

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ISFMP POLICY BOARD**

**The Westin Alexandria  
Alexandria, Virginia  
February 1, 2017  
Approved May 2017**

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2. **Approval of Proceedings of October 2016 by Consent** (Page 1).
3. **Move to complement the NMFS implemented management measures with regard to the blacknose shark possession limit south of 34°00' N latitude for the 2017 fishing year** (Page 10). Motion by Dr. Michelle Duval; second by Pat Geer. Motion carried (Page 11).
4. **On behalf of the Atlantic Herring Section, move that the Commission write a letter to the GARFO Office requesting that the states of Maine, New Hampshire, and Massachusetts be granted access to the VMS pre-landing report** (Page 12). Motion by Ritchie White. Motion is approved by unanimous consent (Page 13).
5. **Move that the ASMFC explore moving forward with an external stock assessment and peer review for summer flounder for 2018 management use** (Page 20). Motion by Adam Nowalsky; second by Emerson Hasbrouck. Motion carried (Page 24).
6. **Motion to adjourn** by Consent (Page 24).

**ATTENDANCE**

**Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)	Andy Shiels, PA, proxy for J. Arway (AA)
Steve Train, ME (GA)	Loren Lustig, PA (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Doug Grout, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Ritchie White, NH (GA)	David Blazer, MD (AA)
Raymond Kane, MA (GA)	Rachel Dean, MD (GA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Jason McNamee, RI, proxy for J. Coit (AA)	Michelle Duval, NC, proxy for B. Davis (AA)
David Borden, RI (GA)	David Bush, NC, proxy for Rep. Steinburg (LA)
Mark Alexander, CT (AA)	Robert Boyles, SC (AA)
Lance Stewart, CT (GA)	Malcolm Rhodes, SC (GA)
James Gilmore, NY (AA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Emerson Hasbrouck, NY (GA)	Kathy Knowlton, GA, proxy for S. Woodward (AA)
John McMurray, NY, proxy for Sen. Boyle (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Russ Allen, NJ, proxy for D. Chanda (AA)	Martin Gary, PRFC
Chris Zeman, NJ, proxy for T. Fote (GA)	Sherry White, USFWS
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Mike Ruccio, NMFS

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

**Ex-Officio Members**

**Staff**

Bob Beal	Ashton Harp
Toni Kerns	Shanna Madsen
Max Appelman	

**Guests**

Tom Baum, NJ DFW	Jeff Kaelin, Lund's Fisheries
John Bullard, NOAA	Phil Kline, Greenpeace
Peter Burns, NOAA	Aaron Kornbluth, PEW
Jeff Deem, VMRC	Ben Landry, Omega Protein
Monty Diehl, Omega Protein	Wilson Laney, USFWS
Matt Gates, CT DEEP	Arnold Leo, E. Hampton, NY
Shaun Gehan, Gehan Law	Jack McGovern, NOAA
Zach Greenberg, PEW	Cheri Patterson, NH F&G
Marin Hawk, MSC	Tara Scott, NOAA
Larry Herrighty, NJ DFW	Jack Travelstead, CCA
Peter Himchak, Omega Protein	Kate Wilke, TNC Falls Church, VA
Ken Hinman, Wild Oceans	Luis Leandro, Marine Mammal Commission

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, February 1, 2017, and was called to order at 12:44 o'clock p.m. by Chairman Douglas E. Grout.

#### **CALL TO ORDER**

CHAIRMAN DOUGLAS E. GROUT: Good afternoon. I hope you've had an opportunity to get some of this great lunch that Laura put forward for us. I know the desserts were fantastic too. You might want to grab one before we start here. I would like to at least start through the process here.

#### **APPROVAL OF AGENDA**

CHAIRMAN GROUT: The ISFMP Policy Board, again we have an agenda here. There are a couple of things that we've been asked to add to other business. The Herring Section will have a request for approval of a letter to be written. Adam Nowalsky would like to have a discussion about the summer flounder assessment, and Shanna will be giving a brief revised timeline for the Risk and Uncertainty Workshop that we were considering at the spring meeting.

Are there any other agenda items, changes to the agenda that people would like to add, modify? Seeing none; is there any objection to approving the agenda as modified? Seeing no objection the agenda is approved by unanimous consent.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN GROUT: In your briefing materials there are proceedings from the October, 2016 Policy Board, are there any changes or additions to those proceedings? Seeing none; is there any objection to approving the proceedings? Seeing no objection the proceedings are approved by unanimous consent.

#### **PUBLIC COMMENT**

CHAIRMAN GROUT: We also have an agenda item now for public comment for items not on the agenda. I have a Luis Leandro from the Marine Mammal Commission that has asked for a few minutes to talk to the Policy Board about the Marine Mammal Commission's meeting that is going to be coming up. Luis.

MR. LUIS LEANDRO: Good afternoon everyone. My name is Luis Leandro; I am the Director of Communications for the Marine Mammal Commission. We're a small independent government agency located here in the D.C. area; with oversight role over the Marine Mammal Protection Act.

In essence what we do is we review and comment on proposed actions by federal agencies such as NOAA that could impact marine mammals and the marine environment at large. For example, one of the areas that we focus on is fisheries. We participate in all seven of the National Marine Fisheries Services Take Reduction Teams.

Our focus is very much to support sustainable fisheries practices. We care deeply about this issue. We understand that fishing activities sometimes interact with marine mammal activities; and our focus is to minimize those interactions whenever possible. One of the issues that we focus on for example is addressing marine mammal bycatch on the global front. We realize this is a big problem, and we work with the National Marine Fisheries Service and others to look for solutions.

We very much support the idea of leveling the playing field for U.S. fishermen. We recognize that in the United States we've done a fantastic job frankly; dealing with marine mammal bycatch. But globally it is still a big problem, and so that is an area that we focus on. But the real reason why I'm here is to encourage you to participate in our upcoming annual meeting.

Every year we have a public stakeholder annual meeting to bring together folks at the table to discuss regional issues of importance; again that are related to marine mammals. The results of these annual meetings are usually a list of recommendations that we provide to other federal agencies as well as Congress; to take action on particular issues.

Our focus is very much on the science, we're very much science based. This year in particular we're going to be focusing in the New England region, so our annual meeting is proposed to be April 5th through 7 in the Woods Hole area. We're finalizing the agenda as we speak; we're just waiting to see what happens with the remaining of the fiscal year '17 budget. But we hope we can pull this together, and we would love to see you there.

Two agenda items that we thought would be of interest to the Commission, one is interactions between North Atlantic Right Whales and fishing activity. In addition to having NOAA Fisheries folks there, we hope to bring folks from the Canadian government also to participate in that discussion; as well as of course hopefully some of you and others from the fishing industry.

We will also be having a discussion about recovery populations of marine mammals; particularly gray seals in the New England area, and again discuss the issue, look for potential solutions, and collectively develop a list of recommendations that we can help advance. Thank you for the time. I very much appreciate you listening.

I've distributed business cards and a one pager about us; with a save the dates for the meeting. Please feel free to reach out to me if you have any questions, and we hope that some of you will consider joining us if we can put together this annual meeting in April. Thank you, Mr. Chairman.

## EXECUTIVE COMMITTEE UPDATE

CHAIRMAN GROUT: Okay, we will now move on to our next agenda item, which is an update that I'll provide, of our Executive Committee meeting this morning. We reviewed and approved the fiscal year 2016 audit. We also approved a document called standard meeting practices. This is something that came out of our meeting management seminar with Collette last year; where she made some suggestions on how to make us a more efficient and effective Commission.

We will be bringing that document to the Policy Board in the spring. We also had a report from the Atlantic Coastal Statistics program from Mike Cahall. It appears that our integration of ACCSP into ASMFC is moving along quite smoothly, and there are a lot of great activities that are moving along at a rapid pace here to improve our fisheries dependent data collection. The Executive Committee also discussed the concept of Boards versus Sections. Sections are created under Amendment 1 to the Compact. We had a discussion as to whether Sections are even needed any more; and the prevailing sentiment that we should have things remain as is. We are going to continue to have the two Sections, the Shrimp Section and the Herring Section continue forward. Under other business, we also approved guidelines for state housed employees of the Commission. Emerson, we also had a discussion of advisory panels and Board membership. We're going to be developing a white paper to try and have a further discussion on this item.

Finally, John Bullard, our Regional Administrator from GARFO provided us an update on the potential new administration officials and also a list of the acting officials at NOAA level, and at the National Marine Fisheries Service level. Are there any questions about the Executive Committee?

**DISCUSSION OF ILLEGAL FISHING ACTIVITIES  
AND POLICIES FOR HOW IT IMPACTS QUOTAS**

CHAIRMAN GROUT: Seeing none, we'll now move on to Agenda Item 5; Discuss Illegal Fishing Activities and Policies for How it Impacts Quotas. Jason McNamee asked to speak to this.

MR. JASON McNAMEE: I'm just going to give kind of a brief intro as to why I had asked Toni and Bob to put this on the agenda. Then I think Toni has pulled together some info, so I'll pitch it over to her. But just to set it up. We had had some illegal harvest of striped bass that occurred a couple years ago.

Trying to figure out where to park those fish and I talked with the Commission about it, and told them that we thought we could accommodate it in our commercial quota. They said that's perfectly fine. We did that. Now please understand it was not that many fish, I guess in a relative sense, so it kind of worked.

Through time though we became aware that this was not a standard practice or a policy in that people did different things or nothing at all with fish that were seized. I understand that there is a lot of difficulty with when the legal process is underway and all that sort of thing. But in the end there are dead fish, there are removed fish that can be counted. They should be accounted for in some way, shape or form.

I am also aware that some of the – I'll call them busts just to sound cool like we're on TV – that have occurred have been massive, and would wipe out a state's whole quota and that sort of thing. It is not an easy thing by any stretch, but I think there should be some standardized approach to how we deal with it. That is what I was hoping to start to generate that discussion, maybe put together a working group to kind of put together some ideas and go from there. I think Toni's got a little bit of info for us to take a look at.

MS. TONI KERNS: In looking in to this, and originally I thought I would be able to pull together a white paper on illegal harvest, but there are so many unknowns that I really didn't have enough information to get into the meat of a white paper on this. As Jason just went over, illegal harvest does occur in both commercial and recreational sectors; but there are no standard practices and policies on how to treat those fish.

Some of the questions that came to mind when I was thinking about this was how does a state define illegal harvest? Taking that definition to both how do you define it in the commercial sector and how do you define it in the recreational sector; and it may be a little bit different. Because in thinking about it in the recreational sector, you have illegally harvested fish outside of a season let's say that may not get counted into an MRIP survey. But you also have illegally harvested fish in the sense of it is within the season, but it's below size limit or above the bag limit. Those fish could potentially be intercepted by MRIP. There is the question of, for the recreational sector how does it get counted? Does it get intercepted? Is there a possibility for it or not? Then are there other ways that you could define illegally harvested fish? How does an illegal harvest count against a state's overall quota?

Does the same practice occur for both sectors? Then, if illegal harvest is not being accounted for against a state's quota, does it get reported as landings for the stock assessment or not? These are some of the questions that I first started thinking about when Jason approached me on this subject.

As I went forward I saw that there are definitely not common practices across all the states, and oftentimes some of the excessively large harvest, as Jay pointed out, is so far above a state's quota that in some cases the state wouldn't have any quota if they had to count it against their quota for years. The question to the Policy Board is, is there an interest in

discussing some sort of standard practice for what could happen to illegal harvest moving forward?

CHAIRMAN GROUT: Are there any questions on this? What does the Board think? Is this something that we should try to put together a subcommittee to try and bring back something? Mike.

MR. MIKE RUCCIO: While I have the microphone let me explain why I'm here, I guess. Most of you know Kelly Denit was promoted, and now is the Chief of the Domestic Fisheries Division for the agency. I'm actually working out of Silver Spring for three months; backfilling for her. Most of you know me from GARFO.

But I'm filling in Kelly's old job, and whenever we have the hiring freeze lifted, hopefully be a permanent person that is here. Anyway, thanks for that; letting me go that aside. I really appreciate this being brought up. I do think it's something that we would be interested in trying to develop collaboratively, particularly for the FMPs that we have state quotas.

There is always this question of how disposition of catch should be handled. I would encourage if there is a working group though, to coordinate through the Law Enforcement Committee and/or NOAAs LOE; because I think there are often because of the judicial process, it is not always even clear when fish is illegal, because sometimes due process has to occur to make that determination.

That raises another series of questions as to what disposition of catch is that it has to be held for a while before decisions are made. But I really appreciate this being brought up. I think that having a standardized policy where it is possible would be a benefit to us all.

CHAIRMAN GROUT: John.

MR. JOHN CLARK: Toni, was the consideration brought up that if it was to count against the quota that it would almost be penalizing states for doing a good job of enforcement?

CHAIRMAN GROUT: I think that's part of something that a subcommittee should discuss, and have part of the discussion here. Some of my questions for Toni and Jay are it was mentioned by Mike that we should include Law Enforcement on this subcommittee. Should we have this at the Commission level or would something say at the mid manager level, like Management and Science Committee be able to address this, along with maybe a commissioner or two? Do we need stock assessment biologists on it?

MS. KERNS: I don't know what level. At your individual states, who is the most informed of how these illegal harvests are being treated? Who knows that and who is the best person to talk about that issue? I don't know if it is your management and science person or not. That would be a question to the Board.

I don't think we would need Assessment Science Committee at least at the beginning. I mean I think that in any assessment having the best understanding of what catch is, is the best for an assessment; and we know that up front. Having illegal harvest that doesn't get reported and doesn't feed into assessment, then just adds to the uncertainty surrounding that assessment. I think that that is pretty standard practice.

CHAIRMAN GROUT: Okay I have a number of people. I'll start with Jay and I'll start working around the Board.

MR. McNAMEE: You can go to the other folks, Doug.

CHAIRMAN GROUT: Right then I'll go; go ahead.

MR. DAN McKIERNAN: I think you're going to find you're going to have a collection of stories



that come out from every state. There are going to be examples that are across the spectrum. I think you need to inventory the states. I think every state should probably have an opportunity to enter the conversation; because in some cases the law enforcement officers are supervised by the state directors, in some cases they're not.

Even within my state, Massachusetts, we've had some really interesting cases of illegal harvest; where law enforcement did a great job, and in some cases we did actually apply it to the quota, because it was a dealer who was moving the fish to New York and it was in commerce. We shut the fishery down early, and we also revoked his permit; and he is not in the business anymore. It is a case-by-case basis that I think is worthy of discussion for sure. But I think each state needs to come forward and kind of share their experiences.

CHAIRMAN GROUT: Adam, did you have your hand up?

MR. ADAM NOWALSKY: Yes. I appreciate the sentiment of a working group. It certainly served us well in a number of areas. There are so many issues associated with this that I'm not sure it's going to inform us to come up with a bullet point of two or three very specific things what to do with it. When I think of illegal harvest there are a number of areas of concern that we have with it, obviously one is just purely an accounting basis.

That is certainly I think something that maybe a working group could work on; how do we account for it in our year end accounting? But there are a lot of other issues that I think are primarily state and species specific. I don't think there would be a one-size-fits-all policy. But I do think the one-size-fits-all policy we could consider as a group, would be passing that along and ensuring it's in a term of reference in all of our stock assessments to ask that those stock assessments do, if cannot directly account for it, provide some

information that helps inform our actions about it. I think that would be a one-size-fits-all policy. Again there is species-by-species, the Tautog Board is taking this on with a unique way of trying to address it there; certainly a big issue. But there are many facets of it. Again, stopping it, accounting for it, and then addressing it in stock assessments I think are three very different things; and could potentially be dealt with three different ways.

CHAIRMAN GROUT: Ritchie.

MR. G. RITCHIE WHITE: I kind of see this in two parts. The first would be to get the information back from the states as to how the individual states are handling it now. Then the second part would be what do we do with that? Do we want to form policy or make any changes? I would think staff might be the better way to go to collect that information, and then maybe report back to this Board. Then this Board can decide what the next step should be.

CHAIRMAN GROUT: Jason.

MR. McNAMEE: I appreciate all the discussion. I think this is a good step forward. I think just to tag onto what Ritchie was just saying. Along with the different policies of what's happening in the states, trying to get at least the last year's magnitude of some of the things. That would be a useful exercise for the states; I think to see where they have to go to get this information.

My sense is in some cases there is a solid number; we seized this many fish. We gave it to a food pantry or something like that. In other cases I think the fish just disappear off into the ether, and so getting a handle on that I think will be important as well. Then to jump onto the thought process that Adam was having.

That is kind of like how I was thinking about it as well. This could end up being like another category. We have harvest, we have discards, and this could be like a third category; you

know from that high level stock assessment view. I think there are some things that we could do here, to make sure we're accounting for them without being punitive or anything like that.

CHAIRMAN GROUT: Okay is there any other discussion on this or questions? What I'm going to propose, and I think it was a good suggestion, is that initially we poll the states to see how they are handling this in their individual states at this particular point in time. Then once we get that information back, we'll bring that back in the form of I guess a white paper; or just a report on that.

Then we'll talk about the best way to move forward and having a discussion about how to account for the illegal activities, how it's accounted for in stock assessments, and see if there is some kind of standard way in which we want to move forward; or whether it's something that we have to be nimble and be unique about, depending on the circumstances.

Does that seem like an appropriate way forward from the Board? Is there any objection to moving forward that way? Okay thank you for that discussion. Thank you for bringing it up, Jay.

**DISCUSSION OF POSSIBLE POLICY  
IMPLICATIONS INVOLVING THE SAFE HARBOR  
LANDINGS GUIDANCE DOCUMENT**

CHAIRMAN GROUT: The next item on our agenda is Discuss a Possible Policy Implications of Safe Harbor Landings Guidance Document; and Jim Gilmore is going to lead this discussion.

MR. JAMES GILMORE, JR.: Today really, we would just like to get some dialogue going on this. I'll give you a little history of how we got to this point. Over the last, I guess couple years; we've actually had two instances of safe harbor issue. If you go back to the first one, our policy at that point was really a judgment call; based upon law enforcement and staff.

That one turned out to be a bit of a mess, because first off there was, essentially a fisherman came in that we actually didn't believe had a safe harbor issue; but when he came in law enforcement tried to deal with him; and then he essentially offloaded his fish and sold them before anything could be done.

They ticketed him. The state that he was actually going to would not give a transfer. We ended up having the landings taken off of our quota. Then when they actually got to court, the thing got thrown out; because there was no written policy. That first episode was not very productive for anyone.

What we did is about a year ago we came up with a written policy, which is in your briefing materials. This was a combination of law enforcement, us, we sat with industry and got some information about what conditions would be an emergency at sea; because we wanted to make sure that there was some measure that if we did get into a situation again, we could at least bring that into court or whatever.

The second time it happened, it worked pretty well. It was documented, it followed this guidance. The law enforcement agreed it was a safe harbor issue. The recipient state or I guess the state where the fisherman had a permit from was Virginia. Virginia very graciously agreed to do the transfer.

It was a love fest. We got the fishermen back; he got to sell his catch down in Virginia, so everything worked out very well. However, it did raise a whole lot of questions, because the entire thing was quite ad hoc. There were several decisions that had to be made, not only in New York but the other state.

What I wanted to do is just raise the question now. Do we need something a little more formal than we have, because it is involving multiple states? What I would like to do is I just have three questions to raise, to consider. In the situation, and again I'll just refer to the

most recent one. It appears that both states, do both states need to agree that a safe harbor condition exists?

If we have different policy or guidance whatever, if they're not the same we may not agree that safe harbor exists. Secondly, the quota transfer is pretty important with this whole thing. Do we need something, more of a, not a formal agreement but something more of a gentlemen's agreement that there will be a transfer; if indeed it is identified as an actual safe harbor situation.

The last one, which we were struggling with in New York is, if we do allow say a fisherman to land in New York that was supposed to go to Virginia, does he have to truck his fish back to Virginia; or can he sell them locally? That raised issues about interstate commerce or whatever. Those are the three questions that came up from this last episode. I just wanted to put that out, have some discussion on it and just to answer questions. Do we need something a little more formal or a little bit more consistent among the states under our safe harbor concerns?

CHAIRMAN GROUT: Dave.

MR. DAVID V. D. BORDEN: I totally agree with Jim. I think it would be desirable to have kind of a generic policy that all of the states could use. I just point out that at our last meeting I attended the Enforcement Session where this was discussed. I mean there were a lot of good ideas that came out of the Enforcement Committee at that meeting.

I don't whether there is a written record of it or not, but I think it would be really useful to have a generic policy that all of the states could follow. I think the other suggestion is I think we should seek the guidance of our Enforcement Committee on some of the provisions of it. I totally agree with the need for this.

CHAIRMAN GROUT: Robert, Rob.

MR. ROB O'REILLY: Both apply, thank you, Mr. Chair. I don't know whether we're a model, but we've been having this policy for quite some time. It starts out that the state whose vessel it is, the state personnel contact us in Virginia and request safe harbor. As soon as that's approved by the Commissioner of the Agency, then law enforcement is notified.

They know that there is a vessel that is under safe harbor, because there is no offloading whatsoever. A subsequent contact from the state whose vessel it is, will often say, probably I would say 85 percent of the time, 90 percent of the time that there is also request to offload; because the vessel is severely impaired, the fish may spoil, you know that type of an approach.

Then that goes through the same situation, where when it is in our state, where law enforcement is notified. The Commissioner has approved, everyone is notified, the buyer is notified in Virginia, and North Carolina in this case has had several of these. But also New York, Massachusetts, other states, and it seem to work just fine; because everyone is aware of what's occurring.

We haven't really been in the situation where we've doubted safe harbor, but we did have an occasion where someone, where for a little while when this was early on in the process, so probably the early 2000s. Where we had a vessel who just automatically assumed that the vessel could have safe harbor, and of course that was quickly approached by law enforcement and got straightened out.

As far as the interstate commerce, I wasn't quite sure how that works; because it would be expected that when you transfer the quota then it belongs to the state it is transferred to. If a New Jersey vessel seeks safe harbor in Virginia, and then subsequently there's a request from the state of New Jersey to have the offloading, there is a transfer of quota that is set in order. That quota is now Virginia quota, essentially;

and it works the other way around as well, in the case of what Jim was saying.

DR. MICHELLE DUVAL: I definitely appreciate Jim's work in putting this together. As Rob has alluded to, this is certainly reflective of many of the elements that have developed over the years between Virginia and North Carolina, in terms of quota transfers; with regard to contacting the agency to obtain permission to offload fish in another state, and sending us required documentation. We require a Coast Guard Marine Casualty Form, and information from a mechanic or someone; just to make sure that we're granting this because there is really a need to do so. Definitely like the definitions of the different types of reasons for which quota transfer might be allowed to occur, or reasons for doing so; the definition of the declared circumstances, I guess.

I was just curious, Jim, if you guys worked with industry at all in developing some of these things. I know that we had a lot of conversation back and forth with industry, when we were trying to put something down on paper; when we were having some frequent transfers of summer flounder quota to Virginia. That's just one question.

Then I think the other question I have is the weather condition criteria. I'm just wondering if you applied that at all before, in terms of forecasted weather conditions and how far out, you know you allow for that. I mean if everybody looks at the forecast, and presumably captains are doing the same thing; to you know determine their sail plan. I was just curious about that as well.

Then I guess the only other thing I'll add to, with regard to what Rob said was that when we transferred quota to Virginia to cover some of these safe harbor issues in the past, the Virginia dealers have sold those fish; so I don't think it ever crossed our minds to require that fish be trucked back to the state. It becomes the receiving state's quota, I guess.

MR. GILMORE: Yes Michelle, first off we had two meeting sessions with the commercial fishermen to get their input, and then after we developed a draft on this we gave it back to them. Actually, part of the reason to your second question was really the weather part of it was a little bit more difficult to capture.

It actually turns out that the first episode where we didn't have a good outcome to it was the weather conditions actually weren't that bad. Actually there was a federal observer onboard too, and we felt that that was probably a good example to set where maybe the limit was. But again, we've got most of that information for both weather and the conditions came from the fishermen; at least in consultation with them.

The weather part of it is difficult, because one man's storm is another man's regular day out at sea. Again, we deferred mostly to the industry to let them define that; and of course it is actually subject to change if somebody thinks that it's too restrictive or it should be more restrictive. But again that is something we felt was appropriate, and it worked pretty well the one time we've used it so far.

MR. MCKIERNAN: We in Massachusetts have had a number of cases where there has been vessel breakdown or injury to crew or captain; and we've worked with North Carolina and Virginia, and we've supplied the Coast Guard or required a Coast Guard report, et cetera about the incident. As a result they've transferred the quota to us as they could.

But I just want to point out that at the Law Enforcement Subcommittee meeting, the most recent one, they pointed out to us that technically safe harbor means yes, come on in because it's rough out; but you're still going to leave with the fish. For example, in January in Massachusetts, our fluke limit is zero. If someone is fluke fishing and it's rough, they can have safe harbor, they can bring it into a port, and they call ahead and they can't unload it. Really what we're talking about is unloading fish

in a state for which the amount should be attributed to another state. But the true safe harbor policies are yes, come on in, but you've got to take your fish with you when you leave.

MR. STEPHEN TRAIN: I am trying to avoid entering this debate, but there was something that made me a little bit nervous, and that would be a policy where somebody ashore would tell a captain whether it was too rough to come in or not. I mean as was just stated earlier, it is pretty hard to say whether you thought it was bad weather or not. But if the captain of the vessel doesn't believe he belongs out in it, it is unsafe weather; and that shouldn't be determined by someone on land, ever.

DR. DUVAL: That speaks to another question I had forgotten to ask Jim. I didn't know when you guys were talking about the weather situation, whether or not there had been any conversation with the Coast Guard about criteria for weather. I think Dan touched on a really important point, and that is safe harbor is a tool that is always available.

What we're trying to address here is conditions under which transfer of quota would be allowed to another state. Hopefully that gives Steve a little bit of ease. But I was just curious if there had been any conversations with the Coast Guard; in terms of weather.

MR. GILMORE: Yes, my understanding is our law enforcement guys dealt with the Coast Guard to discuss part of that defining the weather conditions. To Steve's point, we actually talked about that Steve, and we were trying to say not to take that away from the captain. It was to give them guidance.

If you're coming in, if all these conditions are met, you're probably going to be able to offload and do everything else. If it's not but you still feel it is unsafe, it's just that you may not be able to transfer and get all the economic benefits of it. But again you're right. It is not

designed to usurp the authority of the captain; in terms of a safe condition at sea.

CHAIRMAN GROUT: Further discussion? Jim, would you like to lead a subcommittee on this; where you would coordinate also with law enforcement to develop a draft policy?

CHAIRMAN GILMORE: It was the reason I almost didn't put this on, because I figured it was going to get to that. But yes, I will do that Mr. Chairman.

CHAIRMAN GROUT: At this point are there other commissioners that would like to be on this? Dave Borden, Dan McKiernan, Russ, and Michelle, I think that's a good subcommittee. Okay thank you for bringing that up, Jim. I think it's an important topic and I think we should see if we can develop a draft policy. I assume you would be reporting back to the Board; either in May or sometime during the summer, depending on how long you work.

#### **CLIMATE CHANGE WORKING GROUP UPDATE**

CHAIRMAN GROUT: Next item on the agenda is an Update on the Climate Change Working Group. Last spring I asked for volunteers for a working group to develop science policy and management strategies to assist the Commission with adapting its management to changes in species abundance and distribution resulting from a climate change impacts. We have had a conference call last fall, and just before this meeting we had a face-to-face meeting. We had a very productive meeting. We are in the process of trying to develop a white paper with policies that the ISFMP Board would be able to look at and consider whether they would like to move forward with implementing those policies. We're still in the process of putting that together. We anticipate that we'll have at least one more meeting prior to our spring meeting; and then possibly have something for you all to look at by the summer meeting.

### COASTAL SHARKS UPDATE

CHAIRMAN GROUT: Are there any questions? Seeing none; we're moving right along here. Ashton, we have a couple of coastal sharks update, and just so that folks are aware, one of these is going to require final action and a motion. For those of you who are on the Coastal Sharks Board, I appreciate your help in moving this motion forward.

MS. KERNS: Just so everybody knows the reason why this is on Policy Board and not a Coastal Sharks Board is the final action from Highly Migratory Species didn't occur until after we had set the schedule.

### COMMERCIAL POSSESSION LIMIT FOR BLACKNOSE SHARK

MS. ASHTON HARP: I would just like to make the Board aware of a new blacknose possession limit. Last year NOAA Fisheries published a final rule establishing a commercial retention limit of eight blacknose sharks for all limited access permit holders, in the Atlantic region south of 34° north latitude; and this was effective January 13th of 2017. Previously there was no possession limit for the blacknose sharks.

As specified in Addendum II to the coastal sharks FMP, the Board can set possession limits for the harvest of blacknose sharks in state waters. Should the Board choose to complement the federal management measures, action would need to be taken by the Policy Board at this meeting.

As far as justification for moving this final rule forward, is that the commercial retention limit was implemented because the blacknose and small coastal shark quotas are linked. Meaning if one were to exceed 80 percent, then both of the fisheries will close. This happened about five months into the 2016 fishing season.

The blacknose quota was expected to exceed 80 percent, so both the blacknose and the small

coastal shark fisheries closed. This action is expected to increase the utilization of available non-blacknose small coastal shark quota and aid in the rebuilding and end overfishing for Atlantic blacknose sharks. With that I'll take questions.

CHAIRMAN GROUT: Questions for Ashton. Seeing none; is there someone that would like to make a motion here? Michelle.

DR. DUVAL: I might need a little bit of help from staff, in terms of word-smithing the motion; **but I would move that we complement the federal management measures with regard to the blacknose possession limit south of the 34 latitude line.**

CHAIRMAN GROUT: Is there a second? Pat Geer. Robert Boyles, discussion on the motion.

MR. ROBERT BOYLES: Just a question for clarification, maybe to Jim and to Pat. Many of you may know that in South Carolina we automatically track federal regulations for sharks. I note 34° north is roughly Cape Fear, I believe. My question to Pat and to Jim is I'm not quite sure what effect this will have, because I think we're already there; just a question for Jim and Pat how this will effect Florida and Georgia.

MR. JIM ESTES: We really don't have a commercial fishery for sharks in state waters; because we have a possession limit of one.

MR. PAT GEER: The same with us, we don't have a commercial fishery for sharks.

CHAIRMAN GROUT: Further discussion on this motion? Michelle.

DR. DUVAL: I'm going to put on my South Atlantic hat a little bit here. We had had concerned fishermen who were actually fishing in federal waters off of Florida come before the Council and request a little bit of relief. These are folks who, I believe were fishing in the

Spanish mackerel gillnet fishery, but they were also federally permitted shark fishermen.

They were encountering small coastals. However, they had to throw those fish back because of this linked quota that Ashton has mentioned. While there was actually a lot of quota left on the table for small coastal sharks, they were having to discard those fish that they were encountering; incidental to their Spanish mackerel harvesting activities dead.

We brought this before the HMS Advisory Panel and brought it to the HMS Division. This was actually implementing a trip limit on the blacknose was a way to get at that; rather than I think what we talked about was having some incidental catch limit of the small coastals, when there was quota left on the table in these other fisheries.

This was actually the way that HMS suggested solving it. Certainly we supported that and recognized that there is not necessarily state waters fisheries for sharks in South Carolina automatically complements that I think, for consistency with the plan and based on the concerns of fishermen with regard to dead discards. I would recommend supporting this.

CHAIRMAN GROUT: Further discussion on the motion? **This is a final action. I am going to try first to see if there is a consensus here. Is there any objection to this motion; any abstentions? Terry, the state of Maine, excuse me and PRFC, okay it passes by nearly unanimous consent with two abstentions.** Ashton.

#### **NOAA FISHERIES PROPOSAL TO LIST THE OCEANIC WHITETIP SHARK AS THREATENED**

MS. HARP: The next item is no immediate action is required. It is more kind of a notice to the Board. The National Marine Fisheries Service released a proposed threatened listing for oceanic whitetip sharks. This was based on the best scientific and commercial information

available. They published a status review report that was released in 2016; after taking into account efforts that were made to protect the species.

The National Marine Fisheries Service has determined that the oceanic whitetip shark warrants listing as a threatened species, and concludes that the shark is likely to become endangered throughout all or a significant portion of its range within the foreseeable future. At this time the National Marine Fisheries Service is requesting public comment.

All comments are to be received by March 29th of 2017. If a state would like a public hearing, they would need to be notified by February 13th of 2017. In regard to the comments, they're looking for some pretty specific things in general. They would like to have comments on new or updated information regarding the range, distribution, abundance, population structure or genetics of oceanic whitetip sharks; as well as their habitat. Any new biological data that would concern any threats to the species, such as post release mortality rates, finning rates and commercial fisheries, et cetera.

They are also interested in current or planned activities within its range and their possible impacts on the species, recent observation or samples of oceanic whitetip sharks, and lastly efforts that are being made to protect oceanic whitetip sharks. Comments can be submitted via mail or electronic submission; and the places to submit the comments are in the proposed rule on the Federal Register. With that I'll take questions.

#### **OTHER BUSINESS**

CHAIRMAN GROUT: Any questions for Ashton on this? Seeing none; thank you very much, appreciate it. We're now down to other business.

CHAIRMAN GROUT: The first item of other business I have here is a motion from the Herring Section. Ritchie White.

**MOTION FROM  
THE ATLANTIC HERRING SECTION**

MR. WHITE: The Atlantic Herring Section is in the process of an addendum that will put more tools in the toolbox for the Section to be able to slow the harvest down during Trimester 2 in Area 1A; and to do that we need real time harvest data. **On behalf of the Atlantic Herring Section, move that the Commission write a letter to the GARFO office requesting that the states of Maine, New Hampshire, and Massachusetts be granted access to the VMS pre-landing report.**

CHAIRMAN GROUT: It's a motion from the Committee, it doesn't need a second. Is there any discussion on this motion? Seeing none; is there any, yes, Mike.

MR. MIKE RUCCIO: Sorry, I wasn't quick with my hand there. I just wanted to point out for the benefit of the Board that as was discussed in the Herring Section, this letter likely will end up with our Office of Law Enforcement; as they're the group that actually controls access to VMS landing. Regardless of who you send it to, we'll make sure it gets to them, but there is an extensive process to get vetted for VMS data.

CHAIRMAN GROUT: Okay given that – Eric

MR. ERIC REID: I would like that the motion be refined to reflect the area fished, which we're talking about 1A; I believe.

CHAIRMAN GROUT: That these three states would only have access to herring pre-trip notification VMS data for herring, 1A, are you making a motion?

MR. REID: I suppose it's a motion to amend, but I would rather have it as a friendly effort. I just don't think they need access to Area 2.

CHAIRMAN GROUT; Okay, the difficult part that I see with a friendly, is this is a motion from the Committee; so it's not like you're asking the maker and seconder to do this. Ritchie, would you like to speak to it?

MR. WHITE: Yes, I would agree that the Section voted this motion in, so I don't think I have the ability to change that. I guess I don't understand the problems with those states seeing that information during that time period; because it's the summer, and I don't know that there is a lot of harvest going on in Area 2 during the summer. I guess you would have to make the motion to amend if you're concerned about it. But I guess I don't understand the concern.

MR. REID: Okay, I understand the intent of the motion. You could get inundated with landings reports. I'm assuming that you would request specific landing reports from specific vessels or specific areas; and that will be okay with me. There is no reason you have access to all of them, and I should have made the comment at the Herring Board, but I did not, so it's my bad and forget it.

MR. WHITE: Well, the intent of the motion is to get data and use data for harvesting in Area 1A during the second trimester. I don't know if that helps you or not; but that was the reasoning behind the motion.

MR. TERRY STOCKWELL: Due to the marvels of technology I've been corresponding with staff during this conversation. They very specifically request this data. They want to know who is fishing where right now. We have all the areas, but now as a state. Our Technical Staff believes they'll be able to provide us better information if they have broader access to the data.



MR. RUCCIO: Just to Eric's concerns about being inundated. I believe once access is granted, it is typically the entire VMS suite for the northeast. However, you can create custom reports that would allow you to select, I am sure Area 1A is one that is selectable; specific vessels by registration. There are ways to cull the data down so that you don't have to look at all the tracks that are out there for everything along the Atlantic seaboard.

CHAIRMAN GROUT: Just so we're clear, we're not going to be even requesting the tracks. We're asking for the pre-trip notification data specifically.

MR. RUCCIO: Correct, but I think the process of getting access may involve getting clearance to be able to see it all. What you want out of it you can choose, but I think that's why it said it's best to go through OLE; because they will have to vet through some process who gets the data and who will have control of it.

CHAIRMAN GROUT: **Okay further discussion on this motion; is there any objection to the motion? Seeing none; the motion passes by unanimous consent.**

#### **RISK AND UNCERTAINTY WORKSHOP**

CHAIRMAN GROUT: Next other business I have is Shanna, who is going to give us an update on the Risk and Uncertainty Workshop.

MS. SHANNA L. MADSEN: If the Policy Board will remember, back at Annual Meeting last year Jason reported out to the group a quick example of what our Risk and Uncertainty policy might look like; and we suggested to the Board that we move ahead with developing a more solid example. The Board recommended that we do striped bass.

The workshop would sort of focus on moving striped bass through this test risk and uncertainty policy. We had discussed holding this workshop in May. We would like to request

from the Board that we move the workshop back to either August or this Annual Meeting week, simply because we have a lot of overlap amongst a lot of our Committee members. There are a lot of meetings going on earlier this year, and the group would like to have the chance to take the workgroup's report to the Assessment Science and Management Science Committee, and fully vet it through those two groups before bringing it to the Policy Board; to make sure that we have a more solid example to bring to the group. Essentially we just would like to know if it's okay if we kind of bump that workshop back from May meeting week to later on this year, depending on what space is available for us.

CHAIRMAN GROUT: Any questions? Is there any objection to this request? I think we're okay with it.

#### **SUMMER FLOUNDER STOCK ASSESSMENT**

CHAIRMAN GROUT: Final other business item, Adam. You wanted to bring an issue of a discussion about the summer flounder assessment.

MR. NOWALSKY: Great thank you, I'll try to do this with as little feedback as possible; although we seem to be all fighting the common enemy at this point. This is a motion that came from the Summer Flounder, Black Sea Bass and Scup Board at the December joint meeting with the Mid-Atlantic Council.

The motion at that time was to have the Policy Board request that the NRCC get a summer flounder assessment on the schedule as soon as possible. Dr. Pat Sullivan from Cornell has been doing work, working with the Science Center and a number of other groups on developing a sex-based model. He has now presented twice to the Mid-Atlantic Council.

Most recently at the joint meeting in December, so those members of the Board that were there at the time got to see that presentation. This is

the recommendation from the last stock assessment peer review that that species, summer flounder, move towards a sex-based model; and Dr. Sullivan's work has now brought us to that point. He is ready to go with it.

The issue has become one of timing, specifically with the recreational re-estimations that are taking place in trying not to duplicate the stock assessment process; but at the same time not wanting to delay the use of what would be the best available science for summer flounder, any longer than absolutely necessary.

There have been concerns about trying to get it on the schedule. I would ask, at this point we've had some conversations with staff. They have discussed the need to go through the Assessment Science Committee before asking specifically the NRCC to put this on the schedule ASAP. The first available timeframe that we've been told to go through the Science Center would be the second half of 2018 would be the first available timeframe.

Discussions tomorrow we're going to certainly let us know that that may be too little too late for a lot of people involved. I would first ask one, to get some feedback from staff regarding that process of getting that request through the NRCC. Then two, I would like to turn to Russ, who has got some information about New Jersey's willingness to look at funding this assessment, potentially outside of the typical SAW/SARC process.

CHAIRMAN GROUT: I'll go to Toni first and then to Russ or staff. Bob. (ding)

EXECUTIVE ROBERT E. BEAL: I'm awake now, Doug. Just a quick comment on the NRCC, Northeast Region Coordinating Council, it is a group made up of the Commission, Mid-Atlantic, New England Councils, the Regional Office, GARFO and the Science Center. The five bodies get together and try to figure out how to populate the SAW/SARC schedule, given everyone's competing demands for assessment

time and the limited resources that Woods Hole has. We can bring that forward. It is a high priority. I attend all those meetings and we kind of do a lot of horse trading; and try to make the case for what species are the highest priority and should be put on the SAW/SARC schedule.

Bringing that forward is easy and we can do that. That doesn't guarantee results. I've been trying to get striped bass on that schedule for quite a while, and I haven't been successful; so we have to do that solely through the Commission process. For species like summer flounder, scup, black sea bass, bluefish the jointly managed species, we can work with the Mid-Atlantic Council.

If they see it as a priority as well at least you've got two groups pulling in the same direction. We can bring that forward. It doesn't guarantee results. The SAW/SARC schedule is pretty full with a number of groundfish species that the New England Council needs additional assessments on so they can move forward with their management.

There is a big chunk of time set aside to deal with the recreational data that is coming online to transition from the phone survey to the mail survey; which has a potential to significantly impact the number of assessments. The 2017/2018 schedule is pretty full, but we can bring summer flounder forward and see what we can do.

MR. RUSS ALLEN: As Adam said this is something that we think, and I'm sure many other states think is the priority to get an assessment done. We know there is better data out there. We need to move forward. We're kind of looking at it as a process that maybe we're not going through SAW/SARC. I don't know how that process goes.

I know it's been done before with other species where it has been independently funded to do that. As of now, we've already found a

\$40,000.00 to start this process. We're looking for additional funding. We're talking to our recreational community, trying to get some additional money there. I think we'll be talking to other states to put some other money together; in order to go outside of that SAW/SARC process and get this stock assessment done.

But I can guarantee that that money is only available for 2017, it won't be available down the road. We're looking forward to other states jumping onboard and trying to get this done. Mid-Atlantic Council meets in a couple weeks. I think if this Commission can say this is the way we want to go, I think we can bring that back up to Mid-Atlantic Council; maybe get everybody on board and find a way to get that assessment done, because I think it's critical, especially for New Jersey. But also for New York and all the other states that are involved here.

MR. STOCKWELL: As a follow up to Bob, and as someone who has been to a number of NRCC meetings. I do want to advise the Board here of a really overfilled stock assessment schedule for the next two years. It is committed this year for 2017, 2018 at this point the SAW/SARCs are committed to scallops, herring, shad and the second half of the year is fully dedicated to MRIP.

One thing the New England Council did to address an issue with Atlantic halibut was to seek an outside source, and the New England Council has funded an alternative assessment; and I would be happy to talk to you about that offline.

CHAIRMAN GROUT: Is there further discussion on this? Mike.

MR. RUCCIO: We did get a little bit of a heads up that this might come up today. You know the issue of trying to advance the schedule for summer flounder has been broadly discussed. I understand and appreciate the desire to have that advanced on the schedule, and I won't

repeat all the comments that have already been made about what is already prescribed; the NRCC process the other discussion that's come up about MRIP transition.

I think those are all valid points, but at the same time that is not wholly satisfactory to people, and I get that. There is a challenge for us I think, in the potential for competing science. We are very aware of Dr. Sullivan's work. We have collaborated with him; we've been encouraging his work on the sex-based model.

We do think and hope that it holds promise for incorporation into a full assessment. One of the things that might be worth consideration is to try to have that work independently evaluated and reviewed, if there are funds that are available to do that. But the issue then becomes the agency is for better or for worse the arbiter of what constitutes best available science when it's applied.

We would need to be able to vet that information. Going through a formal process with that assessment type and having it externally peer reviewed, might give us the opportunity to do that. Of course it all remains to be seen. Peer reviews are not a foregone conclusion that models are upheld, or the suggestions or outputs that are derived from them are always recommended for management use.

But that might help accelerate the schedule for a time when it could be incorporated into the SAW/SARC schedule, if it's already kind of gone through and been vetted through a peer review. Obviously if the methods in the model diverge significantly from the advice that is already coming out of the peer reviewed model at SAW/SARC, we would have some questions that we would need to talk about then; and try to figure out how to move forward.

I think we can be supportive in the ways that we have been, as I mentioned we have been trying to work with Dr. Sullivan, he has been

very collaborative with us. It is not a completely independent evaluation being conducted outside the purview in total of the agency. But as far as scheduling it through our existing SAW/SARC process, and then having the Center of Independent Experts as has been mentioned the schedule is full.

There is another planned update for summer flounder this summer, which will update the independent and fishery dependent data sources; but that is as people will rightly point out, simply an update to the existing methods and model. There might be ways to work with this, and if it's something that people are trying to put together, I would encourage them to reach out to Jon Hare and the staff at the Center.

Try to find ways for collaboration; and to make sure that whatever happens ends up to be well suited for either consideration moving forward into a larger assessment process, or to help inform management advice. The one thing and I don't think this is what people suggest, is we don't want rogue science popping up everywhere. I don't think that at all was suggested, but that is something that we have to think about, in terms of when management recommendations come to us, we have to vet what scientific basis they're founded on as part of National Standard 2. We have to be able to verify the information there. Dr. Sullivan has been very forthright and shared his results with us to date, but peer review would be an important part of that as well.

CHAIRMAN GROUT: Michelle and then Rob.

DR. DUVAL: Just to speak briefly on what Mike offered in terms of a different peer review process or an external peer review process. We've experienced similar difficulties I think in the South Atlantic with the resources available for stock assessments and updates. Particularly if something urgent comes forward, and I'll note that our SSC for the South Atlantic Council actually developed a procedure for what we call

third party assessments. Developed a very prescribed process, whereby the SSC has review over a third-party assessment from the beginning.

Now this has only been applied once to a wreckfish assessment that I believe was conducted by Dr. Butterworth a couple of years ago. I know John Carmichael, who is the SEDAR program manager is going to be here; I believe probably later on today, and certainly tomorrow for the South Atlantic Board. I would encourage folks who are interested in something like that to reach out to John. He can give you a little bit more of the specifics, and provide the documentation that the South Atlantic Council SSC put together to try to address these things.

MR. O'REILLY: I was just going to say that with joint management it sort of makes it difficult to hear Russ. I count that as enthusiasm on the part of New Jersey to take a step forward as quickly as possible. But I am certainly well aware that in joint management the partners all have to be sort of holding hands.

I guess at the next Council meeting there needs to be something said about what was done here today. I know at the last Council meeting there was pretty definite ideas that the assessment had to wait, at least until after the MRIP situation was settled; and that did not sit well with some of the Board members in that joint meeting.

You're seeing a little overflow of that today. I think the conversations still have to happen between the ASMFC and the Mid-Atlantic Council. But certainly there probably are reasons why New Jersey needs to know what it's going to do next; as far as making that kind of investment over the course of doing stock assessments.

You know the first stock assessment I remember was Gary Shepherd with striped bass in 1996; that was VPA. After that the state

personnel were doing the stock assessments. I always thought really ASMFC needs to do those assessments, and that's what's happened. We've modernized; ASMFC has staff that does the assessments. But we're in a joint situation and there are differences, so let's go forward back to the Council and see what the thought pattern is there. I certainly appreciate the comments from New Jersey.

MR. NOWALSKY: I think at a bare minimum today, Mr. Chairman, I would like to know if this Policy Board does need to act on that motion that came out of the Summer Flounder, Black Sea Bass and Scup Board at the joint meeting, and if so it would be appropriate to take action on that. At a bare minimum, certainly have other states begin consulting with New Jersey about the possibility of finding a way, working with the Service as Mike said. Dr. Hare has been an integral part of the conversation in recent months as well; about trying to find a way to get this done for potential management use in 2018. I think that behooves everyone around the table, certainly the Board members, this Commission as a whole, the Council, the Service, the fishermen and probably most importantly the resource that we are here to represent.

CHAIRMAN GROUT: Further discussion? We have a question. Is there anything this Policy Board needs to do to move the motion that was at the Fluke, Black Sea Bass and Scup Board in December forward for action here?

MS. KERNS: In particulars to the motion itself of taking it to the NRCC. Bob indicated that he can do that at the spring meeting, which I believe is in June this year. Whether or not that gets on the NRCC in 2017, as Terry indicated the schedule is already full so that would be, I think highly unlikely. But again I can't predict what would happen there.

It is not on the SARC schedule until 2019 right now. You've indicated that you've gotten some information that it might be able to fit into the

fall of 2018, so that is information that I didn't have prior to. Beyond taking it to the NRCC, we can definitely do that.

MR. EMERSON C. HASBROUCK: It seems that we're not going to need a motion then, first to have Bob bring it to the interested states. I suggest that we move forward with that. I think it's important that we have a benchmark assessment for summer flounder occur as soon as possible. We've been managing this resource for what, 20 or 25 years.

We're going to have quite a discussion tomorrow morning relative to where we are and where we need to go, and what our regulations should be for summer flounder. Here we are 20 years later and we're not better off than we were when we started it. In fact some may think that we're in worse shape than when we started this. Our last assessment update said that we've been overfishing since 1980.

We need to do something different here for summer flounder. I think a sex-based benchmark assessment is the start of doing something different; because what we've been doing all along here doesn't seem to be working. I think we need to move this process forward. If the NRCC is going to meet in June, I think was mentioned, then we'll have an answer then.

In the meantime, perhaps we can work with New Jersey about raising some additional funds to pay for an assessment outside the SAW/SARC process, and start to have some conversations with people about how that needs to go forward. One question that I have relative to that is; if it does go forward outside the SAW/SARC process, can the results of an outside conducted assessment be brought into the SARC component for final peer review? That may be a way to incorporate this as well, to get a peer review that NMFS is comfortable with.

CHAIRMAN GROUT: Does the Service feel comfortable in answering that question at this point?

MR. RUCCIO: Well actually no I'm not comfortable answering that; because I don't know what the answer to that would be. But I would think that that should be included within the conversation with both the Northeast Science Center and then potentially the NRCC. I think those are the best avenues to get a definitive answer on something like that.

MR. NOWALSKY: I'll just add I've had conversations building on Terry's comments, with the New England Council about that Atlantic halibut work, and that road that Emerson just suggested is my understanding of exactly what the intention is. Have Dr. Rago do the modeling, everything that would go through up to that point. Then have it go through the SARC process for peer review. That is my understanding of what the intent is with the halibut work.

MR. WHITE: Thankfully New Hampshire does not have summer flounder. But I just have a question on process. Wouldn't the process be that the Summer Flounder Board makes a motion and passes it, and then it's on the agenda here with the Chair of the Board? I guess I do not quite understand why it's not going that route.

CHAIRMAN GROUT: Are you talking about the process of potentially funding another assessment, having the state of New Jersey and potential other states providing funds for a peer reviewed, not only the development of the stock assessment, but also the external peer review would be paid for by that group.

I would assume, and I could be wrong that the best mechanism to do that would be to funnel the funds through ASMFC, and let them develop the peer review process; get the Peer Review Panel together, and actually try and in addition to trying, to move forward an expedited stock

assessment using the new model by Dr. Sullivan.

EXECUTIVE DIRECTOR BEAL: To the point of having an external party doing the assessment work, and then turning it over to SARC. We've raised that for species like northern shrimp and striped bass in the past. We still run into the same scheduling bottlenecks with the SAW/SARC process. I'm not sure that one necessarily gets us out of the woods. But what you suggested, Doug, of ASMFC pulling together a number of external peer reviewers, we can do that.

We've done that for a number of species. We do that two, three, four times a year. If there are funds available, we can work to find independent external reviewers that can review assessment work; either done by ASMFC groups or external groups, if that's the will of the Board. I think the SAW/SARC schedule is full. I would be surprised if we can get our foot in the door to get much on that schedule through the end of 2018.

MR. NOWALSKY: I like what that recent conversation was going. I'm not sure if that answered Ritchie's question, because I'm not sure if he was referring to the motion that came out of the Summer Flounder Board and why that wasn't presented by the Chair here. I would have to leave that to staff to say why that wasn't included as an option originally as part of the Policy Board. But I'll build on that and with Bob's comments, so would this be recommended?

I mean I know we're already going to be crushed for time tomorrow morning; but is this what would be recommended as a discussion that needs to come out of that Board tomorrow? Potentially looking to find funds for external review through ASMFC to get this done sooner, or have we kind of short circuited that; saying that that was initiated by that Board by requesting the stock assessment? How would

we move forward with what Bob just described in as expeditious timeframe as possible?

EXECUTIVE DIRECTOR BEAL: It is really the comfort level of this Board. All the summer flounder folks who are around the table right now, tomorrow morning we're going to be, as you said crushed if not worse for time. If folks around the table here are comfortable proposing that we move forward with an external peer review through the ASMFC process of some sort, I think that needs to be coordinated with the Mid-Atlantic Council in two weeks when we're down in Kitty Hawk at the joint meeting; to make sure that they're comfortable with that as well.

I think if we end up with a situation where ASMFC does an assessment or the states through ASMFC do an assessment, and then the Mid-Atlantic is not comfortable with that course or doesn't give an indication they're going to buy into the results of that process. We're going to end up in an awkward spot. If the Policy Board express their comfort with moving down that road and then we talk with the Council about it in two weeks. I think that's probably the next two steps, in my mind anyway.

CHAIRMAN GROUT: As I understand it that would take a motion by this Board to move down that and also by doing that it would provide other states the opportunity to weigh in, to see if they can provide additional funds to help support this; because as I understand this may cost more than the very generous amount that the state of New Jersey is willing to put forward. I will give John first crack at this, because he hadn't spoken first. But then Adam, I'll take you afterwards. John.

MR. JOHN McMURRAY: I'm all for prioritizing a benchmark or even an external peer review, and Emerson's comments are well taken. But what I'm not entirely clear on are what are the expectations for this sex-based model? The surveys are the surveys. We're still going to

have poor recruitment and we're still going to have MRIP problems. Is it worth it, and is it worth having the state of New Jersey dump this money in when I'm not clear on what the expectations are.

CHAIRMAN GROUT: Emerson, or do you want to address that first, Adam or do you want me to go to Emerson?

MR. NOWALSKY: I'll let Emerson go first.

MR. HASBROUCK: I can't speak as to what everybody's expectations might be. But my expectation would be an assessment that reflects the biology of the resource better than the current assessment. Summer flounder males and females grow at significantly different rates, and they have significantly different natural mortality rates. That's not taken into account in the current assessment. It is a blended natural mortality rate, if you will.

I would expect that a sex-based assessment will be more reflective of the biology of the resource. I don't have expectations in terms of what the output is going to be. The results of that assessment are going to be what they are. They may reaffirm where we are, they may come up with something different. They may provide less uncertainty in the output of the assessment. Those are my thoughts on it, I don't know if anybody else has additional thoughts.

MR. NOWALSKY: I'm glad I let Emerson go first, because he clearly exemplified his better knowledge of that than I have. I too can offer however that I don't have any insight as to what the model will output. However, my expectation is that it will fulfill the recommendation from the last stock assessment for better science, to move towards a model that is sex-based. If that is what we take as best available science, and we strive to meet those recommendations that come out of our peer reviewed stock assessments, and here

it is. Somebody is holding it out there right in front of us.

The apple is dangling; all we have to do is pull it down from the tree. It is there. We would be remiss to not take advantage of that opportunity. To build on that I would go ahead and make that motion, I'll probably need some help from staff here. **But I would move that the ASMFC look at an external assessment for summer flounder for 2018 management use.** I'll start there, look for a second and take whatever help staff can give us.

CHAIRMAN GROUT: Given the discussion, would it be appropriate to say Toni, external peer reviewed assessment?

MS. KERNS: That's a question to Adam. Are you looking for the Commission to conduct that external assessment as well as the external peer review, or is New Jersey or somebody else going to coordinate the actual assessment itself; and just bring us the peer review to do?

MR. NOWALSKY: I think we're looking for a collaborative effort. I don't have the answer, but the two biggest challenges in one of these areas are one, having the science, and two, having the money. We have the science, it is there. It is ready to go. We have a significant portion of money ready to go to start that process.

Hopefully we can get some other people on board, other states on board with seeing that through. Those are typically the two greatest challenges, doing the science, having the money. We've got those items started. I would look for, again I would have to look for some help here in what the best way forward is as a partnership in getting this done. I appreciate any guidance you can provide.

MS. KERNS: Just one more question for clarification. When you say you have the science, does that mean the assessment is ready to go for peer review now; or do we need

to involve the states and our federal partners and our Mid-Atlantic partners in order to actually run the numbers, get the numbers, and all of that?

I only ask that because we need to make sure that we coordinate with all the other assessments that are ongoing. I would think that the states would make it a priority, but we also have to balance the other assessments that are currently ongoing for this year. I will stop there.

MR. NOWALSKY: We would need the help of the states to get all of the typical data inputs that would be at the beginning of the stock assessment workshop process.

CHAIRMAN GROUT: This again is requesting the conductance of a stock assessment with all the partners that are involved, and a peer review process of it. We need to include peer review in that motion. Okay now we need a second. Emerson, okay. We've got a second, discussion. I'm going to go to Bob and then Ritchie, and we'll start moving around.

EXECUTIVE DIRECTOR BEAL: I'm just trying to make sure what this looks like in my mind is what this may look like in reality. The Step 1, as Adam mentioned, the states and partners would compile the data. Step 2 is a group of external scientists would be contracted to crunch the numbers. Then Step 3 would be ASMFC would find external peer reviewers and Step 4 is the external peer review happens. The ASMFC resource commitment is staff time to help coordinate data compilation, and staff time to find the peer reviewers and set up and run the peer review essentially.

The Commission wouldn't be directly putting in staff scientist's time or financial resources of the Commission. Is that what we envision? Because I think if that's not the sort of four steps that everyone has in mind, we may need to reprioritize some of the Commission resources. We don't have money in the budget



for this, this year, and we didn't set aside staff time to work on this yet. They're kind of flat out with other assessments. That is why I'm asking; just trying to make sure we're all on the same page.

CHAIRMAN GROUT: Given that question I'll go to Russell before I go to the other hands.

MR. ALLEN: Yes, I think you hit it right on the head, Bob. The only thing else I would add in there is if ASMFC wanted to put more time into it and add their scientific knowledge into that assessment process. I think we're willing to get our scientists to work on this also, and help coordinate with ASMFC to the best of our ability.

This is our priority right now, so I think that's where we would head and make sure that we supply whatever you need. As I said, we're going to continue to look for funding and hope other states can join in; so you don't have to use as much staff time and things of that nature.

CHAIRMAN GROUT: Okay I have Ritchie White, Robert Boyles, Michelle Duval and Rob O'Reilly.

MR. WHITE: I think Bob answered my question. I mean it seems like the Commission is moving forward with an external stock assessment and peer review. As long as Bob's clarification is that it is not Commission money that is going to fund it, I'm okay with that. I guess the second piece would be is there a timeline by which the Commission will come back with an answer of when are we going forward with this? I don't know if you want that part of it or not as to what's the timeline.

CHAIRMAN GROUT: Does anybody want to answer timeline? Adam.

MR. NOWALSKY: Well, again the hope would be the timeline would be for 2018 management use. Now, what would that look like? A best case scenario would be having the outputs of

that work peer reviewed and then have the Mid-Atlantic SSC look at that as part of their June/July meeting, which is typically when they look at making quota recommendations that the Summer Flounder Board then looks at, at the joint August meeting.

That would be an absolute best case scenario, probably unlikely. That being said, the Black Sea Bass and Summer Flounder and Scup Management Board in two weeks is going to meet jointly, and look at redoing the black sea bass quota for 2017 after the SSC looked at it. For 2018 management use, I think having the timeline we would need to have that would be by the end of the year; at which point the Mid-Atlantic SSC could then look at that, revise a recommendation that might have been made earlier in the year, and would meet that 2018 management use timeline. I hope that helps to some degree.

MR. ROBERT BOYLES: I think I understand the frustration and the need to do this. I'm trying to get my hands around what this means for us, and I would like to remind the Policy Board that we've spent a lot of time developing the 2017 action plan, laying out priorities for the Commission; what needs to be done.

There are things that need to be done that we collectively agreed we could not do, by virtue of constraints on time and money. I'm not clear. I don't know that I can support the motion, given the fact that we've been very deliberate about going through and planning out our work plan for the year.

DR. DUVAL: At the risk of stepping into a quagmire that I generally try to stay out of. But it seems like just given some of the concerns raised about coordination with the Mid-Atlantic Council. Again, naïve about this, but it seems like it might be a conversation to have during that joint meeting that's coming up in a couple weeks; just to make sure that everybody is on the same page, in terms of taking an alternative

approach. I'm not sure that I'm going to be able to support this motion at this time.

MR. O'REILLY: I appreciate what Adam and Russ are indicating here. At the same time, the Kitty Hawk meeting is coming up. I think this has been advancement since the December joint meeting, and it did feel as if the information was squeezed into a pretty narrow scope of thinking. The Council certainly is on record saying they're going to wait until after the MRIP data.

There was a little back and forth. Adam wanted to make that motion anyway, he did and that's fine. But I think now what's needed is with this new information, because there is some new information now and some new direction that wasn't available in December to either ask Bob, or perhaps Doug. I'm not sure who does this, just to get a little window of time that this will be discussed in Kitty Hawk.

There are some real hurdles to overcome here, one is time. Would there be a SEDAR approach with three different meetings required? Gathering the data is difficult. The Council already does that on a routine basis. Dr. Terceiro has been doing this assessment for 20 some years probably. I mean I'm trying to think of how long, but a long time.

There are nuances with the assessment. It just seems that if we don't have everyone's expertise pulled together, because it's a joint plan. We're liable to make missteps that we wish we hadn't made. I don't doubt the sincerity and the need. I think Emerson has categorized the way I feel, which is we are looking for corroboration.

When you have a model and it's telling you that year after year there is retrospective pattern, and also indicating that what you thought was a great recruit class of 2009 is now, it's above average still, you know it's above 42 million; or whatever the average is. But the recruitment

situation, as John McMurray said, would have to be dealt with.

There is natural mortality that has to be dealt with. The sort of melding of the male and female different natural mortality rates that occurred, maybe eight years ago, time is hard to pinpoint sometimes. There are a lot of things that have to be pulled together, beyond just wanting to get a product; and I don't mean that in a bad way. Fundamentally I think this is good information, but I want to make sure everyone who is involved, the Council because of the federal waters connotation, and the ASMFC because of the state waters; that everyone is onboard.

There might be something to gain at this joint meeting, in terms of some direction that hasn't been thought of since December. With that I would be in a tough place to say that I can support this at this point. I think we can do this through negotiation with the Council. I think we ought to do that first.

CHAIRMAN GROUT: Okay I have Jay and I have a whole bunch of hands. But I want to make clear here we're running about a half an hour over. I'm going to ask that everybody be succinct in their points, and then we'll take a vote on this. I'm going to go to Jay and then I'm going to go to Terry; because he hasn't spoken. Then I'll come back around to that side, and Eric, who hasn't spoken. Okay so again, succinct.

MR. McNAMEE: I'll try to be real quick. I have two concerns. I'm struggling over here, because I like all of the things that are being discussed. I like this idea, unique ways of trying to take some of the pressure off a really packed assessment schedule. I think this is all positive. Two concerns, the first is what assurances do we have that we do all of this work and that the federal government, who we jointly manage this species with, would actually use the information?

I think that leads to having to wait and hash through this with the Council. The second is a concern about science is a process; it evolves through time and to not have Mark Terceiro as Rob O'Reilly mentioned, who has been doing this assessment for decades, knows summer flounder and the data in the assessment better than anyone. To not have him involved would be problematic in my view.

Some sense of whether Mark would be able to be a part of this, I think it would be really difficult for an uninitiated group to come in with this species, and produce a product that is ready to go right from the get go. There needs to be some continuity with the work that's been going on for the past couple of decades as well.

MR. STOCKWELL: I am in support of the concept, but I'm concerned about the motion, and Jay touched upon it. What's been missing in this conversation has been outright collaboration with the Science Center. Without the Science Center's support, both for the assessment and for the peer review, it's probably going to go nowhere. I would urge those who support this alternative external stock assessment to consider that.

MR. REID: I can't add to any of the comments that have been made, except for the fact that this is a unique situation, where it is actually going to be funded externally from the ASMFC or any other organization and any other council. To be offered that opportunity is something I really think we need to look at; but there are so many hurdles to overcome. If one of them is not money, I think we should at least look at it.

CHAIRMAN GROUT: There was a point made about the Science Center collaborations, and in the back of the room is Jon Hare. He might be able to provide some input to that particular question.

DR. JON HARE: Obviously the Science Center is interested in developing the best science possible, and there is a lot of promise to Dr.

Sullivan's model; and we've been working closely with him in the development of it. I think this issue illustrates some of the questions that we have with the assessment process generally. I think that those issues need to be dealt with at the NRCC. As Science Center Director, I am neutral on this.

I think it's good to have the debate and get the issues on the table. Then we will do the best we can to support ASMFC, no matter how this comes down. But we also need to have the conversation at the NRCC about the assessment process in general; and many of those issues are being brought up here. My position is neutral. We will support what decision is made. I will add two other points. The question came up about assembling the data.

Mark Terceiro is assembling the data already as part of a model data update. That could be leveraged off. Then the other issue which comes into sort of the peer reviewed piece of this is Dr. Sullivan's model is a sex-based model; and how sexes are assigned to time periods when there is no sex data available, is something which needs to be worked out in the scientific review, peer review process and that hasn't been discussed here yet. We will do our best to support the ASMFC and the MAFMFC and the NEFMC and GARFO to the best of our ability. Thank you.

CHAIRMAN GROUT: Thank you, Jon, all right Adam and then Mike you'll have the last bite and then we'll move this question.

MR. NOWALSKY: First, let me thank everyone for this discussion. I know it has probably been a larger chunk of time. I won't extend that. I'll just build on thank you, Dr. Hare for your comments. Really Dr. Hare and the Science Center have been very involved with Dr. Sullivan. Jay touched on having Mark involved.

Mark Terceiro has been involved with Dr. Sullivan from very early on, helping get the data et cetera. He's seen what's going on. We

would certainly hope he could be involved in the process. To Robert's comment about his level of questioning about the action plan, lucky for us it already is. Ask 1.1.85; support the development of a sex-specific stock assessment modeling approach for summer flounder.

It is there already if that makes you more comfortable. Finally, I'll add that what this motion says is explore moving forward. As I said, we've got the heavy pieces there, the beginnings. We need the help with the coordination. That is what I see this motion as; that staff could look at how do we put all these pieces together now?

How do we make it happen? Come back, give us some guidance, and give the NRCC perhaps some more information. But it helps us formulate the picture of how it happens. We're not saying do it, we're saying help us paint the full picture so we can all decide how to get this done; and I appreciate your support.

MR. RUCCIO: Finding money would seem to be the easy part of this conversation, but nothing else to add. Call the question.

CHAIRMAN GROUT: Okay I'm calling the question. I'm going **to give you 30 seconds to caucus. Okay I'm going to call the question. Is everybody ready? All those in favor of the motion, raise your hand, all those opposed, abstentions, and null votes; the motion carries 13 to 2 to 3 to 0.** Are there any other items to come before the Policy Board? Seeing none I'm going to, Kathy sorry, I went right by you.

MS. KATHY KNOWLTON: I will be very brief, thank you, Mr. Chair. I just want to go back to the point that was made a long time ago about consternation that is brewing, and rightfully so about the change in the MRIP estimates; given the various calibrations that have been started, and the significant one that will be coming down the road for the changeover from the Coastal Household Telephone Survey to the FES,

the Fishing Effort Survey; to add to the acronym soup that was already listed.

One of the things that I encourage you all to do is when you have access to, at your state offices, members that are on the MRIP Transition Team, myself, Toni, probably some other people in this room who I should be remembering but I'm not; are on that team. We attend conference calls discussing how the calibration, particularly taking in to account the change in the methodology that started in 2013 and the one that is going to impact, have major impacts particularly for stock assessments and the new ACLs coming out of them.

We are setting up the parameters for a peer review, and it's going to be based off of independent experts from the CIE. But there is also the opportunity to put more people on that group. The comments originally started with, as you would suspect, things like statistical members from the various councils and other state people that have expertise in that.

But Toni and I want to thank her for this, made the very, very excellent point that one of those positions needs to be the Commission. I think relative to the proportion of catch and harvest and effort that the species that is managed through the Commission takes that it would be fantastic if you all could be in contact with your Transition Team members, and when that comes up for discussion again to encourage it. I absolutely agree the Commission should be one of those positions.

#### ADJOURNMENT

CHAIRMAN GROUT: Okay, thank you Kathy for that. Any other items; okay I move that this meeting is adjourned.

(Whereupon the meeting was adjourned at 2:39 o'clock p.m. on February 1, 2017.)