

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

**The Westin Crystal City
Arlington, Virginia
May 3, 2018**

Approved August 9, 2018

TABLE OF CONTENTS

Call to Order, Chairman Jim Gilmore 1

Approval of Agenda 1

Approval of Proceedings, February 2018..... 1

Public Comment..... 1

Update from the Executive Committee 1

Review and Consider the Massachusetts, Rhode Island, Connecticut and New York Appeal
of Addendum XXX to the Black Sea Bass FMP 7

 Artificial Reef Committee Report 22

 Law Enforcement Committee Report..... 25

MRIP Update on the Transition to the Fishing Effort Survey and Calibration Process..... 27

Other Business 31

 Update on Shad 31

 Update on Horseshoe Crabs..... 31

 Review Correspondence from the American Lobster Board..... 32

Adjournment..... 32

TABLE OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 2018** by Consent (Page 2).
3. **I move, based on the discussion today and the Northern Region Appeal, that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Bass Management Board to:**
(1) address the northward shift in black sea bass abundance and distribution by initiating management actions to manage the recreational and commercial fisheries based on the distribution of the resource along with any other options recommended by the Management Board. The Policy Board requests a new action to address the 2019 recreational fishery, but recognizes that it may take more time to consider options for the commercial fishery; and
(2) approve the recreational black sea bass regulations for 2018 as presented today (Page 16).
Motion by David Pierce; second by Emerson Hasbrouck. Motion divided.
4. **Move to divide Items 1 and 2** (Page 17). Motion by Emerson Nowalsky; second by Dennis Abbott. Motion carried (Page 18).

Divided Main Motion Part 1: I move, based on the discussion today and the Northern Region Appeal, that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Bass Management Board to: address the northward shift in black sea bass abundance and distribution by initiating management actions to manage the recreational and commercial fisheries based on the distribution of the resource along with any other options recommended by the Management Board. The Policy Board requests a new action to address the 2019 recreational fishery, but recognizes that it may take more time to consider options for the commercial fishery. Motion substituted.

5. **Move to substitute, based on the discussion today and the Northern Region Appeal, that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Bass Management Board to: (1) address the changes in the black sea bass abundance and distribution by initiating management actions to consider management based on the distribution of the resource along with any other options recommended by the Management Board.**

The Policy Board requests a new action to address the 2019 recreational fishery. (2) task the Plan Development Team to develop a white paper that would identify the actions of considering the changes in the black sea bass abundance for future commercial and recreational management actions (Page 19). Motion by Jim Gilmore; second by Eric Reid.

Divided Main Motion Part 1 as Substituted

Move, based on the discussion today and the Northern Region Appeal, that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Bass Management Board to: (1) address the changes in black sea bass abundance and distribution by initiating management actions to consider management based on the distribution of the resource along with any other options recommended by the Management Board. The Policy Board requests a new action to address the 2019 recreational fishery; and (2) task the plan development team to develop a white paper that would identify the actions of considering the changes in the black sea bass abundance for future commercial and recreational management actions. Motion carried (Page 20).

TABLE OF MOTIONS (continued)

Divided Main Motion Part 2: I move, based on the discussion today and the Northern Region Appeal that the ISFMP Policy Board directs the Summer Flounder, Scup, and Black Sea Bass Management Board to: approve the recreational black sea bass regulations for 2018 as presented today. Motion carried (Page 21).

6. **Motion to Adjourn** by consent (Page 32).

ATTENDANCE

Board Members

| | |
|--|--|
| Pat Keliher, ME (AA) | Andy Shiels, PA, proxy for J. Arway (AA) |
| Dennis Abbott, NH, proxy for Sen. Watters (LA) | Roy Miller, DE (GA) |
| Doug Grout, NH (AA) | John Clark, DE, proxy for D. Saveikis (AA) |
| Ritchie White, NH (GA) | Craig Pugh, DE, proxy for Rep. Carson (LA) |
| Raymond Kane, MA (GA) | David Blazer, MD (AA) |
| David Pierce, MA (AA) | Russell Dize, MD (GA) |
| Rep. Sarah Peake, MA (LA) | Rob O'Reilly, VA proxy for S. Bowman (AA) |
| Eric Reid, RI, proxy for Sen. Sosnowski (LA) | Chris Batsavage, NC, proxy for S. Murphey (AA) |
| Jason McNamee, RI (AA) | Doug Brady, NC (GA) |
| David Borden, RI (GA) | Michael Blanton, NC, proxy for Rep. Steinburg (LA) |
| Pete Aarrestad, CT (AA) | Mel Bell, SC, proxy for R. Boyles (AA) |
| Colleen Giannini, CT, Administrative proxy | Malcolm Rhodes, SC (GA) |
| James Gilmore, NY (AA) | Spud Woodward, GA (AA) |
| Maureen Davidson, NY, Administrative proxy | Doug Haymans, GA (GA) |
| Emerson Hasbrouck, NY (GA) | Jim Estes, FL, proxy for J. McCawley (AA) |
| John McMurray, NY, proxy for Sen. Boyle (LA) | Martin Gary, PRFC |
| Jeff Brust, NJ, proxy for L. Herrighty (AA) | Mike Millard, USFWS |
| Tom Fote, NJ (GA) | Rachel Baker, NMFS |
| Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA) | |

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

Staff

| | |
|------------|----------------|
| Bob Beal | Mark Robson |
| Toni Kerns | Mike Schmidtke |
| Megan Ware | Jeff Kipp |
| Lisa Havel | Jessica Kuesel |

Guests

Kelly Denit, NMFS

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, May 3, 2018, and was called to order at 8:00 o'clock a.m. by Chairman James J. Gilmore.

CALL TO ORDER

CHAIRMAN JAMES J. GILMORE: Good morning everyone. We're back to our 8:00 a.m. start, which I know everybody loves. Hopefully you've got coffee and we're ready to go. We've got a few things to get through today. First off, I'm Jim Gilmore from New York; and I'll be running the Policy Board meeting today, with the great help of our Policy Board Director, I'm sorry ISFMP, I need coffee. We just promoted Toni.

Pat Keliher will be helping whatever with part of this meeting today; which we'll get into in a while.

APPROVAL OF AGENDA

CHAIRMAN GILMORE: First off is approval of the agenda. Are there any changes to the agenda? We do have under other business, there has been a request for an update on shad, and an update on the horseshoe crab assessment so we'll be adding those.

Are there any other additions to the agenda? Seeing none; we'll adopt those by unanimous consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN GILMORE: Secondly, we have Approval of the Proceedings from the February, 2018 meeting; which was in your briefing package. Are there any changes to those proceedings? Seeing none; we'll adopt those by consent.

PUBLIC COMMENT

CHAIRMAN GILMORE: I won't go into the long speech; I'll just say is there any public that would like to make any comments not on the agenda? At this time you could raise your hand and com up to the public microphone.

UPDATE FROM THE EXECUTIVE COMMITTEE

CHAIRMAN GILMORE: Okay seeing none; we'll get right into the first action item. Well, it's not an action item just a report, which is an Update from the Executive Committee; which we had yesterday morning. Hold on while I get my computer to work.

Okay, so yesterday morning we met and had several items that I'll go over briefly now. First off we had the review of the FY19 budget. Pat Keliher is the Chairman of the Oversight Committee; and he and Laura did a brief update. There is a bunch of details on the budget itself in a long document. Generally there are not a lot of changes from the 2017 budget, some slight tweaking here and there.

There are some increases and some decreases, and a lot of it depends on final numbers from the Feds; in terms of what our budget it going to look like. There are some adjustments under different TACs like APAIS. Some of the numbers are going down because of efficiency in the operation. Overall the good news is there is a surplus right now from the previous year. I won't go into a lot of detail. I will probably see if Pat has anything to add; and Laura is here if anybody has any questions. But generally we're in good shape on the budget for this year, and actually because of some increases from the Feds, Council and Commission funding is actually looking like more positive these days. I don't know Bob, do you want to add anything to that? Go ahead.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, I think the fruits of everyone's labor that have gone up to Capitol Hill and talked to their elected officials about the Council and Commission line in the budget, are starting to pay off. As most folks know, ASMFC, The Atlantic Coastal Act, is funded through a Council and Commission line; which is all the funding for the eight regional councils as well as ASMFC, the Gulf States Commission, Pacific States Commission.

That line was increased this year, and with that increase was some language that directed NOAA Fisheries to allocate that increase to the three Commissions. The reason they did that was because the three Commissions haven't had an increase since about 2008; so it's been about a decade since the funding for ASMFC and the other two Commissions had gone up.

There is about an increase of 1.6 million. Some of that is going to go to an international commission, and then the remainder is going to be allocated between the three Interstate Commissions, us, the Gulf and the Pacific. We don't know the exact numbers. Even if it's divided in equal thirds, it may be up to a half a million dollars coming to ASMFC through the Atlantic Coastal Act.

If there is a significant chunk of money, the Commissioners will need to decide what you guys want to do with that. Should that money go straight out to the states for in-state projects, and to cover budget shortfalls that you have, or do you want to fund a few specific projects with that through ASMFC?

Do you want to have some of it come to our office and hire another staffer of some sort? What do you want to do? But we don't know the amount yet. Once we know the amount then we'll seek input probably through the Executive Committee on what to do with the increase. Does that sound good, Jim?

CHAIRMAN GILMORE: Yes, perfect, Bob. Are there questions about the budget or anything that anybody wants to raise at this point? Again, Laura is around if you have detailed questions. She'll be around to answer them. But are there any other questions on that? Okay seeing none; the next item we talked about was an issue regarding proxies serving as officers.

Back in the February meeting, we were recognizing that there has been quite a lot of turnover in the Commission the last few years

in Commissioners. We still were concerned about did we have people with experience that could rise to the level of officers. An issue that's been in the past is that we've had some long term serving proxies, ongoing proxies that actually would probably make some decent officers for the Commission.

At the February meeting we actually put a motion up to include proxies for consideration; ongoing proxies as potential for officers. Permanent proxies were always allowed; but ongoing were not included. However, between February and now, we had gotten some legal advice on this. It turns out that we were really running afoul of the Compact rules and regulations; that the language which lawyers could probably argue, but it seemed pretty clear to us was that the officers had to be elected from the Body, and the Body really turns out to be Commissioners. I think we pretty much agreed with that at the Executive Committee yesterday that it really has to be a Commissioner or it has to be a permanent proxy.

We had a motion yesterday to rescind that original motion we did in February. We're back to the rules where when we're getting to officer elections that it will have to be either one of the sitting Commissioners or a permanent proxy for a Commissioner; because essentially they do sit permanently at the table.

That is where we are. We're kind of back to the rules we had prior to February. Are there any questions on that? The good news is I think with some of the new Commissioners that have come up; we actually have some good talent coming up through the ranks. Hopefully we won't run into any issues; and we'll have great leadership as we move forward.

Next item was discussion on Commissioner conflict of interest. I actually had Bob help me a little bit on this one. But there are some issues. Any of our Commissioners in a financial disclosure form have to look at if they have

greater than a 10 percent interest in a particular fishery or whatever, they have to essentially disclose that and possibly recuse themselves from activities on the Commission when we're deliberating.

However, there are some newer Commissioners and newer proxies that got involved that sort of had, maybe not that direct contact, but they were affiliated with organizations that maybe had that. There were a couple of examples that had come up that were of concern; and they've been resolved now, so the issue is really not before us.

But, it did raise some questions with some of the membership about is this appropriate to have these people on the Commission; or even deliberating in particular species boards. It seems to have resolved itself now. At this point we're not going to do any action on it other than to monitor it; that if we have issues that come up with sort of these secondary organizations, and that maybe there is not objective representation by an individual that we would have to address it.

Both of these are the examples I'm thinking about that we had. Both of them it seemed to be the individuals were operating very objectively; but it was cause for some concern by some of the membership. Do you want anything to add to that Bob? Okay, anyway so nothing to do on this one; other than again to watch it.

We're getting more and more I guess diverse in our overlap with the Council is getting more and more involved. As species are moving north, we're getting a lot of overlap. We just have to pay attention to how we're doing our business; and make sure we follow our rules. Next one, we discussed the appeals process.

I think when I agreed to be Vice Chairman the appeals process was something that never was used; and unfortunately now it seems to be getting used at every meeting. With that and I

think it is logical is that we've been using it, and now there has been some discussion about criteria. Any of the appeals, if you are not familiar with them, really have to fall under one of five criteria I think it is, before it can be valid. There has been some discussion about that; and particularly I think it's being looked at right now.

Jay McNamee is kind of leading that charge right now. The first thing they're looking at was really, was it three, Number 3, correct; insufficient, inaccurate, and incorrect application of technical information? That needs a little bit of work; in terms of what it means and maybe some better definition of how that would be applied.

Jay is leading an effort right now with some other folks in the Commission; to come up to maybe some suggestions on how to improve that to make it more understandable, more useful, and easier for people to deal with. He is going to be doing some effort that maybe bring back during the August meeting that we can start discussing; and hopefully improve the appeal process. Hopefully we're going to get away from the appeal process; but if we are getting more into it, we'll have better guidance on it. Do you want to add anything to that Jay?

MR. JASON McNAMEE: Not really. I think you covered it. We've got a draft set of criteria for that; Criteria Number 3. We'll work through that. We'll get it out for people to take a look at and follow up on that in August.

CHAIRMAN GILMORE: Thanks, and thanks again for volunteering on all these things you volunteer on, Jay. I think if we were paying you on an hourly basis, we would probably bankrupt the Commission. Are there any other questions on that topic? Stay tuned; it's going to get interesting, I think.

The next topic was to discuss the future scope of MRIP and APAIS activities; and Mike Cahall and Bob Beal did an overview on that. APAIS

has been very successful now that is has been put into the states. We see good improvements in the data collection; and that is the whole idea is that MRIP is only going to be as good as the data we get, and that we put into the system.

APAIS seems to be working very well in all the states. We're getting glowing recommendations. The fishermen I know from my state are very happy that they actually see people now. We used to get a lot of comments about, we've never been interviewed, and we've never seen anybody. Not only that they're seeing people now, but the people that are doing this understand the program. They understand fisheries. It seems to be really working well.

With that there are opportunities for the state to get more involved with MRIP, and even get involved with more of the survey; specifically for the for-hire telephone survey, large pelagic intercept and biological surveys and also continue coordination with GARFO. What is that acronym SEFHIER?

EXECUTIVE DIRECTOR BEAL: My understanding, I can't tell you all the actual words in the acronym; but its southeast for-hire effort to improve the monitoring of for-hire vessels in the southeast.

CHAIRMAN GILMORE: I've got to update the acronym sheet in their manual. Anyway, with these there is an opportunity for the states to get more involved with this; and hopefully improve all the data that's going in to it. Again, since if we build on that success of the APAIS program that the better data will give us better MRIP results; and hope to God we start seeing some better MRIP results.

Again, I think part of the problem is with some of that data the volatility in MRIP is maybe because of the data that is going into it. The ACCSP folks will be putting together some information. They're going to actually be putting more details out; and cost in particular

about what this would mean for different states in different parts of the program.

Mike Cahall indicated that if people have questions about this and the details of this that he's available to talk more about it. I hope more and more of the states will get involved with this, and improve the data. Are there any questions on that? Okay we're cranking right along. The next one is the future meetings of the annual meetings that Laura gave us an update on.

The next meeting is in some place in the north. Oh, it's New York. We actually have plans. If people had been around 15 years ago, we had done it at the Roosevelt Hotel. We're going to be at the same location; except for this time, because Laura is so convincing, they gave us the entire second floor, the main, it's a ballroom. It looks like something out of the Great Gatsby. It's a beautiful place.

We are going to have early lessons on how to survive in New York. Pat Keliher says he's not coming unless he gets his own bodyguard. Trust me, I've worked in Manhattan for many, many years and never had an issue; and it's a great place to be. We're still working on the specific venues that we're going to be doing for the different actions. But I think it will be a great time; and we are looking forward to it.

Then in the following year is New Hampshire. The delegation from New Hampshire was talking about it last night. I think they're going to rent a cruise ship; is what they said, right? We're going to do the fishing contest from a cruise ship. No, only kidding. I think it was 15 years ago, they were very nervous about following New York; and I understand they outdid New York, so I think that will be a great thing too, 2020 we're in New Jersey. Then in 2021 we're in North Carolina.

Once again we'll have great annual meetings as we go forward. Are there any questions on that? Okay. The next item we had was Dennis

Abbott had raised an issue from the LGA Committee; and it was really some concerns over maybe some of the recent activities going on about how we might be getting away from our core.

I think there was a lot of discussion at the LGA; with concerns about I think the Commissioners that have been here a longer period of time saw maybe a more cooperating body and maybe we were getting away from that and that we should start paying attention to that. Do you want to add anything? Do you want to talk a little? I think it was pretty much agreed at the Executive Committee that you know there is some maybe loss. We're in new times and there are a lot of new challenges in communication in the information we get. We have fake news that we have to react to now. I had a meeting, a really overly attended meeting a few weeks ago; and some of the misinformation that people got from websites and the internet was just crazy, and just gets people to react too much to it. I think we're reacting to that. There was some core procedures and things we did in the past that actually helped us make better decisions; or make more cooperative decisions, I guess for lack of a better term.

What we're going to do as a start is myself and Pat, along with some of the former Chairman. We are going to maybe sit down and maybe tap into some of the former Commissioners from a time gone by, to sit down and talk to them about this, and see if we can get a perspective of how things maybe worked years ago.

Maybe we can still tap into some of those ideas; to help us move forward and maybe get back into a more cooperative stance of where we are maybe right now. That is where we're proceeding with that. We're going to move ahead on that and take some questions. Tom Fote.

MR. THOMAS P. FOTE: One of the things we discussed at that meeting is the change in the

information systems that we dealt with 25, 27 years ago, 30 years ago. Thirty years ago we had mostly newspapers; and the people that covered the outdoor actually reporters that finally got the job they wanted all their life by doing fishing and hunting and things like that; but they were reporters.

They looked for information; they wanted science, and they basically put in. They weren't worried about how many hits they got on their web page as they could make more advertising money. That is what part of this process has changed over the year. The people that do a lot of the blogs and things like that don't pay their due diligence to what's going on; nor don't put the information out and the tables and the charts and things like that.

Also, they're looking to create controversies; because that means more traffic to their web pages; instead of just getting information out. The Commission has to look at I think a better way to communicate. We put out a good newspaper. It's got to get more widely distributed. We've got to look at other means of getting it out.

Maybe out through Facebook and things like that so we're a presence there to basically counteract the bad news, and the fake news that does go out about what we're doing, and the same thing with the Mid-Atlantic Council. There is a lot of bad information out there and we have to deal with it.

CHAIRMAN GILMORE: Any other comments or questions on that? Again, I think and hopefully from my tenure as Chairman, we need to solve our issues here at this table. We've got too much, and I'm as guilty as anyone of having outside influence start directing what we're doing.

But the more we solve here the better off we're going to be; because once it leaves this body, and I think if it goes to other places that none of us are going to like what comes out of that.

That's from experience. Again, we'll start this little group discussion whatever, and we'll be reporting back to the body as we move forward. If anybody has suggestions or wisdom, we would be happy to take it and have more dialogue on this, and again hopefully get back to some of the good practices we had in the past. The next update was an addition, it was over a lawsuit that we have on whale take. Bob, do you want to just make a couple of comments on that?

EXECUTIVE DIRECTOR BEAL: Sure, happy to. The Commission was sued over interactions of right whales; which everyone knows are extremely endangered and there were 18 mortalities over the last year. The Commission was sued by an individual in Massachusetts. We've got until Tuesday to respond to that initial suit.

Sean Donahue, the Commission's attorney is working on the initial response. There are two other lawsuits that were filed by environmental organizations, Conservation Law Foundation, Oceana, Humane Society, et cetera; and those lawsuits did not name ASMFC, they named the Federal Government Secretary of Commerce.

There are a total of three lawsuits swirling around right now that involve right whales and lobster gear. The one that was filed against the Commission sites a number of ESA charges or violations that the Plaintiff thinks that were made. A couple of those only apply to federal agencies, which ASMFC has argued successfully in court we are not a federal agency.

Getting dismissed from some of the Section 7 ESA may be easier than some of the other things in there. We'll have to see how it goes. We'll be filing our response; as I said on Tuesday. We will keep you posted. There is some effort to potentially bind all three of these lawsuits into one lawsuit. There are pros and cons to that.

Since it's an ESA lawsuit, whoever loses that lawsuit may have to pay the legal fees for whoever wins that lawsuit. If ASMFC is pulled into the other lawsuits and there is Conservation Law Foundation and a number of other big entities there; it could be pretty high legal bills, so there are some concerns there.

There has been some talk in the northern states on do they want to submit anything relative to these lawsuits as well. There is a fair amount of legal action going on with right whales and lobster gear and ship strikes and everything else. ASMFC's response to the lawsuit is not going to trivialize the importance of right whale protection; obviously it's a big deal.

The whales are in tough shape and a really high level of mortality with zero calves born last year; that anyone has seen anyway. When you've got a small population, a lot of losses and now new entrants, you end up with a pretty delicate situation. The Commission is not saying that this isn't an important issue. It is an important issue; but what we are saying that we're moving in a lot of fronts to modify lobster fishing, and have taken steps that reduce traps and some other things in the water. Happy to answer any questions; but that's the update on legal activity for now.

CHAIRMAN GILMORE: Any questions for Bob? Okay seeing none; the last thing we had at the Executive meeting was actually Bob's performance. He failed miserably and we have to fire him. No, Bob is doing an outstanding job. Everyone agreed that we're really fortunate to have Bob. He works his rear end off, and really keeps the Commission running. It makes everyone else's job, my job, everybody's job very easy. Bob, another glowing performance; and keep up the good work. (Applause).

**REVIEW AND CONSIDER THE MASSACHUSETTS,
RHODE ISLAND, CONNECTICUT AND NEW
YORK APPEAL OF ADDENDUM XXX TO THE
BLACK SEA BASS FMP**

CHAIRMAN GILMORE: That concluded the Executive Committee meeting; so if there are no questions on any of that we'll move on to our next agenda item, which is where I'm going to have to step away from the microphone. We're going to hear the Consider the Commonwealth of Massachusetts, Rhode Island, Connecticut and New York Appeal to the Addendum XXX for Black Sea Bass. Since I'm an appellant I kind of have to like step away from the seat for a little while; and Pat Keliher is going to take over and run this part of the meeting, so Pat.

VICE-CHAIRMAN PATRICK C. KELIHER: We'll get right into this. I think Toni has a presentation for the Policy Board; and we'll go through that now. Toni.

MS. TONI KERNS: We received an appeal from the northern states, which include Massachusetts, Rhode Island, Connecticut and New York appealing the Summer Flounder, Black Sea Bass Addendum XXX to the FMP. Just as a reminder how the appeal process works. Appeal is reviewed by Commission leadership within 15 business days.

Typically that's the current Chair, Vice-Chair and past Chair; but since the current Chair was one of the appellants, we asked the past Vice-Chair I think, or maybe it's past-past Vice-Chair, which was Robert Boyles to join the group. He added in with us, and with Pat Keliher and Doug Grout. The appeal has to be justified within the specific criteria; which we did talk about a little bit earlier today.

Those criteria can include a decision is not consistent with the FMP, there is a failure to follow the process, there is insufficient, inaccurate, incorrect application of technical information, the historical landings period is not

adequately addressed, and the management actions resulting in unforeseen circumstances or impacts.

Just a little bit about the black sea bass fishery; and sort of the process that we go through to set recreational regulations, because Addendum XXX does look at the recreational regulations for black sea bass. In December the Commission meets jointly with the Mid-Atlantic Council; and the Council has within their plan the ability to do coastwide measures.

But for the past couple years what they've done is set a coastwide measure that might not actually meet the RHL; because we know that the northern states are going to set more restrictive measures than those that are contained within the federal waters regulations, and that the combination of the federal water regulations and the northern states regulations combined will meet the coastwide RHL each year.

We do put in a backstop; just in case those regulations are not implemented by the northern states. This year those backstop measures were 14 inches, 5 fish from May 15 through September 15. The black sea bass stock is not overfished; and overfishing is not occurring. The biomass is roughly around 250 percent.

Addendum XXX is approved in February of 2018; and it established the process to set the regulations for this year. Since 2012, the recreational fishery was managed using an ad hoc regional approach. The northern states and New Jersey individually crafted management measures that adjusted harvest by the same percentage; and the southern states set their regulations consistent with the federal waters. This approach allowed the states some flexibility in setting measures; but some states had expressed a need for more equity, and accountability in managing the harvest to the catch limits, the Addendum set forth to try to

meet more equity and accountability as we went through.

The Addendum set management regions. Those regions were defined as Mass through New York, New Jersey was its own region within itself, and then Delaware through North Carolina. Accounting for these geographic differences and the stock in the fishery, the Addendum XXX used a combination of exploitable biomass information from the stock assessment and historical harvest; to try to regionally allocate the RHL to those three regions.

The allocation was based on a hybrid of the options that were actually presented in the draft addendum. There were two time frames in the Addendum; one was a ten-year timeframe, and another was a five-year timeframe. What we did was average those two timeframes together at the Board meeting; because there was not consistency to choose one option or the other.

To improve accountability, the states within each region were collectively responsible for managing their harvest to that regional allocation; through cooperative development of recreational measures. To increase consistency, each region set a standard set of measures that each state in the region would follow.

That included that no state could increase more than one inch in their minimum size; and could not increase or decrease their possession limit by more than three fish. Then the Addendum also initiated the development of a new process for evaluation and specifications of the measures against the ACL, the annual catch limit, which aim to provide more year-to-year stability in the management measures. The northern region states were appealing the allocation of the RHL to the regions.

I will let the northern states get into the details of the specificity of each of the criterion in which they did their appeal. But just to note

that during the call the leadership did determine that the appeal met the qualifying guidelines under Criterion 1 and 2; the decision not being consistent with the FMP, and Criterion 3 being incorrect application of data. Therefore those two issues are here before the Policy Board for your consideration today.

Leadership did determine that the appeal did not meet the qualifying guidelines under Criterion 5, which are unforeseen circumstances. The draft Addendum had presented a wide range of management options within the document; some of those options contained more restrictive measures than those that were approved by the Board, and so therefore we felt that the public did have the opportunity to see what types of measures and the impacts of those measures would be, even though it wasn't necessarily the option that was eventually chosen.

Today the Policy Board will discuss Criterion 1 and 3, and determine if direction to the Summer Flounder, Scup and Black Sea Bass Management Board is warranted for direction under the measures that are being asked for by the northern states under the appeal. Then one thing to note, David is going to go through the northern states appeal in just a minute. But just to lay the groundwork for how we got to a point in this decision process. Due to the intricacies of how we set federal measures and how the northern region sets their measures, we typically will tell NOAA Fisheries that the states have collectively brought together regulations, or put together regulations and implemented these regulations that will meet the RHL. We typically do that by the end of April.

Because we haven't been able to do that and because the appeal came forward, NOAA Fisheries had informed us that they were going to put up the backstop measures. Those backstop measures are unpalatable to some of the states on the coast; because those states don't see fish that are of the size in the backstop measures.

In addition, we had heard from some states that they were considering going out of compliance. An out of compliance finding would also put NOAA Fisheries in the situation where they would also have to implement those backstop measures. We started to talk and work with all the states to figure out a way to avoid those backstop measures; and David will get into that a little bit more, but that is to sort of set us up to why we got there. David is next.

VICE-CHAIRMAN KELIHER: David, before we go to you, are there any questions of Toni for her review? Adam.

MR. ADAM NOWALSKY: Toni, there was a huge change that took place regarding the implications of the measures that were initially proposed in the document. I don't know if you could put up Table 4 from the appeal that shows what the proposed impacts were of those measures; and ultimately what the impacts were when the final data came out.

Can you just touch on, so that everybody is on the same page at the Policy Board how, quite frankly New Jersey in particular, which is really what has caused a lot of the issue here, went from being the most negatively impacted state, based on the decision that was put forth by the previous decision by the Management Board to the most favorable position. I think that is really important to the discussion here.

VICE-CHAIRMAN KELIHER: Adam, I don't disagree that that is important to the discussion, I think. But what I would like to do is just before we get into that level of detail. I want David on behalf of the northern states, to be able to present the case in regards to the appeal. Then we'll get into that type of detail. What I would like to do now is just stay focused; any kind of overriding questions or clarifications from Toni's presentation? Seeing none; I will give the floor to David Pierce, who will present on behalf of the northern states. David.

DR. DAVID PIERCE: Some of the questions and concerns just offered by Adam should be addressed in my presentation, which again as you've indicated is on behalf of the other states; you know New York, Connecticut, and Rhode Island. This is not a Massachusetts appeal; this is a collective appeal of the northern region.

Now all Board members have received, and we assume you've had an opportunity to read our appeal; appeal of the decision pertaining to Addendum XXX. Again, I have to thank Toni for here introductory remarks; they were right on point, much appreciated. I'm not giving the presentation at the moment, so hold off on that. Each state has contributed to and has agreed to the appeal language. It's a lengthy appeal, very well documented, and frankly very well put together. I know that because of the response that we received from ASMFC leadership. The leadership really put a lot of time into our appeal; and provided us with a very well done, a very frank response, and we much appreciated the fact that that amount of time was put into it and a letter that we received was quite comprehensive.

The letter did agree the leadership did agree that two of our appeal criteria have been met; so here we are, given a presentation to this Policy Board. You all have a letter from the Vice-Chair, Pat Keliher that again provides all of the details specific to our appeal; and why it should be heard. Our appeal details why New York, Connecticut, Rhode Island and Massachusetts disagree with the approach that was adopted through Addendum XXX; and we explain why, why we believe that approach is the incorrect approach to use.

Now recall that one motivation for this Addendum was the documented shift in black sea bass distribution from the south to the north, from the west to the east due to warming waters in recent years. ASMFC is well aware of distribution shifts; clearly much time

has been spent by ASMFC members on this important issue.

This is evident from a February, 2018 draft white paper that everyone has seen, and everyone has discussed; and it has been titled Management Policy and Science Strategies for Adapting Fisheries Management to Changes in Species Abundance and Distribution Resulting from Climate Change, a very well done product of this organization that should serve as a basis for many of our future decisions about allocation of stocks from the south to the north, from the west to the east or visa-versa.

Now we noted in our appeal that increased black sea bass abundance and availability in the north is consistent with the growing resource and expanded age structure, and with a growing body of scientific research supporting a northward shift in the species distribution caused by climate change. In our appeal we note a number of resources, references that document, provide the science behind this particular statement that we have provided in our appeal.

By 2015, 87 percent of the exploitable biomass was estimated to be from New York through Massachusetts; yet under the Addendum the recreational allocation for the north region is just 61 percent. That is 26 percent less than the 87 percent of the exploitable biomass found in the northern area. We also noted that the commercial allocations to the states from New York to Massachusetts were just 33 percent of the coastwide quota. Now I've got a brief presentation providing our appeal, and the desired outcome.

After I'm through, I'll describe a very recent decision by the four states in the northern region regarding our appeal. It's a decision that we reached after consideration of what Toni just described; what the Regional Administrator, what NOAA Fisheries will be obliged to do, if we cannot leave this meeting with some understanding, their understanding,

what the states are going to put in place for 2018.

If we can't do that then the default kicks in, and as noted by Toni that default is very unappealing to the vast majority of all the states. It's in our best interest to come to some agreement today and we believe we have a way to reach agreement; and that will be provided in a motion that I'll be making on behalf of the four states, after my presentation is concluded. Once again, Addendum XXX, regional allocation of the recreational harvest limit, the three regions, Massachusetts through New York, then New Jersey as a separate region, and then Delaware through North Carolina.

We used that is the Species Board used exploitable biomass and historical harvest as a basis for the options that were provided in the addendum; and the timeframe for allocation, the options that were discussed and analyzed, 2006 through 2015, and then 2011 through 2015. When all was said and done, after the Species Board discussed the options, a decision was made on a 6 to 4 vote; I believe that the average allocation should be provided using the two timeframes.

This basically is the reason for the basis of a northern region appeal. The justification for the appeal, first the decision is inconsistent with the FMP. We believe that the outcome is inconsistent with Addendum XXX objective. It is inconsistent with the FMP objectives. Also, as a second justification for the appeal, and again the leadership of ASMFC believe that the justifications were there, warranted our bringing it forward to the Policy Board.

Insufficient application of technical information, and what I'm going to note now is a significant change that was made in the analyses in the New Jersey, 2017 harvest estimate, and then of course regarding insufficient application of that information. We believe that the stock redistribution caused by climate change was not sufficiently addressed.

All right the first one, the first reason, the first justification; inconsistent with the Addendum objective. The Addendum objective, one of them anyways, is to reduce the growing regulatory inequities. This table highlights the fact that under the ad hoc approach that we've used for many years, Massachusetts through New Jersey we had repeated cuts.

Delaware through North Carolina, largely status quo, and you can see that in the first row 2010 coastwide; the number of days, the minimum size, the bag, and then in 2017 Massachusetts through New York, once again the season, the minimum size and the bag. The point here is that the 2018 target has resulted in the need for rule changes in 2018 that creates an 11.71 percent cut in the harvest for Massachusetts through New York; yet New Jersey in 2017, 47.71 percent increase.

That is an indication of the growing regulatory inequity that has occurred and now the need for us, and we make the claim through the appeal to address this growing regulatory inequity. Consistent with the FMP objectives, the other objective is to prevent overfishing; and it's to improve yield. The 2016 benchmark stock assessment results noted that over all under fishing.

Massachusetts through New York that subunit, which of course is now the region that we represent, there has been under fishing. Yet New Jersey through the North Carolina subunit has overfishing. What we seek are regulations that are compatible between the state and federal government that should be affectively enforced, and they should be minimal. That is not what is happening. For seven years since the Massachusetts and New York and federal regulations were aligned. Now this larger northern region cut is driving us further apart from the federal rules; and it's becoming even harder to align rules within the region, such as the northern region. Insufficient application of harvest data, this is an aspect of the analyses of the work that was done that perhaps has not

been appreciated by most states; and that is the New Jersey 2017 Wave 3 harvest estimates. They were smoothed.

Early on in our discussions it was projected that there would be a 1.41 million pound harvest in Wave 3, I'm sorry that's not Wave 3. It was projected that for the entire year there would be 1.41 million pound harvest. Well that then was revised; that number was revised downward to about 0.75 million pounds. That occurred as a consequence of the smoothing of that New Jersey, 2017 Wave 3 harvest.

Management implications for 2018 well let' go to the table. Early on the projected 2011 through 2015 timeframe had Massachusetts through New York at a minus 3.64 percent. New Jersey, as noted by Adam, was faced with a 30.27 percent reduction; Delaware through North Carolina about a 4.69 percent increase.

The projected averaging approach that was used early on, before the smoothing, resulted in a greater need for a reduction in the northern region of 10.02 percent. New Jersey not so much reduction, but it's still significant, 21.69 percent, the Delaware through North Carolina amount, it went up to 19.39 percent.

Now we get to the actual averaging approach; where the data was smoothed for New Jersey in Wave 3. That then resulted in a rather dramatic change in the amount of cuts, or the amount that would be gained. In the northern region that resulted in a slightly increased amount of reduction, minus 11.71 percent; and that is contrasted with New Jersey gaining rather dramatically, going from a minus 21 percent to a gain of about 47 percent.

Delaware through North Carolina increased from 19 to 21.83 percent. We made the point; and we continue to make the point that if the actual timeframe had been used, the more recent years representing a change in distribution, as noted by all the scientific publications referenced in our appeal. That the

reduction for the Massachusetts through New York area would be minus 5.45 percent, and New Jersey still results in an increase 30.63 percent as opposed to 46; Delaware through North Carolina not so much of an increase, not 21 percent but up to 6.83 percent.

Our point here is that the 2011 through 2015 timeframe emerges as a more equitable approach for 2018 management. Insufficient application of climate science, once again this organization has discussed climate change quite often. Referencing documents, scientific publications put out by the Northeast Fisheries Science Center in particular. Climate change has caused a northward shift in the distribution of black sea bass; and it has resulted in an increased productivity in the northern region.

As supported by those two papers reference on the slide, and also it is to be noted and everyone is aware of this. The 2011 year class is to be repeated; that is it is a very strong year class, stronger perhaps than the 2015 year class. The figures on the lower part of the slide describe the increase and exploitable biomass for the northern subunit, and also for the southern subunit. But you can see that in the northern subunit, the increase in exploitable biomass has increased rather dramatically; in contrast to the somewhat larger increase in the southern subunit. What I need to call to your attention is the Y axis. It's a bit deceiving if we just look at that without considering the size of the numbers on the Y axis. The northern subunit goes from 0 up to 16,000 metric tons; and then on the right hand side for the southern subunit, it goes from about 0 to 8,000 metric tons.

Don't be deceived by what you see before you, as you had to focus on the numbers and the fact that exploitable biomass in the northern subunit has increased rather dramatically. It will continue to increase dramatically as a consequence of this 2011 year class; that will provide for a rather tremendous amount, a large amount of biomass in the northern region.

Obviously, it is moving in the southern region too; but not as much as in the northern region. Corrective action, what have we asked for? In the appeal, in the letter that we submitted to ASMFC leadership, we asked that leadership and then this Policy Board consider that the 2011 through 2015 timeframe was the more appropriate allocation to be used under Addendum XXX.

Now earlier on, and this is the table on the right hand side, we indicated that the revised allocation that is using the 2011 through '15 time period, would go from 61 percent up to about 66 percent. New Jersey would go from 30 percent, drops down to 26 percent; and then Delaware through North Carolina about 8.4 to 7.36.

Now that is what we offered up. That is what we indicated we wanted to have as a reconsideration of a decision by the Board. As a consequence of our understanding GARFOs position on the backstop measures, and our not wanting the backstop measures to kick in, the northern states in particular aren't in a position to know what we're going to have as rules for 2018. We decided to meet as a group, the four states.

We decided to offer up a somewhat different approach for consideration by this Policy Board; and then hopefully by the Species Board as well. This is a revised short term way to deal with our very specific and legitimate concerns. Again, the backstop is May 15 through September 15; a 14 inch minimum size and a 5-fish limit if we don't know what the measures will be today.

This is very critical. There needs to be an understanding today what the measures will be; otherwise it's backstop. Another complication is that there is a challenge of scaling back the harvest in New Jersey through North Carolina. There are liberalizations under a lower allocation; so that is a very significant challenge that we need to address.

We can address it; we believe the northern region believes we can address it through the solution that we're going to offer up shortly. The revised short term corrective action that we offer up to the Policy Board at this time, we are suggesting, requesting that we replace the Addendum XXX allocations with an interim approach.

This interim approach considers the expected resource availability of black sea bass in 2018. It addresses the spawning stock biomass decline in the north; because this 2015 year class is moving its way through the fishery. It also addresses the expected recruitment of the 2015 cohort in the south; again the 2011 year class is going to be, it is of smaller size. There are smaller minimum sizes in the southern states, therefore there is a need to account for that; and we do that by virtue of what I am about to describe. What we do with this revised short term corrective action, is not penalize at all, to be respectful, to be understanding of New Jersey and the Delaware through North Carolina position; and that is they wish to maintain their approved 2018 regulations.

We're supporting that as part of this compromise approach that we have developed. As part of this approach, Massachusetts through New York, we're going to develop regulations; and we have them already to present to you. We're going to develop regulations with small liberalization; applying the Addendum XXX regulatory standard guidelines, which is we can adjust our minimum size by one inch, or adjust the bag up and down by three fish.

The table shows in figure form what exactly we have done. The Massachusetts through New York Region, the preliminary 2017 harvest estimates it to be 2.5 million pounds or so. Now we're counting for the decline of SSB, spawning stock biomass, of about 16 percent; and that result in a 2018, as we propose it, liberalization of 3.76 percent.

That ends up with a projected 2018 harvest of about 2.2 million pounds. Contrast that with New Jersey. The preliminary 2017 harvest is about 704,000 pounds. We're adding into that projected harvest the assumed 2015 year class, the contribution of that year class and about 73,74,000 pounds. That results in a proposed liberalization of 46 percent, which is a very liberal liberalization, 46 percent.

The projected 2018 harvest now becomes about 1.1 million pounds. For Delaware through North Carolina, preliminary harvest for 2017 at about 253,000 pounds, we factor in the contribution of a 2015 year class that is expected still, 21,000 pounds, and that result in a proposed liberalization of rules in 2018 of 12 percent.

Factoring in the February, 2018 harvest, a small amount, 5,000 pounds; that results in a projected harvest of 312,000 pounds. Here is the bottom line. This is what's most important, certainly from the perspective of the National Fishery Service and for this Policy Board, as well as the species board.

The projected 2018 harvest with our revised short term corrective action is 3,666,195 pounds. Contrast that with the RHL, the recreational harvest limit, 3,661,878 pounds. For all practical purposes it's the same number. I don't think you have a copy of this before you. Let me highlight the fact that the New Jersey to the south minimum size, possession limit, and open season, they are the same.

They are not changing from what was presented by those states at the last meeting and then adopted. However, Massachusetts, Rhode Island and the Connecticut and the New York measures, these are the measures that we have agreed we would adopt for 2018 as compromised measures. Again, these are the strategies that are consistent with the Addendum XXX criteria of modifying the minimum size by one inch, or the possession limit by three inch.

It provides us with the ability, with these particular measures, to achieve with the states in the southern region the RHL for 2018. It's a very important conclusion and outcome; especially from the Service's perspective. The corrective action, this is what we're asking. On the short term, institute the proposed compromise measures for 2018; the ones that I've just described.

Then consistent with what the species board, what the Summer Flounder, Black Sea Bass and Scup Board did on the first day of our meeting on Monday. Consistent with the discussions that occurred, relative to a presentation given by Bob Ballou and others, about how to move black sea bass management forward, the approach to use that was supported by the species board.

We are saying and suggesting that in the long term there is a need to initiate management actions to address the northward shift in distribution; something that stands to reason. That is my presentation on behalf of all the states in the northern region. We believe we have accomplished the objectives that we needed to accomplish.

We don't put the Policy Board in a position of having to consider and debate the appeal as originally presented. We're now offering up to you this compromise approach that we worked hard on; as a group of four states, to not impact the southern region, but to provide us with the ability in the northern region to have regulations in place, in time, to prevent the National Marine Fisheries Service from being obliged to put in place that default measure. As soon as it's appropriate, Mr. Chairman, I would like to make a motion on behalf of the Northern Region.

VICE-CHAIRMAN KELIHER: Before you do that I want to go back to Adam. I believe the table that you referenced was shown in Dr. Pierce's presentation. Do you want to move forward

with your question from earlier? Go ahead, Adam.

MR. NOWALSKY: A portion of it was. Let me begin by saying that the Summer Flounder, Black Sea Bass, Scup Management Board has not had a great track record the last couple years; when it comes to recreational management. We've got to take that on our shoulders here, absolutely.

Let me just stop right there. I would think that just explaining the timeframe that the smoothing approach took place would be helpful for all the members of the Policy Board; to understand that this large liberalization that New Jersey was afforded, which they didn't take. New Jersey wound up significantly reducing from that liberalization in the proposal, went with a much more conservative approach.

But I think it's important to understand that the information available to the management board that Table 4 that is up there. That was the decision they made based on that information. Now how did we go from New Jersey having a 21 percent reduction to a potential 46 percent liberalization? I think that is what would be helpful to just have a little bit more discussion about; to explain that and explain the timeframe, and to explain that that information was not available, and why wasn't it available when the Board made a decision back in February?

MS KERNS: I can do my best to explain that; and Jay if you need to step in and correct me, please do so. At the time of the Board meeting the TC was still evaluating all of the end of the year harvest levels for each of the states. We did not yet have Waves 1 through 6. We only had Waves 1 through 5s information. After we received Waves 1 through 6 preliminary estimates, New Jersey then looked at all their information. We knew that they had had some outliers in their MRIP information; and consistent with what we have been doing in the

past years, in the previous year New York had done this.

The TC evaluated those numbers and felt that smoothing was necessary for their Wave 3 information. New Jersey did smooth the outliers that they had seen coming out of the MRIP harvest estimates for 2018, and that significantly brought down their total harvest levels.

Smoothing did occur between the February meeting and when the Board approved the management measures at the March meeting. We went from the reduction of 22 percent to the allowable liberalization of up to 46 percent, which is not as Adam said what they took. They took closer to like 39 percent liberalization. Jason.

MR. JASON McNAMEE: Yes just one additional thing to add that contributed to the delay in my view was the option of smoothing is relatively new. Even into this year we were still talking about the mechanism. We ended up with this Thompsons Tau Method, to identify the outlier and then using Winsorization to actually adjust it. There was another method that we had also discussed; but that was still an item of discussion that I think got settled sort of late, as we were working through this process. That contributed to a delay.

VICE-CHAIRMAN KELIHER: Can I get a sense of the Board how many folks have questions for Dr. Pierce on his presentation? Seeing none; David. Oh, I've got one way down, Rob.

MR. ROB O'REILLY: I'm way down here, and I was going to – they're not really questions so much – as I wanted to comment on this whole situation if I may; whenever you want me to.

VICE-CHAIRMAN KELIHER: If it's just a comment on the situation, why don't we move forward with putting a motion up on the board; see if we get a second. Then through comments, questions, we'll take those. Rob.

MR. O'REILLY: It's not so much on the appeal. It's on some of the information that was just presented that the appeal I think I understand very well; and I think that there has been a good approach here. From this situation, prior I think there was definite an inequity in the northern states. I think that was made clear just a few years ago; and continued. Massachusetts especially was in that situation with the states that are making the appeal.

I think the real benefit of this is that there is more cohesion there and that's good. But I'll take one minute. I think this idea of throwing out statistics that we want to talk about that down the road. I do want to get that chance. When I hear 87 percent distribution, I want to make sure that we look at all the surveys.

On Monday you heard me talk about summer flounder, and add-in information about the other surveys. If it's 87 percent that's fine, but we need to be careful about the information that we're using; because it latches on to us as we go forward. That's just a situation that we also should not talk about overfishing in a particular sector, or the southern sector. I don't think because we've been told that well, with this novel benchmark assessment that was done, you really can't say that those fishing mortality rates should be used for any management purposes. Yes two meetings in a row, I see them put forward to us.

I think we've got to be careful about that. It's about what we're doing now is going to be looked at later on; and it should be looked at carefully. I remain skeptical; which means I was taught when I was a scientist that skepticism is healthy, and you wait until you get all the information. We've been riding the crest of movement of fish; which is fine, they are moving.

But we need to be careful about our information and all our sources of information; because I think that we tend to cause our own problems that way. The last thing I'll say is I

was a strong advocate of looking at 2001 to 2010 data; because really the subsidy that was in the appeal of having a subsidy for the southern region. It didn't help much during those years.

But there were previous years where it was stronger. Again, another fact was the 2015 year class didn't show up in the south. It certainly did in CHESMAP, which is a Virginia through Maryland trawl Survey. I think I heard some of the state surveys showed some strong information too.

I have no problem with what David has presented. I have no problem with the appeal. I think it was well done overall. I just think we need to take time and be careful as we go forward; about the directions that we're taking on statistics that may not be complete, or completely looked at from all sources. Thank you for the time. I know you're probably not happy that I did that but I thank you.

VICE-CHAIRMAN KELIHER: Thank you for that brief comment. I'm going to go directly to David Pierce. I know he has a motion prepared. If it would be put on the board, thank you. Again, this is being moved, not by Massachusetts alone. This is the motion that was agreed to after quite a lot of consultation between New York, Connecticut, Rhode Island and Massachusetts.

I move, based on the discussion today and the Northern Region Appeal that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Bass Management Board to: (1) address the northward shift in black sea bass abundance and distribution, by initiating management actions to manage the recreational and commercial fisheries, based on the distribution of the resources along with any other option recommended by the Management Board.

VICE-CHAIRMAN KELIHER: Great, we have a motion on the board by Dr. Pierce; do we have

a second; seconded by Emerson? We have probably a lot of folks who have comments on this, so I'm going to start over here on this side of the room. I thought I saw Eric Reid's hand a second ago. You wanted to second the motion. Well, Emerson does a good job seconding; plus I could see with the white beard and hand going. He was very visible; questions to the motion, Ritchie.

MR. RITCHIE WHITE: A question of process. Does the Policy Board have the authority to implement different regulations on a species, Number 1; and if we do, have we ever done that in the past?

VICE-CHAIRMAN KELIHER: I'm going to turn that right over to our Executive Director.

EXECUTIVE DIRECTOR BEAL: The short answer. Well, there is no short answer. The long answer is the Policy Board really won't be changing the regulations. What the Policy Board will be doing through this motion is remanding something back to the Black Sea Bass Board; for them to take action later today to adjust the regulations for 2018, and also charging the Summer Flounder, Scup, and Black Sea Bass Board with initiating management actions as detailed in Part Number 1 of the motion.

That will be the action that comes out if this motion is approved. Has it happened in the past? There have been other appeals. But most of them have been dismissed or negotiated away before they've gotten to this point. I can't recall a time when the Policy Board has remanded something back to a management board.

But this approach it's in the motion here is directly consistent with the appeals process of the Commission; where the Policy Board hears the appeal, makes a decision, provides direction back to the species management board and that species management board is then obligated to take action based on the direction from the Policy Board.

VICE-CHAIRMAN KELIHER: Follow up, Ritchie.

MR. WHITE: Yes I understand Number 1, and we have done that before. I can't remember what species; but I know we've done that. But Number 2, aren't we changing the regulations by adopting what Dr. Pierce presented today, or am I not understanding that?

VICE-CHAIRMAN KELIHER: The way the motion is constructed, the Policy Board is directing the Black Sea Bass Management Board to address the shift, and to approve. It's a direction from this body to the management board to approve the regulation; so it would be to discuss and approve. Are there any additional questions? Adam.

MR. NOWALSKY: I heartily endorse the efforts made by the northern states here. I know a lot of the people from the public. I certainly know the Commissioners, staff, what they've gone through in trying to do this. I have a tremendous amount of respect and appreciation for the efforts that have been made here.

I do see that there are two very different things asked for in these motions. The second item between this Policy Board and the management board, we need to take action today or the Service is going to implement measures that will effectively shut down the fishery in the majority of states on the east coast. I think the second part at this point is something states have agreed to. I see that as lower hanging fruit. The first part of this is something that through a presentation that was made on Monday that from a recreational perspective, we're already well on our way to doing.

I have a question about the validity of this Policy Board directing the management board to take action on commercial issues, when this appeal was solely about a recreational issue. I think these are two very different things we need to get at here. **To that end, I'm going to move we divide this question, Mr. Chairman.**

VICE-CHAIRMAN KELIHER: If you want to go ahead and clarify. You're going to make a motion to divide?

MR. NOWALSKY: That's correct. Let's take these issues up separately.

VICE-CHAIRMAN KELIHER: That is your prerogative.

MR. NOWALSKY: That is my motion, Mr. Chairman.

VICE-CHAIRMAN KELIHER: **We have a motion on the board by Adam Nowalsky to move to divide Items 1 and 2.** Is there a second; second by Dennis Abbott, discussion on the motion?

DR. PIERCE: Yes, I had assumed that someone might make a motion to divide, an understandable attempt. However, the northern region spent a great deal of time putting together an approach that would get us away from the likely and very unfortunate outcome that could happen today; which would be the default.

The northern region has wedded Number 1 and Number 2. The appeal focuses on the northern shift of black sea bass abundance that needs to be addressed; recreationally and as well as commercially. We wedded these two, and we don't believe they can be separated. If they become separated it becomes very difficult if not impossible for us to then go forward with these compromised recreational fisheries measures for 2018.

VICE-CHAIRMAN KELIHER: David, I'm going to step in here. Just one second. If you could hold we may have a procedural issue. You wait one second.

EXECUTIVE DIRECTOR BEAL: Want me to go ahead, Pat. I need to check, but I don't believe motions to divide are debatable.

VICE-CHAIRMAN KELIHER: We'll put a hold on this discussion just for one minute.

EXECUTIVE DIRECTOR BEAL: I believe that is correct. A motion to divide is not debatable; so it stands on its own merit. What the maker and seconder are trying to accomplish I think are pretty straightforward.

VICE-CHAIRMAN KELIHER: We have a ruling that the motion to divide is a non-debatable motion. With that is everybody back to the table? We have a motion to divide Items 1 and 2; motion by Mr. Nowalsky, seconded by Mr. Abbott. All in favor; did anybody need time to caucus on this?

The motion to divide, do you need time to caucus? Nobody needs time to caucus; so all in favor of the motion to divide please raise your hand, 8, all those opposed, 6, abstentions, 2, null votes, no. Motion carries 8-6-2 with no null votes. Now we will be taking up only Part 1 of the original motion. There is probably going to be a lot of back and forth on this; so I'm going to take for and against and go back and forth on this, as far as questions and comments. Anybody who would like to comment in favor of this? Mr. Gilmore.

MR. GILMORE: Well not in favor. I think maybe the language in the motion is causing some angst or whatever; because we're really just trying to get a path forward in 2019, because we don't want to get back into the same box. But I think maybe the language is some of the Commissioners are seeing this as a little bit too prescriptive. I would like to offer an amended motion if that is appropriate, Mr. Chairman.

VICE-CHAIRMAN KELIHER: Go ahead.

MR. GILMORE: Motion to amend to I'm doing this on the fly so give me a second, to task the Plan Development Team to develop a white paper that would identify the actions of considering the northern shift in the population of black sea bass for future management action.

I believe it's a substitution actually, Mr. Chairman. Toni, please help me if I don't have all. It's a rough motion, but I think it's trying to get at it. If you've got some suggestions I would appreciate it.

MS. KERNS: Jim, would that be for the commercial fishery you're speaking of?

MR. GILMORE: Yes, I'm sorry, for the commercial fishery not for the recreational fishery.

MS. KERNS: I would suggest that we say motion to amend to add that. Can I have the other motion back Jess, I apologize. Motion to amend to add to task the Plan Development Team, and then you would still hold on to the Policy Board requests a new action to address the 2019 recreational fishery. In the first part of the sentence it would be initiate management actions to manage and get rid of the recreational and commercial fisheries and just say based on the distribution of the resource; along with any other options recommended by the management board.

This would then pull in the request from the appeal to look at the distribution of the resource, still allow the Summer Flounder Board to include other types of management, direct the Board to start action for the 2019 recreational fishery, and have the Plan Development Team look at how the distributional shifts are impacting commercial fishery distributions. Then we'll help staff with that.

MR. GILMORE: I think I'm going to take a minute to get this together.

VICE-CHAIRMAN KELIHER: Why don't we take, no hold on, Tom. Why don't we take just a quick one minute recess; and Jim, you come up and help them perfect that motion. We're in a one minute recess, Tom, we'll come back.

(Whereupon a recess was taken.)

VICE-CHAIRMAN KELIHER: If I could have everybody's attention please. We're going to stand in recess for an additional five minutes. Recess for an additional five minutes. Okay if everybody could please return to your seats. Okay this is a plea from the state of Maine to ensure that we fix this global warming problem, so I don't have to get into black sea bass management. Mr. Gilmore.

MR. GILMORE: Mr. Keliher has thanked me for letting him run this meeting; because he's having such a great time. We've essentially wordsmithed it a little bit, so Toni is it up there now? Okay. This is my new motion. Let me read it.

It's a move to substitute, based on discussion today and the Northern Region Appeal, that the ISFMP Policy Board direct the Summer Flounder, Scup, and Black Sea Management Board to one, address the changes in black sea bass abundance and distribution by initiating management actions to consider management based on the distribution of the resource, along with other options recommended by the Management Board.

The Policy Board requests a new action to address the 2019 recreational fishery. Two, task the Plan Development Team to develop a white paper that would identify the actions of considering the changes in the black sea abundance for future commercial and recreational management actions. Thank you.

VICE-CHAIRMAN KELIHER: Mr. Reid do you second; the second by Mr. Reid? Before we go into discussion on this, I want to take one step back. I know Toni did a very good job in clarifying the role of the Policy Board as it pertains to appeals.

But I would like the Executive Director to reiterate the issues associated with the guidance document that we have on appeals; to ensure that we're all on the same page. Because in the midst of the chaos that was

happening up front, we also were, Bob and I were wrestling with some procedural issues that I think this motion takes care of. Bob.

EXECUTIVE DIRECTOR BEAL: Yes, just to clarify and sort of paraphrase right out of the Appeals Process document. The role of the Policy Board once the Policy Board receives an appeal, is if the Policy Board determines that the existing management program should be modified, it will issue a finding to that effect, as well as guidance regarding corrective action to the appropriate species management board.

It is within the purview of this Board, if they agree with the appeal to send something back to the Summer Flounder, Scup, and Black Sea Bass Management Board in this instance. That can be as direct as the Policy Board needs it to be. Then the subsequent step is that upon receipt of this guidance from the Policy Board, the Management Board is obligated to make change that respond to the finding of the Policy Board. This Board has the authority under the appeals process to direct the species board to make changes; and those changes can include specific management measures that have to be adopted by the management board level. One important thing is that these are only simple majority votes.

It's not a two-thirds majority or anything else, it's just a simple majority at the Policy Board to remand things back to the species board, and then once it gets to the species board it is a simple majority to implement those changes. Happy to answer any questions, but hopefully that clarifies things.

VICE-CHAIRMAN KELIHER: I think that gives good clarity to the Policy Board. With that information at hand and the motion that we have on the board, is there any discussion on the motion? David.

MR. DAVID V. BORDEN: I'll be brief. I'm going to speak in support of the substitute; because I think it addresses most of the concerns that the

northern states have voiced. I would also point out that it gets to the really crux of the issue that's been discussed by the LGAs and by the Executive Committee, which is our collective need to settle our differences through dialogue and discussion, consistent with the process and maintain control of the process. We don't need states going out of compliance and threatening to trigger the default measures to disadvantage some region; and I think this motion accomplishes that. I hope everybody votes for it.

VICE-CHAIRMAN KELIHER: Any additional questions or comments? Jeff.

MR. JEFFREY BRUST: I also just wanted to speak in favor of this. I am much more comfortable with this motion, this motion to substitute instead of the original motion. I think it addresses some of the concerns that New Jersey had with the original motion; and I appreciate the Northern Region's consideration and flexibility to include language that addresses our concerns.

VICE-CHAIRMAN KELIHER: Any additional comments or questions; David, one last comment?

MR. BORDEN: Yes, just a really quick point. This motion does not reference the Mid-Atlantic Council; but the Mid-Atlantic Council is a partner in some of these discussions. Some aspects of this will have to be coordinated with the Council. I just wanted to acknowledge that on the record.

VICE-CHAIRMAN KELIHER: Yes thank you, David. I don't think we need to add it to the motion; but I think based on that the record will be clear, additional questions or comments? Seeing none; I'm going to call the question. **I'll quickly read the motion into the record. Move to substitute, based on the discussion today and the Northern Region Appeal that the ISFMP Policy Board direct the Summer**

Flounder, Scup, and Black Sea Bass Management Board to:

One, address the changes in black sea bass abundance and distribution by initiating management actions to consider management based on the distribution of the resource, along with any other options recommended by the Management Board. The Policy Board requests a new action to address the 2019 recreational fishery. Two, task the Plan Development Team to develop a white paper that would identify the actions of considering the changes in black sea bass abundance for future commercial and recreational actions. Motion by Mr. Gilmore, seconded by Mr. Reid, all those in favor of the motion on the board signify by raising your hand 16, all those opposed; abstentions, null votes, and 1 null vote. The motion passes 16-0-0-1

Thank you very much. **Now that is now the main motion. This is now the main motion, which is the final action.** Do we have any additional discussions as it is a final action? I don't believe we need any reason to caucus. All those in favor of this, are there any objections or nulls? This is a final action so we either have to do a role call unless there are objections or null votes.

MR. CHRIS BATSAVAGE: We'll null on this one as well, Mr. Chairman.

VICE-CHAIRMAN KELIHER: We'll note for the record that North Carolina will be a null vote; so we will not take a role call. **With that all those in favor of the motion on the board as a final action, please signify by raising your hand. There is no objection, okay we'll back that off. There is no objection other than the null vote, I'm sorry. The motion passes with the recognition of a null vote from North Carolina. That brings us to Part 2 of the motion.** Toni has a quick statement.

MS. KERNS: This motion deals with the measures that were presented in the

PowerPoint by David; and I'm going to ask Jessica to go to my PowerPoint slide, and after the questions there were two slides, one with the measures. Just so everyone can see the measures so that they know what you're voting on quickly.

These are the proposed measures from the PowerPoint slide that David presented earlier. In addition there is a second slide just to note on the record that all the states would be able to implement these measures; which meet the RHL for 2018, and all of them can be implemented, for the most part, in a very timely fashion.

The state of Delaware will take a little bit longer to get their regulations in place, but noted that Delaware does already have last year's regulations in place, and this would only be to change to allow for the opening in the fall. Jess, you can go back to the motion.

VICE-CHAIRMAN KELIHER: Great, so this is the second part of the divided motion; and I'm just going to read it quickly and then we'll debate it. **Move, based on the discussion today and the Northern Region Appeal that the ISFMP Policy Board directs the Summer Flounder, Scup, and Black Sea Bass Management Board to: approve the recreational black sea bass regulations for 2018 as presented today.**

That is the divided motion that was originally presented, the second half that was originally presented by Dr. Pierce. **Discussion on the motion that's on the board, seeing none; is there any objections or null votes to the motion that's on the board? This is a final action so again there are no objections that have been stated for the record; as such this motion passes.** Thank you very much. Mr. Gilmore, would you please come back to the front of the table.

CHAIRMAN GILMORE: Thank you Pat for doing that. That was a fantastic job; and thanks

everyone on the Policy Board for that. Go ahead, Tom.

MR. FOTE: I have one question and one little statement. The first question is when New Jersey did not do the appeal, because we opened up the appeal, we made a motion to table the appeal, because the Board met afterwards. Do we need a similar motion on this? That is my first question.

CHAIRMAN GILMORE: There was never an appeal submitted; so it was nothing that was ever ruled on, so we're okay.

MR. FOTE: Okay, the second point I'll make. It's the same thing I made at the Summer Flounder Board on Monday. There has been an expansion of two stocks that have greatly increased over this period of time by one-third; that is summer flounder and that is black sea bass. When the stock has expanded, it also expanded its range.

Unlike surf clams and a few other species like lobster, when the water got warm they moved out of our area completely into New York and up into the Canyon, so that's why all my surf fishermen are now fishing out of other areas for surf clams. But the fish did not leave the south. They're still there, I mean there is no migration north, and they'll still be able to catch the numbers. We need to look at this in a full context of expanding the range.

The problem is we've been fishing on smaller quotas than when the stocks were one-third the size on both summer flounder and black sea bass than they were 20 years ago, and we should be expanding the quota and we wouldn't have wound up in all these problems, because when we try to strangulate a stock. If we basically have a stock that is here, because of rules that we put in precautionary approach and everything else, we say that the stock is here, and so it's smaller than it is and then we set rules and regulations on that smaller stock.

We're basically producing ourselves to failure, because there is more fish out there. In the period of time that we set on the smaller stock for the precautionary approach, we're allowing ourselves to go over all the time needlessly, and not because we don't try to stay within the parameters of that stock that we're basically setting rules on.

But, the stock is much bigger than we're setting the rules on. I might sound a little confusing, but that's what has been happening over the last ten years on black sea bass and summer flounder since the reauthorization. Part of that white paper should look at both changes also; that's all I'm asking, Jim.

CHAIRMAN GILMORE: Good comments. The dilemma we face is I think you captured pretty well, so thanks for those comments.

ARTIFICIAL REEF COMMITTEE REPORT

CHAIRMAN GILMORE: Okay, we're going to move on. Lisa Havel is going to do an update on the Committee Report on Artificial Reefs; which I'm very excited about, because in New York, not having a reef program for many years.

If any of you saw the papers, the documents that were sent around. We've initiated our reef program; and I'm actually in trouble right now, because I'm not back doing deployments right now. But we're very excited about it, and so now we're going to be having a good membership back on the Reef Committee, so Lisa.

MS. LISA HAVEL: This is going to be a very brief presentation. The ASMFC Artificial Reef Committee met jointly with the Gulf States Marine Fisheries Commission, February 28, through March 1, in New Orleans, Louisiana. We held discussions on the 2017 American Fisheries Society meeting, the Artificial Reef Symposium that was held there.

The Commission served on the Steering Committee of that symposium. We also discussed the state of historic resource reviews; and how that affects new permitting, BP funded projects from the Deepwater Horizon oil spill in the Gulf of Mexico, state protocols for scuba diving, and how they differ among states, and also how Delaware is collecting aerial flight data on their reefs.

There was a guest presentation from NOAA regarding sea turtle considerations in reef module designs. Each state provided an update; and the next meeting will be hosted by the Atlantic States Commission in early 2019. The Committee decided that they wanted to create a document compiling the state artificial reef monitoring protocols.

Currently if you want to see the protocols, you have to contact each state directly. By putting them all together, we can aid in standardization of protocols for comparisons along the coast. Once we have that document compiled this year, next year we would like to use this information to identify best practices, gaps in protocols, and make recommendations for monitoring.

We've also invited the Gulf States to participate in this document as well. We have two new members; Christine Kittle is replacing Brad Ennis as the Florida representative, and Eric Schneider is replacing Chris Deacutis as the Rhode Island representative. As always we welcome suggestions for any action items you would like.

Each state is very – well it varies across the states – but some states are very active in their artificial reef programs. But they are always looking to work collectively through the Commission on different action items; if you have anything that you would like to see from them. We welcome any suggestions that you have. If you don't that's great. They're still doing their own thing in each state; and with that I'll take any questions.

CHAIRMAN GILMORE: John Clark.

MR. JOHN CLARK: Lisa, did the Committee talk about special management zones; and is that something that most states are going to, or is it still just kind of some states have them, some don't for artificial reefs?

MS. HAVEL: Some states are interested in moving that way. I know that South Carolina has them right now in certain areas; but Bob Martore who is a representative, he was actually not at the meeting this time around. For this Committee in particular, each state is very different in how they approach artificial reefs and how they see the benefits of them; so it varies by state.

CHAIRMAN GILMORE: Steve Murphy.

MR. STEVEN W. MURPHY: Yes Lisa, we've been – and I brought this up a month or so ago at the Division Directors Meeting – I'm concerned with the discrepancies in various Army Corps Districts, and how this artificial reef permitting is taking place. We once had an extremely vibrant artificial reef program. We have 42 offshore reef sites. We have been literally paralyzed for the past two years; trying to permit new construction on these reefs.

That work is going forward with the Corps and with National Marine Fisheries and Protective Resources through the Section 7 Consultation. But we've probably lost significant funding from not only our General Assembly, but also from donations from fishing groups and everything. I know this has been an issue that has been addressed in South Carolina and also in Georgia. Is this really a problem across the country; or is it just region-by-region?

MS. HAVEL: That's a great question. This comes up at almost every meeting. Each state works very differently with their Army Corps representative; and we've discussed having an Army Corps representative come to our meetings. But because they work so differently,

one Army Corps representative wouldn't be able to speak for the entire coast, or the coast plus the Gulf of Mexico.

We didn't see much benefit in bringing one in. We've thought about attempting to address these concerns with Army Corps; but there was some apprehension with the states for which it's working really well. What the states like to do now is use this meeting that we have annually as a way to get together.

See what's working, what's not working, and provide advice to states where they're having more difficulties. But they are not sure how best to approach it without possibly hurting the states where it's actually going kind of well. If you have suggestions, we're open to it. It is definitely an issue and region-by-region it works very differently.

CHAIRMAN GILMORE: I actually have a follow up to that Steve. With our recent reinstatement of a New York program, the Army Corps has been actually very, very good with this and very helpful. However, on a different issue on oyster harvest, we're running into that same problem.

We've got districts right next to each other and we've got different sets of rules; so it's a concern I think we need to start looking into. If we're going to make measures consistent among the states and try to make our criteria the same, we shouldn't have to be getting a yes in one state and no in another state; because the Corps is setting different rules. I'm going to look into that; because I think that's an important issue. David Pierce.

DR. PIERCE: Yes Massachusetts has artificial reefs in our waters; and we're working with a Recreational Advisory Panel that is focusing on well, new artificial reefs, to provide all the benefits that artificial reefs do provide. I have and my staff has reflected on the policy, the existing ASMFC policy for artificial reefs; and that has been very helpful.

But if I have a suggestion I think it's in the purview of your Committee, Lisa. There are going to be forests of wind turbines eventually in offshore areas. These forests, they will provide opportunities for artificial reefs; at least there has been some discussion about that. Part of the construction operations plans for the different areas, the different companies that will have these arrays, perhaps there should be some requirement that BOEM could actually require relative to the construction of artificial reefs around those towers.

My suggestion is that your Committee might want to delve into that particular issue to see if indeed there is a potential for artificial reefs within those leased areas; and if so what sorts of requirements, what sorts of guidance should be given as to how those reefs should be constructed.

I can see the potential for each company doing its own thing, or being advised in different ways by different states about what they should do or could do, to again create artificial reefs, since it's likely the commercial fishing may be impossible or not likely in many of these areas for a number of very good reasons.

Artificial reefs, recreational fishing that's my suggestion that the Committee take a look at this issue; and see if you can actually offer up some advice to all the ASMFC states that are so intimately involved in reviewing construction operations plans right now, and those that will be offered up in the future by these companies.

CHAIRMAN GILMORE: Other questions, Mel.

MR. MEL BELL: Not a question, just a shameless plus I guess. The question was asked about special management zones; and yes, South Carolina pretty much all of our reefs in federal waters are special management zones. But we have a unique situation where we actually have three artificial reefs that are special management zones for the purposes of stock enhancement only.

It's basically they are there as spawning special management zones. Well one is actually a Marine Protected Area; it functions the same way. These were all designated by the South Atlantic Council. As artificial reefs kind of continue to be examined as fishery management tools, there are various ways you can use tools.

The traditional method that we've always relied on is; build the reef, fish the reef, build the reef, fish the reef. It enhances recreational fishing in our case; and it can be used for commercial purposes. But we've added this additional use; which is the reef is there for the purpose of building stocks.

As we kind of move into the future, we're certainly big promoters of that. We're real proud of our three sites there; and the fact that we were able to do this, with the cooperation and help. Really the South Atlantic Council provided the regulatory authority for us to be able to do that. But it's something to consider as you move forward in the future; different states.

Just since we're here with a group from the Atlantic coast, but it's just something to think about. But you can actually build and you can properly regulate through the proper level of regulation in this case the South Atlantic Council. You can build reefs for the purpose of rebuilding stocks. Then it kind of gets to this some about, you know well folks worry about do reefs aggregate, do they produce? Well yes, they do both. But you can actually build a reef specifically for the purpose of rebuilding your stocks.

CHAIRMAN GILMORE: Okay Marty, you get the last shot here.

MR. MARTY GARY: Thanks, Mr. Chairman. Question for Lisa. PRFC has two artificial reef sites, and over the last 20 years we've had two chances to get out materials of opportunity to place on those sites. When we get a chance we

take advantage of it; and we may have another one coming in the form of a bridge that's being torn down about 40, 50 miles downriver from where we are today.

A bridge I cross twice a day and take my life into my own hands every time I do; so I'll be glad when it does come down. A question I have for you is there used to be a document, a guidelines for inspection of materials. I thought the Gulf States created it back in 2004 or 2005. I was just curious. When we get to the point where we have discussions on what material is suitable. Is that still the default document that all the states are using to ascertain whether materials are appropriate?

MS. HAVEL: We're working on updating that document now; and it's been in the process of being updated since I became the coordinator for this Committee. The Gulf States is working on that and we discuss it at every meeting. When you need that document, contact me and I'll let you know if we have a newer version out or not. If we don't, I would default to the older one.

CHAIRMAN GILMORE: Marty, just so you know, the start of our reef program again we're actually using a bridge. We have criteria, I would be glad to share with you for lack of anything else, and it's worked pretty well I think, in terms of what we're going to put in the water.

LAW ENFORCEMENT COMMITTEE REPORT

CHAIRMAN GILMORE: Okay, we're going to move along now. The Law Enforcement Committee met this week and Mark Robson is going to give us an update on the Committee. Mark.

MR. MARK ROBSON: We had a very productive meeting this week; and provided a written summary of the meeting, so you can refer to that at your leisure for more details as to our discussions. There are just a few things that I

wanted to highlight. First of all we did cover a number of different species issues in our discussions.

The Lobster Management Board heard some of our thoughts regarding the ropeless fishing technologies. We had a pretty thorough review of what's out there and what's being discussed; in terms of ropeless fishing techniques. We obviously highlighted some of the enforcement concerns that that technology might bring in the future. We also went through and reviewed with staff and the LEC the Rhode Island Winter Flounder proposal for consistent state waters regulations.

We provided input to the Winter Flounder Board regarding law enforcement issues; particularly with regard to consistent regulations between state and federal waters, and the issue of the aggregate weekly limits and how that can be managed to still provide some effective law enforcement protection. We also heard a briefing from staff regarding the shortfin mako NOAA Emergency Rule; and after discussing that with Kirby Rootes-Murdy, we provided some input to staff regarding the support among the LEC for whatever actions that the Commission might take to develop or to look for complementary regulations between state and federal waters for that fishery. Those were three significant species issues that we dealt with. There was one item that I wanted to go to the next slide.

The Law Enforcement Committee has a number of members who have been intimately involved in coordinating joint enforcement agreements with NOAA. I am sure most of you are familiar with that program; but the Cooperative Enforcement Program is set up to provide federal funding to state agency enforcement arms in the conservation and protection of marine fisheries, particularly at the federal waters level and for federally managed species.

This program has been in place for about 18 years. A number of the members of the LEC

had heard that there was a good possibility, or at least it's being discussed in the 2019 federal budget that that program may be cut significantly or perhaps completely. There is enough concern among the LEC members at our meeting that we are requesting to you as Policy Board that you take a look at this issue; and whatever manner you deem appropriate.

If you could express support for continued funding of that joint enforcement program, it is really a vital program for many of the state enforcement arms, provides additional funding for hours on the water by state officers. It also provides significant amount of funding for vessels and equipment those otherwise state agencies would not be able to acquire and manage and use. We are making that request to you as the LEC Committee; and that completes my report, Mr. Chairman.

CHAIRMAN GILMORE: Toni just had some follow up to that; so Toni, go ahead.

MS. KERNS: Just before those questions to Mark. Staff has been, Bob and Deke have been on the Hill, and during their discussions on the Hill with staffers, they have emphasized the need for this program and fully funding the program, and how important it is to the states for enforcement of fishery regulations. That is ongoing currently; and will continue to occur.

CHAIRMAN GILMORE: Thanks Toni, Eric Reid.

MR. ERIC REID: There has been a lot of discussion about this topic for sure. Just to put some numbers on it, I think the JEA Agreement would allow about 200 and some odd enforcement agents. Without it you've got six for the coast. I think that is pretty close to the reality of it. I know at the Mid-Atlantic Council we've had a discussion about it.

The New England Council we've had a discussion about it. But those two bodies are constrained in their ability to provide comment, unless they're asked for a comment or to lobby

in any way, shape or form. I think we're a little bit more flexible; and if it means us sending something to someone, I think we should do that.

CHAIRMAN GILMORE: Tom Fote.

MR. FOTE: Eric and I are on the same page. We would not have law enforcement without that money. We think about the awards that we've given out to law enforcement over the last 25 years. Most of those were from joint operations with the Feds, and we need to continue that stream. I think it behooves us to write a letter to the Secretary of Commerce; and basically reiterate that point. I think it's also come to have all the states to write the same type of letter. I don't know if you want me to make that a motion or just basically a comment.

CHAIRMAN GILMORE: I think if we're going to do a letter we probably can just do that. We can just agree to do this without a motion. But let me hear, I see we have a couple of comments. I am pretty much in agreement. This is a big issue for New York and all the states. David Pierce.

DR. PIERCE: I was going to make a motion; but if not needed I won't make it. But clearly the letter should strongly support continued and expanding funding for the NOAA Cooperative Enforcement Agreement. This is a very important agreement, very important necessary funds provided to the states to enforce federal rules, of course, and also to enhance state waters enforcement.

Cutting funding makes absolutely no sense; in light of every state's understanding of the amount of enforcement that occurs right now that frankly is inadequate. I won't get to the specifics as it pertains to Massachusetts and elsewhere; but in light of the information provided to us by the National Marine Fisheries Service, by GARFO, regarding the variety of illegal activities and enforcement resources that

are not there. To cut the funding it is so counterproductive.

CHAIRMAN GILMORE: David Borden.

MR. BORDEN: I'll make this really brief, because quite a few people have said what I wanted to day. But in terms of the national support for this program, there are 3,500 agents nationwide that rely on the funding from this source; so that's a big deal, in terms of protecting the resources around the country. I would also add that the LEC did an excellent job of fleshing out the reasons; so I think it will be a fairly easy task to put together a compelling letter.

CHAIRMAN GILMORE: We're running light on time; so Ritchie.

MR. WHITE: Just quickly. I think if we include also the efficiency to the Federal Government of this program; in that they don't have to own a bunch of vessels. The vessels are provided by all the states. It would be insane to think they would go and replace all those vessels they now have access to.

CHAIRMAN GILMORE: Let me go to Bob; because maybe he can describe a way forward, and maybe we can move on. Bob.

EXECUTIVE DIRECTOR BEAL: Yes, just very quickly. Everyone is in agreement it seems like. Deke and I, as Toni mentioned, have already reached out to a number of offices; including some appropriation staff on the hill. I know Maine and New Hampshire have talked to some of their delegation on Capitol Hill as well about the importance of this, and others may have also. This issue also came up at the State Directors meeting that we had about a month ago down in Charleston; and Pat Keliher among others delivered a pretty clear message to Chris Oliver that this is an important issue and funding for this is important. Even with all of that I think a strongly worded letter based on

the comments around the table, I think still holds a lot of value.

CHAIRMAN GILMORE: Okay so we'll proceed with a letter; and still encourage the states to write individual ones. I think the more we have the stronger the argument is going to be.

MRIP UPDATE ON THE TRANSITION TO THE FISHING EFFORT SURVEY AND CALIBRATION PROCESS

CHAIRMAN GILMORE: Okay, we're going to move on. We are fortunate now to have Kelly Denit from Headquarters; and she's going to talk to us, give us a little update on the MRIP Update on the Transition to the Fishing Effort Survey and calibration process, which we're all anxiously awaiting all the great news from that. Kelly.

MS. KELLY DENIT: Yes everybody's favorite four letter word, right. I know that we are constrained by time; so I'm going to move somewhat quickly, so that we can have as much time for your questions as possible. I'm really going to just try and focus on the highlights; but as I'm going through the slides if there is anything you want me to go back to after we get to the questions, just let me know.

This is just a quick reminder that total catch is based on effort and our catch rate. Our effort survey was the CHTS, the Coastal Household Telephone Survey. It is now the Fishing Effort Survey, the FES the mail-based survey, which I'm going to go into more detail on. Then APAIS is what is giving you the catch rate.

You guys know good and well what all goes into assessing the health of stocks; it's a variety of data streams. The point of this slide is just that the FES and APAIS data is not the only stream that influences stock assessments. Like I mentioned, the Fishing Effort Survey as of January of 2018, is the only effort survey that we're running. It is replaced to the Coastal Household Telephone Survey.

The fishing effort survey that FES uses, postal service records combined with state license and information to determine who is targeted for the mail-based survey. We believe that based on this it is providing more accurate estimates. The big reasons why a mail-based survey is more accurate is that we're reaching more anglers.

In this day and age, I'm sure many of you like me get calls on your cell phone from a number that you don't recognize; and you press that nice red button to decline that call. With the mail-based survey, we believe we're getting to more anglers and we're not having that issue of not connecting with people via phone.

In addition, the survey is getting into the right hands. With the phone-based survey, it was whoever answered the phone; which may or may not have been the actual angler in the household. Now with the mail-based survey, the survey can get to the person in the house who would be fishing.

In addition, the mail-based survey is providing more complete answers. You know how sometimes when you're on the phone you get a question, you're feeling compelled, you've got that awkward silence and you're trying to come up with an answer as quick as you can. Now with the mail-based survey, folks can take their time. They can provide an answer to the response, look at their calendar if they need to and all of that good stuff. The result is that our response rate is three times higher than it was.

This is consistent with some efforts that have been underway at Fish and Wildlife Survey as well, where they have been testing moving their big Fish and Game Survey to mail-based approach, and they are also seeing approximately a three times increase in the response rate, based on that mail-based survey. The FES has been extensively tested, peer reviewed; there was a National Academy of Science's review that said exactly what the quote is up there. It's a major improvement

over the CHTS. You guys are familiar, over the last three years we've had a transition plan in place. The Commission has been very active in participating in that group.

It's composed of the Councils, representatives from states, representatives from the Commission, folks from NOAA Fisheries; and we developed a three-year plan, because we knew that moving to this new Effort Survey would be a major disruption to fisheries if we didn't do it in a very thoughtful way.

That is what has been happening is over the last three years we've had the side-by-side benchmarking. We're now at the point where we have the calibration model for the FES; and later this summer we'll have the actual data to be incorporated into stock assessments. I'm sure you've heard a lot previously about what is the actual scale of the changes.

This gives you the overarching information; which is on average for private boat. It's about three times higher, effort is about three times higher under the FES, and about five times higher on shore-based. I need to emphasize a couple points on this slide. The first is it varies by mode, state and wave. These are just the overarching averages across species.

There are going to be differences. It also does not mean necessarily that overfishing has been happening. As you guys know, there is a number of factors that go into stock assessments. It's going to depend largely on what is the proportion of the fishery that is recreational; what proportion within that is shore-based, which is private boat.

I also want to emphasize here that this is not related to the for-hire or charter surveys. The FES is specific only to the private angler. I'll just quickly; these next two slides are on the specific calibration models. I'm going to move through them a little bit quickly; so we can get to what I think is the more substantive part.

The FES calibration model has been peer reviewed. It passed its peer review. It showed that rough increase that I just showed you on the previous slide. It does not indicate that there has been a recent increase in effort; it is actually showing that there has been higher effort over the entire time series. We put the APAIS adjustment in here as well; because I wanted to make sure that everyone understands that both adjustments to the data will be happening as part of the new recalibrated data that will be coming out this summer. You guys are already intimately familiar with the changes in APAIS. Just know that the peer review was held just about a month ago; it was overall reviewed well. I think there are a couple things we have to follow up on, but it's moving forward as well. Now where the rubber meets the road, on July 2, we plan to have the recalibrated data, so the data that's incorporated the changes based on FES and APAIS recalibrations available.

That information will then be fed into stock assessments. You guys know we can't do stock assessments for every single stock all at once. One of the main objectives for that Transition Team was to work together to come up with suggestions for how we prioritize; and then those were worked through the respective regional approaches at NRCC for the northeast, and then I forget what the acronym is for the comparable one in the southeast, to prioritize stock assessments.

Those will be occurring starting this fall. The two biggest ones are striped bass, and summer flounder has a benchmark this fall as well that you guys are aware of. As a result of those stock assessments, we'll have three key issues that are no doubt going to be discussed as part of all of this. The first is stock status.

Like I mentioned, just because the FES numbers are higher does not necessarily mean that overfishing has been occurring. It will be dependent on what those stock assessments show us for the Councils and this body to take

action and consider whether there is any changes to stock status.

Annual catch limits, similar issue. Once we have the results of those stock assessments, the management bodies, Councils and this group will be responsible for making decisions on those catch limits; whether there needs to be any changes upwards or downwards, based on those stock assessments.

Then the last part is allocation decisions. We've been grappling here at the Commission with allocation decisions repeatedly here over the last year or so; and I expect with this new data there will be additional conversations around that both here and at the Councils. One of the points we've wanted to be very clear, in particular with anglers, is all of our ACLs for 2018 have been set using CHTS data.

We need to make sure that when we're comparing catch at the end of the year that is so far being calculated based on FES; that we have the ability to convert that back to CHTS, what I'm going to call currency. What we're calculating as catch at the end of the year is being compared to a catch limit that was established in the same currency.

That is the point of this slide is that our FES calibration and the APAIS calibration allow us to move back and forth; so that when we are getting the effort survey information this year from the FES, we can convert that to CHTS, and allow those accurate comparisons. This is laying out over the next three years like I mentioned; we can't so all the stock assessments at once.

They are going to go in a tiered fashion, essentially. The big ones this fall like I mentioned are striped bass and summer flounder; and then the results from those will hopefully be able to be incorporated into management for 2019, and 2019 will have another slew of stock assessments that will be conducted to incorporate the additional information, and the recalibrated data. Then

that will inform management measures as we move forward; and we'll move through stepwise until we can get the recalibrated data in place and through stock assessments for all the stocks.

Until the stock assessment is done, we will continue to use the calibration; in order to make sure that we're comparing catch versus catch limit in the same currency. We won't be establishing ACLs in the FES currency until after there has been a stock assessment. I know I went really fast. That was just for timing. I wanted to make sure that you guys had an opportunity to ask any questions; and I'll do my best.

CHAIRMAN GILMORE: Questions? Tom Fote.

MR. FOTE: Not a question it's a comment. When I had this presentation a couple of weeks ago down here in almost the same room, when the Rec Summit, I looked at it and I almost fell off the chair, because I said boy this is a breath of fresh air. I mean this is what we needed to happen a long time ago; when we basically get numbers of fish.

This would have solved New York's problem in 2001 and 2003, when it came to 2004; because they started picking up more recreational anglers and the growth of it went from 4 to 600,000 to 900,000. It wasn't that they had picked up more anglers; it just had better data on the anglers out there fishing.

We should have adjusted the stocks and quota for New York at that time. That's what I suggested. But I got overridden. I think we should write a letter in support of this; because it really handles what we've been all concerned in the recreational community about. It would be nice to send a letter to the Secretary of Commerce to basically say this is in the right direction; because it really is.

As most of us know we've been afraid that again when we wind up with bigger numbers

they're just going to say you're overfishing; and this is not what is going to be happening under this proposal. I'm happy to hear it. I said it to Dave and Kelly at the last meeting I was at when they presented this; job well done!

CHAIRMAN GILMORE: Jason.

MR. McNAMEE: Thanks Kelly for the nice presentation, it kind of laid it all out. The one question I had when the peer review was done on the effort recalibration, we were working with two of the three years of information. My question is have they rerun the analysis with the third year? Did it change any of the affects in the model; any big differences if and when they added that third year?

MS. DENIT: They did add the third year; and as best I've understood it, there were not any major changes. But I will follow up with Dave, to make sure that I have not mischaracterized that.

CHAIRMAN GILMORE: Adam Nowalsky.

MR. NOWALSKY: Are there any general recommendations that are going to be issued as part of this for what recreational management might do? Specifically we talk about measures that have been put in place in the past that quite frankly; now that we have what we think is a better handle on effort and catch.

Quite frankly, those regulations may not be applicable today, may not have been appropriate in the past time series. Is anyone looking at that and making a recommendation what recreational management might do as some steps in moving forward using this information?

MS. DENIT: Hey Adam, yes thanks for that question. The plan is that all of that data will be available in July; and I think that will be the kickoff when people – people meaning the Councils and the Commissions – will start digging into the data, to think about and look at what changes might be appropriate. Then

ultimately that will be informed by the stock assessments and what those stock assessments using the recalibrated data show.

CHAIRMAN GILMORE: Other questions. Mel Bell.

MR BELL: Again, just a comment. I have the privilege of being on the Transition Team as a representative for the South Atlantic Council. I'm pretty much just a fly on the wall. But I would commend Dave and Kelly and the whole team. This has been a lot of work; and they've done a great job.

I can tell you from my perspective, from just kind of listening in and following the process, they're doing a great job. This is going to be a better product; you're going to have better data. Ultimately I view myself as kind of a customer. I'm an end user for what happens with the data. As a customer and having the privilege of just kind of watching this whole process, I can tell you that they are really doing a good job, and they do need to be commended.

CHAIRMAN GILMORE: Okay, I think well thanks Kelly for that update. I think everyone is looking anxiously to July and see how this all works out. I think we got pretty good agreement around that we're moving in the right direction, so thanks again.

OTHER BUSINESS

CHAIRMAN GILMORE: Okay, we're on to Other Business. We've got a few things we're going to do some brief updates on. First update on shad and Jeff Kipp is going to give us a little background on that. Jeff.

UPDATE ON SHAD

MR. JEFF KIPP: I'm just here to give an update on the American Shad stock assessment process. The Shad and River Herring Technical Committee and Stock Assessment Subcommittee met March 5 through 8, in Baltimore for a data workshop, where

we reviewed and discussed the available datasets for the assessment. Those datasets, the deadline for submitting them is June 1. Our next planned in-person meeting is tentatively for October of 2018. If there are any questions on that assessment and progress, I can take those now.

CHAIRMAN GILMORE: Any questions for Jeff?

UPDATE ON HORSESHOE CRABS

CHAIRMAN GILMORE: Okay seeing none; Mike is going to come up and give us an update on horseshoe crabs.

MR. MIKE SCHMIDTKE: A data workshop was held for horseshoe crab in February of this year. The assessment workshop will be held next week. With that particular assessment there are over 100 indices that are being evaluated for use in the varying regions; and the sex-specific nature that a lot of those indices can be for horseshoe crab. With that type of workload there is a likely probability that we will be having a second assessment workshop.

We're going to confirm that with the SAS and kind of go forward from there. That was included in the original timeline. We did include a little bit of wiggle room for a second assessment workshop. We are still on track for a peer review by the end of this year; with the presentation of final assessment report and peer review report in February of 2019. If anyone has any questions I can take those.

CHAIRMAN GILMORE: Any questions for Mike? Tom Fote.

MR. FOTE: A comment. One of the proposals that BOEM is looking at for windmills, and one of the private firms that put their proposed area in the sanctuary for the horseshoe crabs. We should be paying attention to what they're basically proposing. But that was the area we set aside to be a sanctuary, and that's where they want to put the windmills.

It's becoming a real concern; no matter the placement of all the windmills, because sometimes they don't listen to the federal agencies and they don't listen to the state agencies, the people that are putting these plans together. They kind of state agencies basically, because of what I've heard up and down the coast, is they give comments where fisheries area are, and they've been kind of ignored. We need to be conscious of that fact and basically work harder to make sure that the fisheries issues are concerned in where the placements of windmills go.

CHAIRMAN GILMORE: Any other questions for Mike? Okay seeing none; thanks Mike.

REVIEW CORRESPONDENCE FROM THE AMERICAN LOBSTER BOARD

CHAIRMAN GILMORE: We've got one more thing that jumped on at the last minute. We got a letter from the Lobster Board, and Pat Keliher is going to lead us through that. Pat.

MR. KELIHER: Yesterday's Lobster Management Board there was a review and discussion in regards to the LECs meeting yesterday; as it pertained to ropeless fishing in the lobster fishery. After a discussion with the Lobster Management Board, a motion was passed to request that a letter be sent to GARFO; in regards to the concerns related to ropeless fishing from an enforceability standpoint.

It was clear from the Law Enforcement Committee that our current rules that we have on the books for the conservation of lobsters, would not be enforceable with the use of ropeless fishing. There were further discussions in regards to future technologies; and we don't want to dismiss the fact that in the future something may come available in regards to this technology. But at the end of the day there was that motion that was passed with the recommendation to send a letter to GARFO. I believe, probably Mike, I think it pertained to sending it to Mike Pentony, in particular.

CHAIRMAN GILMORE: Sounds like a good suggestion; any comments or questions for Pat on that? Okay Bob, are we going to allay that to the list of letters that you're going to crack out? Okay, all right so we will do that. We will craft a letter from the Commission on that ropeless fishing issue for the lobster.

ADJOURNMENT

CHAIRMAN GILMORE: We're at the end of the meeting. Unless there is other business to come before the Board, we'll take a motion to adjourn. Okay, we're adjourned.

(Whereupon the meeting adjourned at 10:25 o'clock p.m. on May 3, 2018)