

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

**Crowne Plaza Hotel Old Town  
Alexandria, Virginia  
August 19, 2008**

**Approved October 2008**

## TABLE OF CONTENTS

<b>Call to Order .....</b>	<b>1</b>
<b>Approval of Agenda.....</b>	<b>1</b>
<b>Approval of Proceedings .....</b>	<b>1</b>
<b>Public Comment.....</b>	<b>1</b>
<b>Technical Committee Report.....</b>	<b>1</b>
<b>TC Report: Review of Feasibility of Slot Limit.....</b>	<b>1</b>
<b>Discussion of Developing an Addendum.....</b>	<b>8</b>
<b>Scup Data Review .....</b>	<b>13</b>
<b>Discussion on Amendment 15 .....</b>	<b>15</b>
<b>Other Business.....</b>	<b>15</b>
<b>Adjourn.....</b>	<b>18</b>

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1)
2. **Approval of proceedings of May 5, 2008 by consent.** (Page 1)
3. **Move to develop an addendum to include the use of a slot-sized trophy fish combination as a management tool in the summer flounder fishery** (Page 8). Motion by Pat Augustine; second by David Simpson. Motion withdrawn (Page 10).
4. **Move to develop an addendum to include the use of a maximum size limit as a tool for the potential to develop a slot limit and a trophy fishery in the summer flounder recreational fishery** (Page 11). Motion by David Simpson; second by Bill Goldsborough. Motion carried (Page 12).
5. **Move that all jurisdictions on the board provide the Law Enforcement Committee with their recreational regulations on summer flounder, scup and black sea bass as related to whether or not cleaning of these species is permitted at sea and that the Law Enforcement Committee provide a report to the board at the annual meeting in October 2008 as to each jurisdiction's program and whether or not their regulations negate the effectiveness of the state's minimum size limits for these three species** (Page 11). Motion by Tom McCloy; second by Bill Adler. Motion carried (Page 16).
6. **Move to develop an addendum to include a mandatory regional management tool for summer flounder in the FMP** (Page 16). Motion by Pat Augustine; second by Roy Miller. Motion to postpone this motion until the annual meeting (Page 16). Motion by David Pierce; second by Tom McCloy. Motion to postpone carried (Page 18).
7. **Motion to adjourn by consent.** (Page 18)

## **ATTENDANCE**

### **Board Members**

Paul Diodati, MA (AA)	Gilbert Ewing, NJ, proxy for Asm. Fisher (LA)
William Adler, MA (GA)	Roy Miller, DE, proxy for P. Emory (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Mark Gibson, RI (AA)	Harley Speir, MD, proxy for T. O'Connell (AA)
Everett Petronio, Jr. RI (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Sen. V. Susan Sosnowski, RI (LA)	Bill Goldsborough, MD (GA)
David Simpson, CT (AA)	Steve Bowman VA (AA)
Lance Stewart, CT (GA)	Del. Lynwood Lewis, VA (LA)
Sen. George Gunther, CT (LA)	Louis Daniel, NC (AA)
James Gilmore, NY, proxy for G. Barnhart (AA)	Bill Cole, NC (GA)
Pat Augustine, NY (GA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Harry Mears, NMFS
Tom McCloy, NJ, proxy for D. Chanda (AC)	Jaime Geiger, USFWS
Erling Berg, NJ (GA)	

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

### **Ex-Officio Members**

Steve Meyers, Law Enforcement Committee Liaison  
Rich Wong, TC

### **Staff**

Robert Beal  
Toni Kerns

### **Guests**

Rob O'Reilly, VA MRC	Peter Himchak, NJ DFW
David Pierce, MA DMF	Frank Kearney, CCA-VA
Michelle DuVal, NC DMF	Fentress Munden, NC DMF
Bruno Vasta, Solomons, MD	Sean McKeon, NCFA
Dan McKiernan, MA DMF	Arnold Leo, Baymen's Assn.
Dr. Eugene Kray, West Chester, PA	Jeff Deem, MA FMC
	Bob Ross, NMFS

The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 19, 2008, and was called to order at 10:25 o'clock a.m. by Mr. Robert E. Beal.

### **CALL TO ORDER**

MR. ROBERT E. BEAL: Okay, the Summer Flounder, Scup, and Black Sea Bass Management Board is going to go ahead and get started. The chairman and the vice-chairman of the Summer Flounder Board are not able to make it today. Jack Travelstead is the chair; A.C. Carpenter is the vice-chair. They're both at a Chesapeake Bay Oyster Restoration Meeting.

They're going to be in later this afternoon and they sent their apologies for not being able to attend. The commission practice that we have been using over the years is that the Director of the ISFMP will step in if the chair and vice-chair are not able to make to make a meeting and chair the meeting, so that's what I'm doing here.

### **APPROVAL OF AGENDA**

With that, we'll go ahead and started. There was an agenda on the CD as well as in the back of the room. There have no changes to the agenda on the CD. Do any members of the member have any additions, changes or deletions that they would like to see? Tom McCloy.

MR. THOMAS W. McCLOY: Thank you, Mr. Chairman. At the spring meeting I brought up an issue regarding recreational regulations and whether states allow filleting at sea or not and how they control that. I would like to revisit that issue, if I may.

MR. BEAL: We can do that under other business. Any other changes? Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Will be able to discuss mandatory regional; do I need to put it on the table as a subject for discussion?

MR. BEAL: We can discuss it. I think some of the issues that we're going to talk about today, including slot limits, obviously, will impact or have the potential to impact how the recreational fishery is managed. We will see if it fits in under that discussion or we'll put that off until the end of

meeting under other business as well. All right, seeing no other changes to the agenda, we will go ahead and consider that approved.

### **APPROVAL OF PROCEEDINGS**

MR. ROBERT E. BEAL Any changes or other modifications to the proceedings from May 5, 2008, the board's last meeting? Seeing none, those minutes stand approved.

### **PUBLIC COMMENT**

MR. ROBERT E. BEAL At this time we have a public comment period for anyone to provide comment on items that are not included in the agenda. Is there any public comment at this time? Obviously, we'll open up public comment during any specific agenda items if necessary.

### **TECHNICAL COMMITTEE REPORT**

MR. ROBERT E. BEAL All right, seeing none, we'll go right into the technical committee report. Rich Wong is going to report out on the review of feasibility of slot limits for the summer flounder recreational fishery.

### **TC REPORT: REVIEW OF FEASIBILITY OF SLOT LIMIT**

MR. RICHARD WONG: Good morning. In exploring the feasibility of the slot limit for fluke, the technical committee first discussed whether the data were adequate to support the slot limit approach. Unlike like the typical or usual approach where proposed harvest reductions require only the information about known harvest, a slot limit approach would require the size-and-catch frequency of both harvest and discards.

Currently we lack the size information for discards for all modes except for the charter and partyboat mode. Some states do conduct a voluntary angler survey which does provide some discard size information, supplemental discard size information. For the most part, most states are lacking the size information for discards. The technical committee recommended that an initial foray into implementing slot limits be limited to a coast-wide approach.

The technical committee then evaluated what effect that slot limits would have on expected harvest and long-term yield and spawning stock biomass. Here is a graph that I put together showing the size frequency of the recreational total catch in 2007. There are a couple of things I'd like to guide you through with

this graph here. This graph shows both harvest and discarded fish.

The thing here is that recreational anglers captured in lot fish in 2007. It was estimated that over 23 million fish were captured by recreational anglers in 2007. This is a large fish in relation to the 2007 target, which was only 2 million fish. I think it is pretty plain to see that it is easy to exceed a management target when you're capturing 23 million fish and you have to keep it to 2 million.

The other thing that might be plain to see here is that the effectiveness of minimum sizes – minimum sizes are a very effective tool constraining the harvest because you're forced to fish on the tail end of the distribution here. As you can see, you're fishing on this tail end, you're fishing on much smaller numbers of fish.

The second thing I would like to point out here is that there is an immense pool of fish captured by recreational anglers at 14 to 18 inches here. In 2007 around 13 million fish were captured by recreational anglers between 14 and 17 inches. This is a large number of fish again considering that the target was only 2 million fish. The bottom line is that we would expect that a very severe bag limit and additional seasonal closures would be necessary to bring that 13 million fish down to 2 million fish.

Now, ostensibly, part of appeal of a slot limit is that you could harvest more smaller fish given a TAL in weight. So, like I said before, the 2007 target was 2 million fish. This is under a minimum size approach where you're keeping the larger fish. This 2 million fish corresponds to roughly a 6 million TAL. Now, under that same TAL, if you went to a 16 to 18 inch slot limit, you could theoretically harvest 3.5 million fish given that same 6 million TAL.

Now, this obviously results in a significant increase in numbers of smaller fish that you can harvest. The reality is that recreational fishermen caught around 8 million of these fish between 16 and 18 inches. When you consider 10 percent discard mortality, that reaches closer to 10 million fish. The reality is you'd have to reduce this 8 million fish at 16 to 18 inches to about 3.5 million fish. Again, that would require some very severe bag limits.

Given the technical committee's experience with quantifying harvest reductions, it wouldn't be unusual if a one- or a two-fish limit would be associated with this 16 to 18 inch slot limit. The other benefit from a hypothetical slot is the

conservation of older and larger fish; conservation of spawning stock.

On this top graph we see the age distribution of the catch as it occurred in 2007, and we see a pretty broad age distribution from about to five, six, seven, eight year olds. On the bottom graph you see what the hypothetical harvest would have been at 16 to 18 inches in 2007. Here we see that the harvest pressure is removed from these five, six, seven, eight year old fish and disproportionally placed on the age two and three year olds, as you would expect.

The other point that jumps out here is that we're talking about close to 8 million two and three year olds being harvested at this slot; again, necessitating severe bag limits and season closures. Now, we were successful at constraining the slot harvest, the comparison of the age distributions would look more similar to this. This is basically the catch at age in proportions rather than in absolute numbers.

If we were able to constrain the harvest to our desired target, the age distribution would look like this, and, again, we see the reduction of the harvest pressure on the five, six, seven, eight year olds and almost exclusively harvesting age two and three year olds. Now, the technical committee also examined the long-term effects of fishing at a slot limit in terms of yield per recruit and spawning stock biomass.

Predictably, when you move the fishery selectivity onto smaller fish your yield per recruit declines. Your overall yield you could take from the stock declines. We did see that in this analysis. On the other hand, the spawning stock biomass can remain unchanged or even increased slightly given this particular slot that you want to explore.

The bottom line is that you can have no negative effect on the spawning stock biomass, yet you will forego some yield. Again, this analysis was restricted just to the recreation harvest; so when you consider the total harvest, the recreational harvest is only 40 percent of the total TAL. The effects of this slot limit are somewhat muted when you consider the commercial harvest as well.

Now, this analysis, certainly it seems that we are able to successfully constrain this harvest on smaller fish, and it also seems that the larger fish that are conserved from the slot limit are not recouped by another gear. This would certainly invalidate the results from this type of analysis. In conclusion, the data dictates to us that a coast-wide slot approach be explored first. Because there was an immense pool

of smaller fish available or caught by recreational anglers, that severe bag limits and additional seasonal closures would be necessary to stay at our targets.

The slot would allow theoretically more fish to be harvested, however at the cost of reduced yield which is somewhat contrary to the FMP objective of maximizing the yield in the fishery. The actual effect on the stock, of course, is going to be unknown basically due to the uncertainty on how harvest will actually respond to a slot. Will we be able to constrain the harvest to our desired targets? Well, we don't know and it becomes basically an outcome-based type of management approach just to see what will happen.

MR. BEAL: Questions of Rich? Let's try to keep it as technical questions and then we will get into the discussion of where we might go with this approach later. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman, a wonderful presentation. As suspected when we go to a slot size, we know what the impact is going to be, we will catch an awful lot of fish, but folks will be happy because they will take a fish home for dinner. Question; you mentioned, Rich, that one of the effects of lowering or having a slot size combined with a commercial size at 14 inches would have a deleterious effect, kind of a compounding effect. Had your group looked at the possibility of increases of minimum size for commercial fishermen? In other words, if you went from a 14 to 16, would it just move the pressure farther out into the year classes?

MR. WONG: Yes, we did discuss that at the technical level. We discussed it and the thought was that we didn't expect the recruitment of larger fish into the commercial gear partially because we were under the impression that the commercial fishery didn't desire the largest fish; fish too large to fit on the platter. There are other things we discussed, but they're not necessarily technical justifications for raising the size limits.

MR. AUGUSTINE: Just a follow on; it just seems in our area, because our quota has been so tightly managed and it is minimal compared to a lot of other states, we find our commercial fishermen are basically high grading. So, the effect of a 14-inch fish being thrown overboard dead is where it's at.

We have a quota of a hundred pounds a day or 70 pounds a day, and we're finding that the discard rate is phenomenal. I'm not sure other states are experiencing the same thing, and I don't know how

your group would have considered that because I think your information says that a lot of the 14, 15, 16 inch are plate-sized fish. It's just a fact.

MR. WONG: There is definitely a concern with that because the discard mortality rate is much higher from the commercial gear; so if they are high grading, we would expect a negative effect. The slot limit would probably be – the conservation benefits from the slot limit would be defeated.

MR. ROB O'REILLY: Rich, I guess I wanted to ask a couple of things. One would be do you think that there is any information from the past, even though the stock was in different shape in terms of year class strength, to look at back when size limits were smaller, and along those lines do you think that slot limits would be somewhat dynamic based if year class strength was put into the models?

MR. WONG: Well, we had discussed trying to predict what the availability of the stock would be for the upcoming year before we even examined the slot limit issue. It's a tool that we could use to try to anticipate what is going to be available in terms of looking at the year class strength. That is a tool that states use – are supposed to examine now when they're looking at equivalency regulations. So, yes, we could look at that in order to refine our predicted harvest from a proposed slot limit for an upcoming year. There were two questions there?

MR. O'REILLY: I guess it was two parts. The first part was, is there anything about past information such as times when states had smaller size limits that would give any insight to this technical process and maybe even the type of effort that existed at those times when size limits were smaller?

MR. WONG: In terms of characterizing the size of the discard, it's been a long since we have been at 16 inches or 17 inches for some states, so some of the data could be dated. There are other sources of information that we can look to characterize the discards. Like I said, there was a voluntary angler survey and there are some tagging programs out there.

There are also some independent surveys that we could see the size distributions of these smaller fish. There are ways to overcome the data limitations regarding size of discards. Again, that's part of the justification why we recommended using a coast-wide approach because we can aggregate many different sources of data, not necessarily fishery-dependent data, to try to plug in those holes.

MR. BRIAN CULHANE: My question is we're in a situation now where we're targeting larger fish and throwing back a lot of smaller fish. If we went to a slot limit, now we're going to be throwing back a lot of larger fish, especially the east end of Long Island where we do catch a lot of big fish. Is there information on the discard mortality rates on bigger fish? Are they higher than average or lower than average?

MR. WONG: That's a good question. I am not aware of any size-based mortality rates. It's something that might exist somewhere, but I'm not familiar with it.

MR. CULHANE: Thanks for clearing that up.

DR. DAVID PIERCE: Rich, in your report to the board on the second page, question number three, I just need to make sure I'm interpreting this correctly. I believe you're saying that if, indeed, we were to have a 16 to 18 inch slot limit, that would result in a 23 percent increase in fishing mortality; that's what the model predicts? If that's correct, was the technical committee in a position to bend that; in other words, where would most of that mortality originate from or discards, for example?

MR. WONG: That part of the effect on the fishing mortality rates is somewhat uncertain actually. That statement kind of skirted through this review process. We're not really sure what effect a slot limit would have ultimately on the fishing mortality rates when we did a stock assessment update. Unfortunately, that's the best we can answer. We don't know what the effect actually will be.

DR. PIERCE: But you don't know the effect, but it is in here. It says the ADAPT model did – when you ran the model, it did result in a 23 percent increase, so now you're saying we should scratch off the report?

MR. BEAL: Toni could probably help with that one.

MS. TONI KERNS: David, Mark Terceiro had done some work earlier in the year based off of a response to a public comment letter to the National Marine Fisheries Service, and he analyzed some previous data from prior to the updated assessment. From that work, he had found that there was a 23 percent increase from the output of exploring a 16 to 18 inch slot. With the updated assessment having a new M, this information could change slightly, and I can't give you an exact percentage of change in F, but that's where the information came from.

DR. PIERCE: Okay, I'm not going to hang my hat on it. I just need to make sure or at least to know whether I should put the 23 percent aside and not think about it. Is Mark Terceiro on the technical committee?

MR. WONG: Yes.

DR. PIERCE: Okay, so he can make –

MR. WONG: We might have to follow up that question directly with Mark.

DR. PIERCE: Yes, if you would, because I'd like to know whether he has changed his mind in light of all the additional that's been done by him and by you and the technical committee; and if the number no longer stands, then, fine, we'll erase it and just assume that we just don't know what the impact would be on fishing mortality.

MR. BEAL: Are there any other technical questions of Rich? Harry Mears.

MR. HARRY MEARS: Rich, you might have mentioned this; and if you did, I apologize, but did the group look at the size distribution, what the snapshot would be a year from now, year after that in terms of fish moving into harvestable size that would remove the common occurrence of going out fishing and catching an undersized fish?

MR. WONG: I'm not following that.

MR. MEARS: In other words, the primary rationale right now is a large group of anglers going out and not being able to catch a minimum-sized fish; if you follow the cohort right now or the population, if they were to go out a year from now, have there been projections on the frequency by which anglers would be able to take home a minimum-sized fish a year from now or two years from now?

MR. WONG: This is a similar to what Mr. O'Reilly asked?

MR. MEARS: It's on the same wave length, and I was just wondering if there were any graphs that were prepared as part of the analysis that would give some kind of hint or some kind of indication of what that situation would be like at that time.

MR. WONG: Not explicitly. Like I said in addressing Rob's question, we have in the past tried to predict how the availability will change given changes in year class strength. We will continue to



do that for the slot limit approach. While the long-term yield-per-recruit analysis kind of does answer that question, it produces a – the results from the yield-per-recruit analysis produced an equilibrium stock condition given fishing at the slot limit for a very long time, so that's what the stock would look like from year to year, every year, but I don't know if that satisfies your question at all.

MR. MEARS: Yes, my primary interest was in the absence of a slot limit in the immediate future, just by natural occurrences within the population what would alleviate the current stress in the fishery of not being able to take a legal size fish.

MR. WONG: I don't think we have looked at that explicitly, but I understand what you're saying now. You're saying given enough time at the low F rates there should be plenty of larger fish available at these minimum sizes. Since we haven't rebuilt completely yet, once we reach this idealized rebuilt state, yes, there should be greater availability of larger fish for fishermen to harvest.

MR. MEARS: Thank you. My question stems from earlier discussions of this board where it was acknowledged that part of managing success of a fishery being rebuilt is to be this dilemma by which you have high biomass yet you don't yet have a harvestable fish, and I'm wondering whether that's in fact what we're at least in part tackling with right now.

MR. AUGUSTINE: Thank you, Mr. Chairman. A follow-on question; based on the information or data that you have now, Rich – and we've had a discussion at our recent meetings and hopefully will come up before this meeting over – looking at the possibility of developing a regional basis of four or five states lumped together similar to what we do with scup; whether or not you could apply that data to a regional.

MR. WONG: Yes, certainly, some of the limitations are lessened when you start to pool your data away from a state-level strata, so it's a possibility. We'd have to examine the data to look to see how feasible – and it would depend, of course, on the region. So, yes, the limitations get reduced as you go to a spatial area.

MR. AUGUSTINE: Okay, so then the larger the region, the better off we are?

MR. WONG: Perhaps, yes.

MR. AUGUSTINE: We're trying to make a transition from where we are now in a state by state looking at what is the possible step, and it's obvious that coastal seems to be very negative to a lot folks because it puts them outside of the catch range or take range, as Harry has said, to take home a fish.

On the other hand, because we have the limitation of quota setting, it seems a regional approach might be the next approach. Now whether it would be divided midway, half the states in one region and half in another, so if you could do that – and we know you could do that – we'll be after you. Thanks, Rich.

MR. WONG: Well, just to reiterate, the TC did not explicitly look at that on a regional basis. To answer your question satisfactorily, we would have to look at the data.

MR. BEAL: That was the hand for technical questions that I saw for Rich. I guess the board is at a point now where the analysis that Rich just presented was a tasking or a request by the management board to just kind of look at one additional tool that could be used to management the recreational fishery. If the board wanted to put a slot limit tool with all the caveats that the technical committee has come up with and Rich has just presented; if you want to put that tool in the toolbox, the board would need to go through the addendum process.

The current management program contains the flexibility for seasons, bag limits and minimum size limits, but it doesn't include maximum size limits, which is essentially a slot limit would be the addition to the tool box. It is up to the management board. There are a number of caveats that Rich had mentioned, and there are some uncertainties as to what resolution there could be in this data and slot limits as to the regional approach. The technical committee has only looked at coastwide so far, so we'd have to probably ask the technical committee to look into that a little bit further. Is there any discussion or motions?

MR. DAVID SIMPSON: Thank you, Bob. Yes, I think it is still important to explore this a little bit further and to have it in the toolbox, as you say. Can that simply be done by an addendum or do we need an amendment for the federal component is my first question, and I have other comments to make on this.

MR. BEAL: Toni can explain that.

MS. KERNS: Dave, we could use an addendum to move forward with this, and what we would need to do is the board and council would have to recommend conservational equivalency. Then through the conservation equivalency process, we would adopt state slot limits. If it was the board's prerogative to go with the recommendation of the TC on a coast-wide basis, then everyone would just agree to the same slot limit.

Then we would present that information to the National Marine Fisheries Service as we do the state-by-state measures, but it would just be every state would have the same measures. The Service would have to go through an amendment to put together slot limits. As the most recent discussion, it was something that was under the frame workable tools, but I believe due to a court case in another species prevented this to move forward in a framework and would have to go through an amendment. That would be our process step-wise.

MR. SIMPSON: So, potentially something could be done in 2009, but more likely it would be 2010 even with the commission process?

MR. BEAL: I think if the board initiated an addendum today on slot limits, the likely course would be to bring something back at the annual meeting for review, public comment following that, and the final approval of that would not occur until sometime into 2009. I think you're timeline is probably reasonable.

MR. SIMPSON: If I could, just on the concept of a slot limit, there are a lot of advantages to it, and one them is, well, just acknowledging that while yield is important, it's not the driving force in a recreational fishery. That's more of a commercial concept. Since we've revised our fishing targets away an F-max type of approach, which was last calculated to be 0.57 roughly, and we're now pursuing a percent MSP-based management, preserving 35 to 40 percent MSP; and recognizing that there is a higher mortality rate at younger ages, that there is a much slower growth of males; therefore, a much higher proportion of the population that doesn't produce eggs is in those smaller sizes, there are a lot of advantages to a slot limit type approach.

As Rich pointed out, there seems to be even potentially some advantage in MSP; developing spawning biomass, in other words, from a slot limit approach because you're shifting – if you can shift a little bit of that mortality to younger ages where they would did of natural mortality anyway, younger ages

where a higher proportion are males – although I understand our percent MSP is both sexes combined, but I understand the subtleties of it; recognizing the problem that we have with discard mortality, there are just a lot of advantages to it.

The currency of MSP also makes it much easier to look at exchanging – balancing minimum size and in fishing mortality rate where with F-max you really don't have that kind of flexibility. Okay, I think I've made the major points that I wanted to make, but I was a little bit disappointed that the technical committee didn't attempt to determine what the bag limits would be required with a slot limit.

I think it's obvious that we will need a bag limit, that it will be important in smaller sizes. It's not so important when – a bag limit isn't so effective when – in Connecticut, for example, we have a 19.5 inch minimum size that we're expecting recreational anglers to be able to work with; and especially from shore, that is just unworkable.

I'm hoping that we can ultimately – and I'll make a motion to this effect in time – direct the technical committee to look at some of these factors, take a closer look at percent MSP as opposed to the F-max level, and move forward on this so we can create more fishing opportunities for recreational anglers and try to deal a little bit more with the discarding problem that we have.

MR. BEAL: David, just to follow, at the outset of your comments, I made the comment that it would be difficult to do something for 2009. There is one other potential timeline which is drafting an addendum between now and the annual meeting. The board meets jointly with the Mid-Atlantic Council in December, so there is potential, if there is time at the Mid-Atlantic Council meeting, if we had a separate board meeting for consideration of approval of this addendum.

However, that timeline is somewhat of a fast track and it really would not allow the technical meeting much time to go back and look at some of the things that you mentioned. I just wanted to let the board know there are other potential timelines that could work, but they're fast track and we really wouldn't have a lot of time to flesh out some of these ideas.

MR. AUGUSTINE: Are you ready for a motion? That's what you asked for, so I'd like to do it.

MR. BEAL: Let me see what Red Munden's comment was.

MR. RED MUNDEN: Thank you, Bob. As North Carolina has said before, a coast-wide size limit of 16, 17 and 18 inches just doesn't work for North Carolina. We just do not catch that many large fish. But just a point of clarification; should the board approve the concept of slot limits and going out to public comments on that, Toni said that this could be possibly handled under a state's conservation equivalency proposal if it's a board action; is that correct, Toni?

MS. KERNS: We would have to first have it as a tool in the toolbox through an addendum process and then do conservation equivalency. Depending on how the tool is developed through the addendum, we could use conservation equivalency to promulgate the measures in the process that we have with the National Marine Fisheries Service.

MR. MUNDEN: And then as a followup to that, if are allowed to approach slot limits through conservation equivalency, North Carolina could have a different slot limit regime than, say, Virginia, is that correct, under conservation equivalency?

MS. KERNS: The TC has recommended that the board only move forward with coast-wide slot limits, so everybody having the same measures due to the lack of length frequency data on a state-by-state basis for all modes of fishing. It's the board's prerogative to develop slot limits the way they choose to do so, but it would be against the technical committee's recommendation.

MR. O'REILLY: My comment was on the trophy fish, and there really hasn't been too much comment on that. Bob, you mentioned a maximum size, but the technical committee did not incorporate anything for a trophy-sized fish, whatever that might be, 21 inches, 22 inches, wherever you start there. Several states have vibrant citation programs. Virginia is one of them where there are 700-plus easily citations a year for summer flounder. Other states have them as well.

I hope part of what the technical committee can look at is a slot with the trophy in addition to just the slot limit. I know that there is a little work that has been done. It has just come to our attention from VIMS that they have started to look at the inclusion of a trophy with a slot both from a yield-per-recruit and eggs-per-recruit basis. We don't know much more than that because this was transmitted last Friday to us. We sent it out to the technical committee. But, clearly, at least for anything going forward, I hope it be something on the trophy-sized fish as well.

MR. BEAL: There are kind of two discussions going on. One is where do we get with respect to an addendum, and the other is what additional tasking do we want to give to the technical committee with respect to a slot limit. Jim, if you could make your comment and then we'll go to Pat's motion and hopefully clarify the direction.

MR. JAMES GILMORE: Thank you, Mr. Chairman. It was really getting back to the point of it's an either/or. The way Toni presented it was that it was going to be either coastwide and essentially that the TC's recommendation was that coastwide would only work for the slot limit. I think what Pat's motion is getting at – and I know, Rich, you said that they didn't look into this, but it's an important point.

If we go to a regional conservation equivalency, is that a possibility that you think would work without going way over our targets? I know you didn't get this through the TC but at least an opinion on that would be helpful.

MR. WONG: I wouldn't want to put forward an opinion on that without looking at the data. I just wanted to bring up that there is another complication if you away from a coast-wide slot limit. Then the TAL that begins in weight would have to be allocated to either the region or the state in weight and numbers of fish, which is the typical process.

Giving the state quotas in weight, each state or region would have to use their own mean weight to convert that quota in weight into numbers. Now, if a state or region decided to stay status quo, particularly in the northern region where there are large fish, they would be facing a reduction in numbers of fish and it would almost force them to at least some slot limit in order to reduce their mean weight to keep their numbers of fish at the levels they had before they went to the slot approach, so that's something to think about with respect to the process.

To address Mr. O'Reilly's question about a trophy, we did discuss that type of slot limit. Given the fact that there were just so many fish harvested at these smaller limits, it would really result in such a small bag limit, most likely, and we would have to do that analysis. We did look at that, but we just haven't enough time to actually present an equivalent bag limit associated with the slot limits. The bag limit likely is going to be so small that we thought the trophy approach, there might not be enough fish being allowed to be kept to have a trophy, but we would have to look at that again.

MR. BEAL: Thanks, Rich. Pat, let's go ahead with your motion.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think we have gotten so far into what if, what if, what if, and the technical committee has not addressed these major concerns about trophy fish, and that's part of my motion. The motion reads: Move to develop an addendum to include the use of a slot-sized trophy fish combination as a management tool in the summer flounder fishery. Once I get a second, I'd like to address – the second part of that would be talking regional mandatory management.

MR. BEAL: Pat, if you'd give that wording to staff, we'll get it typed in and then we'll see if someone is comfortable seconding that motion. While that is going on, David Simpson.

### **DISCUSSION OF DEVELOPING AN ADDENDUM**

MR. SIMPSON: I think the point or the need for the addendum is simply to incorporate or add a maximum length to the management options that we have in addition to the minimum size, season and bag limit. If we have that, we can do any combination of things where you have a slot that's – you know, your minimum is 16 and your maximum is 18, and then your minimum size is 18 and your maximum is unlimited, and a different bag limit potentially for each once.

I think the motion can get boiled down to, you know, initiate an addendum – this is suggested wording, I guess, roughly, Pat – initiate an addendum to add a maximum size to the list of management alternatives for the recreational fishery.

MR. BEAL: Pat, are you comfortable making that change to simply your motion?

MR. AUGUSTINE: Wait until she gets it up there.

MR. BEAL: Well, I think staff is currently typing in your motion, Pat. What David Simpson has recommended would be move to develop an addendum to include the use of a maximum size limit for summer flounder recreational management.

MR. AUGUSTINE: I'd rather not take that as a friendly amendment, and if I may tell you why. I think we need to have the technical committee come forward with their review in a hard copy document similar to what we have to determine whether or not it makes sense to put that in at a later date. To put it

in right now, I think it locks us out of catching that big trophy fish where you have that citation fish already in place in several states. No, I'd rather leave it this way.

MR. BEAL: I don't know; at the risk of suggesting where to go, I think David Simpson's comment was simply that we're going to add the maximum size limit to the toolbox; so a maximum size limit, minimum size limit, season and bag limit, that all can be used in combination to manage the recreational fishery.

With that, you would be able to implement a 16 to 18 inch slot and a 24-inch trophy. I know they're just suggested or made-up numbers. So, he is saying all he is interested in doing through this addendum is increasing the flexibility for the management board, and then the details of what slot limits and/or trophy size limits would look like could be done at a later date through the technical process. This addendum would just simply give the board flexibility for management.

MR. AUGUSTINE: That sounds reasonable.

MR. BEAL: Okay, we'll get that wording squared away and then I'll ask for a second to Pat's motion.

MR. AUGUSTINE: I think he is referring to a minimum size of the trophy, or is he talking about a maximum size that you could keep?

MR. BEAL: Yes, both. Both of those scenarios could be included if we add the maximum size tool to the toolbox.

MR. AUGUSTINE: Okay, if we're asking the technical committee to develop those scenarios to give us examples as to what they may result, then, yes.

MR. BEAL: Well, all right, we're still working on two different concepts. One is adding flexibility to the management board. The second concept is charges to the technical committee to develop specific scenarios. The way the motion reads now is developing the flexibility. We will need to follow up with tasking of the technical committee through separate board action today or at a later meeting to describe exactly what you would like to have evaluated.

Right now we're on the motion to increase the board's flexibility. Is there a second to that motion to add maximum limit as a management tool? David

Simpson. All right, discussion on this motion? Dr. Pierce and then Mark Gibson.

DR. PIERCE: I would never object to having another tool in the toolbox, but I look at this motion and I think we're adding a saw to the toolbox and it doesn't have a blade. It's not going to cut. The reason why I say that is I spent quite a bit of time going over the report from the technical committee, and I heard the presentation from Rich.

It seems to me that we're really not in a position now and we won't be in a position down the road to actually go in this direction to have a slot limit. There are a number of assumptions that have to be made in the analyses relative to slot limit. And as indicated in the technical committee's report, those assumptions probably cannot be made or we cannot, with any assurance, be convinced that they're valid assumptions.

I hear that we're likely going to have to go to a regional slot limit approach. I suspect from what I've heard and from what I've read and from my experience that is not going to work with fluke. Only Connecticut, Maryland and Virginia have the data needed to support a state-specific approach. Other states would not be in a position to do that, so they would have to live by the regional approach.

Then as indicated by Rich, the tradeoff would be a very significant tradeoff. We'd have to go to extremely – I think he used the word “severe” – severe reductions in the bag limit, maybe one to two fish, and that would be accompanied by some seasons that would be extremely restrictive as well; likely far more than what we have right now.

There are many other considerations here in this document that just make me believe that the slot limit approach for summer flounder isn't going to work, so why task the technical committee to go beyond what they've already done when it seems to me they have already delivered a very strong message that the analyses likely cannot be done; and even when they're done, the assumptions will be tenable, and the analyses that will be provided to us will result in our, as he said before, our not really able to predict what the effects of that slot limit approach will be on stock status.

In addition, there is the Mark Terceiro comment. I realize that is still subject for further critique from Mark Terceiro and company, but the fishing mortality rates will likely go up. There are all sorts

of implications here; so, again, it is a tool for the box, but it's a saw without a blade.

MR. BEAL: Mark, before you go, Pat, I think is suggesting or has a concern about his motion.

MR. AUGUSTINE: That's not what I want, and that wasn't the way it sounded when I heard it. I must have had my hearing aid off or I had a senior moment. What I'm asking for is the addendum to include a minimum size trophy fish along with a slot size. No matter what slot combination you have, 14, 16, 18, whatever that number is, that in addition to a trophy, and the trophy should be a minimum size to be determined by the board and the technical committee, which in my mind might be 24 inches. I do not support my own motion, and that wasn't the way I thought it should have been, so I would withdraw my motion.

MR. BEAL: Well, hang on one second. As I mentioned earlier, I think what this motion does is it allows the board flexibility to do everything that you are requesting. In other words, the board can use – if this motion were to pass and the addendum were to pass, this gives the management board the tools to use any combination of maximum and minimum size limits they want, so they could implement a slot limit from 16 to 18 inches, and they also could establish a minimum size for a trophy fish at 21 or 24 inches, whatever it is.

All the scenarios that have been discussed today by the technical committee and by folks around the table of slot limits, minimum and maximum sizes, as well as trophies all can be accomplished by the board if this addendum were to pass, so you don't need – in other words, this addendum doesn't need to be so specific that it says slot limits and a trophy. That's something that the management board can work out later through the annual specification-setting process if they choose to do that. So with that explanation, if you want to withdraw your motion, it's up to you.

MR. AUGUSTINE: I do because if that leaves this room and gets to press, I am against catching any big fish over a certain size. I don't know of any fisheries – well, with striped bass, we in New York have a minimum size of 28 inches, and we have a trophy fish over 40 inches. I don't know of any other game fish that we have in our area that you have a maximum size that you can keep.

Now, the South Atlantic has slot sizes and so on. We do not have them, and so the way that reads – and there is no way to interpret it – move to develop an

addendum to include the use of a maximum size limit as a management tool in summer flounder – I know what you’re trying to say in describing that it gives us a lot of range and latitude. That says “maximum size limit”; so unless I’m reading that motion wrong – as it reads now, I do not want my name on that motion.

MR. BEAL: All right, well, we have tried. Pat, you’re withdrawing your motion?

MR. AUGUSTINE: That motion.

MR. BEAL: You’re withdrawing that motion that’s on the board?

MR. AUGUSTINE: That motion; not the way I wrote the original motion.

MR. BEAL: All right, David Simpson, as the seconder of that motion; how would you want to react to that?

MR. SIMPSON: I thought you had explained it pretty well that if we’re going to have a slot, my understanding is we need to have the maximum – right, Pat – if we want to have a slot limit, we need to have a tool that allows us to set a maximum size; so if we want to consider a 16 to 18 inch slot to provide an example, we already have the power to make a 16-inch minimum size; we need to the ability to set an 18-inch maximum size.

MR. AUGUSTINE: On the slot.

MR. SIMPSON: We already have the ability to set a minimum size, so you could say, for your trophy fishery – I mean, an example might be from 16 to 18 inches you get one fish; from 18 inches and greater, you get some other number of fish, but we need the maximum size tool to make that happen. Otherwise, we can’t have a slot.

This does not preclude doing exactly what you’re talking about and what it is I’ve always envisioned that the recreational fishery would continue to have access to larger fish. Call it a trophy fishery if you want, we just need to be able to set the upper bound of a slot, and we don’t have that ability right now.

MR. AUGUSTINE: But that doesn’t say slot; it’s inferred slot.

MR. BEAL: All right, Pat, we’re going to clean the slate. We’re going to withdraw that motion that’s up there. We’re going to see if anyone else around the

table would like to make a motion regarding what to do with this notion of slot limits. Rob O’Reilly.

MR. O’REILLY: It’s not a motion, but I don’t understand why just going forward with the development of a slot limit and the inclusion or possibility of a trophy-sized fish isn’t really what we’re talking about.

MR. EVERETT A. PETRONIO, JR.: If I understand the concern, we’re just looking to allow whatever tools we decide, whether they be saws, chisels, what have you, so aren’t we really talking about including any other tool other than a minimum size limit? Could we not make a broader motion that simply allows for management tools other than the use of a minimum size, and then allow the technical committee and everyone else to give us good input on this?

Again, I think we’re just trying to say, “Listen, we want to consider things other than a minimum size.” I don’t want to get some discussion around the table on this, but if we simply say we’re interested in using tools other than a minimum size limit, and then get guidance from the people who could help us with that.

MR. BEAL: Thank you, Everett. Other comments or ideas on – Vince.

EXECUTIVE DIRECTOR JOHN V. O’SHEA: Well, I think the fact that you’ve had this 15-minute discussion as to the value of putting a motion on the table and making sure people understand what they’re trying to do, the problem that you have right now of doing a slot limit is the plan doesn’t allow you to do it, so we need to consider an addendum to give you that flexibility.

What you could do is just stand in place for five minutes and staff will give you some wording on how to do that; and if somebody is interested in considering making that motion, that may be a way to get you guys out of the woods here.

MR. BEAL: Is there any objection to that? Seeing none, please stay where you are for five minutes and we’ll craft something.

(Whereupon, a recess was taken.)

MR. BEAL: All right, we’ll go ahead and get going. There is new wording up on the screen that contemplates sort of the two ideas that have been bouncing around the room. One is giving the

flexibility to the management board through the use of a maximum size limit and put that tool in the toolbox, but it also notes that what that does is it allows for the use of slot limits and/or a trophy fish in the recreational fishery. It has the potential to that; it doesn't obligate the board to do that.

So, this perfected language there; does anyone care to make that motion? David Simpson. Is there a second to that motion? Bill Goldsborough. All right, discussion on the motion that's on the board. I'll read the motion right now: Move to develop an addendum to include the use of a maximum size limit as a tool for the potential to develop a slot limit and a trophy fishery in the summer flounder recreational fishery.

David, just one question; under this motion, it says "a slot limit"; well, could this also include multiple slot limits? I mean, I think the idea is the board will have the flexibility to mix and match size limits anyway they want, creating different multiple slots or anything along those lines. Is that what you had in mind by this motion?

MR. SIMPSON: Yes, that's the intent. We just need to be able to set an upper bound, and we could have five of them, potentially, but we just need that fourth tool in the toolbox.

MR. ROY MILLER: Thank you, Bob. As a followup on the comment that Dr. Pierce made, I have a concern concerning the adequacy of our present recreational fishing database, which for the short term, at least, is the MRFSS. I would ask Rich Wong if he has an opinion on whether the MRFSS as it presently exists is adequate to evaluate a slot limit proposal on a state-by-state basis or perhaps even on a regional basis since that is the database we'll be relying on for the short term. Thank you.

MR. BEAL: Rich, do you have a response to that?

MR. WONG: Well, like I said earlier, that is limited on a state-by-state basis for most states, except for maybe a few. It probably isn't adequate to support a state-level slot limit. As for most states, you would require some assumptions about the size distribution of the discards.

MR. SIMPSON: I was just going to say thanks to the change in MRFSS where they're now sampling partyboats which gives them an opportunity to measure discards, we actually have a lot more lengths to work with than we ever have before. We've been managing this stock since 1993 under this plan with

minimum sizes and had far less length data than we have now.

Fortunately, it now includes lengths of discards from the partyboat sector anyway, and I would argue that's actually conservative for assessment because the argument from the technical committee is, well, maybe that doesn't represent the partyboats; that it represents what the, say, shore-based anglers would catch.

Well, maybe it doesn't but it's more likely that their discards are just below the current minimum size than the shore-based angler, so it's going to presume that a higher proportion will fall in the open slot, so it's actually conservative. I think we're in pretty good shape. If you were to compare – and I'm not arguing for state-specific conservation equivalency with slots here, but if you were to compare the number of lengths each state has now versus what we had for many, many years in the past when we used – did the same type of analysis, I think it would look pretty favorable.

Ultimately I think for a lot of reasons we want to manage by – for a lot of technical reasons you would want to manage on a regional basis. I think coastwide is problematic because of availability of fish by size, very different in North Carolina; and also the season, very different in North Carolina, to use them as an example, than just about anywhere else.

I think the second step after this, and we have gone beyond this motion, you know, does involve looking at regions. I don't think we necessarily have to accept this as a coastwide or it doesn't work type of approach. I do think in fairness to the public, because there is a lot of interest in this and a lot of frustration over discarding, a lot of talk about, you know, 35 fish for every one – caught and released for every one landed, we owe it to the public to at least have this available to us to explore into the future.

MR. MARK GIBSON: Thank you, Mr. Chairman. I think Dave Pierce called this possibly a saw without a blade. I think to some degree the opposite. It could be a knife that has a very sharp blade on it and it could be dangerous if used unknowingly. I won't oppose adding more tools to the toolbox, but I think you're going to find yourself in a pretty small box managing the recreational fishery regardless of whether you have this option or not.

You have to remember that 60 percent of your quota is assigned to the commercial fishery that has a 14-

inch minimum size limit and has a selectivity pattern associated with that. In any configuration that you offer to make small fish available to the recreational fishery, you're going to change the selectivity pattern in the recreational fishery.

Eventually that is going reverberate through your stock assessment, and your MSP reference points are driven in part by your selectivity pattern. You're going to have to have major constraints on bag limits and/or seasons in order to keep this fishery within its reference points. I think you have to keep that in mind not so much in adding tools, and the technical committee hopefully will be able to give you the right configurations and the consequences of utilizing this tool. I think you're going to be in a pretty narrow box and you could be in a higher risk proposition if you employ the tool. Thank you.

DR. PIERCE: If this motion was to pass, then I assume the addendum would be a reworking of this report from the technical committee. The staff is going to have a tough time doing that; reworking it, that is, in a way that will make it understandable for the general public. Certainly, if it does pass and we are going to have an addendum to put this in the box, then I would ask for a public hearing to be held in Massachusetts.

I would require that in order for me and certainly for the ASMFC staff to make it clear what is being offered up, the addendum would have to be very specific relative to, for example, what does it mean for Massachusetts; what does it mean regarding the severity of the measures for the recreational fishery; what will it mean for bag limits; what will it mean for seasons; how will the changes – what changes could we anticipate.

That's going to be very difficult to provide to those individuals coming to any public hearing to address this addendum largely because of all of the comments and the presentation provided by Rich. Also, would it be regional or would it be on a state-by-state basis; that would be another question asked.

A lot of work would have to go into this, and I suspect there will be many, many questions posed with the answers not forthcoming, with no options being presented clearly. This is just do you want another tool; but as I said, I don't see it as a very effective tool. I just can't support the motion. I don't think it accomplishes anything.

MR. BEAL: Any other comments directly on the motion? Seeing none, it looks like the board is ready to caucus. Any need to caucus?

(Whereupon, a caucus was held.)

MR. BEAL: Okay, it seems like the caucusing is wrapping up. Those in favor of the motion, please raise your right hand; opposed, like sign; abstentions; null votes. The motion carries; 7 votes in favor, 3 in opposition and 1 abstention. Just so we're clear, what this will do is staff will develop this addendum as best they can for the October meeting.

As Dr. Pierce said, there are a lot of particulars that could be included in here, and I think the best the staff is going to be able to do between now and October is to develop a few examples based on what the management board has seen today. If the board would like to allow staff and the technical committee more time to develop this document, then it clearly is not going to be available for the 2009 fishery.

The board may want to comment briefly on that, but as it stands now the staff's intent is to develop what they can between now and October and bring it back and the board can take another look at it. All right, it looks like everyone is comfortable with that. We will do what we can between now and October. Dr. Geiger.

DR. JAIME GEIGER: Thank you, Mr. Chairman. I share Dr. Pierce's concerns on this. Again, I would urge the technical committee to really see if they can somehow prioritize what are the outstanding concerns and assumptions that they do and are going to have time to address, and somehow try to come to some kind of priority so that if, indeed, it comes before the board in October, we have some of the most significant and most important assumptions and/or concerns addressed. I think we owe nothing less than that. Thank you.

MR. BEAL: As I said, the staff and technical committee will take it as far as they can by the annual meeting; and if the board would like additional work after that time, they've obviously got that ability to charge them with that. Rob.

MR. O'REILLY: I'm wondering if I can call for help. We're all going to have higher recreational targets for 2009, and many states will relax to some extent – it's not going to be a lot, but a half an inch here, a half an inch there on the management regimes.



In 2005 what I was experienced was that it's a lot easier to increase your size limits than decrease your size limits for some of the reasons you've heard today, that there is just not a lot of data out there to know what you should do to reduce.

At that time I had to use 2002 existing tables that Jessica Coakley puts together from the Mid-Atlantic Council and back that up the best I could with some data that Maryland was nice enough to lend me from their volunteer angler survey. We need the technical committee's help, I think, to help all the states have a good transition into the 2009 recreational fishery.

The timeframe for getting in proposals has been very short in the last couple of years, and usually it has been right around early January. I'm hoping that there can be some direction for the technical committee to look at ways – perhaps it's some of the discard information from the partyboat, perhaps it's pooling some of the volunteer angler survey data – so that it can show that states can relax on a size limit and still have the technical merits of it.

MR. BEAL: Thanks, Rob. Is there any objection to tasking the technical committee with looking at ways that the states can liberalize their regulations should that opportunity be available to them for the 2009 fishing season, including all the dimensions that Rob mentioned? Seeing no objection, we'll task the technical committee with moving forward with that and bringing back a report on progress at the annual meeting.

## SCUP DATA REVIEW

I know we started a little bit late, but we're getting farther behind on the agenda; so if we pick things up on the last couple of agenda items. The next is a report on a review of the scup data; Toni Kerns will be giving that report.

MS. KERNS: Thank you, Mr. Chairman. The TC, based on board direction, looked at the more recent scup data. These questions came in light of limitations on setting specifications and understanding how the status of the stock is for scup due to a lack of an assessment in recent years.

The first question was, was there any new research or data available that the board or the TC does not know about. The highlighted information is there is a trap survey that began in 2004. This trap survey is being funded through the RFA Project. The study area has expanded since the onset of the program, and this survey collects abundance and length information in

the scup fishery. They age those scups using age-length keys that have been developed.

There is also a survey conducted by the state of Rhode Island for their commercial trap fishery. There is data for this since 2001, and this includes those age and length data for that survey. More recently NEAMAP has started and NEAMAP has been collecting some good numbers of scup. We have data since 2007 and they are collecting age, length and abundance information, and this is a fishery-independent survey.

The next question was, were there ways that we could improve the data that's out there or are we being redundant in collecting information. I think one of the most important things in order to get a stock assessment is for those states or surveys that are being done, that we create an index for that new data, and that could be catch at age or catch at length that can be incorporated into an assessment.

All data is not collected with the exact same methodologies, but like most species we can create indexes so that we can compare those for assessment purposes. In terms of are there any data processing backlogs, at the time of the technical committee meeting we thought there may be some scup scales that were backlogged through the National Marine Fisheries Service, but in speaking with Jay Burnett in their office, those scales have been processed and read, and they're from both the commercial fisheries as well as the fishery-independent collection.

Those scales still need to be quality controlled, but once that is done, then their work should be completed either at the end of this year or early 2009 and those ages can be used for assessment if possible. In terms of the research recommendations, on the CD there was a list of recommendations, and in the interest of time I'm not going to go through each and every single one of these recommendations but just highlight on some of the improvements and areas where we need new data.

One of the most hindering factors for the scup assessment was a lack of discard information. In 2004 the National Marine Fisheries Service increased the observer coverage to a level where the technical committee thinks that there is an improvement for which we should put forward an assessment. There still does need to be an increase in observer coverage in the Winter I Offshore Directed Scup Fishery as well as looking at bycatch in the squid fishery, so there still could be improvements there.

Then one place where we could have improvements also is to more accurately assess the discard mortalities; looking at regulatory compliance within the scup fishery, both recreational and commercial; evaluating the commercial discards; exploring relative biomass and exploitation calculations based on recreational private boat catch-per-unit effort. That is going to be done by Paul Caruso in Massachusetts.

Then, lastly, the TC wanted to continue to support their support for the funding of the two Rhode Island surveys, the fishery independent through the RFA Project as well as the Rhode Island Trap Survey aging and length collection of information because those were very important for moving forward with an assessment. That's my report on all the information that is out there for scup. I can take any questions.

MR. BEAL: Any questions for Toni on the status of the scup data and research? Mark.

MR. GIBSON: I think I wasn't paying attention; did you mention anything about the NEAMAP survey, the NEAMAP cruises, the new information that is becoming available?

MS. KERNS: Yes.

MR. GIBSON: You did. Okay, I missed that. The obvious question is, is when is an appropriate time for an assessment to take place given that it sounds like there is still some aging being done and that is not completed until about 2009; and what, if any, actions does this board need to take to influence that schedule?

MS. KERNS: The TC talked about a timeframe for a new assessment, and one of the recommendations they had was, one, there is a data-poor workshop that the National Marine Fisheries Service will be conducting in December. There are a lot of species listed on that data-poor workshop, and there hasn't been an agenda put forward yet, so we're not sure how specific that data-poor workshop will be.

One of the options that the TC has suggested was bring this up at the NRCC meeting to see, one, where NRCC thought the data-poor workshop would guide us as well as bringing it to their attention to determine whether or not it's something that the National Marine Fisheries Service would lead in terms of an assessment or if the commission can lead something and whether or not there would be availability on the spring SARC.

In discussions with Mark Terceiro from the National Marine Fisheries Service, he said that once we have all of the data ducks in a row and states have created those indices that I spoke of for their surveys, as well as the fishery-independent survey, then we could start working on an assessment to be used for TAL determinations in 2010 or 2011, depending on how quickly everyone brings forward information and how we decide to have a venue for peer review and who leads the assessment.

DR. PIERCE: Just to add somewhat to what Toni said regarding the research that has been undertaken with the research set-aside; that is, the pot survey undertaken with fishermen from Rhode Island and Massachusetts, URI has been involved to a large extent. My understanding is that particular dataset is increasing in importance, and the importance of that dataset has been recognized by Mark Terceiro, who, of course, is a member of the technical committee,

I have great respect Mark's capabilities. I understand that he is going to be looking at that dataset and that he is optimistic that he might actually be able to incorporate it into an analytical assessment for scup. Where it will end up, who knows, but at least we seem to be going in the right direction, and it's a good direction since with the pot survey we're sampling in areas where the trawls can't go, the survey vessel can't go, and we're sampling that portion of the scup stock that tends to be larger.

We're finding the bigger fish; we know where they are, they're on the hard bottom primarily. It will be useful to this board once Mark completes his work and with that research likely being continued, that survey being continued, that in combination with NEAMAP I think there is some bright light on the horizon for our having a better handle on scup.

The only negative cloud I would say that is out there for scup is whether the National Marine Fisheries Service can actually come up with some calibration or comparison factors for the Albatross versus the Bigelow. If they can't do that, then we're really in trouble with regards to where we are with scup, so we wait to see if they can come up with those comparison factors to continue the spring and fall bottom trawl survey for scup on which this board and the council relies heavily.

MR. BEAL: Okay, well, it sounds like there is some guarded optimism in the fishery-independent and fishery-dependent data that is being collected eventually and hopefully in the future support an analytical stock assessment. The one thing I would

encourage is the folks in Rhode Island and Massachusetts to work with the scientists and the fishermen that are conducting the pot survey and make sure Mark Terceiro is getting all the data out of that so we can start looking at that.

I would think that the next steps would be a discussion of where things stand probably at the NRCC meeting, which is the group that coordinates the stock assessment for the northeast region and the Mid-Atlantic and the New England Council and just get another update there. That group is going to meet after our annual meeting in October, so I think we can get a new read there. We'll also get a new read at the data-poor workshop, which will take place the last week in November.

Then the board can work accordingly to hopefully have an analytical assessment in place and possibly peer reviewed in time to set the 2010 specifications, which would be probably July of next year. If that's a comfortable course for everyone, we'll keep doing that and we'll continually update the board as things become available. With that, any other questions on scup data? Seeing none, we will go into the discussion on Amendment 15. Toni.

#### **DISCUSSION ON AMENDMENT 15**

MS. KERNS: At the last board meeting we agreed to move forward with a joint document with the Mid-Atlantic Council for Amendment 15. At the June meeting of the Mid-Atlantic Council the council delayed action on Amendment 15 in order to proceed with an amendment on accountability measures and annual catch limits, and that delay is until the Secretary approval of the ACL and MA amendment for summer flounder, scup and black sea bass.

My question to the board is do we want to move forward without the Mid-Atlantic Council or shall we delay until further actions by the Mid-Atlantic Council and also thinking that we may have some joint collaboration with the council on the ACLs and AMs for summer flounder, scup and black sea bass.

MR. BEAL: Pat, comment on the timeline for Amendment 15?

MR. AUGUSTINE: Thank you, Mr. Chairman. I believe we should postpone similar to the council. The AMs and ACLs are very important and may have a negative or a positive impact on what we're going to do. I think we're going to have to abide by them, so if you need a motion I would suggest we delay this until further action from the council.

MR. BEAL: Let's hold off on a motion. Is there any objection to postponing the board's action on Amendment 15 to sync up with the Mid-Atlantic Council as they develop their AMs and ACLs? Seeing no hands, I don't think we need a motion. It's a consensus by the board to hold off on the development of Amendment 15 to remain in sync with the Mid-Atlantic Council

#### **OTHER BUSINESS**

With that, there were two other items under other business that hopefully we can move through very quickly. The first was Tom McCloy brought up the notion of filleting at sea. Tom, can you introduce that?

MR. McCLOY: Thank you, Mr. Chairman. I believe most of you were here at the May meeting and we talked about what states do regarding filleting at sea in terms of a recreational fishery for summer flounder, scup and sea bass. There seemed to be confusion amongst all of us of what we actually all did and the discussion was that we would get a report at some point in time in the future as to where do we all stand and whether it's really serving the effectiveness of our regulations if in fact we do allow that activity.

I didn't see anything on the CD and I assume there have been other priorities for us all to deal with in the last six months, but I really would like to see this move forward; and if it's the board's pleasure I have a motion I would like to offer.

MR. BEAL: Go ahead with your motion, Tom.

MR. McCLOY: Okay, thank you. Move that all jurisdictions on the board provide the Law Enforcement Committee with their recreational regulations on summer flounder, scup and black sea bass as related to whether or not cleaning of these species is permitted at sea and that the Law Enforcement Committee provide a report to the board at the annual meeting in October 2008 as to each jurisdiction's program and whether or not their regulations negate the effectiveness of the state's minimum size limits for these three species.

MR. BEAL: Is there a second to the motion by Mr. McCloy? Bill Adler seconded the motion. Vito.

MR. VITO CALOMO: I just wanted to ask the maker of the motion does he want to use the word "cleaning" or "filleting at sea"? He has got "cleaning".

MR. McCLOY: "Filleting" is okay with me, but anything that would be considered to mutilate the fish is really where I'm going so you can't determine their length and size; and this will even be more important if in fact we end up going with some kind of slot limit or maximum size, also.  
But "filleting" is fine, Vito.

MR. CALOMO: It's up to you, Tom, but I think – may I, Mr. Chairman – I think cleaning could be removing the entrails and gills on a fish or even scaling them, which is all right for a lot of people that like to maybe eat it whole, but the problem is filleting a fish where you discard the rack. That's your biggest problem that law enforcement is worried about.

MR. McCLOY: That's fine with me, thank you.

MR. HARLEY SPEIR: Could we add in there whether or not cleaning of these species such that size or length cannot be determined?

MR. BEAL: Well, by the discussion I think it's pretty clear that is what Tom is getting at and what the seconder is getting at is the idea that if the total length of the fish is altered by any cleaning, filleting or processing of the fish by the recreational fisherman, it may obscure the total length of the fish and make the enforcement difficult. Vince.

EXECUTIVE DIRECTOR O'SHEA: And the other thing, Mike Howard, who staffs LEAC and has a long history as an enforcement officer, he is in the room listening to this discussion as well, so I'm sure he'll help them stay on the right track of what is intended by this motion.

MR. BEAL: Any objection to putting this charge forward to the Law Enforcement Committee? All right, seeing none, if the Law Enforcement Committee is able to pull this off by the annual meeting, we'll get a report and at the very minimal we'll get an update by the annual meeting as to the status of things.

All right, the last item of business under other business was Pat Augustine wanted to introduce the notion of mandatory regions. Just as a reminder, the board does have the ability to implement voluntary regions or the states can do that, get together with neighboring states and implement a voluntary region. I think Pat is interested in having hopefully a very brief discussion on something else.

MR. AUGUSTINE: My part will be brief, Mr. Chairman. This is in line with the slot size. We're talking about how do we get away from coastwide. We can't seem to do very well with conservation equivalency, so this is the next approach. We put this on the table at the last meeting and we were close to having approval of it, with some understanding. The motion would read: Move to develop an addendum to include a mandatory regional management tool for summer flounder in the FMP.

MR. BEAL: Pat made the motion; is there a second to the motion by Pat Augustine. Roy Miller seconds. Pat, go ahead.

MR. AUGUSTINE: Yes, very brief on that, North Carolina was one of the states that had a major concern about considering slot sizes or this mandatory regional. Their problem is they do have summer and southern coastal flounder all mixed together. They do seem to be at one end of the range. We in the upper end of the range, Rhode Island, Massachusetts, Connecticut, New York and so on, we seem to be having an abundance of fish.

The idea here was to develop this addendum and eventually, as it's developed, have it replace the ability for states to decide or not to decide if they want to go with a particular region. In other words, conservation equivalency, if you decide to do it, you would end up under a regional management. We do not seem to be able to make the transition from state by state to coastal. It's too big a jump; too many states suffer; and really cannot have a fishery.

The idea is to move forward with this. The advisory panel, five or six meetings ago, had come forward and indicated what those breaks and options might be. They had identified the clusters, and they're in the record. I'm not sure it's important to put those on the table now. I'd like to have some discussion on this to try to move this forward along with the slot size. This is another item that we can do within the commission without having any effect on the council process whatsoever, as I understand it. So, with that, I'd like to turn it back to you, Mr. Chairman.

MR. BEAL: All right, thank you. Pat, in this addendum, the way you envision it, would this addendum define the regions?

MR. AUGUSTINE: Yes, it would give several combinations of regions as put forth by the advisory panel, which would then be brought back to the board for in-depth discussion.

MR. BEAL: Any other comments on the motion? Dr. Pierce.

DR. PIERCE: I would have appreciated some heads up on this particular motion before this meeting so I could have gone back and reviewed those particular options. We're at the end of this particular board meeting and we're not going to have an opportunity to do that. If my memory serves me correctly – well, it doesn't serve me correctly.

I can't recall what those options were; therefore, I can't vote for a motion that potentially weds me to options that might not be appropriate at least from my perspective. In addition, having the word "mandatory" in there still irks me. I don't think it is necessary. I still believe it's important for states to get together on a voluntary basis and agree to put together a regional approach.

I know for some states it hasn't worked; specifically, New York and New Jersey, there has been that problem we've had over the years. I'll say now what I think said before and that is if it's a problem between New York and New Jersey, I'd like them to try to work it out as opposed to all state being lumped into regions that would accommodate that difference of opinion within those two states; all states being lumped into an option perhaps that would disadvantage one state over another.

This has got a long history, regional management for fluke, and I know that many years ago when the issue came up there were options put on the table that involved restrictions that would have been absolute indefensible for Massachusetts, so I fear us going in that direction again. Preference; states work it out as opposed to our being forced to do something that would cause hard feelings as opposed to a spirit of cooperation, which is what we're supposed to have through ASMFC.

MR. BEAL: Any other comments on the motion? Red Munden.

MR. RED MUNDEN: Thank you, Bob. This motion really doesn't say anything about North Carolina being in a separate region. What I do not like about this motion is it says "include a mandatory regional management tool". I could probably support this motion if we deleted the "a" at the end of the first sentence so it would read "mandatory regional management", and I would also suggest that we craft this motion so that we could have multiple regional management areas. Mr. Augustine, would you be opposed to that?

MR. AUGUSTINE: Absolutely not; I would be totally in favor of that, and I can give you the reasons if you want.

MR. BEAL: Well, I think, Pat, you mentioned that we would use the advisory panel's recommended regions as a starting point.

MR. AUGUSTINE: Yes.

MR. BEAL: And we can go back and resurrect those. Does one of those regional scenarios have North Carolina as a separate entity on its own?

MR. AUGUSTINE: Yes. As a matter of fact, one of the regions was Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Delaware, one group; Maryland, Virginia, North Carolina was one. Another recommendation was Maryland and Virginia as a group; North Carolina, stand alone; Connecticut, New York, New Jersey, Delaware, another group; Rhode Island and Massachusetts, alone.

There were at least three scenarios that were presented, and I would hope that for our annual meeting we could bring those up as a part of options that would be considered, but take the work "a" out of there. North Carolina, in my mind, would always be a stand-alone.

MR. BEAL: Vince's offline question can we do this through the annual specification setting, and I think the difference here is this is a mandatory region versus a voluntary region. David Simpson.

MR. SIMPSON: Since we're still talking about this, I just want to make clear that we're talking about the recreational fishery only here in the motion?

MR. AUGUSTINE: Yes.

MR. SIMPSON: That should probably be in the motion just for clarity.

MR. BEAL: Okay, we've added the word "recreational". David Pierce.

DR. PIERCE: Again, I don't support it; however, if it does pass, then I would hope that the staff that will already be burdened with the other addendum regarding slot limits is somehow going to be able to balance the slot limit motion that was passed a while ago with this, because I think it complicates matters dramatically for the public to understand exactly what we're getting at with these two different yet related tools that are tools but with specific agendas

behind them that will be pushed later on when the tool is in the box and we move forward with a regional approach. It's a huge challenge for the staff and I am sure Toni is up to the task.

MR. BEAL: My plan was if this motion were to pass, I was going to have a brief discussion on priorities. I mean, the annual meeting is coming up pretty quickly. The time between this meeting and the annual meeting is actually a couple of weeks shorter than our normal time between quarterly meetings.

The plan development team and technical committee don't have a whole lot of time between these two meetings. Obviously, folks will do the best they can, but some of these notions may not be fully developed in an addendum form if both of these are to go forward simultaneously. Yes, Pat.

MR. AUGUSTINE: Mr. Chairman, as a followup to your comments, my thought on this was to just to go back and review the minutes of the meeting of the advisory panel and their recommendations that they had made, possibly get a copy of that out to each one of the board members for review, and then go forward from there. I'm not sure how far it would have to be developed. That may cut some of the workload.

MR. BEAL: So, Pat, are you suggesting rather than having a draft addendum at the annual meeting, just redistributing the advisory panel minutes for further consideration on what to include in an addendum at the annual meeting?

MR. AUGUSTINE: If it were possible to put together a draft addendum, it would be wonderful; it would be the greatest thing you could do. I know you have a very full plate. On the other hand, having said that, if the best we can do, based on your limited resources, is to supply that information with a skeleton, plus the information from the advisory panel, that's at least first step.

EXECUTIVE DIRECTOR O'SHEA: You might want to consider seeing whether or not you're going to proceed with this. Then you'll have two addendums, and I think the signal has been we're going to ask you which one do you want to see at the annual meeting. That's where we're heading.

MR. BEAL: With that, are any other comments on the motion? Dr. Pierce.

DR. PIERCE: I would move to postpone the motion until our annual meeting.

MR. BEAL: Is there a second to the motion to postpone this motion until the annual meeting? Tom McCloy seconds the motion. This motion is debatable but only to the point of when the motion will be reconsidered by the management board or it will be brought off the table and talked about again. Is there any comment by the board as to the timeline of postponement for this addendum? Tom McCloy.

MR. McCLOY: Just to follow where I think David is going with this is we don't need two different addendums here. I think it is a given if we move forward with the slot limit addendum, it's going to be coastwide, if not regional, but it is not going to be state by state. My thought process is let's deal with that one first and then we always have this one to fall back on.

MR. BEAL: So the motion before the board now is should the previous motion be postponed for consideration at the annual meeting, which is the, I believe, third week of October in Rehoboth Beach, Delaware. Is there a need for a caucus? Seeing none, all those in favor of the motion to postpone, please raise your right hand; those opposed to postponing; abstentions; null votes. The motion carried. The previous motion will be reconsidered and discussed at the annual meeting. Vince.

EXECUTIVE DIRECTOR O'SHEA: It's not going to be reconsidered. It will be put on the schedule. With your action now, it will be on the schedule at the annual meeting for the meeting of this board.

## ADJOURN

MR. BEAL: Okay, I think that was the last business under other business. Is there anything else to come before the Summer Flounder Board? Seeing none, the board will stand adjourned.

(The meeting was adjourned at 12:10 o'clock p.m., August 19, 2008.)