

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

**Crowne Plaza Hotel - Old Town**  
Alexandria, Virginia  
March 24, 2011  
Approved November 2011

## TABLE OF CONTENTS

<b>Call to Order, Chairman David Simpson .....</b>	<b>1</b>
<b>Approval of Proceedings, November 10, 2010.....</b>	<b>1</b>
<b>Public Comment.....</b>	<b>1</b>
<b>Election of a Vice-Chairman.....</b>	<b>1</b>
<b>Draft Addendum XXI.....</b>	<b>1</b>
<b>Review of Options .....</b>	<b>1</b>
<b>Public Comment Summary .....</b>	<b>2</b>
<b>Consideration of Final Approval of Addendum XXI .....</b>	<b>3</b>
<b>Discussion of MAFMC Action to Initiate Addendum to Black Sea Bass FMP.....</b>	<b>13</b>
<b>Update on the MAFMC Request for Proposals for Scup Analysis .....</b>	<b>14</b>
<b>Black Sea Bass Plan Review Team Membership .....</b>	<b>15</b>
<b>Other Business.....</b>	<b>15</b>
<b>Adjournment .....</b>	<b>16</b>

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of November 10, 2010 by consent** (Page 1).
3. **Move to adopt state shares using 2010 data as shown in Option D with the following changes: Massachusetts 26 percent, Rhode Island 8 percent, Connecticut 1 percent, New York 30 percent, New Jersey 27 percent, Delaware 2 percent, Maryland 2 percent, Virginia 4 percent, North Carolina 1 percent. Delaware, Maryland and Virginia will remain at status quo** (Page 5). Motion by David Pierce; second by Bill McElroy. Motion carried (Page 13).
4. **Motion to substitute to adopt state shares using 2010 data as shown in Option D. Delaware, Maryland and Virginia will remain at status quo** (Page 12). Motion by Pete Himchak; second by Pat Augustine. Motion defeated (Page 13).
5. **Move to approve Addendum XXI as modified on March 24, 2011** (Page 13). Motion by Mark Gibson; second by Ben Martens. Motion carried (Page 13)
6. **Motion to adjourn by consent** (Page 16).

## ATTENDANCE

### Board Members

David Pierce, MA proxy for P. Diodati (AA)	Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
William Adler, MA (GA)	Craig Shirey, DE, proxy for D. Saveikis (AA)
Ben Martens, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
William McElroy, RI (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Tom O'Connell, MD (AA)
Rep. Peter Martin, RI (LA)	Bill Goldsborough, MD (GA)
David Simpson, CT (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
Lance Stewart, CT (GA)	Catherine Davenport, VA (GA)
James Gilmore, NY (AA)	Red Munden, NC, proxy for L. Daniel (AA)
Pat Augustine, NY (GA)	Pat Kurkul, NMFS
Peter Himchak, NJ, proxy for D. Chanda (AC)	A.C. Carpenter, PRFC
Thomas Fote, NJ (GA)	Jaime Geiger, USFWS

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

### Ex-Officio Members

#### Staff

Robert Beal	Toni Kerns
Vince O'Shea	Mike Waine

#### Guests\*\*

Carrie Kennedy	Skip Fuller
Mike Luisi	Rick Robins, MAFMC
Andrea Hoover	Chris Moore
Rob O'Reilly	Paul Foresberg

\*\*Sign-In sheets not completely distributed

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, March 24, 2011, and was called to order at 12:55 o'clock p.m. by Chairman David Simpson.

### **CALL TO ORDER**

CHAIRMAN DAVID SIMPSON: Welcome to the Scup, Fluke and Sea Bass Board. My name is Dave Simpson. The first couple of items are approval of the agenda. Is there any objection to approving the agenda? I see none; we'll consider it approved.

### **APPROVAL OF PROCEEDINGS**

Approval of the proceedings from November 2010 meeting; any questions or objection to approving those. I don't see any there.

### **PUBLIC COMMENT**

The next agenda item is public comment. Is there any public comment on items not on the agenda? Okay, I don't see anything. Roy Miller.

MR. ROY MILLER: Mr. Chairman, I thank you for allocating me just a moment of your time everyone. I would like to announce with mixed feelings that this is the last meeting for my friend, my fishing colleague, Craig Shirey. Craig served the commission for many years as a member of the Sturgeon Technical Committee and the Shad and River Herring Technical Committee prior to moving to be the director's proxy at the commission board level when I retired a couple of years ago. Craig is retiring and he is moving to Montana, permanently taking up that fly rod in his hand. I just wanted to take a moment to have you all help me wish him well. Thank you. (Applause)

MR. CRAIG SHIREY: Thank you. It was a tough decision to make of whether to look at the bean and cornfields of Central Delaware or the Rocky Mountains of Southwest Montana. I've spent several summers out there, absolutely fell in love with the place, opportunities came up and decided to make this move. I appreciate the opportunity to serve on the management boards and I wish you all well. You've got some important and significant decisions to make and please don't hesitate to make them. If you don't and we don't, nobody else will. Thanks.

CHAIRMAN SIMPSON: Thanks, Craig, and thanks for all the service you've provided to the commission over the years. I'll tell you after the last week

dealing with lobster, Montana sounds like a great place to be.

### **ELECTION OF A VICE-CHAIR**

With that, our next agenda item is election of a vice-chair. Do we have any nominations? Jack.

MR. JACK TRAVELSTEAD: Mr. Chairman, I would nominate Dr. David Pierce for vice-chair.

CHAIRMAN SIMPSON: Pat Augustine seconds.

MR. PATRICK AUGUSTINE: Move to second the nomination and move to close the nominations and with one vote, Mr. Chairman, and appoint Dr. Pierce.

CHAIRMAN SIMPSON: Any objection to the motion? Seeing none, congratulations, Dr. Pierce. Okay, the next item, of course, is Draft Addendum XXI and Toni is going to take us through that.

### **DRAFT ADDENDUM XXI**

MS. TONI KERNS: We're going to go through Draft Addendum XXI, which is for the black sea bass recreational fishery. This addendum was approved over the board conference call the end of January. This is an accelerated addendum timeline. It was out for public comment for 30 days. The public comment closed on Friday of last week and the public comment is being passed out to you as I speak.

### **REVIEW OF OPTIONS**

For today we're going to review the public comment and then consider final action. The purpose of this document was to subdivide the recreational black sea bass coast-wide allocation into either regional or state-by-state by management measures for 2011. The 2010 regulations were not effective in staying within the recreational target.

The harvest would need to be reduced by 37 percent in numbers of fish to achieve the 2011 target of 1.78 million pounds. As a reminder, our 2010 measures were 25 fish, 12-1/2 inches, May 22<sup>nd</sup> through October 11<sup>th</sup> and November 1<sup>st</sup> through December 31<sup>st</sup>. That 2010 target was exceeded by an estimated 1.15 million pounds and that does include the Wave 6 data. All of the information that I'm going to go through does include the Wave 6 harvest data.

The board at the joint December meeting proposed a 2011 coast-wide measure of 25 fish, 13 inches, July 1<sup>st</sup> through October 1<sup>st</sup> and November 1<sup>st</sup> through December 31<sup>st</sup>. The board found that these proposed

changes would impact the states differently along the coast and therefore initiated this addendum to give the states flexibility to mitigate those potential disproportionate impacts on the states.

We can see that the two tables listed up above; the table to the right is how much harvest is lost if an individual state were to increase their size limit from 12-1/2 to 13 inches. The smallest amount of loss was from Virginia at 11 percent and the largest amount of loss was from Delaware at 32 percent, and then the table to the left is the harvest lost by wave.

You can see that it's quite variable. I know those numbers are small – I apologize – but it truly does vary along the coast of which waves are the best, but it does seem that Wave 4 for the most part is the lowest harvest for most of the states except for Connecticut, but we do know that the sample size for Connecticut of the MRFSS is very low so therefore we're not completely sure if this is really representative of what is going on in Connecticut waters.

This figure just depicts the harvest over the last five years in Massachusetts through New Jersey, and then the next slide is the harvest depicted in the states of Delaware through North Carolina, which the landings in the past couple of years have been going down. All of the options in the document are proposed regulations for 2011 only.

They would only be effective in state waters; and just as a reminder federal permit holders would have to follow the federal regulations even if they were in state waters. This table just gives us an idea again of where each individual state's harvest is occurring and whether it's mostly in federal waters or within state waters. The first option that was in the addendum was to remain status quo; the 2011 black sea bass recreational measures would be set by using a single bag, size and season.

I have pulled together some additional coast-wide regulations that would meet the 37 percent required reduction which I'll show at the end of this presentation since the board had requested me to do that on the January conference call. Option 2 is to look at state-by-state measures. Each state would implement individual size, bag and seasons to achieve a state-specific required harvest reduction.

Under this option there are four scenarios that you could base this on depending on how many years we use to provide a state for its allocation. The first option is to base the state's allocation on the last five

years. Any state that has a negative number in front of their percentage means that they're actually allowed to liberalize their regulations rather than reduce them.

This varies anywhere from liberalization in Virginia of up to 315 percent and a reduction as high as 65 percent in Rhode Island. Option 2B is your shares are based on the last two years – I'm sorry, three years. Option 2C is your shares are based on the last three years, and the last is your shares are based on the 2010 data. Again, this does include through Wave 6.

The third option within the document is to use regions. A group of states would be able to implement a regional size, bag and season to achieve that regional-specific harvest reduction, and we would not be able to deviate from any of those measures, so every state in the region would have to have all of those same measures.

Under this option there would be four scenarios to base each of the region-specific allocations on. As a reminder, we did look at the tagging data to try to develop these regions. The tagging data didn't give us a very clear division, but we did suggest that you could draw a line at Hudson Canyon. Since the Hudson Canyon is in the middle of the state of New Jersey basically, we drew that line at the New York/New Jersey Border.

We also did a grouping of the states that landed the most fish, which would be Massachusetts through New Jersey and Delaware through North Carolina. The first regional option is the Massachusetts through New Jersey and the Delaware through North Carolina groupings. For each of these you can base the state share on the last five years, the last three years, the last two or 2010 data.

For the second regional option, it's based on the tagging information. It's Massachusetts through New York and New Jersey through North Carolina, and again it's the four scenarios that you base the allocation on five, three, two and last year's data. And then lastly there was a request by the state of New Jersey to be pulled out of both regions and so we developed a third option doing so, and again those shares are based on allocation of five, three, two and last year's data.

## **PUBLIC COMMENT SUMMARY**

We have the public comment period open for 30 days; 34 comments were received. Hearings were

held in all states, Massachusetts through North Carolina. Delaware is holding a hearing this evening. In North Carolina only a member from the press attended the hearing. What was passed out in front of you is all the public comment that was received.

On the first page there is a table that summarizes the options that were favored. For the public hearings – since I wasn't out on many of the public hearings and there wasn't a count specific to the number of individuals in all of the hearings for the numbers that each option was favored, I just put X's in options that were indicated to be favored.

There is a range of support for state-by-state and regional-based options. There was very little support for the regional option that allowed New Jersey to be separated into its own region. Most of the support for the allocation of years was either 2010 or the last three years. In the comments I received, there was a lot of support for a fall and a spring fishery as well as several commenters who said we should close the November and the December fishery.

That was because the winter fishery is offshore; those fish tend to die when you have these large bag limits and you can't – they tend to die because of the discard mortality rate with the high bag limits. There were several commenters that said the shorter season would put a strong economic hardship on the industry.

Lots of individuals either called me or said in their comments that we should reduce the bag limit for the fishery so that we are able to extend the season. Some commenters said that we should not allow partyboats from other states to come into another state to fish. Lastly, there was a comment about protecting and enhancing the development of habitat for black sea bass in the bay.

Here are some additional coast-wide options that I've put together. All of these will meet the required 37 percent reduction. I will note that these meet it right on the mark, so there is no wiggle room in these options. I can also go through and do some additional number crunching as long as you guys give me a five-minute break to double-check my math.

These options include May 6<sup>th</sup> through December 31<sup>st</sup> at one fish and 12-1/2 inches. You could have a May 25<sup>th</sup> through October 11<sup>th</sup> and then November 1<sup>st</sup> through December 31<sup>st</sup>, two fish at 12-1/2 inches; May 23<sup>rd</sup> through November 30, two fish 13 inches; May 22<sup>nd</sup> through June 30<sup>th</sup> and then August 20<sup>th</sup> through December 31<sup>st</sup>, four fish at 13 inches; June

3<sup>rd</sup> through October 11<sup>th</sup> and November 1<sup>st</sup> through December 31<sup>st</sup>, for fish at 13 inches; and lastly May 22<sup>nd</sup> through June 30<sup>th</sup> and September 1<sup>st</sup> through December 31<sup>st</sup>, 10 fish, 13 inches.

What I tried to do is take information from the commenters and apply some of the things that they said they would be willing to give and reflect those in these options. None of them are perfect, obviously, from what the commenters wanted, but I tried to make a combination of what they were looking for.

For the last option at the ten fish what I looked at was it seemed because Wave 4 seems to be the least strongest wave for the majority of the states, I went ahead and pulled that wave out so that it would have the least impact on the majority of the states in terms of closing from the numbers that we have. Any questions?

#### **CONSIDERATION OF FINAL APPROVAL OF ADDENDUM XXI**

MR. TRAVELSTEAD: Toni, could you go back to the regional options; I think it was Region Option 1. I have some questions about Option C there that shows a 40 percent reduction for Massachusetts through New Jersey and an allowance for a 37 percent liberalization for Delaware to North Carolina. The 40 percent is pretty close to the 37 percent that we would have to achieve, anyway, and so I'm wondering is it possible to do a calculation if the southern states there, Delaware through North Carolina, simply maintained status quo, in other words, did not liberalize by the 37 percent; how would that change the 40 percent number for the northern states? It's almost as if the southern states maintained status quo, the northern states would be at about 37 percent, which is where they are if we do nothing. It's just sort of some logic, but I don't know if the math works out that way or not.

MS. KERNS: I don't know technically if the math would work out. The way that we've agreed to these regions is that we said that we would put – if we did regions that we would put regions in place that achieved the 37 percent reduction in harvest; and if we achieve that 37 percent reduction in harvest, then the National Marine Fisheries Service would consider keeping status quo measures from 2010 in federal waters.

On paper I'm not sure that reduction would actually work out. I don't have the tables to figure out what the measures would need to be to achieve a 40

percent reduction in the northern states on their own, either.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I think part of the problem is that the 40 percent is 40 percent of what Massachusetts through New Jersey landed, and that's a much bigger number than what Delaware and North Carolina landed. In other words, the 37 percent for Delaware through North Carolina was a smaller number, and I think that's where your hesitancy is coming from, Toni.

MS. KERNS: Correct.

CHAIRMAN SIMPSON: Yes, it's just the on-the-fly math of how the weighted average would change and probably it would be, I don't know, 43 percent or something reduction for Massachusetts to New Jersey and then no change for Delaware to North Carolina. Pete.

MR. PETER HIMCHAK: I had one quick question and then one quick comment. Toni, all the percentages in the addendum that went out to public hearing, did they include Wave 6 projection data?

MS. KERNS: It was not projection data; it was the Wave 6 data.

MR. HIMCHAK: It was actually the complete for 2010?

MS. KERNS: That's correct and that was from the corrected version of the document that was released on March 8<sup>th</sup>.

MR. HIMCHAK: And then my quick comment was that the reason why New Jersey requested being considered as a separate region because with the situation with scup, I still don't know if we belong in the northern region or the southern region. Every December we meet to come up with recreational measures for the following year, so it doesn't seem like we belonged with either group and that's why we requested to be put in as a separate region.

CHAIRMAN SIMPSON: Any other questions for Toni? I guess the one overriding issue in my mind is the extent to which each state's waters or landing's fishery takes place in federal waters and how you actually do those calculations in expectation of a reduction under most scenarios in states that are almost exclusively federal waters and yet there wouldn't be that – the rule would be more liberal in the federal waters. I think everyone has that appreciation.

I'm glad Toni put that up because you have the other options in your binder and you can look at some new ones if that helps. I know there was a lot of public comment and effort offline, too, that the difficult part of the 2011 measures we approved in August – the most difficult part was losing the springtime fishery, so Toni has done up several options. All those options include a little more time in the Wave 3 period. I don't know if this helps anyone or if this gives us the basis for a motion. Dr. Pierce.

DR. DAVID PIERCE: All right, Mr. Chairman, you're looking for a motion as to how we should deal with the recreational fishery for this year based on the addendum; that's my understanding. We've given this a lot of thought, obviously, and taken it to public hearing. We've also brought the addendum before our own state marine fisheries commission to get their views.

We've given some thought to what in the world might we be able to do in our waters to regain the spring fishery, which is so important in our state, May and June, what can be done in the context of the addendum. We feel that we have solution to our problem and we think an option that will be found with favor by a majority of the board, and it relates to the state shares.

I'm not too keen on state shares; I've said that before. Nevertheless, we really have no choice but to consider state shares for 2011 only, and that is, of course, the emphasis. This is 2011 only; this doesn't set a precedent; this is just to get us through the problem of 2011, recognizing we're at the end of March and May is really close.

Region-wide approaches at first seemed to have some attractiveness yet if we went with a region-wide approach, we would then have to, in the northern area, meet with all the other states, figure out what to do, time passes, the industry is still waiting. It provides us with hardly any time – well, it doesn't provide us with time to make the important decisions for the benefit of the May fishery that begins fairly soon.

So, looking at the state-by-state shares and the options that are before us on Page 6, 7 and 8 in the addendum, using different years to determine the percent share for 2010, obviously there are some states that benefit, some states that don't benefit. So, to work out an approach that might find favor, we thought that it would be sensible to pick an existing option and to modify it slightly similar to what was



done with dogfish by the southern states at a meeting earlier on this week where within the range, within the bounds of all the shares that were offered up for public consumption, the states to the south agreed on an approach that they felt made sense that was within the bounds.

So, in light of the fact that black sea bass abundance certainly to the northern edge of the Mid-Atlantic and in the New England area has gone up, for whatever reason, environmental change, who knows for sure, our preference is to use the most recent years, but to go back – well, let me be specific.

2008, 2009 and 2010, three years, Option B, C and D – we looked at those three options and we favored D, but we favored taking the maximum percent share for Delaware, Maryland, Virginia and North Carolina and having that maximum percent share replace the shares that are shown in Option D on Page 8. That would mean Delaware would be 2, Maryland would be 2, Virginia would be 4, North Carolina would be 1.

To acquire the necessary percentages to give those states the maximum amount from 2008, we'd take 2 percent off of Massachusetts, make it 27 percent; 1 percent off of New York, make it 30 percent; and 1 percent off of New Jersey, making it 27 percent. So, I'll offer that up in the form of a motion to see if for 2011 only we can use this approach to enable every state to determine what it wants to do relative to the 2011 recreational fishery.

**I would move that we adopt state shares for 2011, using the shares shown in Option D with the following changes – Massachusetts would be 27 percent, New York would be 30 percent, New Jersey 27 percent, Delaware 2 percent, Maryland 2 percent, Virginia 4 percent, North Carolina 1 percent, and then Rhode Island and Connecticut would remain the same at 8 percent and 1 percent respectively.** There is my motion, Mr. Chairman.

CHAIRMAN SIMPSON: Okay, is there a second to the motion? Seconded by Bill McElroy.

MS. KERNS: While they get the motion up on the table, I just want to make sure everybody is clear what the process would be to adopt state-by-state shares or regional shares. What we will do is we'll get the proper reduction tables to the states. Jessica Coakley from the Mid-Atlantic Council would provide those tables for us, and so we'd try to get

those tables out to the states maybe by the end of next week; she is currently on vacation so she wouldn't be able to get them to this week, so the end of next week or the week after.

The technical committee would have to get together and review the proposals for each of the states that they put forward, and then the board would then need to approve those proposals. We do an approval of the proposals via conference call like we did the summer flounder proposals, but this process probably will take somewhere between a month to two months to occur.

MR. HIMCHAK: I would like to see with the changes in these percentages what the corresponding percentage in reduction in 2011 is based on these new shares. That's critical as far as I'm concerned before we accept the change in the percentages. How does that affect each state for 2011?

CHAIRMAN SIMPSON: Right, Toni is going to work on that. David, did you have a response to that?

DR. PIERCE: Yes, I didn't calculate the exact change except that it would seem obvious that Massachusetts would have a higher percent reduction than 37 percent; that New York would have a slightly higher percent reduction; similarly with New Jersey, slightly higher; and then there would be slightly less for Delaware, for Maryland and also for Virginia.

Again, it seemed reasonable to take this approach since after all Massachusetts, New York and New Jersey dominate the recreational landings. Since it's for one year only, why not do it in the interest of getting something done in a timely way to recover the spring fishery. The alternatives that were offered up by Toni – and God bless her; thank you for that, Toni – we do lose I think it's Wave 4 and Wave 4 is about 25 percent of the recreational harvest in Massachusetts and it's also on the high side for quite a few of the other states.

When I look at Table 3, Rhode Island's Wave 4 is 33 percent; Connecticut is 78 percent; New York is 39 percent; New Jersey 15; Delaware 22, et cetera, et cetera, so I looked at that option as a possible one to select, but we gain our spring but we lose this other wave – why do it if there is an alternative that can be pursued by us and by other states to craft something that would of the greatest benefit to the individual state by way of a state share. Once again, the Big Three States in this particular case should be – I suggest should be willing to give up a little bit for this year to get this done.

CHAIRMAN SIMPSON: I appreciate that intent, David. Vince.

EXECUTIVE DIRECTOR O'SHEA: Just to clarify the motion, we get 102 percent.

DR. PIERCE: I struck 4 percent and I added 4 percent, so now I'm confused. Well, maybe the percent shares that are shown in the column add up to 102 percent.

MR. BEN MARTENS: This was one and you added three there, so you added an extra two.

DR. PIERCE: Well, I guess I can't add. I went to 4 percent so that makes it 101.

CHAIRMAN SIMPSON: Yes, I think you started – those columns add up to a little more than 100 percent because of rounding at those low – you know, the 1 and 2 percentages.

DR. PIERCE: All right, with that said, then, I need another percent off the top so I'll take off another percent from Massachusetts to make it – instead of 29 percent make it 26 percent.

CHAIRMAN SIMPSON: That still leaves us 1 percent over; is that right?

DR. PIERCE: Then that's an averaging problem.

CHAIRMAN SIMPSON: Yes, we could normalize this 102 to a hundred so the 1 percent of Connecticut would be some fraction of – you know, it would be like 0.98 percent so that the numbers work out, if you just want to do that.

DR. PIERCE: That's fine. Without having all the numbers to the decimal point, I can't provide the exact percent change in share, but anyway it can be refined somewhat to the two-tenths of a percent, whatever it may happen to be, so it would be 26 percent share for Massachusetts; then it goes 8, 1, 3, 27, 2, 2, 4 and 1.

CHAIRMAN SIMPSON: Okay, that helps. As I said I think in terms of fractions if we just normalize this to make it out up to a hundred it would be good. Jim, you had a comment.

MR. JAMES GILMORE: Mr. Chairman, actually they were the same questions as Pete. I just wanted to see what the percent reductions were and David answered my other question in his last statement, so that's fine.

MR. MILLER: Mr. Chair, I wonder if I could prevail upon Toni to give us a little guidance as to, generally speaking rather than specifically, what burden of proof do you see the states having to supply to meet the data needs to support a state share scenario? If I can follow that up with what if a state is unable to meet those data needs; what then?

MS. KERNS: The state will need to follow the procedure that we used for summer flounder, scup and black sea bass, so we would do a per-day wiable curve for your seasonal reductions and then we would use a state-specific bag and size and season reduction table. We'll put together the reduction tables through Jessica.

Because they'll be state-specific tables, it's going to take her longer to put those tables together. In the past when we don't have enough data available from the MRFSS Survey for a specific state, we have borrowed information from neighboring states. That's what we typically do in summer flounder when we don't have enough data and information and so we'll follow that same procedure with black sea bass. It will be just like the summer flounder proposals.

MR. MILLER: So if I could follow up, Mr. Chairman, so you don't foresee a scenario where a state would be unable to do it – if the data supplied by the state is insufficient on a state level, then it would be an aggregate of nearby states; is that what I heard or pretty much so?

MS. KERNS: Yes, the confidence level of some states will be lower than others in terms of a predicted estimate of harvest.

MR. HIMCHAK: Will somebody kindly explain the logic to me of developing regional management areas, picking three states that are not contiguous. In New Jersey's case our landings are in a steep decline and the other two are in a noticeable inclining trend. I cannot see anything that would substantiate forming any kind of a region-based on these three states. Will somebody explain to me the logic of doing this?

CHAIRMAN SIMPSON: Yes, I think he was suggesting state shares and not region shares and pointing out the adjustment to the percent shares off of Table D that would be required, so it's a state share proposal.

MR. ADAM NOWALSKY: I appreciate Dr. Pierce's approach in this. It's something that I've looked at as well. We could probably have motions and for a

significant amount of time arguing for different percentages. There were some trends, though, that I wanted to bring out first that we can probably agree on.

One is that Connecticut, Delaware, Maryland, Virginia and North Carolina need very little in terms of a share again on a one-year basis to get to a zero percent reduction. Virginia's share up there right now at 4 percent, to get to a zero percent reduction something in the 1 to 2 percent range would get them to a zero percent reduction.

For the states south of New Jersey, why is that important? I think that's important because for south of New Jersey those states are prosecuting the fishery in federal waters. This proposal would reset the 2011 measures to what they were in 2010 for federal waters. A 4 percent share to Virginia that would give them the opportunity to liberalize 245 percent in state waters, I don't think there is any incentive to do that in state waters knowing that the fishery is prosecuted in federal waters, so there is no incentive to liberalize there. I think that one of the places, if we're going to talk about modifying these either through motions or friendly amendments, I think that is one place that could be a discussion point here.

The next point that I'd like to make is as Pete indicated, New Jersey's landings are declining and New Jersey is in a unique situation in that our fishery is distinctly different at mid-state. The northern part of the state prosecutes a fishery on typically larger fish. The southern part of the state and also a fishery that occurs more in state waters – the southern part of the state's fishery looks much more like Delaware, Maryland, Virginia and North Carolina.

By going ahead and putting New Jersey's reduction on the same level as Massachusetts, Rhode Island and New York is severely disadvantaging New Jersey's anglers for greater than half of the state. To that end I would propose some modifications to these percentages here. I would offer as a substitute motion the following percentages.

I would propose a 24 percent share for Massachusetts, a 6 percent share for Rhode Island, a 1 percent share for Connecticut, a 28 percent share for New York, a 34 percent share for New Jersey, a 2 percent share for Delaware, 2 percent for Maryland, 1 percent for Virginia and 1 percent for North Carolina, with the caveat understanding that there are rounding issues here, so Massachusetts 24 percent is actually somewhere between 23.6 and 24.4 percent as all of these would be.

I would propose that with the intention of getting Delaware, Maryland, Virginia and North Carolina to a zero percent reduction with the intent of knowing that Massachusetts and Rhode Island in particular can go to a – due to the fish that they prosecute, they can absorb a larger size limit more easily. Delaware, Maryland and half of New Jersey, we go to 13 inches, the fishery is basically eliminated at that point.

I've talked to people from Rhode Island and Massachusetts, 13; 13-1/2 inches, you know, they can still get a meaningful season out of it. I would propose this or some variation again with the intent of getting as close to zero percent as possible for Delaware and south so they would need no reduction and going ahead and recognizing the fact that New Jersey's anglers are in a unique situation that they cannot absorb the higher size limit. Thank you.

CHAIRMAN SIMPSON: Okay, thanks, Adam; is here a second to that motion? Seeing none, it fails for lack of a second. We're back to the motion that Dr. Pierce offered up. Any other thoughts on this? Jack.

MR. TRAVELSTEAD: It's really hard to comment on it until we know and understand the reductions we're going to be facing. I don't know what to say other than certainly if Virginia were in a position to be able to liberalize its regulations, that's probably something we would not do. We would just stay at status quo, and it seemed to me that would accrue some benefit to the other states if a state that could liberalize did not. But, again, because I don't understand how this affects the reductions, I don't even know if that's a factor.

CHAIRMAN SIMPSON; Right, and I guess I'm just wondering – and maybe I can ask – I don't if it's fair to ask Pat but I'll ask her, anyway. She is used to having questions that aren't fair asked of her. From the federal perspective, if this addendum is successfully adopted, the intent had been for the federal waters fishery to revert back to 2010 measures.

If states were to do anything – if they're still facing reductions they would have to put in more conservative measures than occur in federal waters' and for states that are predominately federal waters oriented, what concerns does that pose for the National Marine Fisheries Service and for the commission what concerns does that pose for us in

terms of actually being able to achieve what on paper appears to be achievable.

MS. PATRICIA KURKUL: Well, what we would be looking for – it’s really not our concern how you get there, so what we would be looking for is sort of the next step where the technical committee looks at what the commission did in conjunction with us staying at status quo and checking it off and saying, yes, it does achieve the overall coast-wide reduction.

CHAIRMAN SIMPSON: Any other comments while Toni works this addendum on the fly for us? Pete.

MR. HIMCHAK: Just as a matter of procedure, taking and passing a motion such as this and then going back and explain it to the public, why would we change the percentages when we have options A through D that already have numbers that we took out to public hearing and showed the percent reduction. Why would we now change percentages here and there which reflect different reduction patterns? If we’re going to go state by state, at least let’s stick to what we presented to the public.

MR. A.C. CARPENTER: Picking up on what Pete just said, if you look at Option B the only difference is that it is based on a three-year average than Option D, which is a one-year average, and it has got almost the numbers that we’ve talking about; that Dave started with. Is there anything that you can look at there to see how it’s going to impact you?

CHAIRMAN SIMPSON: Any comment on that or response to that? Again, I think it’s those options that I’d begin to look at and say first I don’t know if the states under Option B are allowed to liberalize could actually, given the constraint in federal waters – and that being the case, then the states that took the reductions indicated there would be a net excessive reduction on the coast.

There would be an unnecessarily high reduction for the states that took a cut, so that has been my dilemma as I look at all this and trying to find relief for states that have made good arguments that these coast-wide measures have been more burdensome, but I’m struggling and I have struggled to find a way out of the box here myself. Okay, Toni, has something for us.

MS. KERNS: Okay, thank you, Rob, for your double-checking of my math and help. How the reductions would change, Massachusetts would go from a 37 percent reduction to a 43 percent reduction.

New York would go from a 37 percent reduction to 39. New Jersey would go from a 37 to a 40 percent reduction. And then Delaware would be able to liberalize by 24 percent, Maryland by 11 percent and Virginia by 263 percent. I thought North Carolina stayed at 1; didn’t North Carolina stay at 1 percent, so they would have no liberalization allowed. It would be a 37 percent reduction.

CHAIRMAN SIMPSON: Toni, can you do those again because I expected them to come in order and they didn’t.

MS. KERNS: Massachusetts, 43 percent.

CHAIRMAN SIMPSON: Rhode Island, 37.

MS. KERNS: The states that didn’t have a change in their share just stayed the same, so then New York was at 39 percent reduction, New Jersey at 40 percent reduction. Delaware would be able to liberalize by 24 percent, Maryland by 11 percent and Virginia by 263 percent.

CHAIRMAN SIMPSON: Okay, any thoughts to that? Tom, please.

MR. THOMAS O’CONNELL: Just to follow on to something that Jack said earlier; I’m just wondering – under the analysis you have several states that could liberalize; one pretty significantly. I know their harvest is relatively small; but if those states decided not to take any liberalization and kept status quo, I’m just wondering if that would help out New Jersey at all. I think they are kind of disproportionately impacted given the harvest trends in that state.

MS. KERNS: Tom, I’m not sure but I don’t think it will work out on paper. Theoretically, yes, but on paper I don’t think it works out, but give me five minutes to confer with my one technical member that is here and I will get back to you.

CHAIRMAN SIMPSON: Yes, I think that gets to the point that I was making before that those states really can’t liberalize. They would maintain status quo essentially and so the reductions that you see where they do occur would be slightly less than advertised, slightly less. Any other comments or thoughts while we do the assessment and pick motions at the same time? Jim.

MR. GILMORE: I think the intent of this is definitely honorable and I agree with it, but if we start getting bogged down on this, I really think we’re splitting hairs at this point. Option D, the way it was

presented, is what we brought out to the public and I don't think it really dramatically changes the reduction. Anyway, if we can't get to this, I'd suggest we just go back to the original option.

CHAIRMAN SIMPSON: The original Option D? Well, we'll try to give this a couple more minutes in the spirit of finding something slightly better. Pete.

MR. HIMCHAK: Dave, while we're waiting on these calculations, could we see the suite of coast-wide management measures and at least get a chance to study them while we're – to see if something there is appealable to everybody.

CHAIRMAN SIMPSON: Yes, that was a good idea. Toni has already kind of preworked these up and as I said made that effort to give us some of the springtime. Given this is almost the end of March and the one- or two-month lag that she was suggesting could occur, time is getting short. Jack, please.

MR. TRAVELSTEAD: Dave, since we have time to sort of think out loud, if assigning – and just as an example – if assigning Virginia a 4 percent share allows us to liberalize by 263 percent, it seems to me you do the reverse of that and you put Virginia at zero percent and then determine what percentage share would equate to that zero percent reduction, and you do that for the three states that can liberalize, then the percentages that you've saved – the percentage shares that you've saved could be reassigned to Massachusetts and New York and New Jersey or however, so that they would suffer less reductions. Is that what we're trying to do? I don't know what our two scientists there are trying to come up with, but that seems to me what needs to be done.

CHAIRMAN SIMPSON: Yes, I think that said; I mean, obviously 263 percent, increase of 1 percent, if those are converted to numbers of fish isn't a lot to the others, but that's where they're headed. Again, in practice I don't think any of these states really could liberalize unless they're really going to invite some non-compliance in federal waters, and I don't think we want to offer that temptation to too many people.

MS. KERNS: The scientists have conferred and we think if you do not liberalize, then, yes, some of those fish could help out those northern states, but how much we're not – it's not quite that simple, and this is different than we did with dogfish because you were working with a set of allocation numbers that were already there. I don't want anyone to think it's the same.

MR. ROB O'REILLY: I think to make it really easy, if you look at the question that Jack had asked on the regional approach with Option C under Option 1 of the regions, it is a situation where Massachusetts and New Jersey has a 40 percent reduction; Delaware to North Carolina can liberalize by up to 37 percent. You see to the left of that the shares.

The first thing is there would have to be some available lesser amount of a reduction for Massachusetts and New Jersey if none of that liberalization was taken by the states Delaware to North Carolina. As Tom had mentioned, we just go status quo. At least mathematically it would be 7 percent of the 37 percent liberalization – it's about a little over 2.5 percent – that 2.5 percent would apply to the 40 percent reduction for Massachusetts and New Jersey and so you're at about 37.5 percent, just past the 37 percent. That's the easy way to look at it.

Once you start talking about state by state, it would take a lot more thought to think about. The possibility is there, but, of course, as Toni brought out, these are based on 2010, and what liberalization really would occur in those states to be begin with. So theoretically there could be a donation that way, but it's probably up to the board to talk it out a little more. It is a little complex and it is different than the spiny dogfish measures that were put in place because that was the same data you saw and simply using that as part of the process.

MR. TRAVELSTEAD: Just to go back to the motion, I guess it's still before us. It seems to me a better motion would be one that simply articulates the percent reductions that would be required of each individual state in 2011, but instead of for those three states that can liberalize substitute zero as the percent reduction. I think it is just a little bit clearer and easier to debate. I would suggest that to David. I don't know if that would be a friendly amendment or not.

DR. PIERCE: So you're suggesting, Jack, that it would a zero percent reduction for North Carolina, Virginia, Massachusetts and Delaware – well, actually it would be Virginia, Maryland and Delaware; instead of the liberalization there would be no change, right? That's your suggestion?

MR. TRAVELSTEAD: Yes, whatever states would be allowed to liberalize under your formula, we would not allow liberalization, in other words, under the motion, and just put them at a zero percent reduction instead of a minus number.

DR. PIERCE: That would seem sensible but I don't know what that does – how that affects the percent shares or the percent reduction for the other states. I assume in a favorable way; that is, less reduction and a slightly greater percent share. Those calculations would have to be done.

MS. KERNS: I don't think that Jack is suggesting you adjust their share; that they would still have that same share, but hoping that by not having those states liberalize we would come closer to not overharvesting in 2011 but not actually reducing those other states' reductions necessary.

DR. PIERCE: Well, that would be fine. If that's the logic behind Jack's suggestion, it's good logic so that's fine.

CHAIRMAN SIMPSON: Yes, there are five states that make up 1 percent; and if they each are supposed to reduce by 37 percent, that's 1.5 percent that we're spending all this time on and trying to figure out where it's coming from if my quick math worked. You know, even if you applied that beyond the states that could liberalize, what we're talking about is – especially for those southern states, leave Connecticut out of it for the moment because we're in the middle of a bigger fishery – we're talking 1.5 percent here on this whole thing.

If everyone were to take their 37 percent except for the states of Delaware south, we'd be within a percent and a half of where we're supposed to be. I don't know if we can live with 98.5 percent of goal. Okay, I'll phrase that in the form of a question like we're playing jeopardy. Pat, what would happen if we did simply that and the states that are a 1 percent simply stay where they are and the other states implement 37 percent, we're within 2 percent of what we were shooting for and we avoid a lot of complication; is that close enough for government work, as they say?

MS. KURKUL: Let me turn that back around. I haven't been following the numbers exactly, so if we went to the zero on the states that could liberalize and everybody else stays at 37, you're saying that would be 98.5 percent?

MS. KERNS: North is the one state that technically should – they only get 1 percent of the share but because their share didn't change and we're basing the allocations off of the 2010 harvest, they would still need to reduce by 37 percent, because everybody has to reduce by 37 percent when the share off of 2010.

We didn't change their share so they would still have that 37 percent reduction; but because it's 37 percent reduction of 1 percent of the whole quota, it probably means we'll be within 2 percent of what is necessary for the coast in terms of reduction. We wouldn't quite make that entire reduction although it might be a little closer. I just don't have the math capabilities on hand to tell you what the difference would be because Virginia, Maryland and Delaware wouldn't take their allowed liberalization because we adjusted their share.

CHAIRMAN SIMPSON: Right, so again if each state with 1 percent did nothing, then we would fail to get a 0.37 percent reduction from each of those; 0.37 times 5 is 1.6 percent of something like that.

MS. KURKUL: For Delaware, Maryland and Virginia that could liberalize at the 37 percent, I guess I don't understand why there would be some reduction that we're not getting there.

CHAIRMAN SIMPSON: I guess I'm proposing that if we just looked at Option D as it is and everyone is taking a 37 percent, if you just look at the five states that have 1 percent and say you're not going to get any reduction there, all you lose is about a percent and six or seven-tenths. They don't matter either way.

MS. KURKUL: You weren't going to get any reduction in Delaware, Maryland and Virginia, anyway. I'm trying to help here, actually. You weren't going to get any reduction in those three states, anyway, so you're not losing the 1.5 percent or 1.6 percent. You're only losing North Carolina, right?

CHAIRMAN SIMPSON: Right. I mean, it's just showing how subtle the difference is that David was offering to hold several states harmless and it's making people uncomfortable understandably because you're giving a different percent share and people can't see that through to the end how it is going to affect them. They still don't know what it's going to look like for a bag, size and season limit. David's point here is there are three, four or five states that no matter what they do it doesn't matter. Adam.

MR. NOWALSKY: Knowing the monitoring committee and the technical committee's advice on this in the past that season is the best way to constrain catch, my concern with leaving all states from New Jersey north at 37 percent is again because of the ability for Rhode Island and Massachusetts, due to

the nature of the fishery that they prosecute, to simply go up in size.

They can have a season that will remain open for a significant number of days. We've seen increases in landings from those states in recent years which we can make other arguments about why we're here, quota or other issues, but the increase in landings in those states is contributing to why we're here now; and by having a 37 percent reduction from New Jersey northward, I see those states having the opportunity to have a very long season, and I ask how is that going to help for next year? Is that really going to constrain the landings which is what this exercise is supposed to be about.

CHAIRMAN SIMPSON: But size, season and bag are all acceptable approaches in this program. To try to get us to some action here, I think the motion before us is Dr. Pierce's. I think you have the sense that those changes are very, very small relative to what Option D shows under state shares.

If I could facilitate, Jack had made the point that states that were able to liberalize may offer to amend that motion to sort of hold them harmless. There would be no change, they wouldn't liberalize. I think we need to get some comment directly on that or I'm going to call the question. A.C.

MR. CARPENTER: I'm really starting to get confused. If the states that are going to be held harmless, it's not status quo. They're not going to have the same regulations that they had last year but they going to have to have a zero percent conservation or equivalency – with the same regulations? Okay, so you wouldn't have to submit a plan?

CHAIRMAN SIMPSON: Right, I think that's where we would end up because federal waters revert back to 2010 rules. If states that were allowed to liberalize simply stayed at 2010 rules, we're well within the error of this kind of work we do, and the other states would have a slightly, ever so slightly modified percent reduction. Is there anymore comment on this motion? Craig.

MR. SHIREY: If you're looking for some commitment from, well, one of the states anyway that would have zero percent reduction or maintain status quo, Delaware would certainly agree to do that. We go to public hearing tonight just on a whim and a prayer that we would have an option to actually to go to public hearing with in order to have any kind of a season this year.

If we don't tonight, we won't be able to have a regulation in place before July. If we could maintain status quo as far as our 2010 regulations go, it would help out immensely, assuming that would be the case in federal waters.

MR. TRAVELSTEAD: I'd just like to make that clear. **I'd like to amend the motion so that it specifically states that Delaware, Maryland and Virginia will remain at status quo with their regulations.** Otherwise, I go back home and my fishermen see that Virginia can liberalize by 263 percent, they're going to want me to put a 9-inch size limit and a 50-fish bag limit in place. I don't want to have that battle.

MR. O'CONNELL: I second the motion.

DR. PIERCE: I accept that as friendly, Mr. Chairman.

CHAIRMAN SIMPSON: Accept that as a friendly; any other comment on that? North Carolina is in there. We I guess standing way in the north, why we can't catch black sea bass when we're apparently surrounded by them, I don't know. Is the motion understood, then; move to adopt state shares using 2010 data as shown in Option D with the following changes: Massachusetts 26 percent, Rhode Island 8 percent, Connecticut 1 percent, New York 30 percent, New Jersey 27 percent, Delaware 2 percent, Maryland 2 percent, Virginia 4 percent, North Carolina 1 percent. Delaware, Maryland and Virginia will remain at status quo. Motion by Dr. Pierce; second by Mr. McElroy. Tom.

MR. THOMAS FOTE: You notice I've been very quiet and I haven't said much. I'm still looking at this table and I still look at what I went out to public hearings with and that's Option D. In this Option D, I'm 28 percent and I do a reduction of 38 percent. Now I reduce my share to 27 percent and I do a reduction of 40 percent.

As much as Jack will have a hard time going to his state explaining that, I'm going to have a real hard time explaining that to my fishermen because I don't understand it why am I taking a bigger reduction, especially since we're not liberalizing the south, and all of a sudden I'm basically taking in my state a 2 percent more reduction and I'm not sure why.

CHAIRMAN SIMPSON: Well, it is still within the range of the potential reductions that were taken out for comment. They range up to 43 percent for New Jersey, up to 43 percent, anyway.

MR. FOTE: But that was different tables; you changed the figures in Table D because of Massachusetts suggestion and we wind up taking a bigger reduction than we had to do in Table D. We had to do a 37 percent reduction; now we have to do a 40 percent reduction. That's bigger than the other states and the other states are staying status quo.

It's very difficult and that's really unfair to a state, especially since you went out to public hearings with this and there is no justification that I can see in my mind why we're not doing at least what we went out to public hearings with. You're putting in another option that basically allows other people to do things and basically makes New Jersey take a bigger reduction.

CHAIRMAN SIMPSON: Okay, that's a fair comment and the basis for voting, but I think it's certainly within what was taken out to public hearing. Pete.

MR. HIMCHAK: **I would like to offer a substitute motion which would be essentially the same language that's up there, but to end the sentence at "as shown in Option D"; and not with the following changes, and then keep the issue about Delaware, Maryland and Virginia.** I mean that I can explain. I'm not too crazy with that option, Option D, but at least with the following changes, the 2010 percentages are based on a straight calculation and they should stay that way, Option D.

CHAIRMAN SIMPSON: So you're offering a substitute motion for a straight Option D? Could you complete it so we have it?

MR. HIMCHAK: Yes, **adopt state shares using 2010 data as shown in Option D and then add the language "Delaware, Maryland and Virginia will remain at status quo."**

CHAIRMAN SIMPSON: Okay, does everyone understand that? Is there a second to that motion? Pat Augustine. Go ahead, Pat.

MR. AUGUSTINE: Mr. Chairman, we had this discussion and we touched on it a half hour ago or 40 minutes ago and we're squirreling around with a bunch of numbers that are going to amount to how many fish for how many people. It did go out to the public. Yes, it's within the realm of the range that we discussed, but it's very clear.

It was done numerically. Here we're talking about now coming up with another set of numbers that

mathematically it will solve the problem. It's okay but in reality what is the real difference? Again, here is another case where we're fogging up an issue that was relatively clearly presented to the public. It gets very confusing and upsetting. When the public gets hold of this information and takes it out of context and we're slam-dunked again. I would support Mr. Himchak's motion.

CHAIRMAN SIMPSON: Toni has a comment.

MS. KERNS: I want to just to be clear to the states of North Carolina and Connecticut, under both of these motions you still need to take the 37 percent reduction. It's only the states of Delaware, Maryland and Virginia that get the pass and don't any reduction and keep the status quo 2010 measures.

CHAIRMAN SIMPSON: So with that information, Tom.

MR. O'CONNELL: I've been sitting here and biting my tongue a little but I think I'll say something. It was just a couple of days ago that we had a very similar discussion on spiny dogfish, which I raised the same concern. While I appreciate the comment, Tom, I didn't hear that concern with spiny dogfish.

There is an option within the addendum that has New Jersey at higher than 40 percent, so it is within the range of the addendum. I will say that this is a little – I mean, I think we have to be very careful on what we're doing here with transparency. In the spirit, everyone is trying to figure out the best solution forward, but I appreciate your concern, Tom. I had it earlier in the week. Thank you.

CHAIRMAN SIMPSON: So recognizing Toni's comment that North Carolina and Connecticut, the other two remaining 1 percenters, would still face 37 percent. If there are no other comments or motions, I'm going to call the question. I'll read it again. While I'm reading it you folks can caucus.

Move to substitute to adopt state shares using 2010 data as shown in Option D. Delaware, Maryland and Virginia will remain at status quo. Motion by Mr. Himchak; second by Mr. Augustine. Is everyone ready for the question? All those in favor raise your hand, I see four in favor; those opposed, I see six; any abstentions, two; any nulls, none. **Okay, so the motion fails.**

We're back to Dr. Pierce's motion. Can we roll that back up so we can look at it and we'll vote that up or down. The motion that is before then is to adopt state



shares using 2010 data as shown in Option D with the following changes: Massachusetts, 26 percent; Rhode Island, 8 percent; Connecticut, 1 percent; New York, 30 percent; New Jersey, 27 percent; Delaware, 2 percent; Maryland, 2 percent; Virginia, 4 percent; North Carolina, 1 percent. Delaware, Maryland and Virginia will remain at status quo. Motion by Dr. Pierce; seconded by Mr. McElroy.

Are you ready for the question? All those in favor raise your hand, I could 8; opposed raise your hand, I see two; abstentions, two; and null votes, none. **The motion passes 8, 2, 0, 2.** With that passed, I think there is some technical work to figure out what these numbers actually mean and what we actually agreed to today. Those tables and whatnot I guess in the next couple of weeks?

MS. KERNS: When Jessica gets back from her vacation, I will ask her to create the appropriate tables and then give dates to each of the technical committee members in which they need to submit those proposals and then an e-mail out to the board for a date for a conference call to approve the state proposals. Please keep in mind that I will give a very tight timeframe for the technical members to create their state proposals; I apologize for this but in order to get you guys your regulations as fast as possible.

CHAIRMAN SIMPSON: Thanks, Toni, **so to finish this off we need a motion to approve the addendum as modified today. Mr. Gibson; seconded by Ben Martens.** I don't suppose you need time to caucus. All those in favor raise your hand, 10 in favor; any opposed, 1 opposed; any abstentions; any null votes. **All right, thank you, it's approved.** A.C.

MR. CARPENTER: I didn't say anything during the entire debate because I didn't want to confuse the issue, but when ASMFC went to their three-meeting schedule, I'm still on a four-meeting schedule. As a default we adopted the 2011 coast-wide measures at our last meeting. Am I to assume that based on the adoption of this addendum that we will be able to adjust that back to the 2010 status quo numbers that we had for last year?

MS. KERNS: PRFC would be able to do that because both Maryland and Virginia, through this motion that we've done today, have gotten status quo 2010 measures, yes.

MR. CARPENTER: As long as that's on the record we'll accept that. Thank you.

CHAIRMAN SIMPSON: Okay, thanks, and Connecticut already adopted the 2011 measures yesterday. We had to move; publication date was today.

### **DISCUSSION OF MAFMC ACTION TO INITIATE ADDENDUM TO BLACK SEA BASS FMP**

MS. KERNS: At the December Mid-Atlantic Council Meeting the day after the joint meeting with the commission, the council initiated a draft amendment for black sea bass. This amendment proposes to address the regional and spatial management of the black sea bass recreational fishery. This is due to the observed regional differences in the catch rates and impacts on the recreational fishery.

I passed out the action plan that the FMAT has put together at the beginning of the meeting that looks at the timeframe for this amendment through the Mid-Atlantic Council. The document is scheduled to be developed by February of 2012. It would be approved for public comment at their February meeting and then public comment would be in March and April of 2012 and then council approval in June and then the final rule would be published in December of 2012.

The commission has not put forward any action to start an amendment for black sea bass and so some of the things that we can do; we can either initiate an amendment to coincide with what the council is doing or we can wait to sort of see what types of options get put into their amendment document.

Because the council is not scoping, if we were to initiate an amendment today, then we would actually have to go out and scope and do a PID because of our process, so that actually would set us off to be at a different timeline than the council. Currently the options that the FMAT has discussed to be included in the draft document for the council to consider are all issues that we can change through an addendum.

It's staff's recommendation that we wait to see what types of options get put into the amendment and then decide whether or not the commission wants to take action so that we can have coinciding documents. Just because the council does an amendment doesn't mean that we have to do an amendment to do all the same actions that they do.

We can still do the same actions through an addendum. That's the information that I have and I

just want to see if anybody has questions or if anyone thinks that we should go forward with action today or if we should wait and see what types of options get put into the council amendment.

MR. AUGUSTINE: Mr. Chairman, being familiar with the council action, I think this is an issue that would allow the council and commission to be on the same page all the time with black sea bass. It may be a precursor before we try to do this with summer flounder eventually.

It just seems to me that if we have the next meeting of the council see what their final issues are that they're including, then maybe at our August meeting – I think the timing would be right on that, Rick – the August meeting, see what those options are – I think you know what they're going to be, Toni – and at the August meeting then bring forth the possibility of an addendum so we would be in lockstep with them. They are tools in our toolbox that I think we really need to include in this fishery.

MS. KERNS: The council won't receive a draft amendment until February. That's what is in the timeline right now from the FMAT. It's staff's recommendation that we wait until we have a better idea of what those options will be. One of the things that the FMAT is waiting on – not waiting on, but we will consider is after the fall assessment of black sea bass – it's a benchmark assessment – depending on what comes out of that benchmark assessment, the FMAT could initiate some additional management measures through that amendment. That's the reason why I'm recommending that we hold off until we see what options actually get put into that document before we move forward.

MR. AUGUSTINE: In response, Mr. Chairman, in your white paper that you put out, Toni has specifically indicated what those options would be, and I'm assuming they won't change significantly but I would agree if you believe that it's best that we don't have to go out and do a scoping before that on our own. I suggest we also wait. The question is how long; do we wait until February, do we wait until the winter meeting? We would look for a recommendation from you on that.

MS. KERNS: I think we wait until the annual meeting.

MR. AUGUSTINE: That's fine; Mr. Chairman, can we do that?

CHAIRMAN SIMPSON: I think we can. The next agenda item, is there is nothing else on that, is an update on the Mid-Atlantic's Scup Analysis.

### **UPDATE ON MAFMC REQUEST FOR PROPOSALS FOR SCUP ANALYSIS**

MS. KERNS: The Mid-Atlantic Council sent out a request for proposals to assess the current allocation of scup and an economic analysis or a bio-economic simulation model that evaluates the marginal benefit of the commercial catch, the recreational catch and the consumer consumption. Any changes in the marginal benefits of scup allocations between fishing sectors or a commercial period change under various allocation scenarios should also be developed.

In addition to these two tasks, if the data allow, a marginal benefit curve should be simulated for each sector that allow for the examination of non-marginal changes in the current allocation and identification of optimal allocations of scup between the user groups and between the periods. This scope of work was put out earlier in the year.

The Mid-Atlantic Council has received three proposal requests and within the next month they will choose one of those three to do the work, and then that work will begin. We think it will take anywhere from a year to a year and a half before – one year before we can use that information and present back to the board and the council to determine if they want to move forward with any management action based off of that analysis.

MR. AUGUSTINE: Mr. Chairman, does that mean that the council would not even consider putting that as an option with this black sea bass addendum or amendment we're putting through now. I guess I'm trying to get a feel for do we wait the full year when the results come back in before we as a board suggest to the council that they go forward with an addendum to the plan, to incorporate the possibility of addressing allocation, if it is an issue, when it comes back from the assessment.

MS. KERNS: It's something that FMAT is aware of. We started to have discussions of it, but we have not made a recommendation.

CHAIRMAN SIMPSON: Okay, but it was something that was suggested as a possibility at the Mid-Atlantic Council Meeting in December after the species boards met that potentially the two could be moved together. Maybe the timeline has slipped a little bit, but that would be optimal certainly in my

view. When you say the fishing sectors, that does include the recreational and commercial sectors and the different periods? Great! I'm hoping there will be an English translation provided. Thanks. Dr. Pierce.

DR. PIERCE: I'll only say that I'm fully supportive of the statement of work. I'm glad to see the Mid-Atlantic Council is moving this forward. The economic analyses or bio-economic simulation model that is developed and then used, if it's successful and predictive, useful, then we can certainly use it for some of the species, I suspect, that we manage.

The commercial and recreation split on scup has been a source of controversy for a long time now. The value of the recreational fishery versus the value of the commercial fishery; any further work done to give us a better feel for the economic impacts, benefits, commercial versus recreational to me is very much welcomed. I'm glad they're moving it forward.

CHAIRMAN SIMPSON: It is good and I'm looking forward to seeing the results myself. What else do we have, Toni?

### **BLACK SEA BASS PLAN REVIEW TEAM MEMBERSHIP**

MS. KERNS: The last item on the agenda is that the state of Massachusetts has asked to change their member on the plan review team. This does require board approval. Currently Mike Armstrong is the plan review team member for black sea bass. They're requesting that Paul Caruso replace him.

CHAIRMAN SIMPSON: Is there a motion necessary for that?

MS. KERNS: You can do it by consensus.

### **OTHER BUSINESS**

CHAIRMAN SIMPSON: Any objection to doing that? Okay, great. Anything else to come before the board today? Adam

MR. NOWALSKY: I understand it's not going to change anything, but I would ask if there were any members from the audience to offer any public comment on any of the decisions that have been made here. There was no option for public comment at that time. I know the congressman again sent somebody down here today, so I would ask if you'd

make that opportunity here before you adjourn the board.

CHAIRMAN SIMPSON: Sure, and I apologize, I did miss that step. Does anyone have any comment on the addendum today?

MR. BRENDAN HENNESSEY: My name is Brendan Hennessey. I'm a legislative assistant with Congressman Frank Pallone for anybody that wasn't here earlier today. The congressman is a member of the Natural Resources Committee and the subcommittee that has jurisdiction over our fisheries.

Part of the reason I'm here today is because of the discussion of black sea bass. The congressman made his position on black sea bass pretty clear in the letter back in December to the Secretary of Commerce, Secretary Locke, asking that the quota do be increased because in our opinion that is the underlying problem.

I know you guys have had quite a lengthy discussion today as allocation among states, but we do believe that is a problem. We did write to the Secretary of Commerce and so we continue to maintain that position. If anyone has any comments that they'd like to pass on to the Congressman Pallone, I'd be happy to discuss with you those issues. In general that is our position. Thank you.

CHAIRMAN SIMPSON: Okay, thank you; any other comment? Vince.

EXECUTIVE DIRECTOR O'SHEA: There have been a couple of comments made today. Just as a reminder, Mr. Chairman, on the final agenda we had public comment guidelines published and it says, "For agenda actions that have already gone out for public comment, it is the policy board's intent to end the occasional practice of allowing extensive and lengthy public comments. Currently board chairs have the discretion to decide what public comments to allow in these circumstances."

This addendum was taken out to public comment, public comment was received both written and testimony, and how you handled that comment was, per our policy, within the discretion what the policy board has authorized the chairs.

MR. FOTE: I really have a problem with the executive director's statement here. Basically we did not go out to this option that was basically discussed here at public comment. There was nobody here to public comment. People show up at a meeting and if we're going to have discussions, and it says for

extensive or long term – there was one maybe one or two or three people sitting in this audience that would have taken a total of five minutes.

I've watched this process for the last couple of years being turned around and not have public comment. At another meeting we had the same thing. We did different things. One of the things when this Atlantic Coast Conservation Act was passed, one of the things that – you bring up some names like Jerry Schill, Larry Sims and I that worked when that bill was passed in '94 and we said we would open up the process to the public to make sure the public can get involved all the way.

We basically looked at the council as an example of how that should work when they take public comment. In the last couple of years I've seen a move away from that and I find that very discouraging. People take the time and the effort to come here.

CHAIRMAN SIMPSON: Okay, thanks, Tom. I'll say I am facing the audience and sort of reading body language. I just didn't see any interest in comment and certainly if anyone had flagged from the board here an interest in having somebody speak, I would have given them the opportunity. I wasn't seeing any body language that was crying for comment.

MR. FOTE: Well, I mean, Dave, then, you should say when you open your remarks, if you want body language, please show body language if you want to pick a public comment. You should –

### **ADJOURNMENT**

CHAIRMAN SIMPSON: Usually you don't have to tell people to show body language when they want to talk, Tom. I think we're adjourned. Thank you.

(Whereupon, the meeting was adjourned at 2:35 o'clock p.m., March 24, 2011.)