

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

**Webinar**  
**May 6, 2020**

**Approved August 6, 2020**

Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board and  
Mid-Atlantic Marine Fisheries Council Meeting Webinar  
May 2020

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**ATTENDANCE**

**Board Members**

Nichola Meserve, MA	John Clark, DE, proxy for D. Saveikis (AA)
Raymond Kane, MA (GA)	Roy Miller, DE (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Jason McNamee, RI (AA)	Bill Anderson, MD (AA)
David Borden, RI (GA)	Mike Luisi, MD, Administrative proxy
Eric Reid, RI, proxy for Rep. Sosnowski (LA)	Russell Dize, MD (GA)
Justin Davis, CT (AA)	Phil Langley, MD, proxy for Del. Stein (LA)
Bill Hyatt, CT (GA)	Steve Bowman, VA (AA)
Matthew Gates, CT, proxy for Sen. Miner (LA)	Ellen Bolen, VA, Administrative proxy
Jim Gilmore, NY (AA)	Bryan Plumlee, VA (GA)
Maureen Davidson, NY, Administrative proxy	Sen. Monty Mason
Emerson Hasbrouck, NY (GA)	Steve Murphey, NC (AA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Chris Batsavage, NC, Administrative proxy
Joe Cimino, NJ (AA)	Jerry Mannen, NC (GA)
Tom Fote, NJ (GA)	Marty Gary, PRFC
Asm. Eric Houghtaling, NJ (LA)	Mike Ruccio, NMFS
Adam Nowalsky, NJ, Legislative proxy (Chair)	

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

**Ex-Officio Members**

**Staff**

Bob Beal	Dustin Colson Leaning
Toni Kerns	Tina Berger
Max Appelman	Jeff Kipp
Maya Drzewicki	Julia Beaty, MAFMC
Kirby Rootes-Murdy	Kiley Dancy, MAFMC
Caitlin Starks	

**Guests**

John Almeida, NOAA	William Brantley, NC DNR	Jeff Deem, Lorton, VA
Rep. Thad Altman, FL (LA)	Delayne Brown, NH F&G	Peter deFur, ESC
Coly Ares, RI DEM	Jeff Brust, NJ DFW	John DePersenaire, RFA
Mike Armstrong, MA DMF	Erika Burgess, FL FWC	Greg DiDomenico
Pat Augustine, Coram, NY	John Carmichael, SAFMC	Anthony DiLernia
Dave Bard, NOAA	Patrick Cassidy	Steve Doctor, MD DNR
David Behringer, NC DNR	Mike Celestino, NJ DFW	Russell Dunn, NOAA
Mel Bell, SC DNR	Peter Clarke, NJ DFW	Steve Newellman
Alan Bianchi, NC DNR	Allison Colden, CBF	Warren Elliott, PA (LA)
Jessie Bisette	Heather Corbett, NJ DFW	Peter Fallon, Maine
Sarah Bland, NOAA	Nicole Costa, RI DEM	Lynn Fegley, MD DNR
Jason Boucher, DE DFW	Derek Cox, FL FWC	Marianne Ferguson, NOAA
Ray Bogan, Pt. Pleasant, NJ	Sandra Dumais, NYS DEC	Cindy Ferrio, NOAA
Karen Bradbury, Office of Sen. Whitehouse	Jessica Daher, NJ DFW	Dawn Franco GA DNR
	Tim Daniels, NJ DFW	Rick Frenzel

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Tony Friedrich	Chris Ludford	Tara Scott, NOAA
Thomas Fuda	Dee Lupton, NC DNR	Richard Seagraves
G. Kara	Loren Lustig, PA (GA)	Matthew Seeley, MAFMC
Lew Gillingham, VMRC	Chip Lynch, NOAA	Alexei Sharov, MD DNR
Angela Giuliano, MD DNR	Shanna Madsen, VMRC	Gary Shepherd, NOAA
Willy Goldsmith	Kyle Martin, NYS DEC	Jared Silva, MA DMF
Sonny Gwinn, Berlin, MD	Genine McClair, MD DNR	Somers Smott, VMRC
Paul Haertel	Ashleigh McCord, NOAA	Julia Socrates, NYS DEC
Jon Hare, NOAA	Dan McKiernan, MA (AA)	Scott Steinback, NOAA
Bridget Harner, NOAA	Nichola Meserve, MA DMF	CJ Sweetman, FL FWC
Hannah Hart, FL FWC	Mike Millard, US FWS	H. Takade-Heumacher, USFWS
Doug Haymans, GA (AA)	Sen. Dave Miramant, ME (LA)	Mark Terceiro, NOAA
Steve Heins	Jose Montanez, MAMFC	Wes Townsend
Dewey Hemilright	Chris Moore, MAFMC	Howard Townsend, NOAA
Pete Himchak	Wendy Morrison, NOAA	Sam Truesdell, MA DMF
Carol Hoffman, NYS DEC	Brandon Muffley, MAFMC	Mike Waive, ASA
Rusty Hudson	Amanda Mullikin	Megan Ware, ME DMR
Peter Hughes	Steve Murphey, NC (AA)	Samatha Werner, NOAA
Jason Jarvis	Allison Murphy, NOAA	Patrick White
Yan Jiao, Univ. VT	Brian Neilan, NJ DFW	Ritchie White, NH (GA)
Lane Johnston	Laurie Nolan	Kate Wilke, TNC
Cynthia Jones, ODU	Derek Orner, NOAA	Angel Willey, MD DNR
Jeff Kaelin, Lund's Fisheries	Cheri Patterson, NH (AA)	Sara Winslow
Chad Keith, NOAA	Michael Pentony, NOAA	Charles Witek
Loren Kellogg, NOAA	Mariah Pflieger, Oceana	Steven Witthuhn
Moira Kelly, NOAA	Olivia Phillips, VMRC	Anthony Wood, NOAA
Lara Klibansky, NC DNR	Michael Pirri	Chris Wright, NOAA
Kathy Knowlton, GA DNR	Nicholas Popoff, US FWS	Amy Zimney, SC DNR
Adrienne Kotula	Chad Power, NJ DFW	Erik Zlokovitz, MD DNR
Alexa Kretsch, VMRC	Jill Ramsey, VMRC	
Kris Kuhn, PA F&B	Kathy Rawls, NC DNR	
Ben Landry	Stephanie Rekemeyer, NYS DEC	
Wilson Laney	Dr. Malcolm Rhodes, SC (GA)	
Katie Latanich	Al Ristori	
Scott Lenox	Mary Sabo, MAFMC	
Melissa Leone, NYS DEC	Scott Sakowski, NOAA	
Tom Little, NJ LEG	John Schoenig	
Carl LoBue	Chris Scott, NOAA	

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The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission and Mid-Atlantic Fishery Management Council (MAFMC) convened via webinar; Wednesday, May 6, 2020, and was called to order at 2:00 p.m. by Chairmen Adam Nowalsky and Michael Luisi.

**CALL TO ORDER**

CHAIRMAN ADAM NOWALSKY: Good afternoon everybody, my name is Adam Nowalsky. I'm going to be calling to order the Summer Flounder, Scup, and Black Sea Bass Management Board meeting with the Mid-Atlantic Council via webinar. Taking a look at the roster of names here onboard. Most of you were connected here this morning, but I do see a quorum, both for the Council and the Board, so we're good to begin.

**APPROVAL OF AGENDA**

CHAIRMAN NOWALSKY: Our first order of business here this afternoon is going to be Board consent for approval of the agenda. There is going to be a proposed change to the agenda, two items. Number one, we intend to complete our business here this afternoon by 4:15. That would put us an hour over the previous end agenda time.

Hopefully everyone can hang in there with us until then, including the public. But with the consent that is our intention is to end this meeting by 4:15 today. Additionally, prior to beginning the review of the public comment summary on the public information and scoping document.

It is our intention, staff has a one-slide presentation, and just provides some information to the Board and Council. A lot of you have been asking about what potential changes there might be to 2020 measures that states could enact as a result of lost harvest. That is the proposed changes to the agenda. Which brings us to the approval of the agenda.

Is there any objection to approving the agenda with those two changes?

**APPROVAL OF PROCEEDINGS**

CHAIRMAN NOWALSKY: All right, seeing none that will bring us to the second item on the agenda. Second item is the Approval of the Proceedings from, we're going back to, is August, 2019 right or we should be approving something more recent than that Toni?

MR. DUSTIN COLSON LEANING: That's correct, Adam, because that was the last time it was a Commission only meeting.

CHAIRMAN NOWALSKY: Okay great, thanks for that clarification, Dustin. That is the Approval of the Proceedings from the August, 2019 meeting that we're looking for consent on. Is there any objection to the approval of the proceedings from that meeting? All right, seeing none that will bring us to the first revised agenda item.

**POTENTIAL CHANGES TO 2020 MEASURES**

CHAIRMAN NOWALSKY: It is our intention to keep this to just a few minutes. I asked staff to put together a very brief slide here that is going to provide some information.

That will help provide some input on what states might be able to do for the 2020 fishing year. Then also we can touch base on some feedback we got from one of our other boards. Yesterday the Tautog Management Board that had a recommendation for how to proceed with guidance across all boards. I'll turn it over to you, Toni.

MS. TONI KERNS: Thanks Adam. I think Bob is actually going to take this slide, and Maya, this is the time for that one slide to go up, but just the next one, Maya.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Hi Mr. Chairman, this is Bob Beal. Good afternoon everybody, I haven't spoken much today, which is a good thing. Just really quickly. You know it is kind of uncertain how we can move forward and make adjustments to recreational fishing opportunities,

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both private boats and shore-based, as well as for-hire fisheries.

Obviously, the conversation has started. People want to know what they can do. It gets difficult. For fisheries that have opened, and there is some level of fishing going on the private side. It gets a little bit tricky. You know some folks have said that fishing is down because partially some ramps are closed, some marinas are closed, some are open.

Due to social distancing you can't put your normal crew on a boat that you might take out fishing. Families may be out, but normal groups of a half dozen or so folks that fish together a lot can't go out, because they are not in the same family, and all sorts of things. There is sort of two different scenarios moving forward.

One is what we're calling "simple" conservation equivalency, and this is the idea that if a fishery has not opened or you want to keep a fishery closed longer than what has currently been approved by a management board. You can keep your fishery closed, with the recognition that only limited amount of fishing is going on anyway right now for all species, in some areas.

Say keep black sea bass fishery closed for a little while, a month or so, and then you could take those days and move them to the fall season. It won't be necessarily a one-for-one translation, because a day in Wave 3 may not be exact same as a day in Wave 5 or Wave 6; as far as average level of landings.

We're going to have to be able to work that. That is sort of a simple scenario, where you've got days that were fully closed, nobody was fishing, no sectors were open your for-hire or private boats or anything, and you're going to move those closed days to some ratio of days in the fall. That is kind of what we're calling simpler.

The other approach would be to have the Technical Committee start digging into the data, and trying to estimate, you know how much fishing has changed from what we anticipated when the seasons and bag limits and size limits were established this year. That's going to be a little bit difficult, because the APAIS sampling, the site intercept sampling through MRIP has been suspended in essentially all the states. The for-hire effort survey you hear of the FES. That is the postcard survey done by MRIP, and that is ongoing and we'll get the number of trips that have been taken. We will have some insight as to what the level of fishing activity is anyway.

Then I think you know the Technical Committees will have to dig into that sort of on a species-by-species basis, to see what has happened and what hasn't happened, and probably a state-by-state basis, so it won't be a simple thing to do necessarily. There will probably be some proposals that need to be developed by individual states for review by the Technical Committee.

Those are the two different scenarios. Adam, as you mentioned the Tautog Management Board talked about this yesterday. The number of Commissioners on that meeting said hey, you know it may be better not to do this sort of piecemeal across individual species. It may be better to get a Commission-wide strategy or policy together, to figure out what we want to do, because fishing is limited now, and hopefully it's better in the fall, you know how do we want to tackle that?

I suggested getting the Executive Committee together, which represents all the states up and down the east coast, and have them initiate the conversation and give some feedback to the management board. Following my recommendation, I got a number of texts that said, well you know what maybe the Executive Committee is not necessarily the right venue for the final decision.

The Policy Board, which is all 45 of our Commissioners and the federal services might be a better venue for that. I think the best course is actually go ahead and start with the Executive Committee, because get a

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smaller group to start the conversation, recommend something to the Policy Board, have the Policy Board sign off on it, and then we can decide where we want to go.

That is kind of a long answer to your question, Adam. But the bottom line is we're going to have to work on this over the next couple months, and try to figure it out. It's not going to be a simple, you know the fishery has been kind of slow for the last six weeks, we can tack on six weeks in the fall. It's going to be a bit more complex than that. Happy to answer questions if you have them.

CHAIRMAN NOWALSKY: Thank you very much, Bob. These two options as they have been presented here would not be meant to be exclusive from one another. If someone wanted to take proactive action on this first option, it is what I've referred to a number of people that I've had this conversation with as the "bird in hand approach." That would be pretty straightforward.

If you haven't opened the season, have the means to delay the start to that season, you could follow the same policies that you did when those measures were set originally, and then pursue adding those days on pretty much immediately. Then there is going to be ongoing discussion. We know that at the present time this Board is scheduled to meet again jointly with the Council in June. It would be our hope that the discussion that Bob referenced with regards to Executive Committee/Policy Board, hopefully with some input from TC and states, we could have some feedback and some guidance at that point on what next steps would be. We don't have all the answers here. I'll open it up to hands for very specific questions. If there is any specific guidance or a suggestion that someone has for consideration by the Executive Board, Policy Board or TC, it would be helpful to put it out there now, but it's certainly not necessary, as we all know the situation is changing on a daily basis.

Whenever you have information available, 4:30 today, tomorrow, next week, bring it forward and we'll do the best we can to integrate it. But this is what the intention is right now for consideration, both what we've heard from the public, as well as from managers, on how to consider what we've lost so far while maintaining consideration of necessary conservation.

This is what we're putting forward at the present time. Do we have any hands for anyone that needs anything specific they would want to offer on this right now? Otherwise, it's a work in progress. All right one, Emerson Hasbrouck. Go ahead, Emerson.

MR. EMERSON C. HASBROUCK: I think this is a good idea, and I would suggest that we pursue this. I'll also bring up something that I think is relative, two things that are relative to this as well. One is we've got some similar issues taking place on the commercial side of things, you know and I'm thinking of scup in the Winter 1 fishery.

We're going to have severe restrictions in the summer fishery for scup. Can we account for that somehow you know? Move some of that Winter 1 scup into the summer period? I don't know if we can just do that, if it's going to need an amendment. I don't know what the process is. But that leads me to a bigger issue.

Maybe we can talk about this later in the meeting if you think it's more appropriate then, Mr. Chairman. I think we need to initiate some discussion about the possibility of asking NMFS to move unused quota or unused ABC from 2020 into 2021, and we're not going to know how things are until we get through more of this year.

But right now, there has been hardly anything that is being caught by either the commercial fishery or the recreational fishery. I think that some discussion is in order about how do we perhaps move some of that to the next fishing year, and the New England Council did just that with sea scallops and groundfish. I think they already have some flexibility in their FMP to do that. But I think we need to look at it similarly.

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CHAIRMAN NOWALSKY: Thanks for that Emerson. The Council has already taken action on tilefish, with regards to requesting some information for rollover. We're not going to decide anything here today. What I would ask of all Council members, Commissioners, if you have specific concerns like the ones you brought forward.

Get them to Council and Commission staff, they will begin compiling and adding to a list of those issues that they already have, can begin having discussion about ideas on how to address them, and then I think one of the agenda items on our next board meeting is going to be 2020 issues across the board.

**PRESENTATION ON THE PUBLIC COMMENT  
SUMMARY FOR THE RECREATIONAL AND  
COMMERCIAL ALLOCATION AMENDMENT  
PUBLIC INFORMATION AND  
SCOPING DOCUMENT**

CHAIRMAN NOWALSKY: All right, not seeing anything else on this issue, let's move on to the next agenda item and begin discussion with staff presentation on the public comment summary for the Recreational and Commercial Allocation Amendment Public Information and Scoping Document.

MR. DUSTIN COLSON LEANING: Thanks everyone. Thanks for joining us today for the review of scoping comments and the Advisory Panel report on the Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment. Can everyone see the screen, and can you hear me clearly?

MS. KERNS: Yes, you're good.

MR. COLSON LEANING: I'll begin this presentation with a recap of the Amendment background and purpose, followed by review of the scoping comment summary and the Advisory Panel report. Kylie will then take over, serve you the FMAT recommendations, and

then we can open the floor to Board and Council discussion.

**PUBLIC COMMENT SUMMARY**

MR. COLSON LEANING: As a reminder to the public stakeholders on the call, this action's purpose is to consider the potential modifications to the allocations of catch or landings between the commercial and recreational sectors for summer flounder, scup, and black sea bass. This timeline here serves as a reminder of the need for a fast-paced amendment, if it is still the Board and Council's desire to implement this amendment by the 2022 fishing year.

Following this meeting the FMAT will further develop draft management alternatives for Board and Council feedback in June, and the Council and Board will then approve a range of alternatives for inclusion in the Public Hearing Document at the August meeting. During the course of scoping, Council and Commission staff posted 11 hearings that were attended by approximately 280 people.

Most hearings were well attended, but not all attendees provided comments. Ninety-eight individuals and 14 organizations provided written comments, some of whom also attended hearings and did comments in person. We also tried out a new method of putting up the scoping presentation on YouTube, which was well received, and received 644 views.

This table here provides an overview of all individuals who commented in person, and provided written comment. The majority of individuals, coming in at 74 percent, are part of the recreational sector, and of those 151 people 94 individuals identified themselves as private anglers, followed by 43 from the for-hire industry.

Forty-five fishermen from the commercial sector provided comments as well, and there was also a small percentage of individuals that didn't identify with either the recreational or commercial sector. I will present the comment topics in table format. The first column on the left provides a brief overview of the comment topic.

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The second column presents the number of individuals and organizations that commented under that topic. Comments made by three or fewer people that don't pertain to allocation issues, were not included in the following summary tables that I'll be presenting. However, it is important to remember that although certain comments are not included in this table, all comments are in the summary document, which is provided to the Board and Council through briefing materials. Two hundred and five individuals and organizations that provided comments in total, and the percent displayed on the last column there is basically the percent out of all the comments on that particular topic.

The Council and Board received comments from 80 individuals and organizations that expressed strong concerns with MRIP data, ranging from general disbelief in the estimates to concerns with specific aspects for the recreational data collection. Thirty-two individuals thought that the recreational sector should have increased accountability to their limits.

Ideas for achieving this included overage payback, in-season closures, among others. Twenty individuals and organizations thought that additional or improved recreational data should be used in management, and this could include mandatory private angler reporting, tagging systems, mandatory tournament reporting, and other ideas.

Fifteen individuals and organizations commented in support of greater use of VTR data, many of whom supported its greater reliability compared to MRIP data. A few others thought that the for-hire fleet should have additional requirements, which is VTRs for non-federal vessels, while reinstating did not fish reporting.

Fifty-eight individuals and organizations commented on potential reallocation approaches, 16 individuals and organizations

put opposition to update an allocation base year with this new data. Reasons for this seem that fisheries were fundamentally different than they are now, and the data from the 1980s was very unreliable.

In contrast, 10 individuals thought that the allocation should be updated using the base years. Thirteen people commented that management should consider socioeconomics when making allocation decisions, and 12 people supported looking at the non-traditional allocation approaches such as a needs-based approach or a harvest control rule, such as the one put forward by the American Sportfishing Association, in partnership with five other organizations.

Nine individuals supported a decrease to the commercial allocation, while four individuals spoke in favor of increasing commercial allocations. Eight people supported revising the allocation base here. Several ideas for this approach included using years of good stock help or post-rebuilding year.

Using a long time period or using the most five recent years, and some people even suggested using a 10-year moving average for developing allocation base years. A few people emphasized the need for management to act fast, to prevent the drastic restriction on recreational fisheries. Four others commented that allocation should be catch-based, which includes discards.

We also received a large amount of comments regarding recreational sector separation, 37 individuals and organizations for support for separate allocations, or measures for the for-hire fleet versus private anglers. The most common rationale was that the for-hire sector had better catch accounting and accountability, due to the use of VTRs. In contrast, nine people thought that the sector separation should not be implemented or even considered. Six individuals thought that making future allocations changes through frameworks or addenda would be a good idea, which would allow for more frequent review of allocations, with a less cumbersome management process, while two individuals opposed this idea. Four people commented that the Board and

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Council should reconsider allocations on a regular basis, or have dynamic allocations.

Nine individuals and organizations supported allocation transfers to help prevent overages from occurring. Although several comments added that this shouldn't be allowed if a fishery is overfished, and one comment received opposed this idea. Several individuals supported allocation set-aside to account for private recreational variability in effort, and help prevent the need for payback.

A few individuals thought that one sector should be allowed to buy allocation from another sector at the state level, while one person at a hearing spoke in opposition to this idea when it was presented. We also received various other allocation related comments, 12 individuals commented that the commercial fishery is well-controlled and monitored, and several comments supported the option of basing allocations in pounds or numbers of fish. People also expressed concerns about commercial data, especially regarding discards in the 1980s. Some noted that more people eat fish than fish recreationally, and allocations should account for that. We also received many comments that did not directly relate to the issue of commercial and recreational allocation. That many of them could be categorized into the reoccurring theme.

For example, 31 individuals and organizations explained that discards are too high, or that they drew issue with the discard mortality rate used for the three species. Many also expressed dissatisfaction with recreational measures specific to summer flounder, often relating to the minimum size limit being too high.

Many people also expressed dissatisfaction with recreational management approaches in general, and shared that management had caused the loss of recreational fishing businesses, such as bait and tackle shops and

for-hire vessels. Fifteen individuals and organizations countered that commercial vessels are harming the health of the fishery by catching too many fish, damaging the habitat, or creating too many discards.

Some were to the sentiment about loss of recreational businesses. Several people shared that management had caused the loss of commercial businesses. There was also an assortment of other concerns discussed as listed under other issues on this slide.

### **ADVISORY PANEL REPORT**

MR. COLSON LEANING: Now I'll go into the Advisory Panel Report.

The Advisory Panel met via conference call on April 2, to review the scoping comments received, and provide recommendations to Council and Board on issues that should be addressed in this action, and also provide recommendations for a moving action that they saw as unfit for this action.

In all we had good attendance, 27 members were in attendance from Massachusetts to North Carolina. The majority of advisors in the meeting have no confidence in the Marine Recreational Information Program estimation methodology, and the estimates that it produces. One advisory recommended that the National Marine Fisheries Service reexamine MRIP, and improve its estimation methodology before any allocation actions are taken. Several advisors from the commercial industry were in support of status quo, allocations for all three species, if MRIP must be adopted.

Only one advisor supported using the revised MRIP estimates to generate new allocation percentages, specifically for the summer flounder fishery. One advisor supported the continuation of the type of catch accounting that happened last year, where the recreational sector isn't penalized for an RHL overage, so long as the Acceptable Biological Catch is not exceeded for a fishery.

Several advisors recommended for the development of the recreational management reform harvest control rule. They supported the view that the

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recreational sector's allocation should be considered through the lens of reasonable access, and not a specific harvest limit in pounds. One advisor stated that future allocation changes should not be done through a framework or addendum, because allocating quota between sectors is a very contentious issue that deserves full public presentation through standard amendment processes.

One AP member supported implementing the ability to transfer allocation from one sector to another based on a needs basis, and in contrast one advisor was against allocation transfers because they increase fishing pressure on stocks, and they jeopardize their ability to remain at the target level.

AP feedback on the for-hire and private angler sector separation was mixed. Those who supported it said that the current recreational measures are not working for the for-hire fleet, and that bag limits must remain high enough to sell trips. Those who opposed for-hire and private angler sector separation, said that VTR is not always accurate, and can't be relied upon, because it is in the for-hire captain's best interest to underreport catch.

Another AP member added that MRIP is not accurate enough to develop allocations for the recreational sector either. Three advisors commented in support of mandatory reporting at all recreational fishing tournaments, and one advisor was concerned that the recreational anglers are still primarily fishing on mature female fluke, rather than males, due to the high minimum size, thinking that this minimum size should be lowered to help reduce fishing pressure on the spawner population.

One AP member requested that managers pay greater attention to regional depletion, and at the end of the call, as well as at the beginning of the call, AP members shared their concerns about the effect that Covid-19 and social

distancing is having on the recreational and commercial fisheries.

Several advisors requested that NOAA Fisheries take action to economically support fishermen during the crisis, and some advisors said that commercial and recreational measures should be liberalized to promote fishing for all stakeholder. That is all I have for the Public Comment Summary and AP Report, and I'll transfer it over to you, Kylie, if you're ready.

CHAIRMAN NOWALSKY: While she's getting that up, I'll just extend a word of thanks here to Kylie for jumping in. Karson was unable, or available to do this presentation today, so thank you very much, Kylie for being able to do it for us.

#### **PDT/FMAT REPORT**

MS. KYLIE DANCY: Yes, absolutely. The Fishery Management Action Team, or FMAT met on April 14, to provide recommendations to the Council and Board on the scope of this action, including some broad categories of alternatives to potentially include. They discussed some example approaches informed by scoping comments that you all just reviewed from Dustin, so the full FMAT summary is also included in your briefing materials.

A few general comments to start. The FMAT briefly discussed a legal case regarding a 2015 reallocation in the Gulf of Mexico for red snapper, and in 2017 a court determined that this reallocation was inconsistent with Magnuson National Standard 4, for fairness and equity, based on the justification provided in the amendment.

That is just a reminder that we need to think through thorough justifications for all of our alternatives, and evaluate all the alternatives for consistency with National Standard 4. The FMAT also agreed that alternatives for both catch and landings-based allocations should be developed. We have a little bit of this discussion for bluefish, but it's a little bit of a different situation with these fisheries.

The pros and cons of each of these approaches should be further explored. Scup currently has a catch-based allocation, meaning that both landings and dead

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discards are included in the allocation in the FMP, whereas summer flounder and black sea bass just have landings-based allocations.

The percentages in the FMP only apply to the landings portion of the total ABC, and the thinking with catch-based allocations is that if discards are included directly in the allocation, there may be a greater incentive for each sector to reduce discards to increase their total allowable landings. The FMAT noted both of those should be further explored at this stage, potentially as sub-alternatives under each allocation approach.

This is an overview of the broad categories of alternatives that the FMAT discussed that I'll cover in this presentation, some of which have multiple possible sub-approaches under them, so in the interest of time I'm not going to read these. But I'll go into details on each of these in the next few slides.

The first category is no action, no changes to the existing allocations. The FMAT discussed that as the Council and Board have discussed a few times the revised MRIP estimates have resulted in much higher recreational catch estimates than those that were used to develop the existing allocations.

That is one of the reasons the Council and Board initiated this action, and keeping status quo allocation percentages does not necessarily mean that management measures for each sector will be able to be kept status quo, particularly for the recreational sector. We are now using the revised MRIP estimates in our recreational management, and because allocations have remained the same, the recreational catch limits that came out of the new assessments, incorporating the new data. They did not all increase to the degree that would have been needed to kind of cover that increase in the recreational estimates. Depending on the species, no changes to the current allocation could lead to large reductions

needed in the recreational fishery, even for species like scup that based on the old data, were previously determined to be under harvested.

This is the issue that was discussed back in December, when black sea bass and scup were facing large recreational reductions. However, the Council and Board decided to keep things status quo for 2020, due to this Amendment being developed, and while this was possible for 2020, it might not be possible for 2021 and beyond.

The second approach, the FMAT walked through a few different approaches that fall under a broader category of revised allocation percentages based on revised data or different time series, and I'll explain each of these sub approaches on the following slides. The first option for modified percentage allocations is keeping the existing base years, and updating it with revised catch and landings data for the commercial and recreational fisheries.

The FMAT noted that there is lack of reliable discard estimates in some of the earlier base years, particularly for summer flounder and black sea bass where the base years go back earlier. We might not be able to develop catch-based allocations for those species using the existing base years. We also do plan to look into the reliability of discard estimates over the time series and back into the early years.

Updating the existing base years with new data would shift 5 percent of the summer flounder allocations to the recreational fishery, 13 percent to the recreational fishery for scup, and 4 percent of the black sea bass allocation to the recreational fishery, if all of those species stayed within their current either catch or landings-based allocation.

Depending on the species, this might not prevent the need for near term restrictions to the recreational measures, particularly for a species like black sea bass. The FMAT also acknowledge some scoping comments that noted that the fisheries were very different in the 1980s and 1990s, and did support, considering the ways that the fisheries changed over the years since these allocation base years.

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The yellow text that I'm going to highlight in kind of each of these slides is sort of the summary of the FMAT recommendation for keeping or removing each approach. The summary for this approach is if the FMAT recommends keeping this for further development. The second idea for modified allocation percentages includes updating the base years to use more recent years. For example, the last 5, 10, or 15 years of catch or landings, and these examples were suggested in scoping.

The FMAT noted that these changes would be a fairly substantial shifts in allocation for these species, which may or may not be politically feasible, and in addition using recent years to define allocations is a little bit confounded by the fact that these were all years when we had the existing allocations in place, and the fisheries were theoretically constrained by the current allocations. But the FMAT also noted that the commercial fisheries have been generally closer to their allocation in each of these years than the recreational fishery, which as we know the recreational fishery performance is more difficult to control, and relative to their recreational limits has been more variable, depending on the species with some species having consistent overages, and some having overages and underages. The FMAT also discussed that using recent years for allocation should be evaluated for bias towards the recreational sector, as was suggested during scoping.

That is partly related to that issue of the difficulty in constraining the recreational fishery for some species in recent years. But ultimately the FMAT felt that this approach should be kept for now for further development at this stage. Another approach suggested during scoping was developing revised base years using the five years following the rebuild declaration for each species.

As was the approach just described, the FMAT noted that these would be fairly substantial shifts in allocation, and we have some similar issues to the previous approach that it relies on base years when the fisheries had those allocations, and were theoretically constrained. Then the FMAT also noted in addition the outcomes of this approach don't really seem to be that much different than using just the recent year's approach to stuff in the last slide.

One issue particular to black sea bass is that the FMAT noted, and a public comment noted that for black sea bass during these post rebuilt years after 2010, these may not be appropriate base years for black sea bass, given that catch limits at the time did not reflect biomass, and there was no accepted assessment during those years. Recreational overages during this time period occurred as the result of high availability, and then the commercial fishery was constrained by quotas that in retrospect were artificially low.

The FMAT considered removing this option due to some of these factors, particularly the fact that it was so close to the previous approach, but noted that it might be worth further exploring this idea, and exploring variations on it, such as using a combination of high and low availability years, and it might be beneficial to map out the trends in biomass for each species over the various resulting time periods and pre and post rebuilding time periods for each species.

Recommended keeping it for further development for now. Using socioeconomic information was also suggested as a basis for allocations. The FMAT discussed that the Council has an ongoing contract for a project for summer flounder, which aims to determine which allocations would maximize marginal benefits to the commercial and recreational sectors, and this analysis is currently being updated with revised MRIP data.

Those results are expected sometime this summer. This type of evaluation is not available currently for black sea bass or scup, so we would have to find different approaches for a socioeconomic analysis for these species. One FMAT member noted that we could possibly use the Northeast Fisheries Science

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Center input/output model for the commercial fishery, to evaluate socioeconomic impacts.

Then a member of the FMAT was going to check in with the social sciences branch, to see what information may be available for the recreational sector, and how those could be used in combination to develop alternatives. We're going to plan to further explore this. The FMAT recommended keeping this approach for further evaluation for now. Another concept suggested during scoping is allocating in numbers of fish instead of pounds. The FMAT noted this could in theory produce different allocation percentages, but it's not clear to the FMAT how this approach would work, in terms of its methodology, and what the implications would be.

Because our overall biomass estimates and catch limits are in weight of fish, it's not really clear to the FMAT how an allocation in numbers of fish would work, and whether it would actually have any management advantages over the current method of allocating in pounds. At some point in the specification setting process, if we did allocate in numbers of fish, we would have to have that conversion from pounds to numbers, which could introduce some additional uncertainty in our specifications process.

FMAT members also noted that using numbers of fish is currently used by the Technical Committee in development of recreational measures, and if there are benefits at other points in the process managers could consider whether relying more on estimates in numbers of fish may be beneficial elsewhere, but the FMAT didn't really feel it was appropriate to keep in the allocation options for this Amendment, and recommended removing it from consideration at this time.

The third category of approaches discussed is an approach that would attempt, this is a little bit complicated so bear with me, but the

approach that would attempt to maintain approximately status quo harvest by sector from the most recent year, prior to the last assessment updates, where the MRIP information was incorporated into this assessment.

Assessments incorporating the revised MRIP data were conducted in 2018 for summer flounder, and 2019 for scup and sea bass. Revised catch limits based on those assessments were implemented in the following years. The idea behind this alternative is basically you would look at landings by sector prior to the catch limit revisions, and see what allocations would be necessary to keep these landings approximately status quo.

It would use 2018 and 2019 information as a basis, but would revise the percentage allocated to each sector in the FMP. It would revise that percentage going forward, and as such it would not guarantee status quo landings by sector in the long term. Staff looked into whether this is even possible.

Based on our preliminary analysis we found that it would be possible for summer flounder, and close but not quite for scup and sea bass. We would need some additional manipulation of different options for scup and sea bass. As a reminder, when the catch limits were revised based on the most recent assessment updates, it did include increases for summer flounder and black sea bass of about 50 percent or more.

However, the recreational sector was not able to liberalize, due to that transition to the higher MRIP estimates, now that we're fully using those new MRIP estimates. For scup the ABC actually decreased overall with the new assessment. However, since the commercial scup sector has under harvested since 2007 that allowed a little bit more flexibility in making this option almost work for scup. In discussing this option, the FMAT indicated that preliminary calculated percentages would represent a substantial modification to the allocations for all three of these species, and may not be feasible in the long term. However, this could have some potential as a short-term approach.

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The FMAT considered that this might not be viable, but did support further development prior to the next joint meeting, to see whether it could be refined into something that could work, either as a short or a long-term approach. The fourth concept is recreational sector separation. Starting with first the idea of full sector separation, which would include separate allocations and accountability for the private angler and the for-hire recreational sectors.

As discussed in many scoping comments, the FMAT recognized that there are potential, there are different datasets that we can look at for private recreational and for-hire data, including the VTR data. But the FMAT also acknowledged that some stakeholders may not support sector separation if only the MRIP data is used in these calculations.

But for-hire VTR data does have a couple of issues we need to consider, including that it only provides catch in numbers of fish and not weight, and that in addition VTRs aren't required for some state vessels, so some data may be missing when looking at VTR data. The FMAT also wanted to highlight for the Council and Board that under Magnuson, any separate allocations of catch to the for-hire sector as either a separate ACL or a separate sub-ACL, would require the development of separate accountability measures.

Perhaps there is something that we could do on more of a target basis rather than a limit basis, and maybe that wouldn't be required then, but any separate ACL allocation would require separate accountability measures to be developed for each sector. Overall, the FMAT recommended keeping this approach for further development.

Then another option for recreational sector separation is separate management measures, which is already used in a limited manner in this FMP in state waters. The FMAT did recommend

that if it's going to be used consistently going forward, it would be beneficial to develop a transparent policy on how these measures should be developed, and how each sector should be kept accountable, and how measures should be adjusted.

Again, the FMAT noted the same concern with stakeholder buy-in if using primarily MRIP data. Then the FMAT's recommendation at this time is to keep this for further development, but it is worth noting that in follow up conversations we have confirmed that this approach isn't something that necessarily needs to be taken up for an amendment, it can be done through a framework or addendum, or possibly through specifications, depending on the measures considered.

This is something we could consider moving to a separate action at some point if desired. The fifth approach discussed by the FMAT is a proposal submitted during scoping by a group of six recreational organizations, and this can be found in the Scoping Summary Document on Page 146. The idea behind this proposal is that allocation would not be defined as a set percentage of the total catch, but instead at a level of access, defined by management measures. Recreational allocation would be defined as a specific combination of bag, size, and season likely variable by state, with some kind of ideal level of recreational access when the stock biomass is high. As the stock biomass declines measures would get more restrictive in a step-wise fashion. Then the commercial allocation would similarly be determined based on a generally agreed upon preferred quota levels, after considering various market factors, and then quotas would decrease as biomass declines relative to the target.

This is the basic overview of the idea, but there are more nuance details in the proposal. On this approach the FMAT acknowledged that this is a creative way to look at setting measures, but the FMAT was not sure at this point that the proposal was really directly related to the allocations between commercial and recreational fisheries, at least as it is currently described.

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As it is currently described, it seems to be a little bit more relevant to the recreational measures setting process, and might be more appropriate for a separate action, such as the ongoing recreational reform initiative. One really important issue that the FMAT highlighted was it doesn't seem like this approach as described would be necessarily feasible under the current Magnuson requirements for catch limits and accountability measures.

Because it's unlikely that we can sort of redefine allocation as a set of management measures, unless that set of management measures is associated with a projected level of catch. Magnuson requires catch limits in pounds of fish. We would need to do quite a bit of analysis to determine what the projected catch is associated with different combinations of measures.

As we know from our recreational measures process, catch can vary under the same measures from year to year, so this could be really uncertain and kind of complicated. The FMAT ultimately supports further exploration of the concept at this stage, but noted that they do have reservations with the approach, and noted that we do need additional thought into this to determine whether it can be made more directly applicable to commercial/recreational allocation, and whether it's feasible under our existing legal requirements.

The sixth issue was recreational accountability alternatives. Although this concept was raised frequently during scoping, there were not a lot of specific suggestions of how to improve recreational accountability, except for the general ideas of more frequent overage paybacks, and bringing back in-season closures.

The FMAT discussed that these two items would largely be a reversal of policies that were adopted in recent years to address issues with the uncertainty and the timeliness of the

recreational data, and specifically a reversal of some of the actions taken through the Council's 2013 Omnibus Recreational Accountability Amendment.

The FMAT stated that there could be ways to incorporate aspects of accountability into some of our allocation alternatives we develop in this action, but these sort of major changes to the accountability measures, including in-season measures and paybacks. That would potentially be a broader scope, and would potentially delay the development of this action. The seventh issue is Recreational Catch Accounting. Examples of improved recreational catch accounting suggested through scoping, things like mandatory private angler reporting, mandatory tournament reporting, VTRs for all state for-hire vessels, reinstating did not fish reports on recreational VTR requirements. Some of these ideas could theoretically reduce the uncertainties in recreational data, but this is a big ask in some of these elements. They do have tradeoffs associated with increasing the reporting burden on a very large number of private anglers, and also tradeoffs with enforceability and compliance challenges.

The FMAT noted that we do need to think about what is realistic within the scope of this action, if the Council and Board want to keep this to their intended timeline and action purpose. The FMAT recommended that potentially more minor changes to recreational catch accounting could be considered for further development. But overall, the FMAT believes that major initiatives to modify the entire system of catch accounting are beyond the scope of this action, as the FMAT understands it, and could substantially delay the amendment timeline.

The eighth approach discussed was development of dynamic allocation approaches, and consideration of options for future revisions. Things like moving average approaches, trigger mechanisms and allowing for allocations to be changed through a framework or addendum process, rather than through an amendment.

Regarding a trigger approach that would allocate catch in a certain manner up to a specified ABC level,

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and allocate differently above that specified ABC trigger. This could help address the issue that it is more difficult to constrain the recreational fishery in times of high availability, and the FMAT recommended further exploring this issue for the next meeting.

In discussing the issue of future modifications to allocations, the FMAT noted that frameworks and addenda are more expedient processes, but this comes at the expense of reduced public input opportunities, so managers could also consider allowing modifications through frameworks or addenda possibly only for temporary adjustments, if desired.

Then the FMAT also noted that we can always have the option of doing an amendment instead of a framework or addendum if you so choose, and allowing for frameworks and addenda could potentially be a useful tool in the toolbox for more minor changes. Overall, they were supportive of leaving this option in for further development. Then finally, the last issue was allocation transfers and set-asides. Again, this is something that the ideas in here are a little bit more vague, and there were not a lot of specifics suggested during scoping.

The FMAT discussed that allowing transfers between sectors, which is not currently in place in this FMP, could reduce the chances of under harvesting by some sectors, and supported keeping this issue for at least taking a further look at. Then another idea suggested during scoping was to allow one sector to buy allocations from another sector, specifically the for-hire and commercial sectors being able to buy quota from each other. The FMAT noted that there is currently not the infrastructure to manage this type of system.

There would be a lot of complications with this approach, and they did not recommend further development of this idea. Another option discussed was set-asides, or allowing allocation to be set aside, basically during the

specifications process with a to-be-determined process for how it would be used as needed later in the year by one of those sectors. In addition to not really being fully clear on how this would work, the FMAT noted some potential equity concerns with this approach, as it could be that this is more likely to be used by the recreational fisheries, which are not generally as easily held to their limit. It's also not clear how this would work in practice, but the FMAT recommended keeping the concept for further development.

This is an area where we would sort of welcome some suggestions on how such a system might work. That's it for specific approaches. A few other considerations to note for this amendment in general. First, there is a tradeoff with this action between the quantity and complexity of alternatives that we can consider, and the plan amendment timeline.

Staff and the FMAT have thought very hard about this timeline. That is outlined in our current action plan in the briefing materials, and this was given the need for a fast track amendment, as indicated by the Council and Board to address some of the pressing implications of the MRIP revisions.

The current timeline has approval of a range of alternatives this August, approval of a public hearing document in December, and an expected implementation date of January 1, 2022. The current number and complexity of the approaches contained in the list we just covered, proposes challenges for meeting this timeline.

I will say that the FMAT recommendations were more focused on the concepts themselves rather than on the timeline issues. I just want to remind folks that you know the earlier the Council and Board can narrow the range of approaches to be considered, the more thoroughly we will be able to consider the remaining options to address the amendment objective.

Then related to that point there are some issues on a list as I mentioned that could be addressed through separate processes, if the Council and Board still want

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to pursue them. Another point discussed by staff following the FMAT call was that we recognize that not all of these approaches would necessarily work for all species.

As we refine these ideas, we do expect species specific approaches to emerge if the Council and Board are supportive of organizing the alternatives that way. Then finally while the FMAT didn't explicitly discuss this, staff had some discussions about how phase-in approaches could be developed if there are more major changes to allocations if necessary.

Coming back to the main decision points, the objective for the Council and Board is to define the scope of the action and recommend broad categories of alternatives for further development, or removal from this action. Based on that feedback, after today the FMAT will begin developing more specific draft alternatives for consideration at the joint June meeting, which has recently been moved to a webinar.

On the following few slides, for discussion I do have tables that are similar to the summary table in the FMAT meeting report, which kind of highlight the main ideas in the FMAT recommendations. We can kind of keep these three slides with all nine issues to walk through as we move through this discussion. That is it, for the presentation that I have at this time, and happy to take questions, thank you.

**PROVIDE GUIDANCE TO THE PDT/FMAT ON  
SUMMER FLOUNDER, SCUP, AND BLACK SEA  
BASS COMMERCIAL/RECREATIONAL  
ALLOCATION DRAFT AMENDMENT**

CHAIRMAN NOWALSKY: All right thank you very much to staff for presenting that. Lots of information here. The process we're going to follow is we'll next open it up to Council and the Board for questions specific to the public hearing, the AP report, or the FMAT. We will

then pull up these slides that have these nine categories on them.

We'll ask the question for each of the nine categories. If there is a desire to remove it, in most cases we have a summary of the FMAT recommendation in front of us. It will be my hope that we can do those by consent. Anything that we do not remove today would be left in, and would come back to this joint body in June for some more discussion.

I think there was a lot of discussion during the bluefish call on some of the topics. That there were questions about whether those items would ultimately be part of the final range of alternatives, and ultimately a public hearing document. But there was support for leaving some things in.

There may be similar level of concern about certain items, but a willingness to leave them in to give them some time for some additional development. With that we've got an hour and 20 minutes to go through these, so let's start with any questions that are specific about the public hearing process, the AP summary or what we've heard from the FMAT, knowing that we're going to come to each one of these topics for some more discussion.

All right, so it looks like everybody wants to get right to the discussion here without substantive questions. That is a tip of the hat to staff for doing a great job presenting things here. Certainly, as each topic comes up, if there is a specific question to ask, we can do that. Let's start going through these then.

The first item here is a no action, status quo. That needs to remain in the document, so there is no discussion to be had here. Kylie, Dustin, would it be your preference here to tackle a category in its entirety, or do you want to focus on one approach at a time? What is going to be easier for the two of you to respond?

MS. DANCY: I would say that some of these are more closely related than others. I think looking at Category 2, the first three are more related. They are basically changing the data of the base years, and then the

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socioeconomic, and numbers in pounds are a little bit different concept. Maybe we could group the first three together.

CHAIRMAN NOWALSKY: Okay, so we'll start with the first, go ahead.

MS. DANCY: Then for other issues, things like sector separation I think can be discussed together, and I think that's it.

CHAIRMAN NOWALSKY: Okay, well we'll start with the first couple here then as the large approach. We've got the category here, revised percentages based on different data or time series. As a result of the public hearings, there were five different approaches that were drafted. The FMAT recommendation is to keep four in for further development, and remove one from further consideration. I would open it up to the Board and the Council for discussion on this. Again, it is my hope that we can do these by consent, with consent being to do things according to the FMAT recommendation. If not, make a case for something otherwise. Two people I've got with hands up so far are Eric Reid and Emerson Hasbrouck. I'll just ask that when you go ahead and start speaking, please put your hand down and remember to unmute yourself. Go ahead, Eric.

MR. ERIC REID: Well, I'm glad you had the desire to get right to work, but I have a question. If you look at the public comments, 98 people supported some modification to allocation. But 81 people have strong concerns about MRIP. My concern is addressing the 81 comments in this entire action.

At what point do we have the discussion about honoring the public's comments, the 81 comments about the data collection system and other issues with the recreational fishery as a whole? I don't know if we have that discussion before we go through all these alternatives or after, but we have to have that conversation in order to honor the public's comments.

You know we have some serious issues that have been identified by the public, of course we know most of them already. But I'm very concerned that we're going to move ahead with all these options, without addressing the shortfalls in the recreational fishery as a whole. I would like to know your timeline on that Mr. Chairman, thank you.

CHAIRMAN NOWALSKY: Well, I don't think the timeline belongs to me, Eric. I think the timeline belongs to the Council and the Board here. These are options that have been brought forward. Most all have some reliance on recreational catch data, largely generated by MRIP or its predecessor, with some consideration of VTR data.

I would bring it back to the Council and the Board here with regards to how you want to address these things, or as staff has said is there a specific need to bring forth another option that addresses that concern? There is at least one option in these range of categories that offers a different approach. Perhaps there would be support for that in your consideration. But I think ultimately, we've had many, many, hours of discussion about the merits of MRIP and its use.

Now it's the opportunity for the Board and the Council to pick which options they want to use moving forward on that. I don't want to get into a long discussion about the merits of MRIP, because we've been through that. It comes down to, which of these options do you think use MRIP the best and which don't? That is the recommendation I think that is most suitable moving forward. Next, I had Emerson Hasbrouck, then Justin Davis.

MR. EMERSON C. HASBROUCK: Yes, I'm sorry I didn't raise this before when you asked if there were any questions for Dustin and Kylie, but I was trying to get my thoughts together with such an extensive presentation. I do have a couple of questions, and in a way they're somewhat related to what Eric just raised.

On the public comments, all right if I'm looking at Table 3 under public comments. There were the 47 percent of the total comments on the topic for support allocation changes versus support no

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allocation changes for status quo, 47 percent supported allocation changes, 23 percent did not.

That adds up to 70 percent. I'm wondering what happens to the other 30 percent of respondents for this category? I'm wondering, so that is Question 1A, Question 1B is, only 47 percent of the people in public comment thought that we even needed to go forward with this amendment. That raises a concern on my part about the effort and energy we're expending on this. Then I also have a question about the AP summary. I'll wait until my first two sub-questions are answered, and then I'll go on to the AP.

MR. COLSON LEANING: I can take on the first.

CHAIRMAN NOWALSKY: Go ahead, Dustin. My guess is the answer is going to be similar to the question I had asked on bluefish. My guess is that 47 percent of the responses supported allocation, 23 percent didn't, and the other 30 percent were silent on that question is my guess. But Dustin, if you've got a different answer please go ahead.

MR. COLSON LEANING: Right, so the percent that is displayed there is what percent of people who commented shared that opinion. Out of like all comments received on any of the topics, if that makes any sense. It's not like 100 percent, there is some game between supporting and not supporting that specific allocation change or status quo, it's all the percentages displayed, and all the tables are just what percent of all comments received voiced that opinion.

CHAIRMAN NOWALSKY: The answer Emerson is the other 30 percent didn't chime in on that topic. With regards to moving forward with this, we know that for the 2020 fishing year our 2019 harvest on at least two of the recreational species were significantly above what our 2020 RHL was.

The Commission and Council made what was ultimately a compelling argument that supported, in conjunction with stock status, and other questions about the MRIP revisions and how it affected the stock assessment, and the fact that we had this document initiated. Those were the main arguments that supported status quo measures for 2020.

If these bodies do not move forward with this, then we're going to have a discussion about what we do with 2021 later in the year. Well we're going to have that discussion anyway, but that would be the concern for later in the year. Obviously when we initiated this document no one that I know foresaw what we're dealing with right now with reduced effort, reduced harvest.

That was not part of the discussion. That just injects a totally other part of the discussion here, but that would be the rationale for moving forward. If these bodies choose not to move forward with it, I think the Service would certainly have a position on it. It might not be too kind to angling communities. Mike Luisi, you've got your hand up. Do you want to add something as Council Chair with regards to this action?

MR. MICHAEL LUISI: If I may.

MR. HASBROUCK: I had a second question, Adam, if you could come back to me. When I first asked my question, I said I had another, so before we lose it.

CHAIRMAN NOWALSKY: Yes. I wanted to address those first two issues you brought up for us. Let me see if Mike has any feedback here. We'll come back to you. I've still got Justin, and then hopefully we can get back to discussing what is in this document here. Mike.

MR. LUISI: Yes thanks, Adam. I just wanted to Emerson's point. I think one of the things that was lacking in the public hearings, the one that I attended in Maryland, was what happens as a result of doing nothing? I don't think that it was made clear to the audience, you know the consequences of doing nothing. There was a lot of comment. I know

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specifically from the hearing that I attended in Maryland, where you know folks said oh just kind of leave things alone, just kind of let it be.

But there was no real discussion about what those consequences would be, as far as changes. You know the implications of no action; I'm looking at the screen now and seeing the slide. I want to put it on record that that may not have been discussed, at least it wasn't discussed at the hearing that I attended. It may not have been as pronounced as what it should have been, you know as far as getting feedback.

CHAIRMAN NOWALSKY: Emerson, you said you had a second question.

MR. HASBROUCK: Yes, I do, about the AP. Before I ask that in reference to what Mike was just saying. We're going to have to address 2021 anyhow, because this Amendment is not going to be ready for what we have to do for 2021, so we're going to have to have that discussion anyhow. My question on the AP meeting was, and I listened in on that webinar for the AP meeting.

Other than a general displeasure with MRIP, and I know Mr. Chairman you said you don't want to get into a discussion about MRIP, and I'm fine with that. But on that AP meeting, other than a general displeasure with MRIP, I didn't get a strong sense that anybody really wanted to do much of anything with reallocation. That is my question relative to AP.

CHAIRMAN NOWALSKY: I'll turn to staff for a characterization of what your thinking is what the takeaway by staff was about the desire of the public on action on this document.

MR. COLSON LEANING: I can agree with Emerson that there seemed to be, the majority of comments were discontent with how MRIP is managed, and the implications for management and how we set recreational measures and so on. It was challenging to pull out

recommendations from the AP that differed from displeasure with MRIP. However, there were some comments here and there that were helpful and on par with developing analysis forward. I don't know if Kylie wants to expand upon that.

MS. DANCY: I don't if that's okay (fuzzy)

CHAIRMAN NOWALSKY: Okay. Again, the categories that we're trying to get to here for discussion did come from the scoping public hearing process. That is where these came from. They may not have been the majority of comments, but they came out of the process, and that is why we're trying to get to discuss them today. Again, we're trying to get to specifics on the categories here. Hopefully once we get discussion going on the first one, we can keep that going. I've got Justin Davis and then Tom Fote, and again if we can have discussion on the categories that would be helpful, and if staff could put the slide back up on what Number 2 was that would be helpful. Justin.

DR. JUSTIN DAVIS: I will start really quickly by just noting that I couldn't agree with Eric Reid more that we absolutely need to acknowledge the widespread, sort of lack of faith in the MRIP estimates, and that I think poses a real sort of crisis for this action generally. I think what the public is looking for from us as managers is to move beyond just sort of acknowledgement of that widespread misgiving.

Some positive action towards either validating MRIP estimates, providing some corroboration of those, or moving towards approaches for management that don't rely on the MRIP data. To bring it back to this slide 2.4. I'm intrigued by the possibility of coming up with an allocation scheme that is based on socioeconomic analyses, and that maybe moves us away from reliance on the MRIP data.

But a question to staff. You know it says here explore possible data sources. I'm just wondering, how feasible is this? I mean are there ideas about what data sources we would use? Are there models for approaches out there that have been used previously in other fisheries by other management bodies?

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I think this is an intriguing idea, but given the big slate of stuff that is proposed right now, if this is something that is likely not going to bear fruit, I would maybe think about removing it. As much as I would like to see us explore something that doesn't rely on MRIP.

MS. DANCY: Yes, I can speak to that. I think this is something we're really going to have to further explore. I don't think we know right now, or the FMAT hasn't really gotten into in-depth discussions about what would be available, with the exception of that summer flounder model that we contracted, which the Council and Board saw the results of back in 2016.

But it was using the old MRIP data. We're updating that with the revised MRIP data. That is going to potentially be informative for summer flounder, but for scup and sea bass I'm not sure exactly what we're going to be able to accomplish with this evaluation in the timespan of this Amendment.

But we certainly want to explore what data sources we have available, and what other regions have done. This could potentially be something that you know if we know that we could do something along these lines, but it's going to take a while. Potentially this could be used as more of a long-term approach, with something else in place prior to that and put that into a separate process.

CHAIRMAN NOWALSKY: Next up I've got Tom Fote and then John Clark.

MR. THOMAS P. FOTE: Just a simple question. Since I missed the February meeting. I'm trying to wrap my head around the fact that we were down by 24 percent in recreational participation last year, but we were over on black sea bass and scup, even with a 24 percent reduction in recreational participation? It makes me think about MRIP even more. Is that what I'm hearing?

CHAIRMAN NOWALSKY: I think the slide with the implications of no action were accurate with regards to reflecting what MRIP offered for 2019 harvest, relative to 2020 RHLs, Tom.

MR. FOTE: Okay that is all I wanted to know.

CHAIRMAN NOWALSKY: Whether we agree or disagree with them is a totally different issue, but that reflects what was generated by MRIP.

MR. FOTE: I just couldn't imagine those figures with what I knew about the 2019 season, but now I understand it's on MRIP. Thank you.

CHAIRMAN NOWALSKY: All right, John Clark.

MR. JOHN CLARK: I agree with the recommendation from the FMAT to remove 2.5. But my question had to do with the other options. Some of them as the report pointed out, will result in pretty large changes in allocations. The FMAT document mentioned that National Standard 4 case with the red snapper fishery in the Gulf.

The little bit of reading I did on that made it seem like it was a very extreme example for reallocation. But I was just wondering if there is any guidance that had come out of that that would lead us to know whether some of these reallocations would be something that could be challenged in court, or it's fairness in the eye of the beholder, and any reallocation could be challenged?

CHAIRMAN NOWALSKY: I fully expect that if we leave something in, John, when we next see this in June that would be part of the consideration, and we may get a different recommendation in June than what we have before us right now. I'll turn to staff if they have a different opinion of what the next step would be, but that is what I believe how this would move forward.

MS. DANCY: Yes, I think we will, as we further develop some of these ideas we were definitely working with, with GARFO and Legal Counsel on issues like that and making sure this is consistent with National Standards. We ultimately have to demonstrate that anything the

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Council chooses is consistent with all of our national standards.

We will definitely work on exploring that. In looking at the implications of that case, I think there may have been some fishery specific issues associated with the red snapper fishery, and the history of recreational overages and things like that. We'll have to explore kind of the applicability of certain elements of that case to these fisheries.

CHAIRMAN NOWALSKY: All right, so where we're at is we've got one recommendation for keeping this in as offered, 2.1, 2.2, 2.3, 2.4. One concurrence with removal of 2.5, and a question mark about whether we should leave 2.4 in. Continued discussion and consent towards one of those positions is helpful. Eric Reid, you've got your hand back up again.

MR. REID: Regarding 2.4, the report we got back in 2016, of course it found that the allocation split that we were at the time was fine. I don't think that was exactly what they said, but that is what they said. But in that analysis, one of the things that's included on the recreational sector is willingness to pay. That was not included in the commercial sector. I just want to know if that updated analysis that we're going to get in June is going to revisit the willingness to pay of the commercial sector in the fishery. That will make some changes where the conversions point of the two sectors will change substantially, at least in my mind. But if it is not included then I think that the analysis that we're going to get is going to be flawed. That is one of the flaws. I want to know if they are going to include willingness to pay on the commercial sector in their re-write.

CHAIRMAN NOWALSKY: Well I think the answer to that Eric, is that given the advice we put forward today that is what they're looking for, recommendations of what we want them to look at. I believe it is your recommendation to have them look at it, it would be so noted, and

if they could they would do so based on that recommendation. Would that be a fair read from staff?

MS. DANCY: We're talking specifically about the Council contract for summer flounder, I mean they are well underway in making those updates to it, and they are basically using the same methodology that they used in the 2016 report, just updated with additional data for both the recreational and commercial fishery.

But my understanding is that the willingness to pay element is included for the recreational fishery, because that is the data that we have for the recreational fishery, and there are other you know more concrete, economic metrics for the commercial fishery. If willingness to pay was not included for the commercial fishery in the first round, it would not be in this round.

CHAIRMAN NOWALSKY: Eric, do you have any follow up to that?

MR. REID: Well I think it absolutely should be included, but if they're going to use the same data that they used in the first one, I actually am looking forward to that because Rhode Island's share of black sea bass in that paper was 51 percent. I guess I could trade off willingness to pay for the commercial sector for that 51 percent Rhode Island has for black sea bass.

CHAIRMAN NOWALSKY: Next up I've got the Regional Administrator, Mike Pentony.

REGIONAL ADMINISTRATOR MICHAEL PENTONY: I just wanted to weigh in briefly on the issue of Option 2.5. I understand the FMATs recommendation to remove this at this time. I think I understand why. I think I support the idea that it could be very difficult to be setting ABCs and making allocation decisions based on numbers rather than pounds. But I'm going to recommend that we keep it in, just so that we have the opportunity to talk about an idea that I've been thinking about, where we manage the recreational fishery via numbers of fish rather than pounds. In other words, once we've made the allocation between

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the commercial and the recreational fishery, however we end up doing that. We would manage the recreational ACL, ACT, RHL, in terms of numbers of fish.

Particularly for determining whether AMs are triggered, you know that may not inherently depend on 2.5, but I think the opportunity to have that discussion about how that might work, how that might stem off of how we do the allocation approach, would benefit from leaving this option in, at least for now.

CHAIRMAN NOWALSKY: There is a nod towards leaving that option in. Joe Cimino.

MR. JOE CIMINO: Thanks Mr. Chair, and I want to thank staff as well. I sat through the AP and the FMAT calls, and I did not envy anyone putting this together, and Kylie did a great job presenting. Then I just wanted to raise my hand quickly to just support what Mike just said.

CHAIRMAN NOWALSKY: All right again, appreciate the comments with guidance towards keeping things in or taking them out. Tom Fote, got your hand up again, hopefully to the point of what to keep in versus take out, and Mike you've still got your hand up also. Let's go with Tom Fote here next if he's got something additional.

MR. FOTE: Yes, I agree with Mike. The reason I'm agreeing with Mike on this is the fact that because we're raising the size limit. What it means to the recreational community is success on a trip. When they go out and catch 30 fish and basically have to throw them all back, because they haven't caught a keeper. They come home really upset.

When we basically look at the catch figures and we look at the pounds of fish, and I've done this a couple of times, analyze when we were back in the '80s and '90s even, we were looking at 1.3 pounds, 1.2 pounds for an average size summer flounder going home when we got 14

inches. When we started going big, fattest, we started getting less and less fish and bigger fish.

Really, we're having less success among the anglers, a few people are going home with big fish. That means a lot of people are disappointed, and that is the frustration you hear when you go out to public hearings is that they're not taking home fish to eat. Unlike striped bass, which is a catch and release fishery, the way the fish is promulgated.

Summer flounder was never a catch and release fishery, it's catch and eat, and that is the frustration here. Anything we can do to get to the point where we can at least give a better success rate than we have per trip, then less than like, I think it's down to 0.8 fish per trip. That would be helpful in alleviating some of the concerns of the recreational sector.

MS. DANCY: Kind of a response to these questions, whenever it is appropriate, Adam.

CHAIRMAN NOWALSKY: No, go ahead, Kylie.

MS. DANCY: I understand that idea of keeping that to explore managing the recreational fishery in numbers of fish, and to a certain extent we already do develop recreational measures in numbers of fish on the Commission's technical side, when we come up with state measures.

But, I guess I'm just not clear on what to take back to the FMAT, in terms of how exactly that is connected to the allocation in numbers of pounds. I don't really see the need to necessarily keep this in this action that is specific to commercial/recreational allocation, in order to apply management in numbers of fish to the recreational fishery, if that makes sense.

CHAIRMAN NOWALSKY: Well I'm going to look what would usually be to my right and say, Mike Pentony, if you could go ahead and chime in on that that would be great. Go ahead, Mike.

REGIONAL ADMINISTRATOR PENTONY: Yes, I understand Kylie's point that there are obviously ways to look at this. I guess I was thinking a little bit more broadly that if 2.5 stays in there then it kind of

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provides a vector, or a basis for the FMAT and the AP to have a conversation about the allocation to the recreational sector being in numbers of fish, rather than in pounds.

Now, I recognize that that creates, it looks like a chicken and the egg problem, in terms of how you get that allocation in numbers if you're starting with pounds, and allocating the commercial fishery pounds. But that nuance. That trick of trying to get there is why I think leaving this in for now provides an avenue for us to have that conversation, and to kind of delve into that issue, and try to come up with some solutions, to see if those would be workable.

CHAIRMAN NOWALSKY: Kylie, is that helpful?

MS. DANCY: Yes, I think so. I don't necessarily know if that needs to go through an amendment, because I think we could take it just saying either recreational ACLs or RHLs and convert them to numbers. But you know perhaps it does, perhaps it needs a little bit of further discussion by the FMAT. Yes, I guess that helps things.

CHAIRMAN NOWALSKY: What I see would occur over the next six weeks prior to the June meeting is, and we're going to come up to a number of other ideas that the FMAT has already identified as, may not be appropriate in this Amendment. What I would hope could happen, if we choose as a body to leave those in, is that there could be some more refined suggestion from the FMAT leading to June what the alternative venue for that item would be.

This may fall into that category whereby, you do a little bit more work with it, you tell us, we did some more work, here is what we recommend is the appropriate venue if you choose not to pursue it in the Allocation Amendment. That's what I perceive is the benefit as deciding to leave things in over the next six weeks.

Where I am at, is there anyone from the Board or Council at this point that wants to speak in opposition to leaving all five of these items in? I haven't heard much debate regarding 2.1, 2.2, and 2.3, anyone having a difference of opinion about leaving those in. With regards to 2.4, I haven't heard anybody speak against it. There have been some questions in it, and we've had three speakers in a row that spoke in favor of leaving 2.5 in. Is there anyone right now that wants to speak against any one of these remaining in until we hear back in June? All right, I'm not seeing any hands raised. The consensus from the Board and the Council is to leave these five items in, again, for the FMAT to continue to look at with coming back to us with some more development in June, or some alternative venue that they would propose for it.

All right let's go on to the next slide, Category 3. Allocations to maintain status quo harvest by sector. No sub approaches identified at this point. The FMAT recommendation is to keep for further development. Recommendation from the Board and Council about any opposition to keeping this in for further development. Seeing no opposition or additional discussion, we'll leave this in for further development.

Next item, Category 4, Recreational Sector Separation. We heard comments that broke this down into two separate approaches, one that would provide allocations for-hire versus private. Second, which would break it down just with separate management measures. I think this group had, well we had substantial discussion about this topic this morning and into the afternoon on bluefish.

I expect a lot of the discussion would be similar. The FMAT recommendation is to keep both in for right now. Let me hear from anyone who wants to speak on these topics, and or oppose the recommendation of the FMAT or looking at these for further development. Tom Fote and then Tony DiLernia.

MR. FOTE: I have no problem. Even though I don't support sector separation, I never have. I thought we always should stay in the same. Recreational is recreational. I have no problem keeping this out to go out and get what the public wants to do on this. I

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think it needs further research, and I think it's good to bring this out to the public, regardless of my feelings on it.

CHAIRMAN NOWALSKY: Tony DiLernia.

MR. ANTHONY DiLERNIA: Yes, I would leave it in, for many of the reasons that I stated this morning. Also, let's remind ourselves. If you hang onto a serious sector separation program, you're going to have a limited access program for the for-hire fleet. You're going to have to increase the number of permits. Is the public or the for-hire community prepared for that? Let's leave it in. Let's have the discussion, and let's see where it goes.

CHAIRMAN NOWALSKY: Chris Batsavage.

MR. CHRIS BATSAVAGE: I might have missed it in the presentation, but think back to when we discussed this for bluefish. Separate management measures for for-hire versus private sector, I think could be done through specifications. Does that need to be part of the Amendment in order for that to occur for summer flounder, scup, and black sea bass?

CHAIRMAN NOWALSKY: I'll turn to staff for any specific directives they would need from the Board and Council for further development, based on what we've done in the past or believe we can do presently.

MS. DANCY: I don't know that the federal FMP necessarily directly speaks to this. We have done separate management measures by mode for some of the state measures for scup, and I believe black sea bass. We can do some of this through specifications.

I did mention in that presentation that the FMAT recommends that if this is going to be used on a broader scale consistently that we have some kind of transparent policy, for figuring out how to modify the sector-specific management measures from year to year, and

how to keep each sector sort of accountable for their own kind of target, or something like that.

While the FMAT did recommend kind of developing a more comprehensive policy for this, it doesn't necessarily need to be in an amendment, it could be done either through a framework or addendum, or possibly specifications, depending on what degree of changes were made.

MR. COLSON LEANING: If I could just tack on. It seems like this has been a broader conversation across management boards, both coming up in tautog, potential implications for striped bass and bluefish as well. Perhaps it would be pertinent to look at it at a bigger scale rather than this particular amendment issue.

CHAIRMAN NOWALSKY: Yes, and it is an issue at the Commission level, where they've taken it up and now have a working group that would look at this on a broader scale. Joe Cimino.

MR. CIMINO: But isn't this I guess a question of you know whether or not they have separate targets, so an RHL and something else as a possibility, and that is different than some of the other options we're talking about?

MS. DANCY: I think as defined right now, really just specific to it is just regarding separate management measures. I think the way that you do that could be done it a couple different ways. I think you could have sub-targets of VRHL or something like that. That again would probably be something that we would want to clearly define in some kind of policy.

I think that would be probably appropriate for a framework addendum. You would have to have further discussions on exactly what that would mean. But I don't think it necessarily, unless we're implementing separate allocations with separate ACLs or sub-ACLs. I don't think it necessarily requires an amendment.

MS. KERNS: Kylie, this is Toni.

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CHAIRMAN NOWALSKY: Go ahead, Toni.

MS. KERNS: I was under the impression from one of the comments that someone is looking for a separate allocation, as in a quota. I don't know if it has to be an ACL or not.

MS. DANCY: Yes, and that was kind of the idea behind this approach 4.1, Separate Allocations, meaning there is a specified percent or something in the FMP that says the for-hire sector gets this, and the private recreational sector gets this. That I believe would need an amendment. We do recommend keeping that for further development. But if it is just the idea of developing separate management measures, we are sort of already doing that to a degree, and probably wouldn't rise to the level of an amendment.

CHAIRMAN NOWALSKY: Was my characterization earlier Kylie that choosing to leave something in today could ultimately, between now and June, the FMAT would just clearly define what the alternative management document then you would be. If they don't feel it is appropriate in this Amendment, write separate measures. Is that fair?

MS. DANCY: Yes, I think that is fair. For things that are left in we can further elaborate on them and talk about how to approach each of them, including through separate action.

CHAIRMAN NOWALSKY: Okay, great. Again, by leaving it in you might have a different answer come June, whether it's in here. But choosing to leave it in today gives the FMAT the opportunity to help define that. It looks like we went backwards on one of the slides here. Joe and Toni, I've still got your hands up.

I'm not sure if you still wanted to speak. If you did, leave it up. Okay, Joe and Toni are both back down. I'll go once more to Tom Fote, since I don't see any other hands up, and then at that point if anybody wants to speak in opposition to

leaving these in, please do so. Otherwise, we'll move on to the next items. Tom Fote.

MR. FOTE: Yes, most of the sector separations were done by states. They allocated in state waters, or they basically put the rules and regulations in. When you did this on bluefish coastwide, you forced New Jersey to do something it had not wanted to do before, and put us without any regard, where it didn't go through our New Jersey Marine Fisheries Council, or any of that process. This is why I think we need to basically really hash this out, because you force something that maybe New Jersey did not want.

But New Jersey had to implement, because this was coastwide on bluefish that had never been done before. When we had it on black sea bass and scup, it was basically done by some of the New England states, because that is the way they wanted it, and some of the southern states, because they have sector separations in their states, other states do not. If you're going to oppose it on the coastwide, then we really need to go through and figure out how we are going to do it to be transparent, and fair and equitable.

CHAIRMAN NOWALSKY: All right I'm not seeing any hands in opposition to leaving these in. That brings us down to the next one, this harvest control rule-based approach. During public comment there was a lot of discussion about a hope to see something different. This was one approach that was put forward by some groups that proposed something different.

I'll just take a little bit of liberty as Chair, and offering in full disclosure that this has been something that I've been working with the group that submitted this proposal on. I think it's fair to characterize as the words up here clearly say, needs additional evaluation to determine whether it addresses purpose. I think that conversation was very well brought out at the FMAT level. Ultimately the FMAT decided it was worthy of keeping in development at this time, with the idea they could look at it a little bit more in the coming weeks. If they ultimately decided it wasn't appropriate could provide a different venue. The recommendation from the FMAT is to leave it in right

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now. Is there anyone that wants to speak in opposition to that recommendation or offer further discussion on this item? I've got Justin Davis, all right, Justin.

DR. DAVIS: I'll just mention really quick, going back to the comment I made earlier in the meeting about the widespread concerns we heard about MRIP. I think that this approach, while I sort of agree it might be a little bit of a stretch to say that it directly addresses what we envisioned as the original purpose of the amendment.

I think this does speak to the concerns we've heard from the public about the instability in the MRIP estimates, and that this approach would move us away from managing strictly using MRIP, and would hopefully provide a little bit more stability for regulations year to year. I think it's an intriguing idea, and I would like to see it explored further, so I'm just speaking in support of leaving it in.

CHAIRMAN NOWALSKY: It is so much easier to remember putting your hand down in public, when you're sitting around the table with it up in the air. You click the mouse and you forget about it here. All right, does anyone else want to speak on this item? Mike Luisi.

MR. LUISI: I've been having audio issues. I just want to go on record to say that I fully support the continued efforts in developing this idea. It's the out of the box thinking that I think we all need to spend some time, you know understanding. It doesn't sound like there is any opposition, but if there is any I would suggest holding off at this point, letting this develop further so we can learn from what the FMAT has to say about this idea.

CHAIRMAN NOWALSKY: Hopefully audio troubles are the least of all our troubles today. Joe Cimino.

MR. CIMINO: I'm sorry to jump in again. But just to the concept of whether or not this could work within the restrictions of Magnuson right now. I fully support this. I'm glad it's staying in, and hopefully down the line someday we can figure out a way that works. But I would like some exploration, maybe the FMAT can't do it. But at some level between the Council and NMFS staff, to try and explore how this could even be implemented within our current restrictions of limits.

CHAIRMAN NOWALSKY: Not seeing any other hands up, let's go on to the next item, Recreational Accountability Alternatives. This has a little bit of information about it under the approach column. I believe that would be because staff believes this may have multiple approaches, but just not sure what they all might look like right now. Let me just go back to staff, if they could clarify a little bit more what the FMAT recommendation is, because it is not entirely clear to me on this slide what the recommendation is before us.

MS. DANCY: Sure. I think the FMAT was a little confused on the recommendation for this, because there weren't a lot of specifics suggested in scoping about how to improve recreational accountability, you know as related to the allocation alternatives, with the exception of the idea of more frequent overage paybacks or in-season closure. The FMAT wasn't sure that that would be something that Council and Board would really want to pursue, as it gets away from a lot of the policies that the Council and Board have considered over the last few years. I guess the FMAT recommendation is if we are going to sort of pursue this in a way that is not an upheaval of our current accountability measures, we need a little bit more guidance on how to incorporate accountability into these alternatives.

CHAIRMAN NOWALSKY: Okay great. That helps clear it up. Where we are with this is that if we want to include this here, then we need to provide some specifics to the FMAT on how to move forward. Tom Fote, I saw your hand up first.

MR. FOTE: I have a real problem with this. Unlike the commercial quotas, we basically know how many fish

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you can land, where you basically catch those fish landed. We basically shut the fishery down, and that is the end of the season. What the recreational community relies on NMFS and the Councils and the Commission to put rules in place that keeps us within our quota.

This is not because we're poaching, this is not because we're doing anything illegal. We're basically following the rules that was pointed out by the Commission and the Council and the National Marine Fisheries Service to stay within our quota. Now because you make a bad estimate of what the numbers are, or that you go and reevaluate the MRIP figures, and make all these miles that we basically caught more than we were supposed to catch.

Not through any fault of the recreational community, not because any of the anglers did this purposefully, or the party and charterboat, you are now going to penalize us for following the rules and regulations that you've put in place. Now I don't know how we explain that to the public.

You can't explain it to me, because if we do our job right and set the proper bag limit, size limit, the season to keep you within your quota, and then we're doing it wrong, because we're underestimating what is out there, or underestimating what the public is doing. Then it is our fault not the public's fault, and how do we make them penalized because we make bad decisions based on the best available data that we have?

CHAIRMAN NOWALSKY: What we need for this is if we're going to leave this in, we need to offer specific direction. Dustin, Kylie, if you don't get specific direction on what to look at here, would that essentially be removal of this item, or would the FMAT do anything else still on it if you didn't get specific direction today?

MS. DANCY: I guess one of the things we could do is develop options for more frequent

overage paybacks, or in-season closure. I mean again, this would be kind of going back to the discussions that the Council and Board have had in recent years, and particularly that Council's 2015 Amendment on Recreational Accountability Measures.

Essentially, we would be drafting alternatives that might be a reversal of some of those policies. That is really the only thing I think I can think of at this point that we would go forward with, if we don't get any additional ideas. I'm not sure if Dustin or any other staff have any other thoughts on that.

MR. COLSON LEANING: I think that is spot on, Kylie, seeing as we received not too much input on how a new recreational accountability alternative should look like. All we could look at what we have in existence, which is frequent overage paybacks or in-season closures, which would be a reversal of the 2015 Amendment.

MS. DANCY: Just another follow-up on that. The reason why those changes were made was related to data concerns with MRIP, and the timeliness of MRIP data and the uncertainty around MRIP data, and those changes were made to address those concerns. None of those circumstances around those data issues have really changed.

CHAIRMAN NOWALSKY: Okay so we've got three paths forward, one is explicit direction to remove this item. Path two is silence, which would endorse the FMAT continuing to look at this item with frequent overage paybacks or in-season closure as two approaches for development, or three, for Board and Council to provide other ways to look at this. I've got three hands up so far. We've got Nichola Meserve followed by Eric Reid, and then Emerson Hasbrouck. We'll go to Nichola first.

MS. NICHOLA MESERVE: I was raising my hand to try to help move it along, and recommend removal of this issue from the Amendment. I don't think we want to go back to in-season closures, which had widely disparate effects on the states along the coast. I believe we have the accountability measures that we need.

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It's at the Board and Council's discretion at times as to how we apply them. Perhaps at times we could do that better. Maybe this is a reminder of that, the amount of public comment that we received on this issue. I would rather the FMAT focus its time on further developing something like a harvest control rule, as opposed to this.

CHAIRMAN NOWALSKY: Eric Reid.

MR. REID: Yes, I want to leave it in. I'm fumbling with some advice. Back to Tom Fote's question. The commercial sector. That is a limited number of participants. The recreational sector, through no fault of their own, is an open-access fishery. It can go up in number of participants, can increase or decrease in any given year. How do you analyze the number of participants in any given year in the recreational fishery?

Do you look at saltwater fishing licenses? I know in Rhode Island the first-year saltwater fishing licenses we had 20,000 licenses. The second year we were well into the 30,000 range. You know you've got a lag in data, but you have some idea of what effort is going to be, in which case you have to set your catch advice based on your anticipated number of entrants in that fishery. It makes it really complicated, and it probably doesn't make it any more screwed up than MRIP, but it is a way forward. I have no desire to see this come out of this document.

CHAIRMAN NOWALSKY: We've got one out, one in so far. Emerson Hasbrouck.

MR. HASBROUCK: I think we need to keep this in. We don't know what options we're going to end up with in the end of this process. We may have to have some accountability alternatives in there, depending on the different options that we end up with in the other categories. I think we need to keep it in.

In terms of recommendations, I'm not sure if I have any recommendations right now, other than perhaps, how can we have accountability measures within some of the constraints that we already have? How do we do that other than in-season closures, or how do we build accountability measures going forward?

I don't know the answer to either of those. Also, I mean an option here could be yes, we're going to have accountability measures that kick in the following year, but if we don't exceed the ABC or the ACL then we don't need to worry about it. I think there are things that the FMAT can flesh out here for us.

CHAIRMAN NOWALSKY: To that point, Emerson. We are not without accountability measures for the recreational side. As mandated by Magnuson, there are accountability measures. They are now tied to stock status. They've been refined in the last decade to remove some of the items that were deemed no to have been working as well.

It's not that we are without accountability measures right now. This is an option that would potentially look at putting additional ones back in, and one or more of the items up here on the screen would actually be a reversal of what we've done before. But to be clear, we're not without accountability measures. We've got a number of additional hands here. I've got Dewey Hemilright, Kate Wilke, Joe Cimino, next. Dewey, you're up next.

MR. DEWEY HEMILRIGHT: On this particular issue, I would be in favor of leaving it in there. In the constituents that I heard from, if it was status quo for the allocation that we presently have, we have enough accountability measures maybe in place, but if it was to change for the future, and the allocations were to be given more fish to the recreational industry, there might be something in the future of a way of more accountability than what we already have. I don't know what the makeup of that would be, but that was something I would be in favor of leaving it in there.

CHAIRMAN NOWALSKY: Kate Wilke.

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MS. KATE WILKE: I agree with what Emerson and Dewey were just saying. I think that we need to keep this piece in right now, and depending on what comes out of further analysis of the different options, you know we might need to talk more about accountability, and how do we build better accountability measures going forward.

Measures that might make more sense, I think it was Tom Fote who was talking about how you know migrational fishermen stick to harvest limits and bag limits that the Council sets forth, and then still are dinged for going over limits. I appreciate that and understand it, and hope that maybe we can find something better going forward.

CHAIRMAN NOWALSKY: Joe Cimino.

MR. CIMINO: In general, I supported Nichola's comments. I would really like for the FMAT to be working on other things. But knowing that there is an option in here that 78 percent of the black sea bass would be allocated to the recreational fishery. I don't think we could not have some explanation of accountability alternatives, and think that we can still manage an ABC, so I say leave it in.

CHAIRMAN NOWALSKY: I've still got two hands up, Tom Fote and Emerson. I'm not sure if they were left up or if they want to speak. Do you have something additional to talk about on this topic that hasn't already been discussed? I'll ask Tom Fote first. I see Emerson put his hand down. Do you have anything new to add on this, Tom?

MR. FOTE: Well the first question I asked you today, because I hadn't been at the February meeting that even with recreational trips down 24 percent last year, we were such high numbers on black sea bass and scup above, and you said well that is what the numbers showed. Now if you asked me in 2018 when we set the regulations on 2019, I would have said well, if I

knew they were down by 24 percent there is no way in hell we were going over.

The same way I said in 2012, because of Sandy that we weren't going to go over 2,013 on summer flounder. For some reason that is beyond my comprehension, we actually caught more fish in April and May in 2012 than we did the year before, with half the marinas closed, with no boats fishing anything else, and the answer I got from the MRIP people at that time. They go, well you must have better fishermen out there, which was no answer at all, they just laughed.

That is when I basically worry about when you talk about accountability. We should be accountable for what we do, but we should have some control about what we do also. Since we have no control, we have to listen to the states, to the Councils, to the Commission, to NMFS on how we basically fish. What are we supposed to do? That is my problem with this. We should be accountable, but we don't basically have any control over what we do, because you set the size limit, bag limit, season, and we just have to follow your direction.

CHAIRMAN NOWALSKY: All right, so we've heard a number of comments. I would characterize the discussion so far as we've heard more comments in favor of leaving them in, in terms of people that have spoken. I think I've heard from people that have suggested we should take this out. One of their reasons for wanting to take it out is for focus on other items.

If the directive was to leave this in, but give the FMAT some discretion on where to prioritize this item, based on what they've heard so far today. What would the comfort level of the Board and Council be with that? If we left today, we're going to leave this here, but we're going to give the FMAT some leeway with how to prioritize it as they move forward. I'm not seeing an objection to that. Do you want to speak, Nichola or not?

MS. MESERVE: Sure Adam, thanks. I was just going to say as someone that recommended removing it. I don't oppose to this new approach that you suggested. Thank you.

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CHAIRMAN NOWALSKY: Emerson, do you want to talk to that specific point?

MR. HASBROUCK: Yes, thank you Mr. Chairman. I'm not clear in terms of what your suggestion really means. Does that mean as the FMAT gets into the workload here they kind of leave this toward the end, and then if they still have time to look at it, if they run out of time, they won't look at it? I'm not comfortable with that. I want to keep this in as an action item for them to work on.

MS. DANCY: This is Kylie, I have a suggestion on the approach.

CHAIRMAN NOWALSKY: Go ahead, Kylie.

MS. DANCY: I think that I mentioned it would be helpful for the FMAT to have more guidance on what this means, but kind of lacking that at this meeting. But hearing that folks want it to be further explored. I think we can go into our next FMAT meeting and have the FMAT describe our existing accountability measures, and revisit some of the decisions that have been made recently on those, and describe why they were made and maybe brainstorm a little bit of ways that we could incorporate accountability into this action, without necessarily.

We may not be able to develop concrete draft alternatives, but we can provide a little bit more guidance to the Council and Board on what we're looking at here, what the problem is, what decisions have been made recently in the past, and what kind of specific guidance we would need to move forward with alternatives, so we can kind of prepare that for the June meeting, if that makes sense.

CHAIRMAN NOWALSKY: Emerson, would that address your concern?

MR. HASBROUCK: Sorry Mr. Chairman, I'm doing two things at once here. I couldn't get

my microphone turned back on. I think that is a good way to move forward, and we'll see where this leads.

CHAIRMAN NOWALSKY: All right, so the direction to the FMAT would be to just go ahead and clearly say what exists right now, what has been done in the past, and brainstorm if there is any bridge between those two, and they bring that information back to us. All right, any additional discussion, and thank you very much for having good discussion on that and bringing that forward.

All right let's jump on to the next slide here. Again, just let me reset. We're trying to wrap this up here in the next ten minutes. With what's up on the screen here we've got everything is labeled as for further development, with one recommendation to remove from consideration. Again, that is the guidance you want to provide here.

The first topic, recreational catch accounting alternative, keep for further development is the FMAT recommendation. Major modifications to current catch accounting systems may be likely beyond the intended scope of this action. Does anyone want to speak on this item? Is there anyone that wants to speak in opposition to keeping this in the document? Eric, your hand is up in opposition to keeping this in the document?

MR. REID: Yes, I think I'm a little bit out of turn, Adam. I was going to address 9.3.

CHAIRMAN NOWALSKY: Okay, we'll come back to you. Does staff have any specific questions they want Council or Board to respond to on this, or given that there is no objection to keeping it in, does staff feel there is enough meat here for the FMAT presently?

MR. COLSON LEANING: I think Adam, some direction on what approach should be taken would be helpful, at least in terms of prioritizing what different considerations there are. There are a number of approaches there in that second column, so identifying which ones should be considered for further FMAT analysis could be helpful.

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CHAIRMAN NOWALSKY: Okay, so let's try to get some direction on one of the approaches in Column 2 are people most interested in prioritizing? Chris Batsavage.

MR. BATSAVAGE: Maybe not so much prioritizing, instead of maybe narrowing down. But looking at Category 7, Tournament Reporting. I guess I would like to hear from Kylie and Dustin on what kind of bang for our buck are we going to get from Tournament Reporting in the grand scheme of things? Are you thinking about all the fish harvested recreationally? What kind of information will that gain, compared to the other approaches that you have listed under Number 7?

MS. DANCY: The Tournament Reporting is a concern we heard in the scoping process from a couple folks regarding concern that there are tournaments, I think in particular for summer flounder that are catching a lot of fish that is going unaccounted for somehow. I think there was a request to further explore that and provide alternatives to require mandatory reporting for all tournament catch.

CHAIRMAN NOWALSKY: Chris, based on that answer does that help you help us with a direction, whether that is something you're definitely interested in?

MR. BATSAVAGE: I guess I wouldn't mind maybe hearing more from the FMAT on that. That is just my opinion. It's probably a little low priority, yes just kind of knowing how many black sea bass, scup, and summer flounder are harvested in coastwide recreationally, you know compared to the tournaments. I would like to hear more about what we'll gain from that in terms of better managing the recreational fishery. Yes, I'll just leave it at that.

CHAIRMAN NOWALSKY: Tom Fote.

MR. FOTE: To that point. Years ago, Bill Hogarth was at Jersey Coast when he was the head of NMFS, and we started talking about

that we were going to survey everybody in our boat nets in our tournament, and that was when we had 1,000 boats. Basically, we did. We surveyed what the bycatch was, how many fish they landed, how many they released, what was the size of the fish, where they caught dogfish, where they caught everything else. We put all that data together, and Dr. Eleanor Bochenek basically helped us, and the first year we spent \$40,000 putting that information together. NMFS actually helped pay for half of it, we gave them the data. Basically, we continued to do that for four years, since Eleanor volunteered here time to do that. But nobody ever used the data.

I mean we put all that information together, and it sat on people's desk. We supplied them with the disc, we kept on doing it on our own for years. The problem here is when we do things like that you need to use the data if we're going to put it together, but it was a lot of time and effort by the community to do that.

Now where the fluke totals are all disaster. We went from 1,000 boats, and last year we had 160 boats in the tournament. Most of what I could tell you is most of the boats had probably 30-1 ratio about catch and release. There is information there if you want to use it, and I think most tournaments would basically give you the information freely. But if we do that and go through all the trouble of making that available, we really want it used.

Bill Hogarth is the reason for doing that. He wanted to see it in all species, whether tournaments make a difference in how people fish during that period of time. Do they fish differently than they would on a normal day? That was the pretense back then to doing it all. I just figured I would offer you, because we did it. We did it for about ten years and then we stopped doing it, because nobody used the information.

CHAIRMAN NOWALSKY: Dustin, Kylie, I don't have any other hands up, so where are you with this issue without any further guidance from the Board and Council?

MS. CAITLIN STARKS: Adam, this is Caitlin. Staff has been chatting off of the webinar, but I can chime in a

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little bit in answering Chris Batsavage's question about trying to think about these issues. I just want to note first that at the FMAT meeting when this was discussed, these came up in the scoping comments from the public, so these were not put forward by the FMAT.

The FMAT did definitely bring up concerns that these are not directly related to allocation, but they could go along with some allocation changes, if that is the desire of the Board and Council. But like it was noted in the presentation, they could definitely be addressed through other actions, and if the draft did this action, they might extend our timeline.

What we are looking for is Board and Council feedback on are any of these issues under recreational catch accounting, you know something that you very much want us to focus on for this amendment, or are there things here that we could remove and think about looking at through other processes or actions?

CHAIRMAN NOWALSKY: In the absence of further Board and Council direction, Caitlin, I think what I would offer the FMAT is to bring back to us in June which of these would in fact impact the timeline. You know, just bring back to us, here are the approaches. We weren't given much more direction. We think we could bring us your recommendation on this range of approaches, and a definitive word on what it would do to the timeline. In the absence of additional guidance from the Board and Council, I think is that a reasonable request from the FMAT without additional guidance?

MS. STARKS: Yes, I think that is reasonable, and Kylie or Dustin feel free to add. We can definitely think a little bit more about the timeline, and how all of these things added together will impact that.

MS. DANCY: Yes, I agree we can provide a little bit of additional information about what

exploring each of these would mean, in the context of this Amendment.

CHAIRMAN NOWALSKY: During the conversation earlier today on bluefish, it was offered that if people from the Board and Council have specific ideas about these moving forward, this conversation doesn't have to end when we disconnect here. The scope of what the approach is are laid out, they've been presented to the Board and the Council in a transparent manner to the public. If you have feedback on these approaches, please go ahead and pass those along.

The next item we've got Dynamic Allocation Approach, and Options for Future Revisions. These are three different approaches offered here. The recommendation from the FMAT is to keep all three approaches in here, and open the floor for discussion specific to if there is a request to remove any of these, as well as input from staff about is there specific questions you need us to answer today.

MS. DANCY: Regarding the Dynamic Allocation Approaches, I think you know we would, I'm not sure that we need any specific guidance, other than confirming that we should be asking for withdrawal. (fuzzed out)

CHAIRMAN NOWALSKY: Okay, I'm not seeing any objection. Last call from the Council and Board for removing any of these from further development. Okay that brings us down to Item 9, Allocation Transfers and Set-Asides. One is left with a recommendation, keep for further development, one is recommended for removal.

The third one is to keep for further development with some concerns about how it might affect sectors differently. Input from Board and Council on these FMAT regulations. Eric, I had you up. You had raised your hand before about it, so I'll go to you first, and then I've got Joe Cimino next.

MR. REID: Thank you Mr. Chairman for remembering me. As far as 9.2, I agree that that should come out, 9.3 I do not think that should be left in for further development. I don't see the benefit of that. I think

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there is no equity there at all. I would just as soon put all the fish out on the table right at the beginning.

I would say remove 9.3, and as far as 9.1 goes, I'm really not sure what that looks like. Maybe that would be a reason enough for me to keep it for further development, but I'm very leery of 9.1, so I'll leave it up to my fellow Council and Commissioners to chime in on that. But I think 9.3 should come out.

CHAIRMAN NOWALSKY: Joe Cimino.

MR. CIMINO: You're doing a great job here today. I support keeping 9.1 in. I think the possibility of annual allowance of transfers may be a very useful tool. For 9.2 I would definitely support FMAT recommendation of getting that out of there, 9.3 I have some concerns about, but if it goes back to some possibility of the recreational accountability, I agree again with the FMAT. Keep it in for further development. I have the same concerns they have.

CHAIRMAN NOWALSKY: We've got, keep 9.1 in, remove 9.2 and 9.3 so far. Tom Fote.

MR. FOTE: Yes, I would keep 9.1 in. I would take out 9.2 and I would take out 9.3.

CHAIRMAN NOWALSKY: Okay, another vote for 9.1 in, remove 9.2, 9.3. Nichola Meserve.

MS. MESERVE: My question is to staff about 9.3, and how that differs from management uncertainty that is included in the specification setting process.

MS. DANCY: My understanding is that so management uncertainty is done on a sector-specific basis that comes off the sector-specific annual catch limit, to set an annual catch target for each sector. My understanding of the way that set-asides were proposed is that it's taken off of the total catch limits and set aside to be used by one or both sectors later in the year,

depending on which sector needs it, given certain circumstances. I believe that is the way it was kind of described, and this is again an idea where we don't have a ton of guidance on what exactly it means, but that is my understanding.

MS. MESERVE: With that I follow up, Mr. Chair. Based on that description, you could include me in the vote to remove it from the document, thank you.

CHAIRMAN NOWALSKY: All right, does anyone want to speak in favor of keeping 9.2 or 9.3 in the document? Okay seeing no new hands, except Nichola's hand go up, the recommendation will be then to keep 9.1 in, and remove 9.2 and 9.3. With that have we gone through all of the categories for recommendations about what to keep in for further development? That would be the question to staff.

MS. DANCY: Yes.

CHAIRMAN NOWALSKY: Let me do this. Let me go out to the public at this point. Does anyone from the public want to specifically speak towards Board and Council's recommendations to keeping something in or come out of the document, please raise your hands, give you the opportunity to speak in favor of keeping something in or taking it out.

Specifically, I would request if you have a comment that opposes one of the recommended actions that we've had here today. I'm not seeing anyone from the public that wants to speak on that. With that I believe we've completed this agenda item, and staff would then take this information back to the FMAT, and then we would move forward at the joint meeting. Again, if there is anyone who has input on some of the approaches here that they would like to pass along, I think now that we have discussed this here jointly. If there are things they want to pass along directly regarding the approaches, as we did with the bluefish this morning, it would be appropriate to reach out to staff for that. Staff, I'll just ask, anything else to come before us on this topic, or have we addressed this agenda item? Okay.

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**PUBLIC COMMENT**

CHAIRMAN NOWALSKY: All right, the next item on our agenda is any other business to come before the Board today. I think we're still connected. It looks like the presentation just got closed. Do we still have connection, everybody?

MS. DANCY: Yes, I just stopped it here on my screen.

CHAIRMAN NOWALSKY: Okay great. I've got one hand up here that I didn't see, Ray Bogan. Is your comment, Ray going back to what we did.

MR. RAY BOGAN: I just unmuted myself.

CHAIRMAN NOWALSKY: Yes, is your comment going back to the Allocation Amendment, or is your comment on Other Business?

MR. BOGAN: Yes, I think it is. Let me express the issue and then you can tell me whether I'm within the confines. The issue that I wanted to raise was the Accountability Measure in particular. I just wanted to go on record, I'm sorry.

CHAIRMAN NOWALSKY: Go ahead, Ray.

MR. BOGAN: Okay thank you. I wanted to go on record as supporting what Tom was saying earlier, and that is that all of you are aware of the severe challenges that have been presented by the data collection system that have been utilized for many years. I won't reiterate those, the turmoil they've caused and the severe damage to people's livelihoods.

But what I will also mention is that that is the challenge with any accountability measure, to the extent that is in any way tied in to the uncertainty of MRIP. What many of us recognize, and are certain of unfortunately, and we've unfortunately been proven true on this many times, is that the data from MRIP will

eventually be corrected, edited, scrubbed, whatever it may be.

In the meantime, our livelihoods will have been impacted by the preliminary and often incorrect data from MRIP. In that regard when it comes to accountability measures, I would respectfully suggest that in order for a body to implement accountability measures, it is incumbent upon them, it is my opinion, to have the appropriate means by which to hold someone to account.

At the present time you do not have an appropriate or accurate enough means by which to do so. I just want to go on record as saying respectfully, I heard Dewey's comments and others, and I understand them completely in theory, I just don't agree in practice, because of the challenges associated with the data collection process and the havoc that they have wreaked over the years.

**ADJOURNMENT**

CHAIRMAN NOWALSKY: Thank you Ray for joining us today. All right, so is there any other business to come before the Board today? Okay seeing none, is there any public comment for any issues that were not on our agenda today? All right, seeing and hearing nothing to that end, and having completed the agenda as it was approved, this meeting stands adjourned. Thank you so much everyone.

(Whereupon the meeting adjourned at 4:28 p.m. on  
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