

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
BUSINESS SESSION**

**The Westin Crystal City
Arlington, Virginia
May 1 & 2, 2019**

Approved August 7, 2019

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1. **Approval of Agenda** by consent (Page 1).
2. **Approval of Proceedings from February, 2019** by consent (Page 1).
3. **Move to approve the 2019-2023 Strategic Plan as presented today** (Page 3). Motion by Pat Keliher; second by Lynn Fegley. Motion carried (Page 4).
4. **Main Motion**
Move on behalf of the Summer Flounder, Scup, and Black Sea Bass Management Board to consider approval of the Summer Flounder Commercial Issues Amendment. The effective date of any FMP modifications would be consistent with the effective date published in the final rule in the Federal Register (Page 5).
5. **Motion to Substitute**
Move to substitute to remand the Summer Flounder Commercial Issues Amendment to the Summer Flounder, Scup and Black Sea Management Board to develop and consider new approaches, including alternatives that use a dynamic approach to reallocation of the resource that considers the species' distribution (Page 11). Motion by Justin Davis; second by Emerson Hasbrouck. Motion failed (Page 20).

Main Motion
Move on behalf of the Summer Flounder, Scup, and Black Sea Bass Management Board to consider approval of the Summer Flounder Commercial Issues Amendment. The effective date of any FMP modifications would be consistent with the effective date published in the final rule in the Federal Register. Motion carried (Page 21).
6. **Move to Adjourn** by consent (Page 21).

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ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Andy Shiels, PA, proxy for T. Schaeffer (AA)
Doug Grout, NH (AA)	Loren Lustig, PA (GA)
David Pierce, MA (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Raymond Kane, MA (GA)	Roy Miller, DE (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Jason McNamee, RI (AA)	Lynn Fegley, MD, proxy for D. Blazer (AA)
David Borden, RI (GA)	Russell Dize, MD (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Phil Langley, MD, proxy for Del. Stein (LA)
Justin Davis, CT (AA)	Rob O'Reilly, VA, proxy for S. Bowman (AA)
Bill Hyatt, CT (GA)	Steve Murphey, NC (AA)
Sen. Craig Miner, CT (LA)	Jerry Mannen, NC (GA)
James Gilmore, NY (AA)	Robert Boyles, SC (AA)
Maureen Davidson, NY, Administrative proxy	Mel Bell, SC, proxy for Sen. Cromer (LA)
Emerson Hasbrouck, NY (GA)	Spud Woodward, GA (AA)
Joe Cimino, NJ (AA)	Doug Haymans, GA (GA)
Tom Fote, NJ (GA)	Erika Burgess, FL, proxy for J. McCawley (AA)

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

Staff

Bob Beal	Jessica Kuesel
Toni Kerns	Tina Berger

Guests

Bob Ballou, RI DEM	Dan McKiernan, MA DMF
Casey Brennan, NMFS	Conor McManus, RI DEM
Pat Geer, VMRC	Nichola Meserve, MA DMF
Emily Gilbert, NMFS	Stew Michels, DE DFW
Jon Hare, NOAA	Michael Pentony, NMFS
Wilson Laney, NC State Univ.	Alan Risenhoover, NMFS
George Lapointe, Hallowell, ME	John Sweka, USFWS
Arnold Leo, E. Hampton, NY	Megan Ware, ME DMR
Mike Luisi, MD DNR	Chris Wright, NMFS
Chip Lynch, NOAA	

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The Business Session of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Wednesday, May 1, 2019, and was called to order at 1:30 o'clock p.m. by Chair James J Gilmore.

CALL TO ORDER

CHAIR JAMES J. GILMORE: Welcome everyone to the Business Session. My name is Jim Gilmore, I am the Commission Chair. I'll be Chairing the meeting today.

APPROVAL OF AGENDA

CHAIR GILMORE: We've got a few things on the agenda today, so we'll get right into it. First order of business is Approval of the Agenda, which you had in your briefing package.

Are there any changes to the agenda? Seeing none, we will adopt that by consent.

APPROVAL OF PROCEEDINGS

CHAIR GILMORE: There was also Approval of the Proceedings from the February, 2019 meeting. I hope you had a chance to review those. Are there any changes to the proceedings? Seeing none, we will adopt those by consent.

PUBLIC COMMENT

CHAIR GILMORE: Before each meeting we open it up to the public.

If there are any comments not on the agenda, is there any public comment? I've seen nothing beforehand, so I am assuming nothing, unless you raise your hand if you wanted to comment.

**REVIEW AND CONSIDER APPROVAL OF THE
2019- 2023 STRATEGIC PLAN**

CHAIR GILMORE: Okay, seeing none, we will move right into our first business item. We are going to have a Review and Consider Approval of the 2019 through 2023 Strategic Plan. This is

a final action, so we will need a motion to vote on it, and Bob is going to take us through that. Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: As you'll remember, we had a lengthy discussion at the February meeting of the Commission, to review a draft of the Strategic Plan. Staff has gone back, taken those comments to heart, and modified the document. Tina did a lot of the work. I'll just quickly go through the changes, rather than go through the whole document.

In your briefing materials there is an updated Strategic Plan with the changes were tracked in red, so hopefully it's pretty straightforward to see the few places that we did change, in response to your comments. Just briefly going through those, on Page 2 you will notice that we on Page 2 stretching over to Page 3, we added back the values that we had proposed taking out, but based on the discussion at the last meeting there is sentiment.

You know that those values are something that the Commissioner's refer to and are worth keeping in the document, so we sort of reinstated the values. The next change that we made was I think based on a comment that Justin Davis made, you know he said, which is farther down under the first driving force, which is Changing Ocean Conditions. There is a note there that stocks are moving, and science was having a hard time keeping up. In fact really, science is doing a pretty good job of keeping up. It's the stock assessment work and the work load associated with that is where things are lagging at times. Then further down in that paragraph, just changing some of the wording relative to changing ocean conditions, and how they have contributed to shifts in species distribution, and noted that there is expanding range as well as climate impacts on species that affect their distribution, then we changed a will to may.

Moving along further in the document, once you get into Goal Number 1, we added the

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word sustainable. If you recall at the last meeting there was some conversation about is it really the ASMFCs job to promote fisheries, or promote the products that come out of our fisheries, or whatever it may be.

What we really need to do is promote sustainable fishery management, sustainable coastal fisheries, so we added the word sustainable there. Down at the very bottom of Goal Number 1, in the intro paragraph on Page 6, we added the statement; where possible the Commission will seek to aid in the rebuilding of depleted stocks, whose recovery is hindered by factors other than fishing pressure.

This was a notion that there are things sort of outside of our control that prevent the rebuilding of a number of stocks, northern shrimp, southern New England lobsters, and some others. We just sort of noted that here that we'll do the best we can, but there are things that are beyond our control.

We added a bullet under Goal Number 1, which is linked back to the word sustainable added to the goal itself, which is promote sustainable harvest of and access to rebuilt fisheries. This is also in response to a comment that I think Adam made at the last meeting about we need to work on making sure that when stocks are rebuilt, we allow access to those rebuilt stocks.

The next change, and if there are any questions or comments feel free to raise your hands. The next change is under Goal Number 2. We added another bullet there, which is characterized, the risk and uncertainty associated with the scientific advice provided to decision makers. This is the idea that fishery sciences are not an exact science.

You know there is some uncertainty associated with any information that is provided to the Board. The question is, how uncertain is it, and kind of if you get it wrong what is the risk associated with getting it wrong? We'll try to

characterize that as we move forward with stock assessments.

Those were the only changes in the body of the document that we made. On the very last page there are some notes that we talked about. These were a little bit uncertain. There were comments made at the last meeting, but we weren't sure if we should weave these into the action plan, or if these were just kind of thoughts by one or so individuals that were things we should consider.

But maybe not necessarily in this Strategic Plan, maybe part of an annual action plan, because they are actual things that we need to work on. The first one was an assessment of overall fisheries compliance. In other words, how are we doing? The Commission obviously sets up regulations, the states implement those regulations, and we don't really go back and look overall how we are doing. Are the stakeholders really complying with the plans that we have in place, or is there a lack of compliance, which is impacting our ability to rebuild some of these stocks? Then the second idea that was talked about was this notion of removing barriers. I think Dan McKiernan may have brought this up, removing barriers to sort of the free flow of seafood commerce between states.

Some states have historically had size limits and other things that have prevented seafood from being imported from a neighboring state, or another state up or down the coast. Is it the Commission's job to promote that free flow of seafood between the states, or is that a commerce issue that the states should decide on their own?

Both of those, you know I think the review of compliance is probably something that we could put into an action plan. You know it's a big project, but it's a bite size one time project. The barriers, it was unclear whether that is a Strategic Plan thing for ASMFC or if that is just something that we need to realize that there

are some barriers that prevent free flow of seafood, and states can kind of individually work on that.

That's how it has been tackled so far anyway. I know New York had made some changes, I think. Massachusetts had made some changes too, to allow more products to be moved in and out of those states. Those are the quick summary, Mr. Chairman of the changes that we made in response to the conversation at the February meeting, and I'm happy to answer any questions, if there are any.

CHAIR GILMORE: Okay, questions. David Pierce.

DR. DAVID PIERCE: Yes Bob, one change that was made that is relative to what was discussed earlier on, both in black sea bass and will be discussed about fluke, and that is climate change, and the fact that language has been moved a bit. I think it now reads as proposed; where shifts occur in the Commission, may reconsider state-by-state allocation schemes.

Before it said will. I don't understand why that change was made when it can be demonstrated that shifts are occurring, then consistent with the whole policy we have relative to dealing with the allocations procedures. We should reconsider, we will reconsider. It may not happen. I mean there may be eventual votes not to make any changes.

But if it has occurred where shifts are occurring, then we will reconsider. Anyway, I just wanted to make the point that I don't support the change in the word from will to may, unless there is something I'm missing that needs to be explained for me, so I can better understand the rationale.

EXECUTIVE DIRECTOR BEAL: At the last meeting there was some conversation about, does the word will obligate the Board to adjust state-by-state allocations. There was some nervousness that if we put the word will in here then you

guys are obligated to go back, look at state-by-state shares, and make changes. I think you're reading it as we're obligated to go back and look at it, and consider the new information. We may not need to make changes. I think it was being read two different ways, and however the group decides is fine.

CHAIR GILMORE: Lynn Fegley.

MS. LYNN FEGLEY: I just had a question about Number 1 in the comments at the end, about the Law Enforcement Committee review of state compliance. I wasn't there for the original conversation on this, so I definitely don't want to rehash it. But I was just curious how that relates to the review of compliance reports that we do for each species, and that technically as I understand, there should be some opportunity there to say whether or not states are in compliance of out of compliance. I just wondered how this is different, I guess.

EXECUTIVE DIRECTOR BEAL: Lynn, I think the difference is the annual compliance reviews are focused on, do the states or do the states not have the correct regulations in place that are consistent with the FMP. This was a conversation about, are the fishermen individually complying with the state's regulations? In other words, they've got a size limit on striped bass.

Are the fishermen ignoring that or are there some provisions in lobster management the fishermen are ignoring, or whatever it may be. Is it a perceived problem? Is it a real problem? Is it a systemic problem, where fishermen just don't buy into some suite of regulations, and aren't listening to them? I think is more what this is trying to get at, which is different than does Maryland have the right size limit in place for red drum, or whatever it might be.

CHAIR GILMORE: Other questions for Bob. Okay seeing none, again this is a final action so we're going to need a motion. **Okay we've got a motion to approve the Strategic Plan as**

edited here by Pat Keliher. Do we have a second, second by Lynn Fegley? Is there any discussion on the motion? Adam Nowalsky.

MR. ADAM NOWALSKY: Just for clarities sake on the point Lynn brought up, those two additional Items, 1 and 2. What is staff going to do with them? Where do they go if we don't provide some feedback today, because I see them just as dangling chads right now? What would happen to them if we don't give some additional feedback here?

EXECUTIVE DIRECTOR BEAL: My interpretation would be that for Item Number 1, the compliance review. I think that could be considered to be added to the 2020 Action Plan, when we get to planning for next year. Then Item Number 2, I think the Commission would not include any language relative to free flow of seafood commerce, and let that continue at the state-by-state level, and ASMFC would not be involved in that. That is my interpretation of where we are, and if that's not right I'm happy to go a different route.

CHAIR GILMORE: Is everybody good with that. Are you good with that Adam?

MR. NOWALSKY: Yes, honestly I didn't have an opinion on it, so I just wanted to make sure we knew where it was going. Thank you.

CHAIR GILMORE: **Is there any other discussion on the motion? Okay seeing none, is there any objection to the motion? This is a final action. Seeing none, we will adopt the Strategic Plan by unanimous consent.** Thanks everybody, and thanks for the great work for Bob and staff and everybody else. We all worked on it, so great job.

**CONSIDER APPROVAL OF THE
SUMMER FLOUNDER
COMMERCIAL ISSUES AMENDMENT**

CHAIR GILMORE: Next agenda item is another final action, which we're going to be talking

about the Summer Flounder Commercial Issues Amendment that was a joint effort between the Council and the Commission. The Council and the Board voted on this back a few weeks ago at a joint meeting, so we have to take action on it now. However, since I know a little something about summer flounder in my state, I may have to get into the discussion, so I am going to step away from the Chair and let Bob take over, so Bob, it's all yours.

CHAIR BEAL: Thank you, I really appreciate the opportunity. The Summer Flounder, Scup, Black Sea Bass Board met jointly with the Mid-Atlantic Council in March, and they passed an Amendment that is being brought forward today for consideration by the Full Commission.

Under the Commission's procedures, any new FMPs or full amendments that are approved by an individual species board have to be brought forward for consideration by the Full Commission. This is a standard step in the Amendment Approval Process. With that Toni, do we have the motion?

All right we've got the wrong motion. We're going to have the right motion soon. I think it's pretty straightforward. It just says; On behalf of the Summer Flounder, Scup and Black Sea Bass Management Board to consider approval of the, I think we're calling it the Comprehensive Amendment.

Right Toni, Comprehensive Summer Flounder Amendment? We'll get that motion up and then we'll initiate some conversations about that, and decide if the Commission is ready to go forward to consider approval of that document. While the motion is going up, I see Robert Boyles' hand.

MR. ROBERT H. BOYLES, JR.: Just for those of us who are maybe a little out of the loop, can you on the record tell us what the vote was, please?

CHAIR BEAL: Yes, the vote at the management board was 6 to 4; I believe 6 in favor 4 in

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opposition. The Mid-Atlantic Council voted on the identical motion. Their vote was 15 to 4, I believe. Toni is going to be able to pull those up. That is my recollection of the votes from when the motion was made and recommended to the Full Commission.

All right, the motion is up on the board. I'll read that into the record. **Move to recommend on behalf of the Summer Flounder Management Board, to consider approval of the Summer Flounder Commercial Issues Amendment. That is the motion that is being brought from the species management board to the Full Commission.**

Kirby is prepared to give a quick summary of what is included in that document, if you guys feel it would be helpful. If you feel that you're knowledgeable enough around the table on what's included, then we can do that. You know the biggest change in the document is summer flounder commercial state-by-state allocations.

Right now summer flounder is allocated to the states from Maine through North Carolina on a state-by-state basis on the commercial side. Maine and New Hampshire get quite small shares, way out in the decimal points, but the other states get significant shares. What the change would be is that the current shares would stay in place; however any quota that is above 9.55 million pounds, would be distributed through a new formula. It would be essentially, all the states with small shares, which are Maine, New Hampshire and Delaware, would receive one-third of 1 percent, I believe, and the remaining states would all receive an equal share.

It's distributing the surplus, or the quota above 9.55 million pounds differently than the quota that is below the 9.55 million pounds. There is that trigger, and so above 9.55 the three small states that I mentioned will get their one-third of a percent, and the remaining states will get

12.375, I believe. It changes the allocation moving forward. That is the meat of the amendment that really is that question today, so with that happy to open it up for discussion, and consideration of the motion that is on the board. Are there any comments, Justin?

DR. JUSTIN DAVIS: Just a clarification. The way the motion reads it says consider approval, but is that a motion for the Commission at large to approve of the Commercial Summer Flounder Amendment?

CHAIR BEAL: Yes, it is for approval. Mr. Reid.

MR. ERIC REID: The question that I asked at the original meeting was what happens if this body votes no? I would like to hear the answer for that from somebody, so we all know what we're talking about.

CHAIR BEAL: I can give you my perspective, but I believe Mike Pentony, the Regional Administrator from the Greater Atlantic Office is in the audience. If he is willing to come forward and answer that question, I think that would be helpful. Thank you, Mike and welcome.

MR. MICHAEL PENTONY: Thank you Mr. Chairman. Thank you to the Commission. It's a good question and an important question, and something that we've been talking internally within the Agency and with Council, our leadership, and Commission leadership over the last month or so.

The action of the Council, their April meeting, was the final action of the Council. The motion was to approve the Amendment, and submit it to me for Secretarial Review. They have not submitted it yet. But that is mainly because of work that staff is doing to complete some of the analyses, and tidy up the document, and get it ready to submit for us to initiate a review.

Once the Council does submit it, and we essentially put it on the docket. That starts the review process under the Magnuson-Stevens

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Act, which if you recall has a 95 day clock for review, to either approve or disapprove the Amendment. Once the Council submits it, we will initiate that process. Certainly we will be evaluating the Amendment on the merits of what's in the document, for compliance with the Magnuson Act and other applicable law.

But I think to get at, at least part of what's in this question is if the Commission were to not approve the Amendment, would that in any way affect our decision and process, in terms of our review and approval of the Amendment. To the extent that I've had this discussion with our General Counsel and others, we see nothing inherent in a Commission decision to disapprove the Amendment that would preclude us from proceeding with review, and potentially approval and implementation of the Amendment. Disapproval by the Commission would not kill the Amendment effectively. We could proceed, assuming that the Council was to submit it.

Now I'll say, sort of editorializing a bit, that the votes were relayed. It was a 6-4 vote of the management board. Those of you involved in joint management with a Council, are aware that at least with the Mid-Atlantic Council we have a process, where every motion that comes up before the joint body, the Council and the Board, must be worded identically and pass both groups, in order for that motion to proceed.

At the meeting in April, every preferred alternative in that Amendment was supported by both the Council and the Board by majority vote. As you saw, there is a motion from the Summer Flounder Management Board recommending the Amendment be approved. I say that as context for the fact that the Council made a decision to approve and submit the Amendment.

I think with the expectation that it would be approved and implemented by the Commission as well. Were it to not be approved today, I

think it would certainly be something that the Council should be made aware of, to give them an opportunity to think about if they want to change course at all.

But you also heard the vote was a very strong vote in favor of this Amendment, so I don't think that there would be much change expected, but certainly we would provide the Council or we would consider providing the Council the opportunity to think that since they haven't submitted yet. But once they do submit, then we would start the process and go through Secretarial Review.

Since I have the floor, if I could just explain another aspect of what happens if the Commission does not approve the Amendment. It's a little bit more in the weeds, but this Amendment and our management structure being joint collaborative management between the two groups it is very important for a system of state-by-state quota allocations, because each state has an allocation of quota that is the same on the Commission side and on the Federal side, under the Council plan.

We count all landings in a state, whether they be from federal permit holders or state only permit holders, against that quota that state allocation. One potential implication of disapproval by the Commission is that we would be managing these state fisheries under two different quotas. There would be a federal quota, under the Council plan, assuming that it's approved and implemented.

Then there would be a quota under the Commission plan that would be different. To throw out some numbers as an example, Massachusetts quota, using the current quota allocation for 2019 and 2020, would be roughly a little over 100,000 pounds higher under the Council plan than under the Commission plan. But Rhode Island's would be around 66,000 pounds less under the Council plan than under the Commission plan. Now that creates a problem, because for Massachusetts, which

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looks like they have a higher quota under the Council plan, we would not take any action to shut down that fishery. But under the Commission plan they would be required to close their own fishery under the lower quota, not be able to take advantage of the higher quota provided under the Council plan. Rhode Island on the other hand, having a lower federal quota, we would close federal waters to all federally permitted vessels and dealers, when they hit the lower federal quota.

If fishing were to continue in state waters, by state only permitted vessels to take advantage of that extra 66,000 pounds that would accrue as an overage against the following year's commercial federal quota, further exacerbating that disparity, so that the following year's quota would be more like 120,000 pound difference between the federal side and the state side.

You can see where this is going. As time progresses, there is the risk that those quotas would diverge more and more as landings accrue against the state quota, count as an overage against the federal quota. I hope, Mr. Chairman, I've answered the question adequately. But I'm certainly available to go into more detail or clarify any of those points.

CHAIR BEAL: Thank you, Mike, I appreciate the detailed answer. I think that's helpful for folks around the table. Other questions or comments, yes Tom Fote?

MR. THOMAS P. FOTE: I was going to bring this up tomorrow, and I probably will bring it up in the Policy Board is the joint meetings are not working for the Commissioners. If we look at the attendance at the joint meetings for Commissioners, we get the state directors, we get the members that sit on the Council and sit on the Commission as either a Governor's Appointee or Legislative Appointee.

But we do not get the Commissioners for a majority of the Legislative and the Governor's Appointees at those meetings, because they are

not easily accessible. I mean this next meeting is in Durham, North Carolina, as far away as we can get from the fishermen. In Virginia Beach, it's not easy to fly in. We were basically going to actually do a meeting that was easy, which was Philadelphia, and now we've changed that to the October meeting in Durham, North Carolina.

It's not working for us, plus it gets very expensive for us, because we're putting a lot more people out to go there. We're doing ten states, it should be 30 Commissioners there, and it's not I would say there were probably about 15 or 16, so we're missing half the Commissioners at the meetings. We need to find a new way of doing this.

Now I don't know if those Commissioners were there the vote would be different from 6 to 4, I'm not sure, probably not, but I'm not positive that it wouldn't have been. We really need to try and accommodate all the Commissioners, and the only thing I can see is that we really need to have joint meetings at Commission meetings after this year, because the only way it's going to survive is to go, because there are a lot of problems having it.

Again, we find ourselves in places that it's not easy to get to. Unlike the Council members, the Commission is like the Governor's Appointee and the Legislative Appointees don't get paid GS15 rates, so when they have to take an extra day at each end of this that's three or four days of their time, where they are taken away from their jobs and things, unlike me that doesn't get paid for anything. What I'm saying is for other people, and I've been looking at this very carefully. We need to deal with how we deal with this.

CHAIR BEAL: David Borden and then Jim Gilmore.

MR. DAVID V. BORDEN: A question on process and timeline. If we pass the motion today, when would we likely implement what's called

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for in the Amendment? Not when we implement it, when would we likely implement the revised higher quotas? Is that going to be in 2020, 2021?

CHAIR BEAL: There is another part that was added to the motion that should have been up here the first time, which is the second sentence; the effective date of any FMP modifications would be consistent with the effective date published in the final rule in the Federal Register. Basically, we've linked ASMFCs effective date to the Final Action by the federal government. Mike, if you're willing, can you comment on when the Final Action by the federal government might be?

MR. PENTONY: It's often difficult to predict, because there is a lot that can vary, in terms of when the Council submits the document, although I expect that to be sometime early summer. You know it is a complicated process to go through a review and implementation of an Amendment. What we don't like to do is implement something in the middle of the year, or very close to the beginning of a new fishing year, and change the baseline.

In discussing with staff, we expect that we would not be implementing, in terms of an effective date for the new quota allocations, most likely, almost certainly, January 2021, rather than try to rush in a new set of quota allocations that would be effective this coming January, particularly because we've already established specifications for 2019 through 2020.

CHAIR BEAL: A follow up, David.

MR. BORDEN: That was very helpful, thank you, Mike. The existing rules basically stand in effect until January 1st, 2021. Okay.

CHAIR BEAL: Yes. Jim Gilmore.

MR. GILMORE: If everyone would indulge me, since I maybe get a little bit more background

to this and a history. New York is one of the four votes that voted against this. But I think some of the history may be helpful that some folks may be aware of. Four years ago this Amendment was really initiated from New York's pushing for some old issues.

Primarily, if you looked at the percentages on the board before that 1993, when we put in this state-by-state allocation system for commercial quotas, New York got significantly less than what we believed our fishery was, and there was data errors. We won't get into the whole issue of that but that 7 percent was based upon some errant data, which is now decades old. Our immediate issue was to try to maybe rectify that. But also look at some other issues, and our goal was really to get some equity at least, between our neighboring states of New Jersey and Rhode Island, because if you look back in time our fisheries were, I would say conservatively equal to those states, although I believe it was larger based upon the size of our fleets. The other part of this was to start, and by the way when my predecessor was here I understand that we kind of reluctantly agreed to what happened, with the caveat that well we can always change this.

That was 1993. We finally got to the point four years ago to start looking at maybe changing this. The other issue was that we're well aware that there are many species that are moving up and down the coast, and particularly to the north, and summer flounder is probably the poster child on that. If John Hare is in the room, I think he did a paper. I think we were at about 30 species that were changing their distribution.

That is the primary job here. I mean if we just had to set things in stone at one point and leave them, we wouldn't have to be here, we would just leave it alone. But we are here to manage the resource, and changes over a year or a decade or whatever. That was the other part of this was to start looking down a road on redistribution of stocks, because we have several that have been allocated decades ago,

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and we need to start addressing that change, primarily we believe from climate change.

The system we've had has been very frustrating for New York fishermen. I hear it many times is that the summer flounder stock, and again don't believe me, look at all the data, is sitting off the south shore of Long Island very close to shore. If a New York fisherman wants to go fishing out there, he goes out a couple of miles from Montauk, catches oh, he's got a limit of 70 pounds, next to boats from the south that have thousand pound trip limits.

Then essentially right next to each other, they are fishing on the same body of fish, but not exactly equitable. The fortunate ones that actually buy permits from other states, they get that trip limit say of 2,000 pounds, but then they have to steam all the way down to the Carolinas or Virginia, offload in trucks, bring the fish back up, and then come back up, so not the most efficient way to prosecute a fishery.

We were hoping that this Amendment would really get to address some part of that. The other piece of it that wasn't mentioned in the details of this was landings flexibility. Even if we couldn't get reallocation, maybe some flexibility in allowing some landings closer to home would help out.

But that didn't go anywhere either, other than there is a voluntarily landings flexibility, but of course if you don't have a partner that you want to work with, they're not going to agree to that. We essentially have gotten to this point where what our perception is from New York is that we went through four years and we came to a very slight tweak in what the status quo has been for a fishery that is using data that is 40 years old.

We're in a bit of a dilemma, because from my perception, I'm not sure if we can get out of the box, because we have a conflict. We're supposed to be using the best science, the best data for management, but we're also supposed to protect our states' rights, and there is maybe

a Catch-22, for lack of a better term that we can't get out of this. But unfortunately we find ourselves sitting in front of a four year effort that essentially changed nothing, from our perspective. The bigger concern is that we've got again, many species that are doing this, and we're going to have to be having this meeting over and over again. We were hoping at the joint meeting that we had back in March that we could throw a couple more options up. That was actually the first part of this, before this was voted approved or whatever.

There was a motion. We had two or three other options, let's take a look at those. Those were voted down. In fact, I believe there was a split on that because the Council said no; we don't want to look at additional options. The Commission said yes let's look at some more options, maybe we can come up with a solution that doesn't get us into this.

That motion was voted; again both bodies did not approve it so it failed, even though we had a difference between the Council and the Commission. Then when it came to the final vote, it was approved by a narrow margin. Again, thank you for letting me give you that history, but from New York's perspective and from the broader picture of this, we need to fix this, essentially voting for this Amendment right now is not fixing anything, and we're going to oppose the motion.

CHAIR BEAL: Eric Reid, did you have your hand up?

MR. REID: Yes. As far as Jim's last point. At the last Council meeting what happened was, because of the process of the Council and the Board, they take turns on each vote going who goes first and who goes last. What happened was on the motion to allow additional introductions or reintroductions in some cases, of management options.

The Council voted first, and that vote was no, so the voice of the Commission was not heard at

that meeting. Of course the Commission represents some of us in southern New England, and the Council, except for the New England liaison who has no vote is not represented.

CHAIR BEAL: Other comments, thoughts on the motion that is up on the board. I've got Emerson and then Justin.

MR. EMERSON C. HASBROUCK: I'm going to expand a little bit on what Jim had mentioned, in terms of some of the history behind this. The basis of the inequity in the state-by-state commercial allocation is the system of accounting for commercial landings that was in place during the baseline period.

New York landings were determined on a completely different and separate methodology, compared to all the other states during that baseline period. During that period, all states except for three had what was called a weigh out system in place at that time, now called a dealer report. That was put in place by National Marine Fisheries Service, in all states except for three.

Those three states were North Carolina, New York, and Connecticut. In North Carolina they already had their own well established dealer report weigh out system, so NMFS didn't have to implement one there. It already existed by the state. That left New York and Connecticut without a system, similar to the data collection in all the other states. Connecticut was able to appeal the state-by-state allocation back in 1993, and got a little bit of relief, in terms of increased allocation, not what they were due, but they got a little bit of relief. That just left New York still on the short end of things. New York has been at a severe and significant disadvantage for all of this time, and again as Jim said, his predecessor agreed to this on the condition that this was going to be changed and revisited soon.

Well, here we are 20 some odd years later in a four year process and things really haven't changed at all, unless when there is an increase in the quota, the northern states get a little bit more. When the quota goes back down again, then a lot of the effort to rebuild the resource or to rebuild the quota is based on the northern states, because they have that low share based on the history.

Jim also mentioned that there has been a documented shift in the distribution of the summer flounder resource. That is reality. That is the fact that has taken place. Everybody was sent a copy of State Senator Schumer's letter that he wrote. Everybody received a copy of it. You know there is a political process that is taking place as well.

Senator Schumer was ready last year, and is probably ready this year, to do what he can in the State Senate, and then perhaps convince people in the House to go forward with a system that changes the state-by-state allocation. We all know that the New York Attorney General has initiated legal action against the Department of Commerce. That is where this is all headed, unless we can get together and figure this out ourselves.

CHAIR BEAL: Justin Davis.

DR. DAVIS: I would like to offer a substitute motion.

CHAIR BEAL: Go ahead.

DR. DAVIS: I move to remand the Summer Flounder Commercial Issues Amendment to the Summer Flounder, Scup and Black Sea Bass Management Board to develop and consider new approaches, including alternatives that use a dynamic approach to reallocation of the resource that considers the species distribution, and if I can get a second I would like to speak to the motion.

CHAIR BEAL: **Thank you and this is a substitute motion.** Emerson Hasbrouck has seconded the motion. Go ahead, Justin.

DR. DAVIS: I want to start off by acknowledging all the hard work that went into this Amendment by Commission and Council staff, folks sitting around this table, many others. It was a big lift, and I don't want to discount the hard work that went into it.

I also don't want to discount that at the recent joint meeting of this group and the Mid-Atlantic Council that some folks sitting around this table took a hard vote to allocate some more quota to northern states, to not realize some gains that could be made in the future in their state's quota. I also don't want to discount that. I think that suggests that folks around this table recognize that this is a problem we have to deal with, and they were willing to take some positive action towards it. However, I can't support this Amendment in its current form, and the reason why really relates back to some of the same things Jim was talking about. I think we have a fundamental problem facing this Commission and our federal partners, of shifting species distributions along the coast, and accompanying need to reallocate access to those resources.

I think this Amendment was an opportunity to try to find a way forward on that. I think for the future of the Commission's operations around this problem, we really need to find a new approach, and I think that approach needs to make good use of the available scientific information about species distribution.

I think it needs to be a dynamic approach that sets some timelines on which we will consider quota reallocations. My concern with the current Amendment is after a four year process, we've reached a decision that I don't think gets us to a new place in dealing with commercial allocation or quota reallocation, and there is no guarantee of when we'll revisit it. I think that this Amendment, although a lot of hard work

went into it, doesn't get us to where we need to go in establishing a way forward for summer flounder and other species.

As I understand it, even though the Council has closed the book on this, the Commission hasn't. I think there is still an opportunity for the Summer Flounder, Scup and Black Sea Bass Management Board to go back to the drawing board and continue to work on some of the approaches that were being developed that meet some of those standards that I'm talking about that sort of lay out a timeline, on which we'll consider quota reallocation periodically that make good use of scientific information on species distribution.

I thought the point that Eric Reid made was really salient that the Commission's voice wasn't heard on some of the new proposals that were brought forward at that joint meeting. What I'm asking for here is for this group to remand this back to the management board, and have them continue working on developing some new approaches to deal with allocation.

CHAIR BEAL: Dennis, you had your hand up, is it on this motion? You ready to go?

MR. DENNIS ABBOTT: I think to quote a famous American in this room. "We ain't got a dog in this fight." That would be Robert Boyles, 2018, '17, '16, '15, whenever. But New Hampshire will have a dog in the fight, from the looks of things. As the resources are shifting, there may come a day when we could be in the same situation as previously described.

In looking at our Action Plan, our first goal is to rebuild, maintain, and fairly allocate Atlantic coastal fisheries. It goes on to talk about that FMPs will also address fair and equitable allocation of fishery resources among the states. That's in the first goal. It goes on to say; understanding global climate change and its impact on fishery productivity, et cetera and et cetera, I won't go any further.

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I think it's incumbent upon us not only to look at what's going on with black sea bass, scup and summer flounder that we look at this in a broader term, and we really have to do something immediately to address these issues, because they've gone on long enough, and they'll continue to go on. But it needs to be attacked, and there has to be some sort of a possibly a working group amongst the federal side and the Commission side, to come up with, as I've heard mentioned, a working group or something that will attack this problem, if not solve it, eventually more fairly allocate the resources.

CHAIR BEAL: Others, I'll go down this side of the table, Lynn and then Steve.

MS. FEGLEY: I just wanted to confirm that Mr. Pentony very nicely outlined the ramifications if the Amendment was voted down. I just wanted to clarify that we would have still the same issues if it was remanded.

CHAIR BEAL: Mr. Pentony, are you comfortable with that.

MR. PENTONY: I would say yes, all of those issues remain. If I could while I have the microphone, just clarify that the intent here is for the Board to operate independent of the Council, in development of new approaches. If maybe the maker of the motion or somebody could clarify how we would continue or proceed under the rubric of joint management between the Council and the Commission if this motion were to pass.

CHAIR BEAL: Lynn, does that answer your question?

MS. FEGLEY: Yes, thank you.

CHAIR BEAL: Justin, do you want to comment on Mike's question?

DR. DAVIS: That is my intent is to ask the Summer Flounder, Scup and Black Sea Bass

Management Board to take another look at this issue and develop some other approaches that could be used specifically towards quota reallocation, and then presumably to communicate those new options to this group and to the Council as well. Where it would go from there I'm not entirely clear.

CHAIR BEAL: I had Steve Murphy.

MR. STEVE MURPHY: I certainly think this is going to continue to be an issue as we see redistribution of the geographic range of a lot of these species. You know looking at some of the climate risk stocks; North Carolina seems to be on the departing end of many of these. I just want to speak to my state, because this really isn't about the management of the fishery itself, it is about allocation.

But this species is an economic driver in North Carolina; it's the Number 5 value commercial fishery in a very robust commercial fishing state. If it was not efficient for boats to steam 24 hours, trawl 12, and come back, they wouldn't be doing it. We have worked with partners in Virginia especially, to really maximize the value of this fishery.

This is a high value fish, and so there is infrastructure in place, there are processing houses, fish houses, repair yards, you know people all rely on this fishery. One of the goals of the plan itself, or of the Amendment is to optimize these economic and social benefits from the utilization of this resource. I would argue we are doing that. I thought that the compromise that was made at the Mid-Atlantic Council to fairly allocate the excess quota above 9.55 million, it was fair. When you look at the fleets in the south that depend on this fishery, it is a significant source of income.

Any significant reallocation of that would have serious negative consequences. I understand where my colleagues to the north are coming from, and I certainly scratch my head about how we deal with these reallocation issues,

particularly in the light of climate change. But there is also a downside for the southern states as well.

CHAIR BEAL: Rob O'Reilly and then David did you have your hand up, David and then Joe Cimino, and then Eric?

MR. ROB O'REILLY: I think a lot of these issues have been well vetted through many Committee meetings and many joint meetings. I have seen this as an open process. I have seen that every state had opportunities at some point about midpoint through this process, maybe year two and a half, because they're saying four years, but I find out from Kylie that it's really five.

That there was dissatisfaction with the way the options were in the Amendment, and there were other attempts at our joint meeting to introduce, New York introduced two other options, negotiated quota, and a fall back to the coastwide quota. I certainly don't find any fault with the position of New York that it finds itself in, but it's not because of the resource, it's because of other reasons, and the fishery itself has not changed that much.

We heard a statement last time at the joint meeting that the inshore fisheries in Virginia, North Carolina essentially aren't where they were, but they never were. I mean these fleets have been moving up the coast since the '80s. There is a fishery and there is the resource. I know everyone is focusing on the resource the last five years.

Distribution, I'm a little perplexed that climate change can act so quickly, because I don't think it does. I think most of the models that we hear from, including from Dr. Hare and others aren't looking at the ten year timeframe, let alone the five year timeframe. I don't think those are valid arguments. I think we have to look at the fact that this fishery has been prosecuted for many, many years in the northern sector.

That is really important. There was a public hearing. There were plenty of public comments, and just to talk about the landings flexibility, which I mean when I first heard landings flexibility, I thought now that sounds really interesting. Even to the point where landings flexibility could end up with what Jim had talked about, in a different way where you did allow trucking.

That changed things a little bit, but the fact about landings flexibility is there is so many permits held by so many states, in Virginia for example that even the joint combined North Carolina and Virginia permits, are only about 45 percent of those permits. The rest are all out of state. I think that that is why landings flexibility probably didn't make it completely out as a great option. It's just that this fishery is complicated, in terms of the fishery and the permits. I don't know how to help at this point, other than to say the same thing I said at the joint meeting, which is everyone wanted to move off of status quo. We have moved off of status quo. I did talk to Mike Pentony, and asked about the date when this would come into play, and did learn then that it would be January 2021.

I wish it were January 2020. I understand the hurdles that have to be overcome, and the EIS to be finished and things such as that. I do understand that. I also do understand, and I can be corrected if I'm wrong, by Mr. Pentony that the increased quotas at least will take place sooner than that.

That is one thing that we can look forward to on the commercial end that there will be increased quotas. What I had seen was about 10.899 million pounds. That is just my indication of once we subtract the discards that were attributed to 2017. The last thing I want to say is exactly what I said at our joint meeting.

This is at least a chance that we have to go forward. It's not as far as some states want. I do understand that. But it doesn't end. I mean

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everything everyone is talking about today, either not voting in favor of this or remanding it. Where does that really put us compared to where we can still go forward from here by passing the Amendment?

CHAIR BEAL: I've got a pretty long list here. I've got David Borden, Joe Cimino, Eric Reid, Jason McNamee, Pat Keliher, Emerson Hasbrouck, and then Tom Fote. We'll go through that list and then Robert Boyles and David Pierce; we've got a long list.

MR. NOWALSKY: Point of order, Mr. Chairman.

CHAIR BEAL: Yes, Adam.

MR. NOWALSKY: Might I suggest you consider taking for and against alternatively as we go?

CHAIR BEAL: Yes, I'm fine with that. It's just this discussion is pretty important. I want to make sure everyone gets to voice their opinion. We're bumping up against time limits already, but I think this is important. We may have to slide back Horseshoe Crab a little bit. Those of you that are here for Horseshoe Crab sit tight, get comfortable. We may be here for a minute. Let me go through a few of these folks, and then I'll start doing the alternate for and against. David Borden.

MR. BORDEN: I was one of the individuals at the joint meeting that voted against this. The basic rationale for my vote was I didn't see the solution that had been brought forth as solving the problem, fixing the problems. I supported the position that we really should be dealing with these issues in a formulaic way, so we don't have to vote on them.

It should, recognizing the infrastructure considerations a number of the Mid-Atlantic States have raised, including today that any changes in the quotas from those that existed historically, should be done in a very gradual manner, in order to minimize the negative economic implications of them. I look at this

more from the perspective of, if we were to pass this as Justin and others have indicated, I would look at it as going back to the Mid-Atlantic Council, engaging the Mid-Atlantic Council with additional discussions on how we could integrate those types of changes into the system, do this in a formulaic way, and try to solve. Of great importance to me is to try to solve the problems in New York and Connecticut in particular.

Rhode Island is very fortunate; we get a large portion of the quota. Under the proposal I would point out we would get a large portion of the increase, but proportionally it is actually less than we get now. I think we have to look at this in terms of the process. This is one issue that the Commission is dealing with that involves these types of issues.

Black sea bass is right behind it. We're going to be dealing with menhaden and striped bass. These are all horrendously divisive issues, and we've got to figure out ways to collaborate and cooperate better, and compromise at this table. I would hope that people would vote for the alternative, and that would start that process.

CHAIR BEAL: Joe.

MR. JOE CIMINO: I felt like we came through a very long process. As many of you know this is my first year in New Jersey. My first week was this meeting last year, but I've been with this issue since the beginning, spending 14 years in Virginia, and a few years in North Carolina before that. I know this fleet.

It's a highly mobile, highly efficient fleet, as Mr. Murphy pointed out, and it's one that as Mr. Gilmore pointed out; the vast majority of the take is coming from one area with individuals working right next to each other. Now this group here is being asked to take permits away from some individuals, or at least a chunk of their livelihood and hand it to other individuals fishing in the same area.

They're saying that we have to do this because the species has either moved or the stock has increased. I think that's a tough decision for the folks here, in that joint management framework that Mr. Pentony discussed, keeping into consideration the five years that we've put into this already.

CHAIR BEAL: Eric Reid.

MR. REID: At this point you're getting your for-and-against very nicely. I do support the motion. I've been with this one a long time too. We need something else. I mean around this table we're all very hard working and well-meaning individuals, but there are issues when it comes to what Mr. Gilmore referred to as states' rights.

In my opinion, we need some sort of recipe or some formula, or some unbiased methodology that can deal with the effects of the movement of the biomass, particularly when it comes to climate change. We also need some process or some guidance, or some informed advice that allows us to mitigate the effects of politics. My opinion is if we have some sort of modeling that has been proposed by people to my left and my right that we can mitigate politics. You know the ASMFC has a document that was published on, it's a Management Guidance Document, it's from February, 2018, and it's an eight page discussion of how to deal with issues like this, given climate change and other management strategies. I would suggest no matter how this goes that everybody read it or reread it, whatever the case may be. Here we are, and of course Mr. Pentony was very kind to point out that we're looking at chaos.

His version of chaos is a little bit closer to us than Mr. Gilmore's version of chaos, which is a little bit further away from us. But it would be my opinion that it's in the best interest of all of us to deal with chaos now, and the problems that we have, and the methodology we could develop to solve those problems by passing this motion.

CHAIR BEAL: Jason.

MR. JASON McNAMEE: We will not be getting out of sync with, is it okay? I'll try not to be too long winded, kind of working off of what Eric just said. I thought I would offer a little bit of context. While allocations haven't been changing, just a couple years ago we had gone through a series of years where we had about a 60 percent decrease in the coastwide quota for this species.

I've heard the word robust used a couple of times, and this seems like a fishery that is able to be robust to these types of changes. I think we have a real opportunity here to do something objective, as Eric mentioned to step back a little bit. I think a lot of folks around the table would agree that the past couple of days and a couple of weeks have been really challenging, you know kind of sow's ill will to some extent.

This is an opportunity to develop a system where it's more formulaic. We agree to that formula ahead of time, and the system moves. We're working with dynamic resources, and we've got some alternatives that can accommodate those dynamic resources in a formulaic way. Just a parting thought.

We're thinking it's easy to think in lines, and I think we have a tendency to do that as human beings. But it's important to remember that nature is full of curves. I think this resource is no different, and so we're thinking of climate change and it's unidirectional, but there are other forcing processes, in particular with this species, and just as an example the AMO is one.

We might be shifting into a new AMO regime, where this might shift back to the way it was a couple decades ago. We could have a system in place that would accommodate that move quota back to the south, tracking the stock where it goes. Keep that in mind as well that this isn't unidirectional, and one of the alternatives that we're talking about has the

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capacity to move back and forth, with it to do so in a measured way. I just hope folks will think about this in that context, and try to get us out of this box.

CHAIR BEAL: Here is where I would like to go. I've got a long list still. I think we've got Pat Keliher and Robert Boyles. They may be undecided, since they're not part of the Summer Flounder Board, so I'm not going to ask them if they're for or against. Then I would like to go to the audience to see if there are any quick comments from the audience, then I'll come back with for and against at the Board, once we sort of cover that we'll vote on the substitute motion. With that I'll go with Pat Keliher.

MR. PATRICK C. KELIHER: I normally would say I don't have a dog in this fight, as referenced earlier by my good friend from the south, who seems to be sitting to my north right now. There is a precedent being set here associated with these issues, and as I think about summer flounder, and specifically about black sea bass. This distribution shift becomes much more important to states to the north, and because of that I will be supporting this motion going forward.

CHAIR BEAL: Robert.

MR. BOYLES: I certainly don't purport to speak for my colleagues here on the southern rampart, but I find myself in an odd situation. I'm concerned with the substitute motion for the following reason. We have a joint plan, whether we like it or whether we don't like it there is a joint plan. We're in this boat together. That was a decision that has been made prior to my arrival here around the table. As best I can tell on my very, very, embarrassingly limited knowledge, we have a valid vote by the management board.

A close vote but a valid vote nonetheless. According to the Regional Administrator of the Mid-Atlantic Council, as I understand it the Mid-

Atlantic plan will be submitted to the Secretary of Commerce for implementation, which as Mr. Pentony has pointed out could lead to potentially wildly divergent management schemes for a resource, for which we are collectively responsible.

I think where I'm ending up is I can't support the substitute. There is an African proverb, if you'll allow me; if you want to go fast go alone, if you want to go far go together. I think you all know that we're very interested in the long ball game.

CHAIR BEAL: Are there any comments from the audience? Is that Mike Luisi; is that your hand up? Mike, please introduce yourself.

MR. MICHAEL LUISI: You thought you were on a hot seat this afternoon; you should have been there in March during that meeting. My name is Mike Luisi, and I'm here before you not as the Striped Bass Man or a number of other names that I'm often called, but as the Chair of the Mid-Atlantic Council.

I can't do any justice to what Robert Boyles just said. His comments were spot on about us moving forward as a joint body. Something that I have given a lot of thought to, it has to do with the partnership that we're in. I'm speaking on behalf of the Council to the Commission, based on that partnership between the Board and our Council.

For four years, well I'll say this, for 25 years we've had a partnership, and partnerships aren't always easy. There are times when you don't agree. Things can often move very slowly. Arguments happen. But you come to an agreement at some point within a partnership about how you get things done, and often it's through compromise. We've worked very long and hard, both as a Council and with the Summer Flounder Board to get to the point where we are today. Mr. Pentony spoke very eloquently, and kind of confused me a bit with how some of his quota analyses, but he was

spot on in that if we have divergent quotas in the future between state and federal waters, it creates problems. I also see that a situation where the Commission decides to move away from the 25 year partnership with the Council.

We're going to have relationships which are going to start to deteriorate. It's a concern for me, and it's a concern for our Council, in that we need to continue operating together as we move forward. We have a number of actions that we're currently working on together. We've got black sea bass commercial allocations that we just talked about earlier today.

We have the recreational black sea bass reform initiatives that we're working on. I foresee, as I hope many of you do that with the MRIP recalibrations, and the operational assessments that are going to take place this summer on black sea bass, scup and bluefish that we're going to have to sit down together to figure out how we're going to move forward with the commercial and recreational splits that we have.

I mean these are big issues, and a lot of them have to do with allocation. I see this motion as a moving away from that relationship, and I just wanted to put that out there. It does concern me, and I can take any questions if there are any to speak as a Council, but that's all I have today, Mr. Chairman, thank you.

CHAIR BEAL: Is there anyone else from the audience? Seeing no hands in the audience, I would like to go back to the table. Obviously there has been a lot of comments on this, a lot of well thought out comments, very impressive perspectives on both sides of this. Doug, you have not talked.

I'll let Doug, he's going to go first, and whatever he says we're going to go the opposite on the next speaker, and then we're going to rotate. At some point there is going to be a point where more discussion probably won't change

anyone's vote. We may already be there, but I think the folks that haven't spoken, it's fair to them to give them a chance to talk, so with that Doug Grout.

MR. DOUGLAS E. GROUT: As you know in the past we've always as a Full Commission here, generally when a Board has gone through and had put a lot of hard work into an Amendment, the Full Commission has generally fully supported that hard work that was put in. As an aside, I want to disagree with my colleague to the right.

I think New Hampshire does have a dog in the fight here, and I greatly appreciate the Summer Flounder Board giving us an option here, where with the approval of this Amendment that we would be able to go from 5.5 to 6 pounds of fluke in our quota. I really appreciate that. But that being said, you all know me when I was Chair of this Commission, I worked very hard to try and develop a Climate Change Working Group, and trying to come up with a policy on how this Commission would deal with the impacts of changing ocean conditions.

I firmly believe that this Commission, as well as our partners at the two Councils and National Marine Fisheries Service, really needs to take a hard look at how we manage these varieties of fisheries, because things are changing and will change, and as they say they may change back in the future. I certainly appreciate the hard work to try and take a first step on this by the Board. I think that in the future our boards need to look at some kind of a concept like Jay McNamee put forward as some kind of reallocation scenario, which would be formulaic and would change as the stocks change. I think we need to look at that seriously.

I'm still going to suggest that we abstain from this at this point. I'll have to talk to my colleague here, if we're here, because we know we're up the hill, but if we don't I think we need to move forward in the future with other species in changing the way we manage things

here, and deal with these state-by-state allocations.

CHAIR BEAL: Thanks, Doug, I didn't put an abstention into my pro and con little scenario here, so with that I'll go to David Pierce, because he had his hand up and he has not spoken yet. Then we'll sort out where to go from there.

DR. DAVID PIERCE: I do support the motion to substitute for a number of reasons, many of which have already been stated. This trigger based option doesn't adequately address the problem. It's illogical the way it has been laid out, the way it has been adopted by the Council. For example, the trigger based option reallocates quota to states indifferent of the geographic location, and it's relation to the species distributional shift, which has occurred.

By delivering equal shares of 12.4 percent to most states, the trigger based option takes from states with allocations above this percent, and gives to states with allocations below it, regardless of their location along the coast, and whether their access to summer flounder is decreasing or increasing as already Rhode Island has been mentioned.

To me it's illogical. In addition, I fervently believe that the motion, the Council's decision turns a blind eye to the Commission's Strategic Plan regarding dealing with species shifts. Finally, I'll just simply say that Mike Luisi did say, and I understand why that ASMFC should not move away from the Council.

I look at it the other way, the Council is moving away from ASMFC. Those are my principal reasons why. I think it does make sense to remand it back, to take a look at some of the other options that I think are sensible that have already been mentioned by a few people, and that definitely did not get fair and adequate hearing by the Full Council itself.

CHAIR BEAL: Any speakers in opposition that haven't spoken yet? Tom, I think you have spoken once. Okay, I'll go with Tom and then we'll come back.

MR. FOTE: I talked about summer flounder in the context of something else, how we deal with the giant increasing quota. I've been around on this issue before it became a joint plan. That's how long I've been sitting here, and we did it for certain reasons. I always didn't like it. I mean going back, I think it's when Bill Hogarth was the head of NMFS, I actually got the Commission to vote the opposite of what NMFS put in place, and we supported that.

Bill Hogarth showed up to the next meeting he said, well you can do whatever you want, but I'll shut the EEZ when I decide that you might go over quota, and said it to everybody. Then we withdrew that motion, and realized we have to work together. New Jersey has been in a unique position for the last five year, actually the last seven years, because we've been kicked around back and forth on recreational summer flounder quota by some of the states. They keep trying to put us in a different district to benefit them, because we do have a large part of it.

Even on the new maps, it doesn't show New Jersey's out, as a matter of fact they are actually migrating to our state, but we're never asking for a larger quota. As a matter of fact, when it came to black sea bass, we are the only state that I've ever seen around this table that actually donated. Bruce Freeman, because he was very nice and understanding to everybody, donated 20 percent of our black sea bass quota to the north, just to make sure that we could get a plan in place.

I haven't seen any other state do that. We've looked at this. I also remember when we sat around, oh I guess about 15 years ago, and tried to figure out how we would deal with the fact that New York, because they were trying to

avoid taxes and everything, basically had very bad on the reporting of it.

Because the group that controlled the fisheries in New York were not our most honest group in all, and basically that's why they went to the system they went to. It wasn't our fault; it was New York's fault. We tried to correct that and we looked at, as we were going up in quota that we would split up the new quota above a certain point, just what we're doing here, and basically divide it equally.

Of course then we wound up in this crazy situation where we were fishing back then on 29 million pounds, when the stocks were rebuilding, and then we went down to 16 million pounds. We never reached a point where we were going to distribute that quota. After looking at all those facts, was I happy with this one? No, I think it could have been, but we worked hard at it. We put four years of time in it.

I listened to going back and forth, and we're going to do fine no matter where we fall out in this subject, because we still are on the major path, because we probably decided we should be a region by ourselves, since they didn't want us in the south because we're too big, and didn't want us in the north, because we're too big.

I have to oppose this motion. I mean we've got a system in place. I've been trying to dispose of the system for the last 15 years and realized I can't, so we have to work together with the Mid-Atlantic Council. I wish the New England Council, which a lot of northern states work better with us on winter flounder and a few other species. But they don't seem to be coming to the table that way. I have my own feelings about how we get fair and equitably treated at this thing.

I put up with it. We get kicked back and forth, but I think I'll support with the Mid-Atlantic Council and the Commission. Also we're going

to miss one of the voting members at that because Potomac River is involved in the fishery, had a vote, and that was part of the vote. They don't sit at the business meeting with a vote; they do sit at the Policy Committee. We should be looking at that. Anyway, I'll leave it there because we're running overtime.

CHAIR BEAL: Yes, we're getting pretty tight on time. Tom spoke in opposition. I think we're quickly getting to the point where everyone has sort of said their piece and may be ready to vote. Is there anyone next would be in favor of the substitute that hasn't spoken yet? Anyone else that has a compelling need to say anything else before there is a vote on the substitute motion?

Seeing no hands, I don't need to read it, it has not been amended since it was put in, two minute caucus. Does anyone need more time on the caucus? **All right seeing none, this is a vote on the substitute motion that is up on the board to remand this back to the Summer Flounder, Scup and Black Sea Bass Management Board for further action.**

All those in favor of the substitute motion, please raise your hand. All right, hands down, those in opposition like sign. I think that's it. Any abstentions or any null votes? One null, you're all alone, Doug. I can't agree with myself a lot either, Doug, don't worry about it. **The motion fails for lack of majority, 5 in favor, 9 in opposition and 1 null vote.**

That brings us back to the main motion. While that's coming back up, again does anyone have a compelling need to make a comment on the main motion? I think we were kind of mixing comments on the substitute and the main motion throughout that conversation, any hands? Yes, Emerson.

MR. HASBROUCK: As part of that Summer Flounder Commercial Allocation Amendment, one of the things that was done was there was a revision to the Summer Flounder Goals and

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Objectives. We changed the Goals and Objectives in that Amendment Process. I'll refer to the new Objective 3.1.

Provide reasonable access to the fishery throughout the management unit. Fishery allocations and other management measures should balance responsiveness to changing social, economic, and ecological conditions with historic and current importance to various user groups and communities. I don't think that this Amendment meets its own Objective 3.1.

CHAIR BEAL: Seeing no other hands, this is a final action so I'll have to do a roll call vote. Let me read the motion into the record. It was modified throughout our conversation. **Move on behalf of the Summer Flounder, Scup and Black Sea Bass Management Board to consider approval of the Summer Flounder Commercial Issues Amendment. The effective date of any FMP modifications would be consistent with the effective date published in the final rule in the Federal Register.** With that I'll call the roll starting in the north, Maine.

MR. KELIHER: No.

CHAIR BEAL: New Hampshire.

MR. GROUT: Abstain.

CHAIR BEAL: Massachusetts.

MR. RAYMOND W. KANE: No.

CHAIR BEAL: Rhode Island.

MR. REID: No.

CHAIR BEAL: Connecticut.

DR. DAVIS: No.

CHAIR BEAL: New York.

MR. GILMORE: No.

CHAIR BEAL: New Jersey.

MR. CIMINO: Yes.

CHAIR BEAL: Pennsylvania.

MR. ANDREW SHIELDS: Yes.

CHAIR BEAL: Delaware.

MR. JOHN CLARK: Yes.

CHAIR BEAL: Maryland.

MS. FEGLEY: Yes.

CHAIR BEAL: Virginia.

MR. O'REILLY: Yes.

CHAIR BEAL: North Carolina.

MR. MURPHY: Yes.

CHAIR BEAL: South Carolina.

MR. BOYLES: Yes.

CHAIR BEAL: Georgia.

MR. DOUG HAYMANS: Yes.

CHAIR BEAL: Florida.

MS. ERIKA BURGESS: Yes.

CHAIR BEAL: **The motion carries 9 votes in favor, 5 in opposition, and 1 abstention.**

ADJOURNMENT

CHAIR BEAL: All right, anything else to come before the Business Session? The next agenda item is any noncompliance finding if needed. There are luckily no noncompliance findings at this time. With that there is opportunity for another business session tomorrow should we need one. I don't think we will. But with that the Business Session will be adjourned.

(Whereupon the meeting adjourned at 2:57 o'clock p.m. on May 1, 2019)