

**Proceedings of the Atlantic States Marine
Fisheries Commission's
Summer Flounder, Scup, and Black Sea Bass
Management Board**

**January 18, 2006
Sheraton Hotel
Annapolis, MD**

Approved February 22, 2006

ATTENDANCE

Board Members

Everett Petronio (RI)	Rick Cole (DE)
Eric Smith, Connecticut DMR	Howard King, Maryland DNR
Gordon Colvin, NYSDEC	AC Carpenter (PRFC)
Pat Augustine, New York Gov. Apte.	Jack Travelstead Vice Chair , Virginia MRC
Sen. Brian Culhane	Red Munden porxy P. Pate, NC, DMF
Bruce Freeman, New Jersey DFG&W	Pat Kurkul, NMFS
Erling Berg (NJ)	
Ed Goldman, proxy for Sen. Smith (NJ)	

Ex-Officio Members

ASMFC Staff

Toni Kerns
Robert Beal
Vince O'Shea
Julie Nygard

Guest

Michael Pentony	Bryan Sorice	James C Huber
Ron Smith	Tim Andersen	Joe Gorman
Robert wiegand	Dave Prilook	Gary Lefkowitz
James Fletcher	Anthony Gregory	Michael Lotito
John Robinson	Tim J. Jettner	George Gifford
Paul R. Zydor	Lou Morace	Steven Forsber
Stuart H Goldberg	Phil Bloom	Steven Forsberg Jr.
Robert Hicks	Eddie Brincat	Tom McCloy
George Darcy	Fred Neuscheler	Greg Didomanico
George Bartenback	Christian Alibackin	Phil Rhule
Dan Poland	Paul Risi	Frank Blount
Robert Andersen	Kathy Heinlein Risi	Michelle McGregor
Josh Andruszkiewicz	Neil Delanoy	Henry Koellein Jr.
Jason Denise	Sal Aniendolia	CD dollar
Christopher Auer	Dace Brennan	Michael Baccio
Ken Birkmire	Des O'Sullivan	Fred Bird
Patrick Gilen	Bob Benzenberg	
Charles Busen	Robert Randall Kinsley Sr.	

**ATLANTIC STATES MARINE
FISHERIES COMMISSION**

*SUMMER FLOUNDER, SCUP AND
BLACK SEA BASS MANAGEMENT
BOARD*

Sheraton Annapolis
Annapolis, Maryland
January 18, 2006

Please note: the first 30 minutes of this meeting are not recorded due to recording malfunctions.

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened at the Sheraton Annapolis Hotel, Annapolis, Maryland, Wednesday morning, January 18, 2006, and was called to order at 11:35 o'clock a.m. by Chairman Jack Travelstead:

MR. GORDON C. COLVIN: -- were looking at last time was a projected 4.0 plus or minus percent coastwide reduction, and now we're looking at 3.85. The coastwide picture didn't change very much. The individual state pictures, particularly New York's, changed a lot.

What that has done it that it's exacerbated the problems and concerns that I outlined to you when I offered the original motion, and we'll talk some more about that, no doubt, later.

We also have begun the process, as have you all, no doubt, in looking at staff direction in preparing for the upcoming technical committee meeting to address what sorts of regulations might be in place for next year if we proceed consistent with how we've done things in the past.

To achieve a 38 percent reduction, New York will have to make its regulations much more severe than they have been, and recall that they're pretty severe now as result of a nearly 50 percent reduction we took two years ago, and we're starting at a 17-1/2 inch size limit.

It would appear that we will either have to raise our size limit to 18-1/2 inches next year, or we will have to close for a substantial part of the summer period. And, I think probably the likelihood is greater that it would be the former, but I can't be sure until we get a little farther down the road.

In either case, that's a very significant action to take, particularly, again, as we've all discussed and as we're aware when our immediate neighbor to the south of us will no doubt be at 16-1/2 inches with a liberal creel limit and seasons still in effect, and it's very tough for our fishing businesses.

It's very tough for our industry in our state, and it's also kind of tough for the individual guy who goes out fishing. Put yourself in that person's shoes and try to understand how this process works that achieves a result of that nature.

I just thinking about it from that perspective makes it difficult to perceive that the process is treating the anglers on the coast equitably, and that's one of the things that I hope we'll all think about as we go forward from here.

Let me stop it there. I may have some more comments later, Mr. Chairman, but I'd like to end it here what the board members have to say at this point. Thank you.

CHAIRMAN JACK TRAVELSTEAD:
Other comments from the board? Eric.

MR. ERIC SMITH: Mr. Chairman, a question. Do you want to entertain a motion to bring this motion back before us, in effect to bring it back on the table for discussion, or are we just presuming, since it's the only order of business, we're just going to deal with it.

CHAIRMAN TRAVELSTEAD: I, more or less, just assumed that it was before us and –

MR. SMITH: Okay, so we're debating the merits of the motion.

CHAIRMAN TRAVELSTEAD: I think the other question that's sort of in my mind at this point is the effect of the motion on the screen there one that directs the staff to prepare with the addendum process, so is that really – and I'd like some discussion on this – is that what we're about here today is to decide whether or not to move forward with an addendum to achieve the numbers that Toni has presented to us?

If that's the case, maybe we need her to go through in a little bit more detail of the addendum and then get into discussion. Gordon and Eric, either one.

MR. COLVIN: Well, I was just going to say, Mr. Chairman, that based on Toni's response to my previous question, that's what I presumed the process would be and that we didn't need to necessarily modify the motion or pass a second motion, but if you rule otherwise, I think we can perfect it.

CHAIRMAN TRAVELSTEAD: Okay, Eric.

MR. SMITH: I'm happy to debate the merits of the motion, and I thought if we dispensed with that, then the process will follow. I wasn't suggesting we do otherwise.

CHAIRMAN TRAVELSTEAD: Okay, just as long as everyone understands that. And approval of the motion puts the addendum process into gear as Toni has described it. Eric.

MR. SMITH: If you will, then, I would like to speak in favor of the motion and get a few points on the record. I guess the first thing I'd like to say – and I don't mean to be trite about this at all, but this is another one of those issues that runs the risk of ripping the soft underbelly of the Commission out of it if we're not careful with it.

Just by virtue of the size of the audience but the debates and the discussions we've had in the last few weeks, this is another one of those sensitive issues, but this is also the key place to debate it. This is why the Commission was begun and expanded in 1992.

However, that said, I am going to try and dance very delicately about it, because I know opinions vary on this whole thing strongly. Maintaining status-quo regulations, by that I mean the rules that were in effect in 2005, keeping them in place in '06, that works as a strategy if all states can more or less say, "Yes, we're fairly comfortable with how things were in '05; we can live with that and we'll try it for another year."

If you recall in December, the first thing I said was to broach the subject that way. If states are satisfied or comfortable, more or less, with how things were in '05, leave fish availability and all those things aside, but how did the rules work in your state, then this might be a supportable approach.

And I think with some of the discussions that have gone on, I think their pass, plus or

minus, there are some who believe it is okay and some who still have questions. So, I see this motion as an attempt to find common ground.

Frankly, the three states that are mentioned don't get hammered into the dark ages while other states, in a given year, have a chance of relaxing, but next year it may be their turn. Remember, this is all based on MRFSS.

And I'm not disparaging MRFSS when I say that, but we all know the shortcomings, and we've talked about them a lot about trying – we're misusing MRFSS, we, the managers. It's not the statistics program's problem. It's a good survey for what it was intended to do. We're using it for something that it was not intended.

Eventually we have to get past that. And in near term, my view is we have to try and staunch the bleeding, so that we don't have these wild oscillations where this year it's Connecticut and New York, next year it's Virginia and North Carolina, and next year it's Massachusetts and Rhode Island, and we bounce around like a pinball.

Two quick points. You will note from the numbers that Toni read, even if this motion passes, New York, Connecticut, Massachusetts are still looking at pretty healthy cuts to stay within the confines of the motion, 10 or 11 percent on top of what happened last year and the year before.

Those aren't inconsequential. We still have to do something, but it's not the same as 35 or 38 percent. My only final point is in wrestling with all of this in preparation for the meeting, I looked at all of the regulations in all of the states, and it's striking how – and this is not a principal argument in favor

of the motion, but it's kind of a supporting view.

States north of New Jersey right now have fairly similar rules. There's a little bit of variation, but essentially they have large size limits in favor of large creel limits. States south of Delaware tend to have smaller size limits and they have smaller creel limits, and that's sort of a regional how we got to where we are.

But, you have to leave Delaware and New Jersey aside, because I can't explain how those numbers fit in the context of a coast. But the four states in the north here and the four states in the south here, right now in the 2005 rules, have rules that are fairly similar.

So, again, if eventually we want to try and have all anglers in an area treated kind of the same way, and if they're now more or less the same now, and the big "if" is if a state decides, as an individual state decision, that they can live with what the rules were in '05 and '06 and give this another chance and give these three states, you know, some relief, half or two-thirds relief from what they otherwise have to do, then it's a motion worth supporting.

So, obviously, I support it – I mean, there's no question – but those are the reasons I would offer in favor of it. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Bruce.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. There's a number of issues that we raised when the motion was originally put on the floor, and I just want to go back through those because we do have some difficulty with this motion.

One is in the past, when we get our information, our target catches or projected catches for the previous year, each state then goes back and sees if it's under or over and needs to take appropriate action.

In our case we deal with our Marine Council, which has the legislative mandate to do that. This motion essentially would sidestep that issue. We would not be able to go back to our council and talk with our advisors as to what we think we should or shouldn't do.

So from that standpoint, we certainly don't support the motion. Now, my discussion with Gordon was certainly we didn't want to cut this process out, and the motion was made as it was made, and perhaps it could be modified, so that states would have that opportunity.

Secondly, there may be states that have a significant underage that may want to go back and adjust their numbers in some way. I don't know if that's true. I haven't spoken to really any other states as to what they anticipated doing, but it may be wise to allow states that perhaps wanted to make a small adjustment to do that before this motion is passed. Presently there is nothing in the motion to allow that.

The third issue is one that I think needs to be discussed. The motion is only for this year, but what happens next year if, for example, one state in particular was significantly under – I'm sorry, significantly over their target and other states were under? Would we now apply that next year?

And, if, for example, we were that state, we'd certainly want some sort of relief. We're very sympathetic to the issue of the situation New York is in and apparently

Connecticut, because those cuts are substantial.

I've spoken to Gordon at length. There appears to me something going on in the MRFSS survey which has changed and is showing New York to have significantly higher catches. I just don't know what it is, and I can't explain it, but it's a feeling I have.

I think Gordon probably agrees and not able to find what that difference is. We don't want to certainly cause pain, and these reductions are substantial, but it does create a problem. We in New Jersey faced another problem this year.

On our commercial side we're going to be between 4 and 500,000 pounds under quota, and it was primarily because of reserving fish for an incidental catch on the commercial side, or a bycatch, and it also is related to the severe wind and weather we've had late November early December.

Our fleet essentially was not able to get offshore to any extent. There's no mechanism in the plan to take all or part of that the following year. That's essentially going to be lost to our fishery.

It would seem to me if we move in this direction, as this motion would suggest, there needs to be an adjustment on the commercial side such that there may be circumstances where states can take advantage of some underage at the end of their season to carry it over.

Otherwise, we're going to have two very different systems. We've already heard from some of our commercial representatives that they certainly don't think this is fair, again if this motion passes.

So, I would certainly ask the other voting members to keep these issues in mind, because we're all going to face it one time or another. I just want to raise these as problems we see in the final decision as what action we take on this motion.

CHAIRMAN TRAVELSTEAD: Thank you, Bruce. Rick and then Pat.

MR. RICK COLE: Thank you, Mr. Chairman. I want to raise a few concerns that I have that concern me to the point that I can't support this motion. Essentially, in my opinion, what this motion does is it creates a coastwide quota system for managing the recreational fishery in 2006.

And, of course, this body opted and voted for a conservation equivalency approach for 2006 at our December meeting. We've already made that decision; it's in the books; and I think that was the right decision.

If you look at the information that's in Addendum III to the FMP, it details how conservation equivalency is supposed to work. As you all know, we've worked collectively very hard on developing this process over the last five years.

And, in that document there is nothing that says anything about freezing or imposing a freeze on a state given its management strategy. This was never discussed, to the best of my knowledge. As far as I know, I was at every meeting when we developed Addendum III.

And, in essence, this isn't conservation equivalency. This motion is not conservation equivalency. But more troublesome to me than these issues is the fact that this motion essentially is a back-door effort to reallocate the resource. As most of you know, we detailed how the

allocation process for the recreational summer flounder fishery is to be done.

We detailed that in Addendum VIII, and in that particular document it specifies that the '98 landings be used as the allocation process, the portion each state had in 1998. We've debated this '98 allocation program for a number of years. We've had extensive technical review on this.

You all recall that the technical committee looked at a number of different scenarios, and the ultimate decision was that '98 was the fairest year to allocate the resource. Whether you liked it or not, that's what we have lived with and that's what we're working with.

But what this motion will do, it's going to change that allocation. And, essentially what it's going to do is transfer approximately 350,000 fish to New York, Connecticut and Massachusetts. This transfer is a major issue, and I'm not convinced that by having a quick addendum process that will be completed in time for the February meeting, that the public will have the opportunity to know what's going on and to be able to adequately comment on this process.

Folks, we're talking about possibly moving almost 34,000 fish from Delaware; 21,000 fish from Maryland potentially couldn't be harvested because they're locked into their management strategy that they had in 2005; 128,000 fish in New Jersey; 80,000 fish in North Carolina.

This is a major process. We need extensive public review before we want to take on something of this magnitude, and, folks, we're not going to get that and be back at the February meeting to make this decision.

And as you all know, most of us take three or four months to get our management measures through the regulatory process. We have to move on it now. I've got our proposed rules in now, and it will take me until the start of the fishing season to be able to come up with a final rule.

So, this reallocation issue is extremely important. We're setting a precedent that could ruin this whole conservation equivalency process that we have all worked so hard for over these years.

And, folks, conservation equivalency will work. It's demonstrated it can work except for one or two states. I'm not willing to sacrifice that program at this point in time. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Rick. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. That's a lot to respond to in a matter of a couple of minutes. I do agree with some of the things you said, Rick; however, we will have conservation equivalency on a state-by-state basis if this goes forward, because Gordon's motion is not asking for any changes.

It's asking for status quo for each state, same bag, same size, same season. More importantly, this is for one year. In previous years New York has been smacked in the gut, along side the head with a baseball bat, and we turned the other cheek and we got hit again.

There seems to be no relief. Amendment 15 was something way back when – maybe it was 11 or 12, 14 and now it's 15 – to try to go back and look at the reallocation scheme. That's two years down the road. This problem is not going to go away. I think this approach is an effort to have some equal

balance among the states who constantly have the most restricted measures in place for their fishermen.

No matter what we do, we still end up getting smacked in the head again. I made the statement last year that New York fishermen are being bled to death by the very nature of how this quota setting has been done in the past, and it carries on until we have an amendment to change it.

I have a document in front of me, and some of you have it, that Toni prepared for Gordon and myself and a few other folks. It's a simple spreadsheet that talks about where we were in 2000, 2001, 2002, 2003, 2004, 2005 and 2006, and it's interesting.

As Eric Smith has said, the states to the south have enjoyed luxurious opportunities. In 2002, New Jersey, 63 percent under; Delaware, 21 percent under; Maryland, 77 percent under; Virginia, 11 percent over; North Carolina, 22 percent over, but that's the tip of the iceberg.

Now we go down to 2003, New Jersey was just about on target. New York, as you all know, we took a beating last year of 49 percent over – Delaware, 31 percent under; Maryland, 220 percent under -- what the heck is wrong with that picture – Virginia, 64 percent under; North Carolina, 183 percent under.

This picture is painting a very, very vivid illustration that possibly, in addition to everything else that's going on, the fish are shifting their location. It appears maybe they're moving north.

Then we go to 2004, this is even scarier. New York was over 10; Connecticut, 18; New Jersey, 4 percent under; Delaware, 24; Maryland, 107 percent under; Virginia, 40

percent under; North Carolina, 55 percent under.

And now we get to 2005. This scares the pants out of us. Oh, and by the way, the same three states, Massachusetts, Rhode Island, Connecticut and/or New York, three or four of us, have been over with very, very strict regulations. What's wrong with that picture?

It's obvious, to my mind, and I'm just a part-time fisherman, the fish have changed. Something has changed. Our restrictions have gotten more and more severe, and yet we end up with these outlandish numbers of landings. Maybe they're true or maybe they're not, but the fact is at the end of the day it shows that we're 38 percent over in 2005; New Jersey, 10 percent under; Delaware, 40 percent under; Maryland, 25 percent under; Virginia, 8 percent under; and North Carolina, 62 percent under.

The process in ASMFC moves along rather quickly. We can address a lot of issues in a very short period of time. It's a Compact. What the majority of the states do affect all states. This process with the council is very slow, methodical. It takes two years, maybe three years to get you to a point where you know what you're doing and where you're going.

And then the final analysis has to be hammered out as to what your final decision is going to be and what your change is going to make. How many more years do the states, in this case, to the north have to suffer through this process? We talked about fair and equitable.

There's nothing fair and equitable about what's going on now. I think Gordon's approach and Eric's approach, when they addressed the scup issue last year, may not have made everybody happy, but we were

consistent within four states. It seemed to work.

As a matter of fact, we harvested something like a million fish less than we could have taken. What does that tell us? It's possible the restrictions that we set upon ourselves might have been a little more flexible. We might have been able to open up that season a little bit, maybe a month on either end, and that's to be seen what we'll do this year.

But here's another case of a similar situation where it's a matter of the very, very dire straits that three states are put in again because of a system that is built upon the decisions that are predicated upon what happened in 1989, for that ten-year period of time.

Each time we requested allocation review, both commercial and recreational, and state by state, we have been rebuffed. It's just not going to happen; we've done it; we've been there before. Now we've got the motion on the table, and we have got to a point in time where we're going to be doing scoping on this tomorrow, I believe, or this afternoon.

And that's another big milestone. But, to get from here to where we're trying to get is going to take us two more years. So, if the states to the north don't get some relief, consistent relief – and I'm not saying let's just open the doors, and say, “Okay, you guys are off scot-free.”

That's not what we're talking about. We're talking about fair and equitable treatment of the stock that is not being caught. It's obvious that those states in the north are very restrictive and the states in the south have an abundance of fish that they haven't harvested, they're still in the biomass.

This shifting appears to have happened, and there's no relief in sight. So what it sounds like is if we continue status quo the way we are now, we'll continue to suffer. Those states that are under the gun are going to continue to get more and more of a squeeze put on them.

So, there's no question, based on my comments, that I support this motion. I would reiterate that there's no question that states that believe they have to make changes in the regulations for next year because of a time frame and submitting it to their legislative body, if you do status quo from last year, you don't have to do anything.

So, that having been said, I support this motion 100 percent. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. A question for the states in question. I guess our last addendum that we passed allowed for voluntary combinations of data amongst agreeable states, and I'm wondering if there's been any discussion by you or others with respect to that option and whether or not there's anything available that way to help solve the problem? Eric.

MR. SMITH: Gordon may have another take on this. We haven't talked about it specifically because that addendum said that the regions had to be contiguous. And the way this is shaping out is there seems to be a regional block where there needs this year to be a big cut, and then there is a different region that there is a great relaxation. So, it wouldn't have worked under that addendum because of this contiguous states part of the issue, so it didn't come up.

CHAIRMAN TRAVELSTEAD: Thank you. Everett.

MR. EVERETT PETRONIO, JR.: I want to address a couple of Pat and Eric's concerns. There has been quite a bit of comment to the fact that the states to the north have all been required to take substantial reductions.

Rhode Island sits dead in the middle of Massachusetts and Connecticut unless they moved it when I left. We've been consistently under. I'm extremely sympathetic to the arguments being made by Gordon, Pat and Eric. This could create a very difficult situation on our borders on both sides.

However, to say that the northern bloc is having a problem, that's simply not the case. I have some very serious questions about the MRFSS process. There are many more people around this table than I who know a lot more about the process and how it's worked.

I can see it creating a gigantic problem here, and I think that that's something that we need to get to and that we need to address. But, I cannot support this motion, given the fact that for a long period of time we have been consistent in our regulations.

Rhode Island has been able to stay under and to now be told that the process that we've been using, where we go to our state councils and try and address potential concerns, we're being told we can't do that. That co-opting an individual state process is not what this Commission is about. And, for a lot of these reasons, I must oppose this motion.

CHAIRMAN TRAVELSTEAD: Thank you. Pat, you wanted to respond.

MR. AUGUSTINE: Just a quick response to the last speaker's comments. You know, back in 2000 you did have a problem. You

were at 72 percent over, and in 2001 you were 7 percent over, and then in 2002 you were 22 percent under; whereas, even New York was under. Connecticut was 66 percent under.

You did have problems and in Rhode Island you had 22 percent under in 2003 where Connecticut was zero, Massachusetts was 38 percent under, so there have been some indications where Rhode Island was experiencing some of the concerns that we've mentioned.

In 2004 you were 5 percent over where Connecticut was 18. All I'm trying to do is reiterate the fact that this document tells where we were and what has happened to all the states. And I think just to make the record clear, some of you states or as individuals speaking for your state may not be aware of where you really were relative to the rest of the world.

You may not have raised the issue of the concerns that Connecticut, New York and some of us others have raised. We've been there too many years to know that if we don't raise the issue, it's going to be business as usual. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Okay, now Everett wants to respond to Pat.

MR. PETRONIO: Very quickly, and I'm hoping that Pat and I won't play tennis for the rest of the afternoon. But, as the end of the day I would ask Pat to recognize that in fact we addressed the problem. We came into compliance.

There was a problem, there is no question, and again I will strongly stress that I'm very concerned that, quote, we might be next. We might, but this is not the way to go

about this. I have a real problem with circumventing the entire process, and I can't support this motion.

CHAIRMAN TRAVELSTEAD: Thank you. A.C.

MR. A.C. CARPENTER: Thank you, Mr. Chairman. I guess there are a couple of things that bother me about this motion. First, let me think that the entire process here is the rebuilding and conservation of the stock and that we have entered into conservation equivalency as the way of trying to accomplish that.

One of the things that really troubles me about this particular situation and this particular motion is that the net effect of the motion is to reduce the percentages by about two-thirds from where they would have been.

New York would have been at 37 percent; it's now at 11 percent. Massachusetts would have been at 15; it's roughly 5 percent. Connecticut was 34 percent; it's going to be 10 percent. That, combined with the litany of overages that Pat has just read, the history of this process, I'm truly afraid that the new lower limits are not going to help us achieve the rebuilding and conservation of this stock.

While I am very sympathetic to the plight that the states have found themselves in, I also want to say that our commission has met. We have published our 2006 rules, and they are the same as they were in 2005.

But that was a voluntary decision on the part of our commission to maintain status quo. It was not a requirement under an ASMFC mandate. We all have the option and the ability to be more restrictive than the plan calls for. We chose that option and we're

not going to change our regulations at this point in time, but I am concerned that this is not going to meet the ultimate goal of the plan.

CHAIRMAN TRAVELSTEAD: Thank you. Red.

MR. RED MUNDEN: Thank you, Mr. Chairman. This motion causes me concern in that it eliminates the option that the states have had for adaptive management through conservation equivalency. What this motion would do, it would prevent six states from liberalizing their harvest restrictions.

It would also allow three states to not do anything to address an over-harvest of their target. Now, I will say that for the upcoming year North Carolina does not plan on liberalizing our harvest for summer flounder, but Pat pointed that things have changed.

Well, we have been plagued for the past several years with fall hurricanes, and those hurricanes have impacted our summer flounder fishery. We would like to maintain that buffer that we currently have in the event that we do see an increase in harvest next year or the year after that.

The other concern that North Carolina has is that if we pass this motion, as several other board members have pointed out, this will be a reallocation of summer flounder from the states that have been under-harvesting to the states that have over-harvested.

We may find that in the future every state takes advantage of any opportunity to liberalize, and we're going to be right back up where we were several years ago with several million pounds over the recreational target. So, North Carolina cannot support this motion, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. Howard.

MR. HOWARD KING: Yes, thank you, Jack. Maryland, as with the Potomac River Fisheries Commission, intends to maintain the status quo. Because we intend to do that, I could live with this motion, and I would be inclined to support it.

I don't believe the conservation equivalency, in the long term, is jeopardized by this one-year proposal. You do have to have some faith that the individual states who would benefit by this motion would work with the other states to make sure that there is a long-term remedy and not just a one-year mitigation, but I would be inclined to support this motion.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I would like to make a few points, as I indicated earlier, and hopefully this will be helpful to the board members in considering their comments in their final votes.

First of all, let me point one thing out about the absence of Massachusetts just in case folks wondered. Dave Pierce was here this morning. He made the trip down, and this is a matter of importance to the Commonwealth, but unfortunately Dave was called home on an emergency just as the board meeting was convening. So, if anybody is wondering why Massachusetts isn't here, that's the reason.

Just to clarify a few things. It's been intimated and I think it needs to be very clear on the record that the intent and the effect of this motion is for one year only, so the notion that there's a reallocation of the quota is perhaps true for a year, but it's not

intended to change that in the long term or to have any effect in the future.

And as I indicated at our last meeting, when I offered the motion, this is being done because of the coincidence of the two extraordinary situations, the most significant being the extremely unexpected, unanticipated magnitude of the drop in the quota from 2005 to 2006.

If we were at 33 million pounds, I think New York would be looking at a black number instead of a red number on this chart; and if we were 30 million pounds, I think we would be pretty close to okay, but we're not.

The second thing that's a coincidence here, and that I can't explain – and I've heard several explanations here today – is why landings have become as high as they have in some areas and as low as they have in others, but they certainly were extraordinarily high via the landings' estimate at least for the New York, Connecticut and Massachusetts area; particularly New York and Connecticut for last year, and it stands in remarkable contrast to the New Jersey estimate.

It defies logical explanation. But put those two things together, we have a unique circumstance which is why we're proposing a unique measure for a year only. There's been a lot of speculation about how these things happen, and the answer is that we don't know.

You know, I agree with Pat Augustine's observations that there is some information that, when you look at it, suggests a shift in the abundance or at least the availability of fluke to the recreational fishery.

We saw some of that perhaps arguably with the commercial fishery last year as well, if we look at who harvested their entire quota and who didn't. If we're going to cut the pie and set quota shares – I've said this before – are we going to etch them in stone for all time, or are we going to recognize that sometimes we need to be a little bit more flexible because things change?

You know, please carry that thought with you. It's sometime we'll have to talk about, if not in this context, in the context of Amendment 15, I'm sure.

Does it have something to do with the changes in the performance in the MRFSS survey, as Bruce indicated? It may well. We certainly think that we see evidence of a surprisingly abrupt increase in the estimates in New York beginning in 2003, and perhaps the explanation is the opposite.

Perhaps in some states we're seeing underestimates. Who know? We don't know. What we do know is that something has changed dramatically beginning in 2003, and we don't understand the reason for it.

The effect of it, though, I will say this, is to give me a little bit of discomfort when we use the word "over-harvest" in this context, you know, states over-harvested their quota. Two points.

One, we have a set of rules that we follow, the intent of which is the expectation of which is that the outcome will be that there's a reasonable likelihood that following those rules will result in states harvesting consistent with their assigned quota.

If they follow the rules and go under the quota or over the quota, they didn't do anything wrong, it's just that the rules are very blunt instruments, as we all know. So

that work “over-harvest” carries a pejorative aspect with it that I take a mild exception to.

This is particularly the case when, as Eric Smith rightly pointed, we are applying that data in a manner in which it was never intended to be used and which, predictably, results in some outcomes that bounce around and surprise us.

Maybe in the long run there can be changes to the way we manage or the way that data is produced that addresses that, but in the short run, we seem to be stuck with this.

Another point I’d like to address is the issue of what happens at 11 percent? Yes, there’s a big difference between 38 and 11, but 11 percent is going to be painful in New York, I’ll tell you that right now, because of where we’re starting from.

I don’t have final numbers, and the technical committee hasn’t met and reviewed any of our proposals yet, but it looks to me, just eyeballing our preliminary stuff, that if we manage to stay at 17-1/2 inches, which is kind of what we’re asking to be able to do, to stay at 17-1/2 inches, if we lower our creel limit from five to four, that gets us maybe a percent and half.

The rest is going to have to be done a season, and that season is going to be essentially the entire fall and then maybe some of May, to boot. That’s what it looks like, just eyeballing these things. That’s pretty tough. So, nobody is going to walk out of here happy at an 11 percent reduction from New York, believe me. It’s going to be tough.

That also exposes something in our process and something that we all need to think about, and that is that when we get in these situations, the decisions we’re confronting

tend to drive our size limits up because you get so much more percent credit for even a half-inch increase in your size limit than you do from manipulating your creel limits and your seasons.

I don’t know if that’s right or wrong, but that’s something we all need to think about. It’s kind of an aside. Some good points were made that I take careful note of with respect to the fact that an addendum of this nature becomes compulsory rather than voluntary, and I appreciate that.

I want to throw a thought out that might help address that. Perhaps this could be thought of as a potential second option or alternative to be included in an addendum. What I’ve heard stated is that many of the states proposed not to adjust their regulations in a substantial way.

I heard Maryland say that, I heard PRFC say that, I heard North Carolina say that, and I believe I heard New Jersey indicate that they’re only thinking in terms of a minor change in terms of adjusting the season opening and closing dates, to try this around weekends.

It may well be that an alternative that would be more palatable to the board as a whole would be one that essentially uses the percent savings from those states which voluntarily choose not to change their regulations and accommodates those who feel that they do need to make some liberalization in their regulations.

Now, the difficulty is sitting here today and not being able to understand the certainty of that, and maybe that’s something we can discuss here. But, I would suggest that, and I would put it out for discussion and would hope that some folks perhaps from Delaware

and Rhode Island would tell us whether they think that might be helpful.

The last point I want to make is I don't quite understand what Bruce was getting at with the effect on the commercial fishery. I admit to not understanding the relationship here. It occurs to me that there have been years where the recreational harvest has exceeded its quota, and there are years, like last year, when some states went under and some states went over, I am not sure I understand the relationship to the commercial fishery or the commercial quota.

It seems to me that they're independent of one another, and I have to admit to being a little puzzled about that one. If that's something that is of strong concern to folks, maybe we can try to discuss it a little further. Thank you.

CHAIRMAN TRAVELSTEAD: We have about 30 minutes left, and we do want to go to the public. I think I am ready to do that now unless one of the states wishes to offer an amendment to the motion. It seems to me we're getting to the point where we need to hear from the public and then vote. All right, let me go to the public, then.

MS. TONI KERNS: Before we go to the public, I just want to let the board know that I have received over 200 e-mails. I have not been able to count them all. They have bombarded my e-mail and all in favor of this motion. These e-mails have come from mostly New York fishermen, I believe, and they are concerned with increasing the regulations and would like to see this motion passed.

CHAIRMAN TRAVELSTEAD: We're going to have about 15 minutes, I think, for public comment. Could I see a show of hands of those who wish to speak on the

motion? Okay, we'll give you about four minutes each. Sir, why don't you start?

MR. DENNIS CANYICK: My name is Dennis Canyick; I represent United Boatmen of New York; and also own two party boats out of Point Lookout. I listened to the states' concern, and yet they are concerns. But you have to also look around you. This is a major concern to the industry of New York.

Since we have gone to a 17-inch size limit, which is approximately five years, we have seen participation on party and charter boats of 35 percent. We've have seen 20 percent decrease in coast guard inspected vessels, which are the bigger party and charter boats.

There is definitely less people fishing as the size limits go up. As Pat Augustine has pointed out, no matter how much we hate MRFSS, it was intended to show trends in the fishery. There is definitely a trend showing a northern migration of the fish.

If this year we have to go to an 18-1/2 inch size limit, or they're left to stay at 17-1/2 inches, it means four to five and possibly as many as six weeks of the summer will be closed. How do people make a living? You have to look at the human aspect of this, besides just I want my cut, I can't give up even though I may not use it.

There are human beings here, just like you folks, that have car payments, mortgage, college tuition. How are they going to live if they can't fish or people don't want to go fishing anymore because of the regulations?

The public perception is this is absurd, let's do what we please. Is that the perception the Commission and the Council wants to give the public, that all we're going to do is protect ourselves and the heck with

everybody else? That, please, you must take into consideration before you vote on this motion.

One year, we have very strict regulations already. Seventeen and a half inches may not sound large until you go fishing. If we don't have the time to fish, we don't make a living. And not as the service and other people have said, we don't have options of other fish to fish for. Everything we fish for is heavily regulated. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Go ahead.

MS. DEEDEE BRADSHAW: My name is Deedee Bradshaw. With my husband, Kevin, we have the Dorothy B in Sheepshead Bay. First of all, I agree with everything that Dennis said, so I will not go into that.

I would like to bring a couple of other things out. I mean, I was under the impression that originally these boards, councils, commissions were created not only to manage the fish and preserve the fish, but also to get people to enjoy the fisheries.

Well, exactly what Dennis is saying is we have seen a reduction in fishing populations because people are not coming fishing, and the reason they're not coming fishing is because you're not going to say to your friend, "Hey, let's go out on a fishing boat or" – well, let's use it with us, for the industry – "Let's go out on a fishing boat and we're going to pay \$30 for a half a day, but you're not going to catch anything.

"We're going out for a quality of life. We're going to have some fun." Because, your friend is going to say, "Let's take a sightseeing tour." And that's what has happened. You've managed the fisheries,

and you've taken the fishing population – you're depleting the population.

You don't have people coming down with their coolers for the fish. You don't have people getting other people, and all the fishermen are dying out. I would say if you keep managing in the way that you're doing, without looking at people, without looking at trends, without looking at what's going on, there will be no fishing industry.

There will be no people taking the boats, say, renting little boats and going out. There will be no people going on the charter boats or the headboats, and you'll have the fish, and you'll have your commercial industry because there's always the market, and the sale people are going to eat the fish, but you're not going to have the fishing for the people.

So what you've managed to do is take – you've taken from the public the right to enjoy the fishery because of your management levels, especially in New York, because we are going to be out of business.

And you have taken from us, the charter, the head, and the industry the right to have a business. You have taken from us the ability to earn a living and to put our income back into the economy. So this is what I asked of NMFS, is when you do put us out of business – because I feel that after – well, my husband's family started in 1913, so I figure by next year, that's the last year that we can sustain the loss that we have taken for three years.

So what are you going to do for us? Do you offer us federal buyouts for us vessels? Do you offer us grants to make improvements, to fix things that we can't afford to pay for because our costs have skyrocketed? Do

you offer us retraining, especially at 60 years old?

Gee, what's my husband going to do? Can you offer him some education and some retraining? What do you offer us? Do you offer us anything? Ms. Kurkul, does the federal government offer the head industry, the recreational center anything for what you've taken from us, so that we can, you know, get into another industry? No, you don't want to answer the question, fine.

CHAIRMAN TRAVELSTEAD: All right, sir, go ahead.

MR. DENNIS CATALGO: My name is Dennis Catalgo. I am president of the New York Sportfishing Federation. I just wanted to reiterate something that Gordon Colvin just mentioned. When we talk about the over-harvest thing of the fishery, it implies a negative connotation.

It implies a lack of compliance on the part of those fishermen, and the people who are living with the regulations that we have. We know that's really not to be the case. You mentioned the 10 million pound adjustment for one.

But, one other thing that I haven't heard mentioned recently, as the size limit has increased over the years from 14 inches to 17-1/2 inches, we end up with managing by pounds, and we end up with more discards, the released fish I'm talking about that we encounter during the course of trying to attain a 17-1/2 inch fish or an 18-inch fish. The bottom line is we keep releasing, and circumstances mitigate against us when a greater percentage of released fish counts against the quota as a result of mortality related to discarded fish.

The greater the size limit, I believe the more we're going to have released fish and mortality charged against us for those released fish. These are fish that are just released in compliance of the regulations that we have. And if I'm incorrect with that, I would appreciate it if somebody would correct me. Thank you.

MR. SAL AMENDOLIA: Ladies and gentlemen of the board, my name is Sal Amendolia, and I come here today as a concerned New York recreational fisherman, but also as the associate editor of Nor'east Saltwater Fishing Magazine and Nor'east dot com.

Our magazine publishes in four different states and is read by over 20,000 anglers each week. Our website is visited by 20,000 anglers each day. I quote these figures because to me it's very important that you understand the magnitude of the importance of the fishing industry to New York.

Over the last year, as associate editor, I have had the distinct pleasure of talking to hundreds of anglers as well as hundreds of charter and party boat captains regarding issues associated with fishing. I have received literally thousands of reports from our 27 field editors talking about the fluke fishery and their concern about the fluke fishery.

I think that that activity really magnifies the importance of the fluke fishery to the New York recreational angler. I have had the pleasure for practically all my life fishing with the many wonderful open and charter boat captains in the New York recreational fishing area.

I have personally fished probably from the most east point to the most west point of New York, and both the north and south

shores. What I want to emphasize is the livelihood of the people who have supported the New York recreational fishing industry is at stake here.

The other important fact is that thousands of New York recreational fishermen are going to be severely impacted based on your vote today. Please take these few words into consideration when making your decision on this motion. New York would be very appreciative. Thank you very much.

CHAIRMAN TRAVELSTEAD: Thank you. Who wants to be next?

MR. PAUL REESIE: I am Paul Reesie. I own and operate a headboat on Long Island. I just want to reiterate what Ms. Bradshaw and Mr. Canyick said, but as was mentioned before, this is a major proposition. I understand the gravity of it.

But, since we made the 17-inch threshold, we're losing bad as far as business and economically. And, the more I hear and see what goes on here, I gain more respect for you ladies and gentlemen, for what you're doing. You know, you're charged with rebuilding the stock.

You're walking us through it and you're doing a good job. However, it's getting to be a wild ride. And, what this is for us, this is just another year to try and live through it. It's not a major coup for us.

You know, it's like Gordon said, we're not going to gain much, we're going to lose more. And, it's not going to help, but the option is going to be terrible for almost everybody. Thank you.

MR. CHRIS ALTBACK: My name is Chris Altback. I am also from Long Island. I am not going to reiterate what the rest of the gentlemen just said and the young lady.

But, one thing that I heard among all – I did not hear among all the statistics is individuals, individual participation.

Individuals go out, have a good time. Hopefully, maybe they can take a fish home to dinner. The states that may have come in so far below their quotas, has it been taken into account, individual participation? Are they just not participating as individuals in these states?

It is a proposal for one year. New York has a high participation. Plenty of individuals like to go fishing, perhaps other states not as many. We're just asking for a few fish for these folks to take home rather than year after year come see some walk away.

Coming under, as far as some of the states have, MRFSS being what it is, we're not here to debate today. Everyone here at this table probably has the data from their individual states as to what their participation was based on their quota.

If your participation is that low, that you come in so far underneath and you cannot see it within you to then take and reallocate the extra that's left behind just for the course of one year until further things can be developed, it's kind of sad because it came in only as states and not as the way people should be treated as individuals.

If I'm wrong, if the participation was there and we still have a problem, this is a problem that needs to be addressed maybe then with MRFSS data and so on down the line. I have heard all kinds of numbers. I know there is a threshold number and a threshold date that we're trying to achieve.

I've never heard how the number was achieved. I've never heard of how that date was come about. If it takes a little longer, it

takes a little longer. But, people in this room and the people who couldn't be here do not have the time to keep taking it over the head to achieve that number at that date. Thank you very much.

CHAIRMAN TRAVELSTEAD: Thank you. Any other speakers? Okay, thank you. We appreciate your comments. It's back to the board, then. We have about 15 minutes left. Are there any final comments? Bruce.

MR. FREEMAN: I would call for a five-minute recess.

CHAIRMAN TRAVELSTEAD: How about three minutes? All right, let's take a little recess.

(Whereupon, a recess was taken.)

CHAIRMAN TRAVELSTEAD: Okay, I think we're ready, if you'll take your seats again. I am going to assume that the three minutes you just had was time for the states to caucus as well and that we can proceed immediately to the vote. Are you ready to vote?

(Whereupon, the following motion was voted on: Move to implement conservational equivalency in 2006 by states agreeing to maintain 2005 rules in 2006; further, if reduction is required based on the 2005 coastwide target being exceeded, Connecticut, New York and Massachusetts would adopt further regulations with the intent of staying within the coastwide target for 2006.)

All those in favor of the motion on the board, please raise your right hand, 3; those opposed, like sign, 5; any null votes; abstentions, 1. The motion fails. Eric.

MR. SMITH: Thank you, Mr. Chairman. One thing we've all gotten good at is counting votes, and that was an important part of the process; and as Gordon said before, I do appreciate the attention you've all given this.

I have a subsequent motion, which obviously got discussed a little during the break. Time is short so I'll read quickly, and Toni has it for typing.

Move that the ASMFC staff poll states that have already agreed to maintain their 2005 regulations in 2006; distribute any "savings" from these states to New York, Connecticut and Massachusetts in the same proportion as those states would have shared in accommodating the coastwide overage in the motion just defeated.

MR. COLVIN: Second.

CHAIRMAN TRAVELSTEAD: Brief discussion on the motion? We've got about ten minutes. Bob.

MR. ROBERT BEAL: Just a quick comment on process. At first reading, I believe this would also take an addendum to achieve this. The current plan doesn't allow for, if you want to call them, quota transfers on the recreational side.

So from the staff perspective, it would be essentially the same process effect as the last motion, which would be initiating an addendum, hearings over the next few weeks and final decision in February.

CHAIRMAN TRAVELSTEAD: Thank you, Bob. Any final discussion on the motion? A.C.

MR. CARPENTER: Can I have a little better explanation of what this motion – is that saying that since North Carolina was under, that that underage will be now added to New York’s – or subtracted from New York’s overage?

CHAIRMAN TRAVELSTEAD: Eric, do you want to clarify your motion?

MR. CARPENTER: I don’t understand the mechanics.

MR. SMITH: What it essentially means in principle – and then I’ll talk about the details. In principle, the states like Delaware and Rhode Island, who have some difficulty with doing this as the first motion, it allows them to do whatever they need to do going through their state process.

But as you heard from the testimony – and this is the details of it – several states have already agreed that they’re going to maintain status quo even though they could relax. In fact, your commission was one of them.

What this means is you aggregate the amount of fish that those states or the commission left in the water, if you will, and you distribute it to cut down on the cut that would have to happen in New York, Connecticut and Massachusetts in that same proportion that we were going to have to accommodate the overage.

So, our cuts are going to go up from 10, 11 and 4 percent, they’re going to go up towards the 38, 35, and 15 somewhat by that amount of fish that are the, quote, savings by the states that left them out there. I mean, if I remember the number –

MR. CARPENTER: Thank you for the explanation.

MR. SMITH: You’ve got it, okay.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: Just one brief clarification, I think, and hopefully the offerer of the motion will agree with this interpretation, that where it speaks in terms of already agreed, the intent of that is effective as of the date of the next board meeting at which action on this would be taken – final action on this addendum would be taken, so that the actual numbers would not be known until the date of that board meeting.

CHAIRMAN TRAVELSTEAD: Any final comments? Do you need to caucus on the motion? Okay, we’re going to take about a minute to caucus, and then we’ll come back and vote. Okay, are we ready to vote? Eric.

MR. SMITH: There’s been a request for a minor clarification on that point that Gordon raised. In the words “that have already agreed”, simply say “the states agree”. Thank you.

CHAIRMAN TRAVELSTEAD: Yes, that’s clearer. Everett.

MR. PETRONIO: Quick question. I don’t know if my state is going to know for sure what we’re going to do by the time of the February meeting. What’s the thought as to that?

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: I think the effect of the motion is that we assume that you will, and that whatever percentage that might have otherwise become available would not be. In other words, unless you agree, then you don’t, and it doesn’t become available.

CHAIRMAN TRAVELSTEAD: Okay, everyone clear? All those in favor of the motion, raise your right hand; no, same sign, 2; abstentions, 2 abstentions; null votes, none. The motion carries. Bruce.

MR. FREEMAN: I would just make it very clear that the New Jersey delegation voted yes, and the primary reason is to take this out to public hearing. We still have concerns over this issue. It's still a contentious issue, so the real vote is going to be at the next board meeting.

CHAIRMAN TRAVELSTEAD: Absolutely, I think that's an excellent point that the public here needs to understand. This was a preliminary vote today to take this out to public debate. So, the real and final vote will come at the February meeting week, which is February 20th. Anything further? Bob.

MR. BEAL: As far as process goes, since the addendum that the staff drafted or that we anticipated may occur doesn't reflect the wording in this motion, so we'll go back, rework the document, send that around to the board members, let folks look at it.

We're going to do this in the next two or three days. Probably by Monday is the latest we can get this thing done. We'll work with the states to schedule public hearings as quickly as possible.

We're going to have to kind of move along real quickly to give the public a significant amount of time to comment prior to the February meeting, so it's going to have to move pretty quickly. If anyone has a concern over that process, let us know now, but that's how staff anticipates moving.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: All I can say again to everybody, especially to the Commission staff, is thank you. I really do appreciate the effort you're putting into this, and I know that Toni has got a real load on her plate for the upcoming ASMFC meetings with lobsters alone, much less this.

I really do appreciate the staff effort and the board's effort again. That said, Mr. Chairman, I wonder if we got an answer to my scup question during the course of the morning.

CHAIRMAN TRAVELSTEAD: I think Mr. Beal has an answer to your question.

MR. BEAL: Back to the scup question that Gordon had at the beginning of the meeting, the states have not set the two-week time frame that will apply to the 30,000 pound trip limit. I think last year we started on January 1st and went January 1st to 14th was the first period, 15th to 28th was the second period.

I think coincidentally last year, by good fortune, the 1st was on a Saturday, which coincided with the federal reporting period, and obviously we've slipped off that by a day, and the 1st was a Sunday this year.

So, at the meeting in August, when we set the 30,000 pound two-week trip limit, we did not set a two-week time frame that starts the clock in each one of the states. Apparently, we probably should do that or try to do that. I almost think we have time to do that today since we're already over our time limit.

We can do that via e-mail or some other discussion. Obviously, the fishermen in the states have started fishing, and I'm not sure what accounting systems the states have initiated this year so far.

MR. COLVIN: If I may, Mr. Chairman, it might be useful just to poll them and find out. In the absence of guidance, I think we told our fishermen, for instance, it's going to run beginning on the 1st for 14 days and then in 14-day intervals thereafter. I wonder if the other states have done the same.

CHAIRMAN TRAVELSTEAD: I think we started in Virginia with January 2nd, given the holiday. Toni has asked for a show hands of those states who would like to have a public hearing on this just-approved addendum. Can we see a show of hands? No one wants a public hearing? Is there a motion to adjourn?

MS. KERNS: The public who has the sign-in sheets, please bring it to me. Thank you.

CHAIRMAN TRAVELSTEAD: We are adjourned. Thank you.

(Whereupon, the meeting was adjourned at 1:00 o'clock p.m., January 18, 2006.)

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