One of my early mentors said, and it applies to a lot of management situations. It's, "We should serve the resource not the rule, the regulation or the process."

I think a lot of the survey has maybe gotten to that point. I think both in this, and also not to beat up on anybody, but the federal government. We are serving the process, the rules too much; we are not serving the resource, the fishery, the people, the stocks or whatever. It's really something we need to get out of this box, and that is where we need to go in the future.

I think the survey will go back up if we can figure out a way to stop being concerned about what the number is; as opposed to what's actually going on in the resource. I leave that out for everyone that if that helps, I think as a mantra for the future, we really need to get back to that simple thing that I learned over 30 years ago. We need to serve the resource not the process.

CHAIRMAN GROUT: I'm going to take one more comment on this, as we do need to move on. Dave Borden.

MR. BORDEN: I'll make it brief. Just so everyone understands, I'm not a pessimist. I'm just the opposite, a complete optimist. I just point out that in my view strong organizations are constantly reviewing the way they do business; and figuring out better ways to do it. We have a lot of wonderful intellect in this room, and I'm sure we can improve on almost everything we do.

CHAIRMAN GROUT: Since I said one last comment, I've had two more hands; and I'm going to hold firm to two more comments and that's it. No more. Bob, I'm sorry, you're out; Ray Kane and then Russ.

MR. RAYMOND W. KANE: Yes, good morning Commission members. This is a "come to Jesus moment." This is my second meeting, so I did not fill out the survey. But I'm a little betwixt at this point at my first formal commission meeting we had a representative from the Academy of Science come in and talk to us about MRIP.

It was a fluid conversation. Not many questions do I recall were asked of her, and she went on to tell us that MRIP, it's a good system. It needs to be tweaked. Yet in the follow up meeting I heard a lot of dissatisfaction with MRIP once again. As a newly appointed commissioner, I'm a little lost here; because when she was here doing the presentation, she wasn't charged with the questions that I hear often around this table at other meetings.

I happen to have a strong belief in the National Academy of Science. I know they helped us out years ago with the inland bluefin tuna. I'm a little lost in this process. We bring somebody in, they take the time, we schedule hours for a particular meeting. The representative gets up and walks away, and then we're back to the

same old gripe once again about how MRIP is not really working.

More or less from the years I've been coming to these meetings, commercial fisheries have been in compliance; from what I could gather at this table. It's always the recreational fishery we're having an issue with. Once again, let's have a "come to Jesus moment" here, and either we're going to accept MRIP and hopefully Jason working with MRIP. We'll be able to improve the process so we can function better as a commission.

MR. ALLEN: You know just to alleviate some of the concerns that are around this table. Just know that in the past few years Brandon Muffley filled out that survey, and you know he's a nice guy; and I got to do it this year after taking over his job. It might have had a little bit to do with some of those numbers, so thank you.

CHAIRMAN GROUT: Okay Bob.

EXECUTIVE DIRECTOR BEAL: I'll be quick. You know one of the things that popped up there that hasn't been talked about is agendas during meeting weeks and workload; and a number of things that are trying to be accomplished during individual meeting week. I think that feeds off of this annual cycle and the needed, quick reactions to recreational data, frankly in our joint management plans. Those are the ones that are the trickiest. That workload during meeting week translates into staff burden, burden on the technical committees, and burden across the whole range of folks that are involved in the commission process.

As we move forward I think, sort of reviewing that pace and the number of assessments and the frequency of reaction to new information is probably one of the foundations that we need to have. I think moving up and down, whipsawing regulations is probably the worst thing we can do. But some of the federal cycles right now require us to do that. Any way we

can get out of that frequent cycle, I think alleviates pressure across all of our commission system, as well as generates a lot of predictability for the industries that we manage.

CHAIRMAN GROUT: I think this survey has done exactly what it's intended to be, by the discussion we've had here. It's given us a chance to have some self-reflection. I think that points out the importance of trying to take the time to fill out this survey. I appreciate the people that do take the time.

I appreciate all the comments that we've had here during this discussion about this. It just shows you the importance of this, and we will continue to do this; so thank you again. We've got a couple of ideas and thoughts that maybe we can move forward with in the future, to try and address some of these issues.

COMMITTEE REPORT ON SAFE HARBOR LANDINGS

CHAIRMAN GROUT: The next agenda item is something that was brought up by the Vice-Chairman here, Mr. Gilmore, concerning safe harbor landings; and Toni is going to start out with a little overview about this. Then I'll turn it over to Jim to move forward with some possible action.

MS. KERNS: Earlier this week I also e-mailed the Draft Guiding Principles for Quota Transfers Related to Safe Harbor document out to the Policy Board, as well as the couple I think were passed around for folks to either share or have of their own. A group of commissioners and two Law Enforcement Committee members had a conference call to talk about what the states are doing, in terms of what they call safe harbor and then as well as how they deal with quota transfers that are associated with safe harbor.

We put together this informational document. This is a draft, it is just that an informational document for states that may be considering a

policy regarding safe harbor landings; due to safe harbor circumstances. This is not a policy or requirement to states to implement in any way. Safe harbor, so there were three states that actually have policies in place right now regarding safe harbor.

When I pulled together this document, I utilized those three states documents; and tried to combine them together to give some general information. Safe harbor provisions are that a port will not reject any deserving, damaged or needful vessel. The guidance that those states had put together, as well as for this, is not intended to disregard other circumstances that may prevent a vessel from entering into a state port.

Vessels seek refuge may be subject to inspection by the host environmental police, to make sure there is compliance with all the laws and regulations for that state. Vessels seek safe harbor under the following declared circumstances, in many cases mechanical breakdown, unsafe weather conditions, loss of essential equipment, as well as medical emergencies. In several cases the states will define what unsafe weather conditions may be; in terms of the wind speed and wave height. I tried to determine what the actual specific heights are associated with. It sort of aligns with gale force, but not 100 percent and we can't find any other reason why it's there.

When vessels come into port they are asked to identify a series of criteria that are listed in the document, including like the vessels name, permit numbers, the description of the problem, time of arrival, the amount and type of fish that are onboard, and a callback number of some sort of method of contact.

Vessels without a license to land in a state after it has sought safe harbor, should not be allowed to offload fish; unless it is determined necessary to stay in port for a period which would result in the fish becoming unmarketable. I think this is the key, very important fact here that states

think about when they are creating these policies.

In many cases it seems like in discussions with law enforcement committee that sometimes a vessel will come in to claim safe harbor; which may or may not actually be safe harbor reasons, it's really that they are just trying to offload some fish so they don't have to go home to their home state.

In thinking about new rules, you really want to think about making sure you're describing when a vessel would be allowed to offload, and when they wouldn't be allowed to offload. Vessels should not be allowed to offload fish, unless they have been authorized to do so from the host state.

The host state should communicate with the vessel's home state to discuss quota transfers prior to allowing offloading; to make sure that it is going to be approved by the home state. Things that you are going to want to talk about is determining what that home state's trip limit is for that vessel, who would cover any overages if the vessels actually contains more than the trip limit that you're going to allow for the offloading.

What type of necessary documentation you're going to need to complete the transfer between the two states; as well as a pack-out slip to confirm the landings of the vessel for the home state that is going to be transferring quota back to your state. There are a variety of regulations that the different states are doing; in terms of the actual offloading and landing.

Some states will only allow vessels that have sought safe harbor to land their states trip limit; while other states will allow them to land the home states trip limit, as long as that home state will then transfer the quota to their state. Some states will give away to charity any fish that are beyond the host state's trip limit; so the fish are forfeited.

Authorization to offloading is limited according to a willingness of the vessel's home state to accept the fish under that state's fish allocation. Then some states actually do not grant permission for vessels to land quota in another state due to weather conditions. But they do allow for other safe harbor provisions.

There are a series of regulations that are out there that you should consider. Again, this document is for recommendations. When I did discuss this with the Law Enforcement Committee, who met earlier this week, there was mixed reviews about whether or not the commission should even have an informational document from them. There were a couple of members that just felt as though enforcement was communicating with their home states, and said this isn't necessary; but that was about it.

MR. GILMORE: Thanks for the Workgroup, and Toni in particular for all the work she did on this. Just on that last note. I think just Toni covered most of everything I was going to say. But just let me put a couple extra points on it. That issue, and if you weren't at the annual meeting when we raised this, was because we've lost court actions because we went in without any kind of a written document, the guidance policy or whatever you want to call it.

Essentially that commonsense or reasonable accommodation by law enforcement, and even our staff, didn't work; you know judges just dismissed it. From that we essentially came up with something for New York, and then we figured it would be a similar situation in a lot of the states. You do not want to walk into court, particularly if you've got a bad situation like this with, we're good guys and we're trying to manage our resources.

This again is I can't emphasize it enough; this isn't a policy. This is simply a guidance we came up with. There are a lot of commonalities among the states in terms of these issues. If it's a weather condition or whatever we probably just wanted to offer this up, so that if an

individual state wants to develop something more formally, this is more of a template or a base document that you can use.

If you want to be consistent with the rest of the state, which I think would make a lot of sense with a lot of the other states. I think it gives it more strength. In particular, even if you don't want to have something, we have a document that you can refer to that if you do go into some formal court thing or whatever; you can say well the commission at least has guides that we would follow. That is a document you can refer to.

This does not say that this cannot be modified. Every state is going to have unique circumstances, so this base document can be taken and things can be added to it or taken away from it; depending upon that circumstance. But at least having that template, that base document, seemed to be a good idea. With that I think we'll take questions.

CHAIRMAN GROUT: Dave Pierce, do you have questions or comments on this and then Jason?

DR. PIERCE: Yes, just a comment. I appreciate New York's initiative on this. The Subcommittee's work is much appreciated, as well. Dan and I are in the midst of working with our law enforcement agency to come up with a safe harbor policy; something that can be used to assist law enforcement that all of us deal with.

The request that we frequently get during the winter time especially, when bad weather arises and fishermen fishing on Georges Bank, for example, and the northern edge of Georges Bank catching summer flounder, have to steam all the way to North Carolina to offload their fish; which is a bit foolish, but nevertheless that's the way the rules are. Weather gets bad, the engine breaks down, and they need safe harbor. This is good guidance, and we'll use it as we move forward with our law enforcement

agents to come up with a way in which we can effectively deal with all of these requests for safe harbor.

MR. McNAMEE: I totally agree with everything that Jim said. I think this is a really good idea. I thought I would offer one nuanced point. What we have found is that first communication about transferring quota, things of that nature. We found it to be more effective if it is actually the vessel captain or owner that makes that communication.

While I agree that in the end it has to be the state agency to state agency that does all the formal logistics; that initial contact I think is more effective coming from the vessel captain or owner that came into port. I just want to make sure that the guidance document, if folks were to agree with that is flexible enough to accommodate all of the communications; and have to be just between the state agency to state agency.

MS. KERNS: Jason, is that the vessel captain contacts the home state to see if they will be willing to transfer quota to another state?

MR. McNAMEE: That's correct.

MR. BATSAVAGE: I think having these guidance principals is helpful for all the states to kind of craft their policies that work best for them. We're the one state that doesn't allow vessels to land our quota in another state due to weather, for a couple reasons; the main one is industries desire to have those boats return to North Carolina if at all possible, but also in the past, vessels taking advantage of the weather situation.

That's probably the most challenging thing, as far as the guiding principles are the criteria. I think what is given here is a good example of what can be used. It is just kind of really hard to pinpoint all the reasons why weather could play a role or not; as far as returning to the home state. The thing that is still kind of tough

to separate out is vessels seeking safe harbor for safety purposes versus the second step; which is coming in and hoping to land fish in another state, due to the circumstances listed.

I'm still kind of struggling to try to figure out how to kind of separate. You know the first part where it's like; port will not reject any deserving, damaged or needful vessel from the circumstances, which are kind of more of circumstances for requesting permission for landing quota in another state, or something like that.

But anyways, I think this is good. I think the more we do this the more we learn; and North Carolina and Virginia have been doing this for a long time. Just when you think you've kind of seen every situation that can occur, something new pops up. Treating these guiding principles sort of as a living document, if we see things collectively the states that aren't quite working out the way we thought; I guess we can always have the opportunity to revisit this.

CHAIRMAN GROUT: Ritchie White and then David Blazer.

MR. WHITE: Not having followed this, I don't believe it is an issue in New Hampshire; at least I'm not aware of it. I guess I'm kind of surprised that it's not automatically doesn't go to the home port state. I mean here you have a vessel that is regulated and is operating under the regulations of a state that is unloading in another state; obviously due in most part to circumstance out of their control. But I think it is creating a problem for the host state that really should be taken care of by the home port state. I think it ought to be an automatic transfer. You shouldn't have to ask, it ought to be automatic.

If problems arise in the regard that they're taking advantage of this, then the home port state needs to figure that out not the host state. I guess I'm just kind of surprised that it is unfolding this way. As I said, new to it and just

getting educated on it, but it just seems backwards to me.

MR. DAVID BLAZER: Jim, thank you and Toni and the Workgroup. It is good to see something in writing that gives us a little bit of guidance; because we've had this issue come up a couple times in our state. We have one small port on the coast in Ocean City. We could get significant storms that will shoal up and cause our inlet to close down for a little while.

We have used this after a significant nor'easter where we've got shoaling in our inlet; but we've got boats that are out there. That's been the one case where we've used that. We look forward to having these guidelines in, but we'll make it kind of state specific and work through that. It is good to have something; I appreciate all your work. Thank you, Jim.

CHAIRMAN GROUT: David Bush.

MR. DAVID E. BUSH, JR.: I think that knowledge sharing and sort of cross-loading this information to each of the states is great. The bottom bullet down there is one thing that I think is pretty valid. I understand that this puts vessels in certain situations, and part of that is on the vessel captain as well; but the states should have a right to say no, when they feel that they need to be able to say no.

If you make this an across-the-board thing, or it's automatic. Any of you all that have ever been out on a boat knows how easy it is to have a situation, and it looks legitimate. It doesn't take a rocket scientist to create a situation and save you days of steaming and thousands of gallons of fuel. I'm not saying that everyone is like that. I work for those guys. But at the same time, the landings flexibility that we discussed yesterday is most flexible under its current situation. That flexibility has to be able to go from 100 to 0 at the will of the home state.

CHAIRMAN GROUT: Okay, thank you that was a good discussion; the only thing that I heard was a potential recommendation to make the first contact on the onus of the boat captain that would differ with that. Are there any objections to making that change to this nonbinding policy guidance? Okay, we'll see that change and then I would like to ask Toni how we would propose to just make our commissioners consistently aware of this guidance document; should they wish to use it in developing their own states guidance document.

MS. KERNS: I think there are two, well there are many options I guess we could do, but two that really come to mind. One, I can e-mail it to the Policy Board and then you guys have it. Obviously that means that you have to remember that you have it as you go forward to creating these documents.

We could also put it on the web page, under the ISFMP Policy Board, and just make sure that it is very, very clear that it is an informational document; but on the header that it is not policy or a requirement in any shape or way. I would probably put on there, also include that individual states create their own safe harbor, transfer, landings policies themselves; and the commission does not do that.

MR. GILMORE: I would prefer Option B. I think that is probably the best way to go about doing it, because that way it is available and it is on those front pages with all the other, sort of guidance documents. Just a quick comment on the underlying theme to both Chris and David's comments was that there was going to be two bars.

The safe harbor is kind of a low bar, the transfer and everything that is a much higher bar. The theme is that you're going back to your home state; we're just trying to keep you from having a real safe issue with your crew. Then again that would be my suggestion was the website.

CHAIRMAN GROUT: Okay any further discussion on this? Okay thank you very much, good discussion on this and thank you for developing the working group that did that. That is excellent.

UPDATE ON MRIP TRANSITION OF THE FISHING EFFORT SURVEY AND APAIS

CHAIRMAN GROUT: The next item agenda is MRIP and the transition of the Fishing Effort Survey to, and APAIS, excuse me. We have Dave Van Voorhees here from NOAA Fisheries; he's got a little presentation. Welcome, Dave!

MR. DAVE VAN VOORHEES: I just want to say I appreciate having the opportunity to address the Policy Board today; and answer your questions that you may have after the presentation. I'm the Chief of the Fisheries Statistics Division in the Office of Science and Technology in NOAA Fisheries Headquarters.

We do have responsibility for administering the Marine Recreational Information Program for our Office Director, Ned Sear. I'll be giving you an update today; largely focusing on the transition that we're making from Legacy Survey Designs to very improved survey designs for recreational fisherman.

Most of you know that we do two surveys to estimate catch, typically for recreational fishing. We'll do one survey that is focused on estimating the number of fishing trips that anglers are taking; we call that our effort survey. It is usually done off sight, either through telephone survey methods or mail survey methods.

We also do another survey that is an on-sight survey called our Access Point Angler Intercept Survey; to get information on what people are catching through direct observations of what they've actually brought back to the dock, and asking them also to report what they caught and released at sea.

That information is used to estimate the average number of fish caught per angler fishing trip for all species that anglers are catching. We then have two estimates, basically, an estimate of total number of trips and an estimate of the average catch per trip; and by multiplying the two together, and we can estimate the total catch for any given species in the recreational fishery.

In the Marine Recreational Information Program we've accomplished a lot over the years since 2008. As you know, we established the program after having initial review by the National Academies of our recreational fishery surveys across the nation; everything that we were operating and funding, including some surveys run by state agencies. We've worked together with all of our state agency partners, interstate commission partners, council partners to move the program forward to address the recommendations that came out of that review. We established a National Saltwater Angler Registry that is continuing to be improved. But I must say the success of that effort has been largely dependent on the states really stepping up, and providing registration and licensing programs that met our requirements for the Federal Registry.

We've also developed improved estimation methods for our on-sight survey that properly took into account the complex sampling design of that survey; and we used that to re-estimate catches back through 2004, and developed a calibration for earlier years. Later we developed an improved sampling design for that on sight survey; which I'll say a little bit more about today.

Then we also developed a new mail survey design; as an improvement over the Legacy Telephone Survey, based on the digit dialing that we've done for many years. We have that ready to implement, but I'll be telling you more about the plan for how we're going forward to implement that mail survey.

More recently, we've been working with our partners to develop regional implementation plans that identify what needs to be done moving forward within each region, what all the partners want to accomplish in terms of improved survey designs, and what we want to implement moving forward.

Those are in progress at the moment. We've also been working on developing a new strategic plan for the program; which is now posted on our website for feedback and input from everybody. Please go and review that and let us know if you see any reasons for changes. We had a second review done by the National Academies that you heard about; Dr. Cynthia Jones came here. She is the Co-Chair of the committee that reviewed the program; and addressed you at your last meeting.

That review I'll say a little bit about; in particular for the later part of the presentation. The National Academies Review basically pointed out that the collection of recreational fishery data is extremely difficult. It is not easy; so advanced survey methods and complex statistical analyses are needed.

I think one comment that Dr. Jones made was that it is actually more complicated than rocket science. I think that's just a humorous way of pointing out that it isn't easy to design and conduct these surveys; to get what we're trying to accomplish. We did get positive feedback from a National Academies review.

I'm not going to dwell on that. I will focus more specifically on the two major surveys that we're transitioning to. But additional challenges do remain for us; and there are a number of recommendations in the report from the National Academies, of things we can do to further improve on the very improved designs we've already developed.

I'm going to talk about first of all the Access Point Angler Intercept Survey. National Academies said that the new design we've

developed, the new estimation and sampling designs for that survey, are substantial improvement over what we used for MRFSS in earlier years. We've greatly reduced the potential for bias in that survey; by having strict adherence to formal probability sampling protocols, limiting decision making by samplers that can no longer decide when to go to a site or when to leave a site to go to another site. There are more strict protocols in place. We've also expanded temporal coverage; so we're getting intercepts of trips returning throughout the day, not just during the peak activity period of the day, but trips returning at night time as well as off-peak-daytime hours.

The site time assignments are actually completed without rescheduling, because we have a sampling approach that's making sure we're taking into account the constraints of the folks that are actually doing the survey. Very importantly, now on the Atlantic coast we have all the data collection for the survey being conducted by state agency personnel and ACCSP. We're very happy with the way that is going.

The new fishing effort survey that we've developed is actually a mail survey design; to replace the Legacy Survey of the random digit dialing telephone survey that we did for many years since 1981, the beginning of MRFSS. The National Academies pointed out that the methodologies that we're using for that approach are major improvements over the legacy approach.

I just want to point out the major reasons why we see it as a better way to go is that we get much better coverage. Through our mail survey approach we can reach households that still have landline phones and answer that phone. But we could also reach households that only have cell phones and only answer cell phones; even though they might have a landline phone.

We get higher response rates from mail surveys now. The response rates we're getting are in

the order of 40 percent. The random digit dialing telephone surveys now get response rates below 10 percent. We have a much better chance of reaching people who fish, because we're taking advantage of the National Salt Water Angler Registry that has been developed.

We're using that so that we can actually sample households that have addresses that are in the registry; at a higher level than households that don't have, license holders basically. In the pilot studies we conducted, leading up to the development of this design, we also found that we got very different estimates of the number of trips that anglers were taking.

They are considerably higher than what we got from the coastal household telephone survey. As we transition to new surveys, improved surveys, it is very important that we take into account that we could be causing a major disruption to stock assessments and the management process. As you know, stock assessments and fisheries management rely heavily on having comparable time series of recreational catch statistics.

If you changed your new methodology and proven methodology, it is likely that you will get consistently different estimates from the new method than what you got from the old method. It is important to develop a calibration; a way to be able to convert from the old currency to the new currency, so we can actually revise historical estimates to match what we're going to get with the new survey designs moving forward.

That gives you a comparable time series of information for assessments and management. We need to do this not only to account for the new mail survey that we're going to implement, the fishing effort survey, but also to take into account the changes we made in the Access Point Angler Intercept Survey to improve that. To do it we thought we needed to work together with all of our partners; to plan a transition for how we're going to actually

implement and account for the changes that come from the new surveys. In order to do that we reached out to all our partners, we got representatives from regional offices and science centers, from the councils, from the interstate commissions, and from a number of state agencies to form a transition team. That team has developed a plan for how we're actually going forward to implement the new surveys; and it will ensure that the new numbers are incorporated into stock assessments and management in a timely fashion, accounting for the important changes.

This gives you an idea what the schedule looks like that the team developed. We set up a three-year benchmarking period for doing the Legacy Telephone Survey, continuing that of course, alongside of the new mail survey that we developed. That is from 2015 through 2017. In 2017 we're actually moving forward to evaluate a calibration model that's been developed for the transition from the phone survey to the mail survey.

That is going to be peer reviewed in a workshop that we scheduled for the last week of June; and the model is actually going to be shared with the transition team within the next few weeks. We're hoping if the model is approved by the peer review that we will be able to go forward and use the model to actually produce revised effort statistics; based on the first two years of the side-by-side data.

That will give everybody a chance to look at what the changes will look like; as we move forward into 2018. Later in 2017, we're also going to complete evaluation of a calibration model to account for the changes in the intercept survey. That model will then be peer reviewed early in 2018; so that when we have final numbers for 2017, we will be able to use both calibration models to re-estimate historical catch and effort, and have those revised numbers available for folks doing assessments by the middle of 2018.

I just wanted to make a quick mention of other work that we're doing; because everything I've talked about up to this point is focused largely on how we estimate effort and catch for private boat fishing, and shore fishing. The new mail survey is not going to be used to estimate for-hire trips, charterboat headboat trips.

We have other surveys that focus on the for-hire sector. We are doing work in MRIP to look for improved ways to do data collection for the for-hire fishery. The ultimate goal is to develop and certify designs for electronic trip reporting programs; because we know that in three of the regions at least, Gulf, South Atlantic, Mid-Atlantic there is a lot of interest in moving in that direction.

We've been funding studies that are using a number of very important components; electronic reporting, but also methods for very good compliance monitoring, to make sure everybody is actually participating. Finally, a very important component is dockside sampling that can be used for validation of the self-reported data.

That is going to be a move away from what we're currently doing; which is just the for-hire telephone survey that we're using to estimate number of trips for charterboat anglers and the Northeast Vessel Trip Reports are also used in our effort estimates. Finally, the Access Point Angler Intercept Survey is used to estimate the average catch. This last slide is just to give you an idea of other things we're working on.

I think in the interest of moving things along, because you're already kind of late on your schedule; I'm not going to go through this slide in detail. But I'll just leave it up there, and I'll be glad to take any questions people may have.

CHAIRMAN GROUT: Any questions for Dave? Oh boy, well I'll start in this side of the room and we'll go around. John.

MR. CLARK: Thank you for the update, Dave. We heard at the last meeting the National Academies review of the MRIP. The survey is obviously a great design, and yet if you had been here yesterday you would have heard just heaped on criticism of the results that are actually coming out of it. Do you have any way of plans to some way maybe groundtruth some of the numbers you get out of this; because a lot of the numbers do seem to defy belief?

MR. VAN VOORHEES: Well the surveys we're doing do have limitations. One of the important recommendations that came out of the National Academies review was they really thought we should take a close look with all of our partners at whether or not the MRIP design is sufficient to manage recreational fisheries the way people want to manage the recreational fishery.

Now that can vary. Different people have different ideas about how best to manage it. But what they focused on in particular was if people are trying to manage the recreational fishery in season, similar to what's done for the commercial fishery; then the survey designs we're working with may not be adequate to support that. That is what they're recommending us to take a close look at. If people actually want to manage fisheries in that way, I'm not saying that is the way that everybody really wants to do it.

Then we need to take a closer look at some alternative methodologies for managing the fisheries. It is extremely, as I think most of you understand, it's extremely complex to be able to produce recreational catch statistics similar to what we do for commercial fishing; because we can't census everybody. We don't have a way if we tried to require them to report everything. We don't have a way of checking up on everybody that is adequate to make sure that we're actually getting complete reporting.

CHAIRMAN GROUT: Roy Miller.

MR. ROY MILLER: Nice to see you again, Dave. Refusal rates have been historically a problem in our state; particularly with the for-hire sector. I'm curious if there has been any moves to attempt to overcome that particular obstacle among some of the for-hire captains; that refuse either to allow surveyors on their vessel or refuse to cooperate with the surveys altogether.

MR. VAN VOORHEES: Certainly I'm aware, Roy, of that issue; and have personally dealt with it in the past, in Lewes, actually. I made a visit down there years ago. It is difficult sometimes to be able to seek the cooperation that we need to get really good data from the surveys. But we do continue to look at that and try to improve our communications; to get out and talk to the folks, you know go out of the box and actually pay visits.

I think that is something that is duly noted. I think we should follow up on the issues in Delaware. I would like to talk some more with you about that.

CHAIRMAN GROUT: David Bush.

MR. BUSH: Thank you for the presentation. A quick question for you, up and down the coast there are mixed reviews as to obviously not just MRIP, but recreational reporting and some way to gather that data. You know you have recreational fishermen that are, sure I'll put an application on my cell phone, report every time I go out; and some guys, they don't need to know what I'm doing. You do get a mixed review. But given the possibility of whether it is voluntary or state-led programs to provide recreational data in some form or another.

I understand that there would be a calibration issue; trying to convert it into something useful to MRIP. But I wonder if you could maybe just briefly tell us where that sort of stands. Then the second question I think was kind of already asked, and that's when you get these two intercepts that equate to catching more than

the biomass on the planet has, what are we going to do with that?

MR. VAN VOORHEES: There are two questions there. I'm going to try the first one and then come to the second one. I think Dr. Jones actually addressed that first question somewhat when she was here at the last meeting. It certainly is possible to design a data collection program that has folks reporting through cell phone applications on the trips.

The key is to make sure that everybody that is participating in the program is actually reporting everything they do. You don't want to just get the positive trips and not the negative trips; because then you'll estimate average catches way too high. It is also difficult, because of the sheer number of people participating in the private boat fishery.

For example, if you try the census type of approach that would be extremely difficult to manage to make sure everybody is actually in compliance. You can however develop a sampling approach, where if you recruit a panel through a probability sampling approach and you have that panel reporting everything that they're doing.

That certainly has potential. Now the key there is you need to know how to weight the data that you're getting from a representative sample of the population; in order to estimate what's going on in the total population. If you don't have a probability sampling approach, you can't be sure you have a good cross section in your panel.

If it's just a volunteer panel, you might get volunteers that are better at fishing than the non-volunteers; and you might end up overestimating your catches as a result of that. It is certainly possible. But it's going to be extremely difficult to develop a system for private boat fishing for shore fishing that actually meets the standards for statistical

surveys, and so you can be sure you're producing unbiased estimates.

We are supporting projects; MRIP is supporting some pilot studies that have been testing out a use of cell phone applications for reporting. There was actually one study done in Florida that compared data being captured through cell phone applications with data collected in the MRIP Intercept Survey in Florida; for some regions of the state.

Your second question was getting at how to deal with these numbers for; I think what you're looking at is low activity time periods, for example, November/December period. We had a number that most of you know about for black sea bass in Wave 6 of 2016 that was much higher than what we saw in the earlier years for that same time period. We looked very closely into the data; to see if anything was done incorrectly, in terms of sampling procedures, also to look at the data itself to see if any of the values were out of range of what would be believable for an angler fishing trip.

We weren't really able to find anything that is incorrect that would have necessarily caused an error in estimation. But I want to point out, it is very important to recognize that in low activity periods that is very difficult for a survey designed to produce a really precise estimate. On the intercept survey, we have a lot of intercept assignments that are occurring; but many of them are not succeeding in intercepting any trips, because nobody was coming back on that day at that site.

The sample we do get of angler trips is smaller for those low activities time periods than it is for more active time periods. The effective sample size being small causes us to have an estimate that can be quite variable from year to year. Some years its' high, some years it's low. The real value is probably somewhere in between; or maybe we occasionally hit it right on the mark.

But that's a problem; in terms of a sampling survey is the effective sample size. On the effort side is the same problem, because we're contacting a lot of households to find out how many trips people took in the household; but there are a lot of households during those low activity periods that don't have anybody reporting trips.

The hits we do have are the ones we have to rely on to provide data to produce our estimates; so the effort estimates can also fluctuate from year to year in this low activity time periods. But as you look towards the middle of the year, the much more active time period there is a lot less room for variability in the estimates; because we have much larger effective sample sizes.

CHAIRMAN GROUT: Andrew Shiels.

MR. ANDREW L. SHIELS: Yes, thank you for the presentation. Just a quick question, do you have an estimate of the participation rate in the National Angler Registry; especially on the east coast?

MR. VAN VOORHEES: I think what you're getting at is do we actually have everybody registered, right? I think the answer to that question is it varies a lot from state to state; based on what we've seen so far from the mail survey that we're conducting alongside of the current phone survey. I don't really have numbers I can share with your right now; but I can just tell you it does vary quite a bit.

In some states it looks like the suggestion that we may be missing as much as 40 percent of the participants, just based on the registry alone. Other states it is less than that. I think there is still work to be done to improve our registry; working together with our partners to find ways to get folks registered, who may not be required to pay for a license. But we want to at least get them in the registry; so we can have the ability to survey them at a higher level than folks that aren't participating in the fishery.

CHAIRMAN GROUT: Jim Gilmore.

MR. GILMORE: Dave, I would like to thank you. I think you have the hardest job in NOAA Fisheries, quite frankly; because I know this is probably one of the most difficult things. That rocket science analogy I think is correct. You get beat up a lot, but just I know you guys are trying your hardest to do this; and MRIP isn't a four letter word in the bad sense. Hopefully we'll get to it.

Just an issue and it is more of a comment is that in the ideal world if we had done this thing, we would have developed it, tested it, modified it and then rolled it out. But of course because of the circumstance it was rolled out; and we're testing it, modifying it, live. The problem comes down to be the anomalies.

Right now, thanks for getting on the phone with us a couple weeks ago on black sea bass; because that pretty much explained it. Again, I applaud you guys; you're doing a great job. But we're in that mode where the operation was a success; but the patient died is the bigger problem. Those anomalies come out, and what happens is you know what happened yesterday.

We've got this number that is suspect, but because of the fear that well that is a number NOAA Fisheries is coming down with the hammer with draconian measures; we did what yesterday was, I think an extreme over reaction on black sea bass of what we're doing. We're reacting to that and that is causing a problem.

As we move forward, we really need some judgment or whatever; some kind of way to deal with that; because again, we just I think impacted a fishery dramatically that did not have to happen, simply because it is a work in progress, and those anomalies are really killing us. Whatever you and John and everybody else can do to try to get us to deal with that as we move forward to smooth that out, I think would be a big help.

MR. VAN VOORHEES: Well Jim, thanks for the kinds words; but I certainly understand how difficult it is to manage recreational fisheries, and especially to try to do it with estimates in some cases aren't very precise for some stocks. It is a multipurpose survey that we're doing. We're trying to cover everything.

We're trying to get the best estimates we can for all different species that are being caught. We're also in this situation where the managers have to manage fisheries with annual catch limits; and you have to use whatever number is available. We're trying to do the best we can to provide good numbers; but in some cases the estimates we provide for some stocks are not very precise.

They are going to be subject to questions; you know because we don't have enough data on that particular stock to actually produce a really strong, highly defensible, precise estimate. The other problem we have as I alluded to earlier is that at an annual level we can do a good job of getting precise estimates for different stocks that are being managed; many stocks.

But when you get down to the two-month wave level and you're tracking wave by wave as you go through the year. That becomes much more difficult. You know where high activity waves, those wave level estimates are generally pretty precise; but the low activity waves early in the year, late in the season, if you're just looking at that one two-month period. That estimate is not going to be as precise as what we get at the annual level, or what we get for the high activity waves. That I think we need to be taking into consideration; in terms of how we use the numbers. I think we're looking to put together a workshop; probably this fall, working with several of the councils and ASMFC, to start taking a closer look at how we deal with imprecise estimates for the recreational fishery and how that matches up with a management strategy. Looking for other ways to improve the precision of estimates by using data maybe for more than one year for some stocks, instead of

relying just on the current year data. A number of other alternatives are going to be explored.

CHAIRMAN GROUT: Mark Alexander.

MR. ALEXANDER: David, I'm glad you're here. It is always nice to hear what you have to say, and I always enjoy your explanations for things. I have two questions. The first is, a moment ago you answered a question regarding a mobile application and the importance of differentiating or accounting for positive and negative trips. In the fishing effort survey, the mail survey, how do you account for or confirm that people that have had a trip in the previous wave were more or less apt to report or respond to the survey than people that did not have a positive trip?

MR. VAN VOORHEES: Yes that is very important, I'm glad you brought that up; because one of the major things we were focused on in developing the new mail survey was this potential for what we call a non-response bias. The people who respond to the survey could be different than the people who don't respond to the survey.

If you have that situation that can create a bias in your estimates; because we're surveying basically through a mail approach, we're surveying households. We're trying to find out for all the households that receive the mail survey, get trip data for all the residence of that household for the last two months.

It is very important that the people who didn't take any fishing trips also fill out and return the questionnaire; otherwise we're going to overestimate the number of trips being taken by all households. The way the questionnaire is actually designed, we include questions that are not about fishing; they are about weather, other aspects of NOAA, you know unrelated to fishing.

The whole idea was to try to make the questionnaire more salient to people who don't

fish, so that they would actually respond to questions and send the questionnaire back. We also have on there a place for people to record salt water fishing trips if they took any. But that is just a portion of the total questionnaire.

That was done to try to improve the response rates for people that didn't fish, as well as people that did fish. We also did follow up studies, which we call follow up non-response surveys; where you basically take the addresses that didn't respond and send them another questionnaire, with a larger incentive.

We normally include a two-dollar incentive with the mail survey, a larger incentive and easier ways to respond through phone or mail. Those follow up studies did not show a non-response bias. We were able to compare those who did not respond initially with those who did respond; and did not see a statistically significant difference. But we have had a strong recommendation from the National Academies Review to continue to do those non-response follow ups as a standard part of the survey. We are going to be doing that when we rely on the mail survey starting in 2018.

MR. ALEXANDER: My other question was, in our discussion yesterday with Fluke, Scup and Sea Bass; there was a statement that the VTR data is folded into the estimates at the end of the year. That was a little vague to me. I wasn't sure what end of the year meant. Is that data accounted for or used prior to the release of the preliminary data or between the release of the preliminary and the final data?

MR. VAN VOORHEES: This is an area we're looking to improve; working together with our partners in GARFO or the Regional Office to conduct the VTR program. What we currently do is we use the VTR effort data to improve our effort estimates for the charterboats and the headboats. We haven't traditionally been able to get that data complete until the end of the year.

What we've done is in the preliminary estimates we're just relying on the for-hire telephone survey data to estimate effort for all boats; federally permitted as well as state registered boats. Then at the end of the year when the VTR data was available and considered to be pretty complete.

We then incorporated that integrated it with our for-hire survey data, so that we could get a separate estimate for the federally permitted boats that came from the VTRs for their trips. Then the non-federally permitted boats we relied on the for-hire telephone survey data to estimate those trips. That is why the estimates change a bit between preliminary and final for the charterboats and the headboats. We haven't used the catch data from the VTRs.

The decision we made years ago was to continue to rely on the actual intercepts where there is direct observations by a sampler of the catch that is being brought back to the dock. But what we're moving towards doing is getting the VTR data on a bimonthly basis, so we can incorporate the VTR data into the preliminary estimates; so there won't be as much of a change between preliminary and final estimates at the end of the year.

CHAIRMAN GROUT: Adam Nowalsky.

MR. NOWALSKY: Thanks for being here today, the presentation, as a member of the recreational community who has made a number of inquiries to the SNT Office, never found your staff to be anything other than completely professional and helpful in all inquiries; and appreciate that.

When management saw the transition from MRFSS to MRIP a number of years ago, I'm not sure if promises are the right term, but I'll certainly say expectations or hopes with regards to timeliness of when the data might be presented; with regards to possibly getting information on a monthly basis as opposed to every two month wave basis.

Certainly the expectation was reduce confidence intervals. We certainly haven't been able to get any of that on paper, in practice; that's not to say the numbers aren't actually more accurate. But a lot of those management expectations and hopes to improve how we use the data haven't been met. As a result of that earlier this morning we had discussion about our commissioner survey in recent years, some declines in expectations, largely driven by recreational problems; which are in large part how we use the data. You touched on some of that in your presentation. I think that slowed down management's willingness to revise the management process; and how we react to the recreational data. I think we gave it a chance; and realized we still have a way to go. My concern now is four or five years after the fact of bringing MRIP online, we're bringing all these re-estimations to the table.

My concern is management is going to latch onto it for another four or five years and say, let's give it a chance now; as opposed to really looking at our practices and how we deal with it. Could you maybe compare what expectations management have relative to these re-estimations, compared to what the expectations were from the MRFSS/MRIP transition; and what your thoughts are about how management should really be changing how we use the data versus just expecting data is going to fix all our problems.

MR. VAN VOORHEES: There are a few questions there I'm going to take a shot at and then if I miss something, please let me know and I'll try to respond if I missed any of the questions there. One thing I want to point out. The National Academies Review actually made a recommendation that we strongly reconsider the recall period that we're using for our effort surveys; which has been a two-month interval ever since 1981.

We're certainly aware that there is interest in getting more timely numbers. We actually have MRIP funded a timeliness workshop a few years

ago that looked at this at the ways we can actually move things up; to have updates during the season more frequently than every two months, and to shorten the time interval between when the data is actually collected and when we produce the estimates.

We are trying to improve in that direction; and we actually have a pilot study we've conducted with the new mail survey that uses a one-month recall rather than two months. We're still in the process of evaluating the results of that. National Academies wasn't aware of that pilot study, but we think it is a pretty strong indication that we can go to monthly estimates; it's going to be somewhat of a resource issue, in terms of funding available.

But it is certainly doable. We think we're getting results that are very consistent with what we're getting currently with the two-month interval. That will be a concern, because if you've got different estimates from monthly than what you get from bimonthly, it might be a need for another calibration.

We think it looks pretty positive that we could actually go to monthly with the mail survey; and get results that are consistent with what we're getting bimonthly. As far as settling for what we have now. You know I think I certainly hear that. We always need to be looking to advance forward; that was strongly endorsed by the National Academies. We want to continue to do research for ways to improve our surveys moving forward.

One good example is, it was actually recommended in the National Academies review, is looking at going from a mail response approach to allowing people to respond to something they receive in the mail by reporting it through a website; where we could actually ask more questions. It would be cheaper. You could get a faster response than waiting for something to come back in the snail mail. We think that is going to be highly likely that we'll be able to go in that direction in the near

future; but the expert consultants we're working with are saying we're not quite ready for that yet, because there are still a lot of people that would not respond if they had to do it through a website. I think that's probably people in my generation and older; to a large extent. But I think as we get out of the picture, I think that type of approach may be more feasible. That is just an example, but we always need to be looking for other ways to collect the data to improve.

You know for the for-hire sector going to electronic reporting programs, making sure that we have a good design for how that is actually set up; so that we can be sure we're getting unbiased estimates. It's going to be more expensive. We'll have to find the resources to do it; but if people want to go there, I mean we can look at that. We can do different approaches. I think a lot of it is resource dependent. The precision issues that you brought up, you know how do we get tighter confidence intervals on the estimates? It is largely how much data we collect.

It is how much we can afford to collect. The surveys that we're doing now are actually more expensive than they were ten years ago. There are minimum pay rates for the samplers that entered into the picture several years ago, and have really increased the cost. Yes, we need to work together and continue to look for ways to improve; and get the resources needed to actually support new approaches.

CHAIRMAN GROUT: David Pierce, and then I have one other question after this. Then we'll move on.

DR. PIERCE: Thank you, David, thank you for your insights. I appreciate that. I also appreciate your focusing on the imprecise estimates of the MRIP. Fortunately, this Commission appears to be going in a direction that is very consistent with what you just mentioned; and that is instead of our being wedded to point estimates of harvest, we're

looking at the range around those point estimates; the PSE.

If we're within the range that is good enough; at least we seem to be going in that direction. We've already moved in that direction with one species, and I hope we continue to go in that way. Wave 6, black sea bass, it's been said it's an anomaly. I don't think it is based upon what I've seen.

I would like at some time for an official statement from MRIP regarding that particular wave. Was it anomalous or is it really an estimate that we should be using; because it is ruling the day now, and I think it will rule the day as we move forward into the rest of 2017 going into '18. It has tremendous implications for what happens in 2018.

With that said; the Technical Committee gave a presentation yesterday, and they indicated that they had a problem with the MRIP information; specific to their evaluating black sea bass and the actual numbers for the different waves, New York being obviously in the crosshairs. The reports given to us said, and this is from the Technical Committee.

It should be noted that there are several components to how the Marine Recreational Information Program developed the 2016 harvest estimates that remain unclear to the TC, specifically the weighting of intercepts, harvest by mode, and how the proportional standard error is calculated. Requests have been made to MRIP staff to further explain how the harvest estimates regenerated with many of those questions remaining unanswered. That is a great concern. Now, what can be done for the Technical Committee's concerns to be addressed; so that they actually can get under the hood to help us better understand the MRIP findings, such as the proportional standard error? How was it calculated? All of this really plays into the very difficult management decisions we have to make. I know you're doing the best job you can possibly do. That is

evident from all the responses. What can we do to get this kind of information that the Technical Committee requires for our benefit?

MR. VAN VOORHEES: David, you already have a lot of information on our website about how the surveys are done, how the estimation is done. However, we have been working very hard on upgrading that to make sure that we have good descriptions of the new methods; the improvements we've implemented over the last few years.

John Foster just reported to me this week that we're close to having that completed; and it will be reviewed, obviously, to make sure that everything is clear in there. But we're going to be posting that on our website, I think within the next few months. That new documentation would be available for any of the folks on the technical side to look at; to understand how they could replicate, basically what we're producing, in terms of estimates.

DR. PIERCE: Thank you very much, but beyond going to the website, there are actually, I really don't know I'm asking the question. Who talks? Who are the people who can actually communicate with the Technical Committee and so there can be a good discussion person-to-person as opposed to going to a website, and wandering through the website trying to find the answers to these questions?

MR. VAN VOORHEES: Yes, well I have a Branch Chief for my recreational branch now; as of last June. John Foster is my Branch Chief for the recreational branch, and he's really our expert; in terms of the statistical side of things. We have several other statisticians, on the staff who also are expert in this. I think we can certainly set something up where John could come and meet with whoever is interested in digging into the details; we would be glad to do that.

CHAIRMAN GROUT: Okay thank you, I have one question, and it relates, if you could have the

slide put up on the transition; which is the primary purpose of your discussion here today. I need to have that put up so that I can read it; because I don't have your presentation. The intent is that with the new effort estimate survey that we would be discontinuing the coastal household survey, telephone survey, by 2018 is it?

My question here is that clearly that there is a process that has been developed here for transitioning to it, and incorporating the new estimates from the for-hire, using the for-hire and the new APAIS into our assessments. Because we have clearly as of 2018 we are going to be using those revised estimates, which are going to more than likely increase the recreational catches of some species.

Those are the estimates we're going to use to monitor whether we're in the ACLs. My question is, is the plan here still intended to have these estimates incorporated into the stock assessments; and have significant recreational catches by 2018, and in time for council's to potentially modify their specifications before the 2018 estimates are used to calculate or to determine whether they're within the ACL? Is that clear?

MS. KERNS: I think I'm going to start for Dave. I'm on the Transition Team, and I don't want to force David into like when are we putting information into assessments; because that is not necessarily Dave's role. Dave's role is to provide us with the data that we're going to put into the assessments in a timely fashion.

If we do meet these milestones and these calibration workshops occur in a timely fashion; and we get the data out. Then we can start to incorporate the information into the assessments as they come up. For example, striped bass assessment will be coming up in 2018, and we are going to be right on the line of when that data becomes available and when we need it; like drop dead moment need it for the assessment to be able to incorporate it in.

We're going to do the best that we can, as long as that data become available when they're ready. Dave has said that he's going to try to provide us with some information so that we can start to see how we think the model may need to be tweaked; or how indices might need to be adjusted, so we can do some of that work ahead of time.

In terms of when all the other assessments will be occurring, especially for assessments that are jointly managed like summer flounder, scup and black sea bass. We do those assessments in cooperation with those schedules anyway, incorporated into the NRCC Review; and that assessment schedule is looking at the Mid-Atlantic Council, New England Council, and the Commission's assessment needs.

We have put time on the docket for recreational species in the fall of 2018, because we knew that these data would not be available until summertime. It takes time to make changes to the assessments themselves; in some cases life frequency indices may need to be adjusted, they may need to be adjusted throughout the time series, and that is not a small task to undertake.

Depending on how many changes need to be made into the model depends on how long it takes us to get it out and then given to use for peer review. There are also calibrations, and Dave you can correct me if I'm wrong here. But in order to adjust the data back to the old methods; so that if we haven't made changes to the ACLs and the AMS yet, we can still go back and compare the data so we're comparing apples to apples and not apples to bananas, so that we're able to manage appropriately with the numbers that we have available to us.

MR. VAN VOORHEES: Very good, Toni. That's right. Doug, you had asked. We definitely will not be doing the telephone survey in 2018. We'll just be doing a mail survey at that point. I think it is safe to say we will probably have a difficult time getting O and B to actually

approve continuing to do a random digit dialing household survey.

We had to convince them it was necessary to do it over the last three years for this benchmark that we're doing; to go to the new mail survey. As Toni pointed out, the estimates we're producing from the mail survey will be able to be converted into the same currency as what we would have gotten with the telephone survey; based on the same calibration model that we're using.

CHAIRMAN GROUT: Thank you very much, Dave for your very informative talk. I appreciate this effort. Obviously we've been going through some difficult challenges in managing our species, and the data that comes out of MRIP is very important to our management. I appreciate the efforts to try and improve it, and transition to the new methods here that will hopefully provide us with better information with which to manage. We are going to do a little reorganization because of the lateness of the hour in our agenda items. We are going to skip over at this point Items 10 through 13.

REVIEW OF NON-COMPLIANCE FINDINGS

CHAIRMAN GROUT: We're going to go directly to Non-Compliance Findings. We have a motion that was put together by the Fluke, Black Sea Bass and Scup Board. Since our Chairman is not here and our Vice-Chairman is not here, I'm going to ask Dave Pierce, the original maker of the motion to bring that motion forward from the Board.

DR. PIERCE: This motion is in the form of a template, with standard language for non-compliance rulings; so we can modify it obviously to deal with the specific issue pertaining to non-compliance. I will read it into the record. I would move on behalf of the Sumer Flounder, Scup and Black Sea Bass Board.

Recommend the ISFMP Policy Board find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan; if the State does not implement the following measures by May 21, 2017.

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

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

CHAIRMAN GROUT: This is a motion by the Board so it does not need a second. Is there any discussion on this motion? I would first like to recognize Robert Boyles, and then I'll go to further discussion.

MR. BOYLES: Give me just a second, I'm sorry. Mr. Chairman, this is the list of items that need to occur; in order for New Jersey to come back to be in compliance, is that correct?

CHAIRMAN GROUT: This was the original motion that was made by the Board prior to New Jersey putting forward their conservation equivalency proposal that the Board is currently in the process of getting technical evaluation on. This is the original motion; based on what came out on the original addendum.

MR. BOYLES: Okay, apologies, Mr. Chairman. Thank you for that. If that's the case, and I understand that New Jersey does have a proposal that will be considered. Does this motion need to be modified slightly?

CHAIRMAN GROUT: I believe it should; to somehow take into consideration the potential for their conservation equivalency proposal being used to bring them back into compliance, depending on the Board evaluation.

MR. BOYLES: Mr. Chairman, then I would offer a motion to slightly modify; with the words, if the state does not implement the following measures or those approved by the Board.

MS. KERNS: Robert, can you see that last line on that page?

MR. BOYLES: Hang on. I can see that now. I'm sorry, Mr. Chairman, but I would make that motion to add those words; to recognize that there is a conservation equivalency proposal that state of New Jersey has suggested.

CHAIRMAN GROUT: Is there a second to this motion to amend? Andrew Shiels has seconded; and I'll read it in to the record, just so that we have this official wording in here. Then we'll take discussion on the motion to amend; and then also the main motion. The motion to amend to include; or equivalent measures, and that was made by Mr. Boyles and seconded by Mr. Shiels. Now we'll have discussion on the motion. I believe we had Adam Nowalsky.

MR. NOWALSKY: The other element of the original motion I think that there is discussion here, is the date element by May 21st. In all likelihood that Board meeting, the Board meeting may not occur by that timeframe. I don't know if staff has an idea; if they've been erasing other things in their calendar and writing new things in, if they have any input on when that occur, if we need to put something

relative to some other occurrence as opposed to that fixed date in the motion.

CHAIRMAN GROUT: I believe our Executive Director can give an outline of the process of an out-of-compliance motion that may be able to address some of your concerns with this.

EXECUTIVE DIRECTOR BEAL: Adam, I guess the thinking of, or my interpretation of the thinking of the Summer Flounder Board yesterday, was that they wanted to ensure that New Jersey was going to take action by the 21st; because as it stands now with nothing else on the books, as of May 21st, the New Jersey regulations revert to 2016 and they would have a size limit that is smaller than what's required by the addendum and a bag limit that's higher.

But now we've started down this road of conservation equivalency. I guess the question now becomes for the Board, does the Board still want staff to submit a letter on May 21st, or does the Board want to have some of the Technical Committee review and Summer Flounder Board subsequent review play out before letters are sent?

It is really up to this group; because if we send a letter on the 21st, are we sending a letter because the regulations that are in place are the 2016 regulations or are they the new conservation equivalency regulations that have not been reviewed and approved? Those are kind of two different things, right.

It is a process question for the group, and I think there are two paths. One is they can maintain the 21st, because that is what we know right now; or they can make an assumption about how New Jersey is going to progress with their conservation equivalency proposal, and defer transmission of letters until those next steps have played out. I can't decide for the Policy Board obviously on what you want. But those seem to be the two options in front of the group right now; you know either setting the date now or setting a process that

will essentially put New Jersey on notice that the intention is to find them out of compliance if they haven't implemented the appropriate regulations after the Technical Committee and Board process.

CHAIRMAN GROUT: Follow up, Adam and then I have Kelly Denit.

MR. NOWALSKY: Perhaps maybe we quickly dispense with this motion, which I think there is likely support for around the table. We get that original motion back up on the screen, and decide what other changes might need to be made.

CHAIRMAN GROUT: Discussion on this amendment to the main motion? David Bush.

MR. BUSH: The only thing I see maybe is the motion to amend to include or equivalent measures. Those equivalent measures would be determined by whom, according to this amendment? It does not state. Maybe it might be appropriate to state it.

CHAIRMAN GROUT: Specifically add some words about or equivalent measures that are approved by the Summer Flounder Board. Is the seconder okay with that?

MR. SHIELS: Yes.

CHAIRMAN GROUT: Okay, further discussion on the motion to amend. Kelly.

MS. KELLY DENIT: I think just before we move forward with looking at this motion, I wanted to clarify a little bit on the process perspective. I think right now we're in a very challenging situation with a lot of moving parts. We're attempting to craft a noncompliance finding sort of proactively in a certain way; in terms of we don't actually know what the Technical Committee is going to say.

We don't yet know what the species board is going to do with that information. Therefore, it

is a little bit, from a process perspective, it is challenging for the Board to find noncompliance in advance of actually having those decisions. Historically when we've done noncompliance findings it's generally been with an assumption that a state is not putting in place any measures.

In this particular case, we've heard very clearly from New Jersey that they are going to put in place measures next week; and it remains to be seen whether those measures will be conversationally equivalent or not. I think from our perspective, while these amendments potentially help, I think we may find ourselves in a situation where the Board would have to take an additional action following the results of the TC review and the species management board decision to actually move forward a noncompliance finding to the agency.

Just while I have the floor, I just would remind folks that there are two prongs to the noncompliance finding when it comes to the agency. The first is whether they failed to implement the measures as articulated by the Commission, and the second is whether those measures are necessary for the conservation of the fishery. I think the TC review will play an important part in the Commission's decision making and therefore the rationale that it might put forward to the agency of whether those measures are in fact necessary for the conservation of the fishery. Because we're now working under an assumption that New Jersey is going to implement the proposal they've put forward; and not the status quo, which might be two very different questions and two very different results, in terms of looking at the need for the conservation for the fishery. I just wanted to put that out there for consideration of the Board as they're looking at this amendment and then the main motion as a whole.

CHAIRMAN GROUT: I would like to see, and I'll take your comment here, Robert in a minute. Maybe if we work on this motion, decide where

we want to add this particular amendment to the noncompliance finding. Then potentially if there are other modifications that the Board feels need to be put in to clarify exactly when any noncompliance determination would come out, we can take that up in subsequent amendments to the motion.

Is there any objection to taking up this motion and then dispensing with this motion either up or down, and then taking any subsequent modifications to deal with the exact timing of any potential noncompliance finding? Okay, do you need time to caucus? It seems like there are only a couple of delegations. We don't have a full delegation. But I'll give you 30 seconds to caucus on this particular amendment.

Are you ready to vote? All those in favor of this amendment to the noncompliance finding, please raise your right hand, all opposed, any abstentions, any null votes? Okay this motion to amend has passed 12 to 0 to 4 to 0. Now are there any other amendments to the main motion that any Board member would like to make? Adam. I hit the wrong button, you're on.

MR. NOWALSKY: Mike Luisi had a lot of success with that technique last meeting with me. Again, I'll just come back to my last comment that I don't think the date at this time is the appropriate path forward for this Board. I think it needs to be something relative to the pending actions that we know are in play.

I would leave it up to the rest of the Board to determine what that is. I would offer that the right time sensitive criteria right now is that this finding would come forth after the Summer Flounder Board, should they decide that New Jersey's alternative proposal was not accepted.

CHAIRMAN GROUT: Did you catch that motion?

MR. NOWALSKY: I am not going to make a motion on this matter. I'm just putting that out there for Board consideration.

CHAIRMAN GROUT: Okay then Robert, I believe you had your hand up.

MR. BOYLES: Just a point of clarification. I'm not on the Summer Flounder Board. May 21st is when the recreational season begins. Is that correct?

MR. ALLEN: That's the date when our current regulations would allow the fishery to start. The proposal is May 25th.

MR. BOYLES: Mr. Chairman, I guess what I'm struggling with is that again, pardon my ignorance, not being on the Board. There is an addendum that's been accepted by the Board that stipulates what the measures will be necessary for the conservation of this fishery. We don't meet again until August, in person. I'm respectful and understand that New Jersey has tried diligently to find a way to enact equivalency; with respect to the management measures. But the Board has spoken and I think here we are I recognize we're in a process situation.

But I think the date is correct, in my understanding of the way this fishery is prosecuted; that as of this date that if those measures are not implemented, it's either a yes or a no, they're compliant or they're not. Am I reading that correctly?

CHAIRMAN GROUT: I believe so, but I will turn to our Executive Director for any additional.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, is it okay if I answer the question with a question to the Service?

CHAIRMAN GROUT: Sure.

EXECUTIVE DIRECTOR BEAL: I guess the timing Robert, may be, Jersey stated their intention is to implement the conservation equivalency regulations next week some time. By the 21st those new conservation equivalency regulations will be in place. But the Technical Committee

will not have reviewed those, and the Board will not have approved those potentially.

The question to the Service would be, if they received a letter from us on the 21st that New Jersey is out of compliance with Addendum XXVIII, but New Jersey does have some regulations that are potentially equivalent; what does that do to the review in that interim time period?

MS. DENIT: That is what I was very inarticulately trying to say earlier. We're in the situation where we don't yet know whether the conservation equivalency is real or not. Therefore, this sort of prospective, it might be cool but it might not, noncompliance finding is an issue. I think what we would need is for the TC to do their review.

The species board makes a decision based on that TC input. Either they accept New Jersey's proposal or not. From there that species management board would then make a decision based on the outcome of that decision; are they in compliance or are they not. Then that would then come to the Policy Board at a later date.

EXECUTIVE DIRECTOR BEAL: I like to think what options does the group have moving forward? I think one of them is just maintain May 21st. That is the hard line. New Jersey's regulations aren't consistent and we don't know if they're equivalent or not. We'll send a letter to NOAA Fisheries and then they start processing.

That's Option 1; Option 2 might be the noncompliance letters would not be submitted until after the Summer Flounder Board acts. The noncompliance finding would be contingent on a specific outcome of the Summer Flounder Board. It is sort of delegating this decision until Summer Flounder Board acts.

The third option is the more cumbersome one, but maybe processed more consistent; which is we would have to get Summer Flounder Board, Policy Board and Business Session back together

after the decision. Those options are in order of sort of workload for the commissioners and staff to pull that off. But those seem to be the three actions moving forward. I'm not suggesting any is better than the other. But that is what seems to be in front of the Board.

CHAIRMAN GROUT: Andrew Shiels.

MR. SHIELS: I don't know who can answer this question, given the conversation. But the inquiring mind over here wants to know, on May 22nd, none of these other things have happened just because of time and logistics. But on May 22nd, what do the anglers of New Jersey need to know is the regulation that is in place?

Is it what was in place for 2016? Is it this particular set of regulations, or it is the hopefully adopted by next week conservation equivalency regulations? Which of the three sets of regulations do the anglers in New Jersey need to follow on May 22nd? That would be my question traveling to the shore.

CHAIRMAN GROUT: I think the state of New Jersey has made it pretty clear that on the 22nd that it's going to be the conservation equivalency regulations. Unless you think that is something different Russ, then I think we could move on.

MR. ALLEN: Don't bother coming down to the shore on the 22nd, because it will be closed, so you'll be good. We're planning on putting in the alternative proposal regulatory action next week so that's in place; so we're good to the 25th. You know until we open the season at that point.

CHAIRMAN GROUT: I know I've got a couple hands here and I recognize that. But is there a way that we could craft an amendment to the motion that would somehow incorporate; the noncompliance finding would not be sent until if the Summer Flounder Board found that

conservation equivalent proposal by New Jersey is not conservationally equivalent?

Can we do that? Because then it would be contingent upon that without us having to get together again with the Policy Board on this. If that is one of the ways that the Board would be willing to move forward, can we take a two minute recess to come up with that wording? Does anybody see any objection to having that noncompliance finding not be sent until after the Summer Flounder Board meets and makes a decision, and if they make a decision that the proposal is not conservationally equivalent? Robert Boyles, no?

MR. BOYLES: I would object, sir.

CHAIRMAN GROUT: You would object to that?

MR. BOYLES: Yes.

CHAIRMAN GROUT: Okay, so how should we move forward? All right, we have a motion on the board then and we'll have discussion on this particular motion and we'll make a vote on it. David Pierce, you had your hand up?

DR. PIERCE: Just, I'm comfortable with the motion that is on the screen, you know with the dates. Nothing is going to happen to New Jersey anyways. After it has further discussion about the outcome. New Jersey's regulations will be in place, the ones that they will be setting fairly soon. They will be in place for a while. This letter gets sent to New Jersey; all right they've got it. They know what the situation is. Then it's highly likely, if not definite that the Service will know whether or not they have done these things, whether or not the TC has approved it, whether or not the Board has approved it.

I see no problem with the May 21st date. It really is in the National Marine Fisheries Service lap. They'll wait until the outcome of the Technical Committee and our board decisions; which I suspect will be made by May 21. I think

that is what we said we would try to do. The TC would meet very quickly.

Then the Board on a conference call would address the finding of the Technical Committee. It seems to be reasonable enough. We don't want to go back to the Policy Board again. We are here today. We are making this decision. These are the conditions. New Jersey knows. I've said enough on this matter. I felt very comfortable with the motion.

CHAIRMAN GROUT: David Bush, you had your hand up and then Robert Boyles.

MR. BUSH: Just very briefly. I understand there is a consistency in policy issues. I'm not a math magician here either, but I know that on the 22nd no one will be fishing; so that means less harvest than 2-17 inch fish, which in my mind is at least conservationally equivalent until the 25th, just a thought.

MR. BOYLES: I would like to explain myself. I agree with Dr. Pierce. If I recall, the last noncompliance finding this Board dealt with was Delaware eels, I believe. I'll look to John. I believe the remedy the Service was able to offer Delaware, for them to rectify and to come into compliance was quite lengthy. I want to be clear.

I certainly support my friends in New Jersey, want this to work. But I think we've got a process, and at risk of being labeled a Pharisee, I think we have to recognize and honor that process to be internally consistent with the way this Board has acted for decades; with respect to the Atlantic Coastal Act. I want to be clear with my colleagues and friends in New Jersey.

But I agree with Dr. Pierce. I think there is time enough, with moving forward with the motion as amended, as it is stated now on the board that it would be my prayer that this work out well. But I think we have to recognize that there is a process that this group has adhered to for years; and I just wanted to explain that.

MR. NOWALSKY: One question and then based on that a comment. Is there any possibility that the Summer Flounder Board is going to convene next Thursday or Friday?

MS. KERNS: Kirby did a poll of the TC. I gave them from Tuesday to Friday; based on the fact that Russ told me he hoped that the proposal would come to us on Friday from New Jersey, so the TC could have one day to review in the timeframe. As soon as I know what day the TC is going to meet, I am hoping it will be the earlier portion of the week, and we have begged your TC members to be flexible and available as soon as possible.

If you could convey that to your staff that would be wonderful and as soon as I have that date I will send a poll right out to the Board and we'll include the very next day after the TC has met. Your availability will be subject to that as a Board that we will do our best. There is a possibility.

MR. NOWALSKY: Allowing for that possibility. That would address the situation at that point. New Jersey will have measures in place. If those are the measures that are approved by the Board, we've addressed the situation. If not, then on Monday morning the Board will be sending a letter of noncompliance to the Secretary. That is my understanding at this point.

CHAIRMAN GROUT: Bob, isn't it that we have 10 days after that to send it?

EXECUTIVE DIRECTOR BEAL: Yes. The Executive Director has 10 business days discretion or time to write a letter following the date certain established by the Full Commission.

CHAIRMAN GROUT: Yes, Adam.

MR. NOWALSKY: Does the Board need to tell the Director to utilize that discretion to not send the letter at that point? You have 10 days discretion. How is the decision made at that

point? Because we will not, if we do not have the Summer Flounder convene by May 21st, which is by the end of next week.

May 21st is next Sunday. Then we will be out of compliance and this motion would go into effect. With that 10 day discretion, are we giving that discretion over or do we need some other formal action by this Board? Do we add it to the motion that says we provide discretion within that further director to not send it?

CHAIRMAN GROUT: Do you think, Bob that you would need a direct order to use that discretion from this Board or would you feel comfortable in using that discretion to its full advantage?

EXECUTIVE DIRECTOR BEAL: My job gets a lot easier if I know what the will of the Policy Board is. I'm happy to wait 10 days after the 21st, if that's what the will of the group is.

CHAIRMAN GROUT: Further discussion on this motion? Kelly.

MS. DENIT: The 10 days are from the decision of the Board and the Commission, which if you move forward with the path that you're on, would be today; it convenes from today. I'm a little bit confused about how there would be a further delay. I guess maybe that's more of a question. Maybe I misunderstood that last exchange.

Then the second point before folks are voting on this motion is, for the reasons I mentioned before. It's possible that if you sent us a letter based on this that we would send it back to you asking for further information, on how this is hitting the threshold of the necessary measures for the fishery; when you at this point are making a decision not knowing whether the proposal is conservationally equivalent or not.

CHAIRMAN GROUT: My interpretation in our discussion with staff was that because it says the 21st there that is when the formal

determination gets put into place. At that point there is a 10 day period. Wilson.

DR. WILSON LANEY: I know that having the 21st date in there is problematic. But does it solve anything if someone were to make a motion to just postpone action on this motion until after the Summer Flounder Board makes its decision? No. I see Toni shaking her head.

CHAIRMAN GROUT: I think, and I can hear from the rest of the Board the concern is that the next time that we're going to meet is in the summer; further discussion on this motion. All right, I'll give you a minute to caucus on this and then we'll take the vote. While you're caucusing Bob wants to bring up another point.

EXECUTIVE DIRECTOR BEAL: Just procedurally. What really we may need to tweak the wording at the beginning of this, but really what's happening here is the Policy Board is recommending to the Full Commission that they take this action later on today. This isn't a final action; it's got one more step at the Business Session in a few minutes, hopefully.

CHAIRMAN GROUT: Can we tweak that little language, just to make sure we have it moving forward? I agree with you. Okay are we ready to vote? **All those in favor of this motion raise your right hand, keep them up. Hands down, all those opposed to the motion, any abstentions, and any null votes? The motion carries 13 to 1 to 2.**

Given that we are an hour behind schedule, and we still have a Business Session to take up this particular motion. We're going to take all the other items that we had on this agenda, essentially Agenda Items 10 through 13, and we're going to defer them to the August Policy Board.

ADJOURNMENT

CHAIRMAN GROUT: Is there anything else that needs to come before this Policy Board? Seeing

none; this meeting is adjourned, and we will go directly into the Business Session.

(Whereupon the meeting was adjourned at 11:27 o'clock a.m. on May 11, 2017.)