

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

**Doubletree Hotel  
Alexandria, VA  
May 9, 2006**

## ATTENDANCE

### Board Members

David Pierce, Massachusetts DMF  
William Adler, Governor Apte. (MA)  
Vito Calamo, proxy Rep. A. Verga (MA)  
Mark Gibson, **Chair**, Rhode Island DEM  
Gil Pope, proxy Rep. Naughton (RI)  
Everett Petronio, Governor Apte (RI)  
Eric Smith, Connecticut DMR  
Gordon Colvin, New York DEC  
Pat Augustine, Governor Apte. (NY)  
Brian Culhane, proxy Rep Sen Johnson (NY)  
Paul Scarlett, proxy D. Chanda (NJ DFG&W)

Rick Cole, proxy for Patrick Emory (DE)  
Bendard Pankowski, proxy Sen R. Venables  
Howard King, Maryland DNR  
Bruno Vasta, Governor Apte (MD)  
A.C. Carpenter, PRFC  
Kelly Place, proxy John Chinchester  
Preston Pate, North Carolina, DMF  
Damon Tatem, Governor Apte. (NC)  
Jimmy Johnson, proxy W.Wainwright (NC)  
Jamie Geiger, USFWS  
Harry Mears, NMFS

Vince O'Shea  
Bob Beal

### ASMFC Staff

Toni Kerns  
Nancy Wallace

### Guests

Chris Moore, NMFS  
Peter Burns, NMFS  
Tome Fote, JCA  
Steve Doctor, MD DMR  
Wilson Laney, USFWS  
Steve Meyers, NOAA Fisheries  
Roy Miller, DE F&W  
Tim Dillingham, American Littoral Society

**Index of Motions**

**I move to adopt Addendum XVI to the Summer Flounder, Scup, and Black Sea Bass FMP as follows: For each Issue 1A, 1B, and 1C: A)Failure to adopt annual adjustments to minimum fish size for summer flounder, scup, and black sea bass; B)Failure to adopt initial Winter I trip limits by January 1 and Winter II trip limits by November 1 for the scup fishery; C)Failure to adopt reduced scup trip limit for the Winter I and Winter II periods when required due to established triggers; For each day that a state does not implement these commercial measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season. For example, if a state does not implement appropriate minimum fish sizes for the first two weeks of the fishing season, in the following year the season would be closed for the first two weeks of the season. Similarly, if a state does not reduce scup trip limits for the Winter I or Winter II periods, as required by established triggers, the following fishing season would be closed for an equal number of days the delay occurred after the trigger had been met. 8**

**For Issue 1D: D) Failure to close the black sea bass or the summer scup fishery after the state quota has been reached. If a state fails to close its black sea bass or its summer scup fishery after the state quota has been reached, states will compensate pound for pound for up to 25 percent of the original state quota. Any overages beyond 25 percent of the state quota are compensated at 1.5 times..... 8**

**For Issues 2A through D: A)Failure to adopt board-approved size limits for summer flounder, scup, and black sea bass; B)Failure to adopt board-approved seasonal closures for summer flounder, scup, and black sea bass; C)Failure to adopt board-approved possession limits for summer flounder and scup by the date the current season opens; D)Failure to adopt board-approved possession limits for black sea bass by January 1 or the date the current season opens, whichever is later.8**

**For each day that a state does not implement the approved recreational measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season..... 9**

**For Issue 3, Maximum Implementation Period, adopt Option 2, a Maximum Implementation Period, noting that it applies to scup trip limit changes and not to other management measures that have to go through state rulemaking processes. 9**

**For Issue 4, Required Notification Period for a State to Notify the Commission of Regulatory Changes, adopt Option 2, a minimum notification period. 9**

**I guess what I'm going to do is I'm going to offer a motion to amend Section 2D and strike the language that's in the current motion from January 1 to the end of that sentence and replace it with this following language. The entire sentence would read: Failure to adopt board-approved possession limits for black sea bass by the start of the MRFSS wave during which 500 or more black sea bass, numbers of fish, have been landed. I offer that as a motion to amend, Mr. Chairman..... 11**

**Then it would read: Failure to adopt board-approved possession limits of black sea bass within ninety days or by March 1<sup>st</sup> when the board determines recreational measures for black sea bass. .... 14**

**Approve possession limits of black sea bass within ninety days from when the board determines recreational measures for black sea bass or March 1<sup>st</sup>, whichever is later. .... 14**

**The motion to amend reads as follows: Move to amend the amendment: Failure to adopt board-approved possession limits of black sea bass within ninety days from when the board determines recreational measures for black sea bass or March 1<sup>st</sup>, whichever is later.**

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ATLANTIC STATES MARINE FISHERIES  
COMMISSION

SUMMER FLOUNDER, BLACK SEA BASS,  
AND SCUP MANAGEMENT BOARD

Doubletree Hotel Crystal City  
Arlington, Virginia

May 9, 2006

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The Summer Flounder, Black Sea Bass, and Scup Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the Doubletree Hotel Crystal City, Arlington, Virginia, Tuesday morning, May 9, 2006, and was called to order at 10:15 o'clock a.m. by Chairman Mark Gibson.

CHAIRMAN MARK GIBSON: I welcome you all to the Summer Flounder, Scup, and Sea Bass Board. The first order of business is our agenda. I'm aware of one item that needs to be added under Other Business and that is the potential splitting of the Advisory Panel.

I think that flows from a past board meeting and Toni needs some more guidance on that and so I would like to add that under Other Business. Are there any other adjustments or changes that need to be made to the agenda?

Is there any objection to proceeding with the agenda with the changes I just noted? Seeing no objections, we'll proceed. The agenda is approved as adjusted. The next item is Proceedings from the February 2006 Board Meeting.

MR. PAT AUGUSTINE: If there are no changes, I suggest we approve the minutes.

CHAIRMAN GIBSON: Are there any objections to approving the minutes as written? Seeing none, the proceedings stand approved from February of 2006. Our next agenda item is Public Comment. Is there anyone from the public who wishes to address this board on

matters not directly associated with the agenda?

When action items come up, there will be an opportunity for the audience to address those directly, but is there any public comment to the board at this time? Seeing none, we'll proceed with the meat of the agenda. Item 4 is Draft Addendum XVI Final Action and I'm aware that there may be a motion to get this started.

MS. TONI KERNS: I'm just going to quickly go through the decision document which was included on the briefing CD. If you do not have a copy of the decision document, it is on the back table, as well as a copy of Addendum XVI.

The working group got together and had a couple more conference calls and put together this decision document. For the commercial fishery in summer flounder, scup, and black sea bass, for Issues 1A through C, A being the failure to adopt annual adjustments to minimum fish size for summer flounder, scup, and black sea bass; Issue B, failure to adopt the initial Winter I trip limits by January 1 and Winter II trip limits by November 1<sup>st</sup> for the scup fishery; and Issue C, failure to adopt reduced scup trip limits for the Winter I and Winter II periods when required due to the established triggers, the working group encourages that we adopt -- For each day that a state does not implement these commercial measures, an equal number of days during the same or equivalent time period would be closed for the following fishing season.

This concept was in the addendum, but it's not worded exactly the same way. It's slightly different because of the equal number of days during the same or equivalent time period. It's slightly different than the actual addendum that went out for public comment for each of these issues. It didn't include the equal number of days or equivalent time period and that's the difference between the decision document and the addendum options.

For Issue 1D, failure to close the black sea bass fishery after the scheduled state quota has been reached, we also added to this the summer scup fishery, which is when the commission manages

the scup fishery allocation for the states for the commercial fishery.

In this, it's encouraged that if a state fails to close its black sea bass and/or scup summer fishery after the state quota has been reached, states will compensate pound for pound for up to 25 percent of the original state quota and any overages beyond 25 percent of the state quota are compensated for at 1.5 times that.

This concept was also in the original addendum that went out for public comment for black sea bass, but not for scup. It was slightly different percentages and the percentage here, the 25 percent, is actually less restrictive than what went out for public comment in the addendum.

For the recreational fishery, Issues 2A through D, Issue A being the failure to adopt the approved size limits for summer flounder, scup, and black sea bass; Issue B being the failure to adopt board-approved seasonal closures for summer flounder, scup, and black sea bass; Issue C, the failure to adopt board-approved possession limits for summer flounder and scup by the date the current season opens; and Issue D, failure to adopt board-approved possession limits for black sea bass by January 1<sup>st</sup> or the date of the current season opening, whichever is later, the working group recommends the following management options.

For each day that a state does not implement the appropriate recreational measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season.

Again, the option that went out for public comment incorporated this concept, but the wording was not exactly the same. It didn't include the equal number of days or equivalent time period and so it's just a slight adjustment from the issues that were in the original public comment addendum document.

Lastly, for other management measures, the Maximum Implementation Period, the working group recommends that the addendum be modified to note that Issue 3, Maximum

Implementation Period, only applies to scup trip limit changes and not to any other management measures that have to go through rulemaking process.

This would make that concept less restrictive than what was in the original draft addendum document itself and those are just all the issues that were included in the decision document and how they were slightly altered from the draft addendum.

CHAIRMAN GIBSON: Thank you, Toni. Are there questions for Toni?

MR. RICK COLE: Toni, I'm confused on this Issue 2D, Possession Limits for Recreational Black Sea Bass. One version I have here of the decision document specifies that a state would have to have the possession limits in place by January 1.

Is that how it stands now or there was another version of the document that said that a state could have the possession limits in place before the fishing season in that particular state began, based on the MRFSS information. I think they used the threshold of 500 fish or 500 pounds or something.

My concern is this January 1. This is not a realistic date for states that have administrative procedure policies that they have to follow and so is that January 1 in this document that we're considering here today?

MS. KERNES: Yes, we are considering the January 1 in this document here today, as outlined in -- What we're considering that's recommended by the working group is January 1 and Gordon is now shaking his head no.

CHAIRMAN GIBSON: Gordon, do you want to clarify this?

MR. GORDON COLVIN: The motion that will shortly be offered states failure to adopt by January 1 or the date the current season opens, whichever is later.

CHAIRMAN GIBSON: Other board comments

or questions?

MR. HARRY MEARS: I have a process related question in terms of what discussions may have taken place by the working group since the last board meeting. Toni may have addressed it, but I didn't really catch it.

In the event that recreational fishing measures have not been implemented or have been delayed by a particular state and there's a correction factor the following year, at what point would that modification be made? To be more specific, each year when NMFS publishes its specifications on, for example, the recreational fishing year coming up, during the proposed rule stage or comment period, that's the time when the commission submits its state-by-state conservation equivalent measures for the summer flounder, for example, recreational fishery.

If there's a modification based upon a hypothetical delay the previous year and there's a correction, does the correction take place at the same board meeting where the conservation equivalent proposals are made or does that take place separately and at a distinct time?

CHAIRMAN GIBSON: Toni is going to try to address your question.

MS. KERNS: Harry, off the cuff, I believe that we would at a single board meeting find the state that did not implement the whatever regulation out of compliance or not out of compliance, but just that they hadn't done that.

Therefore, at that same meeting we would state that that state would need to close their fishery for either an equal number of days during that same or an equivalent time period and so that could be established at that meeting, at that time period.

If we would need to have any technical review, then we would have to have the TC review it and at the following board meeting we could provide input that the TC would give, if necessary. It would be at the following board meeting that a final decision would be made.

CHAIRMAN GIBSON: Gordon, did you want to make a motion and get this process started or Paul Scarlett?

MR. PAUL SCARLETT: I just want to express one concern and a question, as the new guy, so I can ask my first dumb question. The concern is that we kind of feel that the addendum should include a provision that if a state can show a good faith effort to implement the required management strategies and they're not implemented on a timely basis, for factors that are beyond the control of the natural resource agencies, that the board can suspend any penalties that are required by this addendum.

We have run into a situation in New Jersey where we have done all the paperwork necessary and filed everything that we need to file and just because of the regulatory process in some instances we have had some difficulty implementing things when they should be implemented and we just don't think that the resource agency or the fishermen should be penalized for that.

That's my concern and I guess my question is are these types of punitive actions really necessary? Have states shown a consistent pattern in not implementing? Gordon is laughing like I'm putting him on the spot here, but that's my question.

CHAIRMAN GIBSON: I think the board always has some deference to review whether states have made a good faith effort in complying and tailoring their non-compliance deliberations and findings to that effect.

MR. ERIC SMITH: Just very briefly, on lobster, not the only species in other states, but in lobster it was painful last year to see the delaying tactics in Connecticut that kept us from implementing a required gauge increase on July 1<sup>st</sup> until August 22<sup>nd</sup> and to me, that's what brought this home.

We had already been engaged in this on the fluke plan, but that one brought it home to me and it happened to be my own state, which was

the painful part of it, that we have to have something in between doing nothing and going to the federal government for a non-compliance closure of the fisheries.

We've wrestled for two or three years now with trying to find a way that we can impose on ourselves the requirement and it's not punitive. It's coercive, if you want to look at it that way, to make us as state agencies do our job by the deadline, which means backing up in the process and I have to tell our lawyers and so forth that here's the deadline and there's a consequence if we miss the deadline.

There's probably half a dozen states of the fifteen that at one time or another have had the very same problem, that you just usually for resistance out of the fishery, because of some thing that they would rather not see happen, it slows the wheels of progress and there's no consequence to that, because it never rises to the level of a non-compliance finding where flat out the state has decided they're not going to comply and you have to go to the U.S. government.

In my view, it is necessary in black sea bass, fluke, and scup at various times and in lobster, in my current dilemma. It happens over and over.

CHAIRMAN GIBSON: Thank you, Eric. I don't want to rehash the debate as to whether we need this addendum or not. We've gone around the board many times and many states have been in the situation of, for lack of a better word, gaming the system at times and so I think the need for this has been clear. I think I would like to get the motion up on the board so that we can start the discussion of that.

MR. COLVIN: I'm going to offer the motion on behalf of the ad hoc group that worked to develop the recommended decision document. It's a lengthy motion and it will take me a few minutes to read it into the record and then hopefully, Mr. Chairman, you would recognize me for a couple of comments.

**I move to adopt Addendum XVI to the Summer Flounder, Scup, and Black Sea Bass FMP as follows: For each Issue 1A, 1B, and 1C: A) Failure to adopt annual adjustments to minimum fish size for summer flounder, scup, and black sea bass; B) Failure to adopt initial Winter I trip limits by January 1 and Winter II trip limits by November 1 for the scup fishery; C) Failure to adopt reduced scup trip limit for the Winter I and Winter II periods when required due to established triggers; For each day that a state does not implement these commercial measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season. For example, if a state does not implement appropriate minimum fish sizes for the first two weeks of the fishing season, in the following year the season would be closed for the first two weeks of the season. Similarly, if a state does not reduce scup trip limits for the Winter I or Winter II periods, as required by established triggers, the following fishing season would be closed for an equal number of days the delay occurred after the trigger had been met.**

**For Issue 1D: D) Failure to close the black sea bass or the summer scup fishery after the state quota has been reached. If a state fails to close its black sea bass or its summer scup fishery after the state quota has been reached, states will compensate pound for pound for up to 25 percent of the original state quota. Any overages beyond 25 percent of the state quota are compensated at 1.5 times.**

**For Issues 2A through D: A) Failure to adopt board-approved size limits for summer flounder, scup, and black sea bass; B) Failure to adopt board-approved seasonal closures for summer flounder, scup, and black sea bass; C) Failure to adopt board-approved possession limits for summer flounder and scup by the date the current season opens; D) Failure to adopt board-approved possession limits for black sea bass by January 1 or the date the current season opens, whichever is later.**

**For each day that a state does not implement the approved recreational measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season.**

**For Issue 3, Maximum Implementation Period, adopt Option 2, a Maximum Implementation Period, noting that it applies to scup trip limit changes and not to other management measures that have to go through state rulemaking processes.**

**For Issue 4, Required Notification Period for a State to Notify the Commission of Regulatory Changes, adopt Option 2, a minimum notification period.**

CHAIRMAN GIBSON: Thank you, Gordon, and thanks to the working group for producing this. We have been stymied on this for some time and hopefully this will get us through it today. You wanted to make some comments to the motion?

MR. COLVIN: I was hoping for a second first.

CHAIRMAN GIBSON: That's right, you need a second. Second by Pres Pate.

MR. COLVIN: I want to -- Perhaps I would remind everyone that we've been working on this addendum now for a couple of years, it seems, subsequent to the time at which the commission amended the ISFMP charter to provide that and in doing so, identified the need to affirmatively address delayed implementation as a problem, particularly a problem of equity between states and a problem of the need to keep the resource whole when delayed implementation results, as it can, in harvest exceeding our targets.

Fluke, scup, and sea bass was chosen to be the first candidate fishery management plan for which an addendum would be addressed for delayed implementation, pursuant to the change we made in the charter some time past.

It has taken us some time to get here. Deliberations of the group I think were very

thorough and in essence, you'll note the motion essentially boils it down to two kinds of approaches. In the first instance it delays an implementation generally where a quota is not involved, where exceedance of a quota is not involved.

The recommendation of the group, as reflected in the motion, is to simply take an approach of a season closure of an equal length to the delay in the implementation. We had lots of other options, but we felt at the end of the day that this was the most straightforward and I won't say simple, but direct, approach that could be applied readily in other examples in other fishery management programs as we address the needs elsewhere and, as Eric pointed out today and yesterday, hopefully lobster will be one of the next ones, because the pain was even a little more intense on the other side of the Sound last year.

In the one case where we have a situation where there's a direct exceeding of a specified state quota, then a quota penalty is seemed to the committee to be the best approach there, since it was a very direct quota exceedance issue, a failure to close when the quota was reached.

We think this is an appropriate approach and that it's workable and just and I would invite any of the other members of the committee and I believe it was Eric Smith, Pres Pate, and Bruce Freeman. If anybody can find Bruce around anywhere -- I heard he was in the neighborhood recently and maybe we can drag him in here as well.

CHAIRMAN GIBSON: Thank you, Gordon, for distilling this down and it's a fairly elegant solution using time for time and pound for pound currencies where appropriate.

DR. DAVID PIERCE: Gordon and the rest of the committee, just a clarification and it relates to the penalty for failure to close the black sea bass or the summer scup fishery after the state quota has been reached. I assume that the intent of this motion is not to penalize a state if it goes over its quota because it determines after the fact that there have been some late reported landings.

I think we've all been subject to this. We discussed this yesterday at a meeting of the state directors. Sometimes, and this has happened with Massachusetts, there have been late reportings or we've discovered that the federal government uncovered records that we didn't have, for example black sea bass, and so we had an overage that came off next year's quota and that's still in place, correct, that if you have an overage it comes off next year's quota?

I don't want this particular motion, if it passes, to penalize a particular state, such as Massachusetts, for our not closing as a consequence of our having incomplete data. We will close and we have closed, but we don't want to be penalized for that.

If that's the intent of this motion, not to penalize a state for that kind of an overage, landings coming in that indicated there wasn't an overage, then the motion is fine. Otherwise, I would have a problem with it. Would someone on that committee indicate whether or not you considered the problem that might be created by landings coming in slower than otherwise --

MR. COLVIN: As a state who once learned nine months after the fact that we had an extra 400,000 pounds of bluefish landings, I'm quite sympathetic to that issue, David. The intent, and I believe the effect, of the proposed addendum is to address the situation where a state fails to close when it knows its quota has been reached.

I think that's what it says and I think that's pretty clear. If it finds out after the fact, that's not covered by this. That's not delayed implementation. It's delayed implementation when you know you've reached your quota and then you don't close.

CHAIRMAN GIBSON: Are you okay with that, Dave? All right. Are there other board comments?

MR. SMITH: I have a quick question and it's such a small detail that I hesitate to say it, but then those are the ones that bite you later on. On Issue 4, Gordon, in the motion, I just looked

through the draft document for public comment and then the management decision document and I don't see an Option 2A under Issue 4. I see Option 1 and 2. Did I miss something here in various documents?

CHAIRMAN GIBSON: Toni has a clarification for you on that, Eric.

MS. KERNS: Eric, it just is supposed to read 2, a minimum notification period. It's where you put the emphasis on -- The "a" there should be a space, but it's where you put the emphasis on the --

MR. COLVIN: If you noticed, I hesitated when I read it and under Issue 3 -- I think the same situation applies there and so in the motion in both cases there's a space between the number and the letter a.

CHAIRMAN GIBSON: Are there other board comments?

MR. MEARS: I certainly support this motion. We've talked about it a long time and the record is clear, based upon past findings of non-compliance where we clearly need a mechanism such as this.

Nevertheless, I'm going to abstain on the reasons that I previously tried to make at previous board meetings and that we've made the case in writing back in November of 2004 that the record, in my opinion and I believe from an agency opinion, needs to be very clear, preferably in the document itself, that yes, it could be construed as a punitive measure for delayed implementation of required measures.

Nevertheless, if -- I'm assuming this will become a compliance criterion in the plan if a state does not implement the corrected fishery measures. The reason we're discussing this is that it is in fact necessary for the conservation of the fishery.

If we ever had a finding of non-compliance for a state -- Once again, there has to be two tests for the Secretary to affirmatively follow a recommendation from the commission to take

action and first is that the measure which has not been implemented is necessary for the effective implementation of an interstate plan and I think that's fairly clear.

Number 2 is very important and like I said, I think the record speaks to it, but in my opinion it could be strengthened by wording in the amendment or in the addendum that such a measure is in fact deemed by the commission to be critical to the long-term conservation of the fishery and in its absence could be compromised.

On that basis, I am going to abstain, but I would hope at some point that there would be a recognition that this would be at least an item for discussion to put into the addendum to strengthen it in such cases that we could have a potential non-compliance finding in the future.

CHAIRMAN GIBSON: Thank you, Harry. I was just having a sidebar with Toni that if the motion is approved that we would reiterate for the board what the process is by which this amendment would be invoked, the timelines as to how the board decision process would be undertaken so that's on the record and hopefully there would be an opportunity there to either add to the addendum or clarify the board's intent that these measures are necessary for the words you just used, long-term maintenance and sustainability and so on.

MR. COLE: I certainly support the concept of this amendment. However, that language in 2D that I referenced earlier, that set a specific date, January 1, when a state would have to have any changes in possession limits in place or that there's further to say the current season opens.

For example, the way we're operating right now, we have a twelve-month season for recreational black sea bass and so therefore, there's no season in place and the board makes the decision in December to set the possession limit on recreational sea bass for the subsequent year and it would be -- If the board decided to change from year to year, it would be virtually impossible to have a change in possession limit in place by January 1.

Having said that, unless we can eliminate that January 1 start date and use similar language that was in the original draft that tied the starting period to the MRFSS data, it would be very difficult for me to support this motion, knowing that we just can't comply with it.

**I guess what I'm going to do is I'm going to offer a motion to amend Section 2D and strike the language that's in the current motion from January 1 to the end of that sentence and replace it with this following language. The entire sentence would read: Failure to adopt board-approved possession limits for black sea bass by the start of the MRFSS wave during which 500 or more black sea bass, numbers of fish, have been landed. I offer that as a motion to amend, Mr. Chairman.**

CHAIRMAN GIBSON: I think what I want to do is ask Gordon or someone from the working group if they contemplated this issue or if there was any discussion at the working group about this.

MR. COLVIN: I don't think the working group had a significant amount of discussion on this particular point. There's a couple of issues. One is that there are Wave I landings of black sea bass and Wave I we don't get MRFSS estimates for almost all of the states in the black sea bass region. In fact, I don't think we get it from any, other than North Carolina does some limited sampling now, because of the striped bass situation, and that's about it.

Another concern is that there was some public comment on the original proposal, on the original language, that expressed concern about the use of MRFSS data, as you might expect.

I don't think that the working group would have substantive concern with the idea that -- What counts is when fish are getting caught, rather than an arbitrary date on the calendar and I think Rick's concern about January 1 is a valid one.

I think we'll have to leave it to the board to decide how they want to proceed here, but there

is an issue with the fact that there are sea bass landings in Wave I and you're not going to get that number.

CHAIRMAN GIBSON: Is there a second to this motion? That's the first thing that has to be done at this point. Second by Eric Smith.

MR. GIL POPE: I would like someone from the working group to elaborate a little bit for me on Issue 1D, specifically the last sentence, which has the penalty. Over 25 percent, it goes to one-and-a-half times.

I'm wondering if this is specific to sea bass alone or whether we have other such punitive measures in any other plans and what the reasoning was behind this was one of the things and I also have a comment about that.

CHAIRMAN GIBSON: Does anybody from the working group want to address Gil's question?

MR. COLVIN: This goes back to the original draft of the addendum. Again, recall please my response to Dave Pierce's question. The intent here is to address the situation in which a state and all states are on notice that that state has exceeded its quota, in this instance for summer scup or black sea bass, by 100 or, with respect to Gil's question, 125 percent of it's allocation and has not acted to close its fishery.

In so doing, that signals essentially an intentional disregard for the quota that has been established and the judgment of the committee with the various options that were available, some of which, as Toni pointed out, in their last draft were more stringent, was that once the state has gone 25 percent beyond its quota and still has not acted that there ought to be a more significant penalty than pound for pound and the proposal we have is what is reflected in the motion.

How this might apply in the future to other quota-managed species will roll out in time. As I said earlier, fluke, scup, and sea bass is the first of our management plans to receive a proposed delayed implementation and whether we would apply the same measure to striped bass or

bluefish or some other quota managed fishery, only time will tell.

CHAIRMAN GIBSON: Comments to the motion?

MR. POPE: I had not only a question, but I also had a comment afterwards, Mr. Chairman.

CHAIRMAN GIBSON: I'll allow some time. I'm not sure that that comment was directly related to the motion. He had been waiting some time and I have a number of people on the list and so I would like to continue on.

MR. A.C. CARPENTER: I understand where Rick is coming from and as an alternative to this, so that we wouldn't have to rely on MRFSS, what if you replaced "January 1<sup>st</sup>" with "ninety days after the board action has determined whatever the rule is going to be." Then you would have a ninety-day period to implement that change before this would come into effect or January 1<sup>st</sup> or whatever later.

I think what that does is it forces the board to consider this before the 1<sup>st</sup> of December and expect it to be in place January 1<sup>st</sup>. If the board considers this at a December 1<sup>st</sup> meeting, you would have until March 1<sup>st</sup> to implement it. You would have ninety days to implement the change that you needed to make. Would ninety days give the state the time?

Maybe it needs to be 120 days in order to implement a change in a timely fashion. I'm throwing that out as an alternative to waiting until you get MRFSS data that everybody has got problems with.

MR. SMITH: Rick, when you described the motion and I thought when you read it, you had at the end of the sentence "have been landed in that state." In other words, the MRFSS wave where 500 black sea bass are landed in that state and that would, to some extent, get past Gordon's comment, I thought, that it's different times and different states.

I had that in my notes, but then I heard the discussion and I wasn't sure. Did you intend it

to be state specific so a state like Maine -- Black bass probably don't show up until July, if they do at all, and so that would be the wave. They wouldn't need to have something.

I see the point with January 1<sup>st</sup>. I agree and I think it's a good motion, in that respect, because it gets us to focus on -- That date may not be the right date and I don't know if ninety days after our decision is a good way to proceed with it or not, but it really -- The way you characterized it, you really want it to apply at the time that that state starts to catch that fish.

Could I ask, through you, Mr. Chairman, if that's a clarification that he could consider and that might solve part of the concern Gordon had.

CHAIRMAN GIBSON: From the chair's perspective, I would encourage us to find a way to disconnect from this MRFSS statement, given the review that's been tabled. Find a way to distance ourselves from the MRFSS connection and wordsmithing that's going on.

MR. SMITH: Since I prompted that and inadvertently apparently got under skin, there are some things in MRFSS that we need to improve on and we all know that. This is not one of those ones where I think MRFSS is, in the eyes of at least one person, thinking there's a flaw there.

There are some places to improve, but showing when fish show up in a state in the recreational catch on average over the last three or four years doesn't seem like a difficult thing to comprehend that MRFSS could provide with a reasonable amount of accuracy.

EXECUTIVE DIRECTOR VINCE O'SHEA: Mr. Chairman, I think a point was made a little bit earlier that what's driving this is the instate process to implement regulations and I don't see where that's necessarily linked to MRFSS.

I think the question that was raised earlier is what's a reasonable time that the states need to implement their regulations and is there a way to build that in. I think focusing on the time that the states need, as you've suggested, has some

merit.

We know that we're going to meet with the Mid-Atlantic Council around the middle of December. I think the question really is can the states implement by -- Is it reasonable to expect the states to have their regulations done by the 1<sup>st</sup> of March or whatever, but I think the time approach more directly addresses the problem that was raised by the maker of the motion.

CHAIRMAN GIBSON: Pat Augustine has a solution out of here.

MR. PAT AUGUSTINE: I have two or three points. The first point is ask a question. Are there any states that cannot implement a regulation or legislation, go through the process, within ninety days? Once we get that answer, if it's the right answer, I would like to amend this motion.

CHAIRMAN GIBSON: Rick, do you have an answer to that or a response?

MR. COLE: To respond to Pat's comment, it would take at least 120 days in Delaware. It's a four-month process.

MR. AUGUSTINE: Are there any other states that would require more than 120 days?

CHAIRMAN GIBSON: Do any states wish to respond?

MR. COLVIN: The answer to that question, and I suspect it is for many of the states, is it depends. The manner in which we have been managing the recreational fisheries and the annual quota or specification setting process for fluke, scup, and black sea bass has compelled many, if not all of us, to implement annually via emergency rulemaking.

Emergency rulemaking doesn't take 120 days and it doesn't take the six to nine months, which is the normal process in New York for normal rulemaking, and you'll find states that are varied all around those numbers.

The difficulty with all of this is whether or not

we want to adopt an addendum that compels emergency rulemaking by states, even though the fact is that for most of us that's what we have to do and the reason for that is that by and large we don't get our final approvals until sometime February or March, often as not.

We know we have to have the measures in place by the time our season is open or by the time the fish show up, if they happen to be open at the time the final spec package is approved by the commission.

That's the reality of the situation and I thought that A.C.'s recommendation for ninety days was reasonable, because I think that will accommodate most states taking action that needs to be taken.

The reason that this is such a struggle is that we have a year-round season right now for black sea bass and it's kind of unique in that regard. If we had a curtailed season that didn't involve the winter, we wouldn't be having this discussion, just like we're not having it for scup and fluke. That's the other part of the issue.

If we were opening later, we wouldn't have a problem and the fact is that we probably need to be making that decision for black sea bass not in the middle of December, but back in September or October to really give states a chance to do it. That's what we ought to do.

MR. CARPENTER: That's my point exactly.

CHAIRMAN GIBSON: Pat Augustine, do you have an improvement on the date?

MR. AUGUSTINE: I guess I will make the change. I would like to amend this motion. Based on the comments by Rick Cole and Gordon Colvin, there's no question that it looks like those states are going to be moving towards emergency action to implement what occurs in our December meeting.

I would like to amend it to read: Failure to adopt board-approved possession limits for black sea bass within ninety days or March 1<sup>st</sup> when the board makes the decision in January. I think

those were your words, A.C. Would that sound more appropriate?

I need some wordsmithing here.

**Then it would read: Failure to adopt board-approved possession limits of black sea bass within ninety days or by March 1<sup>st</sup> when the board determines recreational measures for black sea bass.**

CHAIRMAN GIBSON: Thank you, Pat. Is there a second to that?

MR. SMITH:

**Approve possession limits of black sea bass within ninety days from when the board determines recreational measures for black sea bass or March 1<sup>st</sup>, whichever is later.**

MR. AUGUSTINE: That's good, Mr. Chairman.

MR. SMITH: I would second that.

CHAIRMAN GIBSON: Thank you for the improvement, Eric, and the second. Are there board comments on this amendment? Seeing no comments from the board, I'll move to the audience.

MR. TOM FOTE: Tom Fote, Jersey Coast Angler's Association. Wouldn't it make more sense just to say any twelve-month fishery? Maybe one of these days when miracles happen and we have a twelve-month fishery on summer flounder or scup and really what you're trying to do is deal with the problems and we set those specs to the same sign and so any twelve-month fishery and this way you wouldn't have to be specific with black sea bass and you wouldn't have to go to another amendment or another addendum to a plan in case that ever happens.

CHAIRMAN GIBSON: Thank you, Tom. Next in the audience?

MR. STEVE DOCTOR: I'm Steve Doctor of Maryland DNR. I understand what you're

trying to do with the bill, but I think a real easy way to do it would be when you set the regulations for the next year to go ahead and set an implementation date. That's all you would have to do and just say if you don't have your measures in by this set implementation date. It's just a suggestion.

CHAIRMAN GIBSON: Thank you, Steve. Back to the board.

DR. PIERCE: This is a motion to substitute? In other words, the motion by Mr. Cole and seconded by Mr. Smith.

CHAIRMAN GIBSON: This was an amendment to the amendment.

DR. PIERCE: This is not a motion to substitute. The language above on the screen, the motion made by Rick, still is germane? Okay.

CHAIRMAN GIBSON: Anything else from the board on this motion to amend? Do we need to caucus? We'll take a moment to caucus.

(Whereupon, a brief caucus was held.)

CHAIRMAN GIBSON:

**The motion to amend reads as follows: Move to amend the amendment: Failure to adopt board-approved possession limits of black sea bass within ninety days from when the board determines recreational measures for black sea bass or March 1<sup>st</sup>, whichever is later.**

The motion is by Mr. Augustine and seconded by Mr. Smith.

MR. SMITH: Would it make sense to add a -- I'm trying to figure out how to fold in Tom Fote's idea and to embed it in that motion, it makes it cumbersome. Could you simply add a sentence after "whichever is later" that says: This measure shall apply to any of the three species for which there is a twelve-month season? He's quite right. You end up --

EXECUTIVE DIRECTOR O'SHEA: I would just, without speaking for or against, I would suggest you just remind this board this has been

a two-year process and we had two working groups that worked on this and you guys have put some good effort into this and I think you're beginning to open up a can of worms here that you need to think very carefully about.

I think you're very close to implementing something and we have a number of other fishery management plans that are waiting for this board to take action on.

CHAIRMAN GIBSON: It seems to me that this started out as only a sea bass measure and at such time when we have long seasons on the other species, we can figure out how to address those.

MR. AUGUSTINE: Mr. Chairman, I wouldn't accept that as a friendly addition.

CHAIRMAN GIBSON: Thank you, Pat. That takes care of that. Any other board comments on this motion before we dispense with it? We've already had some time to caucus. I'm going to call the question. **All those in favor please raise your right hand; any opposed; abstentions; null votes. The motion carries.** That becomes the new amended motion.

We'll call the question on that again. **All those in favor of the amended motion please raise your right hand; opposed; abstentions; null votes. The motion carries.** Now we have an amended main motion. Are there comments on the main motion now?

MR. AUGUSTINE: I thought Mr. Fote's idea was a good one. I just didn't think we were going to do anything with it now and as Vince had pointed out, it's taken two years to get to this point and you've got this clarity with the working group.

If, without a lot of debate, if it would make sense to put it in some other place in this document, then I would be in favor of doing that, but I do not want to go ahead and get into a lengthy discussion about whether it makes sense or not.

I don't know of any other species of fish at this

particular point in time, with stock status at what they are, that we're going to be looking at a twelve-month season on any of them within a few years. Let's hope I'm wrong, but it just doesn't seem as though that's going to come to fruition.

MR. POPE: I'm going to get back to my original point on 1D. The last sentence, to me, may very well have conservation and have some kind of threat if you don't close your fishery after 25 percent that you pay back at one-and-a-half percent, but I see this as a bigger policy issue and something that goes to other fisheries, something that takes one user group and penalizes it where you have another user group that's not being penalized in the same fashion.

The way it should read in some of the recreational measures is that the penalty after a certain point is one-and-a-half days instead of one day. If the idea here is to have it as a hammer, that's one thing, but to use it as a conservation measure like that, it should apply as a policy across the board to all user groups and so I can't support it.

DR. PIERCE: I have just a clarification, Mr. Chairman. The main motion would be what? It's this one piece of paper, the one that Gordon read into the record about an hour ago, correct, with the change that we just made?

CHAIRMAN GIBSON: Yes, there was a substitution under Item D. That item that had the January 1 start date has now been substituted with the amendment that we approved.

MR. CARPENTER: I have just a question with Item 1A, 2A, 2B, and 2C, where it says failure to adopt annual adjustments to the minimum size limit for summer flounder, scup, and black sea bass. If I adopt it for summer flounder, but not for sea bass, am I out of compliance with this or does it take all three? Should that "and" be an "or" throughout this document? It's a question in my mind.

MS. KERNS: Yes, A.C., it would be and/or. You would only need to be out for one of the species or if you're out for all three, then we

would pick up all three, but it will read "and/or."

CHAIRMAN GIBSON: Does the board understand that perfection? Any other comments or questions on the main motion? Is there any questions or comments from the audience? Seeing none, we'll take some time to caucus and we'll dispense with that.

(Whereupon, a brief caucus was held.)

CHAIRMAN GIBSON: Is the board ready? **All those in favor of the main motion as amended please raise your hand; those opposed; abstentions; null votes. The motion carries.**

MS. KERNS: Just to read into the record the intent of the process, that these measures are deemed critical for the long-term conservation of the species involved, summer flounder, scup, and black sea bass, and that if a state were to delay in any of the measures included in the addendum, the PRT would notify the board at the next meeting after the delay has occurred and the board would take action at that meeting.

If Technical Committee review is necessary, then the TC would be tasked at that board meeting and the following board meeting the TC would report to the board and then the board would take action and that action would be included in the specification process the following year.

CHAIRMAN GIBSON: Thank you. Next is Item 5, Review of Amendment 14 Draft PID Public Comments and Toni Kerns.

MS. KERNS: Thank you, Mark.

MR. SMITH: Before we leave that last issue, I think in fairness to the point Harry Mears made, I want to comment that I think the addendum itself, with the decisions we just made, needs to have the statement of purpose and the front end of the addendum that we took out to public comment.

In that statement of purpose and preamble language, which is not in the decision document right now, Harry's point on the conservation

nexus of this measure needs to be clear and then we can go into a paragraph that says we took a bunch of things out to public hearing and then here's what the decision of the commission was.

Then we kind of institutionalize why we did this, the conservation need, and the decision. Is that the intent of how we're going to revise these two documents?

CHAIRMAN GIBSON: Yes. You're on for Item 5.

MS. KERNS: The commission conducted public hearings for the public information document for Amendment 14 and 15 in the past couple of months. Today, I'm going to go over the public comment summary for issues only related to Amendment 14.

The Amendment 15 public summaries will be given at the joint August meeting with the Mid-Atlantic Council. The Mid-Atlantic Council is still undergoing public comment for 15 and so we're going to wait until we have all the comments together and give those to you at the joint meeting in Philadelphia in August.

We conducted public hearings in every state along the coast on the Summer Flounder Board. The following states did not have any comments to Amendment 14. In North Carolina, there were two hearings, one in Manteo and one in Morehead City. In the State of Virginia, there were eight attendees. In Delaware, we didn't have any attendees and in Connecticut, I was not provided with the number of attendees.

In the states of Maryland, New Jersey, New York, Rhode Island, and Massachusetts we had comments and they are summarized as follows. We also had seven written comments, which included the statements from the Recreational Fishing Alliance, as well as United Boatmen, as fishing organizations.

Under Issue 1 for Amendment 14, the Scup Rebuilding Plan, there were four people who spoke that they were not in favor of the rebuilding schedule. The comments included that they were not in favor until there was a

consistent estimate of the stock was established.

There were comments that included that the time frame seems unattainable. We should separate out the management for the northern and southern stock of the fishery and then set a rebuilding schedule. The method of determining the stock abundance for the species of fish is old and very flawed and that should be fixed before setting a rebuilding schedule and we should also include the biological reference points within this amendment.

There were also comments that included that people strongly objected to the SARC conclusion that the stocks are overfished. There were comments that included urging managers to keep in mind the inherent variability of the trawl surveys for the scup fishery and the fact that such variability may be due to changes in spatial and temporal distributions of the stocks being surveyed rather than the changes in the stock status itself.

They also encouraged the management board through thorough discussions on the potential time intervals to improve fishing mortality estimates on scup in Amendment 14. There wasn't anyone that spoke in favor of setting the rebuilding schedule.

For Issue 2, the gear restricted areas that were included in this addendum, and again, these are just areas in federal waters and not in state waters, there were no comments on the gear restricted areas.

In terms of the process of where we are with Amendment 14, the TC met with a few members of the FMAT. The FMAT is kind of like the plan development team for the amendment and we went through and examined a series of thresholds and targets for the rebuilding schedule, as well as some F rates, and those will be included in a draft amendment as it is developed.

We are delaying the approval of the draft amendment until the joint meeting, due to the timing period that we need to work with with the Mid-Atlantic Council and so we won't do that

until the joint August meeting. We were going to do it at this meeting. If the board has any input on any other issues or statements to be included in the amendment, then that is what I am looking for today.

CHAIRMAN GIBSON: Thank you, Toni. Questions or comments on the report?

DR. PIERCE: I have just a clarification. Toni, you said just now that the thresholds and targets were recently examined and what happened with that examination? Was anything concluded? Will that examination help us out with our determining what to do with this particular amendment?

MS. KERNS: At this meeting with the TC, we went through and I think we've set up three options that will be included in the draft document, but those options are still kind of being worked through and so yes, I'm hoping they will help us out in determining what's going on with the stock, but --

DR. PIERCE: Three options, okay. We all know how difficult this amendment is going to be, because we know very little about scup in terms of status of the stock and estimates of fishing mortality. That was made very clear in the public hearing document. It's been plaguing us for a long time now.

I believe when last we met and we discussed this issue we said that there was a move afoot by the technical people to develop some creative approaches that we can consider for our accomplishing that which we need to accomplish and that's this rebuilding schedule. You say there are three ideas out there right now that are being worked on by the Technical Committee and when might we be able to see what those ideas are?

MS. KERNS: We are working with the Mid-Atlantic Council and the FMAT, or the plan development team, to develop a draft of the document and when that draft is complete, then I'll be sending it out to the board.

DR. PIERCE: Your schedule is?

MS. KERNS: The schedule is to look at that draft document at the joint August meeting and hopefully we will have it prior and it will go out with the briefing materials prior to the joint August meeting.

CHAIRMAN GIBSON: Other questions for Toni and any guidance to her under the third bullet there, Guidance to PDT on Draft Amendment 14?

MR. COLE: I guess I would have a question of Toni. In the past, the criticism that we've always received from the Service regarding this rebuilding schedule has kind of been centered around the lack of discard data, especially in the commercial fishery. Is there any new information in that regard that's going to help us in the development of this new rebuilding strategy?

MS. KERNS: To my knowledge, there is not any new information on the discard data, no.

CHAIRMAN GIBSON: Are there other questions for Toni or comments or a response to the question she floated out there for guidance? Maybe you can fish a little more for the guidance you're looking for. You don't seem to be getting anywhere with that.

MS. KERNS: If there's any issues or any specific plans or ideas that you have in terms of a rebuilding schedule, you can float those by me today or in the next couple of weeks or if you have any further questions on more details, I guess very specific technical questions on what the FMAT or the PDT is doing, then I can go over those with you on the side for further details, but if you don't have anything to add, then that's fine and we can proceed as we are.

CHAIRMAN GIBSON: I sense from the board that it's hard for them to offer you guidance when they haven't even seen any of the general options at this point.

DR. PIERCE: That's pretty much it, plus we know that the documents that went to public hearing make it clear that we await data. The

document says something like we will move forward when we get the necessary data that will enable us to move forward and I still don't know what data we have received that enables us to move forward.

We've been charged by the Service and the Mid-Atlantic Council obviously has got this task that now, because of the bottom trawl survey index being below where it needs to be, below two-point-some-odd kilograms per tow, which is the historical high in the bottom trawl survey, now the stock is overfished and a rebuilding schedule has to be calculated.

It's an interesting command for which none of us have a clue as to how we're going to do this and that's why we turn to the FMAT and I don't know who the FMAT is and God bless them, because they've got an awful difficult job and I'm not optimistic they're going to bring anything forward that will enable us to as a board accomplish this task of establishing a rebuilding schedule.

Of course, the Mid-Atlantic Council has to do it and we'll work with them to try to come up with a strategy, but I continue to be very pessimistic, if for no other reason that we have no discard information that's reliable and I understand that the discards occurring in the scup fishery is still a major component of the total mortality occurring. I'll just be quiet and await the good work of the FMAT.

CHAIRMAN GIBSON: Thank you, Dave, and I guess we would all like to see that and if we can see it as early as possible prior to the joint meeting. Anything else on this agenda item? Seeing none, we'll move on to the Other Business, which was the possible portioning of the Advisory Panel.

MS. KERNS: I don't think I have any staff in the back anymore. I have a handout that we're going to pass out to the board. The board asked me to look into splitting the Black Sea Bass and Scup Advisory Panel.

Currently, they are a joint panel and then we have a separate Summer Flounder Panel and

then we were further asked to look into whether or not we should have one joint advisory panel with the Mid-Atlantic Council. Currently, the Mid-Atlantic Council has individual advisory panels for each species.

What I did was put together a spreadsheet of all the members of our advisory panels and the Mid-Atlantic Council's advisory panels and tried to characterize those fishermen as best I could to the knowledge that I had.

In this, we also look at whether or not that individual targets scup or if they target black sea bass and so what I need from the board is further guidance on do we want to proceed with working to find out if we want to have just one large joint advisory panel with the Mid-Atlantic Council or are we just looking to split our Scup and Black Sea Bass Panel, because right now I have guidance to kind of look into both of those.

Now that I have this information on how many overlaps -- Right now, it only shows that we have actually overlap with three fishermen for the Summer Flounder Panel that overlap with the Mid-Atlantic Council and then one fisherman that overlaps on the Scup Panel and one that overlaps on both Scup and Black Sea Bass with the Mid-Atlantic Council.

In terms of scup and black sea bass, that's only two fishermen that actually overlap with the Mid-Atlantic Council and the commission. There are some states that you can see in this spreadsheet that actually have only representation from the recreational fishery and not from the commercial fishery in some of the species, which is something that you may want to take a look at as well.

MR. COLVIN: This pretty much confirms what I suspected, it's a mess. We're started on the road to Amendment 15 and I think that's a big deal or it's intended to be. It seems to me, and I've said this before, that now is the time to -- This is a joint amendment and we're working jointly in partnership with the Mid-Atlantic Council.

I think it's time to reestablish a joint advisory

panel with the council, an overall panel, and then I think there need to be separate sub-panels for scup, sea bass, and fluke. They are different fisheries and not all of the advisors clearly are able to cross the lines and particularly with some of the sea bass and scup fishery issues. They're fairly specialized and quite different from fluke.

I would strongly suggest that we ask our staff to work with the Mid-Atlantic Council to create a template for an entirely new reconfigured advisory panel that's joint between the two bodies and just as an aside, there are names that aren't here anymore from New York that I'm not sure why not, although I think I do.

Then there's names here from New York that probably shouldn't be here anymore, because they're inactive or whatever, and that's just looking at ours. I suspect other states would seem the same thing and so we really need to shake this up and start over.

DR. PIERCE: I support what Gordon just said. Yes, it is a bit of a mess and I do note that for the Mid-Atlantic panel there's no representation from Connecticut, Massachusetts, Rhode Island. We certainly have that representation with our own ASMFC panel, as one might expect, but the Mid-Atlantic Council needs to have advisors from our states, the states I just mentioned, and a joint meeting of all of those individuals makes the most sense.

If we do break down the ASMFC and Mid-Atlantic Council panel, if it's made joint and we do break it down into separate advisory panels, I would suggest that we have scup and black sea bass combined as one panel, since at least in Massachusetts the scup and the black sea bass commercial fishery is meshed.

We have a pot fishery, for example, a scup pot fishery and a black sea bass pot fishery. Many of the fishermen are one in the same and just crossing over from one species to the next. Summer flounder is a bit distinct, because it's more of a trawl hook fishery and there's an offshore fishery component as well.

Combine it and make it one ASMFC and Mid-

Atlantic Fishery Management Council panel with maybe two subsets, scup and black sea bass as one and then fluke as the other.

CHAIRMAN GIBSON: Maybe Toni could restate the concept and see if the board is buying into this.

MS. KERNS: From what David just said, then we have two different ideas out on the table. The first is that we should have a joint advisory panel, but also broken down by species is what Gordon said, and then David just said yes, we should have a joint panel, but then he would like to see black sea bass and scup together and so first I need to clarify which method we want to go with and then I'll need more clarification.

CHAIRMAN GIBSON: Board thoughts on those possibilities?

MR. COLVIN: Let me try again, Toni. What I was suggesting was a single joint Mid-Atlantic Council/ASMFC panel on fluke, scup, and sea bass, composed such that we can create sub-panels for each of the three species and that then, depending on the agenda of a given meeting, that the appropriate panelists for the fishery that they're interested in would need to attend.

If it was on everything, then they would all be eligible to attend. If we were just going to address scup issues, then just the scup members would be eligible to attend and I think a joint panel would also address the very valid concern that Dave Pierce brought up about the need for southern New England representation.

MS. TINA BERGER: Given that this is sort of new ground that we're embarking on, we usually get some kind of direction from the board regarding what they want for their state representation. Am I assuming that each state and jurisdiction want one representative for for-hire, commercial, recreational? How do we balance that membership fairly?

DR. PIERCE: Assuming we eventually move forward with a separate category for charter and party boat, I would think that we would have to

make a special effort to have our advisory panels include someone from that component of the fishing industry and then someone who is a strict recreational fisherman and then, of course, commercial.

With commercial, it's always a bit of a difficult dilemma, since we've got so many different types of commercial fishermen, inshore and offshore and druggers and pots and hooks and what have you. At a minimum, we would need to address the additional consideration of the party and charterboat and then the recreational representation.

CHAIRMAN GIBSON: Other board opinions on this? I don't know that we have sufficient guidance to staff at this time.

MR. BEAL: Not commenting on the direction, I think the other reality we have to deal with is kind of a fiscal reality. We can't have -- It would be pretty limited to have six members from every state or something along those lines.

The Mid-Atlantic Council nominating a few and each of the states nominating a few to address all the different user groups and we'll have to somehow craft a hybrid group that maybe every state doesn't have a representative from every sector, but if we get a pretty good cross section of what's going on in the fishery, I think that's the best we can do.

CHAIRMAN GIBSON: Given that, would it be appropriate for staff to come up with a model that balances the commission's fiscal constraints versus the ideas that have been expressed here?

MR. POPE: I have just a quick question. In this particular species, are we just going to have recreational and commercial and then charter or are we going to include any other stakeholder groups like we're going to do in other species, like say the dogfish and so on? How expansive is this going to get, because I know they're looking for it in the dog fishery and other species. Non-traditional stakeholders, I guess you would call them.

CHAIRMAN GIBSON: I guess that would go

back on Bob's concerns about how many individuals and stakeholders can be brought into this, but what I sense we're getting to now is looking for staff to put together a model for us with some suggestions and when would we review that, the joint meeting?

MR. BEAL: I think the agenda for that joint meeting is going to be pretty full. We're going to get all the public comment for Amendment 15 and we're going to see a draft of Amendment 14 and plus we have to do the quota setting and so it's going to be pretty heavy lifting at that meeting. I would suggest the August commission meeting would probably be the time to do that.

MR. CARPENTER: Is this draft going to have some kind of cost sharing with the Mid-Atlantic in terms of -- If you count jurisdictions, there's ten jurisdictions and if you say that there are three members from each state, then that's thirty people that we're talking about and that's not even covering all of the different fisheries.

This thing could get to be very expensive and very large, but I agree with the concept that we need a single joint advisory panel, but I think we need some kind of cost sharing with our friends and neighbors in Delaware.

MR. COLVIN: I think my original thought was consistent with A.C.'s comment and the suggestion that was made to give the staff a little bit of time to try to put together a proposal. We need to work with the Mid-Atlantic Council on this. There needs to be an operating agreement between commission staff and the council on funding and other logistics and we can't do that today.

I think if we agree in concept with the notion of going forward with a joint panel, kind of comprised as has been suggested here, and then leave it to our staff to work with the staff of the Mid-Atlantic Council, then hopefully by August we'll have something and there will be some agreement, potentially, at that level on joint financial support, which there has to be.

We're working together on this and to some

degree, given the magnitude of the amendment that we're potentially looking at, it's breaking new ground and so this idea of how we're going to operate jointly with the Mid-Atlantic Council spills beyond just the advisory panel, but I think into other aspects of the development of Amendment 15 and hopefully that will work itself out in time.

CHAIRMAN GIBSON: I think everybody understands the basic concept here of this joint panel and the need to balance input from every group versus the fiscal constraints that both bodies are going to have.

Is there any objection to proceeding on that course of action, that the staff would come forward with a model or a proposal for our consideration at the August board? I don't see anybody objecting to that and so let's proceed with that. Anything else on this agenda item? Seeing none, is there anything else to come before this board? We stand adjourned.

(Whereupon, the meeting adjourned at 11:40 o'clock a.m., May 9, 2006.)

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