

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

**Radisson Hotel Old Town
Alexandria, Virginia
January 31, 2007**

Approved May 9, 2007

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ATTENDANCE

Board Members

David Pierce, MA, proxy for Diodati, (AA)
William Adler, MA (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)
Najih Lazar, RI, proxy for M Gibson, RI DFW (AA)
Everett Petronio, Jr., RI (GA)
Gil Pope, RI, proxy for Rep. Naughton (LA)
Eric Smith, CT (AA)
Dr. Lance Stewart, CT (GA)
Gordon Colvin, NY DEC (AA)
Pat Augustine, NY (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)
Tom McCloy, NJ, proxy for Chanda (AC)
Erling Berg, NJ (GA)

Dick Herb, NJ, proxy for Assm. Fisher (LA)
Keith McGuire, MD, proxy for Vasta, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Jack Travelstead, proxy for Bowman VA MRC (AA)
Catherine Davenport, VA (GA)
Kelly Place, VA, proxy for Sen. Chichester (LC)
Fentress Munden, proxy for Pate, NC DMF (AA)
Damon Tatem, NC (GA)
Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Harry Mears, NMFS
Jaime Geiger, USFWS
A.C. Carpenter, PRFC

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

Staff

Vince O'Shea
Robert Beal

Braddock Spear
Toni Kerns

Guests

Louis Daniel, NC DMF
Jessica Coakley, MAFMC
Paul Caruso, MA DMF
Roy Miller, DE Div. F&W
Rick Cole, DE DFW
Wilson Laney, USFWS
Robert O'Reilly, VA MRC

Dick Brame, NC CCA
Arnold Leo, Baymen's Assn.
Tom Fote, TCAA
Steve Doctor, MD DNR
Michael Luisi MD DNR
Roberta Herb

The meeting of the Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Wednesday, January 31, 2007, and was called to order at 2:15 o'clock, p.m., by Chairman Jack Travelstead.

CALL TO ORDER

CHAIRMAN JACK TRAVELSTEAD: Good afternoon. The Summer Flounder, Scup, and Black Sea Bass Management Board will come to order. I think each of you have a copy of the draft agenda. I have two items that I'd like to add under other business.

Item 1 is a very brief heads-up on some work that the Mid-Atlantic Council is doing on Framework 7 that has to do with reference points. The second item is to seek a recommendation from you to the NRCC relative to the black sea bass peer review or a delay of that. We'll take that up under other business. Are there any changes to the agenda? Gordon.

MR. GORDON C. COLVIN: I'd like to suggest two items, Mr. Chairman. I think it would be prudent to have an opportunity to briefly discuss the decisions that we've made relative to the annual TALs for black sea bass and scup.

CHAIRMAN TRAVELSTEAD: Is that Item 5 on the agenda? Maybe you don't have the latest.

MS. TONI KERNS: It's coming to you, Gordon, the agenda.

CHAIRMAN TRAVELSTEAD: On the latest version of the agenda there is a discussion of black sea bass and scup quotas and the percent difference with the federal quota.

MR. PATRICK AUGUSTINE: Thank you.

MR. COLVIN: Well, maybe I'd better wait. Maybe the other item is on there, too. No, it's not.

CHAIRMAN TRAVELSTEAD: Okay.

MR. COLVIN: Mr. Chairman, the other item I wanted to ask for some staff updating on is that I believe that the board took a couple of actions at its last meeting. One was a motion to proceed with the development of an addendum that would include

approaches for fluke, state-by-state quota setting that would be other than using the 1998 distribution alone. And I sort of expected to see that on the agenda. And I was actually kind of hoping to see a draft based on the discussion that I recall from the meeting in Manhattan.

The second issue is that I also believe that at that meeting we had a discussion about a desire to pursue some form of independent review of the conclusions and ramifications from the peer review report of the NMFS fluke update, stock assessment term of reference update that was done last year via some commission process. And I'm not sure where that is at the moment. But it seems to me that it's a loose ball up in the air and I'd like to know what our game plan is.

CHAIRMAN TRAVELSTEAD: You want those under new business, or other business, rather?

MR. COLVIN: Other business, please.

APPROVAL OF AGENDA AND PROCEEDINGS

CHAIRMAN TRAVELSTEAD: Okay, seeing no objection, are there any other changes? **The agenda as amended is approved.** Any objection or any changes to the minutes? Seeing none, **they stand approved.** Public comment. Is there anyone who wishes to make public comment at this time on an item that is not on the agenda? Seeing none, we're going to move right along.

Item 4, review and approve the 2007 state-specific summer flounder recreational specifications. There should, you should have a memo in front of you that lists all of the various options that were submitted by the states that were approved by the technical committee. I think we can go through this fairly quickly. Toni has a fairly brief presentation she can go through. Let me turn it over to her. And then if there are questions we'll try to answer those.

2007 STATE-SPECIFIC RECREATIONAL SPECIFICATIONS

MS. KERNS: Thank you, Mr. Chairman. In front of you, you have the proposals for the conservation equivalency by each state for their summer flounder fishery. All the proposals were approved by the TC at our meeting a few weeks ago in Baltimore. The one proposal that will maintain status quo is Maryland and they will keep their 2006 regulation.

I'm not going to go through each individual state's proposal themselves but just give information on the 2006 landings and the 2007 reductions or liberalizations that were allotted. Massachusetts was 2 percent over their 2006 landings targets. All five of their proposals that were submitted have a reduction that ranged from 35 to 41 percent that meets their 35.3 percent reduction required.

Rhode Island was 25 percent over their 2006 landings target. They submitted 27 proposals that meet the required 47.2 percent reduction. Connecticut was 23 percent under their 2006 landings target and they have submitted five proposals that meet the 14 percent reduction that is required.

New York was 29 percent over their 2006 landings target. They submitted 13 proposals that meet a range of the 48.5 to 63.1 percent reduction that meets the 49 percent reduction. New York may create other options using the same methodology that was used to create the 13 proposals.

New Jersey was 9 percent over their 2006 landings target. They submitted six proposals that meet a reduction of 39.5 to 45.3 percent which is, falls within their 39.5 percent required reduction. New Jersey also may create other options using the same methodology.

Delaware was 7 percent under their 2006 landings target. They've submitted ten proposals that fall within a range of 29.3 percent to a 33.1 percent that meet the required 29.3 percent reduction. Delaware may also create other options using the same methodology.

Maryland was 47 percent under their 2006 landings target and will remain status quo with their regulations. Maryland is one of two states that has split their recreational fishery by area. They have ocean waters and bay waters regulations.

The state of Virginia was 41 percent over their 2006 landings target. They have submitted four proposals. They submitted five proposals to the TC but have dropped one of their proposals so there are four proposals that meet a 53 to a 55.6 percent reduction.

North Carolina was 29 percent under their 2006 landings target. They submitted one proposal that meets their required 8 percent reductions. North Carolina is the other state that has split their recreational regulations by area and it is between the ocean and their bay waters.

And a note on the Virginia regulations that I forgot to say is that the TC wanted to note that Option 2 under their regulations does not follow the TC's recommendation of inter-seasonal closures of less than two weeks. But the analysis that was provided by the state of Virginia provided evidence that the listed closures would have greater potential to achieve the 2007 harvest target, therefore, the TC approved this option.

The TC is recommending that the board give them the ability to look into establishing guidelines for states that would like to split their state measures by area or mode. Currently there is, the documents that we have, have some conflicting advice in them. The Addendum VIII looks at conservation equivalency for states. And it says when you split by mode or area the data for that mode or area has to have less than a 30 percent standard error of the data.

When we look at Addendum XVII which is for a regional approach it says that that percent standard error is 15 percent. And so the TC is unclear in which guidance to follow and so they would like to establish better guidelines for splitting regulations by mode.

They would also like to look into establishing better guidelines for states when they are liberalizing their proposals. There has been some discussions and controversy in the TC on what is the best way to project what landings could potentially be if you're going to be liberalizing your regulations.

And, lastly, the TC would like to suggest to get increased length frequency data from MRFSS on – Paul, is it just the discards or? – for the entire catch. So to be suggested to MRFSS from the states that we get more information on this so it's easier and they can provide better advice on proposals and evaluating the proposals. Does anybody have any questions on the state proposals? And then I will have information on regional as well as coastwide proposals.

CHAIRMAN TRAVELSTEAD: Gordon. Rick.

MR. RICK COLE: Thank you, Mr. Chairman. Toni, I assume that the policy that we followed in the past regarding any changes that a state may wish to impose or regarding these recreational measures over and beyond what has already been submitted would have to go through technical committee review before any finalization?

MS. KERNS: Yes, they would have to go through

technical committee review if you were going to use a methodology that was outside of what was used in these proposals. But if it's the same methodology then it's, for those states that have said that they may use a different option within this methodology it doesn't have to be reviewed by or approved by the TC.

MR. COLE: So what you're saying, if you use the Wiable analysis to generate your reductions, seasonal reductions, and if you use tables that were generated by council staff, and that's their cut-and-dried approach, then it doesn't need any further technical review? Is that what you're saying?

MS. KERNS: Because it would be the same approach that the TC has already reviewed for the proposals that are, that fall within the stock unit.

CHAIRMAN TRAVELSTEAD: Rick, let's just make sure there's no objection from the board on that. In case everybody wasn't listening, if you use the same methodologies to create another option that's not in this package, then you can do that. You don't have to go back and get additional technical committee and board review. Is there any objection to that? Gordon.

MR. COLVIN: I certainly don't object, Mr. Chairman. But I think it's an appropriate and prudent practice to require that the state file such an additional option with the staff and with the technical committee just for our own assurance that, in fact, the calculations were in fact consistent. But I see no reason to meet and go through all of the process.

CHAIRMAN TRAVELSTEAD: Is there general consent on that? Appears to be and that will be the case. Pat.

MR. AUGUSTINE: Mr. Chairman, a comment that Toni brought up concerning the discrepancy between the 30 percent when you're using different gear types versus the 17 percent, Amendment 17 is now in effect, isn't it?

CHAIRMAN TRAVELSTEAD: Yes.

MR. AUGUSTINE: Well, would it not seem that Amendment 17, then, actually does away with the earlier 30 percent and we would now be living under the 15 percent guideline?

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: It would if Amendment 17 didn't

specifically state that it was for the regional approach and Amendment 8 said it's for the state approach. But because it's, their approach would be very similar if it were a state or a regional, the TC would like to establish clear guidelines that are consistent between the two.

CHAIRMAN TRAVELSTEAD: Is there any objection to asking the technical committee to develop guidelines on area and mode splits and regions and also on the, when states can liberalize their regulations? Is there any objection to asking for that? Seeing none, then we will ask the technical committee to undertake that task.

I think there was also some – you had mentioned this to me earlier, Toni, about the use of Wiables. I note some states are using the old Wiables. Some are using the new. And perhaps we should also ask for some guidelines from the technical committee on the use of Wiables. Is there any objection to that? Seeing none, consider that an additional task for the technical committee.

You now have all of the state proposals in front of you. Can we get a motion, I think it would be nice if we could get a blanket motion to approve all of the states' technical committee accepted proposals and methodologies. Pat.

MR. AUGUSTINE: Should I just say "so moved" or just **move to accept the report and recommendations which was approval of all of the state plans for 2007 for summer flounder?**

CHAIRMAN TRAVELSTEAD: I think that's clear. Is there a second? Seconded by Vito. Comments on the motion. Let's get it up there before we vote. Is there a need to caucus? I don't think so. All of those – Pat.

MR. AUGUSTINE: Just a point. Do we need to put "state" in there, to approve the states' 2007 summer flounder?

CHAIRMAN TRAVELSTEAD: Yes.

MR. AUGUSTINE: Thank you.

CHAIRMAN TRAVELSTEAD: All those in favor of the motion say aye; opposed, like sign; null votes; abstention. The motion carries unanimously. Toni, do you want to carry us through the, if you look on the back page of that January 24th memo that was just handed out there are regional proposals as well as a coastwide option that are presented there as well.

And I understand the technical committee found these to be acceptable as well.

MS. KERNS: There was some movement back and forth in e-mails about doing some regional approaches but there was no final decision on if states wanted to use them. But the TC went ahead and reviewed an approach to establishing regional recreational management measures and that approach was approved.

I provided a couple of examples of some scenarios that could fall under that approach. By instituting regional approaches to the summer flounder recreational management the TC felt there was a greater potential of achieving these landings targets. So if the states chose to go ahead and move forward with a regional approach they would just need to use this methodology that all of the TC members have and know about.

And with that you can move to the next slide. You can just see a couple of different examples. And one more slide. And there were members of the board that also asked the TC to go ahead and do an analysis on some coastwide proposals or coastwide options that could have worked for 2007.

If you remember, at the December meeting when the board voted on conservation equivalency we had only learned that we would have the potential for a 17.1 million pound TAL due to the changes in Magnuson the Friday before that meeting so staff is not prepared to give exact coastwide proposals.

And so this table will show you options that would have been available for coastwide measures, the most liberal of those options being this – for some reason this slide actually did not copy over correctly – the most liberal, if you just look on the back of your page it should, the most liberal of those options is 18 inches, four, with a season of May 1st through September 18th. And the most restrictive in size would be 18.5. then a more liberal bag of five and open year-round. Is there any questions to those proposals and coastwide potential measures?

CHAIRMAN TRAVELSTEAD: Pat.

MR. AUGUSTINE: Yes, thank you, Mr. Chairman. I'm going to use the new terminology, a point of information. In returning to that Massachusetts and North Carolina, this year the way we were set up within the framework of ASMFC states could have selected or elected to join forces and end up with a regional approach.

And it seems to me in order to do that we would have to have all participating states agree to it from Massachusetts to North Carolina? Is that true?

CHAIRMAN TRAVELSTEAD: That's correct.

MR. AUGUSTINE: Okay, that answers that question. In the event that a determination was made or consideration was made to go to a mandatory regional approach, what would the, without getting into a lot of dialogue here, what would be the action required to consider that? Would that be an addendum or an amendment at a later date? And how would we get that on the agenda?

CHAIRMAN TRAVELSTEAD: To go to mandatory regional approach?

MR. AUGUSTINE: To a choice of a mandatory regional approach. We now have a –

CHAIRMAN TRAVELSTEAD: It would take a plan addendum.

MR. AUGUSTINE: By addendum. Okay.

CHAIRMAN TRAVELSTEAD: Yes, a plan addendum. It would take a motion to initiate that. You want to initiate an addendum at this point?

MR. AUGUSTINE: No, but I wanted to know the process to get to that point. So, now I know it's going to take an addendum. If not this meeting, it could be a follow on meeting in the near future. But it's just seems to me we need another option somewhere as it's obvious what we've got does not seem to be offering a relatively decent balance. And I do know that was brought up in previous years but circumstances have changed since then.

CHAIRMAN TRAVELSTEAD: It's been talked about quite a bit over the last year.

MR. AUGUSTINE: Exactly. That's why I mention it. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Let me see if Bob has something to say on this.

MR. ROBERT E. BEAL: Well, each year as we go through the conservation equivalency process the first decision that this board makes is whether we're going coastwide or state-by-state. So if you're, you know, if you're asking could we make a mandatory coastwide set of regulations, you know, that can be

done at the December meeting each year. But a mandatory region, that would take a plan addendum given the –

MR. AUGUSTINE: A follow-on, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Yes.

MR. AUGUSTINE: Yes, that was the point. It just seems to me that is the last remaining option that we haven't considered and as Jack, our chairman, pointed out there have been some real severe changes in the last few years creating a lot of dislocation of fishermen and so on and top that with the changing status of the stock. So, yes, if that's what it's going to take and I'm not sure it would be in order by the end of this meeting, Mr. Chairman, or put off to another meeting. I would refer to your discretion as to where that might fit in.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: Thank you. I'd like to pursue an issue and conclude with a question with respect to the regional options, Mr. Chairman, if you will indulge me for a moment.

CHAIRMAN TRAVELSTEAD: Sure.

MR. COLVIN: Two points. First, the regional options that were developed and which received essentially a methodology approval by the technical committee included a region that was in fact the entire coastal summer flounder management unit. And the options that were tabled that Toni had up on the board a few moments ago I believe to be significantly different than the options that were under general discussion during the time of the board's joint meeting with the Mid-Atlantic Council last month.

That leads one to believe that it may be that the board's decision to approve a motion in support of state-by-state conservation equivalency as opposed to a coastwide management option was based on information about the consequences of their decision that was not at that time correct. And that is a matter of concern to me.

And I'm not quite sure, Mr. Chairman, where that leaves us at this time, looking retrospectively at the basis of the decision that was made. I suppose that a board member, myself or another, could make a motion to seek reconsideration of the board's decision being as it was based on information that is different than the information we have today about

possible coastwide management options.

I don't want to beat a dead horse or prolong unnecessarily the board's deliberations but I wanted to put that issue out there and seek the guidance of the chair and other board members on what I perceive to be a very important matter. Thank you.

CHAIRMAN TRAVELSTEAD: There is no question that the options that were presented at our last meeting for the coastwide option were incomplete. And that's why we now have this table that has been looked at by the technical committee in front of us that shows some five additional possible coastwide options.

In my opinion I think you've described the procedure that we would have to undertake and that is a reconsideration of what we did at the prior meeting and then an adoption of a coastwide option if it went in that direction.

If someone has a different opinion than that on the procedure I'd like to hear it but I think that's what would have to be done. And as far as how the board members feel about that, I don't have any indication. But we, you know, we want to hear from you. David.

DR. DAVID PIERCE: Not to your point, Mr. Chairman, regarding the procedure I would like to follow. As a consequence of our last meeting, the last board meeting, you know, my agency working with my marine fisheries advisory commission put together some options to bring out to public hearing for our recreational fishery this year.

And the public hearings I believe will be this month, February. And anticipating approval and of course getting good guidance from Paul Caruso, a member of our staff, you know we have included the options that have been approved now by the board specific to Massachusetts.

And we left ourselves room to bring to public hearing these regional coastwide options which we assumed would be developed. We didn't have these tables at the time. And, frankly, this is the first time I've seen them today. Nobody's fault. They were e-mailed but I didn't check my e-mail on Friday.

Anyway, so my preference right now, representing Massachusetts, is to follow through with the process that we've established, air at our public hearings these Massachusetts-specific measures and some of these measures that relate to, maybe all of these measures that relate to, the regional approach and

coastwide options.

We've had, that is Massachusetts and the other states, we've had you know limited discussion regarding what might be acceptable to all, whether regional or coastwide. So my assumption is that we would continue to have those discussions, you know, with the other states but, and then come to some agreement as to what might be the best regional option or coastwide option.

But all of that would certainly feed into the decisions that we would make in Massachusetts with our marine fisheries advisory commission, just to make sure that we do, indeed, get their views and, of course, the views of the public that will hear all of these specific measures. So, That's the way we're proceeding.

Obviously, the board may want to do something different today consistent with what Gordon just has suggested. I would hope that we don't suddenly don't decide today to revisit this issue and to go with some coastwide option. That would not be the procedure I would like to follow.

CHAIRMAN TRAVELSTEAD: Any other comments on this issue? Rick.

MR. COLE: Thank you, Mr. Chairman. I'd just like to add that given the extensive amount of time it takes to complete our administrative procedures requirements in the state of Delaware, we immediately started the process after the technical committee approved our options. And as it is, the earliest we will be able to get our measures in place will be by Mid-May, as it is right now.

And if we were required to include these other options into our package it would set our, ultimately set our approval period back and we couldn't have measures in place probably until well into June.

And it would certainly put us in a position to not be in the best position to meet the mandates of the commission. So, again, I'm sure probably other states have to follow these complex administrative procedures processes and it would be very difficult to at this late date to make that kind of change. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Anyone else on this issue? Gordon.

MR. COLVIN: Thank you. And I appreciate the comments and I appreciate the dilemma. And

nonetheless I think we have a flaw in our decision making record. And I think that flaw is a reflection of incomplete information that at the time – and I guess I do not have, I don't think any of us yet have the minutes of either of our two December meetings in front of us so I can't really refer to anything other than my recollection but my recollection is that at the time there was some discussion about and speculation about what options might conform to the increased TAL of 17.11.

But the fact is that I believe that we were given the impression by the staff information that the measures that would be required are more stringent, significantly more stringent, than what in fact ended up being the conclusions of the technical committee. And, again, as I said earlier, I find this to be a matter of some serious concern.

And though I understand from the members' comments that have been made what the outcome will be I think it's necessary to correct our record, Mr. Chairman; and, therefore, I would offer a motion to reconsider the action to institute state-by-state conservation equivalency for 2007 and substitute instead a coastwide management option to be selected from the ones approved by the technical committee.

CHAIRMAN TRAVELSTEAD: You've heard the motion. Is there a second to the motion? Seconded by Everett. Gordon, do you want to comment further on the motion? Okay, sorry for the pause. Obviously, we weren't all paying attention this morning but Vince was.

Gordon, I think the more appropriate motion based on what we just heard in class this morning is to either rescind, not reconsider but rescind the prior action of the board or to amend the previous action of the board. Either way you go requires a two-thirds majority vote. So, I think the preference would be to amend the previous action to consider a coastwide, the coastwide option from the list that we have before us.

MR. COLVIN: I agree and do so. I revise my motion.

CHAIRMAN TRAVELSTEAD: Okay. Thank you. Is there a second now to this proper motion? Eric seconds the motion. Comments on the motion. Yes, sir, Dick.

MR. DICK HERB: Yes, sir, when we were in New York we did talk about the two options, one was a

coastwide or a forced regional quota system. The other one was probably the longer-reaching one where we went back and redid the allocation or reconsidered the allocation.

Obviously, the latter one is going to take a lot more time. It has to go to the various technical committees. It hasn't gone anywhere yet. We're waiting for a peer review. We know we're dealing with "fatally flawed" MRFSS data which is, gave us some of the quota figures we have right now.

So I think that's something that will be looked at down the road. And I think it probably should be looked at down the road. But in the meantime looking at the figures under the coastwide or the various regional systems that are proposed on this back page it seems to me that some of these are effectively a reallocation of the quota because, for example, in New Jersey looking at the sizes, the minimum size fish, I doubt very much if we could come anywhere near the total quota we're assigned for 2007 under that system.

So, we may be getting the cart ahead of the horse. We may be calling a revised quota system something else under this coastwide or forced regional basis. And based on that I think the entire project should be deferred until we can get a little better data, until the peer review, until the technical committees have a better chance of looking at this. I think doing one without the other could effectively produce the wrong result.

CHAIRMAN TRAVELSTEAD: Any further comments on the motion? Bill, are you speaking in favor of the motion or against? All right, stand by. Eric, go ahead.

MR. ERIC SMITH: Thank you. Understanding Dick's comment just made that we may not exactly know where we're going with this, I'm such an advocate of trying to get out of the morass of the state-by-state dilemmas that we're in every year that I want to grasp at every straw that I can to try and create regions, even if they only happen to be three states at first and then maybe a few more in the future.

And if you remember those numbers – and I said this in December – Connecticut hit the lottery this year. For no reason other than the luck of MRFSS we came in well under our target and therefore we have a very small state-specific cut to take. And if anyone of these regions, we have a far larger cut.

Even having said that, I would rather go to public comment and talk to the anglers in my state and say, look, a regional approach worked for you on scup three years ago; it can work for you in the future on fluke. In this particular case we have to take a larger hit in order to get onboard a region but in the long run it will probably be to our advantage because it will dampen the wild oscillations from year-to-year harvest targets.

So I would prefer, I like this motion to allow states to find some way to get out to the public and try and see if they can get a buy into it. I understand some of the states have started their process and may not be able to take every option that we like today out to comment. But I would hate to vote no on this motion and just lose all opportunity to try and move this system in the right direction so I support the motion.

CHAIRMAN TRAVELSTEAD: Thank you. Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. These, for them to be mandatory, which I thought there was a discussion prior to this, I thought I heard that for these to be mandatory would take an addendum. And so my question here is if these were approved under the rescind motion and eventually approved, where are we? Can we put in a mandatory that all the states in the region have to go with this or do we need an addendum to make sure that they do this?

CHAIRMAN TRAVELSTEAD: No, you'll recall when we meet in December every year we first make a decision whether we're going to go with a coastwide management option or we're going to continue conservation equivalency. And in December we decided to go with conservation equivalency. The motion now is to reconsider or to amend that to go back to and look at a coastwide option. It does not require an addendum. It's simply a reconsideration and a two-thirds majority vote. Eric.

MR. SMITH: To be clear, it's not to do a common coastwide measure instead of state-by-state, it's to consider both. That's how it says it up there now or else it's not clearly worded.

CHAIRMAN TRAVELSTEAD: No, we're amending the previous action which was to instate state-by-state conservation equivalency and consider coastwide measures.

MR. SMITH: So the coastwide measure approach would be the only thing on the table?

CHAIRMAN TRAVELSTEAD: If this motion passes by two-thirds then we're back to a coastwide option and we'd have to decide which coastwide option we wanted.

MR. SMITH: Okay, in that case I stand corrected. I would have to withdraw my support from the motion.

CHAIRMAN TRAVELSTEAD: Okay. All right, I still have a list of names. Pat. That's all right. Go ahead.

MR. AUGUSTINE: Thank you, Mr. Chairman. In reviewing what possible bag limits and sizes states that are sharing the same bodies of water with us have relative to where we are, Delaware, New Jersey, Maryland or Virginia and then up in the other direction with Connecticut, Rhode Island and ourselves, it seems the discrepancy comes, it boils down to a half-inch in size in most cases where we go to state size, a bag limit that would be more reasonable, probably at four or five fish, a season that might be about two weeks difference in length and, as pointed out by a previous speaker, looking at trying to get rid of this inequity of state-by-state. It's a nightmare.

We've been here at the table several years now where New York, no matter what we do we find ourselves in the hopper. All of you who have gone through the experience and some of you who have done it this year for the first time, it's very painful. And at the end of the day we still end up, because the stock is not rebounding the way it should or reacting the way it should, we are getting squeezed and squeezed. And that's just the nature of the beast.

So, it just seems to me that folks around the table have to open their eyes and talk about fairness. Either this is a compact where we concern ourselves with our partners and it is a partnership as opposed to what is mine is mine because that was what the state allocation was.

So I would hope that we go back and support this motion from more of a proactive point of view to if we're going to share the pain and share the gain we should do it collectively and all be in the hopper at the same time as opposed to certain states based on various circumstance of where the fish want to reside end up being penalized. And so I do hope we support this motion. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Let me take care of one technical problem. Eric, when you changed your position, are you withdrawing your second on the motion?

MR. SMITH: No.

CHAIRMAN TRAVELSTEAD: Okay. Red, are you speaking for or against the motion?

MR. RED MUNDEN: Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Are you speaking for or against the motion?

MR. MUNDEN: You didn't give me time to tell you I was speaking against the motion.

CHAIRMAN TRAVELSTEAD: Okay.

MR. MUNDEN: That's what I wanted to say.

CHAIRMAN TRAVELSTEAD: Go ahead.

MR. MUNDEN: Mr. Chairman, we cannot support this motion. As I read it this would require the states to go to the coastwide management measures. If you look at the information that the staff pointed out, there were some options for regional allocations but this motion clearly says consider coastwide measures.

In a previous conversation several years ago over this very same issue Mr. Colvin made the statement that he didn't care about what happened in North Carolina relative to summer flounder. And I told him that I did care about North Carolina and he said, well, I really didn't care what North Carolina did.

But, as I pointed out when we were discussing this at our meeting in December, the meeting between the Atlantic States Marine Fisheries Commission and the Summer Flounder Board, when you go to an 18-inch size limit you eliminate North Carolina's fishery for summer flounder.

Now, board members have talked about fairness and equity. I can't see that going to something that favors one area and completely eliminates the fishery in another state is equitable. We have, in our conservation equivalency proposal we have offered and have proposed rather that we increase the size limit for the Atlantic Ocean summer flounder fishery by one-half inch, from 14 to 14.5 inches.

And last year we were under our target by 28 percent at 14 inches. And you know if we go any higher than that then we are in jeopardy of having very few fish landed. And if we get up to 17, 17.5, 18 inches, then there will be just no fishery in North Carolina. So, for obvious reasons I cannot support this motion.

CHAIRMAN TRAVELSTEAD: Thank you, Red. David.

DR. PIERCE: I'm in opposition so I assume you would rather take someone who is in favor.

CHAIRMAN TRAVELSTEAD: A.C. are you in opposition or?

MR. A.C. CARPENTER: I'd be in opposition to this motion.

CHAIRMAN TRAVELSTEAD: Does anyone want to speak in favor of the motion? Go ahead, David.

DR. PIERCE: Well, I'm in opposition obviously because it obliges us to go with a coastwide option. Red has already hit on one important point regarding the problem he would have in his state. I already indicated that we started our process and that we would entertain these options through our process, that is we would air them then get back to our marine fisheries commission and then make some final decisions after some further consultation with the other states regarding which regional approach to adopt.

The regional approaches have more positive elements to them than the coastwide, from my perspective. But, again, I would not be in a position today to say which regional approach was best since we have a public process in our state and we need to follow that. So I would, as a consequence, be opposed to this motion.

CHAIRMAN TRAVELSTEAD: Thank you. A.C.

MR. CARPENTER: In the interest of time I'll simply say that I'm opposed to this motion, will vote against it and would suggest that we call the question.

CHAIRMAN TRAVELSTEAD: Any other comments? Seeing none, you want to take a minute to caucus? Let's take a minute to caucus and we'll vote. If you will take your seats we'll move on. Joe has asked me to read the motion into the record. The motion is move to amend the previous action to instate state-by-state conservation equivalency for 2007 summer flounder recreational measures and

consider coastwide measures for the 2007 summer flounder recreational fishery. Made by Mr. Colvin and seconded by Mr. Smith.

All those in favor of the motion please raise your right hand; all those opposed to the motion, please raise your right hand; any null votes; abstentions; two abstentions. The motion fails. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I apologize for that time-consuming diversion but I do think it perfects our record and I think in the long run that's a desirable outcome, although I'm disappointed in the result. I do want to just get back to the issue of the regional options, if I may, for a moment.

And this is actually my second issue in question on the second part of Toni's report. The technical committee did approve a methodology to establish regional measures and there were several candidate options for some exemplary regions that were also specifically included and obviously many others could be crafted using the same methodology.

My understanding is, and I just wanted to get it clear for today's discussion on the record, that we do have in place Addendum XVII, is it, that creates the possibility of states agreeing to establish voluntary regions and that following today's meeting and the approval of our state measures we may engage in a dialogue back home with our stakeholders both about the options they have available, we have available for our state measures as well as options that might be available on a regional basis voluntarily.

And it's conceivable that two or more states might decide to pursue a voluntary regional program using the methodology here. And I presume that the use of that methodology, consistent with our prior discussion about additional state options, would be acceptable to the board provided that the correspondence came to the board and to the technical committee just to create the same assurances that the proper procedures and methodology had been used.

CHAIRMAN TRAVELSTEAD: Let's see if we have general consent on that. Seeing no objection, your suggestion is agreed to by the board. So we have this list and certainly that can be added to as long as the methodology doesn't change. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I had another point of information but it's a question. In view of the fact that the coastal default measures were set, I believe it was one at 19 year-round, the

question arises whether or not we as a commission have any impact on making a recommendation back to the Mid-Atlantic as to the correction of that assessment, to go from that one at 19, whether or not we could only make a recommendation to them to consider what the technical committee came up with under coastwide options or whether that is only a final decision of the Mid-Atlantic Council to go with the default option. I don't remember whether our vote counted in that or not. Can someone help me with that, please?

CHAIRMAN TRAVELSTEAD: Toni? We're going to hear from Bob on that issue, Pat. Bob.

MR. BEAL: Thank you, Mr. Chairman. I don't know if I can completely answer the question but I believe the one at 19 was put together in response to the 12.98 million pounds rather than the 17.11 that we currently have. I don't know, I haven't seen the math and I don't know – and I obviously can't do it in my head – what the new coastwide default might be under 17.11.

I think those regulations are developed to achieve a, achieve the most restrictive suite of regulations that a state, that any given state would have to have under the conservation equivalency. So, without the, without new tables in front of me I don't know what the new numbers would be.

MR. AUGUSTINE: A follow-on on that, Mr. Chairman?

CHAIRMAN TRAVELSTEAD: Yes.

MR. AUGUSTINE: The reason I think it's very important is as you all know around the table New York got put in a bind a couple of years ago where we actually had gotten to a point in time where New York challenged whether we were over quota, under quota, whatever it was.

But it followed in a series of meetings with Dr. Hogarth and staff where several of us went down to talk with them only to find out, well, fortunately the delay in the process of setting up the meeting actually resulted in New York being only short one week with our season where we had to go to a default measure of – what was it one fish at 18, Gordon? Was it one fish at 18 or one fish at 18.5.

And what it did was it served as at least something to fish on during that period of time. Whether it was right, wrong, or indifferent, what the effect was upon

the biomass, those are other issues. But it seems to me if we can get some clarification as to what the change would be now since we went from 12.98 to 17.112 it would let us rest a little easier because I'm not sure what measures we can take in New York this year.

We're going to do our utmost to stay under that quota. It's going to be difficult at best. So I'd like to see if we have a little more of a fallback. And I'm not sure we would want to put the onus on Ms. Coakley but whether we just wait to have Bob check with the council to see if they've come up with any other numbers or not. I don't want to stretch this meeting out. I would just, if there is information we can get later on and see if that is being readdressed, I would appreciate it. Thank you.

CHAIRMAN TRAVELSTEAD: Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: You know, I think that's an important question, Mr. Chairman. And really it's a question that I think has to be answered in the forum of the Mid-Atlantic Council which is going to meet in two weeks. And I think it ought to be raised there and answered there because, let's face it, if there is any questions and if there is a reason to raise the question it's because someone might use that number. And if you use that number, you want to make sure it's beneficially determined. So, I'd say bring it up in Claymont, Mr. Chairman.

MR. AUGUSTINE: Thank you, Mr. O'Shea.

CHAIRMAN TRAVELSTEAD: I think that's a good idea and I'll be glad to bring that up in Claymont. Are we ready to move to the next agenda item? Toni.

MS. KERNS: Just as a reminder to states in terms of our timeline and process for letting the commission know what your regulations will be for the 2007 summer flounder fishery, for all of those states that are not prohibited by their regulatory process we'll need to have that information by March 1st.

I realize that there are some states out there that have a regulatory process that will not enable them to get that information but for those of you that can, as soon as or on March 1st that would be useful. And for those states that are considering a regional approach, just a reminder that Addendum XVII states that all states within the region have to have the same size, bag, and season for that approach.

And, lastly, I would just like to reiterate the TC's concern and request that each state ask MRFSS for as much as or additional length frequency data for all summer flounder information or for catches through the recreational fishery so that they can better evaluate proposals and give more up-to-date information.

CHAIRMAN TRAVELSTEAD: Thank you. We're going to move to the next agenda item, black sea bass and scup quotas. Toni.

2007 BLACK SEA BASS AND SCUP QUOTA

MS. KERNS: Thank you, Mr. Chairman. In front of you, you have the memo for your 2007 black sea bass and scup commercial quotas. First we'll look at the 2007 black sea bass quota. The table up on the screen shows you that the commission's quota for sea bass is higher than those that are allocated under the service to the federal permit holders.

Our quota that we adopted was a total of 6.5 million pounds and the service's quota was 5 million pounds. This will give in some cases a fairly large difference in the state allocations. If we go over our, if a state goes over the federal quota for 2007, then the federal waters will be shut down for the black sea bass fishery.

That will mean that all federal permit holders will have to cease fishing for black sea bass quota and only those with state quotas or state permits will be able to continue fishing which can cause inequity between the two, between permit holders within your state.

The recreational regulations are no different so the recreational fishery won't be affected because we went ahead and stayed status quo with our recreational measures. We did not liberalize those at all so there won't be any difference there but there could be problems with the commercial fishery.

The other issue will be that for the 2008 fishery if we harvest more than what the federal quota will be that will come off of the 2008 total coastwide quota. For the scup quota up on the board you can see the shares that are allotted. The commission adopted a 16 million pound scup quota and the service adopted a 12 million pound TAL.

Overages that are applied to the 2008 summer period quota, if we go over the federal 2007 summer period quota that will be applied to the 2008 federal quota

for the summer period. And, again, federal permit holders would be affected if the federal quota is met and we continue to fish. Only those state permit holders will be able to fish for the summer period.

Currently, the Winter I trip limit is the same in the commercial fishery. But if we carry over a significantly more fish for Winter II, then we could have higher state trip limits than those for the federal permits so then you could have commercial fishermen with federal permits fishing on a different trip limit than those commercial fishermen that just have a state permit. And, again, because we stayed status quo with our 2007 scup recreational measures the recreational fishery is not affected by this difference in quotas.

CHAIRMAN TRAVELSTEAD: Okay. Questions or comments of Toni on these issues. Gordon.

MR. COLVIN: Thank you and I thank Toni for the report. It does seem to me that we might want to at least take a moment to consider whether at the end of the day now that we have proceeded with status quo on the recreational side we want to reconsider the decision to set a higher TAL that affects the commercial quotas and could have consequences for us down the road.

I recall the discussion that took place in Atlantic Beach on the fluke situation and the consequences that would arise and the things like the allocation implications of setting a higher fluke quota than what was ultimately adopted federally. And I can see little difference between those consequences that were discussed there and the consequences that immediately come to mind with respect to black sea bass, in particular.

And with respect to scup, you know, we've been down this road before. And it created a real mess for us. Just to remind everybody, the scup quotas are period-specific so if we exceed the summer period quota, federal quota, then the federal quota will be adjusted for the summer period next year, even if the total commercial quota for the year is under.

We'll still see that effect on the summer next year. So then what happens is you get into a situation where in the following year even if we get back on the same page – assuming we do; that's what happened last time – the federal quota will be used up and the federal boats will be shut out of the fishery before the summer period ends so you end up with an in-state allocation problem between your holders of federal permits and your non-holders of federal

permits.

And, I mean, I recall that experience and it was ugly. So, all things considered I would sort of lean at this point towards a re-visitation of this in an attempt to get our state TALs for these two species back in alignment with the federal TALs but I'd certainly, I don't necessarily see it as something that is urgent because we're not going to catch all these fish up in the next month or two. But it's something that we ought to start thinking about but I'd sure like to hear other members' views.

CHAIRMAN TRAVELSTEAD: Rick and then Red.

MR. COLE: I don't totally disagree with what Gordon just said, although in our case sea bass is the species of issue here. And if in fact we're going to reconsider this quota issue I think it's something we have to do now because I know in our case we will be issuing our harvest permit letters here in the next week or so.

And with the individual fishing quota like we have, we have to have a hard quota number. So, if we're going to do it collectively I think we would have to do it here today because it would be – I know we couldn't adjust once we sent those letters out. So, there is certainly merit to all of us being on the same page.

And I would assume that if a state does go over the federal quota, then that overage will be – now I'm talking about sea bass – that overage will be applied to the next year's state quota. Is that correct, Toni? That's the way the plan reads right now.

MS. KERNS: Yes, that's the way the plan reads right now in terms of how we deal with it when we've had the same quotas. Now, if we continue on with the disconnect between the two, I'm not 100 percent sure how we will deal with the overages because the coastwide quota under the federal system we would, there would be an overage and so that would come off the entire coastwide quota.

So then we would need to address how the commission would want to take that overage off. Would we apply it to the state that had the overage or would you follow suit with the service and just apply it to every state? Because they're going to take it off the top of their quota for everyone because they don't recognize the state shares. Does that make sense?

MR. COLE: Well, I think the plan says right now that if a state goes over its quota, its individual state

quota, that it will be taken off that state's quota the next year.

CHAIRMAN TRAVELSTEAD: That's correct. Bob, further clarification.

MR. BEAL: Well, sure, I'll give it a shot. The commission plan states exactly what Rick says, that if a state goes over its quota or its share that overage comes off the subsequent years' quota for that state. The difficulty is that at the federal level there isn't, there is not state-by-state quotas. There is only a coastwide quota.

So if the states cumulatively go over the 2.4 million pounds that the federal government has for 2007, any overage beyond that is going to come off the federal coastwide quota in 2008. We don't have a guiding document or a board decision on how to allocate that overage or what that necessarily means to the states.

What the commission would do in 2008, assuming we don't change plans, would be take the interstate quota, divide that by the shares that are in our plan and allocate that to the states. What the effect would be is that the federal quota is going to be smaller, assuming – even if we get back on the same page we're going to have a smaller federal quota in subsequent years that the federal waters are, again, going to close early.

The federal boats are locked out. The states are still likely going to have quota available and they're going to be able to harvest fish but only in state waters. So it gets to be clearly a pretty complicated bookkeeping and accounting situation.

CHAIRMAN TRAVELSTEAD: Okay, you're clear on that, Rick?

MR. COLE: Yes, Jack. And my only point is that if we're going to make this change on black sea bass, let's do it today.

CHAIRMAN TRAVELSTEAD: I, that would certainly be the chair's preference as well. If we're going to rescind an action that we've already taken and adopt something different I would prefer we do it today than put it off. I had David and then Eric.

DR. PIERCE: All right, this discussion is not new. We had this at our last meeting. We knew full well what the consequences would be of our going with a different quota for black sea bass, a different TAL. It's painful; we know. But we made an informed decision at our last meeting. A quick question, what

was the quota last year for black sea bass, the TAL? Was it 8 million pounds?

MS. KERNS: Eight point two million pounds.

DR. PIERCE: Okay, 8.2. So we did a very conservative thing. At the state level, at the ASMFC level we cut it back dramatically from that amount. The federal government insists we go to 5 million. We disagreed with that. The federal government decided to move with the recommendation from maybe it was the plan development team, I forget exactly where the originator was, but we disagreed with that particular recommendation coming from that group.

We made an informed decision to go with the numbers that we adopted. It was painful. We knew that. But we believed that we were right. And I still believe that we are right. Now, from my perspective representing Massachusetts, it's February, for all intents and purposes. And we started our public hearing process.

We planned our management measures, changes thereof, for this year based on the numbers that we adopted at our last meeting. So to cut it back now in a dramatic fashion upsets our apple cart in a major way. It's going to force us to rethink how we manage our black sea bass fishery for this year and it's too late for us to do that in light of the process we have established. It's almost February 1st.

So, I strongly, you know, disagree with any return to the, to revisit this issue and to go with a lower number. In addition, where is the audience? This is not on our agenda, moving the quotas back, reducing the quotas. The audience is relatively sparse and certainly those who are present and who are aware of and who commented on the measures that we considered last time around and then eventually adopted, they're not here.

There's no notification. So we are always collectively very concerned about public perception, how the recreational fishermen and how the commercial fishermen, you know, will react to what we do. We're very concerned about getting out notice in a fair, well ahead of time so people are informed. This re-visitation with the potential to go to a lower number will take a lot of people by surprise.

And there will be many people considering us to have taken an inappropriate course of action based on a rethinking of everything that we discussed at our last

meeting. This is nothing new here. No, there is nothing. Nothing new has been brought forward that would cause me to reconsider the vote we took at our last meeting.

CHAIRMAN TRAVELSTEAD: I don't want to cut off debate on this issue but I think we do need to focus it. And if someone wants to offer a motion on this issue then we should hear it; otherwise, I think we're just wasting our time discussing it. So let me ask, is there anyone wish to offer a motion on this issue? Eric.

MR. SMITH: Yes, I believe I do, with a few comments in preparation. I understand David Pierce's frustration on this, the timing as well as we made an informed decision in October. And I despise the fact that the National Marine Fisheries Service did this to us and does this to us. I think we're becoming the appendix to the federal arm of the government. And if that doesn't exasperate people beyond being able to speak about it I don't know what will. So that bothers me, too.

In reality, though, use black sea bass as an example, if the region does what the region has said it's going to do, and we catch 8 million pounds in '07 and they've set the quota at 5 million pounds, then in 2008 they're going to set the quota at 2 million pounds. And they're going to do the same thing for scup. That's a train wreck I don't want to see happen in 2008.

So as painful and aggravating as it is, I think we'd better just do two things: be properly cowed by the regional administrator and follow their lead and then think long and hard about how we can change this process so that 15 Atlantic Coast states actually have a say in interstate fishery management because we sure don't have it now.

Having said that I will move to rescind the scup and black sea bass commercial quotas approved in October of 2006 and establish quotas that are identical to those published for 2007 by the National Marine Fisheries Service.

CHAIRMAN TRAVELSTEAD: All right, we're going to get the exact numbers for everyone to see just so they will have them. But we have a motion. Is there a second to the motion? Seconded by Gordon Colvin. Discussion on the motion. Eric, do you want to add anything further?

MR. SMITH: No.

CHAIRMAN TRAVELSTEAD: Anyone wish to speak against the motion? Bill.

MR. ADLER: Thank you, Mr. Chairman. I'm getting sick and tired of having meetings like this where we have to just say, well, what did the federal government want to do? Okay, therefore we'll do what the federal government – let the federal government change their mind instead of us.

We made this decision after a lot of discussion prior to this. And we made these decisions. And it's just too bad that the feds didn't agree with us. Plus, I just got this and I also know that in my state our fishermen will go ballistic if there is going to be drops, particularly if there is going to be drops like this. And it's just going to be a nightmare. And so I just, I'm opposed to this motion and I'm opposed to changing our mind just to please the federal government.

CHAIRMAN TRAVELSTEAD: Who wants to speak in favor of the motion? Gordon.

MR. COLVIN: Just I'd like to address a couple of points that have been made and in my own recollection of our decision making process. You know, we did decide in August, I believe, to go with the higher numbers.

At our board meeting in October we had some discussion about the issue of the consequences and the differences that might result because at that time we had, we received information on short notice that the proposed federal quotas were lower than those recommended by the Mid-Atlantic Council and adopted by the board.

And at that time the decision was that we would stick by the quotas we recommended and instead that the commission would submit comments, officially, for the comment record in response to the Federal Register notice that stated the rationale for our decision and urge the National Marine Fisheries Service to change its decision and in fact come around to the point of view that the board had previously decided.

At the end of the day we learned in December that that was not happening and, again, on short notice and during a meeting that was I think it is fair to say completely dominated by discussion of summer flounder. And while we briefly discussed this issue we didn't really, at least I can assure you that I didn't really have my heart and mind in it. It was elsewhere during that meeting.

And since then we've given this some more thought and have particularly contemplated the consequences of moving forward with harvest that exceeds the federal quota. And I believe that in the long run the consequences to our fishermen of exceeding the federally-established quotas will be higher than, by far, than the benefits the fishermen would get of a couple of hundred thousand more pounds this year.

And that's why I'm supporting this. Now, that said, let me say also that I share the seething frustration that I hear coming from Bill Adler. It is tiresome time-in and time-out to have a partnership in which one of the partners is unwilling to move toward the other.

And I think that we need to take some action, as the maker of this motion suggested, to convene some high level National Marine Fisheries Service people with the leadership of this commission, eyeball-to-eyeball, and make some headway on that issue because I, too, am tired of it.

And I thought that our staff made a compelling case in their comments on the Federal Register notice that the service could hang its hat on in support of the recommended quotas for this year. I believe we gave them all the reasons and justification they could have needed to adopt higher quotas and they didn't. And it's, the time has come to clear the decks on that issue. And I would like to see it done before we get to next August. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. Red, you were speaking against the motion?

MR. MUNDEN: Thank you, Mr. Chairman. I don't know if I'm speaking for or against it. I raised my hand to be recognized before the motion was made because I have a point of information for the staff. The memo that you passed out indicates that black sea bass commercial harvest for 2006 were approximately 393,000 pounds. What was our commercial quota for 2006? Do you recall?

MS. KERNS: For black sea bass?

MR. MUNDEN: Yes.

MS. KERNS: It was right around 4 million-ish. I don't know the exact number. Give me a second, Red, and I'll, I can give you the exact number.

MR. MUNDEN: But we came in slightly under quota for 2006, is that correct?

MS. KERNS: More than slightly.

MR. MUNDEN: Thank you.

CHAIRMAN TRAVELSTEAD: Everett.

MR. EVERETT A. PETRONIO, JR.: Thank you, Mr. Chairman. Given the discussion, it's obvious that this is an issue that is exceptionally galling. And in our class this morning I took a little ribbing because of my professional choices. But I can tell you that I would, if I wasn't conflicted I would love to take this case as an attorney if we do what we're talking about.

There is absolutely no notice to the public as to what we're doing. We made a decision and now we're going to reconsider it and completely change our mind. And we're going to do it based on the fact that someone that we're not working in the partnership, we're just being told what to do.

The taxpayers of the state of Rhode Island paid for me to come here. And if this is what is going to happen, they wasted their money. They wasted my time and their money because if the federal government is just going to dictate this to us there was no reason for me to be here other than to voice, I suppose the purpose would be to voice my outrage that we're in this position. So, I strongly oppose this motion.

CHAIRMAN TRAVELSTEAD: Vito, were you speaking against?

MR. VITO CALOMO: Yes.

CHAIRMAN TRAVELSTEAD: Okay, can you hold on just a second? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. This is a tough one. It's tough in respect to what Mr. Colvin said and what others have said about we at the commission being slam dunked. Unfortunately, whether we like it or not, we're locked into this having to abide by the greater red book which is the Magnuson-Stevens Act, but, more importantly, those FMPs and the rebuild schedules that we're faced with.

Whether they're right, wrong or indifferent is not the issue here. And we went forward in good faith in December and set these quotas that we thought were defensible only to find ourselves, as has been pointed out by Mr. Petronio and others, that we end up getting slam dunked.

The reality is we are but we aren't. And I find it awkward not to want to support this because it would, in one sense it would be in the best interest of our fishermen and in the other sense it would be in the worst interest of our fishermen if, in fact, we went over again. And, therefore, here we go.

We're going to slam dunk our fishermen and our states in total again, possibly worse the next time around than this time, assuming that the stocks do not rebuild, whether it's summer flounder, whether it's scup, whether it's black sea bass, and we, then, have done, not done our duty and we in fact have done a disservice to our folks.

And it's tough but we are locked into making a decision that's in the best interest of the fisheries. And John Mason, one of our predecessors and guys from New York who was on this board and participated for about 20 years, had made a statement several times.

And the first time I heard it was in Philadelphia when we were talking about what is it we're managing? We're trying to manage people. No, we are managing fish and it's about the fish. So, having said that, I would support this motion 100 percent. Thank you for that, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Vito.

MR. CALOMO: Usually, Mr. Chairman, I don't get too uneasy when I speak. I feel very uneasy at this time. I listened to Dr. Pierce and I listened to Eric Smith. And Eric's opening statements were very appealing to the way I think. And I don't feel this has anything to do, in my opinion, and it's my opinion only, not the commonwealth of Massachusetts, but my opinion, anything to do with sea bass anymore.

I think it has to do with taking a stand and what we believe and what we understood and what we sent out to the public and being a member of this management board. I feel that we're going to make a bad decision voting for this. I think it's going to be a bad decision in the future, and not the way that some of the people have conversed before me.

I think this is the time to stay this is our plan; this is what we came up with. I think Bill Adler hit the nail on the head with the hammer. What are we doing here if we have to bow down to something that we don't believe is correct? We also sent it out to the public. And they expect us to represent them. I'm at

awe. I'm really uncomfortable, Mr. Chairman, so I'll stop right there. Thank you.

CHAIRMAN TRAVELSTEAD: Any further comments on this issue? Vince, you're the last comment.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I know people are wrestling about this public involvement and notice issue and I certainly think that's important. But it seems to me that this board when it met in December heard extensive public knowledge about the fluke quota and in fact almost all the speakers spoke in favor of one number.

In fact, a member of Congress spoke in favor of that number and the board did just the opposite in order to allow the service to take advantage of the change in the Magnuson Act, a nuance that the public, many in the public didn't quite understand. And the board took the responsibility for that.

It seems to me that if the question to the public was posed to say would they willingly accept the consequences that the sort of train wreck, as it has been described, a year or two years from now of not having a fishery, would they accept that, it might be a similar situation. So I'm just saying there has been a parallel here in my mind of the board saying there is a bigger picture here that the board needs to consider. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. I'm also told that this item was on the ASMFC Website as in the form of public notice that this would be discussed. Are we ready to – we need a caucus on this issue. Let's take a minute to caucus. Okay, if you will take your seats, Joe has asked me to read the motion into the record because there was some perfection by the staff which I would ask the maker and seconder to –

MR. SMITH: Thank you. Yes, I will. The staff has suggested some improvements to it so the motion is I move to rescind the scup and black sea bass quotas approved in October 2006 and establish a black sea bass quota of 5 million pounds and a scup TAC of 13.97 million pounds which is a TAL of 12 million pounds that are identical to those published for 2007 by the NMFS.

CHAIRMAN TRAVELSTEAD: Bob.

MR. BEAL: Just a date issue, the board actually approved these quotas I believe in August of 2006 at the joint meeting. Is that right?

CHAIRMAN TRAVELSTEAD: That's one of those friendly staff corrections.

MR. SMITH: A very beneficial suggestion it is, too. However, Collette said we couldn't – no.

CHAIRMAN TRAVELSTEAD: All those in favor of the motion please raise your right hand; keep them up for a second; all those opposed, please raise your right hand; null votes; abstentions. The motion fails. Again, this required a two-thirds vote. The motion fails. Anything further on this issue?

Let's move on to Agenda Item 6, review and approval of Draft Amendment 14 for public comment. Recall, you all have seen versions of this proposed amendment on a couple of occasions and asked for some staff additions. And Toni is going to take you through those now.

MS. KERNS: Thank you, Jack. Again, I'm just going to briefly go through this document since many of you will have seen this now for potentially the fourth time. I have just gone ahead and added an additional option that was instructed at the Annual Meeting in October.

What we are looking at in Amendment 14 is the rebuilding timeframe for the scup fishery. Implementation would start in 2008 and we would have the ten-year period for rebuilding using the rebuilding targets that are set through the Northeast Fisheries Science Center spring three-year index value of 5.54 kilograms per tow, the minimum biomass threshold of 2.77 kilograms per tow.

And just here we look at where the peak index values are, of the catches that are associated with that 2.77 value and where, up where the red arrow or in this it looks like a dark brown arrow is with compared to the total fishery with the black solid line. And the gray line with the diamonds on it is the three-year spring average index.

For the scup rebuilding the projections that are used in the analysis are projected stock status against the rebuilding schedules using the spring survey catch per tow at age estimates. Using this long-term projection approach these projections of relative biomass were performed to evaluate how different rates of exploitation affect the long-term population trends for scup.

This type of production approach needs to be applied because of the inability to estimate the absolute magnitude of F for the scup stock in any given year.

There are, some of the options under the addendum are the constant F alternatives. Options A1 and A2 are basically no action options.

Option A2 is the additional option that we added. The first option is no action, a constant harvest of an F of .26 for ten years. So we would fall under the current F. This would not meet the rebuild and at 2016 the three-year index value of 2.96 kilograms per tow.

Option A2 is the additional option that was requested from the board to be added to this document. It will be no action until, a biomass rebuilding plan could not be specified until we, it's demonstrated that a substitution of the Bigelow for the Albatross will not make use of the scup time series invalid for determining the extent of scup rebuilding relative to the target spawnings tock biomass established from the Albatross survey indices.

At such time when this has been established the scup rebuilding schedule based on the Northeast Fisheries Science Center bottom trawl survey data can be used. If this alternative is selected, rebuilding plan and timeline for the scup stock would remain unidentified and F would be maintained at the current F target of .26 until any analysis could be completed.

And so for the purposes of this document we took this second alternative as a no-action item and would follow the impacts of the first no action in terms of social and economic impacts until the two vessels can be analyzed and the data coming from that can be established.

The second constant F alternative is Option B. It would be a ten-year rebuilding plan, a constant F of .136. This is about half of the current F. And we would be rebuilt by 2016 to a target of 5.54 kilograms per tow. Option C is the third constant or fourth constant F alternative. It would be an F of .1 over a seven-year period, about 40 percent of the current F. And it rebuilds by 2013 to an F of 5.97 kilograms per tow.

Option D is an F of .067 which would take five years for rebuild at 2011 and this is about one-quarter of the current F. The constant harvest alternatives are under Option E. This alternative was considered but rejected for it's not realistic. It would eliminate all sources of F mortality, landings, discards, and catch-release mortality and would – because it was a constant F of zero – and we would be rebuilt by 2010.

Option F is another constant harvest option of 17.7 million pounds over ten years. It was also considered but rejected due to the lowest revenues. F declines from an F of equal to .136 and we would rebuild in less than ten years.

Option G is a constant harvest strategy of 12.84 million pounds which takes about seven years to rebuild. And the F declines from an F of equal to .1. Option H is a constant harvest strategy of 8.74 million pounds which takes about five years to rebuild and the F declines from .067.

Currently the commission has broken from the Mid-Atlantic Council's Amendment 14 process because they do not have this second no action alternative of comparing the Albatross and Bigelow data. If we were to continue moving forward in adopting a different option under this amendment for the rebuilding schedule for scup, we would potentially be using different strategies to set the TAC/TAL which would then give us different annual TAC/TALs.

This, then, could lead to several differences in the plan which would include different regulations for the scup commercial and recreational fishery including trip limits, gear regulations and other management measures would go on from there so just as an implication of having different rebuilding schedules that are possible for the scup fishery by having a different document than the Mid-Atlantic Council.

And just for information the Mid-Atlantic Council will go out with their current Amendment 14 document. They will have public hearings that start at their next meeting two weeks from now. Does anyone have any specific questions?

CHAIRMAN TRAVELSTEAD: David.

DR. PIERCE: I'm sorry, Toni, I thought they finished their public hearings? No? They're still underway? Because I know that we testified in Rhode Island a week and a half ago, two weeks ago. Is the council going to act on Amendment 14 at its meeting coming up in a few weeks?

MS. KERNS: They are continuing to have public hearings and their process, their hearing period ends, Jessica can tell us the exact date – she's in the back there – but the exact date of their, the end of their public comment period.

DR. PIERCE: Jessica.

MS. JESSICA COAKLEY: Hi. The public comment period ended – oh, Jessica Coakley, Mid-Atlantic Council. The public comment period ended January 26th, close of business, which was last Friday. Discussion on Amendment 14 is on the schedule for the next council meeting in Claymont, Delaware.

I believe it's on the schedule for Valentine's Day, February 14th. And at that time the council will review the public comments and have the option of identifying any preferences they might have in terms of the alternatives and consider submitting the document to National Marine Fisheries Service at that time.

REVIEW OF DRAFT AMENDMENT 14

CHAIRMAN TRAVELSTEAD: Thank you. Any other questions of Toni? What action does the board wish to take today relative to Amendment 14? We need to send it out to – at least the, you know, that's what staff is suggesting is that this thing is now ready to go to public comment. Gordon.

MR. COLVIN: Mr. Chairman, I think it's appropriate to approve it as a public comment document. Given the public hearings recently concluded by the Mid-Atlantic Council I personally don't feel the need to conduct additional public hearings in our state and others may feel the same.

I do think it's appropriate to make the public aware that the commission will take comments on the draft and that there is an additional option – and we want to highlight that – and that is not in the Mid-Atlantic Council draft. If it would be in order, I would offer a **motion that the board approve the draft for purposes of public review and comment.**

CHAIRMAN TRAVELSTEAD: That is in order. Is there a second to the motion? Seconded by Dave. Comments on the motion. David.

DR. PIERCE: Yes, I support it going out for public comment if for no other reason than the option that I prefer is in our document and that's the one that we discussed at our last board meeting. We adopted it. It was inserted by staff. Thanks to Toni for that.

It's on Page 39 of the amendment and it's the one that she read regarding the Bigelow and the Albatross. It's a big issue. It's a huge issue. I know the Mid-Atlantic Council has not addressed it. They did not bring it out to public hearing so we're airing this issue in a public way by adopting this document

and getting public comment. So I will support it.

By the way, we have prepared comments, formal comments, on Amendment 14, yes, on Amendment 14, the Mid-Atlantic Council's plan. And we will modify those comments somewhat and then submit them to this board for its consideration to take action down the road after of course the Mid-Atlantic Council has concluded its action on Amendment 14 and therein will lie our challenge. What do we do after the fact? The same situation where the tail behind the dog.

CHAIRMAN TRAVELSTEAD: Anyone wish to speak against the motion? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I don't wish to speak against it. I would wish to follow up with what Dr. Pierce said but along a different vein. It would seem to me that as long as the Mid-Atlantic has already made their case and it's gone out to public hearing, as usual, this is unfortunately another slam dunk where we're out of sync with each other going out to the public with similar issues as to how to address the fishery.

Is there anywhere or would it be appropriate within our document to show or are we going to show that there is a difference? As you had indicated if we selected certain of our options they are different than what the Mid-Atlantic is or do we, are we better off to have our public say what we would, they would like to see and then have us come back and have to address it?

CHAIRMAN TRAVELSTEAD: I think our staff can certainly when they go to public hearing can highlight the differences between this document and the one they may have seen during the Mid-Atlantic Council hearings.

MR. AUGUSTINE: That would be appropriate, Mr. Chairman. Thank you.

CHAIRMAN TRAVELSTEAD: Okay, Mr. Leo, you had a comment.

MR. ARNOLD LEO: Yes, thanks. I'm Arnold Leo. I've appeared before you for many years as a spokesperson for the East Hampton Bayman's Association. As of this year I appear before you as the director of the Division of Commercial Fisheries of the Town of East Hampton. The Town of East Hampton is the first seafaring town to have such a division.

And I'm not speaking against the motion. In fact, actually I'm in favor of it. But I do want to point out that we have a very big concern that by definition you're setting this plan up for failure because it's based on the 5.44 kilogram per tow.

And in 37 years of data only four times have you achieved even half that, the 2.77 kilograms per tow. Out of 37 years, 4 years have you achieved that level, nowhere near the 5.44 which is being used as the goal, the biomass at maximum sustainable yield. So, I think that that is an unreasonable goal. And I wish that to be in the record.

Also, we are concerned that the stock assessment, the data for scup is so unreliable, as is pointed out in the Draft Amendment 14, that we think it would be advisable to take what the quota is this year, 2007 – and according to NMFS it's 12 million pounds; according to the Atlantic States Marine Fisheries Commission I'm not sure what the total is, but whatever the total is for this year – we would advocate simply having that quota set for a three-year period.

And during that time, supposedly the stock assessments are going to be done, at which time after the three years of data is collected you could set a reliable F mortality rate for the next seven years that would, you know, rebuild the stock to a level that we hope would be more reasonable than the 5.44 kilograms per tow. Those are the comments I'd like to make and thank you very much.

CHAIRMAN TRAVELSTEAD: Thank you. Any further comments on Amendment 14? Bill.

MR. ADLER: Thank you, Mr. Chairman. On Page 37 I was looking at the objectives of this document and Number 4, to promote compatible management regulations between state and federal jurisdictions, the word "promote compatible" sort of hits me wrong.

And the other thing was I didn't know if there was an objective here that could mention the fact that you want to try to address the fisherman side of things with the socio-economic ability of our users, the stakeholders, to continue to be able to use the resource as an objective. And I saw nothing about trying or an objective is to also keep the stakeholders' ability to catch the species. And I just wanted to put that on the record.

CHAIRMAN TRAVELSTEAD: Toni would like to respond to that.

MS. KERNS: Bill, those are the objectives in the FMP that is established. We did not propose to change any of the objectives in the FMP. So if the board would like to propose a change to the objective then we would need to make a change to this document to have management options for changes in the objective to the FMP.

MR. ADLER: There is a motion on the floor and I just wanted to – I would like to do that but at the same time I don't want to put another motion on the floor that's different from this. What do I do?

CHAIRMAN TRAVELSTEAD: You can amend the motion.

MR. ADLER: Okay, I'd like to amend the motion by adding to this motion that you add an objective to the ones on Page 37 saying that you also are, want to – how do I say this, keep fishermen fishing? – promote economic and social fishing opportunities. Would that?

CHAIRMAN TRAVELSTEAD: Bill, if you want a chance to perfect that, Mr. Fote wants to speak and while he's speaking you can be working on some language.

MR. ADLER: Okay.

CHAIRMAN TRAVELSTEAD: Do you want to do that?

MR. ADLER: All right, yes. Thank you.

CHAIRMAN TRAVELSTEAD: Okay. Tom.

MR. THOMAS FOTE: Congressman Pallone asked me to, he had submitted some comments on Amendment 14 and I explained to him, I saw him this morning, that it basically was for the council because the commission basically hadn't done that yet so basically he has his comments. I guess he sent them to Toni. Hopefully they will circulate these around.

The other comment I wanted to make because I heard what Gordon said about having more public hearings since the council already did it, I don't know whether it got lost in the Christmas rush or not but I, you know, I told my wife when I was going to the hearing in Toms River that I would be home in 2.5 hours and I was home in about 20 minutes because I was it.

And I think it wasn't well publicized and I don't think people knew it was going on so I really would hope since this is a dramatic, you know, circumstance

on scup and it's very important to the party and charter boat fleets of New Jersey plus the commercial fishermen of New Jersey that we basically have another hearing and that it gets more publicized and somehow the council – I think it got lost with the Christmas rush.

But we really, you know, I shouldn't be the only commenter and it shouldn't be my voice is unanimously representing the public at any hearing. So, thank you and hopefully you will have some more public hearings on this.

CHAIRMAN TRAVELSTEAD: Thank you. Anyone else wish to comment on the motion? All right, see if Bill has an amendment.

MR. ADLER: I'm just going to drop that for now. We're working on something so forget it.

CHAIRMAN TRAVELSTEAD: Okay. Yes, Bob Beal.

MR. BEAL: Just a quick process comment, sort of responding to Tom's comment, the commission charter requires that any draft amendments or FMPs that the board is considering has at least four public hearings so we'll, we're essentially obligated to have a few up and down the coast. We'll have to figure out what the most appropriate places for those hearings are but we'll have to conduct four, a minimum of four.

CHAIRMAN TRAVELSTEAD: Are we ready to vote on the motion? Do you need to caucus? No? All those in favor of the motion say aye; opposed, say aye; null votes; abstentions. The motion carries. Toni.

MS. KERNS: Are there states that know they would like to have a public hearing?

CHAIRMAN TRAVELSTEAD: A show of hands for those who wish to have a public hearing. New Jersey, Massachusetts, Rhode Island and New York.

MS. KERNS: Okay, thank you.

ADVISORY PANEL REVITALIZATION UPDATE

CHAIRMAN TRAVELSTEAD: Let's move to Agenda Item 7, an update on the advisory panel revitalization process. I'm hoping by now all of you have received a letter from me asking that you participate with your state director to come up with

agreed-upon advisory panel members for the three species.

I think the deadline we established in there was February 10th. Now the staff is also passing – the same letter went to Mid-Atlantic Council members so hopefully there will be a joint discussion between all of the people around this table as well as the Mid-Atlantic Council members. Staff is passing out some additional information. Toni.

MS. KERNS: Currently staff is passing out information that came from the Mid-Atlantic Council. The Mid-Atlantic Council polled their current advisory panel members which is the front and back, the first page of the document that the staff is passing out.

The second page is those current Mid-Atlantic Council advisory panel members that are interested in continuing on being an advisory panel member. And the last page are those members from the Mid-Atlantic Council that are not, that were non-responsive. So, we assume those that are non-responsive are most likely not interested in continuing as an advisory panel member.

The second item of business under the advisory panel members that you had on your CD were there were, we had a meeting of the Advisory Panel Committee to look at non-traditional stakeholders for the Summer Flounder, Scup and Black Sea Bass Advisory Panel.

That committee suggested the nominations of Michael Fedosh and Michele Doran McBean as the preferred nominees for the Summer Flounder Advisory Panel as non-traditional stakeholders. And they recommended Howard Rothweiler and Roman Jeslen as the preferred nominees for the Black Sea Bass Advisory Panel members.

At this time the working group did not offer recommendations for the Scup Advisory Panel members from the non-traditional stakeholders because they did not feel that the nominees offered had sufficient interest or expertise in the scup fishery resource. So, staff is soliciting additional non-traditional stakeholder nominees to serve on the Scup Advisory Panel and welcomes any suggestions that the board may have.

And you can give those suggestions to myself or to Tina Berger. And we would like to have all that information in by the February 10th deadline so that we are able to repopulate this panel and have a

meeting as soon as possible so that at the May meeting we can come back, have recommendations from the panel on Amendment 15 and try to pare down those issues to move forward with the Amendment 15 document.

CHAIRMAN TRAVELSTEAD: Tom.

MR. THOMAS McCLOY: Thank you, Mr. Chairman. I guess I'm a little bit confused and I need some clarification regarding the advisors for both ASMFC and the Mid-Atlantic Council. Are we attempting to have the same people be advisors for the respective panels, scup, sea bass and summer flounder on both bodies or are we still looking at different advisors, potentially?

CHAIRMAN TRAVELSTEAD: Our hope is that we can come up with, each state can come up with the same people that would serve by the ASMFC and the Mid-Atlantic. Whether or not that's going to be 100 percent, you know, a reality, I don't know.

But we thought in order to facilitate that desire that if the state director could gather up the other ASMFC members as well as the Mid-Atlantic Council members from their state and have a discussion about who would be appropriate public advisors on these three species, that we might get pretty close to that goal.

MR. McCLOY: Okay, thank you very much.

CHAIRMAN TRAVELSTEAD: Any other comments on this issue? Now, Toni, are you asking that we approve those two nominations?

MS. KERNS: We can either approve them today or we can approve them – I think what we will try to do is approve through an e-mail ballot the rest of the nominations so that we can go ahead and have an advisory panel meeting prior to the spring meeting.

So once we've gotten all the information after February 10th what we'll do is send out an e-mail and a mailing to the entire board on all the members that are being nominated to the panel. And we can just include the non-traditional stakeholders from summer flounder and from black sea bass either in that mailing or we can do it right now. It's our preference to do it right now but if that's not the board's prerogative, then it's their ability to wait.

CHAIRMAN TRAVELSTEAD: What's your pleasure on that? Do we have a motion? Pat.

MR. AUGUSTINE: I'd like to so move with the two nominations. Are there two of them, Toni?

MS. KERNS: There's a total of four members and it's for the two panels, summer flounder and black sea bass. And Brad does have their names so he can get them on the board for you.

MR. AUGUSTINE: Well, okay, if he would be kind enough to mention those so Joe can capture them on the motion, please. They are – Mr. Chairman, I move to approve the nominations –

CHAIRMAN TRAVELSTEAD: Wait a minute. Wait a minute. Joe, are you ready?

MR. AUGUSTINE: Thank you, Mr. Chairman. **Move to approve the nominations of Michael Fedosh and Michelle Doran McBean as non-traditional stakeholders to the Summer Flounder Advisory Panel and Howard Rothweiler and Roman Jeslen as non-traditional stakeholders to the Black Sea Bass Advisory Panel.**

CHAIRMAN TRAVELSTEAD: Thank you. We have a motion. Is there a second? Seconded by Bill Adler. Comments on the motion. David.

DR. PIERCE: I quickly scanned, you know, their background and apologize, Mr. Chairman. They're fishermen. Why are they non-traditional stakeholders? I'm sorry to make you repeat this but why are they non-traditional?

CHAIRMAN TRAVELSTEAD: Toni – Tina.

MS. TINA BERGER: According to my recollection I think only one is a fisherman and he represents the diver industry which has not generally been represented on our advisory panels. That's our rationale.

CHAIRMAN TRAVELSTEAD: Thank you, Tina. Other comments. Is there any objection to the motion? Seeing none, the motion carries. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I was part of the ad hoc group that helped to screen these activities and bring these recommendations forward and just a word about the scup. We did feel that most of the people whose resumes we reviewed were not as familiar with scup as a resource, scup habitat and related issues as the vast majority of the nominees.

And I would suggest that those of us, particularly, who are from the scup states, meaning Massachusetts, Rhode Island, Connecticut, New York and New Jersey, maybe do a little bit of “beating of the bushes” to see if we can find some folks from our area that have an interest in matters that might qualify them as non-traditional participants on a Scup Advisory Panel.

BLACK SEA BASS ALLOCATION REGULATIONS

CHAIRMAN TRAVELSTEAD: Thank you. Let’s move to Agenda Item 8, discussion of black sea bass commercial allocation regulations. I think most of you are aware that Addendum XII expires on January 1st of next year. That is the addendum that provides for the state-by-state allocations of the commercial black sea bass quota. And Toni, do you want to advise us on this?

MS. KERNS: Because this addendum will expire at the end of this year unless we initiate another addendum to continue forward with those black sea bass share we will go back to the quarterly coastwide quota system. The commercial sea bass shares is one of the 28 issues that is up for discussion in the Amendment 15 document but that document will not be finished by the end of this year.

So, if the board wishes to move forward with the state shares then we should start to initiate an addendum to renew those shares. In the past we have had a sunset clause in the addendum and staff would suggest that maybe a sunset clause not be included so we don’t have to continue to renew the addendum if that is the direction that the board wants to take because the issue is included in the 28 issues that possibly could be included in Amendment 15. But if you would like to have a sunset clause to make sure that that issue is brought up again, then you would, should include it.

CHAIRMAN TRAVELSTEAD: Well, it potentially could sunset with the adoption of Amendment 15, correct?

MS. KERNS: If there is any change in Amendment 15 then that would replace the addendum.

CHAIRMAN TRAVELSTEAD: Okay. Pat.

MR. AUGUSTINE: Point of information, however, Amendment 15 is not anticipated to be done until sometime in 2009.

CHAIRMAN TRAVELSTEAD: That’s right.

MR. AUGUSTINE: So, and this is supposed to sunset on January 1st of 2008?

CHAIRMAN TRAVELSTEAD: That’s right.

MR. AUGUSTINE: So are you suggesting that we approve this as an extension and then when we do Amendment 15 that we have language in there if that section is approved that it sunsets the previous five-year period? In other words, if we sunset it – I’m sorry, if we extended this –

CHAIRMAN TRAVELSTEAD: Let me help you, Pat.

MR. AUGUSTINE: Okay.

CHAIRMAN TRAVELSTEAD: If we don’t do anything, the state-by-state, the current state-by-state allocation of sea bass quota disappears this time next year. If you want to continue those provisions then we will have to go through the addendum process, adopt a new addendum to continue them until such time as Amendment 15 is done. Now, the same issue is going to be looked at in Amendment 15 but whether it’s state-by-state allocation or some other measure we’ll have to wait until Amendment 15 is done.

MR. AUGUSTINE: Thank you for that clarification. But then it seems as though the board has a bigger question to answer and that is are there state partners who would prefer to see this sunset or not? And if there is an interest in seeing it sunset, maybe we should pursue a discussion along those lines. If not, and it’s a moot point, then we go from there.

CHAIRMAN TRAVELSTEAD: That’s why it’s on the agenda. Gordon.

MR. COLVIN: **Move the board approve the development of an addendum to extend the state-by-state quotas** for – I’ll just leave it at that – to extend the state-by-state quota system. I leave it non-specific, Mr. Chairman, with the expectation that as always there must be options and alternatives in an addendum document that might include different time frames, different expiration dates, and a no action alternative.

CHAIRMAN TRAVELSTEAD: Very good.

MR. McCLOY: Second.

CHAIRMAN TRAVELSTEAD: Seconded by Tom McCloy. Comments on the motion. Comments on the motion. Seeing none, is there any objection to the motion? Seeing none, the motion carries. Does staff have sufficient guidance from that motion? Thank you.

That brings us to other business and I think we have four items there, the first of which is just a heads-up on Framework 7 that deals with the reference points that is being worked on by the Mid-Atlantic Council. And I'm going to ask Jessica to just give us a quick heads-up on that item.

MID-ATLANTIC COUNCIL FRAMEWORK 7

MS. COAKLEY: Okay, Jessica Coakley, Mid-Atlantic Council. The council staff have been developing Framework 7 to the FMP and this framework was developed to address the issue of a summer flounder reference point, the change from a total stock biomass to spawning stock biomass.

But it was determined by council staff and with the council chairman and committee chair that it might be more appropriate to address in a broader sense to expand the definitions, broaden the definitions for reference points in the FMP so that for summer flounder, scup or black sea bass a framework or an amendment wouldn't be required to make changes to those reference points when changes to those are recommended from the most recent stock assessment or peer review.

That framework is going out in the council's briefing book at the end of this week so the council and public will have an opportunity to see that. The first framework meeting will be held at the council meeting in Claymont, Delaware. That will be Framework Meeting 1. And the public will have an opportunity to comment on that framework at that time.

Tentatively if there are no major changes at Framework Meeting 1 to that document Framework Meeting 2 would be held at the April council meeting. And the council could then consider submitting that framework to National Marine Fisheries Service and hopefully get that implemented before the start of the 2008 specification setting cycle for fluke, scup and sea bass.

CHAIRMAN TRAVELSTEAD: Thank you. Toni.

MS. KERNS: To clarify the board, the process that

the commission has to changing the, for what we need to do to get to the same measure is the board would have to initiate an addendum to change the process. So if we wanted to be able to follow suit with what the council is doing we should, to piggyback on them we would initiate an addendum that would be consistent with what is, what they're proposing. And if we have an addendum that's being initiated through the black sea bass quotas then we could do this at the same time.

CHAIRMAN TRAVELSTEAD: So you're suggesting that we roll into the addendum we just approved an addendum on the reference points?

MS. KERNS: If that's the prerogative of the board to follow suit with what the Mid-Atlantic Council is proposing.

CHAIRMAN TRAVELSTEAD: Comments from the board on that proposal. Pat.

MR. AUGUSTINE: Mr. Chairman, that would be the most effective way to do it. It seems to make sense. It would be just a, not a slam dunk but pretty straight-forward.

CHAIRMAN TRAVELSTEAD: Yes, and it keeps us pretty – you know, as close as we can get to the Mid-Atlantic Council's schedule.

MR. AUGUSTINE: It keeps it clean. I'd suggest that we do that. Do you need a motion, Mr. Chairman? All right, how would you like to word that? So moved that we develop an addendum to –

CHAIRMAN TRAVELSTEAD: Toni, help him with that motion.

MR. AUGUSTINE: Just blurt it out, Toni. Don't whisper in my ear. That's my bad ear. The other one is not good, either, but go ahead.

MS. KERNS: Move to include in the addendum the allowance for change in the specification process for reference points.

CHAIRMAN TRAVELSTEAD: You voice has changed, Pat.

MR. AUGUSTINE: Too bad you couldn't talk –

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by A.C. Carpenter. Comments on the motion. Any objection to the motion? The motion passes. The second other

business item was, deals with a recommendation to the NRCC relative to the sea bass stock assessment. Toni.

RECOMMENDATION TO NRCC RE: BLACK SEA BASS STOCK ASSESSMENT

MS. KERNS: At the December board meeting Paul gave a presentation to the board on the black sea bass, the status of the black sea bass stock assessment. The black sea bass assessment has tentatively been put on the SARC 45 which is in June of this year. The Black Sea Bass TC as well as some science center staff were charged to make a recommendation on the black sea bass reference points and status determination.

The TC and the center staff did not recommend a peer review of the existing reference points since it would only be useable for one more year with the existing NMFS research vessel going online and changing over to the Bigelow.

The group made recommendations regarding the possibility of using age and length-based models for assessing black sea bass but both of these models will require additional research and work and are not on the foreseeable future's timeframe. But the group did provide advice regarding the use of a tagging model.

Because tagging has ceased a contemporary estimate of F would not be able to be estimated but there was group consensus to ask for an extension of the assessment schedule to the summer of 2008 for sea bass so we could propose using this new tagging model to see if it's something that would be acceptable for work and then we could continue back up again with the tagging study because currently we are no longer tagging black sea bass.

If this is favorable, then the board should make a recommendation to the NRCC regarding the status of this assessment to delay until the summer of 2008. If this is not favorable then we would not make that recommendation and sea bass would stay on the SARC for this summer but we would have no additional work to provide to the SARC so the same work that went through and did not pass last year would be put forward.

CHAIRMAN TRAVELSTEAD: David.

DR. PIERCE: All right, I would **move that we request the NRCC to extend the assessment review schedule for black sea bass to the summer of 2008.**

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Gordon Colvin. Comments on the motion. Seeing none, is there any objection to the motion? Seeing none, the motion carries. Thank you. Moving along, the third item under other business was a staff report on a previous motion of the board to proceed with an addendum relative to the flounder state-by-state quota system using a base year other than that of 1998. Can the staff give us a report on that? Vince.

EXECUTIVE DIRECTOR O'SHEA: Maybe we shouldn't have had the lessons in how to do a fast meeting. If I could go back, Mr. Chairman, just on your NRCC thing. There is an issue about getting a timeslot for the stock assessment in view of the groundfish review that's going to be done during that same period.

So, this would be to clarify that it's the sense of the board not to use, not to use the inadequate data to get a, take it to peer review but to delay it until the next slot that we can negotiate with NRCC whether or not that's summer of '08 or as soon as practicable.

And I don't have the schedule right in front of me but it's, you know, truth in disclosure, it may be either fall or spring of '09. But I think the decision here is the board doesn't see the value in taking the stock assessment that just failed with no new information and putting it up in '07, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you, Vince. David, was that the sense of your motion?

DR. PIERCE: No. I thought that in light of what was presented that we actually would have an opportunity to get this important work done, that is the assessment review, done by the summer of 2008. That was my understanding but obviously that's not the case. So, I'd like to leave it as is.

This is a very important issue, certainly, as indicated in the first paragraph prepared for us by Toni, recommendations to the NRCC. We're being told that the technical committee in consultation with the center, let's see, did not recommend peer review of the existing reference points since it will be useable for one more year with the existing NMFS research vessel before going offline.

That gets to one of my pet peeves, that is, or pet concerns, that is the reference points that we're using right now, the index-based reference points using the Albatross are going to go poof unless something very remarkable happens. And that would be that the

Bigelow is actually on scene doing comparison tows with the Albatross and they're successful in getting us correction factors for the past database of, you know, 20-30-40 years, whatever it may happen to be.

That's going to be an incredible challenge for scup and for black sea bass and I don't think it can be done. Anyways, they're going to give it a shot. So, that means for me and I think for the board that it's paramount that something new be developed pretty darn soon, more thought be put into this and that would be done between now and the summer of 2008.

This just puts a great emphasis on our needing some real creative work by those who do the assessment work for us to provide us with a means by which we can assess the stock and figure out where we are relative to our rebuilding targets. And I don't mean that just for sea bass. I mean that for scup where it's going to be even more paramount. So, my motion stands as is, Mr. Chairman. It's to extend the assessment review schedule to the summer of 2008.

CHAIRMAN TRAVELSTEAD: Thank you. Vince, when would staff know whether or not that request is accepted or not?

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, NRCC is going to meet again in April but we may be able to talk to Dr. Weinberg and get an informal read of how practical that is so maybe even before then.

CHAIRMAN TRAVELSTEAD: Could you do that and come back to the next board meeting and let us know and we'll take it up again at that point, if necessary?

EXECUTIVE DIRECTOR O'SHEA: Sure. And I think the other thing we'll look at, quite frankly, is practicality of an external review by ASMFC. That's another option. We'll give you feedback on that.

CHAIRMAN TRAVELSTEAD: Thank you. All right, to the next other business item. Bob.

MR. BEAL: Thank you, Mr. Chairman. This is the other business item that Mr. Colvin asked about regarding the allocation, summer flounder recreational allocation I guess it is. At the December meeting in New York City there was a discussion to initiate an addendum.

SUMMER FLOUNDER ADDENDUM

Work on that has not been started yet. There is a

couple reasons for that. The primary one is that Toni has been just flat out with lobster addenda, lobster amendment and recreational management measures or specs for summer flounder.

The other reason is that there was a, I recollect – and we don't have the minutes from the meeting in New York but – a discussion or a brief discussion about the allocational work group that the policy board is going to have some discussions on, on charging them with looking into different ways to allocate some of the resources that are out there. So, for those two reasons the work on that addendum has not been initiated yet.

CHAIRMAN TRAVELSTEAD: Questions or comments. Gordon.

MR. COLVIN: Thank you and I appreciate that report and I certainly understand the staff limitations and in particular the demands on staff imposed by the work of this board and the Lobster Board. I do have some concern about the prospect of hardwiring the addendum that was approved by motion of this board in December to an effort on the part of the commission to develop broader consensus and advice on allocation guidelines.

And it's not my recollection that we did agree to hardwire it. There may have been some discussion about the desirability of looking at it in light of those deliberations. I need to know more than I know today about the process, the timeline and the prospects for success of that other effort.

Part of the reason I say that is that we went down that road some years ago with another commission chairman who regards himself as a complete failure for having to bring it to successful fruition; and I wouldn't be surprised if we ended up there again, although we certainly have better leadership now. Where is George Lapointe, anyway?

But, I would just kind of like to say that I do expect that our motion will lead to some progress here. And I would hope that we don't just fend this whole issue off at which point I'd be compelled, I think, Mr. Chairman, to take some further formal action on behalf of the board to ask that its decision be accompanied by action. I won't do that today but I'd like to hear some progress in May.

CHAIRMAN TRAVELSTEAD: Any further comments on this issue? Tom. No? Before we go to the last agenda item for the record we need the seconds of the two motions on the screen. I don't

recall – I know they were seconded but I don't recall who. Gordon seconded the NRCC and A.C. Carpenter did the first one. Okay. Last agenda item. And, Gordon, you're going to have to refresh my memory but it was something to do with the peer review report.

INDEPENDENT REVIEW OF PEER REVIEW REPORT

MR. COLVIN: Yes. And here again my memory is suffering from the rather extraordinary dialogue that occurred during our meeting back in New York the first afternoon. But I do recall that later in the day there was a discussion about the issue of seeking some form of independent additional supplemental review of the National Marine Fisheries Service's effort last summer to revisit summer flounder reference points and the peer review thereof.

And of course that question and this notion of having a follow-on independent peer review was a predominant theme of the public comments that we received at that board meeting. And we did, I think, my recollection is that there was a consensus that we agree to ask for some technical review internal to the commission and possibly by referring the matter, if I recall, to our committee of assessment scientists for some advice on how we might proceed to secure a review of this matter.

That's kind of my general recollections so I'm kind of wondering where we are with all that. Again, I was looking for a status report.

CHAIRMAN TRAVELSTEAD: Bob.

MR. BEAL: Sure, I can comment on that. The Assessment Science Committee, as they're newly named, will be meeting at the end of March during our technical committee meeting week. We can ask that this item be put on their agenda at that time and you know see what their thoughts are as far as moving that forward.

CHAIRMAN TRAVELSTEAD: Does that help, Gordon?

MR. COLVIN: Very much. That is just what I was looking for. And we can perhaps between now and then check or review those board meeting minutes and maybe better frame, I won't say "terms of reference" but at least what the issue is we want that committee to look at.

CHAIRMAN TRAVELSTEAD: That was the last

agenda item. Are there anything further? Tom.

MR. FOTE: Tom Fote, Jersey Coast Anglers Association. Yes, I was coming to this meeting because of what Gordon just said, was looking for how we were going to ahead with the peer review since what I understand happened at the last review that NMFS did and we complained that the target was too high so they now kept 197 million pounds spawning stock biomass, but the target has moved from 204 million pounds to now 215 million pounds. So instead of getting a lower target we actually got a higher target after that review. So I'm really concerned of where we're going from there and how we're going to look at it.

The other thing, I was also here because I remember Gordon had asked about the 50, using the 50 percent probability and why are we basically looked into 75 and that was part of the discussion. And, so, you know, I was sitting here waiting for that to be discussed before we got into all the quotas and I said, wait a minute, did we vote on 17?

Did the commission vote on 17.11? And I guess they did because I must have missed something. And then I says, where's the 50 percent probability discussion because that's what is required by law and we never got to that. I didn't even know what the difference with the 50 percent probability. What do we gain?

We might not have gained that much because of all the tables and everything and actually with the new target of 215 million pounds but at least I was coming here and expecting to do that. That's why I made the time and effort to do that. I'm a little disappointed but hopefully the peer review will move on.

I think it's, you know, we can't go into 2008. We can't put New York with what it's going through now. We can't put New Jersey going through and all you states that are going through this. We need to correct the solution. I mean this year with these regulations we are going, we are turning the summer flounder fishery into the next striped bass fishery which is not what summer flounder is supposed to be.

It's not supposed to be a hook-and-release fishery. And then we're killing more fish by hook-and-release mortality than we are by taking fish home to eat because summer flounder, unlike striped bass, those people that fish for them fish for something to eat, not to release. And we're now turning this fishery into a hook-and-release fishery.

At 18 inches or at 17.5 inches we have also eliminated the people that fish the bays and estuaries from this fishery and that's not fair. They didn't cause the problem. They are not part of the problem. Thank you for your patience and I appreciate and I'll be waiting to hear how that review is going along.

CHAIRMAN TRAVELSTEAD: Thank you, Tom. Vito, did you have your hand up? No, there's no agenda item that's left. Okay, well, and then, Gordon, you want to come back to? We'll get to you. Okay, I'll come back to you, Vito. Gordon.

MR. COLVIN: Thank you, Vito. Actually I put my hand up just as Tom started to talk because I did recall that there was an issue relative to the use of the 50 versus the 75 percent probability that was also an outcome of our board meeting in New York.

As I recall, and again I'm operating on, you know, failing memory here, but as I recall we agreed to ask that the National Marine Fisheries Service when they undertake the review that was required under the provisions of the reauthorization of the Magnuson Act to contemplate the change in the '07 TAL, the three-year extension of the rebuild period, to undertake an analysis of both 50 and 75 percent alternatives and, you know, the relative risks and consequences associated with each.

Now, I haven't seen any analysis that supports the federal action and I don't know how that request from the board was addressed. And so, again, maybe I turn to Harry or I'll turn to the commission staff. Again operating off kind of a cloudy recollection of the specific nature of the board's request can somebody inform me as to where all that stands?

CHAIRMAN TRAVELSTEAD: We'll have an answer momentarily. Pat, you want to say something in the meantime?

MR. AUGUSTINE: Yes. Mr. Chairman, the other point that was brought up that was asked more off the record than on the record about the peer review and when they made the translation from biomass to spawning stock biomass the reason why they only went back to 1980 was stated as being that was the best that they could do.

And my comment off the record – I think I said it on the record, too – was that it was rather interesting that they could somehow conjure up enough information that they could go back at least that many years when in fact we're dealing with a reference point that goes back 50 years before that.

So, I think the charge to our technical committee might be to also take a look at that. If I understand the simple mechanics of what they did, they went back and took, were not considering zero to one age fish at the – let's see, yes. They weren't considering zero to one age fish because we had talked about using a November date versus a January date. And you all may remember that in a little more detail than I.

But, just take a look at that and see if in fact there is a possibility to go back even further than that and not only validate what they did back in 1980 was the most appropriate thing to do. But that would be my concern. Thank you.

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: Until we change the reference points for summer flounder we're still working under the old reference point in terms of how we meet 50 percent. So we have met 50 percent and we're actually at something greater because the 50 percent was the 19.9 million pounds. So until we change that reference point then we'll look at the additional information. But, and I don't want to speak for the service and how their process goes or where their analysis is but that's where the commission stands.

MR. AUGUSTINE: Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Any final, other than Vito? Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. In response to Gordon's question on January 17th as most of us might know there, that was the date that the service issued the revised 2007 specifications for summer flounder that increased the quota. That was predicated by the reauthorized Magnuson-Stevens Act.

I do know there was an analysis associated with that revised quota announcement. I do not know the exact status or public availability of that analysis but I will look into it and try to get an answer back to Toni or you, Jack, before the end of the meeting.

CHAIRMAN TRAVELSTEAD: Please get it to Toni whenever it is available.

MR. MEARS: Thank you.

CHAIRMAN TRAVELSTEAD: Appreciate it. Any other business? In keeping with long-standing tradition, then, Vito, you have the last word.

MR. CALOMO: I love that kind of talk. Mr. Chairman, I have two comments and it's kind of a personal nature as far as I'm concerned, being many years in management and working with the state and federal managers. I think the finest people I've ever worked with from the NOAA side, the NMFS side, the federal government, I don't know how you want to put it, are always at the Atlantic States Marine Fisheries Commission.

I think many times I've sat with them after hours, whether it be a happy hour or just in talking. I've had great rapport working with them. And I commend them. I also want to commend Toni Kerns today for the great presentation and the assistance during this meeting. And that's what I'd like to say. Thank you, Mr. Chairman.

ADJOURN

CHAIRMAN TRAVELSTEAD: Thank you. I think we all agree with that. Any further business? Seeing none, is there a motion to adjourn? We are adjourned.

(Whereupon, the Summer Flounder, Scup, and Black Sea Bass Management Board meeting adjourned on Wednesday, January 31, 2007, at 4:55 o'clock, p.m.)