

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

The Francis Marion Hotel
Charleston, South Carolina
November 10, 2010

Approved March 24, 2011

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INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of May 4, 2010 by consent** (Page 1).
3. **Move to initiate an amendment to adjust the allocation of fishing privileges for scup between the winter and summer commercial periods and between the commercial and recreational fisheries** (Page 5). Motion by David Simpson; second by Mark Gibson. Motion carried (Page 6).

Move to substitute with the following language: initiate an analysis of scup allocation between the winter and summer periods in the commercial and recreational fisheries to determine if there is a justifiable economic, social and biological reason to support a modification to the current allocation scheme (Page 9). Motion by Preston Pate; second by Pat Augustine. Motion carried and to substitute (Page 14). Motion carried as the main motion (Page 14).
4. **Motion to adjourn by consent** (Page 16).

ATTENDANCE

Board Members

David Pierce, MA proxy for P. Diodati (AA)
William Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
William McElroy, RI (GA)
Mark Gibson, RI, proxy for R. Ballou (AA)
Rep. Peter Martin, RI (LA)
David Simpson, CT (AA)
Rep. Craig Miner, CT (LA)
James Gilmore, NY (AA)
Pat Augustine, NY (GA)
Tom McCloy, NJ, proxy for D. Chanda (AC)
Thomas Fote, NJ (GA)
Gil Ewing, NJ, proxy for Asm. Albano (LA)
Craig Shirey, DE, proxy for P. Emory (AA)

Roy Miller, DE (GA)
Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Tom O'Connell, MD (AA)
Bill Windley, MD, proxy for B. Goldsborough (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Steve Bowman, VA (AA)
Jack Travelstead, VA, Administrative Proxy
Catherine Davenport, VA (GA)
Kyle Schick, VA, Gov. Appointee Proxy
Red Munden, NC, proxy for L. Daniel (AA)
Bob Ross, NMFS
A.C. Carpenter, PRFC
Jaime Geiger, USFWS

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

Ex-Officio Members

Staff

Robert Beal
Vince O'Shea

Toni Kerns
Nichola Meserve

Guests

Patricia Kurkul, NMFS
Raymond Kane, Chatham, MA
Dick Brame, CCA
Arnold Leo, East Hampton, NY
Rick Robins, MAFMC
Peter Himchak, NJ
Erling Berg, MAFMC

Howard King, MAFMC
Steven Schater, MAFMC
Preston Pate, MAFMC
Jessica Coakley, MAFMC
Gene Kray, MAFMC

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, November 10, 2010, and was called to order 8:30 o'clock a.m. by Chairman A.C. Carpenter.

CHAIRMAN A.C. CARPENTER: Good morning. I'm A.C. Carpenter with the Potomac River Fisheries Commission, and I'm the Chairman of the ASMFC's Summer Flounder, Scup and Black Sea Bass Management Board. Being a joint meeting the council and the commission, Jack Travelstead will be taking the roll and calling the votes for the council. I will be doing likewise for the commission.

CHAIRMAN A.C. CARPENTER: Under the rules that we normally have for joint meetings, we have to have a like motion from both the council and the commission in order to proceed on issues that are considered joint. We do have a couple of things that are strictly ASMFC, and that would be Item 2 and 6 on the agenda.

CALL TO ORDER

CHAIRMAN A.C. CARPENTER: With that in mind, I'd like to call the meeting to order and welcome everyone one here.

APPROVAL OF AGENDA

CHAIRMAN A.C. CARPENTER: The first item is the approval of the agenda. Are there any additions or changes to the agenda list? Seeing none, we will consider that as approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN A.C. CARPENTER: Approval of the proceedings from our May 2010 meeting; are there any board members who have any changes to that? Seeing none, then we have approved those minutes.

PUBLIC COMMENT

CHAIRMAN A.C. CARPENTER: The opportunity for public comment is provided for those people who want to speak to issues that are not on the agenda. Are there any public comments that wish to be heard at this time? Seeing none, we will start with Item Number 4, which is a discussion of the current scup allocation and possible alternatives, and I'm going to turn it over to Toni.

DISCUSSION OF THE CURRENT SCUP ALLOCATION AND POSSIBLE ALTERNATIVES

MS. TONI KERNS: At the last meeting where the council and commission met jointly together, we agreed we would come together again and look at the commercial and recreational scup allocation as well as the commercial allocation to see if there was some other type of allocation scheme that the board and council wanted to consider.

Jack and A.C. had asked me to just give the board and council a brief overview of what our current allocation system is and then look at our landings as they have been in the recent past and show some of the different allocation schemes if we changed our base years. A quota system was initiated for the scup fishery in 1997, and the commercial and recreational allocation split was 78 percent and 22 percent for the recreational. This was based on 1982-1992 landings' data. The winter fishery was divided into – the commercial fishery was divided into three periods, Winter I, Summer and Winter II.

The Winter I was 45.11 percent, summer is 38.95 percent, and Winter II is 15.94 percent, and those base years are 1983-1992. You can see that for the commercial and recreational landings, prior to 1997, when we set quota systems, we had landings up to 25 million pounds for both, and then those landings started to decline through the early 2000s and then started to come back up with the quotas getting higher in the late 2000s.

For where the landings are actually occurring and where the trips are occurring; Areas 616, 537, 613 and 539 account for more than 10 percent of the scup catch in 2009 and Areas 613, 539 and 611 account for more than 10 percent of the trips that are taken in 2009. Looking at an overview of the past landings, we've had overages in the commercial fishery five out of the thirteen years.

Those overages range from 0.03 to 0.19 million pounds. In 2009 in Winter I there were 3,291 trips and in Winter II there were 3, 294 trips. For the recreational fishery there was an overage eight out of the last thirteen years. Those overages range from 0.23 to 4.47 million pounds, and the average number of trips was 489,416.

This chart shows just the allocation of the landings over time. If you take the mean of these landings from 1981-2009, the allocation split would be 70 percent commercial, 30 percent recreational. The red

lines are the recreational landings and the blue are the commercial. So looking at just some different years for commercial versus recreational, if you used the years 1999-2009, when the overages started occurring in both the commercial and the recreational fishery, you would get a 70/30 split.

If you use the base years where we had a high TAC of greater than 14 million pounds, you get 67/33 split; 67 commercial and 33 recreational. If you use the base years where we only had quotas in place, those were the years 1997-2009, there is a split of 65/35. If you use all of the base years for the time that we did not have quotas, 1981-1986, it would be 73/27. Again, the mean for the entire time series of data that we have, 1981-2009 was a 70/30 as well.

Looking at the commercial fishery itself – and again we split into the three periods, Winter I, II and summer – for every year that the summer quota was exceeded, and that is six years, the Winter I was also exceeded except for the years of 2001, 2007 and 2009. The average landings for each of the periods for the time series; in Winter I on average we land 85.5 percent of the quota; for summer we on average land a hundred percent of the quota; and in Winter II we on average land 86.75 percent of the quota.

This chart here just shows the percent of the landings from 1998-2009. If you change the base year and use 1998-2009, because that is the amount of data that I have for when we split – we did split the fishery in 1997, but I haven't been able to acquire those landings' information just yet – the split would be 42.97 percent for Winter I, 41.09 percent for summer and 15.94 percent for Winter II, so it is not too far off of what our current splits are. That's all the data that I've pulled together for this meeting based on what Jack and A.C. had requested. Do you have any questions?

IDENTIFICATION OF AREAS OF CONCERN FOR SCUP

CHAIRMAN CARPENTER: Any questions for Toni? All right, seeing none, this brings us to trying to identify areas of concern for both the recreational and commercial fisheries and the splits into three commercial periods. I don't have any ideas because I don't have anything to do with scup, so it is up to you gentlemen and ladies sitting around the table to step up to the plate and begin this discussion. Dave, I'm going to call on you to get things started.

MR. DAVID SIMPSON: The reason I've been so interested in revisiting this topic is although the

methods used to allocate initially in this FMP are pretty standard. You take some base years and divide based on that. That in itself I think is a reasonable approach. However, I think our experience since 1997 has been that it appears that the equity in the burden of conservation and the benefits of stock growth have been shared quite unequally.

It was unintended but it is a real consequence of how we did allocate. I think I have some ideas on how that may have taken place. One of the fundamental components I suspect in the allocation of winter federal waters' fisheries to summer state waters' fisheries is the difference in quality of the data. I think we had much more comprehensive accounting for federally permitted vessels landing in major ports that are usually covered by port samplers got picked up in the general canvass and so forth.

During the summertime, in contrast, these are predominantly state water fisheries, many vessels without state permits, no federal dealers, and so there was a lot of historical scup landing that never was captured in the data base that made up the time series that we used, and in fact the difference was so egregious at the time – I think it was 2000 – that the state of Massachusetts actually sued over this and prevailed in federal court.

I believe that is the reason that the federal FMP does not have state-by-state allocations now. They were able to do through a lot of work in the state of Massachusetts – the Commonwealth, as they call it – to show that there were – to document state waters' landings through state dealers, but I don't think the other states were as fortunate to have access to those records, and so that is one explanation for how the imbalance occurred.

On the recreational side I think we're all aware that recreational fisheries are much more sensitive to the size of the stock in terms of their performance. It's inefficient gear relative to otter trawls, the predominant gear used to take scup, and therefore, although the base years weren't consistently depleted stock conditions – you know, the early eighties were pretty decent years – in the last several years we're at unprecedented high levels of stock abundance where it is something between 150 and 200 percent of our target; a target that many of us thought we would never achieve with scup.

It was based on the highest single trawl survey year in the NMFS trawl survey data base time series, and that was back in the sixties sometime. I know personally I never thought we would get there and yet

we're 50 to a hundred percent over that now, and so with larger stock you have larger recreational fisheries, disproportionately so.

And if you look at the history of management of the stock, Toni went over some of the record of landings; but in terms of the amount of work that has been required to constrain the winter commercial fishery versus the summer commercial fishery versus the recreational fishery, we went through the NOAA notices back to 1999 and our records indicate that the winter fishery was only closed once during that entire time period.

In the last several years they have hit that 80 percent threshold that required a drop from the 30,000 pound per trip limit down to a thousand pounds, but that 30,000 pound trip limit was largely I think a request of the industry to prevent just grossly excessive landings and ruining the price, so it was more to put a cap to constrain their harvest so they didn't spoil their own good thing.

Clearly, it is documented in the FMP and I've been looking at data, price versus landings, quite a bit in the last couple of months, and there is a very, very strong correlation between the amount of pounds of scup landed in a month and the price paid, highly, highly significant correlation from the lowest landings that we've seen in the last 15 years up to about 750 to 800,000 pounds, and after that the price levels off.

It doesn't go much lower at all, so it hit some kind of change in the marketplace or it is a minimum threshold above which the market is saturated and a lower price wouldn't inspire a trip. It really bottoms out economically at about 750 to 800,000 pounds a month, and certainly this isn't problem that we have in the summertime with the possible exception of May when the historical trap net fishery in Rhode Island sees scup.

When you consider the 39 percent allocated to the summer, the bulk of that is attributable to and caught by that trap net fishery, what is left for all of the inshore vessels is a tiny fraction of fish, so the states are struggling during the summer months when it is a state quota-managed species at 50, 100 and 200 pound trip limits, constantly adjusting, constantly watching – day by day sometimes we have to prevent going over.

These are boats that used to take hundreds of pounds, and I still have people march into my office screaming, "What do you expect me to do with a

hundred pounds of scup, how am I supposed to make a living, I caught that in 20 minutes, and now what do I do for the rest of the day?" And this is with two or three fish pots; it is not 80-foot draggers.

So there is this real dichotomy in terms of the amount of the burden of conservation, the benefits of the restored stock that is at the heart of my concern over this issue. On the recreational side, if I didn't mention it already, Connecticut and presumably every other state, since 2000 we've had to adjust our recreational measures ten times, increasingly restrictive, in minimum season, in season, in bag limit.

We still at 150 to 200 percent of the target cannot be open for the entire scup season. This is just wholly inconsistent with what the winter fishery experiences. It is just observation. It is simply the observation that the balance in equity is off. It is not what we intended as a group, but certainly that has been the outcome. I do think we have a couple of remedies and perhaps before I get into that, I'd offer up a motion.

CHAIRMAN CARPENTER: Well, let me take just a moment and see if there are any questions. Tom Fote.

MR. THOMAS FOTE: I guess we really have to talk about the history because unlike scup – I mean, unlike summer flounder and unlike black sea bass, the quota was not set in the traditional manner when it came to scup. I was sitting in that room in 1996 and 1997, and we were up in a joint meeting of Mid-Atlantic Council back then – I think it was Long Branch, if my remember right. My memory is getting a little fuzzier as I get old, but it basically came in after the captains came in and basically explained to us that they were actually discarding more fish than the recreational and commercial catch was landing; that if you look at the numbers – and you put those numbers back up – the recreational split would have been, if we did base years alone, would have been larger than it is presently right now.

What we wanted to do is take the catch, which was the discard, and basically make that to be used; so we said if you basically start reducing the discards, we will give you a larger percentage of the catch. I made sure I checked with Chris, but that is part of the discussion that we back there. So, unlike most fisheries where we did just pick a base year and said this is what the base year said and we split it up 27 – we've actually reduced it.

Now, I fought hard against that at the time because that's why I kind of remembered because the discussion went back and forth. It was Dusty Rhodes, Gary Caputi – it is a long time ago – if I remember who was sitting in there and we had this discussion – Ray Bogan was there – and it just went on forever as some of these meetings went.

So we started off not on a traditional split, as we would have just taken base years, but we had basically taking away about 5 percent or 6 percent of the recreational catch and moved it over to the commercial catch to reward them for addressing bycatch. Of course, we're still sitting here many years later and now bycatch is still – it has reduced some but it still has not reduced to the numbers that it is and still makes up a major part of both the recreational and commercial catch.

It is still – I don't remember the exact numbers right now, but I remember a few years ago it was still greater than the combined catch together. I just wanted to make sure we're understanding the perspective of actually what happened during that period of time since I've got a pretty good memory. I've been sitting here long enough to remember that.

MR. PATRICK AUGUSTINE: Mr. Chairman, is this my one time that I can speak out of two on the subject?

CHAIRMAN CARPENTER: I'll get to that when we start to make a motion.

MR. AUGUSTINE: Okay, thank you very much. The presentation was very good, and it is interesting what Mr. Simpson had to say, but why are we bothering to look at any of this information at all? We didn't do it when we were doing striped bass, so why should there be any consideration for what we the board should do?

I think we should look at the public. If the recreational wants to increase their lot by 50 percent, I think someone should just put the motion on the table, increase it by 50 percent and be done with it. I'm being facetious, but it is very frustrating now to go through all the reasons why we should look at addressing and changing allocation.

If it's within quota or in sections as Winter I and Winter II and so on, that's one thing, but to turn around and start looking at the overall allocation in view of the fact that the scup spawning stock biomass is only a mere 200 or 250 percent above the target, why in hell would we consider increasing the quota

on anything? Striped bass is 180 percent. I'm having trouble back dealing with the fact that we're using data that apparently is good, valid, at a time when it is appropriate to our need and not when it is appropriate to the fishery. It's just a comment, Mr. Chairman, and I'll be interested to see what the other board members have to say.

DR. DAVID PIERCE: David did a very good job summarizing the specific concerns he has, the issues that relate to the commercial/recreational allocation and, of course, how we deal with Winter I and Winter II and also the summer. I'll highlight just a couple of points that I think are very relevant, and they are points that come to mind largely because of my involvement with scup management for the last 20 years or so and sitting at this table and tables like this with the Mid-Atlantic Council debating what to do.

The first thing that comes to my mind is that we have an incredibly different situation from the way it used to be when we first sat down and discussed what the specific allocation should be; be they seasonal or between the recreational and commercial. I call the board and the council members' attention to a very important document that you've all seen, probably have forgotten about but you can get on the website and type in scup assessment and up comes the Northeast Fisheries Science Center assessment that we've been using.

Figure 20, trends in spawning stock biomass and recruitment, to me that is very revealing. It is revealing because of what Toni Kerns gave us at the beginning of this meeting where she highlighted – and it is also in the handout she provided where she highlighted that when we first sat down to discuss how to do this, allocate between the users and between the seasons, we used 1982-1992 data or 1983-1992 data. Now that is a long time ago.

I wasn't a little boy then, but close. Go into the assessment and look at that time period and the status of the stock at that time, the fishing mortality rates that were existing and status of the stock, and you'll see a startling difference between the way it was and the way it is right now. I guess we're not overfished and overfishing is not occurring anymore at the target; some uncertainty with the assessment.

Of course, we know that, but this figure shows that back during that time period, 1983-1992, stock abundance, spawning stock biomass was way less than 25,000 metric tons; in most cases, in most years less than 10,000 metric tons and in some cases almost 5,000 metric tons. So we were in a very difficult

situation regarding how to divide up a very small pie and how to restrict effort by both groups.

Then suddenly we have the turn of the millennium and we now hit Year 2000; and because of good fisheries management practices – we can take credit for that – good recruitment, Mother Nature, whatever, we have seen an absolute, startling change in the condition of the stocks; so that now we're looking at not less than 25,000 and less than 10,000, we're looking at almost 200,000 metric tons in 2008, and the projection is a little bit beyond that for 2009 and 2010 I suppose basically the same spot.

But, the trend upwards has been almost knife-edge upwards since the year 2000. Since 2005 or 2004 we have been over 125,000 metric tons, so incredibly high biomass. All right, recruitment, the same thing, you look at those early years, 1982-1992, and you see recruitment was abysmal. For the most part it was below 50 million fish, age zero fish, and now we get to the year 2000 and recruitment is way up, 200 million, 150 million fish; not 50 million or less, but 150-200 million fish age zero, startling different between where it was and where we are now.

All right, the other thing I've learned since then – and this is a function of Chris Moore, who was a staffer of the Mid-Atlantic Council for many years, and Chris Moore said that his mantra was scup catch by the recreational fishery, it is the function of availability and abundance. We knew that; we still know that.

Well, all right, what have we got; tremendous abundance and availability of scup. We know that landings, catches of recreational fish are going to go up in a major way. So, with this bright picture I think to me the simplest way to look at this is we need to acknowledge the abundance of scup out there and we need to revisit the issue of recreational versus commercial. We need to increase the recreational share. To what number, I'm not sure yet.

I have some thoughts, but I'm not going to mention them now, but we definitely need to increase that allocation. Otherwise, we continue to frankly squeeze the recreational fishery and cause ourselves a lot of grief. Like David, I would like to see an extension of the recreational season that we have right now, certainly into the fall.

And more importantly, I would like to see an increase split that would let us get to the point where we can take the chains off the wrists of shoreside anglers who right now – and I see it all the time when I'm on

the docks watching fishermen pull in their fish, 9 inches, 9-12/ inches. They all go back in the water or they go in a pail, and nobody pays attention to it.

In Massachusetts we're at ten inches or eleven inches or ten-and-a-half inches. My goodness, I've love to get that minimum size back down if it is justified, and I suspect that we may be able to justify that if we begin to respond to what is happening with the resource in terms of its size and what we would like to do to benefit the recreational fishery.

The commercial fishermen are not going to suffer because this biomass is up. When a motion is made – and I believe David is prepared to make one – I would be very supportive of any effort to make a change both in the commercial/recreational split and the way we deal with the Winter I, II and summer because that Winter I, II and summer split is also based on that 1982-1992 information. That is stale information that needs to be readdressed.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I'll try to help you out here. These history lessons are great and we've now had three of them. I think the board and committee here have a choice. You have about an hour left, and the question is do you want to continue to talk about this or do you want to spend your time first deciding if there is a will to initiate some sort of change and then discuss a range of alternatives that need to be put into that analysis or such. I'm mindful of the time here.

CHAIRMAN CARPENTER: Thank you, and I think I'm going to see if there is a motion to be put on the table that we can debate and try to resolve those issues. Dave.

MR. SIMPSON: I do have a motion that Nichola has. She has it up on the board. I will read it for the record. **Move to initiate an addendum to adjust the allocation of fishing privileges for scup between the winter and summer commercial periods and between the commercial and recreational fisheries.**

CHAIRMAN CARPENTER: Is there a second from the board? Mark Gibson has seconded.

MR. JACK TRAVELSTEAD: Is there a like motion from the Demersal Committee? Gene Kray is making the same motion for the Demersal Committee; Howard King seconds for the Demersal Committee, so we have a joint motion.

MR. SIMPSON: To perfect this a little bit, to be appropriate for both the commission and the council, would it be appropriate after “addendum” put slash “amendment; is that okay for both parties?”

MS. KERNS: David, actually it would be best just to do an amendment because the council and commission would work in conjunction together to do that document, and so the council needs an amendment to change the allocations, and then we would just work on that document together, and it would save costs and administration time.

MR. SIMPSON: Okay, thanks, so move to initiate an amendment to adjust the allocation of fishing privileges for scup between the winter and summer commercial periods and between the commercial and recreational fisheries.

CHAIRMAN CARPENTER: Is that agreed by the seconder? It is agreed.

MR. TRAVELSTEAD: Any objections from the Demersal Committee? Okay, seeing none, **the motion stands.**

CHAIRMAN CARPENTER: All right, under the rules of debate here, now that we have a motion on the floor, I would like to see a show of hands of people who would like to address the motion and we’ll work off of the list in a pro and con category. You are advised that once you have spoken, you will have to wait until the list is exhausted before you speak again. If you want to speak a third time, a second time you’ll wait until the end of the list, and we’re not going to go back for a third round of discussion. Now, can I see a show of hands? Okay, Mark, would like to speak for or against the motion.

MR. MARK GIBSON: For. I won’t waste any time on the history lesson because I don’t have any with scup. I wasn’t around at this table when the original allocations were done. I wrote down four issues that are a problem in Rhode Island. The first one is that the current commercial/recreational allocation is excessively skewed towards the commercial fishery.

I don’t believe it reflects current needs of the industry. It has been said several times it was based on a very different time period in terms of the status of the scup resource. Also, this current state/federal commercial management program is a problem for me. I would much prefer to see a 12-month allocation to the states similar to summer flounder.

That way we could engage our winter offshore fishermen and our summer inshore small druggers and fish potters and so on and get the best allocation within those groups within the state during the course of the year. I don’t know if that will come out in an amendment, but it is a problem for me right now.

The third problem is the states facing accountability through the MRFSS statistics relative to scup catches. There is sufficient reason now to believe that MRFSS data is sufficiently flawed, if not fatally so, that having states accountable based on state-specific MRFSS statistics is a serious liability and we need to disengage from that. The fourth thing that I have a problem with is the lack of flexibility within the states so that we could shift allocations between commercial and recreational fisheries as needed when conditions arise such that major commercial gear.

Such as the floating traps don’t catch their allocation, we need to have the flexibility within a commission plan the authority to move things around and adjust things as we need to. Those are my four problems that we have right now with the current management system, and I hope they can be addressed in this amendment. Thank you.

CHAIRMAN CARPENTER: Okay, I have Rick Robins. Would you like to speak for or against the motion?

MR. RICK ROBINS: Mr. Chairman, neither; I would be stating a point of information, if I may.

This is for the benefit of both groups. By way of background, the Mid-Atlantic Council is initiating a comprehensive visioning initiative, and we anticipate that at the end of that process we will be developing a stakeholder-driven vision for the management of the council’s managed fisheries and we use that to inform and update our management plans most likely in the context of an overall strategic plan.

I would suggest for both groups that if we are going to jointly move forward with some reconsideration of allocations or propose any major structural changes to the management of these fisheries, that we allow that process to move forward and inform whatever action we take to make structural changes to the fishery.

We have included membership from the ASMFC on the committee that is steering that project. A.C. Carpenter will be joining us, Vince O’Shea is on there. We just sent a letter last week to Chairman

Boyles asking that we have additional representation from the ASMFC so that we will have more representation as we go through this process.

We are proposing to survey all of our constituents, recreational, charter/partyboat, commercial, the non-fishing public, to identify the desired outcomes in our managed fisheries. I would submit that we allow that process to inform whatever actions are taken on the joint plans, et cetera, in fact major structural changes.

I would also suggest that if both groups want to consider the question of reallocation, that we identify what types of analyses you would like to see done to support such a decision. I don't know that the information that we have in front of us is yet substantial enough to warrant a specific outcome; but when we had this discussion back at the council table with general counsel, Joe McDonald did indicate that National Standard 4 and 5 will be in play if we are to pursue a reallocation at the council level.

That doesn't preclude reconsideration of allocations at all. Rather it points to the fact that we will have to justify whatever decision is made relative to those national standards. We will have to have a sound basis for that decision-making process. I would suggest that if you want to move forward in that direction that we identify a bio-economic modeling process as one of the necessary analyses that would have to be undertaken to support the decision-making process. But, again, I would suggest that this be done in a structured context and allow for the visioning process to inform such a decision. Thank you.

CHAIRMAN CARPENTER: Rick, let me ask for my information; the visioning project that you have ongoing, are you anticipating it restricted to just joint plans or will it be to all of your fishery management plans, and also what is your timeline for completion of such a project?

MR. ROBINS: Thank you for the question, Mr. Chairman. The project would apply to all of the council's managed FMPs. It would probably take approximately two years to complete the project. As we go through this, I think we will have deliverables as we go along that could inform the process.

CHAIRMAN CARPENTER: That's two years to complete the visioning project and then how long does it take to get an amendment through to then act on the results of your visioning statement?

MR. ROBINS: Roughly 18 months.

MR. AUGUSTINE: Point of information. Would the outline of the four items that Dr. Gibson put on the table – in addition to the points that Mr. Robins made, it looks like before we make any headway in this, as a point of information, it would be, what, three or four years, at most or at least if we go the visioning project. I think Mr. Robins said roughly 18 months to two years, and then we're looking at these other processes.

You did mention, Mr. Robins, that there is a possibility there may be deliverables along the way. Could this process be one of those deliverables; in other words, move the summer flounder, scup and black sea bass portion of that forward as the information is made available through Ms. Coakley. I'm concerned about what is the end date; and with the things that have been asked for, Mr. Chairman, what would be deliverables be at the date and what time to meet the requirements that we need to satisfy our board?

CHAIRMAN CARPENTER: Thank you, and that is sort of the line of questioning that I had hoped that we could get from Rick.

MR. ROBINS: Mr. Chairman, I think that if both groups want to prioritize that as an area of inquiry, that we can certainly do that. We propose to do comprehensive surveying of the recreational and commercial fisheries, but we would also have some workshop-type discussions, et cetera, of more focus groups. I think we could prioritize that issue within the context of the overall plan if that is the intent and will of the group.

CHAIRMAN CARPENTER: Pat, that was your point of information; do you want to discuss the motion itself?

MR. AUGUSTINE: No, I do not.

CHAIRMAN CARPENTER: Thank you. Preston Pate, would you like to speak for or against the motion?

MR. PRESTON PATE: A very strongly qualified statement of support, if that makes any difference in my queue.

CHAIRMAN CARPENTER: I will come back to you in just a second. Red Munden, for or against the motion, please.

MR. RED MUNDEN: Mr. Chairman, I'm going to speak against this motion. North Carolina is

concerned about the reallocation of scup from the Winter I to other periods. The scup fishery can be a very important component of our summer flounder trawl fishery, bringing in scup during the latter part of our spring season.

It oftentimes allows the fishermen to make a successful trip. North Carolina is also very concerned and are opposed to changing of allocations simply because the allocation system that was put in place in 1997, we've had a very, very constrained fishery due to regulations since those allocations were first put in place; so if you move into any other time period you're going to be looking at data that is very much affected by the regulatory constraints.

CHAIRMAN CARPENTER: Tom McCloy, would you like to speak for or against the motion?

MR. THOMAS McCLOY: Can I be on the fence at the moment, leaning towards support? As is the case with North Carolina, New Jersey's commercial fishery for scup is essentially the Winter I fishery. We have minimal landings in the Winter II fishery; we have minimal landings in the summer; and so if this motion goes forward and we're developing a document, New Jersey supports on adoption maybe something different than supporting the process going forward at this point in time.

The other thing I just want to highlight for the record is that over the past years New Jersey has always been receptive during the summer period to transferring any balance of quota we've had to other states that happen to overrun their quota. Under the current plan, we would continue to proceed with that process and encourage our fishermen to not give us a hard time because they want to transfer fish that they're not keeping.

Should the allocation change and restrict other fisheries, because of that cooperativeness becomes more difficult. I guess probably I personally – I can't speak for the whole delegation right now – could probably support the motion moving forward so we're going through the process and we can look at the various options that are out there both in the case of the commercial split as well as the recreational/commercial split.

My only concern is the staff time that we're going acquire with this, be it the Mid-Atlantic Council or the ASMFC – and I'm sure some of you were here for some of the other ASMFC meetings, we've done a lot of things in the way of proposed amendments and addendums that go through the process and we

get to the end of the process and nothing really changes, so I would just like everybody to keep that in mind; and if we're going to move forward, there ought to be a commitment at least to give a thorough examination of the options.

MR. PATE: Mr. Chairman, the concern that I have about the motion is its wording and the use of the word "adjust" without any qualifiers about what that means. I interpret that in that the motion presupposes that there will be a change after we go through the amendment process. It doesn't say "examine" the justification for maintaining the status quo or finding some reason to adjust the current adjustments. I have no problem with looking at current allocations based on the changes that have taken place over time and the stock status and the way that the various sectors prosecute their fisheries.

I would admonish this group to do it very, very carefully based on a lot of the same reasons that Rick Robins and Tom McCloy just stated. The decision to look at current allocations and even more so the decisions to change those allocations are going to have precedent beyond just this one species. That process will apply and set the groundwork for perhaps probably having some implications to all of our quota-managed species in where there are allocations among or between sectors.

The decisions to start that process and to express what may be a justified willingness to make those types of examinations could have some pretty serious political consequences and open us up to a lot of criticism, which I'm not afraid of and I'm not concerned this group's ability to make those hard decisions, but those decisions need to be based on some very sound principles, some very clear data and a very rigid process that we go through and not just the decision to make the changes based on the cursory information, as good as it may be from the staff and from the members' perspective today.

MR. FOTE: I speak the same way as Tom McCloy did. I would support the addendum to go forward but I'm concerned about the winter fishery since New Jersey basically the commercial fishery depends on that fishery; but as far as the recreational – looking at the recreational quota, as I said before, unlike summer flounder, unlike black sea bass, we did not do this in a traditional way. Basically we just looked at the base years.

It would be a greater percentage – if Toni puts them back up there, it actually showed that the recreational catch was higher than 22 percent during the base

years. It was 27 percent and we basically took off 5 percent to reward for the elimination of bycatch, but that affected 5 percent of the recreational catch.

Over the years I've seen our fishery – and I grew up in the New York fishery fishing out of Sheepshead Bay and off of the Marine Parkway Bridge where you never saw fish seven inches, eight inches, so you basically – as somebody said, Dave said before, you have eliminated those shore-based anglers from that fishery once you started going above seven or eight inches.

We also have now put a lot more restrictions. Again, the problem with this is not really the allocation. The problem is the quota should be much larger than we should be, but because, as we said in 1994, when we started moving forward with this, we need better research so we have the good information to basically set the quota.

Well, we're sitting here 17 years later still with a data-poor species that we're handling and we're allocating as if it is being overfished, overfishing is taking place, and it is not recovered, but according to the management plan it is recovered, it is not being overfished and overfishing is not taking place, but we're still managing in that way. So that is part of the real problem here, but in lieu of not being able to fix that problem because I don't sit on the SSC and I don't make those kinds of decisions, I can only do what we can do.

CHAIRMAN CARPENTER: Thank you, Tom. That ends my list. Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I did have two questions. The first was a question about the comment made by Pres about the implications that this would be a decision to take action, and I'm wondering if within the amendment if there was a status quo option, whether that might address Pres' point, and then I had a second question.

CHAIRMAN CARPENTER: It is my impression that if this motion were to pass, then I think we would need to spend some time specifying what options will be in there; and as Rick said, what kind of data needs are going to need to be presented in order to move along. That is my impression, and I really think that a status quo would address Preston's point, but I'll ask that Preston that question.

MR. PATE: It would, but I have another approach that I would like to put up as an amendment to the motion, if I may. **The amended motion would**

move to initiate an analysis of the current allocation of scup between the winter and summer commercial periods and between the commercial and recreational fisheries to determine if there is a justifiable economic, social and biological reason to support modification of the current allocation scheme.

CHAIRMAN CARPENTER: Pres, I think that almost sounds as a substitute motion; and if we can get that up on the board so that we can all see it, I think at that point let me decide whether it is a –

MR. PATE: I'm comfortable either way, Mr. Chairman; and as I was reading that, I was aware that it was more substantive than what I might have indicated with an amendment, so I will change to a substitute motion.

CHAIRMAN CARPENTER: Wait until we get it on the board and then we'll see if there is a second to the motion. That is made on behalf of the council, I'm assuming.

MR. PATE: Yes.

MR. TRAVELSTEAD: That was a motion on behalf of the Demersal Committee. Do we have a second on behalf of the Demersal Committee?

MR. AUGUSTINE: Mr. Chairman, I'm on the Demersal Committee and I would second that if it requires a second. If he is doing it on behalf of the Demersal Committee, then he doesn't need a second, does he?

MR. TRAVELSTEAD: Any motion needs a second.

MR. AUGUSTINE: I'll do it for the board.

CHAIRMAN CARPENTER: And you'll make the motion for the board, is that –

MR. AUGUSTINE: I'll second it when you need a second, and I'll make it for the board.

MR. TRAVELSTEAD: We need a second so you have seconded? Okay.

CHAIRMAN CARPENTER: All right, is there a second from the board? Red Munden seconds. Okay, is that the motion now up there?

MR. PATE: Yes, Mr. Chairman, I think it's fine.

EXECUTIVE DIRECTOR O'SHEA: So, Mr. Chairman, with the substitute, you're going to go back to the original motion and make sure that there are no more questions or discussion about the original motion and then you're going to come to the substitute, so I had a question about the original motion.

My question is for clarification on the process, on the commission side we put great attention in the process of initiating things of getting a clear problem statement of what it is that we're trying to solve by the action; and I'm just wondering the sequencing here, Mr. Chairman, would you see if this first motion to initiate an amendment passes, then you would see the development by the board of a problem statement of what we're trying to solve through the amendment.

CHAIRMAN CARPENTER: Dave wants to speak to that question, so I'm going to let him.

MR. SIMPSON: Yes, I spoke for I think it was ten minutes on the problem statement and the intent of the motion. Two others supported that. I thought we did a really good job of capturing the problem, the intent of the motion. I purposely didn't include the rationale in my motion for clarity. I think my original motion did exactly the same thing that Preston's substitute motion does, but it did it so more succinctly.

If it helps in the original motion to say "consider" adjustments, that's fine, but my understanding is there is always the status quo alternative, so it is implicit in any motion that we can consider it and then do nothing. I think we spend a lot of time now talking about things that we've already covered.

CHAIRMAN CARPENTER: Is there anyone else who wants to address the original motion who has not spoken yet? Pete Himchak.

MR. PETER HIMCHAK: Mr. Chairman, I can't vote for the original motion because the word "adjust" prejudices the outcome of the addendum. Even though you may put a status quo in there, I think if you could wordsmith and come up with something other than to say you are going to adjust the allocation issue, then there wouldn't be a need for a substitute motion. That's my suggestion.

CHAIRMAN CARPENTER: That sounds like a reasonable suggestion to me, but I'm somewhat in a parliamentary mix-up here. Let's go back to the

original motion and see if we can perfect the original motion.

MR. AUGUSTINE: Can I speak for the first time, Mr. Chairman?

MR. SIMPSON: As I said, I think for simplicity "to consider adjusting" – now, if you like the word "change" better, we make it "change", but some word that implies movement has to be in there. It doesn't prejudice anything. It is let's develop a document, take it out to public comment, do the analysis that has been suggested should be done so that we can evaluate the merits of the issue and move from there. We may ultimately decide that no adjustment is required, each sector of this fishery is sharing fairly and equitably in the burden of conservation and the benefits that we derive from that conservation. If that is the conclusion we come to and that the National Marine Fisheries Service comes to, then we do nothing. But if the conclusion is something different than that, this is the vehicle to make that change.

CHAIRMAN CARPENTER: All right, I've got a number of hands on my list. Kyle Schick.

MR. KYLE SCHICK: The question has come up several times, but I don't think it is in this motion. Are we also looking at changing the total catch limits, too, and not just changing the allocation? If this stock is so great like everybody talks about, why don't we just consider increasing how much we catch and give it to recreational and then it's done? That seems to be dancing around, but it needs to be up there, too.

CHAIRMAN CARPENTER: Well, the total allocation or the total quota is set through a whole fixed process right now that I don't think we can really change that process, and I don't think it belongs in the motion. Gene Kray.

DR. EUGENE KRAY: Mr. Chairman, I think we would get out of the dilemma if we just took the word "adjusting" out; "move to initiate an amendment to consider the allocation of fishing privileges"; that broadens it and it opens it up and we're not necessarily adjusting it, we're just taking a look and see what can be done.

CHAIRMAN CARPENTER: Thank you for the suggestion, but I think the maker of the motion indicates that he really did want something done, and he needed that kind of statement in his motion. Jim Gilmore.

MR. JAMES GILMORE: Mr. Chairman, mine was along the same lines, David, and I would have taken out just “adjusting” and say what we are doing is we are re-evaluating this quota; so if that word was put in, I would be completely okay with it. It’s a suggestion, but if that doesn’t get you where you need to be, then you’re the maker. Thank you.

MR. PATE: Perhaps the two motions aren’t as similar procedurally as people are trying to state. My suggestion was a more step-wide approach to examining the justification for making changes. To launch a full-scale amendment, it is going to require a lot more staff, resources and council and commission investment into that process, which, again, initiates a whole different set of procedures and one that would be established by the analysis of the fundamental reasons for proceeding with an amendment.

I guess, again, I’m just being cautious about how we proceed with this and the implications that it has for actions that we might be asked to take in the future in response to the outcome of this decision. That is not to say that I’m disinclined in any way to make a change in the current allocation scheme provided that there is justification to do so. I’m just being very cautious and thorough in my thoughts about what the proper process is to use in this case.

CHAIRMAN CARPENTER: Thank you, Pres, and I tend to think that does make a certain amount of sense. Let me continue on my list. I have Mark Gibson; would you like to speak on the issue?

MR. GIBSON: I was just going to say I agreed with “consider adjusting”.

MR. HOWARD KING: Pres’ recent comment does hit home, but it appears that the substitute motion would require a much lesser time period to have some sort of positive movement than the amendment process would; could I have confirmation of that?

CHAIRMAN CARPENTER: Jack, would you like to speak to that?

MR. TRAVELSTEAD: I’ve been conferring with staff while the discussion was going on; and if in fact the substitute motion is at least in part talking about some type of bio-economic analysis – and I think it is – that probably could take up to about a year, I would think to get that done.

CHAIRMAN CARPENTER: Well, I’m sitting here wondering would this be the perfect example for your visioning, a trial run, but that is just a thought. We’ve heard a lot of discussion on this issue; our

time is getting close. I’m going to restrict it to anybody who has not spoken to the original motion as it is on the board now. Erling.

MR. ERLING BERG: Just a question – I guess it would be for the maker of the motion – is allocation the only issue in here or are there other issues embedded in this motion?

MR. SIMPSON: The question was is allocation the only issue? The intent of the motion is to achieve greater equity in the balance of the burden of the conservation measures in the fishery management plan and the benefits enjoyed by participants in the fishery. Maybe it would help to have that intent up there.

I thought that when the action and all the rationale gets built into the motion, it gets rather long and cumbersome, and so I consciously separated the two, but perhaps people need to see that. I do want to retain enough flexibility in the terminology to achieve that to consider something other than a change in the hard percentages that are allocated to each fishery.

In other words, I have a general view that – and Mark addressed this and I think perhaps Tom, but it strikes me that if there were some access – the level of access for the recreational fishery to this resource were tied to the abundance of the resource such that there was opportunity to fish throughout the year, that you wouldn’t have to tell a kid on a dock that he can’t take a nine-inch scup because it is September 27th and we have to save 30,000 pounds per trip for winter commercial folks; that is what I’m looking for.

This addendum was not to pick anyone’s pocket. I think we can achieve far greater equity with a small adjustment than we currently have. Really, these 30,000 pound trip limits are not restrictive. If you look at the data that Toni provided, they do nothing. Some of them never hit the 30,000 pound trip limit.

I mean, we’re talking a few fish would make a big difference. So, again, the focus on a little greater equity and reasonable opportunity for the public to have access to this resource, especially since all those states who didn’t formerly require marine licenses now require them. I think there is renewed emphasis on providing some opportunity and some reason to buy that license.

CHAIRMAN CARPENTER: Toni, would want to talk to the question on the floor?

MS. KERNS: Also, Erling, at the August meeting the members of the board and I think members of the council had stated that they wanted to do something immediately. If we add several issues to this document outside of allocation, it will take longer for the document to be completed because of additional analyses and such.

CHAIRMAN CARPENTER: Pat Kurkul, you've got the last word.

MS. PATRICIA KURKUL: Mr. Chairman, just a comment on the process issue. In fact, the process outlined in the substitute motion is the amendment process, so I think it makes logical sense to start with that. I don't think it either lengthens or shortens the timeline for this action.

CHAIRMAN CARPENTER: I'm going to entertain questions from the audience. Please step forward and identify yourself.

MR. GREG DIDOMENICO: Mr. Chairman, Greg DiDomenico, Garden State Seafood Association. Can I question and make a comment, please?

CHAIRMAN CARPENTER: If they're quick.

MR. DIDOMENICO: One quick question; I wasn't sure if I had an exact understanding of the question that Erling brought up. As the amendment process goes forward, is the allocation the only thing that can change by that amendment?

MS. KERNS: That's the intention of the motion, but through the amendment process, as we scope and other issues come up, if the board and the council decide to add an issue once we draft the amendment document, it is up to the board or the council to make that change, but the intention of the motion is to look at allocation.

MR. DIDOMENICO: Okay, let me provide some brief comments specifically to why I'm begging that question. First of all, not to get nostalgic here because I know I have to be very quick, I grew up on the headboats that fish out of Shinacock and Captree doing exactly what the scup fishery does, and that is provide the opportunity for people to go on headboats, catch scup, share them with their family, et cetera.

I have personal experience with this fishery and certainly a fondness for it. We never, not only a personal level but from an organizational level, are looking to disadvantage anybody. Unfortunately, we

may be disadvantaged and I'm not obviously going to support that. The problem is that despite a 44 percent increase, the bag, size and season might not change for the for-hire sector and the private angler.

The reason that is occurring is because of management uncertainty, not only because of the allocation; so if we determine that we change the allocation and the management uncertainty persists, what do we do then? What do we do when the overages persist? What do we do when the bag, size and season just doesn't change enough? What do we do, take more from the allocation? The problem is the for-hire sector is being dragged down by the management uncertainty of the private angler. That is a fact. The problem is not the initial allocation.

That's why I'm asking the question. Just to make a few comments, please, I've participated in most of the data-poor workshops for black sea bass and scup. I've been to every SSC meeting for the last six years that determines these. I have not only provided comments that supported a reasonable approach and reasonable increases such as the 10 percent, but we have waited and anticipated this recent increase in quota, which, by the way, we haven't even gotten yet and people want it before we've even gotten it.

I have told the members of our organization and fishermen from Massachusetts, Rhode Island, Connecticut, New York to just wait, I know it is only 10 percent last year, but things are looking good, because I've been to the meetings. Other people haven't been at the meetings begging for more or asking for more or advocating their position; I have.

Unfortunately, I haven't gone to the Monitoring Committee meetings where this persistent issue keeps coming up. I don't know why. I would suggest that they spend a little more time worrying about ACLs, AMs and other things that can hold the recreational quota to its landings. But, one of the things that people have to understand is that the Winter I fishery is now at a point where there is more product, which creates more interest, which creates more demands, which may cause a higher price; not a lower price; maybe a higher price.

It's enough fish to create that interest. It is enough fish now for someone who didn't go for the 30,000 pounds in two weeks to go 30,000 pounds in one week. All right, we keep talking about history, let's talk about relative recent history. The Winter I fishery is performing well. The price is maintaining.

I hope it does maintain, but people have made decisions shoreside for value-added products on scup predicated upon this increase, and now you want to take it away. What do I tell people who have marketed, traveled, found markets, freezing capacity, packaging, value-added business, which is a huge expense; what do I tell them now? Maybe I should tell them we better catch all the Winter I quota because someone wants to take it from us. Is that necessarily what I should be pushing people to do? No, but if we don't, unused portion might go somewhere else and then someone will say, oh, you caught it too fast, the price went down, Greg.

CHAIRMAN CARPENTER: Greg, I appreciate your comments and we thank you very much. I now recognize two more very brief comments from the floor. Adam and Arnold.

MR. ADAM NOWALSKI: Thank you, Mr. Chairman, Adam Nowalsky speaking on behalf of the Recreational Fishing Alliance. The initial motion that is on the board here to initiate an amendment is supported by the Recreational Fishing Alliance. That being said, there are a lot of comments that Greg made and things we've heard around the table that are very relevant.

I think there is a lot of agreement here that the reason for looking at initiating this is largely in part to failure to gain greater access by the recreational sector. A concern with even modifying the allocations is there is no guarantee that this is going to present greater access for the recreational sector, either the for-hire or the non for-hire angler.

The reason for supporting this is because the Recreational Fishing Alliance believes that there is a need to initiate an amendment on the process. The mechanism for setting measures that we're currently employing is part of the problem here, and this needs to be looked at. If this is the way to get that opened, then that is what needs to happen. While I can appreciate the comments from Mr. Robins and Mr. Pate and the desire to go through an analysis, a visioning project, unfortunately you're looking at something that is three to four years down the line. You have people going out of business.

You have negative economic impacts, tackle shops being closed, people not fishing and not spending money on bait, tackle, fuel, et cetera. We know that the negative impacts are there, and quite frankly we just can't wait. In summary, the important part here is that we support this. However, there needs to be a close look taken because just by modifying the

allocation is not a guarantee of greater access for the recreational sector, which I think is what a lot of the intent here is. Thank you.

CHAIRMAN CARPENTER: Arnold Leo, would you please keep your comments brief, either for or against the motion. We're up against a timeline.

MR. ARNOLD LEO: Arnold Leo. I'm the consultant for the fisheries for Town of East Hampton. I'm in a peculiar situation because back home the fisheries' committee that I have to account to has offshore trawlers who don't want to see any change to Winter I and some are commercial fishermen who want to see a change to Winter I, and, of course, the partyboat and charter industry would like to see a change to Winter I, also.

So, I'm sort of being pulled in three directions. My only thought, which I need to discuss with the fisheries' committee, is that let's say Winter I has an underage of its quota, perhaps that underage could be divided three ways, a third to the summer commercial, a third to Winter II commercial, and a third to the recreational sector. That might be a way that I can get out of my dilemma of representing all those interests.

I do just want to make one other comment. Look, the problem here could perhaps be solved in a different way. We're at nearly 200 percent of the rebuild goal with scup and we're getting really miserly increases in the TAL. Come on; in striped bass we're at 180 percent of the rebuild goal, and the commercial guys can't get a measly 10 percent increase in the quota. This is not good management. It has got too many levels of safeguards that are not all of them necessary, and I think that in the visioning process I hope that is considered. Thanks.

CHAIRMAN CARPENTER: All right, we have the motion now. The substitute motion will be handled first. Preston, would you read that into the record for us so that we can have it on the floor now.

MR. PATE: Yes, Mr. Chairman, I move the motion to substitute with the following language: initiate an analysis of scup allocation between the winter and summer periods in the commercial and recreational fisheries to determine if there is a justifiable economic, social and biological reason to support a modification to the current allocation scheme.

CHAIRMAN CARPENTER: Jack, do you want to take the motion for the council first?

MR. TRAVELSTEAD: You want our group to go first?

CHAIRMAN CARPENTER: Well, it was your motion.

MR. TRAVELSTEAD: Is the Demersal Committee ready to vote? All those in favor of the motion please raise your hand; opposed like sign. The motion carries 8 to 1 to substitute.

CHAIRMAN CARPENTER: All right, for the commission, is there a need to caucus? All right, there is a need to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN CARPENTER: All right, the opportunity for a caucus has been satisfied, and we would like to call the question for the board.

MR. GIBSON: We're struggling, Mr. Chairman, because we didn't realize that the Mid-Atlantic Council was going to be here at this joint session. We didn't realize this was going to happen.

CHAIRMAN CARPENTER: I thought we agreed on that back in August when we started talking about this. All right, we have a number of other items on the agenda and we're really up against the clock. The question has been called, and this is for the commission, and it is for the substitute motion.

MR. SIMPSON: I apologize for the delay. Part of the problem is that the board members, at least those from New England who are not on the Mid-Atlantic Council, did not appreciate this was going to be a joint meeting. We thought this would be an opportunity for the commission to consider this issue as the commission before we held a joint meeting that was called for back in August in Philadelphia. That is the reason for our dilemma here.

Supporting this motion really is a vote to put this off for another three years, and that has been the history of this; we don't want to deal with it; it is not our problem; the resource isn't in our waters in the summertime. I hate to be that blunt about it, but if really does come down to that. What we're struggling with is whether to vote this motion down and go our own way as the commission because the commission's role to command fisheries in state waters is in question here.

Since the vast majority of the Mid-Atlantic states have no state water interest in this, it poses a

fundamental dilemma I think for the commission versus the councils. I'm urging that the board oppose this motion now and support the original motion to initiate an addendum for quicker action to address this really, really difficult problem that we're facing with inequity in the allocation of this resource.

CHAIRMAN CARPENTER: Vince would like to speak to the motion.

EXECUTIVE DIRECTOR O'SHEA: Actually, Mr. Chairman, it is just a thing for the record. The final meeting notice from ASMFC was issued October 27th, and on the agenda it said for this mornings meeting it would be the Summer Flounder, Scup and Black Sea Bass Board and other members attending were indicated to be the Mid-Atlantic Fishery Management Council Demersal Committee. Thank you.

MS. KURKUL: Mr. Chair, I am going to vote for this motion, and I don't want there to be based on the previous comments any misunderstanding about what I'm voting for, and it is not for a delay. It is frankly for consistency in the process and the amendment process. This is a joint plan and the commission doesn't seem to fully appreciate that, but it is a joint plan. The amendment process requires this consideration. As I said before, I don't believe that this does in any way delay taking action.

CHAIRMAN CARPENTER: All right, we have had all the discussion and the debate and I'm calling the question. **All in favor of the substitute motion as it was read into the record please raise your hand; all opposed; any abstentions; any null votes. The motion carries for the board.** It looks like we have embarked on a process here that is going to take some time. It is not going to be quick to do it. It is a joint plan and this is the way that we will try to proceed. Toni.

MS. KERNS: Just to make sure of the timeframes and the process that we'll go through is clear to the board and the council. Staff will do these analyses – to go forward with these, these analyses probably would take up to a year, if not a little bit longer than that, but these are all of the same analyses that we would be doing if we initiated an addendum. Those analyses would have to be done regardless if we initiate now or we initiate down the road, so we'll have the information immediately if an addendum were to be initiated down the road, so that process would happen quickly.

CHAIRMAN CARPENTER: Thank you, and now we do have – **the substitute motion has become the main motion and we now need to vote on the main motion**; so for the commission we are going to have the vote. All in favor of the motion for the commission; all opposed same sign, 1 against; any null votes; any abstentions, 2 abstentions. **The motion carries for the board.** Jack, would you take the –

MR. TRAVELSTEAD: Is the Demersal Committee ready to vote? All those in favor of the main motion please raise your hand; opposed same sign. The motion carries 10 to 0.

CHAIRMAN CARPENTER: All right, the next item on the agenda, then, is the update of the recreational landing estimates, Wave 1-4. Toni, can you give that information to us.

UPDATE OF THE RECREATIONAL LANDING ESTIMATES

MS. KERNS: Wave 4 data became available in the last month and staff is going to update you on that information. The summer flounder recreational landings are looking good. Most states are significantly under their target through Wave 4. This table shows your estimated landings in numbers of fish as well as your target.

Delaware has issued the largest portion of their target at 84 percent. The state of Massachusetts has landed the least portion of their target at 32.5 percent. We have achieved 57.05 percent of the coast-wide total. For scup we have exceeded the target in numbers of fish. For the coastwide, for the northern region as well as for the southern region, I would like to point out that the numbers of fish for the North Carolina fishery are under review currently.

We're not sure if those are really all scup. There might be some other fish included in there, so we'll most likely be doing a revision of those data. As you can see in years past, for the southern region, New Jersey has landed a large portion of those fish. The target for the southern region is 84,423 fish, and New Jersey has landed 239,000. For the northern region, 3 million fish have been estimated to be landed, and 2.7 million fish was the target.

New Jersey and states south are open for the rest of the year while the northern states were open for a portion of Wave 5, but they are all now closed. So we're over in the northern region by about 330,000

fish and the southern region by about 161,000 fish. Coastwide it is almost 500,000 fish that we're over.

For black sea bass the table up here, I actually had an update this morning from Jessica, who received the North Carolina landings separated out for south and north of Hatteras, and so the North Carolina landings are now revised at 15,926 pounds, which puts us at 1.7 million pounds for the coast-wide total, which puts us at 103 pounds under; but as the board recalls, we are now open for black sea bass for Wave 6. We were open for a portion of Wave 5, so we still are continuing to land black sea bass. Are there any questions on the estimated landings?

I did have one more statement that I forgot to say. There are members of the technical committee that are concerned about some of the landing estimates for black sea bass in particular for the state of Maryland. The MRFSS landings only show that they have landed about 4,000 pounds, and the technical committee member does not think that is probably correct. At our TC meeting next week we will discuss some of the wave landings from specific states.

CHAIRMAN CARPENTER: Thank you very much, and the next item that we – Gene.

DR. KRAY: Mr. Chairman, could ask Toni a question on the summer flounder? The season in New Jersey ended on September 6th with 59 percent of the target landed. What would be the projections to have – well, there would no Wave 6, but Wave 5 there would be a piece of it, I guess, would it not; what would be the projection, or is that a fair question maybe?

MS. KERNS: Gene, we haven't done projections for any of the species just yet, so we'll let you know what the projected landings will be at the joint meeting in December.

CHAIRMAN CARPENTER: The next item we have on the agenda is the approval of the FMPs. Toni, can you handle that as well.

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MS. KERNS: The FMP Reviews were on your supplemental materials. Because Jessica goes through all of the information that is contained in your FMP Reviews in August, I'm not going to take up the board's and the council's time reviewing that same information that you just heard from her just a

few months ago. The only difference is that we do approve de minimis for states. Delaware has requested de minimis and meets the requirements for summer flounder as well as scup, and so we would just need to approve their de minimis request as well as the addendum.

CHAIRMAN CARPENTER: All right, since we are all familiar with this and Delaware does meet the criteria for summer flounder and scup to be de minimis, is there any objection to approval of the FMP Report and Delaware's status? Seeing no objection, we will consider those approved and action taken on that item.

ADJOURNMENT

Are there any other items to come before the board?
Seeing none, we are adjourned.

(Whereupon, the meeting was adjourned at 10:05
o'clock a.m., November 10, 2010.)