

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

**Radisson Hotel Old Town  
Alexandria, Virginia  
May 9, 2007**

Approved August 14, 2007

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## ATTENDANCE

### Board Members

David Pierce, MA, proxy for P. Diodati, (AA)	Bernard Pankowski, DE, proxy for T. Target (GA)
William Adler, MA (GA)	Bruno Vasta, MD (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Howard King, MD (AA)
Mark Gibson, RI DFW (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Everett Petronio, Jr., RI (GA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
Eric Smith, CT (AA)	Kelly Place, VA, proxy for Sen. Chichester (LC)
Gordon Colvin, NY DEC (AA)	Louis Daniel, (NC) (AA)
Pat Augustine, NY (GA)	Damon Tatem, NC (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Peter Himchek, NJ, proxy for D. Chanda (AC)	Bob Ross, NMFS
Erling Berg, NJ (GA)	Jaime Geiger, USFWS
Dick Herb, NJ, proxy for Asm. Fisher (LA)	
Jeff Tinsman, DE, proxy for P. Emory (AA)	

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

### Ex-Officio Members

Paul Caruso, MA DMF  
Joe Meyer, NJ DFW

### Staff

Vince O'Shea  
Robert Beal

Toni Kerns  
Chris Vonderweidt

### Guests

Jessica Coakley, MAFMC  
Steve Meyers, NMFS  
Sean McKeon, NCFA  
Greg DiDomenico, GSSA  
Mark Alexander, CT DEP  
Dave Simpson, CT DEP  
Arnold Leo, Baymen's Assn.  
Tom Fote, JCAA

Steve Heins, NYSDEC  
Howard Rothweiler, NJ  
Jeff Marston, NH F&G  
Robert Sadler, NMFS  
Dick Brame, NC-CCA  
Rick Bellavance  
Rob Winkel, NJ Fed. Sportsman Clubs

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, May 9, 2007, and was called to order at 8:00 o'clock, a.m., by Chairman Jack Travelstead.

### CALL TO ORDER

CHAIRMAN JACK TRAVELSTEAD: If I could have your attention we'll call the Summer Flounder, Scup and Black Sea Bass Management Board to order.

### APPROVAL OF AGENDA

As you can see, we have a fairly aggressive agenda. We'll try to make our way through it entirely. You have the agenda before you. Are there any changes to the agenda? Seeing none, **the agenda is approved as presented.**

### APPROVAL OF PROCEEDINGS

Proceedings of the January 31<sup>st</sup>, 2007 meeting, are there any changes or additions to those minutes? Seeing none, **they are approved.**

### PUBLIC COMMENT

Public comment, we have one speaker who has signed up. Is Rick here? Come on up to the public microphone, Rick.

MR. RICK BELLAVANCE: Thank you, Mr. Chairman. My name is Rick Bellavance. I'm a commercial fisherman and a charter boat operator from the state of Rhode Island. I attended the advisory panel meeting on April 10<sup>th</sup> as an alternate and I would like to recognize the strong support for a separate management category for the charter boat industry.

This doesn't have to involve reallocation of the TAC but it would provide a tool for the management specific, to management specific needs of the industry. And these needs can be different from the recreational community. And that's all I really wanted to say.

### DRAFT AMENDMENT 14

CHAIRMAN TRAVELSTEAD: Thank you. There will be more discussion of that issue later today. Moving right along, Item 4, consider approval of

Draft Amendment 14. Toni is going to take us through that.

MS. TONI KERNS: Thank you, Mr. Chairman. At the last meeting we approved – at the last meeting we approved Amendment 14 for public comment. The commission had deviated from the council's version of Amendment 14 to the Summer Flounder, Scup and Black Sea Bass plan, therefore we are no longer working on a joint document for Amendment 14, as a reminder.

The Amendment 14 is the amendment that looks at a scup rebuilding timeframe. The timeframe for implementation would start in 2008. For the, there would be a maximum of ten years to look at rebuilding the scup fishery. And it's based on the rebuilding targets for the, from the Northeast Fisheries Science Center Spring 3-year Average Index with a value of 5.54 kilograms per tow and the, is the target and the threshold is 2.77 kilograms per tow.

As a reminder, there are several options within the document. The first two options are no action alternatives. We would continue to fish at the constant F of .26. The second no action, A2, was to continue to fish a constant F of .26 until we have data comparison between the RV Bigelow and the Albatross.

Option B was a ten-year rebuilding plan of constant F at .136. C was a seven-year rebuilding plan of constant F at .10. D was a five-year rebuilding plan, a constant F of .067. G was a seven-year rebuilding plan of a constant harvest level. And H was a five-year rebuilding plan of constant harvest level. The other options were considered but rejected before we went out for public comment.

So for the public comment there were a total of five written comments. These comments in summary stated that the rebuilding targets were not appropriate; we shouldn't rebuild or we shouldn't look at setting a rebuilding schedule until we have a stock assessment; that lower total allowable landings will be detrimental to the industry because of the dependency that the market has on the number of available scup that the fishermen can land. And there was support for Option B only if the law required that we implement a rebuilding plan because this was the option that had the least economic impact.

For the hearings there was a total of four hearings in Rhode Island, Connecticut, and New York with various attendance. At those hearings there were ten

supporters for the A2 option which is to take no action until we have data comparison between the two research vessels. The public stated that the relationship of the survey to the other scup data is not connected, the target was not set with reasonable data therefore we should not be using the current targets to establish a rebuilding timeframe.

There were some supporters, two supporters for the Option B because this option had the least economic impact on the fishery as well as one supporter for Option G which is a constant harvest because this would be more stable for the fishery.

We also, for general comments that were heard at the public meeting is just to remember that the market is sensitive to the TAL that is set and the lower the TAL the more potential there is for the market to drop out as well as a low TAL could potentially negatively impact the party and charter boats' regulations. And those are all of the comments that I had from the hearings. Does anyone have any questions on those comments?

CHAIRMAN TRAVELSTEAD: Any questions for Toni on the comments?

MS. KERNS: And for an update on what the council has done for their Amendment 14 document, they have submitted it for approval of the service. This document is the Option C which is the seven-year rebuilding constant F strategy. They have some qualifiers on that that, one, after two years of data collection with the Bigelow that they would assess the status of how that is moving forward to make sure that that data is, can be connected.

They also qualified that there can be any peer reviewed new assessments could change the or extend the rebuilding timeframe with an evaluation of new reference points through a peer reviewed stock assessment. And Jessica was that all there was, just to make sure.

CHAIRMAN TRAVELSTEAD: Jessica, do you want to add anything from the council's perspective?

MS. JESSICA COAKLEY: Yes, Jessica Coakley, Mid-Atlantic Council, the conditions they had were that they would shoot for the seven-year rebuilding time period but if it didn't look like the stock would be rebuilt they would take action to rebuild in no more than ten years. That was the only other thing that was explicitly stated.

CHAIRMAN TRAVELSTEAD: Thank you.

Jessica, why don't you stay at the table there in case there are other questions as we move through this, if you don't mind. Okay, this is a final action item, Amendment 14. Any questions? David.

DR. DAVID PIERCE: I don't have a question, Mr. Chairman, but I am prepared to make a motion.

CHAIRMAN TRAVELSTEAD: Okay.

DR. PIERCE: Okay, I would **move that we adopt Option A2, that's the no action constant fishing mortality equals 0.26 until the research vessel comparative analysis is complete.** And if I get a second I'll elaborate, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Everett. Do you want to follow up, David?

DR. PIERCE: Yes, my agency has had a very long standing concern about the scup rebuilding schedule that was rejected by the service quite a few years ago and now, of course, we've evolved to the point where the Mid-Atlantic Council has decided on a particular approach which is a step in the right direction but, frankly, not quite the right direction as far as I am concerned in that we really have reached a critical juncture with regard to index-based assessments, especially those assessments that involve biological reference points that we must adhere to.

And with the Bigelow coming onboard, with the comparative tow work being done now and I think next year in hopes that there can be some sort of correction factors, comparative analysis that will enable us to take the past years and make that relevant to future years, with that work under way and expected to be completed next year there is no need for us to wait two years down the road to see what will happen.

It makes more sense for us to say at this point in time that we will hold at status quo until that analysis is complete and then we see if indeed we have a basis for using past years' bottom trawl survey data which will be critical since the rebuilding schedule has been established using the current bottom trawl survey data that we have obtained from the Albatross and the Delaware, to some extent.

I feel very uncomfortable, you know, wedding ourselves to the bottom trawl survey data now to establish this rebuilding schedule until we know that we actually will be able to use it. Frankly, I'm not optimistic that we will be able to come up with

comparison factors or conversion factors for scup. The Bigelow is an entirely new vessel. A new net will be used.

And I suspect that with scup, with sea bass and that with many of the species for which we use index-based assessments we will find ourselves obliged to start new time series. And if that indeed happens, as I think it will, then if we were, today to take an action that would wed us to the Albatross data, then we take an unwise step. So for those reasons, Mr. Chairman, I feel that we need to maintain status quo, a very conservative F value of 0.26 and let's see what that comparative analysis reveals.

CHAIRMAN TRAVELSTEAD: Other comments on the motion. My goodness. Gordon.

MR. GORDON C. COLVIN: I find myself in agreement with the point of view expressed by the author of the motion, a difficult one. The Mid-Atlantic Council did all it could and the council is operating under essentially close guidance and direction of the National Marine Fisheries Service as based on their interpretation of the mandates imposed by the Magnuson-Stevens Act. I think this is a case where those mandates clearly compel management into an inappropriate decision and an untimely one.

David's analysis of the current situation and the transition to potentially a whole new index that may or may not ever be indexed to the current one is spot-on. There is another issue that concerns me and that is that even if we had not replaced our research vessel and even were we not contemplating the potential for change in the performance of the survey so that in the future we, our ability to ascertain where we stand in this stock rebuilding plan is at question, the current biomass threshold and target itself is a matter of some question and controversy.

You know its appropriateness has always been controversial. That was certainly a subject of discussion at the hearings, both those held by the Mid-Atlantic Council and by ASMFC. And it, I find it very difficult for me to believe that the target 5.44 which is a completely fabricated target, which has virtually no basis in history of survey results, is anything other than an arbitrary number that was conceived out of the mandates of the Act and not out of our history of stock assessment and stock research.

And as such, compelling ourselves to hit that target seems to be an unwise decision. And while I understand that the council and the service feel that they are compelled by the provisions of the

Magnuson-Stevens Act, the commission is not.

And I think we need to stand up for this and represent the concerns that we have about this situation and try to find the proper rebuilding targets in the future and one that are based on, as David has suggested, our current data acquisition capability, not something that is historic and about to pass out of our memory. Thank you.

CHAIRMAN TRAVELSTEAD: I understand the arguments that have been presented but I, if we take no action and are operating under an F equal to .26 and the council takes its action as operating under an F target of, what, 0.1, then that obviously results indifferent TACs for the fishery and how do we deal with that issue? Anyone has an answer to that? Seems to me that's a difficult spot we'll be in. David.

DR. PIERCE: I believe we already have different quotas for scup. We've already made that decision to go in a slightly different direction from the Mid-Atlantic Council. I appreciate your concerns. They're very legitimate. However, I don't think they should override the bottom line which, frankly, is the establishment of a rebuilding timeline that would establish our fate for the next seven or ten years.

I'm hopeful that with further work on scup assessments that we will be able to find ourselves on the same page with the Mid-Atlantic Council in terms of assessments and in terms of targets that we need to achieve. But right now, as Gordon indicated, even the target we're living with now is highly suspect and I've made that point time and time again.

And I should also point out, too, that an additional bit of information that will make its way into the mix, the assessment mix, regarding the usefulness of the bottom trawl survey as it exists now and as it will exist in the future will be information collected through the Mid-Atlantic Council research set aside portion of the overall TAC as set aside for research.

And I believe Rutgers or VIMS – I'm not sure who now, what university – working with commercial fishermen, I believe – I'm sorry. I'm thinking of black sea bass. Let me shift a little bit back to scup, that there is a research set aside that is being used to do some scup research in state waters, Rhode Island and Massachusetts, specifically.

And the data are coming in now. And the data are very revealing in that very clearly, you know, we're finding from this dataset that, as expected, the bottom

trawl survey data have, has an entirely different age structure than the age structure of commercial catches coming up in surveys being done by other sorts of gear such as pots, in this particular case, in near shore waters, Massachusetts and Rhode Island, specifically.

So there is a dataset that will be very important, I suspect, in future discussions about scup assessments which, of course, as we all know, have been extremely controversial from Day 1 and that we really aren't in a position at this time to assess the abundance of scup.

CHAIRMAN TRAVELSTEAD: Thank you, David. Any other comments on the motion? Yes, Vito.

MR. VITO CALOMO: I'm going to either muddy the waters or clear it up for people that do not understand a trawl or a dragger. And I'll make this as brief as possible. It's like, the Bigelow, being a great research vessel, modern, new, compared to the Albatross, and everybody would say, well, we have new vessel; this should be better. Not really.

It takes time for the gear and the people to adapt the gear to that vessel. The Bigelow is like a marriage that did not have or will not have an engagement for a while. And that's the problem. When you get engaged you learn about the other partner. I'm trying to keep this as simple as possible.

The contours of that vessel, the doors, the wire, the net, the way the boat goes through the water, it will change everything. And they need to learn these changes. And it's going to take time. This may be the vessel of the future that will help us – and I believe it will – but I don't think this is the proper time. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Vito. Any other comments? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. So it sounds a little bit what we're saying is that we might be betting that the real number of what this biomass ought to be is lower than what the National Marine Fisheries Service is assuming right now or that the current size of the stock is larger than what the National Marine Fisheries Service is assuming.

And I understand that we don't know. But I guess what I'm looking at is it seems to me there is a risk here in that if one side is right and one side is wrong what ends up happening – and I'm wondering if the technical committee can give us any advice or has

looked at this issue, what the consequences are.

It seems to me we'd be, under this plan we'd be saying we'd be fishing harder than the National Marine Fisheries Service would and three years later if we turn out to be wrong what's the consequences of that.

CHAIRMAN TRAVELSTEAD: Paul, do you have any point you want to make?

MR. PAUL CARUSO: Well, the committee certainly hasn't talked about it much. We haven't talked about the survey and the transition to the new survey vessel but the perspective that you have from what you're saying I believe is correct.

You know the assumption of the board is that perhaps the stock is larger than the survey is measuring currently or might measure in the near future and that the target is unreasonable based on the previous trawl survey and the transition will just muddy the waters. I can't offer you much more than that without sitting down with the committee and discussing it.

EXECUTIVE DIRECTOR O'SHEA: A follow on, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. The only reason I'm asking this, a couple years ago we had a similar disagreement about what the size of the index number was and how much faith to put in that number. And there were different opinions around the board and both at the commission, at the council, of what the real number was. And it turned out the high number wasn't the real number.

And I just, I think afterwards we had some reflection about that decision and I'm just wondering if this is a decision that is going to result down the road with a further disconnect between what the federal fishery management plan is doing and what we're doing, just to raise that as an issue, Mr. Chairman. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Eric and then David.

MR. ERIC SMITH: Thank you. Vince asks an interesting question. In my view it's not what the actual stock size is, it's the fact that we're measuring it with one tool now and we're going to measure it in a couple of year with a different tool and both of them are imperfect tools to measure the stock size.



And by that I mean the surveys, which influences me to ask this question because it's a while since we talked about it and I want to be sure I understand the reason we don't have a more traditional assessment to, we're using the survey-based index because it's a proxy because we haven't got an approved assessment.

So my question either for Paul or for Jessica, remind me, please, we don't have a VPA type assessment or some other traditional type assessment because we couldn't get one approved by the peer reviewers and I think fundamentally it was because we couldn't – and I'm kind of looking at both here, but – it's because we couldn't reconcile the issue of discards and how they folded into the assessment and what they meant in terms of that portion of mortality.

Is it likely in the next two or three years that we're going to be any closer to solving that problem? Or is it simply that we send a stock assessment review the committee the directive that you have to estimate discards to the best of your ability and once you've done that, then we can have an analytical assessment that hopefully we'll get a peer review that approves it and if we don't we'll have to make the hard choice about whether we agree to accept the assessment anyway, without peer review results? So, two questions, is it largely discards? And are we likely to be able to resolve that any time soon?

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: Yes, two things hold it up, Eric. There is the discard issue which I think there is some agreement in the committee that there is a reasonable way to get over that and it's basically an averaging. When we contracted the assessment out I think the committee was somewhat comfortable with the estimation procedure that was used to gap.

There was a couple of years where there was real questions. And I think they were comfortable with that methodology. I think the other holdup, though, is the bigger and more expensive holdup is there is no age data I believe for the last four or five years. So, like sea bass we're in the hole with regard to data to do a VPA. So that's where it stands. There is a lack of age data and there is this discard issue but I think the discard issue is resolvable, at least to the TC's satisfaction, maybe not a peer review.

MR. SMITH: Mr. Chairman, could I follow that with a follow up?

CHAIRMAN TRAVELSTEAD: Yes.

MR. SMITH: Thank you. Not knowing enough about assessments to even ask about the different types, if we can resolve the discard one is there a different type of analytical assessment that doesn't depend on age data that could be used? And I'm not saying used in the next six months so we can get out from under the hump.

I'm saying if we're talking about a seven to ten year rebuilding strategy I'd be happy if we could resolve this question in two or three years and at least we would know that we could get ourselves back on a proper path if Vince, in fact, is correct and we find that either approving this motion or any other action based on the surveys that we've kind of gotten off course a little bit. So I want to know if we can resolve, if we can get past the survey index-based management and get on to an assessment-based management over the horizon of two-three-four years.

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: Certainly there are other less data hungry models out there, Eric. It does seem from my limited perspective that the peer review panels have been uncomfortable with a lot of those models. You know, they're not giving you the same F or they're not relatable to a VPA or they're just uncomfortable with fully age structured models.

Again, it's just my perception. It seems to be the course of the last few peer reviews. These, the panels just seem to be uncomfortable with biomass, dynamic models or length-based models. But certainly there are other models out there that will at least give you a read on the stock. It may be not comparable to the VPA but they're probably a lot better than an index-based assessment which is what you're using now.

CHAIRMAN TRAVELSTEAD: David.

DR. PIERCE: Vince asked a question regarding the motion. I believe the question was along the lines of doesn't this motion suggest that we believe that abundance of scup is higher than what the federal bottom trawl survey would indicate and that's not the case. This motion isn't germane to any discussion about the abundance of scup, is it up, is it down is the federal data, are the federal data correct or not correct.

Not at all. It's got to do with our long-term fate as to how we manage this species specific to fishing mortality by targets or biomass targets linked to the bottom trawl survey data. So there is no statement in

this motion, inferred or otherwise, that we believe that the bottom trawl survey data is, the federal data are under-estimating abundance of scup.

CHAIRMAN TRAVELSTEAD: Everett.

MR. EVERETT PETRONIO JR.: Thank you, Mr. Chairman. To paraphrase Vince's closing statement and most of his fisheries focus comments, I think we all can agree that the most important issue here is driving the data, is the data and what we're using to make decisions. There are other policy questions that we have relative to how are we going to act relative to what the Mid-Atlantic or the service is doing but at the end of the day "garbage in, garbage out."

If, I don't have enough experience at this table to know how we go about tasking, who we ask or who we task with trying to develop some other method of stock assessment besides the survey, the trawl survey. And I guess I'd like to hear a little bit about what are our options as a board in trying to cast a wider net, only figuratively, so that our decision making is better. I don't know who the appropriate person to ask that question is but I think that's really where we have to start with this.

CHAIRMAN TRAVELSTEAD: Louis.

DR. LOUIS DANIEL: I agree, Everett. And it concerns me that there is a discrepancy between the two agencies in what is the appropriate biological targets, especially with the lack of information that we have on this fishery. It's not that important to North Carolina but this overall process is.

And I think it's incumbent upon us to use our best judgment and the empirical information that we have to make a decision. And what I've seen in the South Atlantic is that the NMFS and the councils tend to take a much more precautionary approach in the fear that we may be overfishing.

And that may not be appropriate in this instance. But listening to the discussions on the lack of information confounds me a little bit because in the South Atlantic we do the assessments whether we have adequate representative data or not. And in this instance there are options. And the forward projecting model length-based would be one that we have used in some very important fisheries in the southeast and received favorable peer reviews.

So, it seems to me that there are alternatives and options available to us that can be done in six to eight months. You could do a length-based model with the

forward-projecting and use the models from the South Atlantic for vermilion snapper and black sea bass and answer some of these questions that are going around the table.

CHAIRMAN TRAVELSTEAD: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. If I understood Paul Caruso he said they thought they could estimate discards but, they have a way to get around that problem but they don't have age-length frequencies. And I guess my question is, who is responsible for collecting that data and producing it?

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: Traditionally in the past we have used the NMFS survey age keys. And since, I don't know if the reason is because the management has switched over to the commission or if it's just a priority issue with the National Marine Fisheries Service but as we've progressed over the last few years a lot of these Mid-Atlantic Council species have been moved down the priority list for NMFS so they have just essentially run out of money and time to age black sea bass, scup, and probably a host of other species.

And the responsibility, really, has never shifted to anywhere. It's just hanging out there in limbo. They do collect a fairly limited amount of age data from the fisheries. I don't look at that as a major hurdle. You can use the survey as a proxy. So essentially right now they're in limbo, just like black sea bass.

CHAIRMAN TRAVELSTEAD: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks. And I'm just wondering in this plan, in the commission plan, do we have a requirement to, for the states to collect biological data?

CHAIRMAN TRAVELSTEAD: The answer is no, we don't. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I just need a clarification from Jessica, I believe, or yourself as chairman of the mid section on dorsal committee, why did we select at the council to go with a seven-year rebuilding?

I, for the life of me, can't remember the rationale other than it appeared to be the most precautionary measure based on the information we had with the switch over from one vessel to another vessel. But, I

don't recall any other data that was presented that would jump out and say this is a good reason. Could you refresh my memory?

CHAIRMAN TRAVELSTEAD: Jessica.

MS. COAKLEY: Yes, Jessica Coakley, Mid-Atlantic Council. The discussion for selecting seven years stemmed from the fact that there is a maximum of ten years to rebuild and it was put forward with the idea we'll try to, given the uncertainty with the data, attempt to rebuild in seven years and if it doesn't appear based on these F rates that the stock is going to rebuild in that time period that action would be taken to rebuild no later than ten years. So it was the idea of kind of hedging the bets in terms of the time period.

MR. AUGUSTINE: A follow up, Mr. Chairman, thank you for refreshing my mind on that. And in the event that we go on a different course, if we followed Dr. Pierce's motion, at the end of this first year where the Mid goes with the seven-year rebuilding, what could be the worst case scenario as far as our fishermen are concerned? Is there a collision course we're heading down whereby our commercial fishery are going to be shut out of the fishery by the end of the year?

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: Pat, under the scenario that we would have, we would have more liberalized TAC/TALs so therefore if, once the federal TAC/TAL is reached and our, we, the states would still have fish to fish on, anybody that held a federal permit would cease fishing, regardless if he also had a state permit, so there would be inequities there, as well as we potentially would have to – well, and we would have differing state recreational measures, which we already have now. But, and if all of the quota was reached then all federal waters would be shut down.

MR. AUGUSTINE: The down side of that, Mr. Chairman, again, as we know, we're further impacting half of our body of folks that we represent, which is the commercial fishermen. And so we have to, I think, consider the equity involved here.

What is the pain – and maybe I'm going to answer my own question – what kind of pain are we going to suffer if we do take Option C or B and go with the seven-year rebuilding plan, go to a seven-year rebuilding plan in view of the fact that the, the clarification that Jessica gave us and now that I recall it as she explained it to us, that the council is going to

take the action that if it doesn't look as though we're going to make it in seven years, we have the flexibility to go to ten and there is some kind of a cushion.

And I recall there was some concern about that, that once we locked into seven years how much flexibility are we really going to have to extend out to the ten years. I also remember some comments along the line of Mr. Calomo's comments about we're having to switch over from one vessel doing the survey to another vessel. There is a break-in period of time.

And I'm just, I'm having a difficult time – I haven't talked to my two counterparts from New York but I'm having a difficult time going with status quo because of the down side of this. We've been there with other species of fish and ultimately it comes back and bites us. And it's painful to have to do it this way when we're basically being slam dunked again.

And I think that, a lot of it has to do with the timing of our and scheduling of our meetings whereby the Mid takes action before in every single species that we have this joint plan and we end up being wagged. So my concern is that if this motion passes I think we're in for some greater pain. Thank you.

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: Pat, Paul just reminded me additionally we take overages out of the next year so on the federal side if the states continue to have a higher TAL we would have overages and they would continue to move forward every year and they would continue to take that out of the federal quota and so they would be –

MR. AUGUSTINE: Thank you. And that's just a, you know, more reason to consider not going a different direction.

CHAIRMAN TRAVELSTEAD: Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I think two other pieces of information in response to that question, Toni was talking about what would happen if the quotas, you know, if the federal quota ran out first.

I think from the summer flounder situation near miss we had in January, if you will, that there is another possibility and that is that the – and I'm not trying to speak for the feds but the signal they sent in January was that that may take preemptive action to take the

difference of the quota off the federal quota at the beginning of the fishing year rather than wait until the end. So that's one consequence.

The second consequence, it seems to me that under the federal system if they don't meet rebuilding, again from summer flounder, they've indicated they'll close down the fishery a year or two prior to the deadline for rebuilding. Under the commission process, at least what we did yesterday, if we didn't make a rebuilding date we simply take action to extend the rebuilding date further into the future. And that would be another potential disconnect between the two systems.

CHAIRMAN TRAVELSTEAD: Thank you, Gordon then David.

MR. COLVIN: A few points, Mr. Chairman. I want to go back to the question that you asked early on, shortly after the motion was made and seconded. The adoption of this alternative, while it is accompanied by an F target of .26, does not require or obligate this board to adopt quotas annually that exceed those that are adopted by the federal government.

Point 26 becomes a maximum annual allowable rate of fishing mortality and there is virtually no reason that the board could not choose, because it chooses its quota ever year, to align its quotas with those that the federal government decides to implement in that year on the advice of the council.

I just put that out there. This doesn't force us into that position. On the other hand, you know, history might suggest that so long as the .26 number is out there as a target that is probably what we'll go for and we can talk about that. The other issue in this, the wildcard is that if we're working off a constant F as opposed to a constant harvest the, recognize that as the index itself continues to float around the quotas will as well.

And if the index goes back up, then the quotas might rise such that it would be easier to accommodate the interests of both the board and the requirements of the federal system under the rebuilding plan without going to .26. And I would just throw that out there for folks to think about. We don't know what is going to happen with the indices.

And, you know, I'm very sympathetic to a lot of this discussion but I have to tell you that what has stuck in my – I don't know what – stubborn streak from Day 1 is that 5.44 number. I find it difficult to look

fishermen in the eye and tell them that we're trying to accomplish something when I know a number has been fabricated; and that number was fabricated, took another number and doubled it based on some history of commercial landings.

And I just don't think that's the way we should be setting our legally-binding reference points for management. I think that was a mistake. I think that was an historic mistake. We made it and I'm reluctant to compound that error by adopting a fishing rebuilding target that's based on it. And that's what I just personally can't get past here. And I'd like to, but I've been unable to figure out in my own mind how to do it. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Gordon. Can I see a show of hands of who else wants to speak on the motion. I think we're getting close to the time period. Okay, David.

DR. PIERCE: Yes, Gordon made my point far better than I would have made it. I'll just add one other thing and that is in terms of the "tail wagging the dog" or the "dog wagging the tail," in this particular case when we talk about recreational fisheries, ASMFC is the dog and NMFS is the tail.

The commercial fisheries are a mix between federal and state waters. The recreational waters is predominantly if not solely inside state waters. Consequently, I really feel it's quite important for ASMFC to make sure that it is in the position to manage recreational fisheries to targets that they feel are reasonable.

And by picking Option C, for example, we put the recreational fishery, specifically, at risk. And we will be, I can almost guarantee it, we will be obliged if we adopt an inappropriate rebuilding schedule to slash our recreational fisheries, to impact them far more than we should.

And we will be faced in the not too distant future, I suspect, with near shutdowns if not complete shutdowns of our recreational fisheries to adhere to a rebuilding plan tied to the bottom trawl survey of the National Marine Fisheries Service, at least the survey at this time. So, again, I think the motion makes a great deal of sense and I urge the board to support it.

CHAIRMAN TRAVELSTEAD: Eric.

MR. SMITH: Thank you, Mr. Chairman. I had one comment to offer but after my good friend and colleague's previous remark I have to make two

points. With all due respect to David's point, I'm tired of sounding like we make our decisions because we're afraid of what we're going to do to recreational or commercial fishermen and I think we have to get past that. It's just, it bugs me.

However, I'm inclined to vote for the motion – I'm not saying I will, yet, because I'm not entirely certain in my mind but here is my mindset when I'm inclined towards it. I'm hopeful that if we adopt 0.26, you know, what we're basically doing is forcing an impending train wreck down the road.

And in the run up to the wreck I'm hoping that we'll be able to have a rational discussion on the implications of that and isn't, wouldn't it be better if we – you know maybe Louis has the right idea that one of the assessment approaches that they've used in the Southeast that has been favorably peer reviewed can be done in a year, can be substituted and approved agreed upon and it will be more informative.

It will teach us more about what really is the abundance and the fishing mortality on scup and we can right the ship. If we vote for the same thing the Mid-Atlantic Council did it's a fait accompli. The fisheries service will, of course, adopt that and we will never have the energy behind trying to get past the problems that that creates.

So I'm inclined towards creating the tension for a while, understanding that somewhere a year or two away, maybe a year away, we may have to revisit it and we may have to decide to just cave and do as they do but I don't think I'm there yet. Thank you.

CHAIRMAN TRAVELSTEAD: Bob.

MR. ROBERT ROSS: Bob Ross, proxy for Harry Mears. NMFS cannot support the motion on the board. I believe that, as Mr. Smith indicated, there is the potential for a serious disconnect here, this, for this joint plan. I also believe that the council alternative and the NMFS' proposed rule that was recently published does provide flexibility to address the concerns that have been identified relative to data issues and the new research vessel.

The council alternative does provide periodic review. There is an established mechanism to address the side-by-side trawl survey comparisons. And the council plan does provide a venting if based on updated information the seven-year rebuilding timeline is not adequate. It does allow for extension out to ten years. So I think there are options

available through the council/NMFS process to address the concerns that have been identified. Thank you.

CHAIRMAN TRAVELSTEAD: Everett and then Gordon.

MR. PETRONIO: Thank you, Mr. Chairman. I think there are two important issues running around at the moment but I don't think that a simultaneous discussion of both is worthwhile. What I'd like to do, I think we need to act on the pending motion. What I'd like to do is maybe just alert you or put a placeholder under other business that I really want to have some further discussion about improving our assessment techniques.

But I don't think right now is the time. I think we should be discussing the merits of the pending motion. But I do want to add that to be discussed and decided how we're going to move forward once we've decided what we're doing with this motion.

CHAIRMAN TRAVELSTEAD: Okay, thank you. Gordon. Any final comments? Louis, a question.

DR. DANIEL: Yes. I'm sorry but I'm confused a little bit about the indexes and that's driving the quota share and so if the indexes change the quotas will change. I think that's what Gordon was saying. So I'm trying to figure out how in the world you would develop a timeline when you have no control over, you don't know what the index is going to do.

So how did, I mean I understand the whole ten-year and if you can do it in less. But it makes no sense to me how you would come up with a timeline of seven years without the index information, unless you're just guessing in the future what those indexes are going to be. Am I missing something?

CHAIRMAN TRAVELSTEAD: Jessica.

MS. COAKLEY: Yes, the projections that were done to evaluate the different rebuilding time periods was done taking the catch at age and then assuming a median recruitment level, an average recruitment, an average natural mortality rate and then taking various fishing mortality rates say, you know, setting it at F of .26 or an F of .1 and projecting that catch at age forward through time.

And the catch at age is actually index linked so you're basically watching how those index values could potentially change under different fishing mortality rate scenarios, again, assuming a median

recruitment and natural mortality rate. So you're projecting that forward through time and then linking that to the TALs we use a relative exploitation index approach to link that up to harvest rates. Does that answer your question?

CHAIRMAN TRAVELSTEAD: Louis.

DR. DANIEL: It just makes me more concerned that we're basing this really on a textbook swag. There is, you don't know. It could change dramatically as a result of an index changing. And so without any hard evidence to suggest what might happen because you have no catch at age, you have no information there it just, the seven years really creates hard feelings for me.

CHAIRMAN TRAVELSTEAD: Okay, I think that was the final comment. I think we need a couple of minutes to caucus and then we'll vote. Okay, are we ready to vote? The motion is to adopt Option A2 of Amendment 14.

All those in favor of the motion please raise your right hand; opposed, like sign; abstentions; null votes; there was one abstention and null votes, none. The motion carries. This being an amendment we do need a motion to, unless there are further internal questions, to recommend approval of the amendment by the full commission. Yes – Toni says no. Bill.

MR. ADLER: I'll make a **motion to approve the amendment**.

CHAIRMAN TRAVELSTEAD: You're making a motion to recommend approval of the amendment by the commission. Okay. Seconded by Pat Augustine. Comments on the motion. Seeing none, is there a need to caucus? No? All those in favor of the motion raise your right hand; opposed, like sign; abstentions; null votes. The motion carries. That will be sent forward to the – Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Just a follow-on question, for all the reasons that Dr. Pierce and Mr. Colvin put on the table, including what Dr. Daniel said about this index, is it appropriate for us to go forward with either a letter or has the discussion been clear enough based on the comments that Mr. Colvin made that we really would have some action taken upon in terms of another look-see at another survey, whether it's SEDAR what – I'm not sure what – is there something that we can do beyond having vetted the way we have to move the process forward?

We are headed for a train wreck. And it's either going to be looked at now or later. And that's the reality of it all. And if there is, the concern has been voiced I think from very valid sources of people who are in the know – again, Dr. Pierce and Mr. Colvin and Dr. Daniel and Eric Smith, also. It just, it just seems to me that we have to commit to an action to put something in writing and move it forward. What is your take on it, Mr. Chairman?

CHAIRMAN TRAVELSTEAD: I think we do need to have those discussions but I'm not sure we've got time to do that today given the full agenda. But I think certainly, you know, at possibly the next meeting we have those discussions. Gordon.

MR. COLVIN: I would agree, Mr. Chairman. I think one thing we can do today is to agree that we want to ask our technical committee to pull together some advice for us on data collection, particularly, you know, getting back to the point that Vince raised – and we've talked about this before over the years, that as important and as much time investment as we put in to our summer flounder, scup and black sea bass management programs, those programs don't identify in any kind of a clear and comprehensive way data collection needs from the states.

So, I think it would be really useful to, you know, to have some exercise come back to the board and say, look, this is the data that needs to be collected; you know, this is what we think the states need to do; this is what we think we can get from the National Marine Fisheries Service and so on and so forth.

One of the key things was alluded to earlier by David, also. In the case of scup it's pretty clear that the, what is sampled in the spring survey from an age distribution perspective does not match what is being taken now in the research set aside pot-based survey that is developing off Rhode Island.

There is a much wider range of ages coming from that latter survey and that information needs to be looked at by I think our technical committee with some recommendations about what do we do about that. What are the implications for other surveys? What are the implications for the continuation of that one? And so on and so forth. I would like to see a really thorough data needs report come back to the board.

CHAIRMAN TRAVELSTEAD: Eric, on that point?

MR. SMITH: Yes, it is, exactly. If we're making a list for technical committee review I really think we

need to ask them to review alternative models that might be incorporated, instead. I mean I've been having back and forth discussions with my staff in the audience who have been involved in some of those assessments.

And our view is it's much more discard related than it is age-based related. But if Louis is correct, we potentially could use some other non-age-based model. And we're not competent to decide those things but our technical committee is and I think it ought to be on the list. Thanks.

CHAIRMAN TRAVELSTEAD: Okay, Pete.

MR. PETER HIMCHAK: Mr. Chairman, on the same issue I just want to refer back to the ACCSP meeting that we had Monday afternoon and scup ranks very highly on both the biological panel review's matrix and the bycatch matrix. And when FY08 project proposals are called for by July 1<sup>st</sup>, I believe, this particular issue may, I mean we could send a very strong message to the Operations Committee and the Advisory Committee of the ACCSP on the need for scup management research issues.

CHAIRMAN TRAVELSTEAD: Thank you. Paul, do you have an understanding, now, of what the members are asking for?

MR. CARUSO: Yes.

## **REVIEW PID FOR AMENDMENT 15**

CHAIRMAN TRAVELSTEAD: Okay, then we'll direct that the technical committee undertake those issues at their next meeting and report back to the board. Anything further on Amendment 14? Seeing none, we're going to move on to Agenda Item 5, reviewing the public information document for Amendment 15. Toni.

MS. KERNS: Thank you, Mr. Chairman. So the board and the council agreed to wait until they determined which issues that they wanted to include in the Draft Amendment 15 document until we had advisory panels meet and review the issues. The advisory panels met in April. We reconstituted the scup, summer flounder and black sea bass panels and they are now individual panels.

And they have met and given the board recommendations on each of the issues. That information was contained on the CD. And I will go through their recommendations as well as while I do

this I will go through the issues that are contained in the document since we have not looked at this document in a while.

The issues that I'll go through will be the same presentation in terms of the feasibility of each of the issues that the board received back in October of last year. The possible tools, there is a slew of management tools that we can use to resolve several of the issues that are listed inside of draft, of the PID. These include gear requirement changes, fish size changes, trip limits, ITQ or IFQ programs, licensing schemes, area closures, quota allocations within sectors, and several other different management schemes.

The first issue is the summer flounder commercial/recreational allocation. The technical committee completed a very thorough review of the data. They did not recommend a change of base years for allocations. We could look at alternative strategies if this issue were to stay in based on other metrics or alter the allocation of excess quota.

This option was considered by the Mid-Atlantic Fishery Management Council and they will include it in the preamble of their portion of the document but it will be considered but rejected. The advisory panels could not come to consensus on this particular issue so there was, those that were in favor of keeping this issue in the document, they think that there needs to be an additional review of the data. It needs to be more thorough, should consider other information besides just landings.

They also think there should be the ability to transfer fish between sectors as well as over and there were those that said if this issue were to stay in the document, then they think that overages should be taken out of the following year's TAL for both the recreational and the commercial sector.

For those that were against keeping the issue, they felt that there was already a very thorough review that had occurred and that data actually indicated that the commercial allocation probably should have been higher than 60 percent and the recreational quota should have been lower than 40 percent.

For Issue Number 2 with the summer flounder commercial allocation, currently we have the state-by-state shares. You could go through appropriate management strategies to alter this, including look at gear type, base year allocation, regional allocations or F-based. This issue was accepted by the Mid-Atlantic Fishery Management Council to stay in the

document.

The advisory panel could not come to consensus on this issue, as well. For those that were in favor of keeping the issue in the document, they felt that the weigh-out data is not representative of the states, particularly New York. There were vessels in New York that were active during those, during the time periods of allocation and when you compare permit and vessel fishing data it shows this and it suggests that there were discrepancies in the representation of data for some states.

While some states have more accurate and thorough records there are other states that had several less accurate records. This advisory panel member that brought this information forward also included a series of datasets and documents to show that the New York landings are not representative of what was actually fished.

We should consider regulations of states, we should consider the regulations that the states had in place during the allocation years when setting the percentages. And we should not have any mandated transfers in the plan. They should only be voluntary if this issue were to stay in the document.

For those that were against keeping the issue in the document they felt that the current management program is a good program. There is potential to lose more than your lower allocation right now. And the only time that we should consider changing the allocation is when we have very high quotas.

For Issues 15, 14, and 22 – I mean 5, sorry, 5, 14 and 22, this is looking at the reference points. We, for feasibility in terms of what is in the document we could make a change only for peer review of the reference points, only with a peer review, and we would only do this if we had new information.

This issue has moved forward through the Framework 7 that the council has started and then we'll see the reference points and how we want to change those in Addendum XIX. And this issue was rejected by the Mid-Atlantic Council. And the AP was recommending to remove this document because it is being considered through Framework 7 and Addendum XIX. They did note, though, that if those documents do not move all the way forward then the reference points should be included in the amendment document.

Looking at Issues 7, 16, 24 and this is the management of the shore fishery for summer

flounder, scup and black sea bass, this would give a separate allocation for the shore fishery and it would be based on MRFSS data. There are concerns because of the limitation of using MRFSS data on a state-by-state basis and if you use the MRFSS data on a state-by-state basis and then also on an individual mode there may be more concerns. And Jessica and I confirmed today and this issue was rejected by the council.

The advisory panel for the summer flounder and scup panels recommended that these issues be removed. The shore based fishery is too small to be considered for their own, that a separate allocation and differing regulations could cause potential compliance issues and confusion amongst recreational fishermen due to differing regulations.

And they did note, though, that with the larger size limits that we're seeing the shore based fishermen are disadvantaged because they don't typically see such large fish. In terms of the black sea bass advisory panel, they recommended keeping this issue in. There were multiple views on this recommendation and this was also a low priority for the black sea bass panel.

They felt that it was necessary to keep this issue in because the larger fish are not available to shore fishermen and we are seeing increases in size limits. They, too, had a concern, though, that there could be compliance issues and confusion amongst fishermen. They also had a concern with the quality of using MRFSS data to separate out this mode.

For Issue Number 6, 15 and 23, this is looking at the party and charter boat fishery for summer flounder, scup and black sea bass, this would give a separate allocation for the charter and party boat fishery. Again, there are the same concerns with the limitations of MRFSS. And this issue was, too, rejected by the Mid-Atlantic Council.

For the advisory panels, all three advisory panels said that this issue should stay in the document and it was a high priority for all three panels. We should keep this issue in even with the lack of data because this will be, we could potentially have better data collection through VTRs on the party and charter boats.

It puts flexibility for the sectors' management. They don't necessary feel that they should have a separate allocation but they want to be able to have different regulations than the rest of the recreational fishery. And what's most important to this sector is that it



allows the patrons to have this perception or expectation that they can have a significant, as significant bag as possible.

For Issue Number 8 which is the management of the summer flounder recreational fishery, currently we allow conservation equivalency in the summer flounder recreational fishery which allows states to set their individual state-by-state management measures. We could consider not allowing this.

In the amendment you could consider allowing different types of management tools for the summer flounder fishery other than the traditional bag, size and season. There is a slew of measures that could be considered in the draft amendment. The Mid-Atlantic Council accepted this issue as part of the draft amendment.

The advisory panel recommended keeping this issue inside of the document. This was a high priority for them. They think it's very important to explore other types of regulations, including allotments and total length measures.

They also felt that with the increases in size limits which equals increases in the size and weight of each fish it ends up giving the fisherman a lower quota because of we're using pounds instead of numbers of fish when giving out their quotas and this is penalizing the recreational fishery, in their view.

Also with increasing sizes we are seeing increases in the number of discards or throwbacks and with having different measures then we could be maybe, the AP feels we could be more creative and lower those numbers of discards. And they also want the flexibility to address changes in the fishery as things change such as data collection protocols with the movement to make changes to the MRFSS system, as an example.

Issue Number 9 and 25 and, it's the discard issues for summer flounder, scup and black sea bass, the AP recommends removing this issue from the document. They felt that discards have been addressed in both the commercial and recreational fishery. Due to the lack of new information in some of the species such as scup that discards are not a high priority warranting addressing in this document. Some of the users felt that the recreational mortality rate were not accurate in all of the species. And the Mid-Atlantic Council recommended removing this issue from the document.

For Issues 3, 12, 13, 20, and 21 is looking at

overcapacity in the fishery. The AP is recommending removing the overcapacity issue for both commercial and recreational fisheries in all of the species except for summer flounder where they are recommending to keep the – sorry. Well, actually, they're recommending to remove all the overcapacity issues. I'm sorry. They feel that there has been sufficient and appropriate management throughout the years to keep the fishery from reaching overcapacity.

There has been a dwindling fleet in the fisheries and management that has been put in place has increased the vessel price per pound, indicating that there is not a dirty fishery and, therefore, increases do typically occur in fisheries with overcapacity issues so this should not be an issue. And the Mid-Atlantic Council rejected this issue from their document. And that was what it was, it was the fluke recreational overcapacity issue, Number 3 should stay in the document. I apologize.

There was multiple views on this issue. It was a high priority for them. They felt that there was no effort control for the recreational fishery because there is no limits on the number of users in the fishery. There is also a potential for growth in the fishery as population size increases. Some felt that it should be taken out while others agreed that there are other issues that are more important.

Issue Number 10 is scup commercial recreational allocation. Right now we give a 78/22 percent split and we use a TAC/TAL. In the amendment document we could consider going from a TAC to just a simple TAL and not include the discards in the setting of the total allowable landings. We could consider allowing for quota transfers as we do in the bluefish fishery where at the beginning of the year we decide to give some of the commercial TAL over to the recreational users, would be the case for scup.

We could also look at alternative strategies using different base years as metrics or alter the allocation of excess quota. This issue was rejected by the Mid-Atlantic. The AP recommended keeping this issue in the document. It was a medium priority. And there were multiple views from the AP.

But the consensus was that the commercial fishery isn't landing their entire quota so that they think that there should be some sort of management measure so that they can transfer some of the commercial fish to the recreational sector such as in bluefish. And there was others that felt that the original allocation was incorrect.

Issue Number 11 is the scup commercial allocation itself. We could consider appropriate management strategies. Currently we have two winter periods that are a coastwide quota and one summer which is state-by-state shares. That could be changed any way. This was accepted by the Mid-Atlantic Fishery Management Council.

The AP's recommendation was to keep this issue in the document. It was a medium priority. They felt it was important to have the flexibility to utilize all of the commercial quota for, and as well as use all of the total quota for both sectors. They had some views on what they thought, how they thought that this should be developed but they said we'll save those if the issue moves forward.

But they – for Issue Number 17 is management of the scup recreational fishery itself. We could look at adopting conservation equivalency in the FMP. Currently only the commission recognizes conservation equivalency and that is how we set the management scheme with the regional quota for Massachusetts through New York. We could also consider other management tools. This was accepted by the Mid-Atlantic Fishery Management Council.

The AP recommended keeping this issue in the document as a high priority, while there were multiple views on this issue. Some felt that conservation equivalency is important and that it should be recognized in the plan because it simplifies the process, while there were others that were leery of conservation equivalency because they felt that other states can dictate another state's regulations and they don't think that that's a positive step.

There is also concern with management by pounds and not by individual fish because that ends up penalizing the recreational sector. As the size limit regulations increase the average weight increases, thus decreasing the number of fish available to the fishermen.

Issue Number 19 is the black sea bass commercial allocation. This would be looking at having the National Marine Fisheries Service recognize either the current commission state-by-state shares that we have, so it would be part of the FMP, or we could also consider appropriate management strategies. We could use a scup type like strategy. We could use gear programs. We could change base years for the shares. We could look at regional programs. This issue was rejected by the Mid-Atlantic Council.

The AP recommended keeping this issue in the

document as high priority. They felt that the only issue that should be considered is the current commission state-by-state shares in the percentages that they are now set as long as we would continue to be able to have volunteer transfers between states. And they felt it was important to integrate the commission allocation system into the FMP that is recognized by both the council and the commission.

For Issue Number 26 is the data collection requirements and protocols. We could look at a series of the current data collection programs, VTRs, VMS, looking at MRFSS. This issue was rejected by the Mid-Atlantic Council. The APs all recommended keeping this issue in the document for summer flounder, scup and black sea bass. And they were all high priorities.

It's very important to improve the recreational data collection system. MRFSS needs improvements, they felt. They think that we should be utilizing the VTRs that the for-hire fishery has onboard. There are some people that felt that we need to resolve the issues between the VTRs and the state reporting slips and that should be addressed.

We should address the recreational management by pounds and not by individual fish. There needs to have flexibility to address changes in the fishery as we have changes in data collection protocols. And they also felt that predator-prey interactions, distributions and shifts of fish availability and long-term environmental changes need to be addressed in data, with data. The Mid-Atlantic Council did not keep this issue.

Issue Number 27 is the quota roll over. Currently we do not roll over any excess quota into the next year's fishery management, to the next year's TAL for either the commercial or the recreational sector. We could consider doing this. This issue was accepted by the Mid-Atlantic Fishery Management Council.

The AP also recommended keeping this issue in for all three species as a high priority. They felt that unused quota should be available in the following year just as overages are taken out in the following year. And they think this is important for both the recreational and the commercial sector.

Lastly is the Issue Number 28, limitations on vessel replacement upgrades. Amendment 11 was developed a consistency for a series of federal plans on looking at vessel upgrades and allows for a one-time upgrade. And consistency amongst these other plans that were identified when this limitation was

put in place should be considered when you think about adding this issue to the document because those plans would also be affected. Those are federal fishery plans, though.

This issue was accepted by the Mid-Atlantic Fishery Management Council. The AP recommended to keep this issue in. It was a high priority for some of the APs and a medium priority for the others. They felt that the vessel upgrade should be removed from the FMP altogether; it shouldn't even be a part of it.

Smaller vessels are unable to fish, participate in the offshore fishery which they need to get to because of changes in the fishery because of these vessel upgrade limitations. If they were to go out in the vessels that they currently have it could cause safety at sea problems. There should be consideration for some individual sectors of the fishery.

There is also problems that people can't find vessels that meet the requirements that are outlined in the plan for the vessels. And it's possible that you could segregate the upgrade requirements by fishery or by gear type. And there is other members that felt that this was an artifact of when management was based on days at sea and not for quota management with effort restrictions.

So, and so I have up here the list of issues that we need to consider for the draft amendment document. And as staff has said to the board and council before, we think that a good number of issues is around six for the timeline that we have outlined to the council and board which is about two years to complete this document.

So what I'd like to do is to try to go through and either eliminate issues that we don't want to have in the document. And once you eliminate an issue we will turn the issue to white so that you can see that it has been removed.

CHAIRMAN TRAVELSTEAD: Okay, keep in mind, you know, this agenda item is about deciding which of these 28 issues we want to ask the plan development team to include in the amendment and do further work on.

I hope we can avoid an extensive debate on the merits of each one of these, otherwise we'll be here all day. And just to note again for the record, the Mid-Atlantic Council has already been through this process and has identified Issues 2, 8, 11, 17, 27, and 28 as those that they prefer to keep in their version of the amendment. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. Let me say first that I want to express appreciation to the chairman and the commission staff for their efforts to assemble, brief, convene and manage a meeting of advisors as we had requested last year. And also let me express appreciation to the advisors.

I think we had given them, they had to come in quickly, hit the ground running, and do a lot of work. I think they did a fine job, as best as we could hope. And I appreciate that our decision today will be better informed on the basis of that advice than it would have been without it. And I am grateful for that.

Let me also say that I flatly do not agree with limiting the scope of this amendment to six issues. What I've told our stakeholders in New York about this amendment is this, and I've told them at our public hearing and I've told them in numerous other venues since then, look around the room. Look at the faces. Look at the gray in your hair.

Most of you will no longer be involved in fisheries when we get another chance to comprehensively amend the Summer Flounder, Scup and Black Sea Bass Management Plan. This is a process that takes a lot of time. And it has been very difficult to bring it forward, particularly through the council and also through the commission's process to get to the point where it's teed up and ready to go down the fairway.

And it's not reasonable to think that you're going to get another chance to do that in three-four-five years or perhaps even longer. So let's take the time to get it right and get the issues in there that are really important to our stakeholders. And if that's ten, that's ten.

I just think it's inappropriate to set a sideboard of the number of issues before we even start to discuss how important they are. That said, Mr. Chairman, I don't know how you want to proceed. I would be perfectly willing to make a motion now to get us started on what issues would be in the scope but I'll defer to your wishes on process.

CHAIRMAN TRAVELSTEAD: I think that would be appropriate. I mean give us a starting point by making a motion and if we need to amend it, we'll amend it.

MR. COLVIN: Thank you, Mr. Chairman. You know if I can get a second to this motion I'll be happy to elaborate on my reasoning but I, just so you know, I've kind of looked at, compared as Toni went through her very excellent summary of the issues and

the actions taken by the council and the recommendations of the advisors and tried to line up the issues that appeared to be important to the council and to the advisors and will highlight those in my motion.

I will add one issue that I do want to address specifically that I think both the council and the advisors missed on. **I move that we include in the scope of Amendment 15 the following issues by number, individual issues by number: 1, 2, 8, 10, 11, 17, 19, 27, and 28 and the following bundled items as a bundle: 3, 12, 13, 20, and 21, and as a second group of bundled items: 6, 15, and 23.**

And if I get a second, Mr. Chairman, I'd appreciate an opportunity to comment specifically on the bundled items on overcapacity.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion?

DR. MARK GIBSON: Second.

CHAIRMAN TRAVELSTEAD: Seconded by Mark Gibson. Gordon.

MR. COLVIN: Thanks, Mr. Chairman. Just a couple of points, first of all on overcapacity, I really think the council and the advisors have missed the boat on overcapacity. I think we have a serious overcapacity problem, particularly in the regional commercial fisheries, not for any of these fisheries individually but for all of our fisheries, particularly our trawl-based fisheries, collectively.

In the last couple of weeks there has been a huge flap over a cover article in a regional recreational fishing magazine. Post facto analysis of that flap has indicated that contrary to the assertions made in the article the fluke onboard that vessel were not discarded but were landed lawfully in a state other than the state from which the state was home ported.

Nonetheless, all of us in this fishery know darn well that that situation could have been very easily and often is exactly as portrayed in the article. Low trip limits often result in extensive regulatory discards. And what was hypothesized in that article does happen and it happens all too often.

In addition, even though arguably in that case the fish weren't discarded, they had to be transported at oversea hundreds of miles to be landed lawfully from the point where they were caught. The ultimate underlying problem there isn't just state-by-state

quotas, it's capacity. And the only way you stop, you know, in the long run, addressing those issues is to address capacity. And I hope that we will agree to do that.

A couple of other points, I included the first two issues, the 60/40 even though the advisors were split on the issue. Clearly, their split indicates that this is an issue that is very important to some of them. And I can assure you it's an issue that's very important to many other stakeholders. I think we need to keep it in and deal with it in the amendment.

Similarly, the commercial management I kept in because the council has it in and, again, many of the advisors, perhaps not a consensus but many of the advisors found it important. I thought it was appropriate to be there. Other than that I've tried to capture what one or both of them thought were important issues in the motion, Mr. Chairman. I'll be happy to take questions on it.

CHAIRMAN TRAVELSTEAD: Eric.

MR. SMITH: Hopefully, this is just an oversight but I noticed that Item 4 was not in Gordon's list and it's also an overcapacity issue which should potentially be bundled in all of the other overcapacity issues so I'd first just ask him if he would agree with that.

MR. COLVIN: I think that's bad note taking. You're right, Eric, it should be in there.

MR. SMITH: Okay, so **four should be in the first bundle**. My second comment is, wow. I mean this is hard to follow. That's kind of an off-the-cuff comment. But, actually, I like the way Gordon put these together. And with one exception that I'll mention in a moment I actually, I agree with the additions he made to the list that the Mid-Atlantic had put together and there were three on the individual items list.

The one I don't agree with and I'll say it and then explain why because I know it's going to rub raw a little bit, Item 1. The advisors had no consensus. The Mid-Atlantic recommended that not be in there. If you recall, this whole issue was spawned by the petition of the recreational fishing community; yet if I understood the evaluation it actually suggested that the commercial fishery should have more of a share than 60 percent and the recreational fishery should have less of a share than 40 percent.

And my view is politically we will never do that; and it doesn't, it won't solve the petitioners' problems so

it's a problem with no solution that I can see. And maybe we just need to have that on the record and take that one off the table. I won't move to take it off the table. I'll just offer that comment and see if anybody else agrees. Thank you.

CHAIRMAN TRAVELSTEAD: Gordon, to that point.

MR. COLVIN: Just responding to that last point, I appreciate what Eric is saying. And the point is this, we brought a bunch of advisors together, many of whom didn't know each other, some did, for the first time ever. For some of them it was their first time ever participating in this process. And we asked them to address these issues.

It's hardly a surprise that a group of commercial fishermen and a group of recreational fishermen couldn't come to consensus on this issue. I'd have been shocked if they did. But the fact is that it was clear from the discussion that the issue was very important to some of them. And, as I've said, I know that it is very important to stakeholders who were not part of the advisory panel and I think that we ought to keep it on the table. But, you know, that's the basis for my inclusion in the motion.

CHAIRMAN TRAVELSTEAD: Pete and then Pat.

MR. HIMCHAK: Yes, thank you, Mr. Chairman. And this goes directly to Item Number 1 and, boy, I feel like I'm back at the Lobster Board meeting in some instance here but my question to Toni in that the advisory panel on summer flounder could not come to consensus, it was my impression that it was overwhelmingly supported to not include Item 1 in the addendum and there was only one dissenting vote.

So, why? What determines consensus on that issue if the voting is – I'm sorry, could you clarify that, please, from the advisory panel on how they voted on the summer flounder commercial/recreational allocations.

MS. KERNS: We did not vote. There was no voting allowed. What I tried to do is get everyone to come to consensus so could you live with this or could you not live with this. And we could not say we could or could not live with this. There were, the majority of the people did want to take the issue out but there was a small minority that wanted to keep the issue in. And it was a very vocal discussion and, therefore, we decided to just present both views.

CHAIRMAN TRAVELSTEAD: Keep in mind, again, we're not trying to decide whether a particular issue is ultimately going to be accepted by the board. All we're trying to do today is, is this item going to be further developed by the plan development team and included in a document for public distribution. Way down the road we make those much harder decisions so just keep that in mind. Pat.

MR. AUGUSTINE: Yes, thank you, Mr. Chairman. Along the same line but let's go one step further on Item 1. On the record at the Mid-Atlantic meeting I suggested following the comment and I'm not sure whether Jessica or Toni put a one-line or two-line sentence as to what we possibly could do rather than addressing the 60/40. And two things we have to keep in mind, commercial fishermen are limited. It's a closed entry.

You cannot get another permit unless you buy it with a boat so that's not going anywhere. That group is not getting any bigger so they've got 60 percent of their share. In reviewing the documentation that the technical committee and all the groups put together, all the data that was presented, it looked like there was no way ever for any period of time other than a year or two that the recreational legally ever had more than 40 percent.

I think one year it was 47 percent. But on large it was, by and large it was somewhere in that 40 percent range. So, I don't see that changing. But I do see the suggestion that Toni made or, again, Jessica made that there could be a possible allocation once you meet a certain level of quota. Let's pick a number, whether it's 30 million pounds or what, that all of the quota above and beyond a threshold would be divided 50/50.

The problem that I see with us not having it in there, the recreational community is not constrained by numbers. The commercial is constrained by numbers. So, having a dead-ended 40 percent, whatever the number is, if it turns out to be the same number of fish every year or pounds every year and the number of recreational anglers continues to grow, there is no way you're ever going to have any amount of people that will continue to participate in it.

Whether it's right, wrong or indifferent, the available quota of fish continues to go down as the number of fishermen go up. I mean even with a saltwater license or registration I don't see that really having any major impact on it.

So unless there is some caveat or way to allow more fish to be made available for a period of time, once we reach the threshold, I just think we're missing the boat. And I believe the public should have a comment, an opportunity to comment on that. And I also believe that within the text of Amendment 1 that there should be that descriptive one or two sentences as a possible way that could be considered to change that. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. A couple of comments, I've seen hands in the audience and we will hear from the audience before we vote on this issue but very briefly. We don't have a lot of time so keep that in mind. But I want to hear more from the board, first. I have David and then Mark.

DR. PIERCE: Well, a couple of questions for Gordon, the first, I am glad that he included in his motion the bundle of measures for the three species that relate to the party and charter boat fleet and separating them from other recreational fishermen. This has been an issue, of course, that has been longstanding. We've discussed this off and on for maybe the last seven years.

And the party and charter boat fishermen certainly in my state and I think in other states as well have urged, you know, this board and certainly the Mid-Atlantic Council to try to come up with a different strategy for dealing with both of those types of fishermen because, indeed, they are different entities, party/charter versus shore side or small boat fishermen. So I'm glad that's in there.

Overall, I think that this is a good set of strategies to include in our addendum, in our amendment. My question is, first of all, Gordon, on the Issue Number 19, the black sea bass commercial allocation, the text that's associated with Number 19 doesn't really, to my satisfaction, explain exactly what we're considering as changes, possible changes. Would you be in a position to elaborate? What's your thinking regarding Number 19? What's the objective?

MR. COLVIN: Actually, David, the only reason I have 19 there is that the impression I got from Toni's presentation is that that was an issue that was added by our advisors as a high priority. And I sort of agree that what I heard of her summary of the issue is a little bit mushy on what it is that we would do. It's there because they saw it as a high priority and it's in the motion.

CHAIRMAN TRAVELSTEAD: Toni.

MR. COLVIN: And that's the only explanation I can give you.

CHAIRMAN TRAVELSTEAD: Toni, let me ask Toni, what's the difference between 19, Issue 19 and the fact that we're going to be looking at an Addendum XIX that addresses black sea bass allocation?

MS. KERNS: The difference between those two issues is that the addendum is only, the state-by-state shares are only recognized by the Atlantic States Marine Fisheries Commission. It's not recognized through the FMP. The issue under Number 19 could include those state-by-state shares just as we do it through the commission system, so those same percentages.

But it also could include options of different types of ways to allocate that black sea bass quota. We could do a scup scenario. We could do, we could use different base years to give the state-by-state shares. There is, you know, a slew of options that are available.

The addendum only continues forward the current state-by-state shares as I've said it in the plan. And the reason why we have to do the addendum this year is because the one that sets them right now is expiring at the end of the year. And if that expires then we go back to what is in the FMP which is the quarterly quotas.

CHAIRMAN TRAVELSTEAD: Does that help, David?

DR. PIERCE: Yes, that does help. I wasn't at the advisors meeting of course; however, I do have somewhat of a long memory, in part because I'm one of the gray beards that Gordon referenced. And I think I'll be around when this amendment is finally implemented. I'm not totally gray yet. I'm getting there. I think that this particular strategy or topic pertains to some advisors' belief that the percent shares set between the states should be changed. Is that really what the intent is here, to change the percent shares?

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: The advisors actually, and all of the advisors, even the one from the Commonwealth, agreed that the state shares are fine as is set in the commission plan but that there were, there must be the ability to voluntarily transfer fish between states as the commission plan has it set. So there is

agreement for the percentages as long as those transfers were available. And that's what the advisors said.

DR. PIERCE: Okay, that clarifies it. I would have no problem with the strategy that would involve the voluntary transfers. That makes a great deal of sense. The percent shares as they exist right now, well, I think they're fine. I wouldn't want to see us go down the road of changing the percent shares.

We have a history of discussion regarding the percent shares for black sea bass with Massachusetts being one of the antagonists and I won't go through that history again. But the percent shares should be left as they are; otherwise we'll go back into a black hole that I don't care to go back into.

All right, the other question I have of Gordon is Number 28. Now, Gordon, obviously there must have been a – I assume that the Mid-Atlantic Council has this in their proposed amendment.

CHAIRMAN TRAVELSTEAD: They do.

DR. PIERCE: They do, okay. All right, so I won't prolong discussion on this. The Mid-Atlantic Council feels this is a necessary step. I guess I see no reason to oppose it. I'm not exactly sure why it's necessary but I guess I have no objections to it being included so I have no, I have nothing to add to this list. I have no amendments to suggest at this time. I think it's quite inclusive and it does cover the burning issues that have faced us for the last two-three, maybe four, maybe five years.

And, yes, indeed, as Gordon said, it's time for us to get on with it, recognize that this is not a small list and it will put a big demand on staff and certainly on this board, no question about that. But I would like to see them addressed now as opposed to way down the road which may be very far down the road. And I don't care to wait that long.

CHAIRMAN TRAVELSTEAD: I have several other speakers who have raised their hands but I'm wondering if we could take this approach to move this along. Are there members who see items listed in the motion that they absolutely believe must be eliminated from the motion? Are there measures that need to be eliminated? That's the first question. The second question will be are there items that aren't in the motion that need to be added to it. So, Vito, on that point.

MR. CALOMO: Well, I live with the vessel upgrade. I have heartburn over Number 28, vessel upgrade. It's a safety, safety, safety issue, Number 1. You give a fisherman a hover story that has an older vessel trying to upgrade to even with a new engine and a new vessel. The vessel is not the biggest problem. It's a lot of times with the engine.

They have more horsepower today and it gives them limitations. Usually they have to put in less horsepower because that's what the engines are today. Again, my big issue with this is a safety issue and so is the advisors on it as a safety issue. And I can't see during this time of constraints with quotas, bag limits, trip limits, areas to fish limits.

We have more constraints on the fishermen than I've ever seen and I don't see this one as being beneficial to anybody. And I understand where Gordon is coming. He's a Mid-Atlantic member and so are you that you have it in there but I'm not so I do not request the vessel upgrade to be in it.

MR. COLVIN: That's what they want to do, just what you're saying.

MR. CALOMO: Maybe I'm reading it wrong and –

CHAIRMAN TRAVELSTEAD: The purpose of including it is to I think to discuss additional provisions that allow for vessel upgrades.

MR. CALOMO: I apologize. I did it in the reverse.

CHAIRMAN TRAVELSTEAD: Okay.

MR. CALOMO: That's fine. Thank you.

CHAIRMAN TRAVELSTEAD: I think you support, actually, keeping 28 in there.

MR. CALOMO: Yes, I do. It's my fault.

CHAIRMAN TRAVELSTEAD: Okay, and it is in there. Bill.

MR. CALOMO: Then I thank you.

MR. ADLER: Thank you, Mr. Chairman. I was concerned as to why Number 26 wasn't in there. I noticed that it said the advisory panel had high priority and medium priority – no, high priority. And what was the reasoning that they thought that was important and it wasn't included in this one?

CHAIRMAN TRAVELSTEAD: Item 26. Gordon.

MR. COLVIN: Thanks, Bill. I actually meant to mention this after I made the motion. You know, my sense is I understand that it's a high priority for the advisors. And it's certainly a high priority for every one of us and witness the discussion we had a few minutes ago about scup. I think the point is that data collection requirements are, as far as I know, completely framework-able and you know that's part of what we do is that we collect data.

And that, the context of data collection goes on outside the management plan. I'm not sure that – I didn't include it because I didn't think it needed to be there and I thought that was the basis of the Mid-Atlantic Council's decision not to include it, that it didn't have to be there in order to still address affirmatively improve data collection over time. Now, if I'm wrong about that, if it has to be there to do in the FMP amendment, to address the future data collection needs, then I would want to see it added. But that's why I didn't include it. I didn't think it needed to be there.

CHAIRMAN TRAVELSTEAD: Can we – Toni is working on a clarification on that and we'll get back to you on that but I agree. I mean data collection is something I hope we can respond to very quickly and not have to wait for the long life of this amendment to get to. Mark – Bob.

MR. ROBERT E. BEAL: Well, I think, you know, as you go through this amendment process you're going to, one of the sections of this amendment will be defining what can be adjusted through future framework actions. So I think, you know, if there is no, if there is no definite direction right now as far as data collection goes but you want to put that on the list of things that can be done through the framework or at the commission via addendum I think that's, you know, put it on that list.

CHAIRMAN TRAVELSTEAD: Mark.

DR. GIBSON: I don't have issues to be added or subtracted.

CHAIRMAN TRAVELSTEAD: Okay, let's just try to move as quickly as we can. Bill.

MR. ADLER: Just on that point there, I just didn't want to go to public hearing or public information hearing there and have people going, ah, data, data, data and then you have to go and explain, oh, we can do it outside of this thing because they'll probably

make a big deal out of it. That's all. You know, if it's in there then you don't have to listen to them and they know it's there.

CHAIRMAN TRAVELSTEAD: Gordon, would you mind amending your motion to make data collection a framework-able issue if it's not?

MR. COLVIN: I wouldn't mind at all. I think that's an appropriate perfection.

CHAIRMAN TRAVELSTEAD: Okay.

MR. COLVIN: And, you know, maybe we can get some language up there just to **add Item 26 as a framework-able issue pursuant to the amendment.**

CHAIRMAN TRAVELSTEAD: Everett?

MR. PETRONIO: To that same point, then, I think maybe you would also want to include five relative to biological reference points, if we're going to –

CHAIRMAN TRAVELSTEAD: Yes, that's currently being done. Toni.

MS. KERNS: Everett, that's currently being done in Framework 7 as well as it will be discussed today when I go through Draft Amendment, Draft Addendum XIX.

MR. PETRONIO: I stand enlightened. Thank you.

CHAIRMAN TRAVELSTEAD: Okay, any – Louis.

DR. DANIEL: Just I guess a clarification on – the discussion on 19 was that we don't want to go back and rehash the history of the allocation on black sea bass so what is the purpose of having 19 remain and is that not, can the same argument not be made for the scup discussions and the summer flounder discussions?

CHAIRMAN TRAVELSTEAD: Comments. Mark.

DR. GIBSON: Just saying, yes, you could make that case but the scup and the summer flounder allocation issues are so important that they simply have to be in this list. The Mid-Atlantic Council's short list, in my view, is woefully inadequate. These have to be here. I'm getting angry e-mails today as we speak from commercial and recreational fishermen about the upcoming fishing season relative to scup and summer flounder so they have to be in there.

CHAIRMAN TRAVELSTEAD: It sounds to me like



we're getting pretty close to consensus. Let me hear from the audience very briefly. Greg, you had your hand up first and then I think Tom and then we'll try to finish this issue up.

MR. GREG DiDOMENICO: Thank you, Mr. Chairman, I'll be brief. I know you have a long day ahead of you and I've spoken many, many times on the issue of the commercial/recreational – oh, I thought I did. Greg DiDomenico, Garden State Seafood Association. I've spoken many times regarding the issue of the 60/40 recreational/commercial split.

I certainly support and have supported at the Mid-Atlantic and at the advisory panel that that issue be removed from this amendment for a whole bunch of reasons. Not only is it a petition that started in March of 2003, I believe. It was sent to the National Marine Fisheries Service then sent back to the council then rejected by the council, etc cetera, etc cetera, etc cetera.

I don't have to remind everybody that the technical committee had said that not only was there no basis for reallocation but any of the calculations that they analyzed didn't change the allocation very much and in fact changed it the other way, for a higher commercial/recreational split.

So, I did want to just, again, say that we think this is a very serious issue and I wanted to add a little to something that Eric said regarding this issue. And Eric opposed it, of course. I mean he had actually, you know, opposed the issue from being included in the amendment. Eric said, I think, it's a problem without a solution. And I believe that.

But, more importantly, the resolution of that issue is no solution to the recreational fishing problems, whether that be bag limit, season or size. Any change in allocation is not going to change by any real significant amount the issues and the problems that they're having in their fleet. Thank you very much.

CHAIRMAN TRAVELSTEAD: Thank you, Greg, Tom.

MR. THOMAS FOTE: Tom Fote, Jersey Coast Anglers' Association, as usual two guys from New Jersey disagree on what we should be doing on issues. There is a number of groups that have asked for this reallocation and some of us asked before it way before the petition and was not part of that petition but asked for it many years ago.

With the new, with MRFSS getting better data than before we are picking up a lot of anglers that weren't involved before. We're getting better statistics. One of the reasons we think New York has been over for the last couple of years is because they started doing better intercepts and picking up those recreational anglers they had never picked up before and their catches which were not included in those allocations.

Again, if we look at the early times of sport fishing, the Bureau of Sport Fisheries and look at their data, this fishery was mostly recreational. I know the argument goes back and forth but it's a viable argument to go out to public hearings to look at a way of solutions. And Greg is right, going for 50/50 is not going to basically solve the problems between the recreational and what is going on now.

The other fallacy is that people keep saying that you know the recreational, the number of recreational anglers has grown. If you look at the statistics and you look at the statistics over the years – in New Jersey I can look at the numbers – we had more anglers during the '80s than we do now.

You have a lot less directed trips for summer flounder than you had 15 years ago and we're catching a lot less fish so people are having less success rate. So the number of anglers in the summer flounder fishery has not increased but has actually gone. It used to be at one time it was 40 percent of the directed trips in New Jersey and we are the largest harvest of recreational summer flounder. It is no longer.

Striped bass and other fisheries where they can actually take fish home to eat have now become the largest of those fisheries. So there is a lot of other problems and we need to try to find a solution to this. Again, the problem with discards in both the recreational and the commercial side need to be addressed.

This is a shame. You know striped bass is a catch and release fishery for a lot of anglers. They'd rather sooner release striped bass than take them home to eat but summer flounder is not. And we are at the point now that we are discarding more summer flounder than we're taking home to eat because of regulatory discards. And I think that has happened also in the commercial fishery because of trip limits and some of the other regulations. We shouldn't be discarding more fish than we're taking home for the public. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Tom.

Any other comments from the audience? Seeing none, any other final comments from the board? Are we ready to vote? Louis.

DR. DANIEL: Just a question, I know in the South Atlantic where they're moving forward with dedicated access privileges and that's a mandate of the new Magnuson Act and my, I guess just a comment or a thought is how this may be affected by the council's moving forward with dedicated access privileges on these species that are jointly managed with the ASMFC. And I just think it's something we need to be cognizant of because a lot of this may be moot.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: You know, I mean Louis makes a good point. I think part of the, by including those overcapacity issues, that bundle, group of overcapacity issues, it keeps the prospect in play as we go forward with the development of the amendment, the possibility of limited access privileges being a tool that can be used if we decide it's appropriate to at some point.

But if we don't even address the capacity it may not be a tool that we would ultimately have in play. And I know you know, I mean Bob hasn't spoken but I've spoken to Pat Kurkul and I know that the regional office feels strongly that overcapacity is an issue and that perhaps Amendment 15 could look at limited access privilege programs down the road.

CHAIRMAN TRAVELSTEAD: Thank you. Do you need time to caucus? Yes? Okay, let's take a minute to caucus and then we'll vote. Okay, if we could return to our seats we'll vote on the motion. Joe, do I need to read the motion? Okay, the motion is to include the following issues by number: 1, 2, 8, 10, 11, 17, 19, 27, and 28 and as a bundle the issues: 3, 4, 12, 13, 20, and 21, and as a second bundle: 6, 15, and 23, include Item 26 as an issue for adaptive management.

It was made by Mr. Colvin and seconded by Mr. Gibson. All those in favor of the motion raise your right hand; opposed, same sign; abstentions; null votes. The motion carries 8 to 2. Okay, let's move to Item 6 on the agenda, Draft Addendum XIX for public comment. Toni.

MS. KERNS: And just to give the board an update on how staff will move forward with Amendment 15, the council will review the issues that the board has considered at their June meeting and then if we need

to we can have some further discussions at the joint August meeting. And then if the volume of issues stays at the level that the board has identified, the timeframe for which the draft amendment document for public comment to be reviewed by the board may be different than the original outline as presented in the draft PID.

CHAIRMAN TRAVELSTEAD: Thank you.

## **REVIEW OF DRAFT ADDENDUM XIX**

MS. KERNS: Okay, moving on, thank you, Mr. Chairman, to Addendum XIX. If you don't have a copy of Addendum XIX they are on the back table. This addendum was initiated at the last board meeting. Staff proposes that public comment would be from May through July and ending July 11<sup>th</sup>.

The board would review comment and take consideration for final action at the August 2007 meeting. The purpose of this document is to explore three separate issues. The first is extending the black sea bass state commercial shares. The second issue is exploring alternative state-by-state allocation of the recreational fluke. And the third is exploring the stock status determination criteria for all three species.

As I stated before, the current addendum, Addendum XII expires on December 31<sup>st</sup> of this year which sets the state-by-state commercial shares. If this addendum does expire, then the black sea bass commercial allocation will go back to the quarterly quota system identified in the FMP. For the fluke recreational shares there has been concerns that the single-year allocation, the 1998, may not be the most effective year allocation to set these recreational shares for the states. It may not be reflective of the current fishery.

And looking at the stock status determination criteria, the timing of the survey information and the analysis of the peer reviews and as well as the timing of the annual spec setting process can result in a delay of the best available science to be used for management. So this document proposes altering how we set our stock status criteria so that we would be able to use the best available science when doing current management programs.

The stock status determination criteria would also look at broadening the description of the stock status. It would give flexibility in the definition of the stock status but would set specific peer review processes for the stock statuses to be determined. There is also

a sister document in the Mid-Atlantic Council's processes which is Framework 7.

Under black sea bass, looking at the extension of the commercial state-by-state shares – for each of these options if at any point in time the amendment document were to be finalized and a, the black sea bass commercial shares would be included, that document would end the amendment document and it would replace the amendment document.

So our first option is status quo. And that is that the current addendum would expire on December 31<sup>st</sup>, thus moving us back to the quarterly system if nothing was put in place. The second option would be a two-year extension of the current state-by-state shares. The third option would be a five-year extension of the current state-by-state shares. The fourth option is a ten-year extension of the state-by-state shares. And the fifth option is to have no expiration date of the state-by-state shares.

Looking at the fluke summer flounder recreational allocation – and Paul and I are going to tag-team this. And he is going to give the TC's recommendation as they went through each of the options. The first option is status quo. Currently we set our state specific targets for the landings from the coastwide limit and each state's proportion of the landings is based on 1998.

Option 2 would be looking at using each individual state's coastline size to set the allocations. The allocation would be distributed based on the percentage of coastline miles in that state. Here is an example of what your percentages could look like. If you had for your states – and this is based on your tidal shoreline miles so, for example, if a state's coastline made up 5 percent of the total coastline of the management unit then it would receive 5 percent of the recreational quota.

MR. CARUSO: Thank you, Toni, for plugging me back in. The technical committee does not recommend using this metric on the reallocation of fluke. Generally the comments of the committee were that there is no real relationship between coastline size and either fluke effort, landings or interest in fluke.

You know, a good example would be the Commonwealth of Massachusetts where half our coastline is in the Gulf of Maine. There aren't many fluke. We would get an inordinate share of the fluke pie. And other state would share similar fates down to the south. Again, it would not account for key

social and economic issues in the fishery as well.

MS. KERNS: The third option is looking at population size. The allocations could be distributed based on the percentage of the state's population size. This is an example of what your allocations could be based, or percentages could look like. This is based on the census projection for 2005 and the projection was based on the 2000 census. For an example, if a state's population makes up 5 percent of the total coastwide population then it would get 5 percent of the allocation.

MR. CARUSO: Similar to coastline mileage, the technical committee did not recommend using this option as part of a management strategy. It does not have a relationship to summer flounder availability or the fishery and would not account for the key social and economic issues related to the recreational fishery.

MS. KERNS: Option 4 is looking at the fishing population size. Allocations could be distributed based on the percentage of the marine fishing population. We would utilize MRFSS data to determine what that fishing population is.

MR. CARUSO: The committee felt that it may be reflective of fishing interests in general but generally does not relate directly to an interest in summer flounder. One of the other issues is that it doesn't directly relate to historical participation in either the flounder fishery or the fishery as a whole.

It may help capture some information relative to the fishermen that have directed fluke in the past but not presently but it's hard to account for that. And, again, it does not account for some of the other key social and economic issues.

MS. KERNS: Option 5 is looking at effort and effort being defined as the number of trips per state. Allocations could be distributed based on the percentage of trips taken that target summer flounder. And, again, we would utilize MRFSS data to determine these percentages.

MR. CARUSO: The technical committee did find some favor for this option. There is a way to refine the effort estimates down to fluke fishing trips. But, again, you lose some of that historical perception that Tom had mentioned. There is some, like I said, there is some favorable interest in using this metric. I think all these metrics you can look at. They are somewhat biased. You may even combine some of the options but this one does have some favor but doesn't

account for some of those key issues in that fishery.

MS. KERNS: Option 6 is looking at the effort in terms of landings. Allocations could be distributed based on the percentage of the recreational landings in each state. We could use alternate years as the base landings or we could use a combination of years. And, again, we would utilize MRFSS data to determine these allocations.

MR. CARUSO: Like the previous option, the committee was somewhat favorable to using the landings data for reallocation. We historically have, and continue to support 1998 as the best year to set shares because of that base year the regulations up and down the coast were pretty consistent. Next slide, thank you.

This option does hold some favor to move forward. One of the thoughts of the committee, I think the major consensus of the committee was that the board move to adopt some type of coastwide regulation set for a number of years, 1-2-3 years, and then look at what that does to reallocation of landings and then use that as a new set of base years.

The biggest issue here – and I’m going to go overboard a little bit and speak for the committee but I think the most important thing is we have to deal with the effects that the regulations have had on the reallocation in the last few years. It goes back to a comment Gordon made I think at the last meeting and Tom made today, the size limits have continued to creep in the fishery.

We essentially are turning the fluke fishery into a catch and release fishery or a trophy fishery which hasn’t been too favorable to some of the modes – the shore mode and the near shore modes.

So, if the board decides to go down this path or a combination of this or one of the other options I think the important thing is that the board would need to spend a considerable amount of time with its advisors and with maybe the tech committee setting the values of the fishery first, deciding what is a reasonable size fluke to be retained, what may be a reasonable limit on a coastwide basis, what may be a reasonable season on a coastwide basis, so that particular states aren’t being advantaged or disadvantaged by these baseline years.

That’s going to be pretty difficult but I think it’s very important for the committee to realize or the board to realize that essentially all the motions that you’ve made in the past, since 1998, have reallocated fluke.

The size limits have driven the fishery to deeper waters to the party/charter boat and the more mobile anglers and away from the shore anglers and the near shore anglers just as seasons and bag limits have changed the allocation.

People that have traditionally caught fluke as a bycatch or as another component of a recreational fishing trip have as size limits go down or, excuse me, bag limits go down they drop out of the fishery and more intense anglers that are happy with that higher size or lower bag limit are, step up their effort or change their effort to places, other places.

So it’s just important to realize that when you set this baseline you need to set your value system first, I think, to find out, to kind of set the playing field level between all states. So, like I said, in retrospect I think the committee had the most favor for this type of, this part of the options.

MS. KERNS: Option 7 is looking at the catch per unit effort. Allocations could be distributed based on the percentage of the CPUE in each state so if a state makes up 5 percent of the total CPUE of the management unit then it would receive 5 percent of the quota. And, again, we would utilize MRFSS data to determine these allocations.

MR. CARUSO: The committee felt that this, the use of the CPUE which is traditionally harvest again reflects the local regulations. You could use just plain catch but, again, even catch is biased in the past few years by the regulations as people have dropped out of the fishery or changed the way from traditional locations or changed their harvesting techniques, hook size, whatever, gear type.

So CPUE can be looked at as a proxy for abundance or local abundance but like a lot of the other options you’d have to be very careful with the way you use it. I don’t think, it would capture some of the local concerns, social and economic concerns, but I think the committee’s consensus was that going with a landings from a new baseline years or looking at direct effort would be a better way to go.

MS. KERNS: The next section of this document is looking at the stock status determination criteria. Under these options some of the management requirements the commission is not bound to under the regulations of ACFACMA but the council is bound to under the Magnuson Act so we, because of the joint nature of this plan, these regulations are listed in the document.

And currently under status quo changes can be made to the reference points through an amendment or an addendum document. Due to the timing of the peer reviews that we received it's often that new information cannot be used in the current year's fishery management plan specification setting process because of the length of time it takes to go through an amendment process or an addendum process.

So Option 2 proposes to redefine this criteria. It sets a set of regulations that we would have to follow in terms of redefining or of setting the criteria. We would use FMSY or a reasonable proxy defined as a function but not limited to either total stock biomass, we could use spawning stock biomass, we could use total egg production as some examples of what we could measure the productivity of the stock on.

We would need to provide the best measure of the productive capacity for each of the species managed under the FMP. And, again, we would take our thresholds and base these on the same proxies but would not be limited to these. Once we have an assessment then we would need to have that assessment peer reviewed.

There would be only specific areas or places that we could have this peer review. The peer review could be a Mid-Atlantic peer review by their SSC. It could be an externally contracted review with independent experts from the Mid-Atlantic. We could have a NMFS internally conducted review.

Or we could also have a NMFS externally conducted review with independent experts as well as we could have a commission externally review with independent experts. But that would be the limited availability for peer reviews on this document. Once we have the peer review advice we can follow one of three paths in determining what the management board will do with that advice.

Currently, we have the Monitoring Committee and they make a recommendation to the board based on the advice of the peer review. And then the board would set the reference points based on that specific peer review advice. That peer review advice, it would have go be based on that scientific peer review advice. We couldn't move off from what was done at the assessment and the peer reviewers.

If there was not a consensus of what the advice should be from the peer review, then we could initiate either the TC or a group of the SSC to clarify the scientific advice for the Monitoring Committee.

The Monitoring Committee would then make the recommendation to the board on the peer review and then the board would set the reference points based on that scientific advice.

But what this allows the board and the council to do is to change the reference points based on the scientific peer review advice during the specification setting process instead of through an amendment or an addendum document. Are there any questions?

CHAIRMAN TRAVELSTEAD: Questions for Toni or Paul. David.

DR. PIERCE: Yes, Toni, I wasn't sure of the distinction between Options 1 and Option 2 until you got to your last sentence so I got it. Thank you. I hope that if we do indeed adopt this document with those particular options that we can boil it down into much less text because I'll admit that in going through the two options I had trouble making the distinction between the two.

So for the benefit of the public when this goes out, I would suggest a bit more condensing so that it becomes quite clear to those who have to make, have to offer opinion regarding which one to select. That's really a comment and a suggestion.

Now, to Paul, on Option 5, this is to the TC recommendation, I know we're not making decisions today. This goes out to public hearing. But it would be helpful certainly to me and certainly to those who will, once again, offer comments on these different options, it would be useful if there would be some way to – let's see here .

I'm sorry, it's Option 6, Page 9. It would be very helpful if we could identify beforehand what increase in the amount of length frequency data we would need in order for us to move forward with this particular option. You made it very clear, Paul, that the technical committee has said that this particular strategy, in order for us to consider it we have to increase that amount of information.

But I don't know what that means. And the public won't know what that means. And certainly each individual state with their own data collection mechanisms, some of which are woeful in light of budgetary considerations, we need to know beforehand; otherwise, why should we bother to take this out to public hearing. So, is there any – can you elaborate today or is that something that is going to require more work by the TC?

CHAIRMAN TRAVELSTEAD: Toni.

MS. KERNS: David, can I expand on your first issue before Paul goes into his?

DR. PIERCE: Yes, go ahead.

MS. KERNS: There are differences beyond just amendment and addendum documents between Option 1 and 2. Some of those the commission is not required to follow but the council is and because this is a joint plan we're trying to stay in the spirit of that joint plan to keep all of those issues in here.

And so our options are outlined almost exactly as the Framework 7 document is and that's how we typically follow when we have sister documents. But in Option 2 it defines that we have to set the maximum fishing mortality threshold as a function of productive capacity and using a reasonable proxy to do so using, such as total stock biomass or spawning stock biomass.

It also says the same thing to define the minimum stock size threshold, as well. It also defines what bodies we can go through for peer review which we don't currently have that defined in our plan as well. It also defines that when we get non-consensus scientific advice that the SSC or the TC has to review that and provide some sort of advice to the Monitoring Committee so that they can provide advice to the board on that peer review. So there are those differences as well.

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: David, to your inquiry, there is a couple of ways to approach this. Like I mentioned before, I think it really needs some good thought from the board as well as adopting a value set if you're going to go through a trial period. You could conceivably leave the existing regulations in place and still get there by taking this extra data.

It would be nice to have the extra data either way but particularly critical if you leave the existing sets in place. What we talked about is it's hard to identify exact number of fish you would measure but some of the states have angler collection programs that are pretty good. They're getting 2 to 3 to 400 lengths.

What we typically see in the MRFSS catch length frequency sampling is on the order of 40 to 200 lengths per state which is pretty poor if you're going to make some management decisions based upon that kind of data. It also tends to be highly skewed, the

sampling skewed right now to the party/charter industry because that's where we have, the only place we have complete catch information.

There is no catch information being gathered at the shore angler or private boat so you have to use the party/charter catch data as a proxy for the other fisheries and that's not really very good because there is a completely distinct catch frequency distribution for these other modes.

So, you know, the volunteer angler programs that some of the states – Connecticut I believe has one; Maryland has one – they get some pretty good numbers from all the modes. And they, you know these types of programs have their own problems, their own biases. They tend to get more avid anglers.

But, you know, somewhere on the order of 2-3-400 lengths would characterize the catch as long as the sample was not biased by the actual information gathering process so it wasn't skewed to one mode or the other, it wasn't, you know, all up in the front of the season or the back of the season. You want a good distribution, a random sample.

DR. PIERCE: If I may, Mr. Chairman. All right, so, Paul, you're saying that you and the technical committee will be in a position to provide Toni with what she needs in order to make it clear to the public what we actually have to have for increased sampling by fishery, by whatever, that that will be available for us to have in this document.

This is a very important option. It has, it's quite significant because it means we'll establish a new baseline. We have to in order to do that all agree to establish coastwide regulations, not be separate unto ourselves as we have done for so many years.

So this is quite significant and in order for me to feel comfortable with this particular option I need to feel, I need to be convinced that we're going to have something in this public hearing document that will indeed be, well, as complete as it can possibly be but good guidance to the public and to the states as to what we need to do. So that will be available and will be provided to Toni? Yes?

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: Yes, David, I think we can give Toni enough good language to help the public understand what this option would entail and I think it would be good language for the board to get a better feel for what they would need to develop this

further.

CHAIRMAN TRAVELSTEAD: Okay, Gordon.

MR. COLVIN: I have a couple of questions on the options under 3.2 as well. I think this, to some degree this set of options that have been analyzed flows from a motion I made back last year sometime and was intended in my mind to address the prospect that perhaps there are changes in the distribution or the availability of fluke that have occurred since the baseline years and that we need to begin to have a dialogue to find ways to address changes in how allocations can be changed to address changes in the fisheries.

And I appreciate the work that staff and the technical committee have done to bring this to this point. I think they've done a very good job. A couple of questions, first of all, Mr. Chairman, a question I think for you, it would appear that a couple of these options, the coastline size and the population, don't really appear based on technical committee evaluation to be appropriate options to go forward and – as much as I like the population one –

CHAIRMAN TRAVELSTEAD: We thought you might.

MR. COLVIN: Yes. But, you know. I would like the coastline one, too, if we could include the Great Lakes Coast in it, too. But, so I'm wondering whether some sort of motion or consensus action is appropriate at this time to exclude those from further consideration.

CHAIRMAN TRAVELSTEAD: I think it would be appropriate, yes.

MR. COLVIN: Would it require a motion, do you think? I'd be happy to offer it.

CHAIRMAN TRAVELSTEAD: As long as we have consensus. You're suggesting eliminating –

MR. COLVIN: Options 2, coastline size, and 3, state population size.

CHAIRMAN TRAVELSTEAD: Under 3.2.

MR. COLVIN: Yes.

CHAIRMAN TRAVELSTEAD: Okay. Is there any objection to that? I think we have consensus, then, Gordon, so we'll **eliminate Options 2 and 3 under 3.2**

MR. COLVIN: Thank you. Then –

CHAIRMAN TRAVELSTEAD: Are you finished, Gordon?

MR. COLVIN: No, I have another question.

CHAIRMAN TRAVELSTEAD: Okay.

MR. COLVIN: My other question relates I think to Option 7. One of the suggestions that was made in my original motion before it got expanded is that we look at recent years' landings which I think Option 6 addresses but also recent years' catch which might also be a reflection of, that might reflect changes in distribution and availability of the resource.

And I see that Option 7 addresses CPUE rather than the total A, B1, B2 catch in a given state so my question is, is an analysis that relates to CPUE likely to result in proportions that would be strictly, significantly different from an analysis that simply looked at total catch state-by-state? And if so, what would be the basis for using one and not the other?

CHAIRMAN TRAVELSTEAD: Paul.

MR. CARUSO: Yes, Gordon, we did talk a little bit about your concept of CPUE and availability and we did talk about catch as well as harvest. I think I had a feeling from the committee that they would be, there is still bias, even in the catch. The distribution is not totally related to and catch are not totally related to the recreational fishery because the recreational fishery is limited in scope.

It's a very near-shore thing. And it's hard to I guess comprehend how far the fishery can extend offshore. Let me give you an example. If you look at the trawl survey data, the fluke are moving further north but they're also moving further east and there is no fishery out there to the east.

So there is not a direct correlation between the movement effect and availability to future harvest should the fishery extend out into the waters where it traditionally hasn't. So, I guess the answer is you can still use CPUE. You're right, you'd be better off to use catch versus harvest. We traditionally use it as harvest. Abundance and angler catch per effort are pretty highly correlated for this animal like they are in a lot of our rec species.

But there was some thought on the committee, I think, that maybe the trawl survey data would give you a better reflection of this movement effect, the

change in distribution, but that the fact that the trawl survey covers different ground from the recreational fishery but yet the recreational fishery has some potential for expansion to where the trawl fishery goes. And I think that is a little disconnect that the tech committee was having with using this metric.

But, again, a lot of these have a lot of merit, even some of the ones that you want to throw out and probably throw out for good reason. But, if you look at, you know, other metrics that are used in fisheries management all the time, you know, people put all sorts of things together, coastline miles plus number of anglers. You know, it pretty much comes down to value set that you set for your fishery and where you want your fishery to be 10 or 15 years down the road.

CHAIRMAN TRAVELSTEAD: Gordon.

MR. COLVIN: If I could follow up, Mr. Chairman, I think based on that perhaps it would make sense to keep in play an Option 7A which would be the CPUE as outlined here and an Option 7B which would be simply an analysis of total catch. And just even comparing the two might elucidate differences and allow comparison of strengths and biases and so forth. And I would like to offer that as a suggestion, Mr. Chairman, hopefully acceptable, again, by consensus.

CHAIRMAN TRAVELSTEAD: **Any objection to adding an Option 7B, total catch?** Seeing none, we have consensus on that item. Pete.

MR. HIMCHAK: Thank you, Mr. Chairman. Of course New Jersey's recreational allocation is really an issue here for us and we're of the opinion that – and I understand you want options out for public hearing – Issues 1 and 3 have no problem for us but it seems rather premature given the options listed in this document on summer flounder, are we really at the point where, you know, in lieu of waiting for technical, further technical committee advice are we really – you know, the technical committee doesn't give many ringing endorsements to any of these options.

And the landings one that is transforming landings data from the MRFSS for the years since 1998, I think the public is going to be in an uproar over that, that reliance on MRFSS issues for determining reallocations at this point. So, I mean, I question that the timing of even putting out options on the summer flounder issue right now.

CHAIRMAN TRAVELSTEAD: Well, you know

one of the option is always to delay pieces of this addendum until you have more information. I'm sure that there would be consensus on that point but that's an option available to the board. Yes, sir, Dick.

MR. DICK HERB: Yes, sir. Thank you, Mr. Chairman. Just to add to what Pete said, I think there is a fair amount of concern. All of these other options that are approved in any way by the technical committee rely heavily on MRFSS data or one of the data studies. MRFSS data has been declared fatally flawed.

For for-hire survey which attempts to plug some of these holes has been an unmitigated disaster to the point that many charter and party boat associations have refused to even participate and I'm working with Forbes on that to see if we can't fix some of that. But the other one, of course, is the database which will tell us who is out there and who is fishing. We're several years away on that.

I think this entire concept should be considered. I think it should be reviewed. But I think the way it's worded implies to the public that we have some kind of viable data right now which is going to be meaningful and we simply don't have it. I don't think we're going to have it for a few years so I think delaying it might be the most logical approach for the public. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. Vince, on this point.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. Well, you know, my first comment is caution about removing options early in the process. I think there are others around here. But the second is something that some folks on the board might be aware of. National Marine Fisheries Service is moving ahead on responding to the National Academy of Science report on MRFSS and they have a deadline that they're working on to give an answer. And that includes looking at many of the issues that were resolved.

And while there is some feeling – there is feelings by some that there is problems with the MRFSS data, this work that is being done now is to tease out the magnitude of those problems and I'm not exactly sure when. I think they've got to give their report by the end of '08 which is within the timeline, I think, could be in the timeline of this action that you're looking at. So I'd caution the board that you may have an update on some of the MRFSS data. Thank you.



CHAIRMAN TRAVELSTEAD: Thank you, Vince. Mark.

DR. GIBSON: Thank you. I'm listening to all the conversation and trying to think about this and I'm not sure that it's going to be fruitful to look at any one factor as determinant, you know, of an allocation scheme. It seems to me that, you know, a state's catch of summer flounder, landed catch, has to do with how many people go fishing, the average number of days they go fishing, and the average catch rate of summer flounder during the course of that season.

So any formula I think has to be rooted in how many marine anglers are there, what's the duration of the fishing season that summer flounder are available caught and what's the density of fish in that area, which will determine what the catch rate is, given that a person decides to go fishing.

And if you had some kind of, you know, qualitative objective, just for example, that through the expectation of catch during the course of a season of an angler in one state is the same as it is in another, that's going to be, in order to equalize that you're going to have to take account of the number of days that there are opportunities to fish, what the density of fish is in that particular area and how many fishermen there are that are going to go fishing.

I think you need a more complicated, multifactor formula to try to, if that's, you know, an objective, to say a person in any given state is likely to catch the same amount of summer flounder during the course of the year, fishing year, I think you're going to have to look at something like that as opposed to a set of options, single variate are ones that probably are not going to get you where you want to go at the end of the day.

So, I'd like to see some more thought on an option that takes account of those kind of factors, the number of anglers in the state, the number of days of opportunity they have to fish for summer flounder and the density of fish that is in the area. And what would you have to do allocation-wise within the states to equalize that expected catch per fisherman during the course of a season?

CHAIRMAN TRAVELSTEAD: We need to decide what we are going to do with this addendum today, whether we're going to approve it or ask, send it back to staff for some additional work. Can we get a motion one way or the other? Gordon.

**MR. COLVIN: Mr. Chairman, I move that we approve, the board approve Addendum XIX for public review and comment, consistent with the modifications made by consensus at this meeting.**

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Dave Pierce. Comments on the motion. Is there a need to caucus? Seeing none, all those in – Wilson.

DR. WILSON LANEY: Jack, could I just ask Mr. Colvin if that motion would include the option suggested by Dr. Gibson because I think that should be in there. I think that was a good suggestion.

MR. COLVIN: I agree it's a good suggestion. If Mark can give us some language that we could somehow incorporate or get on the record but I'm very supportive of including that option.

DR. GIBSON: There is no option at this time. I think that would need some exchange with the technical committee in order to develop anything to include at this point.

CHAIRMAN TRAVELSTEAD: Eric, on that point?

MR. SMITH: Yes, thank you. I mean I thought Mark had a good idea, too, but I'm guessing modelers looking at that are going to take a year to try and figure it out and it will come out at the expense of all the other things they need to do. So, good idea or not, we either decide to postpone this for more than a year or we get on with this for now and if we get a good model in the future we'll change our process, you know. So I support the motion.

CHAIRMAN TRAVELSTEAD: Okay. Good. Are we ready to vote? All those in favor of the motion to approve Addendum XIX for public comment, consistent with the modifications made by consensus during this meeting, raise your right hand; opposed, same sign; abstentions; null votes. The motion carries 9 to 1 to 1 to 0. Is that all we need to do on this item?

MS. KERNS: Could you please raise your hand for states that would request a public hearing on this? I'm going to guess it might be all of you.

CHAIRMAN TRAVELSTEAD: Delaware, Virginia, North Carolina, New Jersey, Connecticut, New York, Massachusetts and Rhode Island.

MS. KERNS: So everyone but Maryland. Do you

not want one?

CHAIRMAN TRAVELSTEAD: Maryland does.

MS. KERNS: Everybody. Thank you.

CHAIRMAN TRAVELSTEAD: Okay, we're running out of time, folks. We've still got several items. Item 7, Assessment Science Committee report, Megan.

## **ASSESSMENT SCIENCE COMMITTEE REPORT**

MS. MEGAN CALDWELL: Thank you, Mr. Chairman. The Assessment Science Committee met in March to review the Summer Flounder, Scup, Black Sea Bass Management Board's charge regarding the Summer Flounder Stock Assessment. The first portion of the board's charge was requesting advice or requesting recommendation on the timeframe and process for the subsequent review of the summer flounder.

The Assessment Science Committee agreed that the next Summer Flounder Benchmark Stock Assessment and Peer Review should be no earlier than 2008. The Summer Flounder Stock Assessment scientists should be provided with adequate time to address the concerns of the management board and to conduct a thorough assessment for the next peer review.

The Assessment Science Committee also agreed that this next peer review should be an open and transparent process and also should be a strictly external peer review. Most of the committee agreed that the ASMFC's external peer review process would allow for a thorough and rigorous review of that assessment. The SAW/SARC process also allows for a rigorous review but often reviews more than one benchmark stock assessment in a particular session.

The final portion of the board's charge was requesting that the ASC makes a recommendation on the terms of reference for the subsequent peer review. The ASC had quite a lengthy discussion on this point and there was confusion as to whether or not the board was asking for specific terms of reference to be drafted by this committee or were they asking for just some generic guidance on what those terms of reference should cover.

So, without knowing the exact intent of the board's charge, the Assessment Science Committee did provide the advice that the Summer Flounder

Technical Committee should review the standard SEDAR terms of reference, respond to the recommendations from the past peer review panel, and specifically address the spawner-recruit relationship, natural mortality, and trophic interactions. And if the board wants to provide further clarification on that final point in the charge, then the committee would have to revisit it.

CHAIRMAN TRAVELSTEAD: Questions of Megan. Eric.

MR. SMITH: Thanks. Megan, two questions. Dr. Crecco had a, sent an e-mail and one of the points he made was about the pattern of residuals in the assessment. And while I understand the committee's view that there are always going to be uncertainties and things that would benefit from further work in the next assessment that one, to me, seemed more like an "Oops, should be looked at again."

And I wondered if the committee in its deliberation had any talk, had any discussion on that point about – obviously it didn't rise to the level of "we need to review this thing now" but I wondered what the basis was for not doing that. It seemed fairly clear cut.

MS. CALDWELL: The Assessment Science Committee did not review any of the details of the actual assessment or the peer review as they didn't view that as under their purview to do that. So, they didn't get into that level of detail.

MR. SMITH: Okay, then my second question, maybe I misread the charge to the committee. I thought it was intended to, the memo from the chairman had suggested there are still some lingering concerns about the last assessment, what does the Assessment Science Committee think of that?

And, you know, when I read the response from the committee and I read the charge to the committee I thought there was a disconnect where you focused on procedurally what should we do in the future as opposed to addressing the concerns that came from the chairman which was we've got these concerns that keep bubbling up and they're not going away and what about those.

In the context of that charge, if I read it correctly, Dr. Crecco's point is inbounds but it sounds like it didn't get, it and other concerns didn't get addressed. And I just wonder if we created a disconnect and we need to do this over.

MS. CALDWELL: The, as I said before, the

Assessment Science Committee had lengthy debate about the intent of this charge. And the Assessment Science Committee even reviewed the purpose of their very own committee and did not see that review of a stock assessment or the details of a peer review was something that the Science, the Assessment Science Committee should be taking up. It's not part of the design of that group.

CHAIRMAN TRAVELSTEAD: Other questions. Wilson.

DR. LANEY: Well, Mr. Chairman, to Eric's point, I'll direct this question to Megan, is the discussion that we had in Management and Science yesterday relative to attempting to address retrospective bias, is that at least in part an answer to Eric's question with regard to, you know, trying to address that issue from a more generic perspective but specifically with regard to summer flounder? I thought we had some discussion about that.

MS. CALDWELL: The Management and Science Committee did discuss retrospective bias and methods or steps that would be taken in the future to clarify the retrospective patterns in various assessments so it is something we would like to see implemented in maybe possibly the subsequent summer flounder assessment but probably doesn't resolve what has happened in the past.

CHAIRMAN TRAVELSTEAD: Mark.

DR. GIBSON: Thank you. I saw Vic Crecco's comments. I agree with them. That was the line of questioning I was trying to, when we had the peer review panel chair on the phone from the West Coast, that there is a pattern. It is not retrospective bias. It's the pattern in the stock recoup residuals I think is what Victor called them.

There is a continuing evidence to some of an over-compensatory stock recruitment curve. It isn't going away. In fact it will likely get more, evidence will grow as retrospective corrections are made because that's the nature of the pattern that we generally overestimate recruitment, overestimate SSB.

As those data points get corrected by future years of information they get pushed downward, you know, towards the origin so that this over-compensatory pattern grows in strength as we get more and more information. I think that's the point that Victor was trying to make, that there is evidence of that. It seems to be disregarded at each turn in the assessment process and the peer review process. It

seems to me that would be well within bounds of this group to address and it doesn't sound like they have. Thank you.

CHAIRMAN TRAVELSTEAD: I think there are two questions for the board. One is are you satisfied with the terms of reference from the SEDAR? And if not, what do you want to do about it? Secondly, do you favor the commission's peer review process or the SARC peer review process? Right now we're scheduled for a SARC peer review in 2008. Eric.

MR. SMITH: It's always a bad idea to disagree with the chairman, gosh darn it, but I'm going to do it anyway. I'm not sure those are the questions I have. I'm also not sure we have time today – I know we don't.

I don't see the SEDAR terms of reference in here so I can't comment on those. And I think the ASC made a good point that we probably don't want a SAW/SARC peer review because they get bollixed up in a lot of other species. We probably need a focused one. So that's the answer to your question that you asked, Mr. Chairman.

But I don't think that's the answer in my mind and it's not in Mark Gibson's and I didn't think it was the question you asked in your memo of March 21<sup>st</sup>. I thought the question was there is lingering discontent on this assessment and there appeared to be some very scientifically-valid reasons for those concerns.

And we asked the ASC to comment on those, I thought, and we didn't get it. Now if that's not the right committee to ask that's okay, but we've got to get answers to those questions or we're not going to have buy-in to this process. And I guess I'll just leave it at that if this isn't the place or the committee to ask, we need to figure out where to ask those questions. Thank you.

CHAIRMAN TRAVELSTEAD: Okay, any other comments? I'm not sure where we go from here. Do you want to ask the technical committee to look at this?

MR. SMITH: I would be happy with any group paying attention the question. Mark Gibson described it much better than I can and he could describe it further better than I can. I just know it's among lots of the issues that raise in these circumstances that we just put aside and we say, well, that will shake out in the next assessment.

This one seems to be something that people aren't,

the right group isn't grabbing onto it and saying we need to fix this. And I don't know if it's the technical committee. I would have thought an assessment science committee would be comprised of the kinds of people that would look critically at that question.

Maybe it was a miscommunication on the charge. I just don't know. And maybe if the chairman simply acknowledges the issue and says give it a little thought, talk to staff and make a chair's decision, that would be fine with me because I know we're out of time. Thank you.

CHAIRMAN TRAVELSTEAD: No, we're not going to make it a chair's decision, I can tell you that. Gordon.

MR. COLVIN: You know it may well be – I'm just reading the words carefully – it may well be and I can see the basis for it, that the Assessment Science Committee believes that they did complete the charge as given if we just read the charge and focus on those words and more so than the words of the issue that's framed under it so we're kind of in a tough place.

Kind of related to all of this is, you know, what did this grow out of? It grew out of a sense that the peer review that was conducted by the National Marine Fisheries Service last year left some questions unanswered. And questions related to the issues that have been identified here have been described very clearly this morning by Mark Gibson, seemed to fall outside the sideboards of the terms of reference for that peer review panel.

That seemed to be kind of the bottom line answer we got from the panel chairman when pressed on those questions and how they might, how their answers might relate to the current reference points. So, you know external to us, out there in the world – and we all heard it from many, many people at the meeting in New York – is a perception that these unaddressed questions need to be somehow addressed fairly urgently in the context of examining the question whether or not the reference points and particularly the ultimate rebuilding target is right.

I know that those questions continue to be directed to the National Marine Fisheries Service. What I don't know is what response the National Marine Fisheries Service is providing to those continuing questions. And I'd like to hear from them today on the point if they can tell us. You know my sense is that something needs to be done that addresses these questions.

No earlier than 2008? That's a tough one. I don't know what the basis of that conclusion is. You know there is a lot of interest out there in making sure that these questions are addressed thoroughly and are completely independently and transparently reviewed. We have a process recommendation that might get us there with the proper terms of reference, but it won't get us there until 2008. I think that's really the question. Is that soon enough for us?

CHAIRMAN TRAVELSTEAD: Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. Just quickly I wanted to reference Eric's comments about he doesn't see the recommendations from the ASC. I'm looking at the April 5<sup>th</sup> memo from the Assessment Science Committee.

I don't recall whether I picked that upon the table over there or whether I brought it with me in a stack of papers but, in any event, down at the bottom it says the ASC does recommend that the Summer Flounder Technical Committee review the standard SEDAR terms of reference, respond to the recommendations from the past peer review panel and specifically address the spawner-recruit relationship, natural mortality and trophic interactions.

I don't know if that's any help to Eric as some things to be considered but some of those topics, such as natural mortality and trophic interactions, are now becoming a familiar theme in stock assessments for other species, like weakfish, like American shad, like winter flounder and so on. I don't know if there is time and intention to consider these in this stock assessment or not. Thank you.

CHAIRMAN TRAVELSTEAD: David, did you have your hand up? No? Eric.

MR. SMITH: I want to thank Roy for that point, making me read the very end of that memo. I would be happy if the technical committee did that prior to the next assessment. In other words, if they were charged to review these various peer review recommendations and deal with these issues, the stock recruitment, residuals and things like that, and gave us advice earlier, that would be satisfactory.

CHAIRMAN TRAVELSTEAD: Is there any objection to that? No? Okay. Go ahead.

MS. CALDWELL: The other issue that is outlined in the memo is how to conduct the next peer review. The next scheduled peer review is the 2008 SARC.

Next month is when we are getting together with the working group to start that. And if it is the wish of the board to not go through the SARC and to go through a commission external peer review we would need to have that recommendation from you and then staff would have to try to work that out with NMFS.

CHAIRMAN TRAVELSTEAD: How does the board feel about that? Are you prepared to make a decision today on that issue? Do we need – Vince or Bob, do we need a decision on that issue today, I mean for timing purposes and budgetary purposes?

EXECUTIVE DIRECTOR O'SHEA: Yes, Bob and I were just talking about that. Given the visibility of this species and the reasons outlined within this memo about the SARC process, it would seem to me if we did an ASMFC external peer review we would want to have some pretty high-caliber scientists involved in that and that's going to be expensive, based on our experience with lobster.

So I think if we had an idea today, we're going to talk about the budget this week so – right now we don't have, we were assuming we were going to SARC. That was what the plan was so we don't have any money in the budget for summer flounder, an external peer review in '08. And it would depend on when we do it in '08, I suppose, too.

CHAIRMAN TRAVELSTEAD: So unless this board makes a different recommendation right now we're scheduled for a SARC peer review. And I don't hear – David.

DR. PIERCE: I recognize that it's expensive. Nevertheless, I think it does warrant the need for an external ASMFC peer review of the summer flounder assessment, especially in light of the significance of what is happening right now with summer flounder management, the reauthorization of the Magnuson Act, the two-year extension of the rebuilding timetable.

I'd like to believe that the SARC process would do the job for us. There is a peer review, of course, involved with the SARC process. Nevertheless, I think in this particular case some additional peer review championed by ASMFC, you know, would be warranted. So, I would offer that up as a course of action, Mr. Chairman. If you'd like a motion, I'll make a motion or you can see a consensus view but –

CHAIRMAN TRAVELSTEAD: Let's have a motion.

DR. PIERCE: All right, I would **move that we begin the process for an ASMFC-sponsored peer review of the fluke stock assessment.**

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Gordon. Comments on the motion. Roy.

MR. MILLER: Just a quick question, Dr. Pierce, you left out the word "external." Was that intentional?

DR. PIERCE: No, it wasn't. **External would be part of the motion.**

CHAIRMAN TRAVELSTEAD: External peer review. Other comments. Can you give us a date when you'd like this done, give us a target?

DR. PIERCE: Well, again I'd have to turn to staff regarding timelines. I know there are budgetary considerations. I would like certainly to have this peer review accomplished soon after we have the next stock assessment for fluke provided by, you know, the National Marine Fisheries Service, otherwise we have nothing to peer review.

CHAIRMAN TRAVELSTEAD: So you're looking at – Bob.

MR. BEAL: Well, kind of the tradition in fluke peer reviews, I guess, is to have them done in early summer, late spring/early summer so that they can feed into the Monitoring Committee process and the joint August meeting of the council and the management board to set the specs for what would be the '09 fishing season.

So, if you go much later in the year than probably, you know, late June, early July, the council won't have time to react to that and you really won't use – the benefits of an '08 peer review would not be realized as far as the setting the specs until the 2010 fishing season so probably the earlier in '08 the better.

CHAIRMAN TRAVELSTEAD: So you're suggesting early 2008. Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, there is a recommendation from the Assessment Science Committee not to be earlier than 2008 and I'm wondering if there was discussion about availability of data in making that recommendation.

CHAIRMAN TRAVELSTEAD: Megan.

MS. CALDWELL: The timing, the ASC's discussion on the timing was only to be sure that the stock assessment scientists had adequate time to address the concerns from the previous peer review. It was not related to data availability.

CHAIRMAN TRAVELSTEAD: Okay. Eric.

MR. SMITH: Very quickly, Vince or Bob, when you say it is very expensive to do an external peer review, do we have a ballpark? I mean I spoke a moment ago about doing the external review but I also realize that sometimes you've got to review these things on all sorts of factors and if timing-wise or budget-wise knowing that the service is potentially going to do some kind of a review, anyway, for the council plan and it was scheduled for the SARC, I just, I don't want to go off on our own unless it's a really good reason to do it.

DR. GIBSON: I guess I support the motion. I understand there may be budget/timing problems with this but there is a lot of things, a lot of information that has just recently surfaced. It's not, you know, going back to the discussion I had about I agree with Vic Crecco.

It's just not a matter of a couple of data points on a graph. If it was just that I'd be a bit more skeptical. But we've had reports from Loretta O'Brien about changes in growth rates of summer flounder. We've had both she and Mark Terceiro tell us about shifting sex ratios, more males which means less effective SSB than you think you have.

I think there seems to be a lot of things going on out there that need to be addressed. And I don't recall, were those part of the terms of reference, change in growth rates and change in sex ratio? If they're not on that shopping list, they ought to be. I apologize for not commenting on that sooner.

CHAIRMAN TRAVELSTEAD: Okay. Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, I mean a number I think we would want to plan on would be 20 grand.

CHAIRMAN TRAVELSTEAD: Any further discussion? Are we ready to vote? Bob.

MR. ROSS: I'd just like to say that NMFS will not be able to support this motion. We feel that as indicated in the memo from the Assessment Science Committee that the SAW/SARC process is an acceptable mechanism and would provide the

information necessary. Thank you.

## **2007 COMPLIANCE OF RECREATIONAL MEASURES**

CHAIRMAN TRAVELSTEAD: All those – do we need a caucus? No. All those in favor of the motion raise your right hand; opposed, like sign; abstentions; null votes. The motion carries. Is that all we need on that agenda item, Toni? Okay, Agenda Item 8. Is there any state that is out of compliance with its 2007 recreational measures?

MS. KERNS: Nope, I was just reporting that all states were in compliance with the measure.

CHAIRMAN TRAVELSTEAD: Okay, Agenda Item 9, advisors. Is there a motion to accept the advisory panel nominations?

MR. AUGUSTINE: **So moved.**

CHAIRMAN AUGUSTINE: Moved by Pat Augustine; seconded by Bill Adler. Discussion on the motion; all –

MS. KERNS: There is just one additional advisor that is the social scientist advisor. It's Dr. John Mileo who attended his first meeting and we just need to go ahead and finalize with his so it's the social scientist.

## **OTHER BUSINESS**

CHAIRMAN TRAVELSTEAD: The motion includes that gentleman as well. Is there any objection to the motion? Seeing none, the motion carries. Is there any other business? Seeing none, is there a motion to adjourn.

MR. AUGUSTINE: **So moved.**

## **ADJOURN**

CHAIRMAN TRAVELSTEAD: We are adjourned. Thank you.

(Whereupon, the Summer Flounder, Scup, and Black Sea Bass Management Board meeting adjourned on Wednesday, May 9, 2007, at 11:15 o'clock, a.m.)

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