

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

The Marriott Norfolk Waterside
Norfolk, Virginia
October 18, 2017

Approved February 8, 2018

Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board Meeting
October 2017

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INDEX OF MOTIONS

1. **Approval of agenda** by consent (Page 1).
2. **Approval of proceedings of August 2017** by consent (Page 1).
3. **Move to include a second management issue in Draft Addendum XXX with options aimed to reduce noncompliance in the for-hire fisheries for summer flounder, scup and black sea bass; including a possible requirement for for-hire permit holders and operators to be held liable for violations of recreational fishing rules occurring during a for-hire trip** (Page 8). Motion by Nichola Meserve; second by David Borden.
4. **Motion to Substitute: Move to substitute to task our existing working group with developing options aimed at reducing non-compliance in the summer flounder, scup, black sea bass for-hire fisheries** (Page 11). Motion by Adam Nowalsky; second by Emerson Hasbrouck. Motion carried (Page 12).
5. **Main Motion as Substituted: Move to task our existing working group with developing options aimed at reducing non-compliance in the summer flounder, scup, black sea bass for-hire fisheries.** Motion carried unanimously (Page 12).
6. **Move to recommend NMFS open the black sea bass recreational fishery in federal waters from 2/1/18 – 2/28/18 with a minimum size limit of 12.5” and a per person daily possession limit of 15 fish. Based on staff analysis, the 2018 recreational harvest limit that applies to the remainder of the fishing year will be reduced by the preliminary estimate of 100,000 lb to account for expected catch during the February season. Adjustments to the 2018 recreational measures to account for this estimated February catch will be required only of states that participate in the February fishery** (Page 20). Motion by Adam Nowalsky; second by Rob O’Reilly. Motion carried (Page 27).
7. **Move to postpone Board approval of the Scup FMP review and state compliance reports until the Winter Meeting** (Page 28). Motion by David Pierce; second by Sen. Phil Boyle. Motion carried (Page 29).
8. **Move to adjourn** by consent (Page 29).

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ATTENDANCE

Board Members

| | |
|--|--|
| Pat Keliher, ME (AA) | Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA) |
| Doug Grout, NH (AA) | Roy Miller, DE (GA) |
| Raymond Kane, MA (GA) | John Clark, DE, proxy for D. Saveikis (AA) |
| Sarah Ferrara, MA, proxy for Rep. Peake (LA) | Craig Pugh, DE, proxy for Rep. Carson (LA) |
| David Pierce, MA (AA) | Mike Luisi, MD (Chair) |
| Nichola Meserve, MA, Administrative proxy | Ed O'Brien, MD, proxy for Del. Stein (LA) |
| Bob Ballou, RI, proxy for J. Coit (AA) | Rachel Dean, MD (GA) |
| Eric Reid, RI, proxy for Sen. Sosnowski (LA) | John Bull, VA (AA) |
| Mark Alexander, CT (AA) | Rob O'Reilly, VA, Administrative proxy |
| Lance Stewart, CT (GA) | Kyle Schick, VA, proxy for Sen. Stuart (LA) |
| Jim Gilmore, NY (AA) | Cathy Davenport, VA (GA) |
| Emerson Hasbrouck, NY (GA) | Chris Batsavage, NC, proxy for B. Davis (AA) |
| Sen. Phil Boyle, NY (LA) | Doug Brady, NC (GA) |
| John McMurray, NY, Legislative proxy | David Bush, NC, proxy for Rep. Steinburg (LA) |
| Tom Baum, NJ, proxy for L. Herrighty (AA) | Lindsay Fullenkamp, NMFS |
| Tom Fote, NJ (GA) | Sherry White, USFWS |

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

Ex-Officio Members

Jason Snellbaker, Law Enforcement Representative

Staff

| | |
|--------------------|----------------|
| Robert Beal | Mike Schmidtke |
| Toni Kerns | Caitlin Starks |
| Kirby Rootes-Murdy | Jessica Kuesel |

Guests

| | |
|---------------------------------------|----------------------------|
| Mike Armstrong, MA DMF | John Maniscalco, NYSDEC |
| Russ Allen, NJ DFW | Dan McKiernan, MA DMF |
| Dave Bard, ECS Contractor, NOAA | Chris Moore, CBF |
| Allison Colden, CBF | Kathy Moser, NYSDEC |
| Heather Corbett, NJ DFW | Derek Orner, NOAA |
| Laura Diedenick, ECS Contractor, NOAA | Cheri Patterson, NH F&G |
| Greg DiDimenico, SSA | Tim Sartwell, NOAA |
| Michelle Duval, NC DMF | Jack Travelstead, CCA |
| Paul Forsberg, Montauk, NY | Chris Wright, NMFS |
| Matthew Gates, CT DEEP | Arnold Leo, E. Hampton, NY |
| Stephanie Iverson, VA MRC | Brandon Muffley, MAFMC |
| Chip Lynch, NOAA | |

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The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Hampton Roads Ballroom V of the Marriott Waterside Hotel, Norfolk, Virginia, October 18, 2017, and was called to order at 4:26 o'clock p.m. by Chairman Michael Luisi.

CALL TO ORDER

CHAIRMAN MICHAEL LUISI: Good afternoon, and good evening and welcome. I would like to call the meeting of the Summer Flounder, Scup and Black Sea Bass Management Board to order. My name is Mike Luisi; and I will be chairing the meeting today. Up here with me at the table I have Kirby and Caitlin; with AMSFC staff.

Brandon Muffley is with the Council staff, and Jason Snellbaker representing the Law Enforcement Committee.

APPROVAL OF AGENDA

CHAIRMAN LUISI: Moving into the agenda, the first order of business is the approval of the agenda. Is there anybody that has anything they would like to offer regarding the agenda? Adam Nowalsky.

MR. ADAM NOWALSKY: Given that we found out late yesterday that the Wave 4 data was available; and we will have the opportunity to discuss it today. Perhaps that might warrant the item currently slated for last to be bumped up one item; and finish the day with the Plan Review.

CHAIRMAN LUISI: Okay so that would be we would move Number 7 after Number 5, before Number 6. Is anybody opposed to that adjustment to the agenda? Okay seeing none; consider the agenda modified as described by Adam.

APPROVAL OF PROCEEDINGS

CHAIRMAN LUISI: On to the approval of the proceedings, any comment or discussion on the proceedings, is there any opposition to the approving of the proceedings?

I'm sorry; I'll get this microphone right here in a second. Okay seeing none; the proceedings are approved.

PUBLIC COMMENT

CHAIRMAN LUISI: On to public comment, nobody signed up for public comment; but is there anybody in the audience that would like to make comment to the Board on something that is not on the agenda?

**CONSIDER BLACK SEA BASS
DRAFT ADDENDUM XXX**

CHAIRMAN LUISI: Okay seeing none; we'll move on to our next order of business, which will be the discussion in consideration of the Black Sea Bass Draft Addendum XXX for Board review. Kirby is going to give that presentation; so Kirby when you're ready.

MR. KIRBY ROOTES-MURDY: I'm going to try to go through this fairly quickly; as we have a number of items we're going to be talking about today. We've already gone through a lot of this document with this Board back in August. I'm really trying to focus today on short background and what sections have been updated based on the Board feedback in August; and then the Recreational Working Group's feedback and recommendations.

I'll talk about next steps and then get into any questions you have. Just briefly, we went through a motion in May, 2017 to initiate a new addendum looking at different regional allocations; regions with uniform regulations, and other alternatives to the current north/south regional delineation.

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In the summer of 2017 a memo was developed with management options; based on the Recreational Working Group's feedback. That was then presented at the August meeting. The Board provided feedback to staff to further develop the document.

In October of 2017, the Rec Working Group was provided an update of that document; and subsequently made revisions to it. I want to be clear that the document that was included in Supplemental Materials is inclusive of those revisions that were offered up by the Recreational Working Group.

I'm just going to be making a point-by-point what they decided to revise and change in the document; in my presentation today. As you all are aware, the coastwide recreational catch limits for 2017 is 4.29 million pounds for black sea bass. It's a 52 percent increase from 2016. For 2018 though, we're looking at a recreational harvest limit that is lower than the current year's RHL. It's going to decrease by about 14 percent.

I've tried to highlight here, moving on to the proposed management options, the items in particular that were looked at and revised by the Rec Working Group. I have a lot of working groups I'm working with these days. The first is regarding New York's Wave 6 harvest. There were a couple of approaches that were evaluated; the new timeframe that was suggested at the August meeting, and then options regarding how often allocation would be revisited.

First I've got four slides regarding the smoothing approach that was discussed back in August. There was a Technical Committee call in September. At that Technical Committee meeting there was a presentation by one of the TC members on what is referred to as a Gaussian Process Regression Analysis.

In summary what it does is it tries to account for the inter-annual changes in harvest; and

highlight that they should be related to each other, and that effort and potential harvest should not change by orders of magnitude from one year to the next. MRIP data for the entire time series 1981 to 2016 was evaluated with this approach; and a new set of annual estimates, not wave specific estimates, but annual estimates were generated from this approach.

With using the new Gaussian Process, the estimates then were evaluated against the MRIP estimates. What you would see is that they are different year-to-year from what the MRIP estimates are. It effectively smooths through the entire time series; 2011 to 2015 MRIP estimates are lower than what the Gaussian Process Regression estimates are.

For 2016, New York's number of fish the MRIP estimates is about 1 million fish. The Gaussian Process has it down at about 565,000 fish. Only looking at New York, this analysis developed new estimates, recreational harvest estimates for the entire time series. It was made clear on that call that the Technical Committee is not certain how, if that same approach were to be applied to other states or the coastwide estimate over the entire series, how that smoothing approach would change and do a comparison of what the new estimates would be to the MRIP estimates.

The TC noted that if this approach were to be used it would need be versatile in applying both an estimate that at times might be higher than what the MRIP estimate is. That is the idea that needing to cut both ways. There was a concern by this Board that 2016 Wave 6 estimates were anomalously high. This approach might find that previous year's harvest that was lower would actually be higher. Then it would be a matter of if the Board were to go with an approach like this, to use both those estimates that are higher than the prior MRIP year estimates as well as those that are lower.

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There was some additional homework that was asked by the Technical Committee of this TC member to conduct that hasn't been completed as of yet. The second approach that was evaluated by the group was a ratio; where we look at the prior year's harvest in Wave 5 to 6 and develop a ratio of how we think that should ultimately carry forward into subsequent years where there aren't significant changes in harvest.

In summary, those years that have minimal regulatory changes were considered candidate years. The candidate years were 2012 to 2016, 2006 to 2008 and 2012 to 2015, and 2012 to 2015 by itself. What this approach developed was new harvest estimates just for New York's Wave 6 in 2016. But depending on which combination of candidate years are used, you might get a very different Wave 6 estimate.

The Technical Committee found that this methodology was a little bit more intuitive; and that you're just applying a ratio of prior year's harvest of these candidate years to your current year's estimate to get a better projected harvest. But there was not a consensus reached on whether this approach or the other smoothing approach should be applied moving forward.

In considering this, the Rec Working Group recommended that without guidance at this point that any allocation timeframe in the document should be removed that includes the 2016 harvest estimates. Additionally, at the last Board meeting there was a request to include a new timeframe for allocation that is using data through 2001 to 2010.

In looking at it staff determined that there wasn't post stratified estimates for North Carolina prior to 2004. After checking in with the Board member who requested this, they agreed with adjusting that requested allocation timeframe to be 2004 to 2010. Instead of a ten year time period, it would be seven years.

The Rec Working Group pointed out that the seven year timeframe was at odds with the other allocation timeframes that were being offered up in the document; and also noted that this approach was different, or at least ran against the previous recommendation of trying to use more recent year's data rather than earlier in the part of the 2000s.

They had two specific recommendations for this. The first was to remove the timeframe option of 2004 to 2010. The second was to change the allocation timeframes to be ten and five-year blocks. Those have been adjusted and are included in the draft document that was included in supplemental materials; so if you have any questions please reference that document that is in your supplemental materials.

Next was moving on to looking at state allocation of the RHL and regional reductions. Remember there was an option in the document to have similar to summer flounder, state allocations of the annual RHL. The Rec Working Group expressed concerns with keeping this option in the document; as many of them noted and expressed specific examples where they felt that state-by-state allocations would be problematic for black sea bass, not only because of some of the issues specifically encountered for summer flounder, but because the conservation equivalency approach that is used in the joint management currently is not in play for black sea bass. Having state specific allocations – when in fact they would only apply in state waters and not extend out into federal waters – would also create challenges.

The Working Group recommended to remove state allocations of the annual RHL as an option in the document. Regarding the regional reduction options, these were sub-options in the previous document you all were given. There were too many similarities between what they were offering up and what previous ad hoc regional management options entailed.

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In turn, the Rec Working Group was worried that we would be moving back possibly if these options were selected; to the exact type of management that many have cited as problematic in recent years. The group recommended removing options proposed setting a regional percentage reduction; and that is reflected as I said in the supplemental materials draft addendum.

Regarding the sub-option of revisiting allocations, it was noted at the last Board meeting there was a request to include this. There were three options that were developed. One was a three-year time period, one was a five-year time period, and one was a seven-year time period. In looking at this in relation to recent addenda that the Board has approved, many of them have not been extended beyond two years.

Having an addendum that had allocation, revisiting timeframes that were well beyond that did not quite match up. The Rec Working Group recommended removing the entire sub-option of revisiting allocations and using just the expiration of the addendum as the point in which allocations could be revisited.

The group also looked at the change that was included for the timeframes; for how long the addendum would be in play. Many of the Rec Working Group members noted that their preference was for the document to be in play for at least more than one year. Then as you all should be aware, we have had over the last few years the ability to extend addenda at the end of the first year.

It's not an automatic carryover year in and year out; it's always an option that the Board has if the addendum specifies the ability to go for more than one year. The Rec Working Group recommended removing the option of that only one year timeframe for the addendum. I'm just going to go through now a new management option that was proposed in the document; and then I'll be wrapping up.

The general idea that this option puts forward is to move away from using the MRIP harvest estimates for allocation decisions. Instead it wants to move towards using a different metric. What was proposed and is included in the Rec Working Group memo that is also in supplemental materials was the idea of basing that on recreational catch per angler and in turn modifying that based on the angler population.

What was being considered at that point was looking at state license information as the way to modify effectively what your population is that is fishing on the resource. Additionally catch per angler was used as indices for tuning in the 2016 Benchmark Stock Assessment. As noted, this option is explained in greater detail in Appendix A of the Rec Working Group memo. There are two regions that it puts forward that match up with what the 2016 assessment had. New York through Maine would be a northern region. New Jersey through North Carolina north of Cape Hatteras would be a southern region. As I said, the CPA would be modified based on license information; in part because the CPA in each of those distinct regions based on the assessment, are actually pretty similar.

People are catching between those two regions approximately the same number of fish per trip. There would also then be one set of measures in place for each of those regions. Those example potential measures are included in the memo; and I just want to stress as we do many times that these are example potential measures, they are not set in stone.

If you have questions or are curious about what they are, please check out the memo. These measures would likely be a liberalization from 2017 harvest; and the idea being that with potentially liberalizing measures there would be the ability to further improve compliance with the state measures at the regional level.

But also with that would be an "ask" for there to be additional recreational data collected

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from the fishery along five parameters. The first being biological sampling, the second would be trying to reduce the refusal rates for MRIP interviews, the third would be increase discard composition information, the fourth would be reducing discarding; and as I pointed out, improving compliance with management measures.

The goal would be to try to have all states move to incorporate and hit on these five parameters by about 2020. This timetable that was included here was under the impression that we would maybe be having the Board consider approving this document for public comment today. I want to note that this timetable would be modified; depending on how the Board decides to act on this addendum today, and moving to possibly look at approving the document in December.

That would adjust some of these dates that are included in the memo; so I just want to note that at this point. The last part of it is trying to move away, not only from basing allocation on MRIP estimates, but also in changing how the evaluation of annual harvest and the fishery performance is year-in and year-out.

We know that there will be tentatively an operational stock assessment scheduled for early 2019; and if this option were to be further developed and included in the document, it may include provisions to try to leave measures in place and then adjust them as needed, based on the results of the 2019 operational stock assessment relative to the reference points.

The Rec Working Group provided feedback on this new option. Many noted that Rec CPA actually might not be appropriate for basing allocation on; because the catch rates are so similar between the two regions, and licensed data is helpful in getting at the whole population that is fishing on the resource.

It is noted that a number of states have free license registries, and that in turn while it may

create incentives for people to get the license, it also has not been effective in fully capturing the full population that is fishing on the resource. A better approach that was suggested on the call was to base allocations on the exploitable biomass; the actual population of the resource within each of these two regions. There was interest in collecting more recreational data; and that was something that many felt should be further developed and refined if this option is to be included in the document. There were also concerns raised about New Jersey's position in these two regions; given their large harvest. In recent years they haven't been grouped with southern region states that set their measures consistent with the federal waters measures.

There was a discussion, or at least a note, to need further discussions on how to evaluate performance moving forward. This is something that the Technical Committee is continuing to work on and will hopefully be reporting out to the Board at the joint meeting in December. At this point the Rec Working Group's recommendation is to further develop this option for inclusion in the addendum.

In summary though, because it needs more work, the Rec Working Group members support delaying approval of the Draft Addendum XXX until the joint meeting in December of 2017. In turn, if the Board is interested in following that recommendation no action is needed on the document today.

I will note that there was a request for an additional management issue to be included in the Draft Addendum XXX regarding holding permit holders, for-hire permit holders and operators responsible for violations of recreational regulations during a for-hire trip. More information on this is included in Appendix B of the memo. With that I'll take any questions.

CHAIRMAN LUISI: Thanks Kirby for your presentation. Kirby has presented you kind of

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where we stand. The Working Group and the Technical Committee worked on the response from the previous presentation to the Board from our meeting this summer. We've received a number of recommendations from the Working Group. It doesn't appear that the timeliness of this is mandatory that we approve this for public comment today.

There is a recommendation to delay until we meet with the Council and the Commission in the joint meeting in December. There are a number of things to consider. I think while we may not need to take action, I would like to get feedback from Board members as to whether or not the Working Group recommendations would be approved or accepted; so that the document can be modified to account for those changes. But let's start with questions. If anyone has any questions about the technical nature or the presentation, now would be the time. Rob O'Reilly.

MR. ROB O'REILLY: Unfortunately I could not make the last Working Group conference call. It looks like some further work was done; I think that's good. I would ask the part about the exploitable biomass being better than maybe the catch per angler. One of the things that Gary Shepard indicated when the stock assessment was being reviewed by the Statistical and Scientific Committee was that it's not as if there isn't abundance south of Hudson Canyon.

If you remember the assessment sort of went north and south of Hudson Canyon. There is definitely abundance there; but there is no question that the larger fish are going to be found in that northern sector. I hope that as this goes forward with the Work Group that maybe abundance is also one of the factors to look at.

The only other thing I would ask, and I don't remember how this went, but I know that with summer flounder there was sort of a catch per angler included as an ancillary metric that John

Maniscalco developed. I don't think that that really was addressed very much at the time; but you know this certainly would not be a precedent, but it's certainly something that can be considered later on. The third thing I would ask about was if there was uncertainty about New Jersey; and we all remember that when tautog was undergoing the repercussions from the final assessment, it was what to do with Connecticut until the Long Island Sound situation developed; and looking at that as a region.

With New Jersey I wasn't sure if the Working Group had any other recommendations that weren't placed before us today; as far as that status went whether there are any other suggestions, such as New Jersey as a separate region. I'm very aware that New Jersey has said at many occasions there is a difference as you go north.

We're in that sort of same situation that we had with tautog. We've had sort of a DelMarVa approach, including North Carolina since 2011, operating under federal management measures. The New Jersey situation is something I would like to hear a little bit more about; if there is anything else about it.

CHAIRMAN LUISI: Kirby.

MR. ROOTES-MURDY: Sure. Again, I think the main concern was regarding the volume of harvest that New Jersey has relative to the coast. The concern that was raised on the call was that setting measures for effectively the highest harvester in the region, might present some challenges for the other states within a region who don't harvest nearly as much. That was the primary concern. But I will note that currently the document still has a regional option there where New Jersey is looked at by itself, so that is still in there as an option.

MR. O'REILLY: Thank you and a quick follow up if I may, Mr. Chairman.

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CHAIRMAN LUISI: Certainly.

MR. O'REILLY: Was there any conversation or discussion about going beyond just exploitable biomass and looking at abundance? Did that occur? I don't know.

MR. ROOTES-MURDY: No there wasn't a great discussion about, within the idea of an exploitable biomass how that should be further evaluated for allocation; it was just suggested as a way to possibly parse out what allocations should be based on. We're looking to hopefully develop that idea further over the next couple months and report back out to the Board on what that could look like.

CHAIRMAN LUISI: Nichola Meserve.

MS. NICHOLA MESERVE: Kirby, I believe during the Working Group call you indicated that you might be having some early discussion with GARFO about the application of F-based management that is presented here; and how they might respond to it in terms of our normal management approach of working with the RHL.

I ask because I want to know if this option really has some legs; because I don't think it is ideal to delay this document. I had hoped that we could maybe get ahead one meeting in our normal timeline here; in order to provide the for-hire industry and anglers earlier indication of the rules they would be operating under this year. But I can certainly support our continuing to work on this option if it has some potential and could provide some relief from managing to the RHL.

CHAIRMAN LUISI: Kirby.

MR. ROOTES-MURDY: Thank you, Nichola, I have not had time to reach out and further discuss this with GARFO. They are here obviously, and it could be a question posed to them on the record; but it hasn't been further discussed with them.

CHAIRMAN LUISI: John Clark.

MR. JOHN CLARK: I'm sorry to be a nitpicker at this time of the day, but just wanted to repeat again that the alternative management proposal is not a liberalization for the southern region. It's only for the northern part of the range that this would be liberalization. For us it would be a shorter season and a lower possession limit.

MR. ROOTES-MURDY: Yes thank you, John for that note. John is referencing as I pointed out before, the example potential measures. But he also made this noted and it's included in the memo as such, so thank you.

CHAIRMAN LUISI: It's too early in the day, John to nitpick. We still have a long way to go. Are there any other questions for Kirby regarding his presentation? Okay seeing no additional questions; what is the pleasure of the Board regarding the further continuation or development of Addendum XXX?

The Working Group, as presented by Kirby, had a number of recommendations in moving forward. We could do so and come back to this Board at the joint meeting in December for finalization of the Addendum for public comment. But if the Board has a different direction they would like to take, I would like to hear about that now.

Nichola already made the point that it would have been better had we been able to take it out to public comment between now and December. But the recommendation was to continue further development of the option that just wasn't ready for prime time. That's kind of what I've heard from staff. I'll look to the Board members for any thoughts. Bob Ballou.

MR. ROBERT BALLOU: I do support postponing until December. I do think it would behoove the Board to kind of codify the key issues that

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we want to try to tackle between now and then; so we have a good sense of direction, in terms of where we want to end up by December.

Obviously we just had a good point raised in terms of that F-based approach that relates to Option 4; that seems to be key. There is the issue of the for-hire compliance piece, and whether that should be included or not. I would suggest postponing; but with a maybe to-do list associated with that.

CHAIRMAN LUISI: I will point out and add to that. By postponing it does not mean that the Option 4 which was presented will be able to be developed to the point where it could be considered. We may need to remove that if it's reported that it just hasn't been developed far enough. We're not saying that it will definitely be in the document is what I'm trying to get to. That is a good point that we should come up with a list of what it is that we're directing staff to do between now and December. Obviously if I don't hear any comments about deviating from the Working Group recommendation, I'll take that as support for the Working Group recommendations moving forward in modifying the current draft document.

But then we also have the point that was raised late in Kirby's presentation about the for-hire fleet; and whether or not we want to add an element to the document between now and the December meeting for consideration. I'll look again to the Board for discussion. Nichola Meserve.

MS. MESERVE: If this document is delayed then I would be interested to task the Working Group, PDT, with developing that issue about for-hire noncompliance. The last Working Group's call came on the heels of a couple large sea bass busts. They were well publicized in New York, involving the abandoned coolers.

The legal language that New York lacked in order to hold those Captains accountable for those violations, I would like to see us address

this if possible; if the Board agrees that it's appropriate to do in Draft Addendum XXX. I know the Policy Board is having a discussion on this issue tomorrow though, and that the Law Enforcement Committee is either talking about it yesterday or today. Their input could come into play if the Working Group does address it and come forward with some options for the December meeting.

If it's necessary I could make that as a motion to include that option if you want. I believe staff has a motion. **That would be to move to include a second management issue in Draft Addendum XXX with options aimed to reduce noncompliance in the for-hire fisheries for summer flounder, scup and black sea bass; including a possible requirement for for-hire permit holders and operators to be held liable for violations of recreational fishing rules occurring during a for-hire trip.**

CHAIRMAN LUISI: Okay Nichola. Thank you for your motion. I'll look to the Board for a second; second by David Borden, discussion on the motion. Nichola, would you like to add anything in addition to your comments already stated?

MS. MESERVE: Yes, I guess I would point out that there is a federal rule that provides some language about comingled catch and the Captain of that vessel being accountable for violations of the possession limit. That is some additional language that the Working Group could review.

I believe there are a couple states that have rules other than just Massachusetts. The Council had some discussion of this last week, and there was a suggestion about a requirement for the labeling of coolers; so there are really a couple of different options that the Working Group could look to move this motion with.

CHAIRMAN LUISI: David, did you have anything to add as a seconder?

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MR. DAVID V. BORDEN: Nichola just made the point. But the only thing I would add is this basically requires us to develop something we're going to look at later; and then make a final decision on whether or not it goes into a public hearing document. I think it is an appropriate strategy.

CHAIRMAN LUISI: I'll just add to Nichola's comment regarding the Council discussion last week. This was brought up at the Mid-Atlantic Council meeting, and the Mid-Atlantic Council has on its priority list for 2018 a recreational black sea bass amendment that they plan to initiate. There is little definition to what that amendment might be; but it could very well include provisions regarding what's being discussed here regarding the for-hire fleet and accountability.

As Nichola mentioned there are a number of different roads converging on one issue. I could see it as a reasonable exercise to go through with the process of putting together some alternatives and some options on the issue for your consideration for public comment at the December meeting. Are there any other comments; Chris Batsavage.

MR. CHRIS BATSAVAGE: I think for development purposes I could support this. I think this issue can potentially go beyond summer flounder, scup and black sea bass; and we've had some internal discussions with our law enforcement staff, as far as what we're able to enforce dockside with the for-hire fleet compared to the charterboat fleet.

I'm very interested to hear the discussion tomorrow at the Policy Board; and any report back from the Law Enforcement Committee regarding this. I think that along with the things discussed last week may help us determine whether or not this addendum is the right avenue to address this issue.

CHAIRMAN LUISI: Bob Ballou.

MR. BALLOU: Just picking up on Chris's comment, I mean right now this is a draft of course; but it is titled Draft Amendment XXX Black Rec Sea Bass Management for 2018. This would expand the scope to include the noncompliance issue as it pertains to not just black sea bass, but summer flounder and scup as well.

That may well fit, but I guess we just have to make sure we revise the frame, if you will, for this addendum. As long as staff feel comfortable that it's an appropriate fit, I'm fine with this motion. It just seems that we're now broadening beyond black sea bass; and I just want to make sure that's on the record.

CHAIRMAN LUISI: Kirby, do you see any problem with expanding the scope for this one particular issue to the other species in the FMP?

MR. ROOTES-MURDY: I do not. I think it is fine.

CHAIRMAN LUISI: Is there any other discussion? Emerson Hasbrouck.

MR. EMERSON C. HASBROUCK: Do you want to have a motion to include the rest of the Committee's recommendations? Do you need that and if so- you don't okay.

CHAIRMAN LUISI: After we take up this motion I will look for any opposition to the Committee's recommendations. If we have some we may need a motion, but if there is no opposition staff will move forward as directed by the Committee and this Board. Is there any other discussion on the motion? Would anyone from the audience like to provide any comment to the motion? Paul. It's down on the end next to Andy. You can sit with him for a little while and keep him company.

CAPTAIN PAUL FORSBERG: I'm Paul Forsberg; Viking Fishing Fleet, Montauk, New York. I don't think there is anybody in this room that can tell me how you can have 100 percent

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compliance on the fisheries when you have 100 plus people on one boat at one time; when you can catch your limit of fish within three to four hours.

I don't know how anybody in this room could tell me how to do it. I've been running a boat for 60 years now this year. I haven't figured out a way to do it. We have our regulations printed on the back of our fare tickets. We announce it every time we stop the boat what the regulations are. We have measurements on the rail.

We have signs throughout the boat. We have the regulations on our webpage. We have a lot of people that don't speak English, and that's where it's at. Okay, we can put our fare tickets on different language other than the English language. Well we have Chinese, we have Portuguese, we have Spanish and I can't get a ticket big enough to put all the languages on it that people understand.

I don't know how the boat could be held responsible for the multi-passenger vessels with 100 or so people; that amount of people on the boat. We're common carriers, we shouldn't be blamed and held responsible any more than a bus driver is held responsible for somebody carrying drugs on the bus, or a train operator running a train in somebody has got drugs on the train.

A small six pack passenger boat, yes. They can count their fish. They can control them. You have two mates over six passenger's maximum. But when you get up into multi-passenger boats there is no way you can keep track of it. We do our best. I talked to Tony DiLernia about this problem a couple of weeks ago at the other meeting in Riverhead, and are willing to set down industry, feds, and state.

Let the three of us sit down and see if we can make some kind of regulations that will be better than what we have now that we can comply with. But there is no sense in putting on

the regulation you have on the board here now; where it's impossible to comply with. If you want to put all the party boats out of business, you're doing a pretty good job right now by closing us down for a month in this past month. Just ask anybody in the business.

But that will most certainly put us out of business. If that's your intention, fine. I'm going to be laying people off now to this 30 day closure we had for sea bass this past October. I'm going to lay off people that I haven't laid off in 22 years. I employ 52 people in Montauk. I'm going to be laying people off now because of that closed season; how that knocked us dead. That is where we're standing.

Instead of putting a law like this through folks, let's get together and maybe we can make something that will make everybody happy; and we can compromise with something that we can all work with, and something that will work. That's not going to work. You just signed the death warrant of every multi-passenger boat there is. Thank you, for letting me speak.

CHAIRMAN LUISI: Thank you, Mr. Forsberg. Are there any other comments from the audience before I come back to the Board? Okay seeing none; I think for clarification I would like to ask the question of the maker of the motion regarding, it states here that the alternative would include a possible requirement for permit holder operators to be held liable.

Would you as part of this motion, Nichola, would you be suggesting that there may be an alternative to hold the fishermen liable or accountable; based on the marking of coolers or any other type of procedure that would be a decision point in the addendum, for not just holding charter boat captains and operators liable, but for anglers liability as well?

MS. MESERVE: Yes exactly. I foresaw the Working Group suggesting some other options that would achieve the main part of the motion;

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which would be to improve noncompliance, and that was just one example of an option.

CHAIRMAN LUISI: Okay thank you that's clear. David Busch.

MR. DAVID E. BUSH, JR.: I am obviously very sensitive to the folks that are out there on the water, as you all know me by now. I would be interested in seeing other options; at least having some to choose from, with possibly some public comment on how that would impact that particular sector.

CHAIRMAN LUISI: Rachel Dean.

MS. RACHEL DEAN: I would have to also echo that I'm pretty uncomfortable with this. That may come from a couple years of working on a for-hire headboat, where you have people fishing on both sides of the boat and you trying to scatter from one side to the other. Just knowing that a fish is slipped into a cooler and knowing that my livelihood would be dependent on me being able to catch that individual if I had my permit on the line.

It makes me uncomfortable; and I would welcome any law enforcement onto the boat, and I would certainly let them know which cooler went with whom or who I knew. But to take on that responsibility just kind of makes me uncomfortable. I understand we're not making this decision right now. But I could see that our for-hire sector would be a little bit uncomfortable with taking on that responsibility.

CHAIRMAN LUISI: I have Adam Nowalsky and then Roy; I'll come back to you. Adam.

MR. NOWALSKY: Addendum XXX, it just looks weird triple X up there, 30, let's call it 30. Maybe we should label 30 instead of putting three Xs up there moving forward. We're already talking about working on developing options. It's already a complicated issue. This

item in and of itself could take up an entire addendum unto itself; I'm quite sure.

There are certainly concerns raised. I haven't heard the Law Enforcement report, I'm looking forward to. **But at this point in time, Mr. Chairman, I'm going to make a motion to substitute. That motion is move to task our existing Working Group with developing options aimed to reduce noncompliance in the summer flounder, scup, and black sea bass for-hire fisheries.**

CHAIRMAN LUISI: Thank you for that motion, Adam. We're going to wait until we can get it on the board and then I'll look for a second. Let me just ask the question. Your motion does not add this as an element now to the addendum. It tasks the Working Group to talk through it and bring it back for Board consideration at a later date.

MR. NOWALSKY: That is correct.

CHAIRMAN LUISI: How does that read, Adam, as you intended?

MR. NOWALSKY: I believe it is exactly as I stated it. Thank you very much.

CHAIRMAN LUISI: Okay I'll look for a second. Emerson Hasbrouck seconds the motion; discussion on the motion? Again let me just clarify that this would task the Working Group rather than add this as an element to Addendum XXX, as the previous motion stated. Bob Ballou.

MR. BALLOU: I don't support the motion, because I feel that that main motion accomplishes the same thing. The Working Group is going to need to continue to work on developing options for potential incorporation into the addendum. We can cross the bridge when we come to it, in terms of whether we feel we're ready for primetime, whether we're ready to adopt one of the options. If so fine, if

not we take it back for further work, so I do not support the substitute.

CHAIRMAN LUISI: Roy Miller, I know that you had your hand up earlier. But do you want to speak to one of these?

MR. ROY W. MILLER: Yes. I'll switch to the new topic here, if that's all right, Mr. Chairman. I think I support the substitute motion. I was really uncomfortable with the original motion; based on the remarks by Rachel and Captain Forsberg. I think this is heading in the right direction; so I would support the substitute motion.

CHAIRMAN LUISI: Are there any other comments by the members of the Board? Okay does everyone need a minute to caucus? I could use 30 seconds with my delegation. Okay we'll caucus for 30 seconds. Okay I'm going to read the motion and then we're going to take a vote. Move to substitute to task our existing Working Group with developing options aimed at reducing noncompliance in the summer flounder, scup, black sea bass for-hire fisheries.

Is the Board ready to call the question? **All those in favor of the substitute, please indicate by raising your hand. That is 8 in favor, all those opposed same sign. Two opposed any abstentions, one abstention, any null votes, and one null vote? The motion carries. The substitute motion now becomes the main motion.**

Do we need any additional time for caucusing on the main motion? I'm not seeing anybody shaking their head up and down so I'm going to call the question again. The substitute becomes the main motion. All those in favor of the main motion please indicate by raising your hand. I'm sorry, hold on one second; I'm being asked to slow down.

MR. ROOTES-MURDY: Just trying to get it up on the screen real quick, sorry.

CHAIRMAN LUISI: **Okay the motion is: Move to task our existing Working Group with developing options aimed at reducing noncompliance in the summer flounder, scup and black sea bass for-hire fisheries. All those in favor of the motion please indicate by raising your hand. That is 12 in support; all those opposed same sign. That is 0, any abstentions, any null votes. All right seeing neither the motion carries.** Toni.

MS. TONI KERNS: Is the intent of the timing to include this is Addendum XXX or no? Just what's the timeframe that you want the report done?

CHAIRMAN LUISI: I think it will depend. Given the interest of not having this included in Addendum XXX; which the original motion would have done, to me I think the priority now would be to work on the provisions of the addendum as they stand. When the Working Group has time to discuss the options for reducing noncompliance, then we'll take that up. But my first priority would be to make sure that the Addendum XXX as it has the elements in it are developed as fully as possible; before we consider it again in December. Adam.

MR. NOWALSKY: I'll confirm that that is in fact the intention of the motion to substitute; which became the main motion, to definitely not include it in Addendum XXX, but for it to become the next task for the Working Group to address and whether that was then developed into the next addendum or whether they had some other means for moving forward to it. That would be the purpose of their task.

CHAIRMAN LUISI: Okay, I'm going to ask one last time. Is anyone opposed to staff moving forward as it was recommended and presented today regarding the Working Group recommendations on Addendum XXX? The idea being that any options that need further development will be further developed and any alternatives that were removed or modified would be done by staff for a final report at the

December joint meeting with the Council for final action to moving it forward to public comment. Rob O'Reilly.

MR. O'REILLY: Just a question on the Working Group didn't really feel strongly on the catch-per-angler and was looking for other methods; and the biomass was brought up as one to look at allocation. Is the Working Group going to look at other approaches?

If that needs to be stated, I think my understanding again; from the stock assessment results were that there is abundance both south and north of the Hudson Canyon. But it's going to be the biomass that is more pronounced north of Hudson Canyon. Could the abundance stream be looked at as well? It should be available, and I just wonder if that needs to be specified today.

MR. ROOTES-MURDY: We don't need a motion for it, but it would just be great to know specifically what you want explored in this option. We can talk offline if that is best. But the more clarity we can get the better.

MR. O'REILLY: That would be fine, and I will look forward to not having a conflict for the next Working Group.

CHAIRMAN LUISI: All right seeing no one opposed we're going to move forward as I just stated, and Rob you can work with staff on further developing the portion of that option that you mentioned of that abundance.

REVIEW THE PRELIMINARY 2017 RECREATION HARVEST ESTIMATES THROUGH WAVE 4

CHAIRMAN LUISI: We're going to move on to our next agenda item; which is to Review the Preliminary 2017 Recreation Harvest Estimates through Wave 4. This was something that we put on the agenda, not knowing if we would have preliminary harvest estimates through Wave 4, but we're lucky enough to have received them yesterday. Staff worked

feverishly throughout the night to make a presentation here for you today; Kirby.

MR. ROOTES-MURDY: I'm going to walk the group through; as we have done in previous years, what the harvest looks like through Wave 4 relative to the previous year. Because we now have Caitlin up here with me, I'm going to deal with the summer flounder and scup harvest estimates; and then I'm going to turn it over to her. There is a little typo right now in the outline.

But I just want to stress what Mike pointed out; which is these are preliminary estimates, and they're ones that we received yesterday. The Technical Committee has not had time to sit down, digest them or do further analysis to see if there are any outliers, if there are any issues, what the PSEs are; which we also know just to note, do change from wave to wave as that information is updated throughout the year.

Just keep all that in mind as we go through this presentation. Regarding the coastwide harvest in weight, in 2017 preliminary harvest estimates

through Wave 4 indicate coastwide harvest was 2.8 million pounds; which is below our RHL for 2017 of 3.77. It is approximately 75 percent of the RHL. Now again in weight, what this also means is that relative to the coastwide harvest at this point, through Wave 4 last year. We have a reduction in harvest by about 49 percent.

As you all are aware, we have measures that were implemented in 2017 that differed from those in 2016. But overall the coastwide harvest through Wave 4 is significantly different than what it was last year. I also have a slide up here and it's a little bit more difficult to see, with the harvest breakdown by state.

I want to point out that as we had measures implemented per Addendum XXVIII that were fairly uniform across the coast; in terms of an increase in the size limit and a decrease in the

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possession limit for most states. The performance so far in the year is very variable. It is not uniform by region, as you'll see highlighted in red on the screen are some states that actually increase their harvest relative to last year.

But because those states that increase their harvest contribute so insignificantly to the overall coastwide harvest it's kind of a wash. We have an overall reduction at the coastwide level. In terms of number of fish and doing that comparison of harvest from Wave 4 between 2016 and 2017, it's a similar trend.

Again, about 75 percent of the RHL when we're looking at the RHL in numbers of fish, we're using the average fish weight through the data we have. Through Wave 4 it's about 3.12 pounds is the average fish weight. In terms of what that reduction looks like relative to this time last year, it's closer to a 50 percent reduction.

Again, this is what the breakdown looks like when looking at the numbers of fish by state and harvest. Now, in terms of our summer flounder recreational specifications. As I mentioned we have a 3.77 million pound RHL this year. That's the coastwide recreational harvest limit; which is approximately 1.2 million fish. In 2018 the recreational harvest limit is 4.42 million pounds. In terms of the percentage change, just looking at the catch limit on the coastwide level between 2017 and 2018, it is about a 17 percent increase. I'll also note that we didn't have time to do projections. We normally work with Council staff to try to pull that together, and we just frankly didn't have enough time to do that today. I will point out that what we do know is that many states have their fishery that are significant harvesters closed through the end of the year.

There is a good chance that the numbers won't change significantly from what they are currently. But we still need to do that analysis, and we'll be reporting that out in December.

Next I'll move on to scup. This is just a very brief breakdown of what the harvest is in numbers of fish and in pounds; relative to the RHL.

Similar to last year, in terms of how we've performed relative to the RHL, we're just at about 50 percent of the RHL. In terms of the overall harvest though, we have decreased from last year. In numbers of fish it is about a 1 percent decrease. In terms of looking at harvest in weight, it's actually about a 21 percent reduction in harvest. With that I'll turn it over to Caitlin to go through black sea bass.

MS. CAITLIN STARKS: Looking at the comparison from 2016 to '17 for the coastwide harvest, it's looking like at the coastwide level there is about a 23 percent reduction in harvest through Wave 4. As you can see the northern region shows a 25 percent decrease, and the southern region excluding North Carolina, because at this point we don't have post stratified numbers, is increasing 31 percent.

But I do want to note that the southern region is harvesting an order of magnitude less than the northern region. Don't focus too much on the percentage; focus more on the coastwide harvest being smaller this year. That puts us this year at 60 percent of the RHL, whereas last year at this time it was around 119 percent. In numbers of fish we still have the same reduction; but smaller, using the average fish weight of about two pounds in 2016. That's pretty much it.

MR. ROOTES-MURDY: Moving on, I've just got a reminder of where we stand regarding our RHL this year to next year. When looking at the 2017 RHL we're at 4.29; as I mentioned in our last presentation it is a big increase from where we were in 2016. Then we're looking at a reduction just at the coastwide catch limit for 2018; relative to 2017.

In terms of recreational management options for 2018, I want to remind the Board that we

went through this for a number of these species back in August. Today there is not the need for any specific motion. We have a number of options for these species. For summer flounder there is the FMP status quo or state-by-state conservation equivalency.

Additionally as an option there is the ability to extend the current provisions of Addendum XXVIII for an additional year. Black sea bass there is the FMP status quo; which would specify a coastwide set of measures in both state and federal waters. As noted in my earlier presentation staff is working with the Rec Working Group on developing Draft Addendum XXX.

That will be presented at the December meeting. Then scup we have the ability for the Board to carryover status quo regional management measures for 2018. Again next steps, no action needed today; and the Board and Council will be setting 2018 recreational specifications in December. I'll take any questions.

CHAIRMAN LUISI: No action is needed and I'm going to keep questions limited at this point; given the interest of time and other issues on the agenda. We will take a question or two; if anyone has any questions regarding the new numbers. John Clark.

MR. CLARK: Just quickly. I don't have the figures in front of me. Do the catch of the black sea bass by wave; do we typically see a lot of variation? I mean is this looking like by the end of the year we'll still be under the RHL; or do we sometimes see a lot of variation with big catches in Waves 5 and 6?

MS. STARKS: There typically has been a lot of variation in Waves 5 and 6; and we do have two states that typically harvest a large amount in those waves. I would say it's not really sure how we'll fare by the end of the year.

CHAIRMAN LUISI: Rob O'Reilly.

MR. O'REILLY: Where are we standing with the projection from 2017 through Wave 4; and knowing that the RHL is going to decline for 2018. Whereabouts is it figured that we might be, once all is said and done through Wave 6? Is that available to talk about?

CHAIRMAN LUISI: That was a perfect segue, Rob to the next item on the agenda. Brandon is going to discuss what he's been able to put forward as a projection; so that we can evaluate for what we know now where we may end up being compared to next year's RHL, to help us decide on the black sea bass Wave 1 fishery.

If you can hold your thoughts there, Rob, and again the next agenda item is black sea bass; it's not for all other species. But we'll be there shortly. Are there any other questions for Kirby or Caitlin? Okay seeing none; let's go ahead and move on to the next item on the agenda as it was modified at the beginning of this meeting.

**CONSIDER POTENTIAL 2018 WAVE 1 OPENING
OF THE BLACK SEA BASS RECREATIONAL
FISHERY**

CHAIRMAN LUISI: We're going to skip over the FMP review and state compliance right now; and we're going to consider the potential February, 2018 opening of the black sea bass recreational fishery. Just to give you a very simple background on why we're discussing this again, I've had the question asked of me as to, I thought we handled this. I thought this was done.

Well, back when we met jointly with the Council at our meeting in Philadelphia in August, the question was asked and it was voted down at the Council. Given the fact that both the Board and the Council need to move in lockstep on issues like this, there was no need to take that issue up with the Commission or with the Board.

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Because we were running short on time that evening, some members of the Board felt that it needed a little more time to thoroughly discuss and debate and to decide whether or not there would be an opening. It was asked of me as Mid-Atlantic Council Chair and your Board Chair here today to put this back on the agenda.

It was put back on the agenda at the Council meeting last week; and the Council supported what you're going to see after Brandon's presentation, which is a motion that will need to be taken up and considered by the Board today. I will state that once the motion is brought forward to you, there can be no modifications to the motion. I'm going to look to the Board for somebody to make that motion and second the motion. But unlike a typical motion, because again the Board and the Council need to move in lockstep with one another on these issues, it cannot be modified. If it is to be modified we'll have to take it back to the Council; and that will further delay any action, which will make it impossible for a February opening. With all of that said, Brandon is ready to go; and I'm going to turn to Brandon for his presentation.

MR. BRANDON MUFFLEY: I'm going to present the same information that I gave to the Council last week; with a few changes to the end. Last week I presented some projections and some information through Wave 3; and what those implications may mean for the rest of the fishery, and as you consider Wave 1.

Since we do have the Wave 4 estimates, I updated everything. I created some new projections to evaluate what the harvest may look like through the rest of 2017. But again noting that I have not done a thorough evaluation of looking at PSEs and variability within some of those estimates, it's kind of taking the raw information, running some projections to see what we may be looking at for the rest of the year.

I just will sort of highlight that and I will when I get to those slides later on. The Council and Board have talked a lot this year about Wave 1. I think almost every meeting so far this year we've talked about implementing a Wave 1 fishery in 2018. Just a quick refresher of where we are. It sort of started in February when we got the new benchmark stock assessment information; indicating stock was robust and fishing mortality was low.

There was consideration then to move forward with an exempted fishing permit for 2018. When the Board and Council met jointly in May, you all decided not to move forward with an EFP, but considered development of a letter of authorization program. That started in May, but after discussing after that meeting there was going to be no way to get a letter of authorization program in place for 2018.

If there was still interest in having a Wave 1 fishery, you needed to do it through the specification setting process. That was discussed at the June meeting. You all met in August and considered the Wave 1 fishery for 2018 through the specification process; and there were a few different options that were voted on, and none of them were approved.

But since then as the Chairman indicated, there has been some more discussion since then and reconsideration; and specifically what was discussed as what we would consider would be a February season. A season from February 1 through the 28th, a 15 fish possession limit and a 12.5 inch minimum size.

The analysis that I did on the next slide looked at considering this specific Wave 1 fishery for 2018. I will state that we will be talking about a Wave 1 fishery again when we meet in December. That will be the first framework meeting for the letter of authorization program; so we'll have information then, in terms of what that may begin to look like for a 2019 Wave 1 fishery. The Wave 1 discussions won't end after today.

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This was information that you've seen. This was part of my information when we talked in May; and a similar analysis was done when we talked in August. I needed to try to come up with what harvest may look like in 2018 if we were to have a Wave 1 fishery. The only information that I had available to me was federally permitted for-hire vessel VTR information. I took that information that we had. I looked at it from all of the data that we had; but I really relied on the 2013 VTR data. That was the last time we had a Wave 1 fishery. I'm applying what we saw in 2013; and using that information to project what harvest might look like five years later in 2018.

Just sort of keep those caveats in the back of your mind. I looked at a few different participation scenarios; not knowing what participation may do. It had been increasing over time the number of vessels participating in the Wave 1 fishery from 1996 through 2013 had steadily increased. But again, I evaluated a potential decline in participation all the way to continuing increasing participation.

The Scenario Number 3 that is highlighted in green. That is what the information was in 2013. In 2013 we had 39 for-hire vessels participate in the Wave 1 fishery. Each vessel took an average of six trips during that wave. They carry 26 anglers on each trip. Their average harvest per angler was 11.1 sea bass.

I used that information to come up with what the total harvest would be by the for-hire sector during Wave 1. That came out to be 137,000 pounds. That was just the for-hire sector during a potential Wave 1 fishery. I needed to try to expand that. If we were going to open up the Wave 1 fishery, the private anglers would also be available to participate.

But I didn't have any information to sort of scale that fishery. I looked at the catch in Wave 6 to evaluate that. That information had indicated during Wave 6, I looked at the

average catch from 2013 to 2015, and that showed that 50 percent of the black sea bass catch in Wave 6 was from the private sector and 43 percent was from the for-hire sector.

What I had done back in August, I had dropped that a little bit and assumed that private angler participation would likely continue to decline in Wave 1; given weather and the time of the year and where the fish are available further offshore, and I said it was 50/50. That's what I used to scale that information.

I did receive some additional input after that meeting to evaluate Wave 2; that Wave 2 might be more reflective of what Wave 1 might be, so I did look at that as well. Black sea bass hasn't been open a whole lot in Wave 2 the last number of years, so I had to go back. I looked at from 2002 to 2012, I looked at the catch during that time period and found that 42 percent of the harvest in Wave 2 was for the private sector, and 58 percent was for the for-hire sector.

The 50/50 ratio that I ended up using is kind of right in the middle of what we found in Wave 6, versus what we found in Wave 2. I felt that was still an appropriate approximation to scale what the private mode harvest might be in Wave 1. If you take that you would get a total harvest in Wave 1, assuming again the same for-hire participation; that would give you a harvest of 275,000 pounds. That was if the entire Wave 1 fishery was going to be open.

Then I used the proportion of harvest in Wave 1 in February and the average February harvest per day; to come up with what the harvest might be just on a February 1 to February 28 season. Under a similar participation rate that we saw in 2013, I estimated that harvest during Wave 1 would be about 101,000 pounds. That is kind of where we were. Again, I just want to highlight that I'm applying 2013 data and what things might look like in 2018. I think availability is likely different now than what it was in 2013; and what participation might look

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like. Again, I tried to provide a range of what participation may be; but that's going to be sort of unknown, in terms of how high of an interest there may be during that time period. There are a lot of numbers up here; but again, it is tables that you all have seen.

Any harvest that takes place in Wave 1 needs to be accounted for. Therefore, modifications to the rest of the recreational season would need to be made to account for that. In the memo that was provided in the supplemental materials, this is Table 2 on Page 4 of the memo. Again, I looked at reductions that would need to be taken at a coastwide, at the federal or the southern region level, or at a state-specific level.

Generally you're looking at anywhere, under any of these different scenarios, a minimum of one day would need to come off to a maximum of about four to five days on some of the higher harvest estimates. You're looking at anywhere from 2 percent to 4 percent of the 2018 RHL would be allocated to this Wave 1 fishery in 2018; under a February only season.

That is generally what you're looking at in terms of implications; what harvest might look like. This is the projections and estimates through Wave 4. I did provide a breakdown here. Looking at comparing 2016 to 2017 by state, so that you can see where some of the changes have been. Again, through Wave 4, just as Caitlin had mentioned, we're 15 percent lower in terms of numbers of fish and 23 percent lower in total weight.

This does not include North Carolina, no slight to North Carolina, but I didn't have the SAS code to post stratify that information. North Carolina, in terms of their black sea bass landings north of Hatteras is only, the last few years is like 1,500 pounds. It's not a major player, in terms of what we're looking at; so it wouldn't modify what we're looking at here.

I did run some projections looking at the average proportion of Wave 3 and Wave 4 harvest from 2014 to 2016. Assume that those two waves would make up a similar proportion of harvest in 2017; which is about 65 percent of the overall harvest occurs in those two waves over the last three years, assuming that I came up with a projection for 2017 of 3.97 million pounds.

Again, as there was a question about the variability within Wave 5 and 6, as Caitlin pointed out, the last few years those estimates have been highly uncertain. We have probably the most uncertain estimate ever during that time period last year. There are significant states that are open in Wave 5 and 6.

Again, these are very preliminary, A, in terms of just its evaluation and 5 and 6, we still have about 35 percent of the harvest to still be accounted for in Wave 5 and 6. Under those caveats that's what I came up with as a projection for harvest for the rest of the year. If that were to play out that would put us at 7.5 percent below the 2017 RHL. When we compare it to the 2018 RHL we're about 8 percent over that.

Just to wrap everything up. When you are considering this, again I kind of talked about all of those harvest analysis caveats that I kind of mention in using the VTR data how I scaled VTR data to the private sector. What effort and participation is going to be are all sort of uncertain at this point in time. But generally, using those sorts of caveats, it looks like a Wave 1 fishery would account for anywhere from 2 to 4 percent of the 2018 RHL. I just showed you the preliminary 2017 harvest estimates and the projections. Again, any harvest that is allocated to Wave 1 needs to be accounted for; and would be on top of any reductions, if there are any reductions necessary through the rest of the fishery. It's been pointed out on a number of occasions that there is no data collection program in place during that time.

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It's self-reported VTR data is the only information data that we have, so collecting additional catch and effort information during this Wave 1 fishery would be really important; in terms of evaluating how successful and what the implications of this Wave 1 fishery may be. Lastly, I just put up there, this is the motion. I think it will come up under a different screen so that we can modify it, or so that the Board can also consider it.

But this is the motion that was approved last week by the Council. It goes beyond just implementing specific measures for the Wave 1 fishery. It also talks about how much would actually be allocated to that Wave 1 fishery. It also does indicate that any adjustments that are needed to the rest of the recreational season would only be applied to those states that actually participate in the Wave 1 fishery. With that I'll take any questions.

CHAIRMAN LUISI: Thank you for your presentation, Brandon. Well, let's do this. Let's take a couple questions on specifics regarding the analysis. If we get too far into the weeds, as to something that might be different from what the motion is, I'm going to cut off the question asking and we'll put the motion on the screen. Then we can speak to the motion. But I saw John Clark first.

MR. CLARK: I guess actually I was just curious about the motion. Do you want to wait on any questions about the motion and how it would affect regulations?

CHAIRMAN LUISI: Yes. If anyone has any questions about how Brandon got to his projection, which I guess Rob that was to your question before. I will say that at last week's Council meeting the Council received a projection that was much different from what the projection is now. It was a much higher reduction that was going to be needed, based on Wave 3 estimates.

Now that Wave 4 is available it has changed that. You are receiving slightly different information from what the Council received, but it's all in the same line of information; it's just some of the numbers have been modified. But let's hold questions for just specifics regarding the analysis. Anything regarding the motion, we'll take up those questions once the motion is made by the Board; any questions? Emerson Hasbrouck.

MR. HASBROUCK: Thank you Brandon for your presentation. The question I have is you had mentioned that 2013 was the last year that there was a Wave 1 fishery, and you used that as a basis to project these estimates forward into 2018. What was the source of that catch data in 2013? Was that also self-reported VTR data, or were there intercepts that were conducted during Wave 1? Then I have a possible follow up, depending on the answer.

MR. MUFFLEY: That's strictly self-reported for-hire VTR data. That was the only information that I had available.

MR. HASBROUCK: Then do we have any idea how realistic those reported catch numbers are?

MR. MUFFLEY: No. I mean that was part of the discussion when we were talking about an exempted fishing permit, and could be part of the LOA program is sort of validating some of that information that is being reported on the VTRs; because we just don't have any verification of that VTR information that's coming across. It is what it is just as it is on the commercial side, on some things where we don't have observers onboard. It's all self-reported, no validation.

CHAIRMAN LUISI: Are there any other questions regarding specifics? Okay seeing none; I'm going to ask that we put the motion up on the screen. As I mentioned before, this is the exact motion that was made and supported at last week's Mid-Atlantic Fisheries Council

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meeting. I'll now look to the Board for any Board member that would like to make the same motion. Adam Nowalsky.

MR. NOWALSKY: Would you like the motion read?

CHAIRMAN LUISI: Please.

MR. NOWALSKY: **Move to recommend National Marine Fisheries Service open the black sea bass recreational fishery in federal waters from February 1, 2018 through February 28, 2018, with a minimum size limit of 12.5 inches and a per person daily possession limit of 15 fish. Based on staff analysis, the 2018 recreational harvest limit that applies to the remainder of the fishing year will be reduced by the preliminary estimate of 100,000 pounds to account for expected catch during the February season.**

Adjustments to the 2018 recreational measures to account for this estimated February catch will be required only of states that participate in the February fishery. If I get a second, Mr. Chairman, and have the opportunity to speak to the motion, it would be greatly appreciated. Thank you.

CHAIRMAN LUISI: Okay, so we have a motion made by Mr. Nowalsky; do I have a second on the motion, seconded by Rob O'Reilly. Adam.

MR. NOWALSKY: Let me first begin by again thanking Board leadership and Council leadership, staff for the effort that has gone into this. As was mentioned, we did run up against quite a bit of time constraint in Philadelphia, and we certainly had the opportunity to flesh this out a bit more; for which I am extremely gracious.

In speaking to a number of Council members and Board members since that August meeting, a number of issues some of which have been already discussed here today, one of which has been the need for monitoring during that time

period. New Jersey has three large vessels, approximately 100 foot in length that has the ability to prosecute this fishery.

Our state's Bureau of Marine Fisheries has been willing to dedicate two technicians during the month of February to run trips with those vessels, to help validate catch data onboard the vessels. We're also able to implement a for-hire logbook survey in this fishery. It's currently in place for our striped bass fishery, and we can extend it to our other for-hire fisheries that may participate.

We're also able to do rack collection during the timeframe, to get some more biological information. We expect all of this information would help address the concerns that people around the table have regarding the need for better science during this time period. We also think that these steps that we put in place will certainly be a large step towards informing the letter of authorization framework process that will be taken up jointly with the Council; beginning in December.

These are all pieces of information that we need. I think this last element of the motion here, this was brought up by John Bullard in Philadelphia, was worked on quite a bit with the help of the Service. I'm extremely grateful for their time in working on it with us. I think it speaks for itself; will be required only of states that participate in the February fishery.

Essentially, those states that choose not to would be held harmless the rest of the year. There have been questions about how exactly that would play out timeline wise. My expectation would be in the coming months we would be going through our spec setting process. We've essentially started it here today with the ongoing discussions with the addendum; in more detail in December, and it will go through February, as we complete that addendum.

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I know staff has worked up individual numbers for individual states that might be participating in the fishery; and so those states that declare an interest as we go through the Addendum XXX process, this number would be accounted for moving forward there. Lastly, I'll simply offer again the magnitude of what this fishery is. We're talking about 100,000 pounds potentially out of a fishery with a near 50 million pound spawning stock biomass.

We've got the opportunity to provide some fishing days, provide public access for something that is sorely needed. We heard comments earlier at the outset of the meeting about what closures have done to the industry. We've got an opportunity to get science. We've got an opportunity to inform the LOA process we've already agreed to embark on, and we're holding harmless those states that choose not to participate.

CHAIRMAN LUISI: Rob O'Reilly as seconder, would you like to add to Adam's comments?

MR. O'REILLY: Yes. Well, Adam has covered a lot of what Virginia thinks about this as well. Of course we would have a public hearing. If this motion passes we still would have to go through that process. We do have the capability to do sampling. We do have a freezer collection program; Adam mentioned the racks.

Not to go into a lot of details, but there would be several items that would have to go forward; in order for someone to participate, including a hale in, so that if law enforcement wanted to be available they could; but mainly so that the biological collections also could take place. Virginia has been interested in a Wave 1 fishery since December of 2013.

I think most of you understand that by 2015 the climate changed quite drastically. One of the main concerns at the Mid-Atlantic Council was the data collection. I agree with Adam that this will be a setup for the LOA program; in that

whatever data can be collected will be advantageous for 2019.

The other part of reticence that at least I sensed was that now we're talking about perhaps an 8 percent overage, which was greater at the Council meeting, I agree with that. Some will think, well what does that mean as we go later into the waves. But please know as Caitlin mentioned earlier, the DelMarVa situation is not only an order of magnitude less, in terms of the ability to harvest, but it's a little more than that quite frankly. It's been that way really since 2010. I thank you for the time.

CHAIRMAN LUISI: Questions, comments on the motion, John Clark.

MR. CLARK: I like the fact that the adjustments to the 2018 recreational measures will be required only of states that participate; but it's just more of a question of how this whole thing would work. I mean when we discussed this with anglers and headboat captains in Delaware, they were very concerned about Brandon's projections here; showing that if his Scenario 3 took place that we would lose four days in Wave 3, or three days in Wave 5. They weren't willing to trade those days in those waves for the possibility of fishing in February.

I understand what this motion would require only those states to do this if there were cutbacks required. But how would that work with states like Delaware, Maryland or Virginia that set the regulations based on the federal rules and have to abide by whatever the federal rules are; and do pretty much all their black sea bass fishing in federal waters? Do we have a guarantee that federal rules would not change, but only the states that go over this? I just don't understand how this whole thing would work; and is there any way to clarify that?

CHAIRMAN LUISI: There are no guarantees in life, John. Somebody must have said that to you many, many, many years ago.

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MR. CLARK: I know there are no guarantees. I just meant that obviously to get to this point I'm assuming that NMFS has looked at this. How would they enforce the overages on the states that actually participate in this; without affecting the regulations out in the federal waters that Delaware, Maryland, and Virginia would have to abide by?

CHAIRMAN LUISI: I'm going to offer my thoughts and then I might look down the table to Lindsay to add. We've been having these conversations, and you bring up an excellent point, John about how it will work. We have the potential for states that want to participate in this fishery to be held accountable to some degree to the 100,000 pounds being offered in the motion.

We also have Addendum XXX that is currently in progress, and it may assign regions to specific states in moving forward for 2018. Those are two things that somewhat complicate the issue. I would like to be able to tell you exactly how this will work. The way I foresee it taking place is that if a state wants to participate, there would have to be a decision by the Board at some later time; as to how that 100,000 pounds is accounted for by those states that participate.

Is it equal across the board? If it's just one state, obviously it will be 100,000 pounds. If it's five states how are we going to divvy that accounting up? That is something that the Board will have to discuss at a future date. As far as how it will apply to the federal rules, I think that there might be an opportunity for some modifications to the federal rules.

That under Addendum XXX would allow for the federal rules to be more liberal, and the states under the umbrella of more liberal federal regulations would then be able to work through Addendum XXX to establishing their limits. Now, Delaware, Maryland, Virginia, even North Carolina I believe, we have just gone forward each year with what those federal rules have

been. What I'm saying here is that there might be an opportunity at the December meeting when we're setting specifications, to set federal rules from May 1, let's say, through December 31, with no closure. Then that opens the door for states having the flexibility under Addendum XXX to make modifications within their region, or at the state level, and take and absorb the 100,000 pounds in some ratio; if you would choose to participate. Now that is how I'm seeing it happen. But I could be way off. In discussions I've had with GARFO that is where we might be. John.

MR. CLARK: I just don't want to be in one of these damned if you do, damned if you don't situations; where if we don't participate and the rules change in federal waters, we're going to catch heck from our fishermen that want to know why we didn't open in February, and take advantage of that or why we now have a shorter season and we didn't even fish in February. It's kind of a tough situation right now; without knowing exactly what will happen at this point.

CHAIRMAN LUISI: Yes John, I think because we haven't finalized Addendum XXX there are questions still. The scenario you're suggesting would be one for which, if we were to follow through as a Board in establishing a DelMarVa region, and let's just say Virginia participates. But the Board also decides that all of the states within a region need to have the same regulations; and that's something that the Board decides on.

Well, then we won't be able to do that if Virginia participates and Delaware and Maryland don't; because we're going to need the same regulations, and Virginia will need to be accountable for part of this. The later decisions that we're going to make, make this more complicated, but it's all tied together; and that's the best I can do to offer an answer for you, John. Chris Batsavage.

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MR. BATSAVAGE: Thank you for the explanation; as far as how that will work out with the states choosing to participate versus not, if this motion passes. Quickly, we support this motion. Besides the reasons given already and despite the fact we have a pretty recreational fishery north of Hatteras.

We're the only state on this Board that has Wave 1 MRIP sampling, and we've had it since 2004. We've been closed since 2013, despite our ability to sample that wave and the money we spend on those efforts. But with that if this motion passes, we have the ability to collect biological information through the dockside intercepts; and likely could collect carcasses through our statewide carcass collection program.

CHAIRMAN LUISI: Nichola Meserve.

MS. MESERVE: I think when Brandon was referencing the motion he said that 100,000 pounds would be allocated to February; but I just want to be clear that it's not really an allocation in the sense that the fishery would close when what limited information is available would indicate 100,000 pounds has been landed, nor would the participating states be accountable for a catch above that level later on in the season.

I ask that question, because I think we have every reason to believe that harvest is going to be greater than the projected 100,000 pounds. That was the middle of the road estimate based on 2013. Effort is most likely going to be greater; as other fisheries like fluke have been constrained. Availability of sea bass has increased. The 2015 year class will begin recruiting to the fishery next year. I fear that those participating states are going to have a lot more benefit than they're being held accountable for; and those states that don't participate will see none of that. That's not because we don't want to participate and have this option, but it doesn't do anything for us based on our geographic location. I'm also

concerned about the interplay of this option with Addendum XXX. I believe it jeopardizes the good work, the good progress that we're making on trying to bring about more uniform regulations along the coast to address the equity issue.

Then I also have questions about how our constituents are going to respond to a February, 2018 fishery that is opened to everyone, followed by a February, 2019 LOA fishery that is only opened to certain people; as of yet to be determined. I think we're getting ahead of ourselves, trying to do this this year, with too many questions unanswered about how much harvest is going to result. We'll never know, and jeopardizing the Addendum XXX initiative.

CHAIRMAN LUISI: Doug Grout.

MR. DOUGLAS E. GROUT: I would like someone to help me out here. I've heard in determining how we're going to actually get an estimate of what is actually harvested here. I've heard Adam say that there will be a logbook in New Jersey, or there is a logbook and they'll have observers out there to help validate. Does that requirement apply to all for-hire boats up and down the Mid-Atlantic area that may want to participate in this fishery?

Then how would the private boats, however few there may be how does their catch get accounted for outside of North Carolina; which has a Wave 1 intercepts? How would that be accounted so that we have data on the harvest that would go into the stock assessment? Can anybody enlighten me on that as to where we get the information on that?

CHAIRMAN LUISI: Doug, it is my understanding, the way that GARFO is interpreting this motion that the 100,000 pounds will be what states will be held to regardless of what estimate comes from data collection; as far as VTR data. That is the only source of information; other than the North Carolina Wave 1 work that will go towards estimating what was caught.

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Brandon spoke to the fact that it is voluntary VTR data. But that is all we'll have. Now, to the points made about well, what if the harvest is more than 100,000 pounds and we learn that a year later; when we bring all the information that we have together, and determine that 200,000 pounds were caught.

Well, it's my understanding that the way that the GARFO is looking at this is that the states will not have to pay any additional accountable measures back for anything over; 100 is 100, and that is what it's going to be, 100,000 will be 100,000. Regarding private angler, there won't be private angler data collected.

While there might not be very many private anglers participating, it's possible that there could be some. These are some of the concerns. These are some of the problems that we've discussed many times about a system that has the accountability that a Wave 1 opening has. I'll look to Brandon or Caitlin or Kirby to add anything. But I think that is where we stand on this at this point, as far as information and what we know. Doug.

MR. GROUT: We have volunteer VTR data that is going to be used for this? Is that what I just heard that they don't have to report it? I know we've got mandatory coming in probably later in the year.

CHAIRMAN LUISI: Yes, I may have misspoken. Brandon.

MR. MUFFLEY: I mean it is mandatory VTR, it is self-reported though. There is no validation to what is being reported, but it's mandatory that that information be provided.

CHAIRMAN LUISI: That's what I meant.

MR. MUFFLEY: Federally permitted for-hire vessels.

MR. GROUT: The for-hire vessels will be covered; at least there will be some numbers that they will provide. At least in New Jersey there will be some kind of validation of that; according to what I thought I heard Adam say. But there won't be any MRIP data for PR, for private rentals outside of North Carolina in there; so we'll have a gap in that information. Okay thank you.

CHAIRMAN LUISI: Yes I think your understanding is correct, and thanks for correcting me. I did misspeak. Towards New Jersey's suggestion for, I don't know if it's necessarily a validation but more of a ground truthing of what's coming in; regarding the sampling that they would be conducting. We have a few more people on the list.

I am going to limit discussion to some degree. We're over our allotted time on this agenda item; and we still have FMP compliance to deal with. This has been a conversation we've had many times over the year. I don't think we need to debate it very much longer. I'm going to go to Emerson and then David Borden and I may take one or two more comments. Then we'll call the question. Emerson Hasbrouck.

MR. HASBROUCK: I had several issues, but I'll limit it to two issues because of time.

CHAIRMAN LUISI: I'm sorry, Emerson.

MR. HASBROUCK: One of my comments is kind of directed at something that you said, so I wanted you to finish your conversation with Toni; that's okay. You had mentioned how we're going to have to get together and decide how that 100,000 pounds is going to be partitioned among whatever states might be interested in participating in this. I'm just wondering when that might occur. I mean February isn't very far away.

That was one issue I wanted to raise; and the other is I've heard what New Jersey has planned for them to participate. I've heard that North

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Carolina already has MRIP sampling in that state during Wave 1. I'm just wondering if there are any other states around the table who are interested in participating in this; who might be able to provide some information in terms of how they're going to quantify the harvest.

CHAIRMAN LUISI: Okay so Emerson to your first question to what I stated earlier. I'm not sure when we'll have that conversation. It will need to be had before states set forth their recreational measures for next year; and that will come as a result of the decisions made through Addendum XXX. At some point, before states implement new rules, the Board will have to discuss that. There are two Board meetings, one is in February and one will be in December. That is all I could offer as far as with the timing. That is when it will need to happen. I'll speak for Maryland. We will not be able to sample our port in Ocean City during that wave. If we were to participate we wouldn't be able to sample. Okay Rob, I'm going to come back to you. I have David Borden then Rob O'Reilly and David Bush.

MR. BORDEN: A lot of the points have already been made, but I'm concerned about the lack of specificity on some of the elements here. In the interest of time I won't go into that; because some of the other people have talked about it. I'm also concerned about having a volunteer data collection program without making sure that if we're going to have that type of system that it's standardized across all of the participating states. I think that's going to be kind of critical.

My final point, I'm also concerned about the overage. Your statement in particular that if there is an overage beyond 100,000 then it's not going, the way I understood your statement it's not going to apply to the participants; which means it's eventually everyone in this room that is going to be held accountable for it. I'm opposed to the motion.

CHAIRMAN LUISI: Rob O'Reilly.

MR. O'REILLY: I wanted to address Emerson's request there. As I said earlier, Virginia is prepared to do sampling and has started the sort of an approach to recreational reporting; which is mandatory, just out of the gate has a year under the belt so far. Compliance is about almost 60 percent with cobia. That is why we started all this specifically, although we have striped bass and blueline tilefish.

The pool of effort is going to be rather small. There is a very limited number of headboats in Virginia. There are a few private anglers that we've heard of that would be availing themselves of this opportunity. I realize we get dug in to our perceptions, but the past is always present; and I certainly remember sitting with Toni Kerns in 2010; when we had a blowout of the RHL by Wave 4, and Toni and I were able to figure out a path forward.

That path forward included Delaware, Maryland and Virginia; which it was during the time of conservation equivalency, foregoing any liberalization, and some of that liberalization was quite remarkable. Foregoing that liberalization so that the states north of us did not have to suffer the penalty, so that is 2010 that is not 1998. That is 2010, seven years ago. I'm wondering about some of the comments as to, are they really concerns or are they something that maybe shouldn't be concerns?

CHAIRMAN LUISI: David Bush.

MR. DAVID BUSH: Generally in support of this. I know that we did discuss the data collection concerns that we had. Now, if I understand this correctly all this is, is simply the directive to open up this fishery. Once this goes through we'll have to actually spell out how to execute that fishery; and if that's correct, would there not be the possibility of states wishing to participate some sort of data collection of some sort? Whether it be mail in, whether it be something, would that be an option at that point?

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CHAIRMAN LUISI: David, I think if a state can offer more there wouldn't be anything stopping them. Like you said, if this is supported essentially the Commission and the Council will be recommending to National Marine Fishery Service to open federal waters to black sea bass fishing in February.

What the states do from there will be on them. There will be no requirement to put forth a data collection effort on the states, even if they do participate. It's been suggested that some states will do that. They have the means and the interest to do that. Others will or will not. Does that answer your question?

MR. BUSH: Yes thank you.

CHAIRMAN LUISI: Okay, I'm going to take one last comment and I'm going to come back to you, Adam. I know you had your hand up. After that we're going to caucus for a minute and we'll call the question. Adam.

MR. NOWALSKY: Again, thank you very much. I think this is all very good discussion. Frankly I haven't heard any point raised that hasn't been discussed with people that I've spoken about with this issue. Again, it's not going to be a sense of no accounting. We'll have the VTR data, and then that VTR data will use past relationships between the for-hire sector and the non for-hire sector to go ahead and establish an estimate of the overall recreational catch for that period.

It's not going to be just a free pass for the non for-hire sector; it is being accounted for. I have to go back to the fact that we've got the Services support on this; and this motion incorporates a lot of their concerns. That is something that provides a level of assurance that they are confident that we can move this forward through the regulatory process.

Otherwise, they would be wasting their time putting together a proposed rule that they

didn't think they could ultimately promulgate. Let me finally close with the idea of this winter fishery, and the potential for it to be large. We deal with snowstorms and frozen slips, and bait dealers that are closed. Haul-out provisions in insurance policies, mariner operators that go to Florida for the winter.

You go after the first of the year and participation just goes to zero. Those vessels that do or fishermen that do still want to participate, they want to get on a headboat. For those states that have talked to your own for-hire operators, and maybe they're not going to participate themselves.

You may have a lot of fishermen in your own state that you haven't heard from that would really love the opportunity to go ahead, jump in the truck on a cold winter morning, get in a heated bunk, take advantage of a heated handrail, and take some fish home out of a biomass that's 230 percent of its target.

CHAIRMAN LUISI: Let's go ahead and caucus for a minute; we'll come back, read the motion and vote. I apologize to the public. This is not a new issue. We've heard much public comment on this issue so far, so we're going to skip that and go right to the vote. I'm just waiting on staff. I believe we've been asked to do a roll call vote; so as soon as we're set. I'm going to ask Kirby to call the vote.

MR. ROOTES-MURDY: As noted this is a roll call vote. We're going to go south to north starting with North Carolina.

MR. BATSAVAGE: Yes.

MR. ROOTES-MURDY: Commonwealth of Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: Potomac River Fisheries is not present. Maryland.

MS. DEAN: Yes.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: No.

MR. ROOTES-MURDY: New Jersey.

MR. NOWALSKY: Yes.

MR. ROOTES-MURDY: New York.

MR. JOHN MANISCALCO: Abstain.

MR. ROOTES-MURDY: Connecticut.

SENATOR CRAIG A. MINER: No.

MR. ROOTES-MURDY: Rhode Island.

MR. BALLOU: No.

MR. ROOTES-MURDY: Commonwealth of
Massachusetts.

MS. MESERVE: No.

MR. ROOTES-MURDY: New Hampshire.

MR. GROUT: Abstain.

MR. ROOTES-MURDY: U.S. Fish and Wildlife
Service.

MS. SHERRY WHITE: Abstain.

MR. ROOTES-MURDY: National Marine
Fisheries Service.

MS. LINDSAY FULLENKAMP: Yes.

CHAIRMAN LUISI: **Okay our count here is 5 in favor, 4 no votes, 3 abstentions; the motion carries.** That recommendation will be made on behalf of the Council and the Commission to National Marine Fisheries Service.

**CONSIDER APPROVAL OF THE SCUP FISHERY
MANAGEMENT PLAN REVIEW AND
STATE COMPLIANCE REPORTS**

CHAIRMAN LUISI: We're going to move on to our last agenda item. Given the interest of time, I've decided that we are just going to go through the scup compliance and FMP report; so we'll deal with summer flounder and black sea bass at a later time. Because of the issue with compliance in the scup fishery I'll turn to Kirby for that.

MR. ROOTES-MURDY: We have adjusted our PowerPoint; we're just going to focus on scup today as noted. Regarding compliance and de minimis request the Plan Review Team notes that Massachusetts measures are not consistent with those in the FMP; specifically with regard to the minimum mesh requirements and the threshold triggers regarding the bycatch fishery, or the bycatch provisions excuse me in the state's wood fishery.

Initially the Plan Review Team also noted that Rhode Island's measures were not consistent with those in the FMP regarding the minimum mesh and escape vent size requirements. Rhode Island's staff has followed up and actually provided us with updated information. They have noted that their information in their compliance report was incorrect; and therefore with the updated information they are consistent with the plan.

We have one request for de minimis from the state of Delaware. Then the last point, as there was an extensive PRT review the state compliance report should expressly list all required regulations and whether they are in compliance with the FMP. We had some challenges with that this year; and that pots and traps should be separated from other types of gear in the commercial harvest by gear table. With that I'll take any questions.

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CHAIRMAN LUISI: Any questions for Kirby? That was quick. I didn't even hear him speak yet; any questions for Kirby?

MR. ROOTES-MURDY: As noted there was a compliance inconsistency with regards to Massachusetts regulations. They've provided a memo that was included in supplemental materials. If you have specific questions about that Dr. Pierce is available to answer them now. They've also provided us with a motion they would like to make regarding that.

CHAIRMAN LUISI: David Pierce.

DR. DAVID PIERCE: This was a bit of a surprise to me. Staff identified the fact that we weren't in compliance, and as a consequence there is a need for us to get into compliance; so I have a motion to make Mr. Chairman that gets to that particular issue. Because we have every intention of changing our rule to comply; now that we found out that there was a problem.

I would move to postpone Board action on Massachusetts noncompliance with the scup incidental trip limits for bottom trawl vessels not meeting the minimum mesh size until the winter ASMFC meeting. Again, if I get a second then it's just to make sure that we have some time to set things right.

CHAIRMAN LUISI: We have a motion. Do we have a second for the motion? Senator Boyle seconds the motion; discussion on the motion? David Borden.

MR. BORDEN: Yes, I'm supportive of the request, but do we actually need a motion if we just postpone approving the report until the winter meeting; it would give Massachusetts adequate time to actually put together the proposal.

CHAIRMAN LUISI: I'm sorry David, go ahead.

MR. BORDEN: What I said was if we just postpone taking action on the report until the

winter meeting, then Massachusetts would have adequate time to put together a conservation equivalency proposal. I kind of see this as being unnecessary. I would prefer just postpone approving the compliance report.

CHAIRMAN LUISI: We can do that. **David, if you would want to modify your motion to just move to postpone approval of the FMP and Compliance for scup to the winter meeting, we can just take up the whole thing at the winter meeting.**

DR. PIERCE: If the seconder doesn't disagree then I would prefer to go in that direction. As I said, it will be fixed by the time we get to the winter meeting.

CHAIRMAN LUISI: Senator Boyle, are you okay with perfecting that motion? Let's get it up on the screen and I'll call the question. Give me one second. **Okay the motion is move to postpone Board approval of the Scup FMP Review and State Compliance Reports until the winter ASMFC meeting. All those in favor of the motion please raise your hand. It's 10 in favor, any opposition, any null votes, and any abstentions? One abstention; the motion carries.**

Okay, because we didn't receive the presentation on summer flounder and black sea bass, if it's okay with this Board we will take up that via an e-mail between now and a later date. We'll do an e-mail vote. That concludes our business. Is there any other business to come before the Board? I just wanted to thank everybody for their hard work.

ADJOURNMENT

CHAIRMAN LUISI: Just to note, this is my last Board meeting as your Chair. We have met probably about 15 to 16 times over the last two years, so tonight is going to go on the list that includes marrying my wife and having my two children. This is now the next thing that makes me about as happy as can be. I look to my left.

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I'm going to be passing the baton to Bob; who is going to take you under his wing, and I'm sure he's thrilled about that right now. Thank you all very much. We stand adjourned.

(Whereupon the meeting adjourned at 6:34
o'clock p.m. on October 18, 2017)