

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

August 3, 2017
8:00 - 11:15 a.m.
Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*D. Grout*) 8:00 a.m.
2. Board Consent (*D. Grout*) 8:00 a.m.
 - Approval of Agenda
 - Approval of Proceedings from May 2017
3. Public Comment 8:05 a.m.
4. Update from the State Director's Meeting and Executive Committee (*D. Grout*) 8:15 a.m.
5. Review and Consider New Jersey Appeal of Addendum XXVIII to the Summer Flounder Fishery Management Plan **Final Action** 8:25 a.m.
 - Postponed Motion: *Move to postpone the New Jersey Appeal of the Summer Flounder, Scup, and Black Sea Bass Addendum XXVIII until the Summer/August ISFMP Policy Board Meeting. Motion by Mr. Nowalsky; Second by Mr. Keliher.*
6. Discuss the Secretary of Commerce Decision Regarding New Jersey Summer Flounder Recreational Measures 8:35 a.m.
7. Review Annual Performance of the Stocks (*T. Kerns*) 9:20 a.m.
8. Discuss New England Fishery Management Council Participation on the Atlantic Herring Section (*T. Kerns*) **Possible Action** 9:40 a.m.
9. Review and Consider Approval of Standard Meeting Practices (*T. Kerns*) **Action** 10:00 a.m.
10. Progress Update on the 2017 Sturgeon Benchmark Stock Assessment (*K. Drew*) 10:10 a.m.
11. Review and Consider Approval of the Assessment Schedule (*S. Madsen*) **Action** 10:20 a.m.

The meeting will be held at the Westin, 400 Courthouse Square, Alexandria, Virginia; 703-253-8600

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| 12. Standing Committee Reports | 10:30 a.m. |
| • Habitat and Artificial Reefs (<i>L. Havel</i>) Action | |
| • Atlantic Coastal Fish Habitat Partnership (<i>L. Havel</i>) | |
| 13. Review Noncompliance Findings (if necessary) Action | 10:50 a.m. |
| 14. Other Business/Adjourn | 10:55/11:15 a.m. |

The meeting will be held at the Westin, 400 Courthouse Square, Alexandria, Virginia; 703-253-8600

Vision: Sustainably Managing Atlantic Coastal Fisheries

MEETING OVERVIEW

ISFMP Policy Board Meeting

Thursday August 3, 2017

8:00-11:15 a.m.

Alexandria, Virginia

Chair: Doug Grout (NH) Assumed Chairmanship: 10/15	Vice Chair: Jim Gilmore (NY)	Previous Board Meeting: May 11, 2017
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from May 11, 2017

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Executive Committee Report (8:15-8:25 a.m.)

Background

- The State Directors will meet on July 31, 2017
- The Executive Committee will meet on August, 2017

Presentations

- D. Grout will provide an update of the two meetings

Board action for consideration at this meeting

- none

5. Review and Consider New Jersey Appeal of Addendum XXXVIII to the Summer Flounder Fishery Management Plan (8:25-8:35 a.m.) Final Action

Background

- Summer Founder Addendum XXVIII was approved in February 2017 (**briefing materials**). The addendum established a regional management approach for the recreational summer flounder fishery in 2017.
- New Jersey is appealing the approval of the addendum (**briefing materials**).

- Following the Appeal Process (briefing materials), Commission leadership reviewed the appeal and determined the appeal should be considered by the ISFMP Policy Board under criterion 2, failure to follow process (**briefing materials**).
- The Board postponed the Appeal until the August Policy Board Meeting, until after the TC reviewed an alternative management program for the 2017 fishery.
- After the TC did not find the proposed NJ alternative measures to be equivalent to those in Addendum XXVIII, the Commission found NJ out of compliance and forwarded the recommendation of non-compliance to the Secretary of Commerce. On July 11, 2017, the Secretary of Commerce notified the Commission that he did not agree with the Commission's recommendation to find NJ out of compliance. The alternative measures proposed by NJ are currently in place for the 2017 summer flounder recreational fishery.

Presentations

- New Jersey will present their rationale for appealing the decision under criterion 2 and provide a suggested solution.

Board discussion for consideration at this meeting

- Postponed Board Motion: *Move to postpone the New Jersey Appeal of the Summer Flounder, Scup, and Black Sea Bass Addendum XXVIII until the Summer/August ISFMP Policy Board Meeting. Motion by Mr. Nowalsky; Second by Mr. Keliher.*
- Consider the Appeal of Addendum XXVIII to the Summer Flounder FMP

6. Discuss the Secretary of Commerce Decision Regarding New Jersey Summer Flounder Recreational Measures (8:35-9:20 a.m.)

Background

- Commission found NJ out of compliance and forwarded the recommendation of non-compliance to the Secretary of Commerce for not implementing the measures in Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass FMP (**Briefing Materials**). On July 11, 2017, the Secretary of Commerce notified the Commission that he did not agree with the Commission's recommendation to find NJ out of compliance (**Briefing Materials**).

7. Review Annual Performance of the Stocks (9:20-9:40 a.m.)

Background

- As part of the ASMFC 2014-2018 Strategic Planning process, the Commission agreed to conduct more frequent reviews of stock status and rebuilding progress.
- The ASMFC's 2017 Action Plan tasks the Policy Board with conducting a review of stock rebuilding performance.

Presentations

- A presentation will be given on the stock rebuilding performance for species managed by the Commission by T. Kerns (**Briefing Materials**)

Board actions for consideration at this meeting

- Determine if the rebuilding performance for each species is consistent with the Commission Vision and Goals.

- If the performance is not consistent with Vision and Goals, what action should be taken.

8. Discuss New England Fishery Management Council Participation on the Atlantic Herring Section (9:40-10:00 a.m.) Possible Action

Background

- The NEFMC has requested to participate on the Atlantic Herring Section.
- The Herring FMP is a complimentary FMP with the NEFMC.
- The Charter, as it is written, does not allow for Council participation by invitation on Sections. This is only a provision for Boards.

Presentations

- T. Kerns will present an overview of the guiding documents on the issue.

Board actions for consideration at this meeting

- Determine if Commission guiding documents should be changed to allow for Council participation on the Section.

9. Review and Consider Approval of Standard Meeting Practices (10:00-10:10 a.m.) Action

Background

- Following Commissioner training on meeting practices, the Policy Board directed staff to develop draft operating procedures to make Commission meetings more effective and efficient.
- The draft standard meeting practices were reviewed by the Executive Committee and recommended for consideration by the ISMFP Policy Board (**briefing materials**).

Presentations

- T. Kerns will present the SOPPs

Board action for consideration at this meeting

- Approve the Standard Meeting Practices

10. Progress Update on the 2017 Sturgeon Benchmark Stock Assessment (10:10-10:20.m.)

Background

- The Benchmark stock assessment for sturgeon is schedule to undergo peer review in the fall of 2017.

Presentations

- K. Drew will present a progress report for the assessment

Board action for consideration at this meeting

- None

11. Review and Consider Approval of the Assessment Schedule (10:20-10:30 a.m.) Action

Background

- The ASC has recommendations to the ISFMP Policy Board regarding the ASMFC Stock Assessment Peer Review Schedule (**briefing materials**), including moving N. Shrimp to

the spring of 2018, moving Cobia up to 2019, and adding a summer flounder benchmark to 2018.
Presentations
<ul style="list-style-type: none"> • S. Madsen will review the stock assessment schedule
Board action for consideration at this meeting
<ul style="list-style-type: none"> • Approve the stock assessment schedule

12. Standing Committee Reports (10:30-10:50 a.m.) Action
Background
<ul style="list-style-type: none"> • The Habitat Committee met on May 2-3, 2017 (Briefing Materials) • <i>Analyzed results of state and federal SAV Policy questionnaire Working towards Goal 4 in 2017 Action Plan: SAV Policy update, Aquaculture document, Habitat Hotline, Species Habitat Factsheets</i> • <i>Letter sent to DOI and new letter to DOI in draft form (Supplemental Materials)</i> <p>The Artificial Reef Committee met on February 7 and 8 with the Gulf States Marine Fisheries Commission's Artificial Reef Committee</p> <ul style="list-style-type: none"> • <i>ASMFC serving on steering committee for artificial reef symposium at AFS Meeting in Tampa, FL</i> • <i>ASMFC leading the development of the SAFMC Artificial Reef EFH Policy</i> <p>The Atlantic Coastal Fish Habitat Partnership met on May 4-5.</p> <ul style="list-style-type: none"> • <i>They have completed their 5-year Conservation Strategic Plan and 2-year Action Plan</i> • <i>Progress is being made on their Southeast Fish Habitat Prioritization Project</i> • <i>In addition to operation funding, will be supporting the development of a new website and two conservation projects: one in Maine and one in North Carolina</i>
Presentations
<ul style="list-style-type: none"> • An overview of Habitat Committee, Artificial Reef Committee and the ACFHP will be presented by L. Havel
Board action for consideration at this meeting
<ul style="list-style-type: none"> • Consider approval of second DOI letter.

13. Review Non-Compliance Findings, if Necessary Action

14. Other Business

15. Adjourn

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

The Westin Alexandria
Alexandria, Virginia
May 11, 2017

These minutes are draft and subject to approval by the ISFMP Policy Board
The Board will review the minutes during its next meeting

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INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 2017** by Consent (Page 1).
3. **Move to postpone the New Jersey appeal of the Summer flounder, Scup, and black Sea Bass Addendum XXVIII until the next ISFMP Policy Board Meeting** (Page 6). Motion by Russ Allen; second by David Bush. Motion carried (Page 9).
4. **Move on behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to NEFMC supporting the preferred alternatives developed by the NEFMC in their Deep Sea Coral Amendment** (Page 10). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 10).
5. **Motion on behalf of the American Lobster Board recommend the ISFMP Policy Board send a letter to Department of Interior reiterating the Commissions previous letter to President Obama regarding what is now the NE Canyons and Seamounts Marine National Monument** (Page 10). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 11).
6. **Motion on behalf of the American Lobster Board recommend the ISMFP Policy Board send a letter to NOAA recommending to fully adopt Addenda XXI and XXII** (Page 11). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 11).
7. **Motion on behalf of the Atlantic Herring Section recommend the ISFMP Policy Board send a letter to NEFMC requesting participation in the oversight of the Research Set-Aside Program** (Page 11). Motion by David Borden on behalf of the American Lobster Board. Motion carried (Page 12).
8. **Main Motion**
Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures by May 21, 2017:
 - **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
 - **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
 - **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP. (Page 35). Motion by David Pierce on behalf of the Summer Flounder, Scup and Black Sea Bass Board. Motion amended.

9. **Motion to Amend**

Move to amend to include “or equivalent measures as approved by the Summer Flounder Board”.
Motion by Robert Boyles; second by Andrew Shiels. Motion carries (12 in favor, 4 abstentions).

Main Motion as Amended

Move that the ISFMP Policy Board recommends the full Commission find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures or equivalent measures as approved by the Summer Flounder Board by May 21, 2017:

- **Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.**
- **Delaware Bay only (west of the colregs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.**
- **All other marine waters (east of the colregs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

Motion carried (13 in favor, 1 opposed, 2 abstentions) (Page 42).

10. **Motion to Adjourn** by consent (Page 43).

ATTENDANCE

Board Members

Dennis Abbott, NH, proxy for Sen. Watters (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Doug Grout, NH (AA)	David Blazer, MD (AA)
Ritchie White, NH (GA)	Rachel Dean, MD (GA)
Raymond Kane, MA (GA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
David Pierce, MA (AA)	John Bull, VA (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Chris Batsavage, NC, proxy for B. Davis (AA)
Jason McNamee, RI, proxy for J. Coit (AA)	David Bush, NC, proxy for Rep. Steinburg (LA)
David Borden, RI (GA)	Robert Boyles, SC (AA)
Mark Alexander, CT (AA)	Malcolm Rhodes, SC (GA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Emerson Hasbrouck, NY (GA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Russ Allen, NJ, proxy for L. Herrighty (AA)	Rep. Thad Altman, FL (LA)
Tom Fote, NJ (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Martin Gary, PRFC
Andy Shiels, PA, proxy for J. Arway (AA)	Wilson Laney, proxy for Sherry White, USFWS
Roy Miller, DE (GA)	Kelly Denit, NMFS
John Clark, DE, proxy for D. Saveikis (AA)	

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

Ex-Officio Members

Staff

Bob Beal	Katie Drew
Toni Kerns	Ashton Harp

Guests

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May 11, 2017, and was called to order at 8:09 o'clock a.m. by Chairman Douglas E. Grout.

CALL TO ORDER

CHAIRMAN DOUGLAS E. GROUT: Good morning, this is a meeting of the ASMFC Policy Board, my name is Doug Grout; I'm Chair of the Commission. Everybody welcome, we had a very long night last night. Hopefully we'll be able to move things through fairly smoothly today. We have an agenda here.

There are a couple of letters that some of our Board's requested that the Policy Board consider moving forward.

APPROVAL OF AGENDA

CHAIRMAN GROUT: Because of some flight schedules, instead of taking it up under Other Business, I would like to insert motions from the Lobster Board after Item Number 5, and also a letter that the Herring Section has asked us to write immediately after the Lobster Board letters; again, between Items 5 and 6.

With that change are there any other changes or additions to the agenda that anybody would like to make? Seeing none; are there any objections to approving the agenda as modified? Seeing none; the agenda is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN GROUT: Also in your meeting briefing materials, there are the proceedings from our February meeting.

Are there any modifications or additions to that? Seeing none; are there any objections from the Board to approving those minutes? Seeing none; I see the proceedings approved.

PUBLIC COMMENT

CHAIRMAN GROUT: Now we have the opportunity for public comment. This is public comment on things that are not on the agenda. I don't have anybody signed up for public comment. Is there anybody that wanted to make that comment?

EXECUTIVE COMMITTEE REPORT

CHAIRMAN GROUT: Seeing none; we will now move on to the Executive Committee Report.

Yesterday we met and you'll have to give me a minute to pull that up. At the Executive Committee yesterday, we approved the 2018 Proposed Budget. There was very little change between last year's budget and this year's budget. We also discussed an advisory panel white paper that was put together regarding advisory panel members serving on boards.

The option that we are going to bring forward to you at a future meeting is to modify our procedures; that once an AP member is assigned as either a board specific proxy or an ongoing proxy to a board, for which he serves as an advisor, the new proxy must step down from the AP as a state appointed new member.

Again, we'll bring this forward to you at the August meeting for your consideration, as a modification to our process. Also, we had a discussion about our technical committee meeting weeks. Originally this was something that was set up to make things more efficient for our technical committee members that are on multiple technical committee memberships. We're going to move forward with actually; apparently we had gotten to a point where we're using more webinars. There was some concern that technical committee members were reserving three weeks out of the year, and then they would end up not meeting.

There was some concern about whether this was still the most efficient and effective way to handle things. What the Executive Committee

decided to do was to do a poll of the technical committee members, to see if this is still a valuable tool for them; something that would help them out.

Then we're also going to try and have each board Chair and Plan Coordinator put together like a two to three meeting outlook of what we're thinking is going to happen with these particular boards; to sort of give us an idea whether we need to have the technical committee meet during those periods.

Other than that we also had an overview from Bob on some of the budget items that are going through the house, I mean through Congress right now. Finally, we did a performance review of Bob Beal and his efforts here. I'm pleased to say that we think that he's done an outstanding job, and we hope that he will continue on with us for many years to come; that being said; are there any questions about my report here?

**REVIEW AND CONSIDER THE NEW JERSEY
APPEAL OF ADDENDUM XXVIII TO THE
SUMMER FLOUNDER FISHERIES
MANAGEMENT PLAN**

CHAIRMAN GROUT: Okay, thank you very much and now we'll move on to Agenda Item Number 5, and this is to Review and Consider the New Jersey Appeal of Addendum XXVIII to the Summer Flounder Fisheries Management Plan. The way we're going to handle this is Toni is going to give an overview of the appeal, and then our response letter to the state of New Jersey.

Then we will give Bob Martin an opportunity, about 15 minutes to present the appeal to the Board for consideration. Then we will have Board discussion about it. With the appeal there will be a requested action from New Jersey. I'll turn it over to Toni, who will give an overview of our process and the appeal.

MS. TONI KERNS: In your briefing materials there were a couple of pieces that go along with

this, first was Addendum XXVIII, which is the document that New Jersey is appealing for the Summer Flounder, Scup and Black Sea Bass Board. There is also the description of the Commission's appeal process, the letter from New Jersey appealing the Addendum, the response letter from the Commission leadership to the New Jersey's letter.

Then earlier this week I e-mailed out to the Policy Board a response letter from the state of New Jersey to the Commission's leadership letter. Those are all of your supporting documents to this. The Commission's appeal process states that once the Commission receives an appeal we have 15 days for the Commission leadership to review that appeal, and determine the merits of whether or not that appeal should be brought forward to the ISFMP Policy Board for their consideration.

Commission leadership in this case is made up of the current Chair and Vice-Chair as well as the past Chair. Any appeal that comes before the ISFMP Policy Board must be justified with one of the following criteria. The decision is not consistent with the FMP. It doesn't follow our process. There is insufficient, inaccurate, incorrect or application of the technical information. The historical landings period is not adequately addressed and the management actions resulting in unforeseen circumstances or impacts. The state of New Jersey is appealing the Summer Flounder, Scup, Black Sea Bass Addendum XXVIII. This addendum was approved for public comment in December of 2016. It is addressing the 2017 summer flounder recreational fishery for the coast.

The document itself looked at a decrease in the 2017 recreational harvest limit to account for the declining status of the stock. The spawning stock biomass has been declining for summer flounder, and there was a 30 percent reduction required in the overall quota; from 2016 to 2017. The addendum proposed measures to meet the 2017 RHL.

This document was taken out for public comment over the winter. After we went out for public comment, the working group that pulled together this document noticed that there was an error in the document. It was found prior to the February Board meeting, and that error was e-mailed out to the Summer Flounder, Scup and Black Sea Bass Board before the meeting.

The Chairman recognized the error that was in the document at the meeting; and I'll discuss how he went through that. But it was recognized prior to the approval of the document. The document was approved in February; with an implementation date of March 1st. All states were to let the Commission know of their regulations by that date; and the date in which their regulations would actually be implemented in their home state.

New Jersey sent us a letter appealing on several appeal criterions. The first criterion that I am going to go through is their Criteria 2, The Failure to Follow Process. The one bullet that Commission leadership found that there was a justification to bring this appeal forward to the Policy Board was on inaccuracies in the draft addendum that was subject to public comment.

New Jersey did correctly identify that there was an error in the text, which was found prior to the 2017 meeting when the document was approved. Information on the area, which was described in the calculation of the specific measures as specified in the revised addendum language memo, was actually sent to the Board prior to the meeting.

The Chair noted the error and its late correction at the start of the meeting; and suggested that the Board proceed with its consideration of the draft, since the tables that were taken out for public comment, which included the actual example measures that would be implemented in each of the states, were correct.

No Board member objected to moving forward with the process. Also importantly, the actual option that was approved in the final version of the addendum did not have any errors in it. Moving on, there were a series of other claims that New Jersey appealed. All of those claims were rejected by leadership to bring forward to the Policy Board to be considered; and I'll go through all of those now.

There are two criteria's under failure to follow process. One is failure to include the enhanced opportunity of the shore fishing permit in the draft addendum; as well as failure to consider public comment. New Jersey's appeal letter is correct in observing that the draft addendum did not discuss the Shore Mode Program itself. However, staff notified the state that the Shore Mode Program could still be included under the addendum at the joint meeting with the Mid-Atlantic Council in December of 2016. That is prior to the document being taken out for public comment. This was consistent with how we move forward with the Shore Mode Program in the previous year. It also was not included in the actual draft addendum or final addendum document.

Secondly, there was a failure to properly consider public comment as one of the appeal criterion. Leadership rejected that claim that the Commission did not properly consider public comment. The Board was presented an overview of the comment; detailed information regarding each of the hearings was included in the briefing materials for members of the Board to review prior to the meeting.

There was adequate opportunity for a public comment; and the Board did have the benefit of that comment before making its decision. The next criteria were insufficient, inaccurate or incorrect appeal of the technical information; specifically their ability and untimeliness of the MRIP data is not appropriate for yearly management approach.

Leadership also rejected this claim. When considering final action on the addendum, the Commission fully acknowledges and takes into account uncertainty in MRIP harvest estimates. It recognizes that there are confidence intervals around those MRIP estimates that constrain our ability to precisely project impacts of differing management measures.

The Commission is constrained in its ability to address this variability; given that summer flounder is jointly managed with the Mid-Atlantic Council and it falls under the Magnuson-Stevens Conservation Act for management. One of the mandates of Magnuson is that there is an establishment of an annual recreational harvest limit, and an associated management measures that seek to constrain us to this RHL.

In considering the 2016 harvest estimate, relative to the 2017 RHL, the Commission determined that a reduction was needed to constrain coastwide harvest. This determination was based on 2016 MRIP harvest estimate; and the harvest estimates have been deemed the best available science for recreational harvest at this time.

Until there is another data source, or until interpretation of federal law changes, the Commission is obligated to use the previous year's MRIP dataset to set the following year's measures. Then the last criteria, which was also rejected by the leadership for review of the appeal for the ISFMP Policy Board was Criteria 5, management actions resulting in unforeseen circumstances or impacts to increases in the fishery resource waste.

There were four bullets that they considered; disproportionate removal of large breeding females, unfairness and inequity among member states, failure to consider economic and social impacts, and compliance and data collection issues. None of these issues were considered by leadership as unforeseen circumstance or impact.

To the contrary, each of these factors was actually considered and discussed by the Board at either the December, 2016 joint meeting as they were developing and initiating the draft addendum. That was with compliance issues, data collection issues as well at the Commission's 2017 winter meeting, where we discussed social and economic impacts thoroughly; and were also included in briefing materials for both of those meetings. I'm not going to get into all of the details. But there is a lot of information on each of those points in the letter. Yesterday the Summer Flounder Board met for a little while. At that Board meeting the Board recommended that the ISFMP Policy Board find New Jersey out of compliance for failing to implement the measures of Draft Addendum XXVIII. After they did that, New Jersey brought forward an alternative set of management measures that could be considered conservation equivalent to the ones that are in Draft Addendum XXVIII.

The Board tasked the TC to review those measures, and then they will meet back again to hear the Technical Committee's comments and consider those management measures; as soon as we can get the TC together, and then we'll have a Board conference call to do so. That is where we stand as of right now. I'll take any questions.

CHAIRMAN GROUT: Any questions for Toni? Seeing none; I would now like to turn this over to Bob Martin from New Jersey, if you would like to come up to the microphone and present your justification for the appeal, and a remedy.

MR. BOB MARTIN: Thank you, Mr. Chairman, for the opportunity to speak to the Commission this morning. Before I discuss the question of New Jersey's appeal, I would like to discuss New Jersey's proposed revised management plan for summer flounder. I want to first thank the Management Board for considering our proposal last night.

I would also like to thank NOAA Fisheries for their willingness to listen and consider additional ideas around our quotas. Although we would have preferred to have our proposal approved last night, we understand and respect the Board's desire to follow established processes. We look forward to the Technical Committee's review of our proposal.

We will certainly provide the Committee with any and all information they need to ensure that our proposal substantially achieves the conservation equivalency. We all share the same goals, have a long term, thriving fluke stock and secondly, lowering the total mortality of harvested and discarded fish.

Our proposal meets these goals. As I shared with the Commission in February, and as the management committee heard yesterday, the Option 5 will have a devastating impact on the state of New Jersey. This is why we have worked hard to come up with an acceptable alternative. In New Jersey, if anglers are limited to a 19 inch fish, the impact on New Jersey will be severe.

According to recent analysis done by the economists at Montclair State University, Option 5 could cost the State's economy as much as 750 million dollars. It will also destroy thousands of jobs. I would be glad to share the results of that study with the Commission once it has been finalized and peer reviewed.

In addition, setting the size limit at 19 inches will have an unintended consequence of driving down recruitment rates. That is because 90 percent of the 19 inch fish off New Jersey's waters are females; capable of breeding. The last thing any of us want is to target the females responsible for increasing recruitment.

We want to insure the health of our summer flounder stock this summer and for years to come. For clarity's sake, I would like to review New Jersey's proposed alternative to the ASMFCs Option 5. While we appreciate the

traditional approach is to focus on harvest reductions, our approach also considers the reduction of total fish mortality. We are proposing 104-day season instead of the 128-day season. This is a significant concession by the state of New Jersey; and we are also proposing limits on both fish and on the number of bag limits.

An 18-inch fish with a bag limit of three in coastal waters, a 17-inch fish with a bag limit of three in Delaware waters, and a 16-inch fish with a bag limit of two as part of the shore-based enhanced fishing opportunity program at Island Beach State Park. The season will begin on May 25, and will end on September 5.

We also believe we can reduce the dead discard rate from 10 percent where it is today, to at least 8 percent in New Jersey in the future. To achieve this we initiate a targeted public education campaign. We will leverage the resources that NOAA has created as part of its Fish Smart campaign. The state will invest significant resources to work diligently with anglers to drive down the dead discard rate.

I should also point out that even by just setting the size limit at 18 inches versus 19 inches, our proposal will reduce the overall mortality in fluke fishery by reducing the number of discards. As a result, we will reduce the total mortality of both harvested and discarded fish by nearly 300,000 when you compare that to the 2016 quotas and for Option 5 by almost 200,000 fewer fish.

While we achieve at least the 8 percent dead discards, there will be 400,000 fewer dead fish than in the 2016 quotas, and about 250,000 fewer than under Option 5. New Jersey's option with the significant reduction in the length of the season to 104-days, the 18-inch fish, the bag limit of three, will cut the harvest by 23 percent.

With an 8 percent discards, we reduce the total dead discards, compared to 2016, by 30

percent. Reducing total mortality is our goal we all share; especially the recreational fishing industry in the state of New Jersey and our proposal achieves that. Mr. Chairman, once again I appreciate the Commission's consideration of our proposal.

I am confident that when the Technical Committee reviews the science and the analytics behind our proposal, they will agree that it achieves the conservation equivalency. Our experts at New Jersey Marine Fisheries are confident that our proposal achieves what we stated on the conservation equivalency; and we consulted with NOAA Fisheries to ensure that we're meeting basic thresholds of conservation equivalency before bringing this up to this group.

Given the fact that the Technical Committee still has to review our proposal, and the final Commission approval has been pushed off to next week, New Jersey wishes to table our appeal pending the final outcome. I'm sure you can appreciate the need for New Jersey to keep all its options on the table until this matter is concluded.

Should our proposal be approved, we will immediately withdraw our appeal. Mr. Chairman, I would like again to express my thanks to the Summer Flounder Management Board and to the Commission and to NOAA for considering our alternative to Option 5 for the coming season. The state of New Jersey remains strongly committed to the prudent management of our fisheries. We look forward to continuing to work with you closely in achieving these goals. Thank you, Mr. Chairman.

CHAIRMAN GROUT: Thank you, Mr. Martin, is there anybody on the Board that has any questions for Mr. Martin? Okay seeing none; I believe I heard that your suggested remedy right now for today would be a motion to table. Russ.

MR. RUSS ALLEN: Yes, I would like to move to table New Jersey's appeal of Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass FMP until after the next Summer Flounder, Scup and Black Sea Bass Management Board meeting. I'll go slower if I have to.

CHAIRMAN GROUT: We'll wait until that gets up on the board before I ask for a second, but thank you very much for that motion. Russ, Bob Beal, we had a question about the process here with this.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Russ, I think in your motion you mentioned that you wanted to postpone this until the next Summer Flounder Board meeting. Should it be the Policy Board meeting; since that is the group that handles the appeals? I know you want to have the Tech Committee review and then the Summer Flounder Board meeting; but if the decision is to withdraw that it would essentially be withdrawing from the Policy Board.

MR. ALLEN: However you think it's best, Bob.

EXECUTIVE DIRECTOR BEAL: Policy Board probably would be better.

CHAIRMAN GROUT: You're comfortable with that and is that a postpone motion or a table motion?

EXECUTIVE DIRECTOR BEAL: I think technically it is a motion to postpone until time certain. But we can get wrapped up in parliamentary stuff pretty quickly. I think the move to postpone is probably more appropriate.

CHAIRMAN GROUT: Are you comfortable with that?

MR. ALLEN: Yes I'm comfortable with that.

CHAIRMAN GROUT: Is there a second to this motion? David. Is there any discussion on the motion? Ritchie White.

MR. RITCHIE WHITE: I guess just to try to understand this. I'm trying to understand the timing and what regulations go into effect at what times. If the conservation equivalency either is or is not approved by the Technical Committee, at that point New Jersey will be putting in some regulation.

I guess what is that regulation? Then the Policy Board, unless there is a special Policy Board meeting, then that is going to be August. What is the regulation that goes into effect? If the Technical Committee does not approve the conservation equivalency, what does New Jersey propose to have for regulations that would go into effect within the next few weeks or whenever that time period ends that the Technical Committee decides and August? Then whatever is determined in August, how fast can New Jersey react to any changes that would be done at the August Board? I'm trying to get a sense of how much fishing is going to occur under what regulations?

MR. ALLEN: We expect that the Technical Committee will approve, or at least give it the okay for the Board, and then it is up to the Board to decide what to do after that. I don't have any qualms in that. I think it will go through, because we've done a lot of work to get it to that point. With that said, we plan to have our regulations in place next week; with those regulations.

Knowing that the Board might not be able to get together before then and approve that. But at least we would have that piece in place already. The notice that we have to do is already done. The Commissioner has already said he will sign it. He just talked about it. We can have that done by next week. No matter when the Board decides on anything, we have to have that in place before May 21st, because that is when the old regulations start up. We have to have that done next week, so that will be done.

Then the season doesn't start in this until May 25th, so it gives the Board some more time to whether or not they approve it. Then we would have a whole other thought process to worry about, whether the Board approves it or not. I think that answers your question. We're doing everything we can to make sure this works. You know we're putting a lot of time into it.

CHAIRMAN GROUT: Follow up.

MR. WHITE: I understand that part. Are you suggesting that there be a special Policy Board meeting then, or the August meeting? Those regulations would stay in effect until August, even if the Technical Committee does not approve them. Is that?

MR. ALLEN: Me and Ritchie can have this talk outside. The reason I said in the beginning to the Board meeting itself was because that is where the process should end; obviously, once that's approved. I don't think it will be disapproved. I think it will be approved then that will be that. It's more of a process type thing we're talking about now; as far as the appeal goes.

If everything goes as we expect, the appeal is gone. It will be a moot point anymore, so I don't think I need to worry about that. It will come up at the August Board meeting, and we can just table it forever or however the process in Roberts Rules is to do that. We don't expect the appeal to be going forward any more. I think we're going to all be pretty happy on how this all works out; once the Technical Committee gets this, reviews it, and sees exactly what we did.

Peter Clark did most of the work, but Jeff Brust, who is really respected around this table as an assessment scientist, has really gone through this. He is the one to make sure all the numbers were right. We've had people check it, we've had people that are outside our agency check it; in the DEP that are research scientists that do this work.

We're pretty confident everything should move forward pretty well. Like I said, we're willing to do whatever it takes. However the process takes us we will do it. We would love to just say goodbye to it today if we could, but obviously we have to wait and make sure the Summer Flounder, Black Sea Bass, Scup Board agrees with us.

EXECUTIVE DIRECTOR BEAL: I know some of the states obviously were not sitting in on the Summer Flounder Board, luckily for them at eight-thirty or so last night. But there was a noncompliance finding motion forwarded to this Policy Board that is going to be addressed later in this meeting. I think we're starting to wrap up potential noncompliance finding with the appeal.

The appeal, as Russ mentioned is a procedural issue that is handled by the Policy Board. The next Policy Board will take place in August. I think controlling the comfort level of the Board, as to when New Jersey is going to implement what regulations, and if noncompliance letters should be sent to NOAA Fisheries. I think that discussion is part of the later agenda item on noncompliance. I think we have to keep noncompliance and the appeal a little bit separate.

CHAIRMAN GROUT: I agree. Robert.

MR. ROBERT H. BOYLES, JR.: Bob said what I was going to suggest.

CHAIRMAN GROUT: Eric Reid.

MR. ERIC REID: I really appreciate all the effort that New Jersey has made, as well as the Commission on this issue. My question is for New Jersey. They talked about a substantial amount of outreach to make this work for the state, and for the Commission I suppose. Some of it was on fish handling.

My question to New Jersey is, is that something you are going to go forward with now, which

would be to your advantage? I understand a lot of it has to do with the outcome of this whole thing. But just to gauge New Jersey's commitment, are they going to go ahead and do the portion of their public outreach that is applicable at this moment?

CHAIRMAN GROUT: Russ, do you have a response?

MR. ALLEN: Sure. Actually, we're going to have an update call with our constituents this afternoon. That is where it will start, because we've committed to that. We've already talked to all of them, and they're all onboard on moving this forward. That is JCAA, RFA, United Boatmen, all our constituent groups and JOA; you know everybody that is involved in New Jersey Fisheries is already onboard with this.

We're planning on putting out PSAs, brochures, short videos that can be popped up on phones. We're doing the whole works; and it starts today, as soon as we get done with this and move it forward. Because we are going to talk to them again and say this is what we're doing. It's a regardless of what happens in anything else that is going to happen regardless. That is where we're going to be.

MR. THOMAS P. FOTE: I think this is an example, not just for what we do in summer flounder, but we should do it with a bunch of species. We did this years ago on bluefish, when we were doing a catch and release, and we did it on striped bass. But it fell by the wayside how do we do catch and release. NMFSS has been pushing it for years under the Skillful Angler Program, if I'm right, and other programs have been doing it. Maybe this should be part of every plan that we put out is basically do this type of communication to our constituents when it comes to hook and release mortality. When we start killing more fish for hook and release mortality than we do taking home to eat that is a problem. We need to figure out a good way of reducing it. This is a start to that problem.

CHAIRMAN GROUT: Chris Batsavage.

MR. CHRIS BATSAVAGE: I appreciate New Jersey's attempt to help anglers learn better ways to release fish safely, and I agree with Tom; it is something that should be done with a lot of species, not just summer flounder. A question I have is with something like this there is usually kind of a learning education process, just as far as better handling practices.

Despite putting out all the education outreach stuff, these people don't just learn it overnight; especially during the summertime, I suspect there will be more than just the hardcore anglers. You're going to have a lot of traveling, vacationing anglers who maybe aren't as avid as a lot of the constituents that you reach out to. The question is are you concerned that you may not have the realized benefits the first year of this initiative, compared to what you might see a few years later; trying to get this information out.

MR. ALLEN: It is a great question, Chris. We've already, as Commissioner Martin said, we did a survey in a month, and had 26,000 responses. We sent out to 130,000 anglers, and we got 26,000 responses that quick. Some of the major questions in there were about fish handling and things of that nature.

I made a mistake when I replied to Eric before that we're starting it today. We actually started it already, to get it in people's heads to do that. The goal is to make sure all our for-hire fleet is onboard with this, and they will have that. I mean that is probably where the biggest amount of discard mortality is in the first place.

They're onboard, and they're going to make sure that we have brochures to hand out to everybody that comes on. That's where you're talking about the people just coming in for a weekend or something like that. We're going to have it at bait and tackle shops, where everybody else is going, so the brochures will be there. It will be part of our guides.

We have our digest coming out in a few weeks that is going to have an article in there talking about fish handling techniques; and that is sitting there at every bait and tackle shop up and down New Jersey coast. We're doing all that work already. We've also committed to when we were discussing this with NOAA, talking about having a survey done at different points within the season; to see if anybody is getting this information and to make sure it's working.

I think we're going to do everything we need to do. If someone has a suggestion on how to make this even better, just remember that the 10 percent is an average of different studies. It was 7 to 16 percent, I think if memory serves me correctly for the stock assessment. It was averaged out to 10. We may even bring that further down than 8 percent. But I think just a 2 percent drop is tremendous in the amount of fish it saves.

MR. ADAM NOWALSKY: I'll just also add, Chris that while the proposal talks about decreasing discards specifically in New Jersey, these are public information documents that will be available. We would sincerely hope that other jurisdictions would take them, distribute them, make them available, promote them, and imagine if we could take that information through this initiative that starts in New Jersey, and reduce the discards by 2 percent up and down the entire coast. Imagine the benefit we could generate at that point.

CHAIRMAN GROUT: Further discussion on this motion? Seeing none; do you need time to caucus on this? I'll give you 30 seconds to caucus. **Okay, are you ready to vote? All those jurisdictions in favor raise your hand. Any opposed any abstentions, any null votes; the motion carries 17 to 0 to 0 to 0.** Thank you very much, and now we are on to the Lobster Board. We have motions for the Policy Board to consider three letters, I believe it is or two letters, two. David Borden, Chair.

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING THE DEEP
SEA CORAL AMENDMENT**

MR. DAVID V.D. BORDEN: Mr. Chairman, do you want me to make the motion first or just provide some background first for context?

CHAIRMAN GROUT: Why don't you make each motion one at a time, and then make a little context for each one.

MR. BORDEN: On behalf of the American Lobster Board, recommend the ISFMP Policy Board send a letter supporting the preferred alternatives developed by the New England Regional Fishery Management Council in their Deep Sea Coral Amendment.

CHAIRMAN GROUT: Rationale.

MR. BORDEN: Okay so the rationale here and I'll try to keep this simple in the interest of time. The New England Council has been developing a Deep Sea Coral Amendment for some time. That amendment is not in the final stages of development. The Council authorized it to go out to public hearing with preferred alternatives; the timing of all that is that the public hearings will be taking place in the next month.

The Council intends to finalize its position on the amendment, and submit it to NOAA at the end of June or July. The importance here is that this really is our last opportunity to influence that process. A number of us around the table, including the Commission Chairman, have participated in that process. The Council adopted preferred alternatives, and they were overwhelmingly endorsed by the members of the Council.

As your representative on that Board, I voted for all of the preferred alternatives; as I think most of the New England Council representatives on the Commission did. All this is is a suggestion that we send a letter that the

Commission Chair be authorized to send a letter to the New England Council Chairman, essentially advocating the preferred alternatives that were identified by the Committee.

CHAIRMAN GROUT: Any questions on the Board? Mark.

MR. MARK ALEXANDER: Just one comment. The first sentence I think should be amended to indicate that the letter is going to the Council. It doesn't say who it's going to.

CHAIRMAN GROUT: Are you okay with that? Okay. **This was a motion by the Board, so it doesn't need a second. Are there any objections to this motion? Seeing none; that motion is passed, next.**

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING NEW
ENGLAND CANYON AND SEAMOUNT
NATIONAL MONUMENT**

MR. BORDEN: The second motion is on behalf of the American Lobster Management Board; recommend that the ISFMP Policy Board send a letter to Department of Interior reiterating the Commission's previous letter to President Obama regarding what is now the New England Canyon and Seamount National Monument. On behalf of the Board I make that motion.

CHAIRMAN GROUT: The motion doesn't need a second. Could you speak to the motion?

MR. BORDEN: Okay, so the canyon issue is obviously related to the coral issue. These are quite lengthy issues. Just by way of background I'll remind everybody that President Obama declared I think 4,500 square miles of territory in the Atlantic, five canyons, as part of a national monument under the 1906 Antiquities Act.

The Commission attempted previously to affect that determination, and submitted a letter in which they recommended that the monument boundaries be set at 900 meters and seaward from that. The reason for that was an attempt by the Commission to hold the fisheries resources that are being prosecuted in that area harmless from the effects of the monument.

President Trump now has signed an Executive Order, which essentially directs the Department of Interior to review all of the monuments, which includes the monument that I just referenced. That solicitation is going to be in the Federal Register, I think next week. Megan has a copy of the solicitation; which we'll circulate to the entire Commission.

There is a 60-day comment period, as with the previous issue. We have a limited period of time to respond to this. The suggestion from the Lobster Board is basically to submit, authorize the Chair to submit a letter. The key provisions of the letter will be to endorse managing marine resources in the monument area via the Magnuson and Council process.

It will talk about the need for transparency in the process, and it will also fold in the recommendations that you just authorized on establishing a management boundary at 600 meters; similar to the New England Council position. I'm happy to take questions.

CHAIRMAN GROUT: Any questions for the Board? Seeing none; are there any objections to sending this letter? Seeing none; the motion is approved. Item Number 3.

**AMERICAN LOBSTER BOARD
RECOMMENDATIONS REGARDING ADOPTION
OF ADDENDA XXI AND XXII**

MR. BORDEN: Okay final issue and this will be quick. On behalf of the Lobster Management Board, recommend that the ISFMP Policy Board send a letter to NOAA recommending full adoption of Addenda XXI and XXII.

CHAIRMAN GROUT: Motion from the Board does not need a second. Would you like to speak to this?

MR. BORDEN: Okay, the background here is there were two provisions of those addenda that the National Marine Fisheries Service decided to not or at least temporarily not implement in those provisions related to a declining trap cap for Area 3, and trap banking for Area 2. The trap cap proposal in Area 3, under the current regulations offshore boats are entitled to fish up to, I think it is 1,945 traps. The provision in the addendum is basically to lower that cap over time – five years. The provision was endorsed by the offshore lobster industry. It has the benefit of reducing vertical lines in the water; which are a concern in terms of protected species.

NOAA wanted to delay action on it until they saw the final action from the Lobster Board, which have been taken. This is nothing more than a restatement of our policy and a request that they implement both of those provisions; which have already been adopted by the Commission.

CHAIRMAN GROUT: Any discussion on this motion? Seeing none; is there any objection to approving this motion? The motion is approved, thank you. We now have a letter from the Herring Section that I'll turn to Herring Section Chair, Ritchie White to bring forward.

**ATLANTIC HERRING SECTION
RECOMMENDATIONS REGARDING
PARTICIPATION IN THE OVERSIGHT OF THE
RESEARCH SET-ASIDE PROGRAM**

MR. WHITE: I'll read the motion and then speak to it a little bit. On behalf of the Atlantic Herring Section, recommend the ISFMP Policy Board send a letter to New England Fisheries Management Council requesting participation in the oversight of the Research Set-Aside Program.

CHAIRMAN GROUT: By the Section, it doesn't need a second.

MR. WHITE: The Section is aware of and approves of the amount of harvest that is part of the Research Set-Aside. The Section though does not participate in how that is prosecuted, and there is concern about when it is harvested and where it is harvested; because in the past there has been some gear conflict issues. The Section would like to be involved in how this fishery is prosecuted, so that is the basis.

CHAIRMAN GROUT: Any questions for Ritchie White? **Seeing none; is there any objection from the Board to passing this motion? Seeing none; the motion is approved.**

UPDATE ON THE CLIMATE CHANGE WORKING GROUP

CHAIRMAN GROUT: Now we'll move on to Agenda Item Number 6. This is an update on the Climate Change Working Group. I'm going to be Toni Kerns.

Just as the Chair of the group, I will tell you that we had a very long and fruitful meeting on Monday morning and we are still in the process of fleshing out our white paper. We probably are going to need a meeting or webinar to finalize it. But our intent is to have something for you, the Policy Board to consider; either at the summer or the fall meeting.

I think it will contain a number of tools that many of the management boards could use to adapt their management; at least to consider for adapting their management in the face of any changes that they see in these species, due to climate change, any questions?

REVIEW AND DISCUSS 2017 COMMISSIONER'S SURVEY RESULTS

CHAIRMAN GROUT: Seeing none; we'll now move on to Item Number 7, and this is to Review and Discuss 2017 Commissioner's

Survey Results. Deke Tompkins is going to present the results.

MR. DEKE TOMPKINS: We have our 2017 Commissioners Survey results. Thank you to the 26 people who filled out the survey this year. We are down from the mid-30s the past two years, so a little bit less participation. As you can see across the board there was a decrease in satisfaction on 14 of the 15 questions. The top three questions with the biggest drop in satisfaction you can see here. That was satisfaction with cooperation between commissioners to achieve our vision, satisfaction with Commission's ability to manage rebuilt stocks, and comfort level with reacting to new information and adapting to meet the Commission goals. Then from the written comment section there were some themes that emerged. These are somewhat listed in the order that they appeared by frequency. Climate change and impacts appeared throughout all the questions, pretty much.

Scarcity of fiscal resources, issues with data, and then a big theme was individual states promoting their interest over the coast as a whole. There were a lot of requests for more socioeconomic analyses; and I think this week is a pretty good example of the meeting week agendas being very full. With that I'll take any questions.

CHAIRMAN GROUT: Any questions? John Clark.

MR. JOHN CLARK: Thank you, Deke. I was just curious. With the questions where you had the big drops, I wonder how closely related they are to decisions the Board has just taken before the survey came out. I was looking at that big drop, and I am wondering if that had anything to do with the flounder; and the managing of the rebuilt stocks.

MR. TOMPKINS: The survey was open from March 14 through April 7. I think you can read into the time how you like. I am not saying if it

was taken at a different time it may have been different, but.

MR. CLARK: This year in particular, I just think the whole process with flounder, for example, was such that I think a lot of people were unhappy with it, and might have colored their answers on that question in particular; because of course flounder was considered rebuilt very recently.

CHAIRMAN GROUT: Yes, I saw two issues here, one the rather thin participation in this and that can affect things; especially where we're talking roughly a third of the commissioners did not respond to this. Whether those commissioners respond could affect things minimally or considerably. I encourage in the future that you take the time and it usually only takes about half an hour to really spend some time working on this.

The other thing that I had noticed here, and it may relate to what John and Deke were saying as reasons is we had most of these questions were kind of flat, during the period 2010 to 2013, and then suddenly we had this bump up in '14 and '15. It seemed like we were doing real good, we had made some improvements. Then we've seen some modest declines, but then we have the sharp decline right now. It could be a result of specific actions that have been taken over this past year. David Borden.

MR. BORDEN: Just a question, not a question on the survey. Do you want the discussion to be integrated with the presentation, or do you want the discussion to follow? In other words, are we in just questions at this point?

CHAIRMAN GROUT: In this case I would have both questions and discussion at this point.

MR. BORDEN: I would like to just make the point actually; I've discussed this point with the Chairman. I actually think dissatisfaction is rising. I think that this is a real reflection on the process; and so that everybody understands it, I

have the utmost respect for the process, the staff, and all the commissioners here. I'm not criticizing anyone. Having been involved in this process for a number of years, and being out of it for almost ten years and then coming back into it recently, I just don't see personally that we have a sustainable model at this point. The reason I say that, if you look at the way we're making decisions. I'm specifically talking about the recreational fisheries.

We're doing these annual specification packages that are almost invariably at the last minute. We get the information at the last minute; we put tremendous pressure on our own staff. We put tremendous pressure on all the stock assessment people to do the work. As a result of that the information we're getting is good. I think it's accurate.

But the decision process doesn't really have a lot of time to deal with this. What we end up with is this cycle where we are kind of yo-yoing the regulations on an annual basis. What I view is that we have to figure out a way to smooth the decisions out; and take a little bit longer timeframe. In other words, and I don't have the answer to it, I would point out.

But if we had a system where we had two-year specifications for recreational measures instead of one, then it would take a lot of that urgency out of it. I would also point out from having worked in a state agency. Having the state agencies have to deal with these types of issues and communicate the hundreds of thousands, millions of constituents at the last minute, is really undesirable.

None of the state agencies like to do this at the last minute. If you're on the opposite side of the issue, if you're on the recipient side of the issue, you don't want to be a member of the party charterboat trying to schedule bookings, and not know what the regulations are. I think my answer to it, as I said I don't have the answer to it.

But I think the way forward to kind of reverse this trend, because I think it is going to accelerate, personally. I think at some point we need a really directed discussion by the Commissioners on how we do business; and maybe come up with some new models on how to deal with these issues.

CHAIRMAN GROUT: I certainly see your point, and the only question I would have for the Board; is this really something specific to the Fluke, Black Sea Bass, Scup Board? As I see other species, important recreational species that we manage like bluefish, striped bass. We do try to keep regulations fairly consistent over the years. It seems like it is very much, from my perspective tied to that Board is that your feeling? Then I'll move on to the other.

MR. BORDEN: That actually, I think is a good point that you raised. Some of our species I think work well. But I don't think we can apply all of the same rules to those. We may need different rules for specific species; and deal with them accordingly.

CHAIRMAN GROUT: Dave Pierce and then Tom Fote and then Dennis Abbott.

DR. DAVID PIERCE: Granted when I filled out this questionnaire my responses were colored by what was happening with discussions about recreational fisheries management. Overall the Commission is doing a very good job, and for the most part my ratings were very positive. However, relative to the summary of all of the finding, I really don't know how to interpret these finding regarding we're less satisfied now than we were a couple of years ago or last year. I don't know how to interpret this; because if you look at the Y axis, the differences in the ratings are so small. We're not looking at a change in rating from like 8 to 4, we're looking at very small changes frankly, and these are small changes that came about perhaps because different people took the survey this year versus last year.

There are a lot of unknowns in this particular assessment of our performance. I would much rather just focus on the comments that people actually took the time to write. That is where we'll gain some insight as to how we're doing now versus the year before and the year before that. Again, like the commission progress, the first one, questions 1 and questions 2, and I looked that we dropped from 8.1 to 7.6 from 2016 to 2017.

Frankly that has no influence on me whatsoever. I can't interpret that but I don't conclude that we've made less progress; based upon this analysis. Again, if we've made less progress, each and every one of us will make that decision as a personal perspective; depending upon how things have gone for us.

MR. TOM FOTE: It is interesting I'm following Dave, because let's look at what happened last night on black sea bass; and this is where it comes into play. There is a reason that we're supposed to take cuts, because it was overage in the region. A motion was put on the table and voted on with people not understanding how that worked out.

The states that actually were being penalized were states that did not go over. The person making the motion took no hit whatsoever. Some of the states in that black sea bass, like New Jersey, are going to lose a 10 fish, go from 15 fish to 5 fish; and that state gets no cuts at all, because they have no season during the end.

There was none of that part of the decision process explaining how this is going to affect the states equally in that region. Basically, one state got the short end of the stick, and two others got penalized; when maybe they weren't the problem. I don't know what Connecticut was; I don't know where Rhode Island was. But we got penalized for what happened in the winter season.

Where one of the states has increased its catch, it took no herring whatsoever and was quick to make the motion to do that. That is when we see that it is not fairly being distributed. If we were taking the survey after that vote last night, yes I would have been really mad; because most of the time on Black Sea Bass, Summer Flounder, and Scup, I blame because it is a cooperative plan and we're stuck with a lot of decisions that we can't affect like on sea bass.

We're forced to make cuts because it is a joint plan. But when we do things on this one that does conservation equivalency, and makes decisions like this at the spur of the moment, without all the members understanding. This other state is voting for it, because they figure well we'll get it done; because they don't want to be impacted.

But they unfairly treated New Jersey, because we took a 10 fish cut when we weren't the problem. We caused none of the problem, we weren't over last year. We could understand why we would be upset over this; and not feel like we're being treated fairly at the Commission level. If it was basically going on this now, you would assume that; if I had basically filled out a survey.

MR. DENNIS ABBOTT: If you could put up the overall graph that you had. I do agree with Dave Borden that there is a negative trend with things going on. But again that graph makes it look worse than it is, because it only runs from 6.6 to 8.4. We're really seeing a change from 8.25 to 7.5, so three-quarters of a number. Yes there is some diminishment of things in people's mind.

I also find that the participation is really disappointing at this point, where you've roughly got about half of the people. You know 26 out of 45 plus PRFC, whatever it is they've added, Potomac River. There could have been however many more participants. If we want to blame it on Black Sea Bass and Scup, about six

of our states don't even participate in those species.

I don't think we should lay it on to those factors. We also don't know who the 26 were that filled out the survey. We don't really have a good snapshot, in my opinion, of where we are. I was wondering. I think it might be curious, at least to me, if in a future survey that we broke it down by maybe the LGAs and state directors; to see if there is any correlation between what the LGAs think and what the state directors think.

I think that would be interesting. It would still be a blind survey, but I would like to have consideration of breaking it down that way. Maybe the LGAs are expressing a lot more disappointment. Maybe it is the opposite. I don't know the answer to that. But it would be an interesting answer. Another thing that factors in here is you can look from year to year.

But if you look around the table, there are a lot of faces that change. I've been here for 21 years; and there are only less than a handful of people that have been here that long. Some people on their first, second, third year, and surely they view things differently than other people like Dave Borden said.

He's watched the goings on with the Commission for many more years than I have. Anyway, I think we have to not take this survey with a grain of salt. We really need to do something to improve our participation and give this survey a lot of thought; because it can be very helpful.

CHAIRMAN BORDEN: Ritchie White.

MR. WHITE: I agree with Dave. I think, Dave, you're on to something. I think that it's not just summer flounder. I think striped bass is another example. I don't mean what we just went through this week, because a number of years ago when the population was lower, the New England states pushed very hard to try to

lower mortality; because they wanted to see more fish.

I think it is an expectation of the anglers, knowing that we can react more quickly than the Council or the Service. We're viewed as an entity that can change things if they don't like it. I think that is a strength for us. I think in this instance that it can be a weakness as well. How we kind of switch that I don't know.

But I like Dave bringing it up, and I think it's something we ought to investigate further; because it does create more staff time and expense, when we're quickly reacting to anglers that are upset with what's going on. I think it is an important issue, and I think we ought to address it somehow.

MR. NOWALSKY: I hear a comment of not sure who filled out the survey. I'm willing to go on the record and say I filled out the survey. I am also willing to say that when you look at some of the major themes, including self-interest. When you look at some of the downtrends in the graphs, I'm willing to say that I'm an element of it.

While I certainly haven't been here as long as many of you, I have certainly been here more long than some. To that end, when I think about the public constituency literally in tears at the public microphone last night, over a species that is perhaps in the best biological shape of any we manage in black sea bass.

We have some very hard decisions we have to make. American lobster, weakfish, winter flounder, northern shrimp, they are hard decisions; because there are factors impacting our ability to manage these species that quite frankly are out of our control. Then we take a species like black sea bass, where we're simply making bad decisions.

There is no other way around it. They are simply bad decisions. We can try to dress up the graph and say, well it is only a small range.

But out of the time series there, the reality is that number of the overall satisfaction is the second lowest in the time series. When we look at those three other major question areas, one of those is the second lowest in the time series, two of the other ones are the lowest in the time series.

When we have boards making decisions, 11 member boards making decisions that are negatively impacting only two of the states on the board primarily, we have a real problem with ourselves. We have a real problem with our public perception; and that problem is real, and we need to do something about it.

We just got done talking about the New Jersey appeal. There is certainly a lot that went on behind the scenes. I know a lot of questions about the process, a lot of people concerned about the fact that New Jersey had to go to NOAA Fisheries first; in terms of trying to get some relief on this.

I know a lot of people here with military backgrounds. You respect the chain of command. That is not something to be taken lightly; to break that chain of command. But when it lets you down, you have no choice but to go outside of it; no choice, and on that particular issue that is only the tip of the iceberg.

If we do not react in a positive manner, it is only the beginning. I have confidence in all of us as individuals to make good decisions. I hope that we can find a way to make better decisions; and I agree with the element that certainly these recreational issues are one of the largest that are holding us back.

MR. FOTE: When only 26 people respond, I think, of course I estimate on surveys it is the people that care and the people that are involved. We have 45 commissioners; there weren't 45 commissioners at this meeting. A lot of people don't show up, some of the

proxies do show up. But some people didn't show up altogether.

There are not a lot sitting at the table, there wasn't a lot sitting at the table from other states yesterday. The people that put most of time to fill out surveys are the people that are involved in the process and want their comments made. I don't look at the 26 as a bad number. I mean when we just did a survey of 130,000 anglers, we say we got 26,000. When you get 20 percent of the people you survey, and that is what my background is in marketing management. That is a good response. When you get 26 out of 45 that is a good response; because they are the people that are actively involved and they care and they basically took the time to write the survey.

I did fill out the survey, and mine was similar comments to what Adam just said. I mean there are some real problems that have come out in the last couple of years that we're not dealing with certain things in a fair and equitable manner; and we just see that. Also, I think because you have new commissioners.

Now some of us have been around a long time, understands the ups and downs of the commission; and we look at it and realize where we started from, when LGAs didn't even have a seat at the table. There were five members of a board deciding what we were doing. We've come a long way, and maybe we're just getting a little complacent in the way we handle things and make motions too late at night on things we aren't really looking at what we're doing.

MR. JASON McNAMEE: Okay time for a little optimism. Relatively new to this part of the process, and no plans on going anywhere any time soon, so I need to have hope and optimism for this process. I think there is reason to be. David Borden talked about a new model. We're developing those new models; things like our risk and uncertainty policy that we're working on. That is a way forward here.

That is a way we're going to be able to structure our decision process in a better way; to have a little more guidance, so we're not rudderless as we're moving along here. The pain and the challenges that we faced with our recreational fisheries this year, sometimes you need a kick in the pants to move in the right direction. I think we got that this year, and again I'm optimistic. We've got an RFP that came out from the Mid-Atlantic looking at new techniques for how we manage some of our recreational fisheries.

I think you've got a lot of good ideas coming out of your technical committees for better ways of doing business in recreational fisheries and others. I think this was a challenging meeting week. But we've set up ourselves to be optimistic and to be successful moving forward. We just need to be able to embrace those changes and try those new techniques.

MR. GILMORE: Just a quick note, and I didn't say it yesterday, but it is kind of along the lines of Adam's comments. It is something I learned many years ago. One of my early mentors said, and it applies to a lot of management situations. It's, "We should serve the resource not the rule, the regulation or the process."

I think a lot of the survey has maybe gotten to that point. I think both in this, and also not to beat up on anybody, but the federal government. We are serving the process, the rules too much; we are not serving the resource, the fishery, the people, the stocks or whatever. It's really something we need to get out of this box, and that is where we need to go in the future.

I think the survey will go back up if we can figure out a way to stop being concerned about what the number is; as opposed to what's actually going on in the resource. I leave that out for everyone that if that helps, I think as a mantra for the future, we really need to get back to that simple thing that I learned over 30 years ago. We need to serve the resource not the process.

CHAIRMAN GROUT: I'm going to take one more comment on this, as we do need to move on. Dave Borden.

MR. BORDEN: I'll make it brief. Just so everyone understands, I'm not a pessimist. I'm just the opposite, a complete optimist. I just point out that in my view strong organizations are constantly reviewing the way they do business; and figuring out better ways to do it. We have a lot of wonderful intellect in this room, and I'm sure we can improve on almost everything we do.

CHAIRMAN GROUT: Since I said one last comment, I've had two more hands; and I'm going to hold firm to two more comments and that's it. No more. Bob, I'm sorry, you're out; Ray Kane and then Russ.

MR. RAYMOND W. KANE: Yes, good morning Commission members. This is a "come to Jesus moment." This is my second meeting, so I did not fill out the survey. But I'm a little betwixt at this point at my first formal commission meeting we had a representative from the Academy of Science come in and talk to us about MRIP.

It was a fluid conversation. Not many questions do I recall were asked of her, and she went on to tell us that MRIP, it's a good system. It needs to be tweaked. Yet in the follow up meeting I heard a lot of dissatisfaction with MRIP once again. As a newly appointed commissioner, I'm a little lost here; because when she was here doing the presentation, she wasn't charged with the questions that I hear often around this table at other meetings.

I happen to have a strong belief in the National Academy of Science. I know they helped us out years ago with the inland bluefin tuna. I'm a little lost in this process. We bring somebody in, they take the time, we schedule hours for a particular meeting. The representative gets up and walks away, and then we're back to the

same old gripe once again about how MRIP is not really working.

More or less from the years I've been coming to these meetings, commercial fisheries have been in compliance; from what I could gather at this table. It's always the recreational fishery we're having an issue with. Once again, let's have a "come to Jesus moment" here, and either we're going to accept MRIP and hopefully Jason working with MRIP. We'll be able to improve the process so we can function better as a commission.

MR. ALLEN: You know just to alleviate some of the concerns that are around this table. Just know that in the past few years Brandon Muffley filled out that survey, and you know he's a nice guy; and I got to do it this year after taking over his job. It might have had a little bit to do with some of those numbers, so thank you.

CHAIRMAN GROUT: Okay Bob.

EXECUTIVE DIRECTOR BEAL: I'll be quick. You know one of the things that popped up there that hasn't been talked about is agendas during meeting weeks and workload; and a number of things that are trying to be accomplished during individual meeting week. I think that feeds off of this annual cycle and the needed, quick reactions to recreational data, frankly in our joint management plans. Those are the ones that are the trickiest. That workload during meeting week translates into staff burden, burden on the technical committees, and burden across the whole range of folks that are involved in the commission process.

As we move forward I think, sort of reviewing that pace and the number of assessments and the frequency of reaction to new information is probably one of the foundations that we need to have. I think moving up and down, whipsawing regulations is probably the worst thing we can do. But some of the federal cycles right now require us to do that. Any way we

can get out of that frequent cycle, I think alleviates pressure across all of our commission system, as well as generates a lot of predictability for the industries that we manage.

CHAIRMAN GROUT: I think this survey has done exactly what it's intended to be, by the discussion we've had here. It's given us a chance to have some self-reflection. I think that points out the importance of trying to take the time to fill out this survey. I appreciate the people that do take the time.

I appreciate all the comments that we've had here during this discussion about this. It just shows you the importance of this, and we will continue to do this; so thank you again. We've got a couple of ideas and thoughts that maybe we can move forward with in the future, to try and address some of these issues.

COMMITTEE REPORT ON SAFE HARBOR LANDINGS

CHAIRMAN GROUT: The next agenda item is something that was brought up by the Vice-Chairman here, Mr. Gilmore, concerning safe harbor landings; and Toni is going to start out with a little overview about this. Then I'll turn it over to Jim to move forward with some possible action.

MS. KERNS: Earlier this week I also e-mailed the Draft Guiding Principles for Quota Transfers Related to Safe Harbor document out to the Policy Board, as well as the couple I think were passed around for folks to either share or have of their own. A group of commissioners and two Law Enforcement Committee members had a conference call to talk about what the states are doing, in terms of what they call safe harbor and then as well as how they deal with quota transfers that are associated with safe harbor.

We put together this informational document. This is a draft, it is just that an informational document for states that may be considering a

policy regarding safe harbor landings; due to safe harbor circumstances. This is not a policy or requirement to states to implement in any way. Safe harbor, so there were three states that actually have policies in place right now regarding safe harbor.

When I pulled together this document, I utilized those three states documents; and tried to combine them together to give some general information. Safe harbor provisions are that a port will not reject any deserving, damaged or needful vessel. The guidance that those states had put together, as well as for this, is not intended to disregard other circumstances that may prevent a vessel from entering into a state port.

Vessels seek refuge may be subject to inspection by the host environmental police, to make sure there is compliance with all the laws and regulations for that state. Vessels seek safe harbor under the following declared circumstances, in many cases mechanical breakdown, unsafe weather conditions, loss of essential equipment, as well as medical emergencies. In several cases the states will define what unsafe weather conditions may be; in terms of the wind speed and wave height. I tried to determine what the actual specific heights are associated with. It sort of aligns with gale force, but not 100 percent and we can't find any other reason why it's there.

When vessels come into port they are asked to identify a series of criteria that are listed in the document, including like the vessels name, permit numbers, the description of the problem, time of arrival, the amount and type of fish that are onboard, and a callback number of some sort of method of contact.

Vessels without a license to land in a state after it has sought safe harbor, should not be allowed to offload fish; unless it is determined necessary to stay in port for a period which would result in the fish becoming unmarketable. I think this is the key, very important fact here that states

think about when they are creating these policies.

In many cases it seems like in discussions with law enforcement committee that sometimes a vessel will come in to claim safe harbor; which may or may not actually be safe harbor reasons, it's really that they are just trying to offload some fish so they don't have to go home to their home state.

In thinking about new rules, you really want to think about making sure you're describing when a vessel would be allowed to offload, and when they wouldn't be allowed to offload. Vessels should not be allowed to offload fish, unless they have been authorized to do so from the host state.

The host state should communicate with the vessel's home state to discuss quota transfers prior to allowing offloading; to make sure that it is going to be approved by the home state. Things that you are going to want to talk about is determining what that home state's trip limit is for that vessel, who would cover any overages if the vessels actually contains more than the trip limit that you're going to allow for the offloading.

What type of necessary documentation you're going to need to complete the transfer between the two states; as well as a pack-out slip to confirm the landings of the vessel for the home state that is going to be transferring quota back to your state. There are a variety of regulations that the different states are doing; in terms of the actual offloading and landing.

Some states will only allow vessels that have sought safe harbor to land their states trip limit; while other states will allow them to land the home states trip limit, as long as that home state will then transfer the quota to their state. Some states will give away to charity any fish that are beyond the host state's trip limit; so the fish are forfeited.

Authorization to offloading is limited according to a willingness of the vessel's home state to accept the fish under that state's fish allocation. Then some states actually do not grant permission for vessels to land quota in another state due to weather conditions. But they do allow for other safe harbor provisions.

There are a series of regulations that are out there that you should consider. Again, this document is for recommendations. When I did discuss this with the Law Enforcement Committee, who met earlier this week, there was mixed reviews about whether or not the commission should even have an informational document from them. There were a couple of members that just felt as though enforcement was communicating with their home states, and said this isn't necessary; but that was about it.

MR. GILMORE: Thanks for the Workgroup, and Toni in particular for all the work she did on this. Just on that last note. I think just Toni covered most of everything I was going to say. But just let me put a couple extra points on it. That issue, and if you weren't at the annual meeting when we raised this, was because we've lost court actions because we went in without any kind of a written document, the guidance policy or whatever you want to call it.

Essentially that commonsense or reasonable accommodation by law enforcement, and even our staff, didn't work; you know judges just dismissed it. From that we essentially came up with something for New York, and then we figured it would be a similar situation in a lot of the states. You do not want to walk into court, particularly if you've got a bad situation like this with, we're good guys and we're trying to manage our resources.

This again is I can't emphasize it enough; this isn't a policy. This is simply a guidance we came up with. There are a lot of commonalities among the states in terms of these issues. If it's a weather condition or whatever we probably just wanted to offer this up, so that if an

individual state wants to develop something more formally, this is more of a template or a base document that you can use.

If you want to be consistent with the rest of the state, which I think would make a lot of sense with a lot of the other states. I think it gives it more strength. In particular, even if you don't want to have something, we have a document that you can refer to that if you do go into some formal court thing or whatever; you can say well the commission at least has guides that we would follow. That is a document you can refer to.

This does not say that this cannot be modified. Every state is going to have unique circumstances, so this base document can be taken and things can be added to it or taken away from it; depending upon that circumstance. But at least having that template, that base document, seemed to be a good idea. With that I think we'll take questions.

CHAIRMAN GROUT: Dave Pierce, do you have questions or comments on this and then Jason?

DR. PIERCE: Yes, just a comment. I appreciate New York's initiative on this. The Subcommittee's work is much appreciated, as well. Dan and I are in the midst of working with our law enforcement agency to come up with a safe harbor policy; something that can be used to assist law enforcement that all of us deal with.

The request that we frequently get during the winter time especially, when bad weather arises and fishermen fishing on Georges Bank, for example, and the northern edge of Georges Bank catching summer flounder, have to steam all the way to North Carolina to offload their fish; which is a bit foolish, but nevertheless that's the way the rules are. Weather gets bad, the engine breaks down, and they need safe harbor. This is good guidance, and we'll use it as we move forward with our law enforcement

agents to come up with a way in which we can effectively deal with all of these requests for safe harbor.

MR. McNAMEE: I totally agree with everything that Jim said. I think this is a really good idea. I thought I would offer one nuanced point. What we have found is that first communication about transferring quota, things of that nature. We found it to be more effective if it is actually the vessel captain or owner that makes that communication.

While I agree that in the end it has to be the state agency to state agency that does all the formal logistics; that initial contact I think is more effective coming from the vessel captain or owner that came into port. I just want to make sure that the guidance document, if folks were to agree with that is flexible enough to accommodate all of the communications; and have to be just between the state agency to state agency.

MS. KERNS: Jason, is that the vessel captain contacts the home state to see if they will be willing to transfer quota to another state?

MR. McNAMEE: That's correct.

MR. BATSAVAGE: I think having these guidance principals is helpful for all the states to kind of craft their policies that work best for them. We're the one state that doesn't allow vessels to land our quota in another state due to weather, for a couple reasons; the main one is industries desire to have those boats return to North Carolina if at all possible, but also in the past, vessels taking advantage of the weather situation.

That's probably the most challenging thing, as far as the guiding principles are the criteria. I think what is given here is a good example of what can be used. It is just kind of really hard to pinpoint all the reasons why weather could play a role or not; as far as returning to the home state. The thing that is still kind of tough

to separate out is vessels seeking safe harbor for safety purposes versus the second step; which is coming in and hoping to land fish in another state, due to the circumstances listed.

I'm still kind of struggling to try to figure out how to kind of separate. You know the first part where it's like; port will not reject any deserving, damaged or needful vessel from the circumstances, which are kind of more of circumstances for requesting permission for landing quota in another state, or something like that.

But anyways, I think this is good. I think the more we do this the more we learn; and North Carolina and Virginia have been doing this for a long time. Just when you think you've kind of seen every situation that can occur, something new pops up. Treating these guiding principles sort of as a living document, if we see things collectively the states that aren't quite working out the way we thought; I guess we can always have the opportunity to revisit this.

CHAIRMAN GROUT: Ritchie White and then David Blazer.

MR. WHITE: Not having followed this, I don't believe it is an issue in New Hampshire; at least I'm not aware of it. I guess I'm kind of surprised that it's not automatically doesn't go to the home port state. I mean here you have a vessel that is regulated and is operating under the regulations of a state that is unloading in another state; obviously due in most part to circumstance out of their control. But I think it is creating a problem for the host state that really should be taken care of by the home port state. I think it ought to be an automatic transfer. You shouldn't have to ask, it ought to be automatic.

If problems arise in the regard that they're taking advantage of this, then the home port state needs to figure that out not the host state. I guess I'm just kind of surprised that it is unfolding this way. As I said, new to it and just

getting educated on it, but it just seems backwards to me.

MR. DAVID BLAZER: Jim, thank you and Toni and the Workgroup. It is good to see something in writing that gives us a little bit of guidance; because we've had this issue come up a couple times in our state. We have one small port on the coast in Ocean City. We could get significant storms that will shoal up and cause our inlet to close down for a little while.

We have used this after a significant nor'easter where we've got shoaling in our inlet; but we've got boats that are out there. That's been the one case where we've used that. We look forward to having these guidelines in, but we'll make it kind of state specific and work through that. It is good to have something; I appreciate all your work. Thank you, Jim.

CHAIRMAN GROUT: David Bush.

MR. DAVID E. BUSH, JR.: I think that knowledge sharing and sort of cross-loading this information to each of the states is great. The bottom bullet down there is one thing that I think is pretty valid. I understand that this puts vessels in certain situations, and part of that is on the vessel captain as well; but the states should have a right to say no, when they feel that they need to be able to say no.

If you make this an across-the-board thing, or it's automatic. Any of you all that have ever been out on a boat knows how easy it is to have a situation, and it looks legitimate. It doesn't take a rocket scientist to create a situation and save you days of steaming and thousands of gallons of fuel. I'm not saying that everyone is like that. I work for those guys. But at the same time, the landings flexibility that we discussed yesterday is most flexible under its current situation. That flexibility has to be able to go from 100 to 0 at the will of the home state.

CHAIRMAN GROUT: Okay, thank you that was a good discussion; the only thing that I heard was a potential recommendation to make the first contact on the onus of the boat captain that would differ with that. Are there any objections to making that change to this nonbinding policy guidance? Okay, we'll see that change and then I would like to ask Toni how we would propose to just make our commissioners consistently aware of this guidance document; should they wish to use it in developing their own states guidance document.

MS. KERNS: I think there are two, well there are many options I guess we could do, but two that really come to mind. One, I can e-mail it to the Policy Board and then you guys have it. Obviously that means that you have to remember that you have it as you go forward to creating these documents.

We could also put it on the web page, under the ISFMP Policy Board, and just make sure that it is very, very clear that it is an informational document; but on the header that it is not policy or a requirement in any shape or way. I would probably put on there, also include that individual states create their own safe harbor, transfer, landings policies themselves; and the commission does not do that.

MR. GILMORE: I would prefer Option B. I think that is probably the best way to go about doing it, because that way it is available and it is on those front pages with all the other, sort of guidance documents. Just a quick comment on the underlying theme to both Chris and David's comments was that there was going to be two bars.

The safe harbor is kind of a low bar, the transfer and everything that is a much higher bar. The theme is that you're going back to your home state; we're just trying to keep you from having a real safe issue with your crew. Then again that would be my suggestion was the website.

CHAIRMAN GROUT: Okay any further discussion on this? Okay thank you very much, good discussion on this and thank you for developing the working group that did that. That is excellent.

UPDATE ON MRIP TRANSITION OF THE FISHING EFFORT SURVEY AND APAIS

CHAIRMAN GROUT: The next item agenda is MRIP and the transition of the Fishing Effort Survey to, and APAIS, excuse me. We have Dave Van Voorhees here from NOAA Fisheries; he's got a little presentation. Welcome, Dave!

MR. DAVE VAN VOORHEES: I just want to say I appreciate having the opportunity to address the Policy Board today; and answer your questions that you may have after the presentation. I'm the Chief of the Fisheries Statistics Division in the Office of Science and Technology in NOAA Fisheries Headquarters.

We do have responsibility for administering the Marine Recreational Information Program for our Office Director, Ned Sear. I'll be giving you an update today; largely focusing on the transition that we're making from Legacy Survey Designs to very improved survey designs for recreational fisherman.

Most of you know that we do two surveys to estimate catch, typically for recreational fishing. We'll do one survey that is focused on estimating the number of fishing trips that anglers are taking; we call that our effort survey. It is usually done off sight, either through telephone survey methods or mail survey methods.

We also do another survey that is an on-sight survey called our Access Point Angler Intercept Survey; to get information on what people are catching through direct observations of what they've actually brought back to the dock, and asking them also to report what they caught and released at sea.

That information is used to estimate the average number of fish caught per angler fishing trip for all species that anglers are catching. We then have two estimates, basically, an estimate of total number of trips and an estimate of the average catch per trip; and by multiplying the two together, and we can estimate the total catch for any given species in the recreational fishery.

In the Marine Recreational Information Program we've accomplished a lot over the years since 2008. As you know, we established the program after having initial review by the National Academies of our recreational fishery surveys across the nation; everything that we were operating and funding, including some surveys run by state agencies. We've worked together with all of our state agency partners, interstate commission partners, council partners to move the program forward to address the recommendations that came out of that review. We established a National Saltwater Angler Registry that is continuing to be improved. But I must say the success of that effort has been largely dependent on the states really stepping up, and providing registration and licensing programs that met our requirements for the Federal Registry.

We've also developed improved estimation methods for our on-sight survey that properly took into account the complex sampling design of that survey; and we used that to re-estimate catches back through 2004, and developed a calibration for earlier years. Later we developed an improved sampling design for that on sight survey; which I'll say a little bit more about today.

Then we also developed a new mail survey design; as an improvement over the Legacy Telephone Survey, based on the digit dialing that we've done for many years. We have that ready to implement, but I'll be telling you more about the plan for how we're going forward to implement that mail survey.

More recently, we've been working with our partners to develop regional implementation plans that identify what needs to be done moving forward within each region, what all the partners want to accomplish in terms of improved survey designs, and what we want to implement moving forward.

Those are in progress at the moment. We've also been working on developing a new strategic plan for the program; which is now posted on our website for feedback and input from everybody. Please go and review that and let us know if you see any reasons for changes. We had a second review done by the National Academies that you heard about; Dr. Cynthia Jones came here. She is the Co-Chair of the committee that reviewed the program; and addressed you at your last meeting.

That review I'll say a little bit about; in particular for the later part of the presentation. The National Academies Review basically pointed out that the collection of recreational fishery data is extremely difficult. It is not easy; so advanced survey methods and complex statistical analyses are needed.

I think one comment that Dr. Jones made was that it is actually more complicated than rocket science. I think that's just a humorous way of pointing out that it isn't easy to design and conduct these surveys; to get what we're trying to accomplish. We did get positive feedback from a National Academies review.

I'm not going to dwell on that. I will focus more specifically on the two major surveys that we're transitioning to. But additional challenges do remain for us; and there are a number of recommendations in the report from the National Academies, of things we can do to further improve on the very improved designs we've already developed.

I'm going to talk about first of all the Access Point Angler Intercept Survey. National Academies said that the new design we've

developed, the new estimation and sampling designs for that survey, are substantial improvement over what we used for MRFSS in earlier years. We've greatly reduced the potential for bias in that survey; by having strict adherence to formal probability sampling protocols, limiting decision making by samplers that can no longer decide when to go to a site or when to leave a site to go to another site. There are more strict protocols in place. We've also expanded temporal coverage; so we're getting intercepts of trips returning throughout the day, not just during the peak activity period of the day, but trips returning at night time as well as off-peak-daytime hours.

The site time assignments are actually completed without rescheduling, because we have a sampling approach that's making sure we're taking into account the constraints of the folks that are actually doing the survey. Very importantly, now on the Atlantic coast we have all the data collection for the survey being conducted by state agency personnel and ACCSP. We're very happy with the way that is going.

The new fishing effort survey that we've developed is actually a mail survey design; to replace the Legacy Survey of the random digit dialing telephone survey that we did for many years since 1981, the beginning of MRFSS. The National Academies pointed out that the methodologies that we're using for that approach are major improvements over the legacy approach.

I just want to point out the major reasons why we see it as a better way to go is that we get much better coverage. Through our mail survey approach we can reach households that still have landline phones and answer that phone. But we could also reach households that only have cell phones and only answer cell phones; even though they might have a landline phone.

We get higher response rates from mail surveys now. The response rates we're getting are in

the order of 40 percent. The random digit dialing telephone surveys now get response rates below 10 percent. We have a much better chance of reaching people who fish, because we're taking advantage of the National Salt Water Angler Registry that has been developed.

We're using that so that we can actually sample households that have addresses that are in the registry; at a higher level than households that don't have, license holders basically. In the pilot studies we conducted, leading up to the development of this design, we also found that we got very different estimates of the number of trips that anglers were taking.

They are considerably higher than what we got from the coastal household telephone survey. As we transition to new surveys, improved surveys, it is very important that we take into account that we could be causing a major disruption to stock assessments and the management process. As you know, stock assessments and fisheries management rely heavily on having comparable time series of recreational catch statistics.

If you changed your new methodology and proven methodology, it is likely that you will get consistently different estimates from the new method than what you got from the old method. It is important to develop a calibration; a way to be able to convert from the old currency to the new currency, so we can actually revise historical estimates to match what we're going to get with the new survey designs moving forward.

That gives you a comparable time series of information for assessments and management. We need to do this not only to account for the new mail survey that we're going to implement, the fishing effort survey, but also to take into account the changes we made in the Access Point Angler Intercept Survey to improve that. To do it we thought we needed to work together with all of our partners; to plan a transition for how we're going to actually

implement and account for the changes that come from the new surveys. In order to do that we reached out to all our partners, we got representatives from regional offices and science centers, from the councils, from the interstate commissions, and from a number of state agencies to form a transition team. That team has developed a plan for how we're actually going forward to implement the new surveys; and it will ensure that the new numbers are incorporated into stock assessments and management in a timely fashion, accounting for the important changes.

This gives you an idea what the schedule looks like that the team developed. We set up a three-year benchmarking period for doing the Legacy Telephone Survey, continuing that of course, alongside of the new mail survey that we developed. That is from 2015 through 2017. In 2017 we're actually moving forward to evaluate a calibration model that's been developed for the transition from the phone survey to the mail survey.

That is going to be peer reviewed in a workshop that we scheduled for the last week of June; and the model is actually going to be shared with the transition team within the next few weeks. We're hoping if the model is approved by the peer review that we will be able to go forward and use the model to actually produce revised effort statistics; based on the first two years of the side-by-side data.

That will give everybody a chance to look at what the changes will look like; as we move forward into 2018. Later in 2017, we're also going to complete evaluation of a calibration model to account for the changes in the intercept survey. That model will then be peer reviewed early in 2018; so that when we have final numbers for 2017, we will be able to use both calibration models to re-estimate historical catch and effort, and have those revised numbers available for folks doing assessments by the middle of 2018.

I just wanted to make a quick mention of other work that we're doing; because everything I've talked about up to this point is focused largely on how we estimate effort and catch for private boat fishing, and shore fishing. The new mail survey is not going to be used to estimate for-hire trips, charterboat headboat trips.

We have other surveys that focus on the for-hire sector. We are doing work in MRIP to look for improved ways to do data collection for the for-hire fishery. The ultimate goal is to develop and certify designs for electronic trip reporting programs; because we know that in three of the regions at least, Gulf, South Atlantic, Mid-Atlantic there is a lot of interest in moving in that direction.

We've been funding studies that are using a number of very important components; electronic reporting, but also methods for very good compliance monitoring, to make sure everybody is actually participating. Finally, a very important component is dockside sampling that can be used for validation of the self-reported data.

That is going to be a move away from what we're currently doing; which is just the for-hire telephone survey that we're using to estimate number of trips for charterboat anglers and the Northeast Vessel Trip Reports are also used in our effort estimates. Finally, the Access Point Angler Intercept Survey is used to estimate the average catch. This last slide is just to give you an idea of other things we're working on.

I think in the interest of moving things along, because you're already kind of late on your schedule; I'm not going to go through this slide in detail. But I'll just leave it up there, and I'll be glad to take any questions people may have.

CHAIRMAN GROUT: Any questions for Dave? Oh boy, well I'll start in this side of the room and we'll go around. John.

MR. CLARK: Thank you for the update, Dave. We heard at the last meeting the National Academies review of the MRIP. The survey is obviously a great design, and yet if you had been here yesterday you would have heard just heaped on criticism of the results that are actually coming out of it. Do you have any way of plans to some way maybe groundtruth some of the numbers you get out of this; because a lot of the numbers do seem to defy belief?

MR. VAN VOORHEES: Well the surveys we're doing do have limitations. One of the important recommendations that came out of the National Academies review was they really thought we should take a close look with all of our partners at whether or not the MRIP design is sufficient to manage recreational fisheries the way people want to manage the recreational fishery.

Now that can vary. Different people have different ideas about how best to manage it. But what they focused on in particular was if people are trying to manage the recreational fishery in season, similar to what's done for the commercial fishery; then the survey designs we're working with may not be adequate to support that. That is what they're recommending us to take a close look at. If people actually want to manage fisheries in that way, I'm not saying that is the way that everybody really wants to do it.

Then we need to take a closer look at some alternative methodologies for managing the fisheries. It is extremely, as I think most of you understand, it's extremely complex to be able to produce recreational catch statistics similar to what we do for commercial fishing; because we can't census everybody. We don't have a way if we tried to require them to report everything. We don't have a way of checking up on everybody that is adequate to make sure that we're actually getting complete reporting.

CHAIRMAN GROUT: Roy Miller.

MR. ROY MILLER: Nice to see you again, Dave. Refusal rates have been historically a problem in our state; particularly with the for-hire sector. I'm curious if there has been any moves to attempt to overcome that particular obstacle among some of the for-hire captains; that refuse either to allow surveyors on their vessel or refuse to cooperate with the surveys altogether.

MR. VAN VOORHEES: Certainly I'm aware, Roy, of that issue; and have personally dealt with it in the past, in Lewes, actually. I made a visit down there years ago. It is difficult sometimes to be able to seek the cooperation that we need to get really good data from the surveys. But we do continue to look at that and try to improve our communications; to get out and talk to the folks, you know go out of the box and actually pay visits.

I think that is something that is duly noted. I think we should follow up on the issues in Delaware. I would like to talk some more with you about that.

CHAIRMAN GROUT: David Bush.

MR. BUSH: Thank you for the presentation. A quick question for you, up and down the coast there are mixed reviews as to obviously not just MRIP, but recreational reporting and some way to gather that data. You know you have recreational fishermen that are, sure I'll put an application on my cell phone, report every time I go out; and some guys, they don't need to know what I'm doing. You do get a mixed review. But given the possibility of whether it is voluntary or state-led programs to provide recreational data in some form or another.

I understand that there would be a calibration issue; trying to convert it into something useful to MRIP. But I wonder if you could maybe just briefly tell us where that sort of stands. Then the second question I think was kind of already asked, and that's when you get these two intercepts that equate to catching more than

the biomass on the planet has, what are we going to do with that?

MR. VAN VOORHEES: There are two questions there. I'm going to try the first one and then come to the second one. I think Dr. Jones actually addressed that first question somewhat when she was here at the last meeting. It certainly is possible to design a data collection program that has folks reporting through cell phone applications on the trips.

The key is to make sure that everybody that is participating in the program is actually reporting everything they do. You don't want to just get the positive trips and not the negative trips; because then you'll estimate average catches way too high. It is also difficult, because of the sheer number of people participating in the private boat fishery.

For example, if you try the census type of approach that would be extremely difficult to manage to make sure everybody is actually in compliance. You can however develop a sampling approach, where if you recruit a panel through a probability sampling approach and you have that panel reporting everything that they're doing.

That certainly has potential. Now the key there is you need to know how to weight the data that you're getting from a representative sample of the population; in order to estimate what's going on in the total population. If you don't have a probability sampling approach, you can't be sure you have a good cross section in your panel.

If it's just a volunteer panel, you might get volunteers that are better at fishing than the non-volunteers; and you might end up overestimating your catches as a result of that. It is certainly possible. But it's going to be extremely difficult to develop a system for private boat fishing for shore fishing that actually meets the standards for statistical

surveys, and so you can be sure you're producing unbiased estimates.

We are supporting projects; MRIP is supporting some pilot studies that have been testing out a use of cell phone applications for reporting. There was actually one study done in Florida that compared data being captured through cell phone applications with data collected in the MRIP Intercept Survey in Florida; for some regions of the state.

Your second question was getting at how to deal with these numbers for; I think what you're looking at is low activity time periods, for example, November/December period. We had a number that most of you know about for black sea bass in Wave 6 of 2016 that was much higher than what we saw in the earlier years for that same time period. We looked very closely into the data; to see if anything was done incorrectly, in terms of sampling procedures, also to look at the data itself to see if any of the values were out of range of what would be believable for an angler fishing trip.

We weren't really able to find anything that is incorrect that would have necessarily caused an error in estimation. But I want to point out, it is very important to recognize that in low activity periods that is very difficult for a survey designed to produce a really precise estimate. On the intercept survey, we have a lot of intercept assignments that are occurring; but many of them are not succeeding in intercepting any trips, because nobody was coming back on that day at that site.

The sample we do get of angler trips is smaller for those low activities time periods than it is for more active time periods. The effective sample size being small causes us to have an estimate that can be quite variable from year to year. Some years its' high, some years it's low. The real value is probably somewhere in between; or maybe we occasionally hit it right on the mark.

But that's a problem; in terms of a sampling survey is the effective sample size. On the effort side is the same problem, because we're contacting a lot of households to find out how many trips people took in the household; but there are a lot of households during those low activity periods that don't have anybody reporting trips.

The hits we do have are the ones we have to rely on to provide data to produce our estimates; so the effort estimates can also fluctuate from year to year in this low activity time periods. But as you look towards the middle of the year, the much more active time period there is a lot less room for variability in the estimates; because we have much larger effective sample sizes.

CHAIRMAN GROUT: Andrew Shiels.

MR. ANDREW L. SHIELS: Yes, thank you for the presentation. Just a quick question, do you have an estimate of the participation rate in the National Angler Registry; especially on the east coast?

MR. VAN VOORHEES: I think what you're getting at is do we actually have everybody registered, right? I think the answer to that question is it varies a lot from state to state; based on what we've seen so far from the mail survey that we're conducting alongside of the current phone survey. I don't really have numbers I can share with your right now; but I can just tell you it does vary quite a bit.

In some states it looks like the suggestion that we may be missing as much as 40 percent of the participants, just based on the registry alone. Other states it is less than that. I think there is still work to be done to improve our registry; working together with our partners to find ways to get folks registered, who may not be required to pay for a license. But we want to at least get them in the registry; so we can have the ability to survey them at a higher level than folks that aren't participating in the fishery.

CHAIRMAN GROUT: Jim Gilmore.

MR. GILMORE: Dave, I would like to thank you. I think you have the hardest job in NOAA Fisheries, quite frankly; because I know this is probably one of the most difficult things. That rocket science analogy I think is correct. You get beat up a lot, but just I know you guys are trying your hardest to do this; and MRIP isn't a four letter word in the bad sense. Hopefully we'll get to it.

Just an issue and it is more of a comment is that in the ideal world if we had done this thing, we would have developed it, tested it, modified it and then rolled it out. But of course because of the circumstance it was rolled out; and we're testing it, modifying it, live. The problem comes down to be the anomalies.

Right now, thanks for getting on the phone with us a couple weeks ago on black sea bass; because that pretty much explained it. Again, I applaud you guys; you're doing a great job. But we're in that mode where the operation was a success; but the patient died is the bigger problem. Those anomalies come out, and what happens is you know what happened yesterday.

We've got this number that is suspect, but because of the fear that well that is a number NOAA Fisheries is coming down with the hammer with draconian measures; we did what yesterday was, I think an extreme over reaction on black sea bass of what we're doing. We're reacting to that and that is causing a problem.

As we move forward, we really need some judgment or whatever; some kind of way to deal with that; because again, we just I think impacted a fishery dramatically that did not have to happen, simply because it is a work in progress, and those anomalies are really killing us. Whatever you and John and everybody else can do to try to get us to deal with that as we move forward to smooth that out, I think would be a big help.

MR. VAN VOORHEES: Well Jim, thanks for the kinds words; but I certainly understand how difficult it is to manage recreational fisheries, and especially to try to do it with estimates in some cases aren't very precise for some stocks. It is a multipurpose survey that we're doing. We're trying to cover everything.

We're trying to get the best estimates we can for all different species that are being caught. We're also in this situation where the managers have to manage fisheries with annual catch limits; and you have to use whatever number is available. We're trying to do the best we can to provide good numbers; but in some cases the estimates we provide for some stocks are not very precise.

They are going to be subject to questions; you know because we don't have enough data on that particular stock to actually produce a really strong, highly defensible, precise estimate. The other problem we have as I alluded to earlier is that at an annual level we can do a good job of getting precise estimates for different stocks that are being managed; many stocks.

But when you get down to the two-month wave level and you're tracking wave by wave as you go through the year. That becomes much more difficult. You know where high activity waves, those wave level estimates are generally pretty precise; but the low activity waves early in the year, late in the season, if you're just looking at that one two-month period. That estimate is not going to be as precise as what we get at the annual level, or what we get for the high activity waves. That I think we need to be taking into consideration; in terms of how we use the numbers. I think we're looking to put together a workshop; probably this fall, working with several of the councils and ASMFC, to start taking a closer look at how we deal with imprecise estimates for the recreational fishery and how that matches up with a management strategy. Looking for other ways to improve the precision of estimates by using data maybe for more than one year for some stocks, instead of

relying just on the current year data. A number of other alternatives are going to be explored.

CHAIRMAN GROUT: Mark Alexander.

MR. ALEXANDER: David, I'm glad you're here. It is always nice to hear what you have to say, and I always enjoy your explanations for things. I have two questions. The first is, a moment ago you answered a question regarding a mobile application and the importance of differentiating or accounting for positive and negative trips. In the fishing effort survey, the mail survey, how do you account for or confirm that people that have had a trip in the previous wave were more or less apt to report or respond to the survey than people that did not have a positive trip?

MR. VAN VOORHEES: Yes that is very important, I'm glad you brought that up; because one of the major things we were focused on in developing the new mail survey was this potential for what we call a non-response bias. The people who respond to the survey could be different than the people who don't respond to the survey.

If you have that situation that can create a bias in your estimates; because we're surveying basically through a mail approach, we're surveying households. We're trying to find out for all the households that receive the mail survey, get trip data for all the residence of that household for the last two months.

It is very important that the people who didn't take any fishing trips also fill out and return the questionnaire; otherwise we're going to overestimate the number of trips being taken by all households. The way the questionnaire is actually designed, we include questions that are not about fishing; they are about weather, other aspects of NOAA, you know unrelated to fishing.

The whole idea was to try to make the questionnaire more salient to people who don't

fish, so that they would actually respond to questions and send the questionnaire back. We also have on there a place for people to record salt water fishing trips if they took any. But that is just a portion of the total questionnaire.

That was done to try to improve the response rates for people that didn't fish, as well as people that did fish. We also did follow up studies, which we call follow up non-response surveys; where you basically take the addresses that didn't respond and send them another questionnaire, with a larger incentive.

We normally include a two-dollar incentive with the mail survey, a larger incentive and easier ways to respond through phone or mail. Those follow up studies did not show a non-response bias. We were able to compare those who did not respond initially with those who did respond; and did not see a statistically significant difference. But we have had a strong recommendation from the National Academies Review to continue to do those non-response follow ups as a standard part of the survey. We are going to be doing that when we rely on the mail survey starting in 2018.

MR. ALEXANDER: My other question was, in our discussion yesterday with Fluke, Scup and Sea Bass; there was a statement that the VTR data is folded into the estimates at the end of the year. That was a little vague to me. I wasn't sure what end of the year meant. Is that data accounted for or used prior to the release of the preliminary data or between the release of the preliminary and the final data?

MR. VAN VOORHEES: This is an area we're looking to improve; working together with our partners in GARFO or the Regional Office to conduct the VTR program. What we currently do is we use the VTR effort data to improve our effort estimates for the charterboats and the headboats. We haven't traditionally been able to get that data complete until the end of the year.

What we've done is in the preliminary estimates we're just relying on the for-hire telephone survey data to estimate effort for all boats; federally permitted as well as state registered boats. Then at the end of the year when the VTR data was available and considered to be pretty complete.

We then incorporated that integrated it with our for-hire survey data, so that we could get a separate estimate for the federally permitted boats that came from the VTRs for their trips. Then the non-federally permitted boats we relied on the for-hire telephone survey data to estimate those trips. That is why the estimates change a bit between preliminary and final for the charterboats and the headboats. We haven't used the catch data from the VTRs.

The decision we made years ago was to continue to rely on the actual intercepts where there is direct observations by a sampler of the catch that is being brought back to the dock. But what we're moving towards doing is getting the VTR data on a bimonthly basis, so we can incorporate the VTR data into the preliminary estimates; so there won't be as much of a change between preliminary and final estimates at the end of the year.

CHAIRMAN GROUT: Adam Nowalsky.

MR. NOWALSKY: Thanks for being here today, the presentation, as a member of the recreational community who has made a number of inquiries to the SNT Office, never found your staff to be anything other than completely professional and helpful in all inquiries; and appreciate that.

When management saw the transition from MRFSS to MRIP a number of years ago, I'm not sure if promises are the right term, but I'll certainly say expectations or hopes with regards to timeliness of when the data might be presented; with regards to possibly getting information on a monthly basis as opposed to every two month wave basis.

Certainly the expectation was reduce confidence intervals. We certainly haven't been able to get any of that on paper, in practice; that's not to say the numbers aren't actually more accurate. But a lot of those management expectations and hopes to improve how we use the data haven't been met. As a result of that earlier this morning we had discussion about our commissioner survey in recent years, some declines in expectations, largely driven by recreational problems; which are in large part how we use the data. You touched on some of that in your presentation. I think that slowed down management's willingness to revise the management process; and how we react to the recreational data. I think we gave it a chance; and realized we still have a way to go. My concern now is four or five years after the fact of bringing MRIP online, we're bringing all these re-estimations to the table.

My concern is management is going to latch onto it for another four or five years and say, let's give it a chance now; as opposed to really looking at our practices and how we deal with it. Could you maybe compare what expectations management have relative to these re-estimations, compared to what the expectations were from the MRFSS/MRIP transition; and what your thoughts are about how management should really be changing how we use the data versus just expecting data is going to fix all our problems.

MR. VAN VOORHEES: There are a few questions there I'm going to take a shot at and then if I miss something, please let me know and I'll try to respond if I missed any of the questions there. One thing I want to point out. The National Academies Review actually made a recommendation that we strongly reconsider the recall period that we're using for our effort surveys; which has been a two-month interval ever since 1981.

We're certainly aware that there is interest in getting more timely numbers. We actually have MRIP funded a timeliness workshop a few years

ago that looked at this at the ways we can actually move things up; to have updates during the season more frequently than every two months, and to shorten the time interval between when the data is actually collected and when we produce the estimates.

We are trying to improve in that direction; and we actually have a pilot study we've conducted with the new mail survey that uses a one-month recall rather than two months. We're still in the process of evaluating the results of that. National Academies wasn't aware of that pilot study, but we think it is a pretty strong indication that we can go to monthly estimates; it's going to be somewhat of a resource issue, in terms of funding available.

But it is certainly doable. We think we're getting results that are very consistent with what we're getting currently with the two-month interval. That will be a concern, because if you've got different estimates from monthly than what you get from bimonthly, it might be a need for another calibration.

We think it looks pretty positive that we could actually go to monthly with the mail survey; and get results that are consistent with what we're getting bimonthly. As far as settling for what we have now. You know I think I certainly hear that. We always need to be looking to advance forward; that was strongly endorsed by the National Academies. We want to continue to do research for ways to improve our surveys moving forward.

One good example is, it was actually recommended in the National Academies review, is looking at going from a mail response approach to allowing people to respond to something they receive in the mail by reporting it through a website; where we could actually ask more questions. It would be cheaper. You could get a faster response than waiting for something to come back in the snail mail. We think that is going to be highly likely that we'll be able to go in that direction in the near

future; but the expert consultants we're working with are saying we're not quite ready for that yet, because there are still a lot of people that would not respond if they had to do it through a website. I think that's probably people in my generation and older; to a large extent. But I think as we get out of the picture, I think that type of approach may be more feasible. That is just an example, but we always need to be looking for other ways to collect the data to improve.

You know for the for-hire sector going to electronic reporting programs, making sure that we have a good design for how that is actually set up; so that we can be sure we're getting unbiased estimates. It's going to be more expensive. We'll have to find the resources to do it; but if people want to go there, I mean we can look at that. We can do different approaches. I think a lot of it is resource dependent. The precision issues that you brought up, you know how do we get tighter confidence intervals on the estimates? It is largely how much data we collect.

It is how much we can afford to collect. The surveys that we're doing now are actually more expensive than they were ten years ago. There are minimum pay rates for the samplers that entered into the picture several years ago, and have really increased the cost. Yes, we need to work together and continue to look for ways to improve; and get the resources needed to actually support new approaches.

CHAIRMAN GROUT: David Pierce, and then I have one other question after this. Then we'll move on.

DR. PIERCE: Thank you, David, thank you for your insights. I appreciate that. I also appreciate your focusing on the imprecise estimates of the MRIP. Fortunately, this Commission appears to be going in a direction that is very consistent with what you just mentioned; and that is instead of our being wedded to point estimates of harvest, we're

looking at the range around those point estimates; the PSE.

If we're within the range that is good enough; at least we seem to be going in that direction. We've already moved in that direction with one species, and I hope we continue to go in that way. Wave 6, black sea bass, it's been said it's an anomaly. I don't think it is based upon what I've seen.

I would like at some time for an official statement from MRIP regarding that particular wave. Was it anomalous or is it really an estimate that we should be using; because it is ruling the day now, and I think it will rule the day as we move forward into the rest of 2017 going into '18. It has tremendous implications for what happens in 2018.

With that said; the Technical Committee gave a presentation yesterday, and they indicated that they had a problem with the MRIP information; specific to their evaluating black sea bass and the actual numbers for the different waves, New York being obviously in the crosshairs. The reports given to us said, and this is from the Technical Committee.

It should be noted that there are several components to how the Marine Recreational Information Program developed the 2016 harvest estimates that remain unclear to the TC, specifically the weighting of intercepts, harvest by mode, and how the proportional standard error is calculated. Requests have been made to MRIP staff to further explain how the harvest estimates regenerated with many of those questions remaining unanswered. That is a great concern. Now, what can be done for the Technical Committee's concerns to be addressed; so that they actually can get under the hood to help us better understand the MRIP findings, such as the proportional standard error? How was it calculated? All of this really plays into the very difficult management decisions we have to make. I know you're doing the best job you can possibly do. That is

evident from all the responses. What can we do to get this kind of information that the Technical Committee requires for our benefit?

MR. VAN VOORHEES: David, you already have a lot of information on our website about how the surveys are done, how the estimation is done. However, we have been working very hard on upgrading that to make sure that we have good descriptions of the new methods; the improvements we've implemented over the last few years.

John Foster just reported to me this week that we're close to having that completed; and it will be reviewed, obviously, to make sure that everything is clear in there. But we're going to be posting that on our website, I think within the next few months. That new documentation would be available for any of the folks on the technical side to look at; to understand how they could replicate, basically what we're producing, in terms of estimates.

DR. PIERCE: Thank you very much, but beyond going to the website, there are actually, I really don't know I'm asking the question. Who talks? Who are the people who can actually communicate with the Technical Committee and so there can be a good discussion person-to-person as opposed to going to a website, and wandering through the website trying to find the answers to these questions?

MR. VAN VOORHEES: Yes, well I have a Branch Chief for my recreational branch now; as of last June. John Foster is my Branch Chief for the recreational branch, and he's really our expert; in terms of the statistical side of things. We have several other statisticians, on the staff who also are expert in this. I think we can certainly set something up where John could come and meet with whoever is interested in digging into the details; we would be glad to do that.

CHAIRMAN GROUT: Okay thank you, I have one question, and it relates, if you could have the

slide put up on the transition; which is the primary purpose of your discussion here today. I need to have that put up so that I can read it; because I don't have your presentation. The intent is that with the new effort estimate survey that we would be discontinuing the coastal household survey, telephone survey, by 2018 is it?

My question here is that clearly that there is a process that has been developed here for transitioning to it, and incorporating the new estimates from the for-hire, using the for-hire and the new APAIS into our assessments. Because we have clearly as of 2018 we are going to be using those revised estimates, which are going to more than likely increase the recreational catches of some species.

Those are the estimates we're going to use to monitor whether we're in the ACLs. My question is, is the plan here still intended to have these estimates incorporated into the stock assessments; and have significant recreational catches by 2018, and in time for council's to potentially modify their specifications before the 2018 estimates are used to calculate or to determine whether they're within the ACL? Is that clear?

MS. KERNS: I think I'm going to start for Dave. I'm on the Transition Team, and I don't want to force David into like when are we putting information into assessments; because that is not necessarily Dave's role. Dave's role is to provide us with the data that we're going to put into the assessments in a timely fashion.

If we do meet these milestones and these calibration workshops occur in a timely fashion; and we get the data out. Then we can start to incorporate the information into the assessments as they come up. For example, striped bass assessment will be coming up in 2018, and we are going to be right on the line of when that data becomes available and when we need it; like drop dead moment need it for the assessment to be able to incorporate it in.

We're going to do the best that we can, as long as that data become available when they're ready. Dave has said that he's going to try to provide us with some information so that we can start to see how we think the model may need to be tweaked; or how indices might need to be adjusted, so we can do some of that work ahead of time.

In terms of when all the other assessments will be occurring, especially for assessments that are jointly managed like summer flounder, scup and black sea bass. We do those assessments in cooperation with those schedules anyway, incorporated into the NRCC Review; and that assessment schedule is looking at the Mid-Atlantic Council, New England Council, and the Commission's assessment needs.

We have put time on the docket for recreational species in the fall of 2018, because we knew that these data would not be available until summertime. It takes time to make changes to the assessments themselves; in some cases life frequency indices may need to be adjusted, they may need to be adjusted throughout the time series, and that is not a small task to undertake.

Depending on how many changes need to be made into the model depends on how long it takes us to get it out and then given to use for peer review. There are also calibrations, and Dave you can correct me if I'm wrong here. But in order to adjust the data back to the old methods; so that if we haven't made changes to the ACLs and the AMS yet, we can still go back and compare the data so we're comparing apples to apples and not apples to bananas, so that we're able to manage appropriately with the numbers that we have available to us.

MR. VAN VOORHEES: Very good, Toni. That's right. Doug, you had asked. We definitely will not be doing the telephone survey in 2018. We'll just be doing a mail survey at that point. I think it is safe to say we will probably have a difficult time getting O and B to actually

approve continuing to do a random digit dialing household survey.

We had to convince them it was necessary to do it over the last three years for this benchmark that we're doing; to go to the new mail survey. As Toni pointed out, the estimates we're producing from the mail survey will be able to be converted into the same currency as what we would have gotten with the telephone survey; based on the same calibration model that we're using.

CHAIRMAN GROUT: Thank you very much, Dave for your very informative talk. I appreciate this effort. Obviously we've been going through some difficult challenges in managing our species, and the data that comes out of MRIP is very important to our management. I appreciate the efforts to try and improve it, and transition to the new methods here that will hopefully provide us with better information with which to manage. We are going to do a little reorganization because of the lateness of the hour in our agenda items. We are going to skip over at this point Items 10 through 13.

REVIEW OF NON-COMPLIANCE FINDINGS

CHAIRMAN GROUT: We're going to go directly to Non-Compliance Findings. We have a motion that was put together by the Fluke, Black Sea Bass and Scup Board. Since our Chairman is not here and our Vice-Chairman is not here, I'm going to ask Dave Pierce, the original maker of the motion to bring that motion forward from the Board.

DR. PIERCE: This motion is in the form of a template, with standard language for non-compliance rulings; so we can modify it obviously to deal with the specific issue pertaining to non-compliance. I will read it into the record. I would move on behalf of the Sumer Flounder, Scup and Black Sea Bass Board.

Recommend the ISFMP Policy Board find the state of New Jersey be out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan; if the State does not implement the following measures by May 21, 2017.

Shore mode for Island Beach State Park only: 17-inch minimum size limit, 2-fish possession limit and 128-day open season. Delaware Bay only (west of the colregs line): 18-inch minimum size limit, 3-fish possession limit and 128-day open season. All other marine waters (east of the colregs line): 19-inch minimum size limit, 3-fish possession limit and 128-day open season.

The implantation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

CHAIRMAN GROUT: This is a motion by the Board so it does not need a second. Is there any discussion on this motion? I would first like to recognize Robert Boyles, and then I'll go to further discussion.

MR. BOYLES: Give me just a second, I'm sorry. Mr. Chairman, this is the list of items that need to occur; in order for New Jersey to come back to be in compliance, is that correct?

CHAIRMAN GROUT: This was the original motion that was made by the Board prior to New Jersey putting forward their conservation equivalency proposal that the Board is currently in the process of getting technical evaluation on. This is the original motion; based on what came out on the original addendum.

MR. BOYLES: Okay, apologies, Mr. Chairman. Thank you for that. If that's the case, and I understand that New Jersey does have a proposal that will be considered. Does this motion need to be modified slightly?

CHAIRMAN GROUT: I believe it should; to somehow take into consideration the potential for their conservation equivalency proposal being used to bring them back into compliance, depending on the Board evaluation.

MR. BOYLES: Mr. Chairman, then I would offer a motion to slightly modify; with the words, if the state does not implement the following measures or those approved by the Board.

MS. KERNS: Robert, can you see that last line on that page?

MR. BOYLES: Hang on. I can see that now. I'm sorry, Mr. Chairman, but I would make that motion to add those words; to recognize that there is a conservation equivalency proposal that state of New Jersey has suggested.

CHAIRMAN GROUT: Is there a second to this motion to amend? Andrew Shiels has seconded; and I'll read it in to the record, just so that we have this official wording in here. Then we'll take discussion on the motion to amend; and then also the main motion. The motion to amend to include; or equivalent measures, and that was made by Mr. Boyles and seconded by Mr. Shiels. Now we'll have discussion on the motion. I believe we had Adam Nowalsky.

MR. NOWALSKY: The other element of the original motion I think that there is discussion here, is the date element by May 21st. In all likelihood that Board meeting, the Board meeting may not occur by that timeframe. I don't know if staff has an idea; if they've been erasing other things in their calendar and writing new things in, if they have any input on when that occur, if we need to put something

relative to some other occurrence as opposed to that fixed date in the motion.

CHAIRMAN GROUT: I believe our Executive Director can give an outline of the process of an out-of-compliance motion that may be able to address some of your concerns with this.

EXECUTIVE DIRECTOR BEAL: Adam, I guess the thinking of, or my interpretation of the thinking of the Summer Flounder Board yesterday, was that they wanted to ensure that New Jersey was going to take action by the 21st; because as it stands now with nothing else on the books, as of May 21st, the New Jersey regulations revert to 2016 and they would have a size limit that is smaller than what's required by the addendum and a bag limit that's higher.

But now we've started down this road of conservation equivalency. I guess the question now becomes for the Board, does the Board still want staff to submit a letter on May 21st, or does the Board want to have some of the Technical Committee review and Summer Flounder Board subsequent review play out before letters are sent?

It is really up to this group; because if we send a letter on the 21st, are we sending a letter because the regulations that are in place are the 2016 regulations or are they the new conservation equivalency regulations that have not been reviewed and approved? Those are kind of two different things, right.

It is a process question for the group, and I think there are two paths. One is they can maintain the 21st, because that is what we know right now; or they can make an assumption about how New Jersey is going to progress with their conservation equivalency proposal, and defer transmission of letters until those next steps have played out. I can't decide for the Policy Board obviously on what you want. But those seem to be the two options in front of the group right now; you know either setting the date now or setting a process that

will essentially put New Jersey on notice that the intention is to find them out of compliance if they haven't implemented the appropriate regulations after the Technical Committee and Board process.

CHAIRMAN GROUT: Follow up, Adam and then I have Kelly Denit.

MR. NOWALSKY: Perhaps maybe we quickly dispense with this motion, which I think there is likely support for around the table. We get that original motion back up on the screen, and decide what other changes might need to be made.

CHAIRMAN GROUT: Discussion on this amendment to the main motion? David Bush.

MR. BUSH: The only thing I see maybe is the motion to amend to include or equivalent measures. Those equivalent measures would be determined by whom, according to this amendment? It does not state. Maybe it might be appropriate to state it.

CHAIRMAN GROUT: Specifically add some words about or equivalent measures that are approved by the Summer Flounder Board. Is the seconder okay with that?

MR. SHIELS: Yes.

CHAIRMAN GROUT: Okay, further discussion on the motion to amend. Kelly.

MS. KELLY DENIT: I think just before we move forward with looking at this motion, I wanted to clarify a little bit on the process perspective. I think right now we're in a very challenging situation with a lot of moving parts. We're attempting to craft a noncompliance finding sort of proactively in a certain way; in terms of we don't actually know what the Technical Committee is going to say.

We don't yet know what the species board is going to do with that information. Therefore, it

is a little bit, from a process perspective, it is challenging for the Board to find noncompliance in advance of actually having those decisions. Historically when we've done noncompliance findings it's generally been with an assumption that a state is not putting in place any measures.

In this particular case, we've heard very clearly from New Jersey that they are going to put in place measures next week; and it remains to be seen whether those measures will be conversationally equivalent or not. I think from our perspective, while these amendments potentially help, I think we may find ourselves in a situation where the Board would have to take an additional action following the results of the TC review and the species management board decision to actually move forward a noncompliance finding to the agency.

Just while I have the floor, I just would remind folks that there are two prongs to the noncompliance finding when it comes to the agency. The first is whether they failed to implement the measures as articulated by the Commission, and the second is whether those measures are necessary for the conservation of the fishery. I think the TC review will play an important part in the Commission's decision making and therefore the rationale that it might put forward to the agency of whether those measures are in fact necessary for the conservation of the fishery. Because we're now working under an assumption that New Jersey is going to implement the proposal they've put forward; and not the status quo, which might be two very different questions and two very different results, in terms of looking at the need for the conservation for the fishery. I just wanted to put that out there for consideration of the Board as they're looking at this amendment and then the main motion as a whole.

CHAIRMAN GROUT: I would like to see, and I'll take your comment here, Robert in a minute. Maybe if we work on this motion, decide where

we want to add this particular amendment to the noncompliance finding. Then potentially if there are other modifications that the Board feels need to be put in to clarify exactly when any noncompliance determination would come out, we can take that up in subsequent amendments to the motion.

Is there any objection to taking up this motion and then dispensing with this motion either up or down, and then taking any subsequent modifications to deal with the exact timing of any potential noncompliance finding? Okay, do you need time to caucus? It seems like there are only a couple of delegations. We don't have a full delegation. But I'll give you 30 seconds to caucus on this particular amendment.

Are you ready to vote? All those in favor of this amendment to the noncompliance finding, please raise your right hand, all opposed, any abstentions, any null votes? Okay this motion to amend has passed 12 to 0 to 4 to 0. Now are there any other amendments to the main motion that any Board member would like to make? Adam. I hit the wrong button, you're on.

MR. NOWALSKY: Mike Luisi had a lot of success with that technique last meeting with me. Again, I'll just come back to my last comment that I don't think the date at this time is the appropriate path forward for this Board. I think it needs to be something relative to the pending actions that we know are in play.

I would leave it up to the rest of the Board to determine what that is. I would offer that the right time sensitive criteria right now is that this finding would come forth after the Summer Flounder Board, should they decide that New Jersey's alternative proposal was not accepted.

CHAIRMAN GROUT: Did you catch that motion?

MR. NOWALSKY: I am not going to make a motion on this matter. I'm just putting that out there for Board consideration.

CHAIRMAN GROUT: Okay then Robert, I believe you had your hand up.

MR. BOYLES: Just a point of clarification. I'm not on the Summer Flounder Board. May 21st is when the recreational season begins. Is that correct?

MR. ALLEN: That's the date when our current regulations would allow the fishery to start. The proposal is May 25th.

MR. BOYLES: Mr. Chairman, I guess what I'm struggling with is that again, pardon my ignorance, not being on the Board. There is an addendum that's been accepted by the Board that stipulates what the measures will be necessary for the conservation of this fishery. We don't meet again until August, in person. I'm respectful and understand that New Jersey has tried diligently to find a way to enact equivalency; with respect to the management measures. But the Board has spoken and I think here we are I recognize we're in a process situation.

But I think the date is correct, in my understanding of the way this fishery is prosecuted; that as of this date that if those measures are not implemented, it's either a yes or a no, they're compliant or they're not. Am I reading that correctly?

CHAIRMAN GROUT: I believe so, but I will turn to our Executive Director for any additional.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, is it okay if I answer the question with a question to the Service?

CHAIRMAN GROUT: Sure.

EXECUTIVE DIRECTOR BEAL: I guess the timing Robert, may be, Jersey stated their intention is to implement the conservation equivalency regulations next week some time. By the 21st those new conservation equivalency regulations will be in place. But the Technical Committee

will not have reviewed those, and the Board will not have approved those potentially.

The question to the Service would be, if they received a letter from us on the 21st that New Jersey is out of compliance with Addendum XXVIII, but New Jersey does have some regulations that are potentially equivalent; what does that do to the review in that interim time period?

MS. DENIT: That is what I was very inarticulately trying to say earlier. We're in the situation where we don't yet know whether the conservation equivalency is real or not. Therefore, this sort of prospective, it might be cool but it might not, noncompliance finding is an issue. I think what we would need is for the TC to do their review.

The species board makes a decision based on that TC input. Either they accept New Jersey's proposal or not. From there that species management board would then make a decision based on the outcome of that decision; are they in compliance or are they not. Then that would then come to the Policy Board at a later date.

EXECUTIVE DIRECTOR BEAL: I like to think what options does the group have moving forward? I think one of them is just maintain May 21st. That is the hard line. New Jersey's regulations aren't consistent and we don't know if they're equivalent or not. We'll send a letter to NOAA Fisheries and then they start processing.

That's Option 1; Option 2 might be the noncompliance letters would not be submitted until after the Summer Flounder Board acts. The noncompliance finding would be contingent on a specific outcome of the Summer Flounder Board. It is sort of delegating this decision until Summer Flounder Board acts.

The third option is the more cumbersome one, but maybe processed more consistent; which is we would have to get Summer Flounder Board, Policy Board and Business Session back together

after the decision. Those options are in order of sort of workload for the commissioners and staff to pull that off. But those seem to be the three actions moving forward. I'm not suggesting any is better than the other. But that is what seems to be in front of the Board.

CHAIRMAN GROUT: Andrew Shiels.

MR. SHIELS: I don't know who can answer this question, given the conversation. But the inquiring mind over here wants to know, on May 22nd, none of these other things have happened just because of time and logistics. But on May 22nd, what do the anglers of New Jersey need to know is the regulation that is in place?

Is it what was in place for 2016? Is it this particular set of regulations, or it is the hopefully adopted by next week conservation equivalency regulations? Which of the three sets of regulations do the anglers in New Jersey need to follow on May 22nd? That would be my question traveling to the shore.

CHAIRMAN GROUT: I think the state of New Jersey has made it pretty clear that on the 22nd that it's going to be the conservation equivalency regulations. Unless you think that is something different Russ, then I think we could move on.

MR. ALLEN: Don't bother coming down to the shore on the 22nd, because it will be closed, so you'll be good. We're planning on putting in the alternative proposal regulatory action next week so that's in place; so we're good to the 25th. You know until we open the season at that point.

CHAIRMAN GROUT: I know I've got a couple hands here and I recognize that. But is there a way that we could craft an amendment to the motion that would somehow incorporate; the noncompliance finding would not be sent until if the Summer Flounder Board found that

conservation equivalent proposal by New Jersey is not conservationally equivalent?

Can we do that? Because then it would be contingent upon that without us having to get together again with the Policy Board on this. If that is one of the ways that the Board would be willing to move forward, can we take a two minute recess to come up with that wording? Does anybody see any objection to having that noncompliance finding not be sent until after the Summer Flounder Board meets and makes a decision, and if they make a decision that the proposal is not conservationally equivalent? Robert Boyles, no?

MR. BOYLES: I would object, sir.

CHAIRMAN GROUT: You would object to that?

MR. BOYLES: Yes.

CHAIRMAN GROUT: Okay, so how should we move forward? All right, we have a motion on the board then and we'll have discussion on this particular motion and we'll make a vote on it. David Pierce, you had your hand up?

DR. PIERCE: Just, I'm comfortable with the motion that is on the screen, you know with the dates. Nothing is going to happen to New Jersey anyways. After it has further discussion about the outcome. New Jersey's regulations will be in place, the ones that they will be setting fairly soon. They will be in place for a while. This letter gets sent to New Jersey; all right they've got it. They know what the situation is. Then it's highly likely, if not definite that the Service will know whether or not they have done these things, whether or not the TC has approved it, whether or not the Board has approved it.

I see no problem with the May 21st date. It really is in the National Marine Fisheries Service lap. They'll wait until the outcome of the Technical Committee and our board decisions; which I suspect will be made by May 21. I think

that is what we said we would try to do. The TC would meet very quickly.

Then the Board on a conference call would address the finding of the Technical Committee. It seems to be reasonable enough. We don't want to go back to the Policy Board again. We are here today. We are making this decision. These are the conditions. New Jersey knows. I've said enough on this matter. I felt very comfortable with the motion.

CHAIRMAN GROUT: David Bush, you had your hand up and then Robert Boyles.

MR. BUSH: Just very briefly. I understand there is a consistency in policy issues. I'm not a math magician here either, but I know that on the 22nd no one will be fishing; so that means less harvest than 2-17 inch fish, which in my mind is at least conservationally equivalent until the 25th, just a thought.

MR. BOYLES: I would like to explain myself. I agree with Dr. Pierce. If I recall, the last noncompliance finding this Board dealt with was Delaware eels, I believe. I'll look to John. I believe the remedy the Service was able to offer Delaware, for them to rectify and to come into compliance was quite lengthy. I want to be clear.

I certainly support my friends in New Jersey, want this to work. But I think we've got a process, and at risk of being labeled a Pharisee, I think we have to recognize and honor that process to be internally consistent with the way this Board has acted for decades; with respect to the Atlantic Coastal Act. I want to be clear with my colleagues and friends in New Jersey.

But I agree with Dr. Pierce. I think there is time enough, with moving forward with the motion as amended, as it is stated now on the board that it would be my prayer that this work out well. But I think we have to recognize that there is a process that this group has adhered to for years; and I just wanted to explain that.

MR. NOWALSKY: One question and then based on that a comment. Is there any possibility that the Summer Flounder Board is going to convene next Thursday or Friday?

MS. KERNS: Kirby did a poll of the TC. I gave them from Tuesday to Friday; based on the fact that Russ told me he hoped that the proposal would come to us on Friday from New Jersey, so the TC could have one day to review in the timeframe. As soon as I know what day the TC is going to meet, I am hoping it will be the earlier portion of the week, and we have begged your TC members to be flexible and available as soon as possible.

If you could convey that to your staff that would be wonderful and as soon as I have that date I will send a poll right out to the Board and we'll include the very next day after the TC has met. Your availability will be subject to that as a Board that we will do our best. There is a possibility.

MR. NOWALSKY: Allowing for that possibility. That would address the situation at that point. New Jersey will have measures in place. If those are the measures that are approved by the Board, we've addressed the situation. If not, then on Monday morning the Board will be sending a letter of noncompliance to the Secretary. That is my understanding at this point.

CHAIRMAN GROUT: Bob, isn't it that we have 10 days after that to send it?

EXECUTIVE DIRECTOR BEAL: Yes. The Executive Director has 10 business days discretion or time to write a letter following the date certain established by the Full Commission.

CHAIRMAN GROUT: Yes, Adam.

MR. NOWALSKY: Does the Board need to tell the Director to utilize that discretion to not send the letter at that point? You have 10 days discretion. How is the decision made at that

point? Because we will not, if we do not have the Summer Flounder convene by May 21st, which is by the end of next week.

May 21st is next Sunday. Then we will be out of compliance and this motion would go into effect. With that 10 day discretion, are we giving that discretion over or do we need some other formal action by this Board? Do we add it to the motion that says we provide discretion within that further director to not send it?

CHAIRMAN GROUT: Do you think, Bob that you would need a direct order to use that discretion from this Board or would you feel comfortable in using that discretion to its full advantage?

EXECUTIVE DIRECTOR BEAL: My job gets a lot easier if I know what the will of the Policy Board is. I'm happy to wait 10 days after the 21st, if that's what the will of the group is.

CHAIRMAN GROUT: Further discussion on this motion? Kelly.

MS. DENIT: The 10 days are from the decision of the Board and the Commission, which if you move forward with the path that you're on, would be today; it convenes from today. I'm a little bit confused about how there would be a further delay. I guess maybe that's more of a question. Maybe I misunderstood that last exchange.

Then the second point before folks are voting on this motion is, for the reasons I mentioned before. It's possible that if you sent us a letter based on this that we would send it back to you asking for further information, on how this is hitting the threshold of the necessary measures for the fishery; when you at this point are making a decision not knowing whether the proposal is conservationally equivalent or not.

CHAIRMAN GROUT: My interpretation in our discussion with staff was that because it says the 21st there that is when the formal

determination gets put into place. At that point there is a 10 day period. Wilson.

DR. WILSON LANEY: I know that having the 21st date in there is problematic. But does it solve anything if someone were to make a motion to just postpone action on this motion until after the Summer Flounder Board makes its decision? No. I see Toni shaking her head.

CHAIRMAN GROUT: I think, and I can hear from the rest of the Board the concern is that the next time that we're going to meet is in the summer; further discussion on this motion. All right, I'll give you a minute to caucus on this and then we'll take the vote. While you're caucusing Bob wants to bring up another point.

EXECUTIVE DIRECTOR BEAL: Just procedurally. What really we may need to tweak the wording at the beginning of this, but really what's happening here is the Policy Board is recommending to the Full Commission that they take this action later on today. This isn't a final action; it's got one more step at the Business Session in a few minutes, hopefully.

CHAIRMAN GROUT: Can we tweak that little language, just to make sure we have it moving forward? I agree with you. Okay are we ready to vote? **All those in favor of this motion raise your right hand, keep them up. Hands down, all those opposed to the motion, any abstentions, and any null votes? The motion carries 13 to 1 to 2.**

Given that we are an hour behind schedule, and we still have a Business Session to take up this particular motion. We're going to take all the other items that we had on this agenda, essentially Agenda Items 10 through 13, and we're going to defer them to the August Policy Board.

ADJOURNMENT

CHAIRMAN GROUT: Is there anything else that needs to come before this Policy Board? Seeing

none; this meeting is adjourned, and we will go directly into the Business Session.

(Whereupon the meeting was adjourned at 11:27 o'clock a.m. on May 11, 2017.)

March 24, 2017

Mr. Douglas E. Grout, Chair
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, Virginia 22201

Dear Mr. Grout:

The New Jersey Commissioners of the Atlantic States Marine Fisheries Commission (ASMFC) hereby formally appeal the February 2, 2017 approval by the Summer Flounder, Scup and Black Sea Bass Management Board (Board) of Addendum XXVIII (Addendum) to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). More specifically, New Jersey is appealing the Board's approval of Option 5 under regional management in the Addendum and the specific management measures set forth under Option 5. This decision mandates a one-inch size increase to New Jersey's current recreational summer flounder minimum size limit and decreases the possession limit from five fish to three fish. New Jersey brings this appeal pursuant to the Appeals Process approved by the Interstate Fisheries Management Program (ISFMP) Policy Board (Appeals Process).

New Jersey has previously and repeatedly expressed concerns regarding the Addendum and exhausted all options to gain relief at the Board level. During the drafting of the Addendum and prior to the ASMFC meeting of February 2, 2017, New Jersey's ASMFC Commissioners contacted Commissioners from other member states to discuss our concerns with the options set forth in the Addendum. The Commissioner of New Jersey's Department of Environmental Protection testified before the Board at the ASMFC meeting of February 2, 2017 to express New Jersey's apprehension about the science and the impact these decisions would have on the economic health of the recreational fishing industry in New Jersey and on the health of the summer flounder fishery. At that same meeting, New Jersey voted against Option 5 of the Addendum and unsuccessfully moved to postpone the Addendum.

Since the ASMFC approved Option 5 from the Addendum, and with New Jersey's administrative options exhausted, New Jersey now files this appeal based on the criteria in the Appeals Process

and the ISFMP Charter. First, this appeal demonstrates that the Board’s current decision, as well as previous quota limits to the commercial sector, will result in specific adverse impacts to New Jersey’s recreational summer flounder industry and the overall summer flounder fishery industry that ASMFC is charged with protecting. Second, this appeal shows that the Board did not properly apply technical information in using Marine Recreational Statistical Program (MRIP) harvest estimates and failed to consider the biological impact of increased size limits on the fishery. Finally, this appeal outlines how the Board failed to follow proper process in reaching its decision on the Addendum.

Specifically, this appeal addresses the following criteria:

- Criteria 5: Management actions resulting in unforeseen circumstances/impacts
 - Increase in Fishery Resource Waste
 - Disproportionate Removal of Larger Breeding Females
 - Unfairness & Inequity Among Member States
 - Failure to Consider Economic and Social Impacts
 - Compliance and Data Collection Issues
- Criteria 3: Insufficient/inaccurate/incorrect application of technical information
 - Variability and Untimeliness of MRIP Data Not Appropriate for Yearly Management Approach
- Criteria 2: “Failure to follow process”
 - Inaccuracies in Draft Addendum XXVIII Subject to Public Comment
 - Failure to Include Enhanced Opportunity Shore Fishing Program in Draft Addendum XXVIII
 - Failure to Properly Consider Public Comments\

Criteria 5: Management actions resulting in unforeseen circumstances/impacts

The Board’s recent management actions will likely cause a number of unforeseen adverse impacts to the State of New Jersey. The most critical is the increase in discard mortality, which when coupled with the decrease in harvest, will result in more dead discards than actual harvest. Moreover, the increased minimum size limit has the effect of targeting larger female breeding

stock, which may have a negative impact on the flounder fishery recruitment. The Addendum's minimum size requirements also unfairly affect New Jersey compared to other states because the summer flounder in New Jersey waters are smaller than that of our northern counterparts. Thus, the management measures selected in the Addendum will have more damaging economic and social impacts upon New Jersey's coastal communities. Finally, the Addendum will create additional compliance and enforcement difficulties and data collection problems by continuing to erode anglers' trust in regulatory entities.

Increase in Fishery Resource Waste

Section 6(a)(4) of the ISFMP Charter states that "management measures shall be designed to minimize waste of fishery resources." The Charter's requirement is consistent with National Standard 9 of the Magnuson-Stevens Act (Act), which requires that "[c]onservation and management measures shall, (a) to the extent practicable, minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." [16 U.S.C. 1851(a)(9).] Contrary to these mandates, the Addendum requires New Jersey to increase the minimum size to 19 inches in the recreational fishery which, based upon the 10 percent mortality rate for discards used by ASFMC and MAFMC, will increase recreational discard mortality to such an extent that the discard mortality will actually be higher than the harvest mortality.

These findings are based on New Jersey's analysis of MRIP data and New Jersey Volunteer Angler Survey (VAS) data. A brief description of the calculations is provided below. Data and a full analysis will be presented to the Policy Board if warranted.

In 2008, the New Jersey VAS was implemented to supplement and complement data collected by the MRIP survey. The VAS is open access and conducted entirely online on a volunteer basis. Data collected include information on the fishing trip (*e.g.* wave, mode, area, number of anglers), catch (species, number caught, number released), and lengths of both harvested and released fish. The VAS collects specific information from anglers on the lengths of harvested and discarded fish from all modes, while discard lengths are not as broadly sampled by the MRIP. Accordingly, New Jersey analyzed the length data provided by VAS participants to determine the overall length frequency of reported summer flounder catch (harvest plus

discards). The data was then used to estimate statistics relative to the proposed 19-inch minimum sizes.

The data shows that by increasing the minimum catch size from 18 inches to 19 inches, more flounder will not meet the minimum harvest size requirements. Those fish that do not meet the minimum harvest size cannot be kept and must be discarded. Since there will be more fish discarded, and applying a 10 percent mortality rate of discards, more fish will die after being returned to the water. Indeed, the VAS length frequency data show that increasing the summer flounder minimum catch size from 18 inches to 19 inches would result in discard mortality that is 16.6 percent greater than harvest mortality using 2016 data. **In other words, at a 19-inch minimum size, the number of undersized (discarded) fish that die after being returned to the water will be greater than the number of fish that will be harvested. This will be the first time in New Jersey history that more summer flounder will die as a result of being discarded than will be harvested by anglers. This is not sound fishery management.**

The results of the VAS analysis carry enormous implications, so a similar analysis was conducted using MRIP data to test the veracity of the results. A query of summer flounder catch and length frequency in New Jersey shows that dead discards exceed harvest by nearly 20 percent under a 19-inch minimum size limit using 2016 data. The percentage by which dead discards exceeds harvest using 2016 MRIP data is consistent with the analysis of 2016 New Jersey VAS data.

These analyses assume no changes to fishing effort with the increased size limit. However, common sense dictates, and our initial discussions with members of the private boat and shore angler communities, along with boat captains, indicate that an increased minimum size limit will result in increased fishing effort due to private boat and shore anglers taking more and/or longer trips in an attempt to harvest legal-sized fish. Increased fishing effort, in turn, equates to additional discards, resulting in even higher discard mortality than projected.

These results have severe negative implications for recreational summer flounder management in New Jersey. Discard mortality that exceeds harvest is not acceptable from a fishery management standpoint and will not be well received by the recreational fishing sector. In addition, increasing the minimum size limit of summer flounder to 19-inches is inconsistent not only with the

ISFMP's standard of minimizing fishery waste, but also with the mandate of National Standard 9 of the Act to minimize bycatch. Under the proposed quota, for anglers to catch a legal-sized fish, they will need to throw back more fish. Since the size limit was increased to 18-inches in 2014, the discard rate in New Jersey has been at least 89 percent.

New Jersey is actively exploring how it can reduce the mortality rate for discards through a combination of education, encouraging the use of hooks that cause less damage to the fish, and other methods that would help to ensure that those fish that do not meet the minimum size have a better chance of survival when returned to the water. By reducing the mortality rate, New Jersey aims to achieve compliance by reducing the overall take of summer flounder.

The issue of regulatory discards has been discussed at length at the Technical Committee and at the Management Board for several years. It was originally included in the Comprehensive Summer Flounder Amendment that was initiated in December 2013 and went out to Scoping Hearings in September 2014. Recreational regulatory discards was one of the most frequently raised issues during the scoping process and at the 14 scoping hearings held along the Atlantic coast. Two hearings were held in New Jersey with as many as 100 members of the public in attendance.

Since that time, however, the Board determined that the comprehensive amendment was too burdensome to decide all at once, and projected that final action and implementation on such an undertaking would not occur until 2020. Therefore, in order to set a more realistic date for action, the Council and Board voted to reduce the scope of the comprehensive amendment and limit the focus to commercial issues.

New Jersey's Mid-Atlantic Fishery Management Council (MAFMC) members and NJ ASMFC Commissioners opposed this decision. In fact, at the February 15, 2017 joint meeting of the Council and Board, New Jersey's Commissioners moved to initiate an Addendum to address summer flounder recreational issues. Our motion, however, did not receive the support of the Board. The Board's inaction signaled to stakeholders that these recreational issues, especially high regulatory discards, are not one of the Board's priorities, contrary to the public's interest.

Disproportionate Removal of Larger Breeding Females

Section 6(a)(1) of the ISFMP Charter states that “management measures shall be designed to . . . maintain over time, abundant, self-sustaining stocks of coastal fishery resources.” But the increased minimum size limits could have the opposite effect because the larger size limits promote the harvest of female summer flounder. New Jersey has documented the fact that the larger summer flounder tend to be females, that 90 percent of the summer flounder that are at least 19 inches in length are breeding females, and that the larger the female the more eggs she carries. Thus, the Board’s decision to increase the minimum size limit for New Jersey waters will likely have the unintended consequence of removing the most productive egg-bearing females from the fishery. Indeed, removing breeding females from the fishery may very well explain the lack of recruitment in recent years.

Over the past several years, at every summer flounder public hearing and in numerous written public comments that have been submitted to ASMFC during the Addendum process, anglers have voiced grave concerns regarding high size limits and their impact on the increased harvest of larger females. The consequences of this measure to the breeding females in the fishery should not be disregarded.

Unfairness & Inequity Among Member States

Second, New Jersey is unfairly and inequitably impacted by the current management measures. Section 6(a)(7) of the ISFMP Charter states that an FMP should “allow internal flexibility within states to achieve its objectives while implemented and administered by the states” and that “[f]ishery resources shall be fairly and equitably allocated or assigned among the states.” This section is consistent with National Standard 4 of the Act, which requires that fishing privileges be allocated in a way that is “fair and equitable to all . . . fishermen.” [16 U.S.C. 1851(a)(4)]

The Board has generally recognized that fish size in state waters varies from north to south and has established minimum size limits accordingly. For example, North Carolina generally has always had a smaller minimum size limit than Massachusetts. Length frequency data from several sources, including MRIP and the NMFS Trawl Survey, show that summer flounder off

the coast of New Jersey are smaller than summer flounder in New York and Connecticut waters, our regional counterparts. Yet despite these differences, New Jersey has been forced by the ASMFC to manage summer flounder as part of a region with New York and Connecticut, thus preventing New Jersey from proceeding with conservation equivalency on terms specific to New Jersey. Instead, New Jersey is forced to abide by whatever management measures New York and Connecticut have determined is best for their anglers without any consideration of the impact on New Jersey anglers. The inequity to New Jersey is a violation of ISFMP standards and National Standard 4.

Failure to Consider Economic and Social Impacts

The Addendum will result in serious and lasting impacts on New Jersey's economy. The fishing industry in New Jersey supports 65,000 jobs and creates \$2.5 billion in economic activity. Of that, the recreational fishing industry accounts for 20,000 jobs and contributes \$1.5 billion to New Jersey's economy. Given the size of New Jersey's fishing industries, it is surprising that neither analysis nor consideration of economic or social impacts was considered in the Addendum, particularly because Section 6(a) and Section 6(b)(1)(v)D of the ISFMP Charter clearly state that social and economic impacts must be taken into account in fishery management programs.

New Jersey has serious concerns about the severe impact that the approved measures could cause to a fishery that is a mainstay for our shore economy during the summer months. The increasingly stringent summer flounder management measures have resulted in a continued economic slowdown. Already reeling from the devastating effects of Superstorm Sandy, each year after the 2012 and 2014 restrictions, recreational fishing trips for summer flounder dropped by 19 percent and 20 percent respectively. Overall, from 2012 through 2015, recreational fishing trips for summer flounder in New Jersey are down 24 percent. Closures of bait and tackle shops, boat rentals, marinas, and for-hire boats have already put these communities in jeopardy as a result of previous management measures since at least 2014. This subject, while raised numerous times by our constituents and staff during public comment, was not properly considered by the Board or ASMFC staff. Not only is the Addendum inconsistent with the ISFMP Charter, it is also inconsistent with National Standard 8 because it does not take into

account the importance of fishery resources to fishing communities using economic and social data.

Compliance and Data Collection Issues

Another unforeseen impact will be compliance difficulties. New Jersey anglers continue to struggle with ever-changing regulations that make it more difficult for them to comply and more difficult for the state to enforce these increasingly stringent regulations. One of the fundamental principles in enacting laws or promulgating regulations is that they be reasonable and that those being regulated can be reasonably expected to follow them. New Jersey's anglers are already suffering the effects of earlier reductions, and our many discussions with those in the recreational fishing industry indicate that they feel the reduction called for in 2017 are unjust and that New Jersey is being singled out unfairly. This recent Board decision will only increase the likelihood that the new regulations will encourage non-compliance so as to avoid what the industry sees as unjust, unfair, and punitive quotas.

A bias that continues to corrupt MRIP data collection must also be taken into account when considering this data. More and more anglers and for-hire captains are deliberately avoiding New Jersey's Access Point Angler Intercept Survey (APAIS) field interviewers. Their avoidance arises from their distrust that ASMFC, MAFMC, and NMFS will use this data against them to continue to destroy their industry. As discussed above, the economic impacts of the ASMFC decision could devastate our fishing and tourism communities this upcoming fishing season. The social impacts will be long-term and make trusting the process very difficult for the State of New Jersey.

Criteria 3: Insufficient/inaccurate/incorrect application of technical information

New Jersey appeals under Criteria 3 based on the Board's improper use of MRIP on a year-to-year basis to set the Recreational Harvest Limit (RHL). MRIP data is unsuitable as a year-to-year management tool for summer flounder because of its variability and untimely collection.

Variability and Untimeliness of MRIP Data Not Appropriate for Yearly Management Approach

The major technical flaw in setting the RHL relates to the use of MRIP data on a year-to-year basis. As explained below, MRIP data was not intended to serve as the basis for yearly quota

management decisions or as the basis for yearly changes to particular management measures. Indeed, MRIP annual harvest estimates, in numbers of fish, are not used on a year-to-year basis for most species under the Commission's management.

The recreational fishery for summer flounder is managed on a "target quota" basis. The commercial sector is allocated 60 percent of the overall coastwide Acceptable Biological Catch (ABC) for summer flounder while the remaining 40 percent is allocated to the recreational sector. Council staff calculates the RHL by factoring in management uncertainty and discards from previous years. The summer flounder management regions, as identified in Addenda XXV and XXVIII, then develop management measures that can "reasonably be expected" to constrain recreational harvest to the RHL.

To establish these measures, MRIP data is used in two ways. The first is to determine the projected harvest estimate for the previous year to measure the effectiveness of management measures in that year. The second is to project forward into the future to set the RHLs for the coming year. However, the use of MRIP data both to set the RHL and to select management measures has historically been deemed impractical by managers and technical experts. This view reflects the limitations of producing timely landing estimates in an attempt to manage the recreational fishery based on a real-time quota and due to the variability from year to year. Data from the MRIP recreational fishery survey are known to be highly variable from year to year due to extremely small (i.e. statistically insignificant) sample sizes. This can produce estimates of harvest that fluctuate despite unchanged management measures.

The variability and timeliness of MRIP data undermine both the accuracy of the data and the confidence anglers put in it. This variability is apparent on a coastwide basis where harvest varies by as much as 50 percent on an annual basis with no change in management measures. In New Jersey, fluctuations in estimated harvest were apparent during the 2014, 2015, and 2016 fishing years. Even though the size and bag limit remained the same for those three years, the recreational harvest limit and the landing estimates varied significantly, both increasing and decreasing for no apparent reason other than gross variability.

To illustrate, from 2012 to 2016 in New Jersey, the recreational expanded harvest estimate ranged from a minimum of 497,482 in 2015 to a maximum of 1,244,432 in 2013. By simply

utilizing a yearly MRIP estimate, the variability associated with this estimate is being ignored. If instead a mean was calculated over the five-year period, the expanded harvest estimate would be 927,090, with a 95% Confidence Interval (CI) from 526,840 to 1,237,527. The 95% CI over the five-year period was very large, ranging from close to the minimum yearly estimate to close to the maximum yearly estimate. When the 95% CI has this wide a range, this suggests that the variability of the estimate was high between years and that there is low confidence in yearly estimates.

In addition to its high variability, MRIP data is not appropriate to use as a yearly measure in setting the RHL because it is not collected in a timely manner. The current timeline of summer flounder management dictates that the Technical Committee (TC) and the MAFMC Monitoring Committee (MC) must begin crafting measures for the following year's fishing season during November of the current year, using preliminary MRIP data for the months January through August and projected harvest of data for the months September through December. The projections are an average of data from the last three years for the months missing when the process begins.

Usually in February of the year for which fishery managers are trying to implement management measures, the TC and MC will receive a preliminary estimate for September and October. The TC will then revise the measures that have been crafted in reaction to the new "preliminary estimates." The ASMFC Board will also meet in February to make a management decision based on preliminary estimates and direct each state to implement the agreed upon measures.

The next feed of data, which is called "final" is usually delivered to the TC in April. Depending on the result of the final data feed, states will need to make adjustments yet again. The issues caused are obvious. Most, if not all states, including New Jersey, require several months to get regulatory changes made to fisheries regulations. The delay in the availability of these data does not allow the required time to make a thorough analysis, therefore management measures are often pushed through without possessing a complete understanding of past performance of measures from previous years.

As the ASMFC Technical Committee presented to the Board at the February 2, 2017 meeting, changing the management measures from year-to-year makes it very difficult to predict the

reliability and effectiveness of management measures put in place on an annual basis. Developing management measures that extend over a period of time, (for example three to five years or until a new benchmark assessment is developed) would result in a more efficient and accurate management structure than the current process and would allow for the anomalous variability of the MRIP estimates to be smoothed over time. Maintaining management measures over multiple years is the best way to react to the trends developed from the MRIP data. The fact that these data are used on an annual basis and not as a multi-year mean is misuse of the data that undermines decision-making.

Criteria 2: “Failure to follow process”

As explained below, the Board failed to follow the proper process to reach its decision in at least three ways. First, the revised Addendum released for public comment on December 23, 2016 differed from that presented to the Board for a vote on February 2, 2017. Second, the Addendum failed to include the Enhanced Opportunity Shore Fishing Program (Program) in the Addendum for public comment. These issues are substantive and go beyond technical corrections to the Addendum. Third, ASMFC failed to properly consider public opposition to the Addendum.

ASMFC’s ISFMP Charter Section 6(c)(9) (iv), states, “Public comments will be evaluated and considered prior to deciding what modifications will be made to the draft FMP or amendment, or draft final FMP or amendment, and prior to approval of the FMP or amendment consistent with the public comment guidelines.” Section 6(b)(3) also requires that the public have an opportunity to review and comment on addenda. The failure to fully and accurately present the Addendum for public comment prior to Board approval hampered the public’s ability to assess and comment upon the recreational summer flounder options.

Inaccuracies in Draft Addendum XXVIII Subject to Public Comment

The Addendum was first released for public comment on December 22, 2016. A revised version of the Addendum was issued on December 23, 2016 with a public comment period open until January 19, 2017. Around January 17, 2017, ASMFC staff determined that there were significant errors in the Addendum. In light of these errors, the ASMFC Summer Flounder, Scup, Black Sea Bass Technical Committee (Technical Committee) met via conference call on January 19,

2017. The Technical Committee decided that three of the five options in the Addendum incorrectly explained the methods used to calculate the tables within the Addendum.

Specifically, the methods described for calculating Options 2-4 differed from the results presented in tables 2-4. Once the Technical Committee had identified these errors, the narrative text was altered to capture the intent of the Addendum and correspond to the tables in the Addendum. Additionally, certain percent reductions in the tables were adjusted at this time due to the mathematical errors found within the original calculations.

Because of the errors in the Addendum, ASMFC should have released, but did not release, an updated version for public comment so that the public would not be misled during the comment period. Instead, on the evening of January 27, 2017, ASMFC staff sent an e-mail to the Board, just five days before the Board meeting where final action was to occur, highlighting the discrepancies in the methods and tables of Options 2-4. ASMFC staff then presented the options with the adjusted language and tables for the first time to the public at the ASMFC Board meeting on February 2, 2017. Since this substantive revision took place well after the public comment period ended on January 19, 2017, the public had no meaningful opportunity to comment on the correct version of these options in violation of Section 6(b)(3) of the ISFMP Charter.

Failure to Include Enhanced Opportunity Shore Fishing Program in Draft Addendum XXVIII

Neither the draft nor the final Addendum contained any reference to the Program for the New York, Connecticut, New Jersey Region (Region). The Program allows specific shore-based access sites a smaller minimum size limit than the rest of the Region. However, this issue was not discussed at the February 2, 2017 Board meeting or during the deliberations to the motions that were eventually approved. Moreover, the status of the Program was not confirmed until receipt of a February 28, 2017 email from the ASMFC Plan Coordinator where he clarified that the size limit for the Program would be 17 inches. The failure to establish criteria for public comment on this subject prior to a final approval is contrary to proper public comment procedures established in ASMFC's ISFMP Charter Section 6(c)(9) (iv).

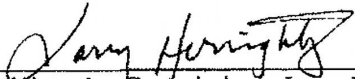
Failure to Properly Consider Public Comments

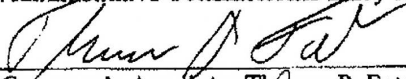
ASMFC held eight public hearings on the proposed addendum from Virginia through Massachusetts. ASMFC held a Public Hearing on the Addendum on January 5, 2017 in Galloway Township, New Jersey with at least 120 members of the public in attendance. A combined total of 103 members of the public attended the other seven hearings held in the other states. At the February 2, 2017 Board meeting, ASMFC staff provided a summary of the comments received during the public comment period. The summary from the New Jersey public hearing included only the following statement: “All in attendance were against all options offered in the draft addendum.” The summary table of all written public comments from all the states (ASMFC Winter Meeting, page 69 of the Board Supplemental materials), which staff presented at the Board meeting, showed overwhelming support to continue the 2016 measures and remain at status quo – far more support than was expressed for any of the five options presented in the Addendum. Based on the overwhelming public support for status quo expressed during the public comment period, and at the February 2, 2017 Board meeting, ASMFC did not adequately consider public comment in selecting their position which is contrary to the ISFMP Charter as outlined above.

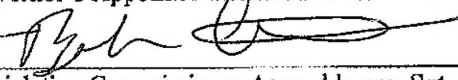
CONCLUSION

The issues raised in this appeal demonstrate that the Board should reconsider the Addendum and immediately address the problems associated with the matter at hand before moving forward. In light of the high discard mortality and associated detrimental effects of increasing the minimum size limitation, and the threat to the jobs of thousands of New Jerseyans and to the multi-million-dollar contribution recreational summer flounder fishing provides to the state’s economy, the Board should consider applying the 2016 management measures for New Jersey. The State of New Jersey appreciates the opportunity to appeal this decision. New Jersey reserves its rights under the provision of the Appeals Process document which states that “upon completion of the appeals process, a state is not precluded from taking further action beyond the Commission process to seek relief.” Thank you for your consideration of this appeal.

Sincerely,
The ASMFC Commissioners of New Jersey


Administrative Commissioner Larry Herrigthy


Governor's Appointee Thomas P. Fote


Legislative Commissioner Assemblyman Sgt. Robert Andrzejczak



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asafc.org

Douglas E. Grout (NH), Chair

James J. Gilmore, Jr. (NY), Vice-Chair

Robert E. Beal, Executive Director

Vision: Sustainably Managing Atlantic Coastal Fisheries

April 14, 2017

Mr. Larry Herrighty
Acting Director
New Jersey Division of Fish and Wildlife
P.O. Box 400
Trenton, New Jersey 08625-0400

Dear Mr. Herrighty,

This letter responds to the State of New Jersey's March 25, 2017 appeal of the Atlantic States Marine Fisheries Commission's (Commission) approval of Addendum XXVIII (Addendum) to the Summer Flounder Interstate Fishery Management Plan (FMP). On April 3, 2017, in accordance with the appeals process, a conference call of the Commission Chair Doug Grout, Vice-Chair Jim Gilmore, past Chair Robert Boyles (Leadership), and staff was convened to review the New Jersey's appeal. The purpose of the review was to assess the issues New Jersey proposes to raise in its appeal and to determine whether those issues are of the type and substantiality that warrants review by the full *Interstate Fisheries Management Program (ISFMP) Policy Board*.

During the call, it was determined the appeal did **not** meet the qualifying guidelines under appeal criterion five (unforeseen circumstances/impacts) and three (incorrect application of technical information), but **could be forwarded** to the ISFMP Policy Board for appeal consideration under criterion two (failure to follow process).

A. Claims Under Criterion Two: Failure to Follow Process

The appeal cited criterion two, "Failure to follow process." Under this criterion, the appeal states the Summer Flounder, Scup and Black Sea Bass Board (Board) did not follow proper process in three ways: (1) the content of the Draft Addendum that was released for public comment differed from what the Board considered for final approval, (2) the Addendum failed to include an option on the enhanced shore mode, and (3) the Commission failed to properly consider public comment. See letter from New Jersey Commissioners to ASMFC Chair Douglas E. Grout, pp. 11-13 (March 24, 2017).

New Jersey correctly notes that there was an error in the Draft Addendum's text which was found prior to the Commission's 2017 Winter Meeting. However, information on the error, which was in the description of the calculation of the measures as specified in the revised Addendum language memo (January 27, 2017), was sent to the Board prior to the meeting. The Board Chair noted the error (and its late correction) at the start of the meeting and suggested the Board proceed with its consideration of the Draft Addendum since the tables within public comment draft, which included example measures, were correct. No Board

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members objected to moving forward with the process. Importantly, the approved option did not contain any errors and was identical to what went out for public comment. At the same time, the fact that there was an error in the Draft Addendum warrants further scrutiny and discussion and – as noted below – Leadership concludes that an appeal as to this issue is justified under criterion two.

However, Leadership rejects the claim that the Commission did not properly consider public comment. The Board was presented an overview of the public comment. Detailed information regarding each of the hearings was included in the briefing materials for members of the Board to review prior to the meeting. In summary, there was an opportunity for public comment and the Board did have the benefit of that comment before reaching its decision. Leadership concludes that substantial grounds for an appeal are not present on this issue.

Natural resource managers are frequently obligated to make decisions that are not consistent with opinions of members of the public. In some cases, management objectives require the adoption of measures that some or most members of the public oppose, this does not mean the public comment was not considered. Here, the Board did consider public comment favoring other approaches, but concluded the measures adopted were nonetheless warranted; Leadership does not find a substantial basis for appeal as to this claim.

New Jersey's appeal letter is correct in observing that the Draft Addendum did not discuss the shore mode program. However, Commission staff notified the states that the shore mode program could still be conducted under the Addendum at the joint meeting with the Mid-Atlantic Fishery Management Council (MAFMC) in December 2016. This is consistent with the shore mode program process in the previous year. Here too, Leadership does not find a valid basis for appeal under the public comment criterion.

B. Claims Under Criterion Three: Application of Technical Information.

The appeal letter cites criterion three, "Insufficient/inaccurate/incorrect application of technical information." New Jersey points to what it regards as the variability and untimeliness of data generated from the Marine Recreational Information Program (MRIP) as not appropriate for yearly management approaches. See letter from New Jersey Commissioners to ASMFC Chair Douglas E. Grout, pp. 8-11 (March 24, 2017).

When considering final action on the Addendum, the Commission fully acknowledged and took into account the uncertainty in MRIP harvest estimates. In particular, it recognized that the confidence intervals around the MRIP harvest estimates constrain our ability to precisely project the impacts of differing management measures. The Commission is constrained in its ability to address this variability, given that summer flounder is jointly managed with the MAFMC and, therefore, falls under the mandates of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). One of these MSA mandates is the establishment of an annual recreational harvest limit (RHL) and associated management measures that seek to constrain harvest to this RHL.

In considering the 2016 harvest estimate relative to the 2017 RHL the Commission determined a reduction in harvest was needed to constrain coastwide harvest to the 2017 RHL. This determination was based on the 2016 harvest estimate from MRIP. The MRIP harvest estimates have been determined to be the best available science for recreational harvest. Until there is another data source or until interpretation of the federal law changes, the Commission is obligated to use the previous year's MRIP data to set the following year's measures. Therefore, Leadership does not find an incorrect application of technical information, and could not justify an appeal on this issue.

C. Claims Under Criterion Five: Unforeseen Circumstances/Impacts.

New Jersey's appeal is partially based on appeal criterion five, "Management actions resulting in unforeseen circumstances/impacts." Under this criterion the appeal cites increased fishery waste, disproportionate removal of larger breeding females, unfairness and inequity among member states, failure to consider economic and social impacts, and compliance and data collection issues. See letter from New Jersey Commissioners to ASMFC Chair Douglas E. Grout, pp. 2-8 (March 24, 2017).

None of these issues, however, constitutes "unforeseen" circumstance or impact. To the contrary, each of these factors was considered and discussed by the Board at either the December 2016 joint meeting with the MAFMC (compliance and data collection issues), the Commission's 2017 Winter Meeting (economic and social impacts), or were included in briefing materials for either of those meetings.

The appeal cites unforeseen circumstances due to increased fishery waste, through discards and disproportionate removal of larger breeding females. Both of these latter concerns were addressed in the MAFMC's staff memo dated November 3, 2016. The Monitoring Committee (MC) concurred with the memo's concerns regarding high size limits and discards. But the MC had reservations in addressing those concerns with slot limits as was recommended by the staff, given the overfishing status of stock and the below-average recruitment of summer flounder observed for the past six years (2010-2015). Slot limits typically result in an increased number of total removals, resulting in increased fishing mortality. There may be concern that increasing the size limit may target more females due to life history characteristics. However, members of the MC have noted that while the proportion of females targeted by an increase in size limit may increase, the total number of females harvested and removed from the population should decrease. This decrease is because the number of fish available for harvest at 19 inches is less than the number at an 18 inch size limit. Therefore, we do expect that the selected management measure will have the intended effect of decreasing harvest for the long term gain of the resource. Given this discussion was summarized in the briefing materials as well as part of the Board deliberations at the joint Board and MAFMC meeting in December 2016, Leadership disagrees with New Jersey's position that these issues were unforeseen.

New Jersey's appeal also cites unforeseen consequences from the one-inch size limit increase specified in the Addendum that would be unfair and inequitably impact New Jersey fisherman. Based on analysis conducted by the Technical Committee, New Jersey's projected

harvest reduction for 2017 under the prescribed measures in the Addendum is approximately 34%. The size limit increase approved in the Addendum distributed the burden of reducing harvest similarly to each state within the management unit, except North Carolina. The projected reductions in harvest due to the size limit increase in 2017 is similar for other states in the Mid-Atlantic region as well along the coast. In particular, New York's projected reduction is 33%, Rhode Island's projected reduction is 34%, and Massachusetts' projected reduction is 31%. This concern was raised by New Jersey at the 2017 Commission Winter Meeting. Given the Board's discussion of this issue and the similarity of the projected reductions, Leadership concludes that New Jersey's claim of unfairness or lack of equity among states is not an unforeseen circumstance justifying appeal to the ISFMP Policy Board.

Further, the appeal also cites unforeseen circumstances due to lack of consideration of economic or social impacts in the Addendum. During the call, Leadership discussed the Commission's practices regarding socioeconomic analyses and determined this Addendum was handled in a manner consistent with our established management process. Due to limited resources, the Commission rarely drafts full socioeconomic analyses for FMPs. However, this does not mean socioeconomic considerations are not part of the Commission's decision-making. In fact, public comment and Advisory Panel input during the public comment period noted concerns on this topic, and those concerns were presented to the Board. Each state delegation brings to the table an extensive knowledge of their fisheries, including the potential impacts of proposed management changes, economic and otherwise on those fisheries. Commissioners commonly highlight these impacts at board meetings prior to significant decisions, as was done with this Addendum. Also, the Commission relies on the public comment process to better understand socioeconomic impacts. Public and Advisory Panel comments noted these concerns and their comments were included in briefing materials for the 2017 Commission Winter Meeting.

As you are aware, the Addendum focuses on the reduction of harvest to address current levels of overfishing as indicated in the 2015 and 2016 stock assessment updates, which were presented to the Board and the MAFMC at previous meetings. These efforts are intended to immediately end overfishing and initiate rebuilding the economically and culturally important summer flounder population, which is on a decline. Board members were aware that, in the short term, a reduction in harvest could result in negative economic impacts to the for-hire sector and broader coastal businesses that support the summer flounder recreational fishery. Further, these potential impacts could affect not only New Jersey, but other states within the management unit. These sorts of impacts are always difficult; but they are, as here, sometimes necessary in service of management objectives to promote healthy and abundant stocks. Since Commissioners recognized and weighed these potential impacts to the states and industry, Leadership does not find the social and economic consequences of this Addendum as unforeseen.

Lastly, under unforeseen impacts, the appeal refers to certain compliance and data collection issues. The appeal raised the issue that management measures are continually changing. From 2014 to 2016 New Jersey maintained fairly consistent regulations with the exception of the New Jersey Delaware Bay fishery, which the state requested a lower size limit (17 inches

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for the Delaware Bay west of COLREGS line) and a reduced possession limit (from 5 to 4 fish for DE Bay west of COLREGS line) to be more closely aligned with Delaware. With the exception of this area-specific modification in 2016, coastal New Jersey has maintained the same minimum size limit (18 inches) and season length (128 days) for three years and same possession limit for four years. Additionally, for the three previous years New Jersey has a shore-based program at Island Beach State Park that allows for a lower size limit of 16 inches. This is a regional exception that New Jersey and Connecticut have been granted for the past three years and is allowed to continue in 2017 consistent with the provisions of the Addendum, which specify a one inch size limit increase. This demonstrates that measures have remained fairly consistent over recent years and changes have largely been driven by New Jersey interests.

Leadership acknowledges that changes in regulations can be difficult. However, adjusting regulations to serve key management objectives is an unavoidable necessity in today's world of fisheries management if we are to be successful in protecting and restoring declining fisheries. Leadership finds that this issue too is not an unforeseen circumstance or impact meriting appeal.

In light of these findings, Leadership finds there are grounds for appeal to the ISFMP Policy Board as to one of the three claims under criterion two advanced in New Jersey's letter – specifically, New Jersey's claim regarding the error in the text of the Draft Addendum. While Leadership has noted several factors that significantly mitigate the impact of this error, given the paramount importance of maintaining the integrity of the Commission's decision-making process, Leadership concludes it is appropriate to provide New Jersey an opportunity to present its appeal on this issue to the ISMFP Policy Board. During the ISFMP Policy Board meeting on May 11, 2017, the ISFMP Director will present background on the Addendum and the Board's justification. Following this presentation, the Commissioners from New Jersey will be provided 15 minutes to present their rationale for the appeal and their suggested resolution of the issue. The ISMFP Policy Board will then be provided an opportunity to discuss the issue and then decide on the appeal. No additional public comment will be taken in connection with the appeal.

Thank you for the continued partnership and commitment to the Commission process and actions.

Sincerely,



Douglas E. Grout
Chair

cc: Thomas P. Fote, Assemblyman Sgt. Robert Andrzejczak, Adam Nowalsky
Interstate Fisheries Management Program Policy Board

L17-39

Atlantic States Marine Fisheries Commission

APPEALS PROCESS

Approved by the ISFMP Policy Board

August 18, 2004

Background

The Atlantic States Marine Fisheries Commission's interstate management process is based on the voluntary commitment and cooperation of the states. The involved states have frequently demonstrated their willingness to compromise and the overall process has proven to be very successful. However, there have been instances where a state/jurisdiction has expressed concern that the Board decisions have not been consistent with language of an FMP, resulted in unforeseen circumstances or impacts, did not follow established processes, or were based on flawed technical information. In order to address these concerns, the ISFMP Policy Board charged the Administrative Oversight Committee with "exploring and further developing an appeals process".

Under the current management process the primary policy development responsibility lies with species management boards. And, in the case of development of new fishery management plans or amendments the full Commission has final approval authority prior to implementation. The purpose of the appeals process is to provide a mechanism for a state/jurisdiction to petition for a management decision to be reconsidered, repealed or altered. The appeals process is intended to only be used in extraordinary circumstances where all other options have been exhausted. The management boards have the ability to go back and correct errors or address additional technical information through the recently clarified process on "amending or rescinding previous board actions".

During the December 2003 ISFMP Policy Board meeting, the decision was made to continue to have the Policy Board serve as the deliberative body that will consider valid appeals. This decision is consistent with the language that is included in the ISFMP Charter. However, the Charter does not provide detailed guidance on how an appeal is to be addressed.

This paper details for the Commission appeals process.

Appeal Criteria –The intent of the appeals process is to provide a state with the opportunity to have a decision made by a species management board or section reconsidered by the Policy Board. The following criteria will be used to guide what type of decisions can be appealed. In general, management measures established through the FMP/amendment/addendum process can be appealed. However, the appellant must use one of the following criteria to justify an appeal:

1. Decision not consistent with FMP
2. Failure to follow process
3. Insufficient/inaccurate/incorrect application of technical information
4. Historical landings period not adequately addressed

5. Management actions resulting in unforeseen circumstances/impacts

The following issues could not be appealed:

1. Management measures established via emergency action
2. Out-of-compliance findings (this can be appealed but, through a separate, established process)
3. Changes to the ISFMP Charter

Appeal Initiation – The ISFMP Charter provides that a state aggrieved by a management board action can appeal to the ISFMP Policy Board. Any state can request to initiate an appeal; also a group of states can submit a unified request for an appeal. The states are represented on the Commission by three representatives that have the responsibility of acting on behalf of the states’ Executive and Legislative branches of government. Therefore, in order to initiate an appeal all seated Commissioners (not proxies) of a state’s caucus must agree that an appeal is warranted and must sign the letter submitted to the Commission. If a multi-state appeal is requested all the Commissioners from the requesting states must sign the letter submitted to the Commission. During meetings where an appeal is discussed proxies will be able to participate in the deliberations. Meeting specific proxies will not be permitted to vote on the final appeal determination, consistent with Commission policy.

A state (or group of states) can request and appeal on behalf of the Potomac River Fisheries Commission, District of Columbia, National Marine Fisheries Service, or the United States Fish and Wildlife Service.

The letter requesting an appeal will be submitted to the Chair of the Commission and include the measure(s) or issue(s) being appealed, the justification for the appeal, and the commitment to comply with the finding of the Policy Board. This letter must also include a demonstration that all other options to gain relief at the management board level have been exhausted. This letter must be submitted via certified mail at least **45 days** prior to a scheduled ASMFC Meeting Week. The Commission Chair, Vice-Chair and immediate past Chair will determine if the appeal meets the qualifying guidelines and notify the Policy Board of their decision. If the immediate past chair is no longer a commissioner the Chair will select an alternate from a state that is not affected by the appeal.

Convene a “Fact Finding” Committee (optional) -- Upon review of the appeal documentation, the Commission Chair, Vice-Chair and immediate past Chair (or alternate if necessary, as described above) may establish a “Fact Finding” Committee to conduct analyses and/or compile additional information if necessary. This group will be made up of individuals with the technical expertise (including legal, administrative, social, economic, or habitat expertise if necessary) and familiarity with the fishery to conduct the necessary analysis. If such a committee is convened the schedule included in the last section of this document may need to be adjusted to provide time for the Committee to conduct analyses. The Commission Chair, Vice-Chair and immediate past Chair (or

alternate if necessary, as described above) may set a deadline for the Committee to complete its work to ensure the appeal is addressed in a timely manner.

ISFMP Policy Board Meeting –Following the determination that an appeal has met the qualifying guidelines, a meeting of the Policy Board will be convened at a scheduled ASMFC meeting week. The agenda of this meeting will be set to allow sufficient time for all necessary presentations and discussions. The Chair of the Commission will serve as the facilitator of the meeting. If the Chair is unable to attend the meeting or would like to more fully participate in the deliberations, the Vice-Chair of the Commission will facilitate the meeting. The ISFMP Director will provide the background on the development of the management program as well as a summary of the justification provided in the record for the management board’s action. The ISFMP Director will also present the potential impacts of the appeal on other affected states. The appellant Commissioners will present their rationale for appealing the decision and provide a suggested solution. The Policy Board will then discuss the presentations and ask any necessary questions. The Board will vote to determine if the management board’s action was justified. A simple majority of the Policy Board is required to forward a recommendation to a management board for corrective action. If the Policy Board determines that the existing management program should be modified, it will issue a finding to that effect as well as any guidance regarding corrective action to the appropriate species management board. The referral may be worded to allow the management board flexibility in determining the details of the corrective action.

Upon receipt of the Policy Board’s recommendation the management board will discuss the findings and make the necessary changes to address the appeal. The management board is obligated to make changes that respond to the findings of the Policy Board. A simple majority of the management board will be necessary to approve the changes.

Appeal Products and Policy Board Authority—Following the Policy Board meeting a summary of the meeting will be developed. This summary will include a detailed description of the findings and will be forwarded to the appropriate management board and Policy Board upon completion. If the Policy Board determines that changes to the management program are necessary, the summary may include guidance to the management board for corrective action. The report of the Policy Board will be presented to the management board for action at the next scheduled meeting.

Considerations to Prevent Abuse of the Appeals Process – The appeals process is intended to be used only in extraordinary situations and is in no way intended to provide a potential avenue to preempt the established board process. The initiation of an appeal will not delay the Commission process for finding a state out of compliance nor delay or impede the imposition of penalties for delayed compliance.

Limiting Impacts of Appeal Findings – If a state is successful in an appeal and the management program is altered, another state may be negatively impacted by the appeals decision. In order to prevent an appeals “chain reaction,” the Policy Board’s recommendation and the resulting management board’s decision will be binding on all

states. All states with an interest in the fishery will be obligated to implement the changes as approved by the management board. Upon completion of the appeals process, a state is not precluded from taking further action beyond the Commission process to seek relief.

If the Policy Board supports the appeal and determines that corrective action is warranted, the potential for management changes to negatively impact other states will be evaluated by the Policy Board and the species management board.

Appeals Process Timeline

1. Within **15 working days** of receipt of a complete appeal request the Commission Chair, Vice-Chair, and immediate past chair (or alternate) will determine if the state has an appeal which meets the qualifying guidelines.
2. Upon a finding that the appeal meets the qualifying guidelines, the appeal will be included on the agenda of the ISFMP Policy Board meeting scheduled during the next ASMFC Meeting Week (provided an adequate time period is available for preparation of the necessary documentation).
3. Following the finding that an appeal meets the qualifying guidelines, Commission staff and the appellant commissioners will have a minimum of **15 working days** to prepare the necessary background documents.
4. The background documents will be distributed at least **15 days** prior to the Policy Board meeting.
5. A summary of the Policy Board meeting will be developed and distributed to all Commissioners within **15 working days** of the conclusion of the meeting.

Atlantic States Marine Fisheries Commission

**ADDENDUM XXVIII TO THE SUMMER FLOUNDER, SCUP, BLACK SEA BASS
FISHERY MANAGEMENT PLAN**

Summer Flounder Recreational Management in 2017



Approved February 2, 2017

Sustainably Managing Atlantic Coastal Fisheries

1.0 Introduction

Addendum XXVIII is adopted under the adaptive management/framework procedures of Amendment 12 and Framework 2 that are a part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Summer flounder, scup, and black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles), and through the Mid-Atlantic Fishery Management Council (Council) and the NOAA Fisheries in federal waters (3-200 miles). The management unit for summer flounder in US waters is the western Atlantic Ocean from the southern border of North Carolina northward to the US-Canadian border.

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on October 25, 2016:

Move to initiate an addendum to consider adaptive management, including regional approaches, for the 2017 summer flounder recreational fishery.

This Addendum establishes management of the 2017 recreational summer flounder fishery.

2.0 Overview

2.1 Statement of the Problem

A fundamental goal of Commission FMPs is to provide recreational anglers with fair and equitable access to shared fishery resources throughout the range of each managed species. The Commission's ISFMP Charter establishes fairness and equity as guiding principles for the conservation and management programs set forth in the Commission's FMPs. While the current FMP for summer flounder does not include a goal pertaining to this concept, the Board and Council are considering a new goal for inclusion in the forthcoming Comprehensive Summer Flounder Amendment: "Provide reasonable access to the fishery throughout the management unit." With these principles and goals in mind, the challenges facing the Board (and Council) involve determining what is meant by fair/equitable/reasonable access, and how to achieve it.

Complicating the access issue for 2017 is the significant reduction to the coastwide recreational harvest limit (RHL) set by the Board and Council in August 2016 in response to the most recent Stock Assessment Update. The 2017 RHL is 3.77 million pounds, an all-time low. By way of comparison, the RHL for 2017 is approximately 30% less than 2016, 48% less than 2015, and 68% less than 2011, when it peaked at 11.68 million pounds. Using a projected recreational harvest in 2016 of 6.38 million pounds (subject to change), harvest in 2017 must be reduced by roughly 2.6 million pounds to not exceed the 2017 RHL.

This Addendum addresses the issue that available management approaches are not viewed as providing a fair and reasonable way to constrain the 2017 recreational summer flounder fishery harvest to the RHL. The Board recognizes the management program within this addendum will also

have shortcomings with regards to addressing this problem, and thus intends for it to be an interim program while focusing on the development of a more comprehensive solution for the future.

2.2 Background

Amendment 2 (1993) initially required each state (Massachusetts through North Carolina) to adopt the same minimum size, possession limit, and season length as established in federal waters for the recreational fishery, allowing only for different timing of open seasons. The consistent measures were intended to uniformly impact the resource and stakeholders in all state and federal waters throughout the management unit. However, the states later determined one set of management measures applied coastwide did not provide equitable access to the resource due to the significant geographic differences in summer flounder abundance and size composition.

To address this disparity, the FMP was amended in 2001 (Framework Adjustment 2) to allow for the use of state-specific “conservation equivalent” management, through which recreational harvest would be constrained the same as under coastwide management. The Board and Council would engage in an annual process of determining whether to manage the fishery with coastwide measures or state-specific conservation equivalency; if the latter, the Board would have the lead in approving state-specific regulations. Concurrently, the Board adopted a series of addenda (Addenda III and IV in 2001, and Addendum VIII in 2004) implementing state-based conservation equivalency. Estimates of state recreational landings in 1998 were established as the basis for state recreational allocations- this is outlined in Addendum VIII (see Table 1) upon which state-by-state regulations could be developed. From 2001-2013, the Board and Council opted to use state-specific conservation equivalency tied to the proportion of each state’s estimated 1998 recreational landings. This provided states with the flexibility to tailor their regulations—i.e., minimum size, possession, and season limits—to meet the needs and interests of their fishery, provided their targets were not exceeded.

Table 1. State summer flounder harvest in 1998 and the proportion of harvest conservation equivalency state-by-state harvest targets are based on (Addendum VIII)

State	1998 estimated harvest (thousands)	Percent of the 1998 harvest
MA	383	5.5%
RI	395	5.7%
CT	261	3.7%
NY	1,230	17.6%
NJ	2,728	39.1%
DE	219	3.1%
MD	206	3.0%
VA	1,165	16.7%
NC	391	5.6%

The Board also adopted Addendum XVII in 2005, enabling the states to voluntarily opt into multi-state regions that would set regulations based on a pooling of their 1998-based allocations. The Council followed suit with the adoption of Framework Adjustment 6 in 2006, complementing the regional approach set forth by Addendum XVII. However, no states used this optional regional conservation equivalency approach.

Re-assessing in the Face of Changing Conditions:

The use of state-by-state regulations based on estimated state harvests in 1998 succeeded, initially, in mitigating the disparity in conservation burden among states, but later became viewed as an inadequate long-term solution, given changes in resource status and fishery performance.

As 2013 came to an end, the Board identified the following problems with the use of state allocations based on estimates of recreational harvest in 1998:

- 1) Substantial variation in stock dynamics since 1998. These included a six-fold increase in spawning stock biomass and expansion of the age structure from including 2–3 age classes to 7 or more. These changes led to geographic shifts in the distribution of the resource; as the stock rebuilt, its range expanded. Climate change was also identified as possibly contributing to shifts in migratory patterns, spatially and temporally.
- 2) Substantial changes in socio-economic patterns since 1998, particularly with regard to the number and distribution of anglers along the coast. For example, estimated angler participation increased significantly, and a growing percentage of harvest was attributed to private/rental vessels in contrast to shore-based and party/charter vessel harvest. Industry advisors indicated the rising costs of fuel, bait, and other trip expenditures were impacting angler effort.
- 3) Possible error in the estimates of harvest for 1998. Measuring recreational catch and effort, particularly on a state-by-state basis, is challenging and not without uncertainty in the estimates. The methods used to estimate recreational catch and effort are continually evolving, resulting in more accurate and precise estimates in more recent years.
- 4) Major disparities in the regulatory programs among the states; for example, as recently as 2012 and 2013, no two states had the same regulations, and several neighboring states had regulations that differed significantly. A case in point was New York, whose regulations were more restrictive than any other state, and that contrasted markedly with those of New Jersey, Connecticut, and Rhode Island.

To address these concerns, the Board adopted Addendum XXV, which implemented conservation equivalency on a regional basis for 2014. Five¹ regions were established: 1) Massachusetts; 2) Rhode Island; 3) Connecticut, New York, and New Jersey; 4) Delaware, Maryland, and Virginia; and 5) North Carolina. All states within each region were required to have the same possession limit, size limit, and season length.

¹ Initially, in February 2014, the Board established four regions, one being Massachusetts and Rhode Island combined. Subsequently, in March 2014, the Board approved a request from Massachusetts and Rhode Island to split its region into individual state regions to account for the significantly different recreational fisheries of the two states.

Although the precursors to Addendum XXV (Addendum XVII and Framework Adjustment 6) envisioned a regional approach based on regional harvest limits set as the sum of the harvest limits for all the states in each region, with accountability based on the performance of each region relative to its regional limit, Addendum XXV implemented an alternative approach. Based on analysis provided by the Board's Technical Committee, the Board focused on developing regulations for each region that would lead to projected regional harvests that would collectively achieve, but not exceed, the coastwide recreational harvest limit. The projected regional harvests did not constitute the sum of the harvest limits for all the states in each region. As such, the approach constituted a de facto reallocation of recreational harvest opportunities. Nonetheless, the Board emphasized that:

The new approach is not intended to implement new state allocations and is not intended to set a precedent for new state allocations. Under the adaptive regional approach, states would not give up their (1998-based) allocated portion of the Recreational Harvest Limit (RHL), would not be held accountable for anything other than their allocated portion of the RHL, and would retain the future opportunity (depending on what management approach is adopted for 2015) to continue managing their fisheries in accordance with their allocated portion of the RHL.

To achieve regulatory uniformity within each region, and to meet the coastwide harvest target, regulatory revisions were enacted for CT, NY, NJ, DE, and MD in 2014 (Table 7).

For 2015, the Board continued regional management, with the same regions, via Addendum XXVI. For all states, the same regulations in effect for 2014 were maintained for 2015 (Table 7).

For 2016, the Board again continued regional management via Addendum XXVII, with one adjustment to provide more equity in recreational opportunities for anglers in the Delaware Bay. That adjustment involved establishing New Jersey as a stand-alone region, with the caveat that New Jersey would enact separate management measures for the New Jersey portion of Delaware Bay, while maintaining regulations for the rest of its waters consistent with those of New York and Connecticut. New Jersey complied by enacting regulations for Delaware Bay that were closer to those of Delaware. For all other states the same regulations in effect for 2014 and 2015 were maintained for 2016 (Table 6).

Beginning 2017, the Board continues to have the same concern about disproportionate impacts among states from the use of 1998-based allocations and state-by-state management measures. A return to coastwide management measures is also unlikely to provide equitable access.

2.3 Description of the Fishery

In practice, the recreational fishery for summer flounder is managed on a "target quota" basis. A set portion (40%) of the total allowable landings is established as a recreational harvest limit (RHL), and management measures are established by the states that can reasonably be expected to constrain recreational harvest to this limit each year. It has historically been deemed impractical, because of the limitations of producing timely landing estimates, to try to manage the recreational fishery based on a real-time quota.

Over the past nine years, the coastwide landings exceeded the annual coastwide RHL three times: 2007, 2008, and 2014 (Table 2). The most recent overage in 2014 was by approximately 5% (approximately 380,000 pounds). Based on preliminary harvest estimates through August 2016, coastwide landings have already exceeded the 2016 RHL. The 2016 harvest estimates are subject to change as many states seasons remain open and data for wave 6 (November-December) are not yet available. Projected harvest through the end of 2016—based on state harvest trends in 2015—indicated the final harvest may be approximately 6.38 million pounds (Table 3).

Table 2. Coastwide Harvest Relative to Coastwide RHL: 2007-2016

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Coastwide Harvest (mil. lb)	9.34	8.15	6.03	5.11	5.96	6.49	7.36	7.39	4.72	6.38
Coastwide RHL (mil. lb)	6.68	6.21	7.16	8.59	11.58	8.49	7.63	7.01	7.38	5.42
Percent of RHL harvested	139.77%	131.25	84.22%	59.47%	51.43%	76.44%	96.40%	105.41%	63.97%	117.00%

*2016 Harvest is preliminary, through October only, and subject to change.

Table 3. Projected Coastwide Harvest for 2016 by states

State	Jan-Aug Estimate		Sep-Dec Projection		Projected Total Harvest	
	Weight	Numbers	Weight	Numbers	Weight	Numbers
MA	121,791	53,294	4,860	3,348	126,651	56,642
RI	278,682	89,988	6,927	2,833	285,610	92,821
CT	690,786	218,019	3,875	1,352	694,661	219,371
NY	2,238,513	712,643	55,118	18,164	2,293,630	730,807
NJ	1,904,113	609,878	573,966	181,181	2,478,080	791,059
DE	206,558	82,097	18,075	7,432	224,634	89,229
MD	42,574	18,537	9,123	4,538	51,697	23,075
VA	188,576	75,029	12,460	5,093	201,037	79,332
NC	16,870	9,605	12,152	7,469	29,021	17,074
Total	5,688,463	1,869,090	696,557	230,320	6,385,020	2,099,410

*September-December harvest are projected using proportion of landings by two-month wave by state in 2015.

**Total Projected Harvest is based on preliminary information and is subject to change as new information is made available.

Recreational Survey Estimates

The Marine Recreational Information Program, or MRIP, is a program under NOAA Fisheries which counts and reports marine recreational catch and effort. MRIP is driven by data provided by anglers and captains. MRIP replaced the Marine Recreational Fisheries Statistics Survey, or MRFSS, in 2008, which had been in place since 1979. MRIP is designed to meet two critical needs: (1) provide the detailed, timely, scientifically sound estimates that fisheries managers, stock assessors, and marine scientists need to ensure the sustainability of ocean resources and (2) address head-on stakeholder concerns about the reliability and credibility of recreational fishing catch and effort estimates. MRIP is an evolving program with ongoing improvements. Detailed information on MRIP and the improvements can be found at <http://www.st.nmfs.noaa.gov/recreational-fisheries/index>. All recreational catch and effort data considered in this document are derived from MRIP.

2.4 Status of the Stock

The most recent peer-reviewed benchmark assessment for summer flounder (Northeast Regional Stock Assessment Workshop 57, NEFSC 2013) was updated in July 2016. The assessment utilizes an age-structured assessment model called ASAP. Results of the assessment update indicate the summer flounder stock was not overfished but overfishing was occurring in 2015 relative to the updated biological reference points established in the 2013 SAW 57 assessment. The fishing mortality rate has been below 1.0 since 1997, but was estimated to be 0.390 in 2015, above the threshold fishing mortality reference point $F_{MSY} = 0.309$ (Figure 1). Spawning stock biomass (SSB) was estimated to be 88.9 million pounds (36,240 mt) in 2015, about 58% of the biomass target $SSB_{MSY} = 137.555$ million pounds (62,394 mt) and 16% above the biomass threshold (Figure 2). The 2015 year class is estimated to be about 23 million fish at age 0, continuing the trend of below-average year classes for the past six years (2010-2015).

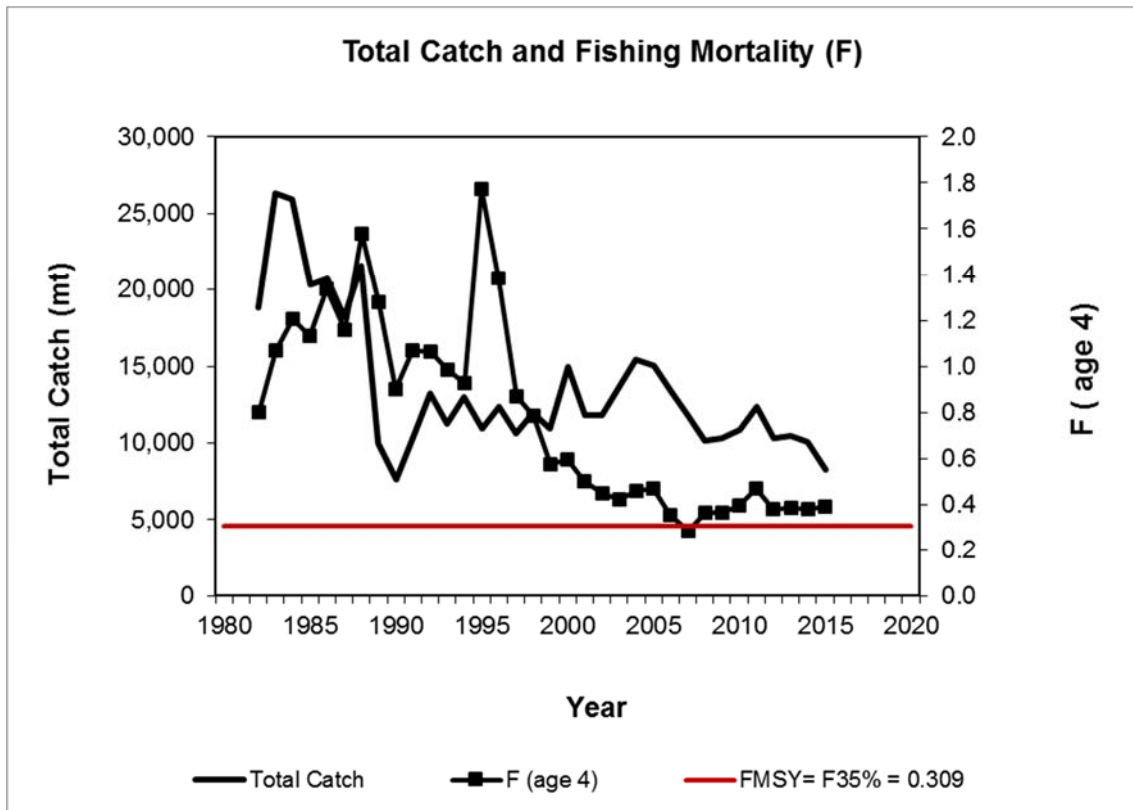


Figure 1. Total fishery catch and fully-recruited fishing mortality (F, peak at age 4) of summer flounder. The horizontal red line is the 2013 SAW 57 fishing mortality threshold reference point proxy. Source: NEFSC Summer Flounder Stock Assessment Update for 2016 (June 2016).

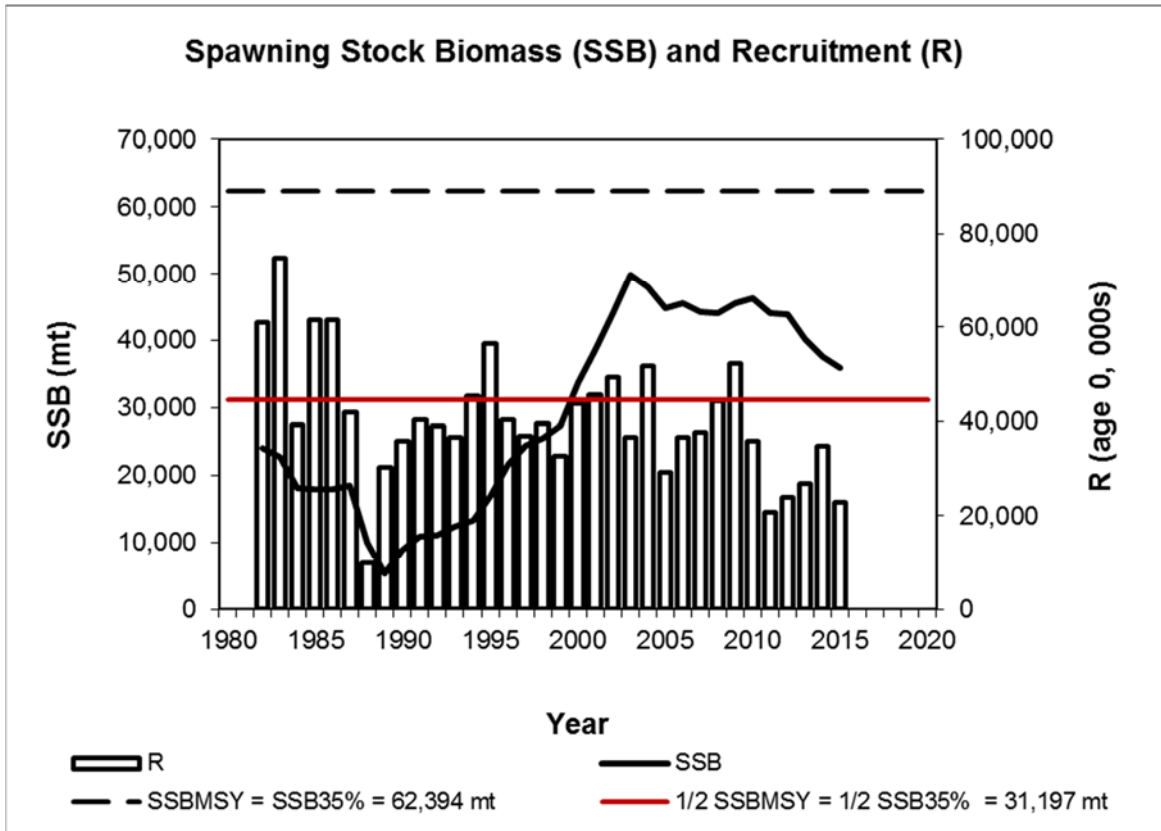


Figure 2. Summer flounder spawning stock biomass (SSB) and recruitment at age 0 (R) by calendar year. The horizontal dashed line is the 2013 SAW 57 biomass target reference point proxy; the horizontal red line is the biomass threshold reference point proxy. Source: NEFSC Summer Flounder Stock Assessment Update for 2016 (June 2016).

A breakdown of the 2017 Overfishing Limit (OFL), Acceptable Biological Catch Limit (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), and subsequent coastwide RHL based on the 2016 stock assessment update is included in Table 4. The 2017 proposed harvest limit is a time series low as the result of the biomass projections from the 2016 stock assessment update.

Table 4. Basis for 2017 summer flounder catch and landings limits. Numbers may not add precisely due to unit conversions and rounding.

Management Specifications	2016		2017		Basis for 2017 Limits
	mil lb.	mt	mil lb.	mt	
OFL	18.06	8,194	16.76	7,600	Stock assessment projections
ABC	16.26	7,375	11.30	5,125	Stock assessment projections/ SSC recommendation
Commercial ACL	9.42	4,275	6.57	2,982	60% of ABC landings portion (per FMP allocation) + 49% of ABC discards portion
Commercial ACT	9.42	4,275	6.57	2,982	Monitoring Committee recommendation: no deduction from ACL for management uncertainty
Commercial Quota	8.12	3,685	5.66	2,567	Commercial ACT, less projected commercial discards
Recreational ACL	6.84	3,100	4.72	2,143	40% of ABC landings portion (per FMP allocation) + 51% of ABC discards portion
Recreational ACT	6.84	3,100	4.72	2,143	Monitoring Committee recommendation; no deduction from ACL for management uncertainty
Recreational Harvest Limit	5.42	2,457	3.77	1,711	Recreational ACT, less projected recreational discards

3.0 Management Program

The 2017 summer flounder recreational fishery will divide the coast into six management regions (similar to 2016): 1) Massachusetts 2) Rhode Island 3) Connecticut-New York 4) New Jersey 5) Delaware-Virginia and 6) North Carolina. The combined management program of all 6 regions is designed to not exceed the 2017 recreational harvest limit.

Each region, except for North Carolina, is required to increase the minimum size by one inch from the 2016 size limit (Note: North Carolina is exempt as long as the state’s harvest remains low because its fishery is confounded by three species of similar flatfish for which consistency in regulations is ideal). Each Region is required to have a possession limit of 4 fish or less.

This approach moves away from using the 1998-based allocations to set regional targets, based on the concerns listed in Section 2.2 Background (page 2). Additionally, the past three years have shown how variable annual harvest at the coastal (50%), regional (>60%), and state (>100%) level can be despite consistent measures across the years, underscoring the difficulty of using prior year harvest to predict future year harvest. The Commission recognizes the confidence intervals around the harvest estimates limit the ability to precisely project the impacts of differing management measures. The approach thus applies broad action across all states to reduce harvest and provide for more coastwide consistency in regulations.

Table 5. Example 2017 Regional Management Measures

STATE	2016 Projected Harvest	Example Size Limit	Example Possession Limit	Example Season (# of days)
MASSACHUSETTS	56,642	17"	4 fish	125
RHODE ISLAND	92,821	19"	4 fish	245
CONNECTICUT NEW YORK	950,178	19"	3 fish	128
NEW JERSEY*	782,142	19"	3 fish	128
NEW JERSEY/ DELAWARE BAY COLREGS**	8,916	18"	3 fish	
DELAWARE MARYLAND VIRGINIA	191,636	17"	4 fish	365
NORTH CAROLINA	17,074	15"	4 fish	365

*New Jersey east of the COLREGS line at Cape May, NJ will have management measures consistent with the northern region of Connecticut – New York.

**New Jersey west of the COLREGS line at Cape May, NJ inside Delaware Bay will have a similar size limit to the southern region (DE-VA), the same possession limit and the same season length as the northern region of Connecticut – New York.

Management for 2018

If the Board chooses to continue this management program for 2018, the following outlines the process for setting harvest targets:

The TC will use harvest estimates and fishery performance from 2017 to evaluate the 2018 regional management approach. **If the coastwide RHL is exceeded, then region specific harvest will be evaluated, with the understanding that more restrictive management measures will be needed to constrain regional harvest in 2018. If the predicted 2018 combined regional harvest is higher than the 2018 RHL, regions will have to adjust their management measures in 2018.** The TC will develop proposed measures for each region that, when combined, will constrain the coastwide harvest to the 2018 RHL. Any number of size, possession, and season combinations can be evaluated when looking at regional management.

3.1.1 Timeframe for Summer Flounder Measures

For 2017 and ability to extend through 2018 (One year extension)

The management program outlined in section 3.0 will be in place for 2017. The Board could take action, through a Board vote, to extend the addendum for one year, expiring at the end of 2018. After 2018 (or for 2018 if the Board does not extend the Addendum into 2018), measures would revert back to the FMP status quo coastwide/conservation equivalency measures.

4.0 Compliance:

The management program for summer flounder contained in Section 3.0 of Addendum XXVIII are effective immediately upon its approval (February 2, 2017). States will go through their administrative procedure to implement regional management measures to cumulatively achieve the needed coastwide reduction for 2017. Once management measures are finalized, the states must notify the Board of their final 2017 management measures by March 1, 2017. If a state or region does not implement management measures to cumulatively achieve across the regions the needed 2017 reduction, that state or region must implement the precautionary default management measures. The Board and Council approved in December 2016 precautionary default measures for 2017 that include a minimum size of 20 inches total length, a possession limit of 2 fish, and a season of July 1–August 31. These measures would be in place for both state and federal waters of the state or region in question. If a state or region does not implement either sets of measures, that state or group of states may be found out of compliance. States measures will made available to the public as soon as they are finalized.

Tables and Figures

Table 6. 2016 Summer Flounder Recreational Management Measures. Color blocking indicates regions

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	16	5 fish	May 22-September 23
Rhode Island	18	8 fish	May 1-December 31
Connecticut	18	5 fish	May 17- September 21
CT Shore Program (46 designed shore sites)	16		
New York	18	5 fish	May 17- September 21
New Jersey*	18	5 fish	May 21- September 25
NJ Shore program (1 designated site)	16	2 fish	
New Jersey/Delaware Bay COLREGS**	17	4 fish	
Delaware	16	4 fish	January 1- December 31
Maryland	16	4 fish	January 1- December 31
PRFC	16	4 fish	January 1- December 31
Virginia	16	4 fish	January 1- December 31
North Carolina	15	6 fish	January 1- December 31

*New Jersey east of the COLREGS line at Cape May has management measures consistent with the northern region of Connecticut – New York.

**New Jersey west of the COLREGS line at Cape May, NJ inside Delaware Bay has a similar size limit to the southern region (DE-VA), the same possession limit as the southern region (DE-VA), and the same season length as the northern region of Connecticut – New York.

Table 7. State regulations, 2013–2016. 2013 represents the last year state-by-state regulations applied; regional management applies 2014–2016. Color blocking indicates regions. Red font indicates change from prior year.

	2013	2014	2015	2016
MA	16" 5 fish May 22-Sep 30	16" 5 fish May 22-Sep 30	16" 5 fish May 22-Sep23*	16" 5 fish May 22-Sep 23 (125 day season)
RI	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31	18" 8 fish May 1-Dec 31 (245 day season)
CT	17.5"*** 5 fish May 15-Oct 31	18"*** 5 fish May 17-Sep 21	18"*** 5 fish May 17-Sep21	18"*** 5 fish May 17-Sep21 (128 day season)
NY	19" 4 fish May 1-Sep 29	18" 5 fish May 17-Sep 21	18" 5 fish May 17-Sep21	18" 5 fish May 17-Sep21 (128 day season)
NJ Coast	17.5" 5 fish May 18-Sep16	18"*** 5 fish May 23-Sep 27	18"*** 5 fish May 23-Sep 26	18"*** 5 fish May 21-Sep 25 (128 day season)
NJ Delaware Bay	17.5" 5 fish May 18-Sep16	18" 5 fish May 23-Sep 27	18" 5 fish May 23-Sep 26	17" 4 fish May 21-Sep 25 (128 day season)
DE	17" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
MD	16" 4 fish Mar 28-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
VA	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31	16" 4 fish Jan 1-Dec 31 (365 day season)
NC	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31	15" 6 fish Jan 1-Dec 31 (365 day season)

*MA change in season not due to cut, but correction of error from prior year

**CT has 45 designated coastal sites where minimum size is 16" for the 5-fish limit, 2013–2016

***NJ has 1 designated coastal site where 2 fish at 16" can be taken, 2014–2016 (another 3 at 18" can be taken outside of the designated site)



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmf.org

Douglas E. Grout (NH), Chair

James J. Gilmore, Jr. (NY), Vice-Chair

Robert E. Beal, Executive Director

Vision: Sustainably Managing Atlantic Coastal Fisheries

June 8, 2017

The Honorable Wilbur Ross
Secretary of Commerce
Herbert C. Hoover Building
United States Department of Commerce
1401 Constitution Avenue, Northwest
Washington, DC 20230

Dear Mr. Secretary:

This letter is to notify you that the Atlantic States Marine Fisheries Commission (Commission) has determined the State of New Jersey is out of compliance with the Commission's Interstate Fisheries Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass.

The Commission adopted the following motion on June 1, 2017, upon the recommendation of the Summer Flounder, Scup, and Black Sea Bass Management Board and the Interstate Fishery Management Program Policy Board:

On Behalf of the ISFMP Policy Board, move the full Commission find the state of New Jersey be found out of compliance for not fully and effectively implementing and enforcing Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan if the State does not implement the following measures by May 25, 2017:

- *Shore mode for Island Beach State Park only: 17-inch minimum size limit; 2-fish possession limit and 128-day open season.*
- *Delaware Bay only (west of the COLREGs line): 18-inch minimum size limit; 3-fish possession limit and 128-day open season.*
- *All other marine waters (east of the COLREGs line): 19-inch minimum size limit; 3-fish possession limit and 128-day open season*

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to end overfishing of the summer flounder stock. In order to come back into compliance, the state of New Jersey must implement all of the measures listed above as contained in Addendum XXVIII to the Summer Flounder FMP.

The motion passed with all member states voting in favor except New Jersey, which voted against the motion, and Florida which was absent from the meeting. By this action, the Commission has found the State of New Jersey out of compliance with the FMP and has outlined what the state must do to come back into compliance.

Honorable Wilbur Ross

June 8, 2017

Page 2

The Summer Flounder, Scup, and Black Sea Bass Management Board approved Addendum XXVIII with the goal of providing anglers fair and equitable access to summer flounder throughout the range while staying within the 2017 recreational harvest limit (RHL) as required by the FMP and the Magnuson-Stevens Act. 2017 catch limits were reduced by approximately 30% in response to the stock assessment result that overfishing was occurring, the fishing mortality threshold had been exceeded by 26% and spawning stock biomass has been declining since 2010 and is nearing the threshold as indicated by the 2016 Stock Assessment Update. The Update, based on data through 2015, shows 14 out of 15 fishery independent survey indices along the US Atlantic coast showed declining numbers of summer flounder from their most recent peak abundance, with the largest decline at 97%. The failure of New Jersey to implement and enforce a management program consistent with the FMP will result in summer flounder harvest levels that will negatively impact state and federal efforts to end overfishing and conserve the resource by increasing its abundance. The increase in the minimum size limit from 18 to 19-inches and the bag limit reduction from 4 to 3 fish will decrease the number of summer flounder harvested in order to not exceed the RHL and work towards ending overfishing.

The Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101) requires all Atlantic coastal states to implement and enforce fishery management plans adopted by the Commission. If the Commission determines a state is out of compliance with one of its FMPs, the Act requires the Commission to report this determination to you. I have also communicated a similar letter to the Secretary of the Interior.

Sincerely,



Robert E. Beal

cc: New Jersey ASMFC Commissioners and Proxies
Doug Grout, ASMFC Chair
James Gilmore, ASMFC Vice-Chair
Summer Flounder, Scup, and Black Sea Bass Management Board
Summer Flounder, Scup, and Black Sea Bass Technical Committee
Summer Flounder, Scup, and Black Sea Bass Advisory Panel
Interstate Fisheries Management Program Policy Board



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

JUL 12 2017

Mr. Robert E. Beal, Executive Director
Atlantic States Marine Fisheries Commission
1050 N. Highland Street
Suite 200A-N
Arlington, VA 22201

Dear Mr. Beal:

On June 8, 2017, you notified Commerce Secretary Wilbur Ross of the Atlantic States Marine Fisheries Commission's determination that the State of New Jersey was out of compliance with Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Interstate Fishery Management Plan. The measures in question regarding noncompliance are designed to constrain recreational catch to established catch limits and end overfishing of the summer flounder stock.

The Atlantic Coastal Act's noncompliance process (16 U.S.C. § 5106) involves two criteria. The Secretary must determine: 1) whether the State in question has failed to carry out its responsibility under the Commission's ISFMP; and 2) if so, whether the measures that the State failed to implement and enforce are necessary for the conservation of the fishery in question. If the Secretary determines a State is noncompliant with both of these criteria, the Atlantic Coastal Act mandates that the Secretary impose a moratorium on fishing in State waters in the fishery in question.

New Jersey makes a compelling argument that the measures it implemented this year, despite increasing catch above the harvest target, will likely reduce total summer flounder mortality in New Jersey waters to a level consistent with the overall conservation objective for the recreational fishery. While there is some uncertainty about how effective the New Jersey measures will be, considering the information provided by the State, the Secretary has found that the measures are likely to be equivalent in total conservation as those required under Addendum XXVIII. Therefore, the second criterion of the noncompliance finding is not met and it is unnecessary to implement a fishery moratorium in New Jersey waters for 2017.

Please contact Alan Risenhoover, Director of the Office of Sustainable Fisheries, if you need additional information. He can be reached at 301-427-8500, 1315 East-West Highway, Silver Spring, Maryland 20910, or alan.risenhoover@noaa.gov.

Sincerely,

Chris Oliver

cc: Mr. Douglas Grout, Chairman, Atlantic States Marine Fisheries Commission
Mr. Michael Luisi, Chairman, Atlantic States Marine Fisheries Commission Summer
Flounder Management Board



Atlantic States Marine Fisheries Commission

Annual Performance of the Stocks: 2017 Review

July 2017

Objective: – Support the ISFMP Policy Board’s review of stock rebuilding performance and management board actions and provide direction to management boards for 2016 Action Plan.

- A. Validate status/rate of progress (acceptable/not acceptable)
- B. If not acceptable, identify appropriate corrective action

Species Groups: – Species are grouped under five major categories (1) rebuilt/sustainable; (2) recovering/rebuilding; (3) concern; (4) depleted; and (5) unknown, as defined below.

Rebuilt/Sustainable – Stock biomass is equal to or above the biomass level established by the FMP to ensure population sustainability. When between benchmark assessments a stock can still be considered rebuilt/sustainable if it drops below the target but remains above the threshold.

Recovering/Rebuilding – Stocks exhibit stable or increasing trends. Stock biomass is between the threshold and the target level established by the FMP.

Concern – Those stocks developing emerging issues, e.g., increased effort, declining landings, or impacts due to environmental conditions.

Depleted – Reflects low levels of abundance though it is unclear whether fishing mortality is the primary cause for reduced stock size

Unknown – There is no accepted stock assessment to estimate stock status.

Status as of 2017

Rebuilt/Sustainable:

American Lobster (GOM/GBK)
Atlantic Herring
Atlantic Menhaden
Black Drum
Black Sea Bass
Bluefish
Scup
Spanish Mackerel
Spiny Dogfish

Recovering/Rebuilding:

Atlantic Striped Bass
Red Drum
Tautog (MA/RI)

Concern:

Coastal Sharks
Horseshoe Crab
Summer Flounder
Winter Flounder (GOM)

Depleted:

American Eel
American Lobster (SNE)
American Shad
Northern Shrimp
River Herring
Tautog (LIS, NJ/NY Bight, DelMarVa)
Weakfish
Winter flounder (SNE/MA)

Unknown:

Atlantic Croaker
Atlantic Sturgeon
Jonah Crab
Spot
Spotted Seatrout



Status as of 1998

Rebuilt/Rebuilding

Atlantic Herring
Atlantic Striped Bass
Bluefish
Black Sea Bass
Spanish Mackerel
Summer Flounder

Concern/Depleted

American Lobster (SNE)
Atlantic Menhaden
Northern Shrimp
Red Drum
Scup
Spiny Dogfish
Tautog
Weakfish
Winter Flounder (SNE/MA and GOM)

Unknown

American Eel
American Shad
Atlantic Croaker
Atlantic Sturgeon
Horseshoe Crab
River Herring
Spot
Spotted Seatrout

Summary Table of Rebuilt/Sustainable Species

Species	Biomass % of Target	Assessment Schedule	Caveats/Notes (what actions need to be taken to maintain rebuilt status)
American Lobster (Gulf of Maine/ Georges Bank)	375% of abundance threshold (2015 benchmark assessment)		The stock is not overfished and is not experiencing overfishing. Dramatic stock abundance increase since the late 1980s and at an increasing rate since 2005. Average spawning stock and recruit abundance are above the 75 th percentile while young of year indicators are generally below the median.
Atlantic Herring	>200% of biomass target adjusted for retrospective bias (Operational Assessment 2015)	Benchmark Assessment –June 2018	The stock is not overfished and is not experiencing overfishing. Survey indices in the operational assessment suggest the 2011 year class is the second largest in time series and will contribute significantly to total population abundance and biomass.
Atlantic Menhaden	90% of fecundity target	Assessment Update – 2017	The stock is not overfished and is not experiencing overfishing. Abundance of older fecund fish in the population. Significant changes occurred through the benchmark assessment including the addition of fishery-independent datasets and changes to the model structure to incorporate the spatial resolution of the reduction and bait fisheries.
Black Drum	192% of B_{MSY} (2015 benchmark assessment)		The stock is not overfished and is not experiencing overfishing.
Black Sea Bass	229% of the SSB target (2016 benchmark stock assessment)		The stock is not overfished and is not experiencing overfishing. Recent strong recruitment has led to the highest biomass estimate in the time series. It's unknown whether strong year classes/recruitment will continue to maintain high abundance in future years.
Bluefish	85% of SSB target (2015 benchmark assessment)	Assessment Update – 2018	The stock is not overfished and is not experiencing overfishing. Considered less vulnerable to becoming overfished relative to the biological reference points due to their life history characteristics (e.g., pelagic species, opportunistic feeder, multiple spawning events per years).

Summary Table of Rebuilt/Sustainable Species

Scup	209% of SSB target (2015 benchmark assessment)	Assessment Update- 2018	The stock is not overfished and is not experiencing overfishing. There is no consistent internal retrospective pattern in fishing mortality (F), spawning stock biomass (SSB), or recruitment evident in the scup assessment model.
Spanish Mackerel	SSB ₂₀₁₁ /SSB _{MSY} =1.49; SSB ₂₀₁₁ /M _{SST} =2.29 (2012 benchmark stock assessment)		The stock is not overfished and is not experiencing overfishing.
Spiny Dogfish	106% of SSB target in 2015 (based on the Kalman filter applied to the 2015 assessment update)	Assessment Update – Fall 2018	In November 2015, due to incomplete survey data in 2014, the Northeast Fisheries Science Center (NEFSC) updated the spiny dogfish assessment using a Kalman filter to smooth estimates across years. 2015 SSB is estimated to be 168,207 mt, about 106% of the SSB target. Commercial quotas have decreased over the past three years because SSB is projected to decline through 2019 before rebounding back up.

Summary Table of Species Undergoing Recovery/Rebuilding

Species	Biomass % of Target	Assessment Schedule	Caveats/Notes (what actions need to be taken to continue rebuilding)
Atlantic Striped Bass	82% of SSB target in 2015 (2016 assessment update)	Benchmark Assessment – 2018	The stock is not overfished and is not experiencing overfishing, although SSB has been declining since 2006 and was estimated just above the threshold level in 2015. Coastwide harvest reduction measures were implemented in 2015 in order to reduce fishing mortality and stabilize SSB.
Red Drum	Unknown		Red drum does not fit into any of the Commission categories perfectly. The stock is not experiencing overfishing. The estimates of biomass from the assessment are highly uncertain and were not recommended for management use. While Indices used in the assessment are variable, the long term trends are stable.
Tautog (MA/RI)	82% of SSB Target (2016 assessment update)		Spawning potential ratio was used to determine stock status. Total abundance and spawning stock biomass declined rapidly from 1982 until 2000. Spawning stock biomass decreased from 8,994 mt in 1985 to the current estimate of 2,196 mt in 2015.

Overview of Species of Concern

Coastal Sharks: Concern

Assessment Findings

Species or Complex Name	Stock Status		References/Comments
	Overfished	Overfishing	
Pelagic			
Porbeagle	Yes	No	Porbeagle Stock Assessment, ICCAT Standing Committee on Research and Statistics Report (2009); Rebuilding ends in 2108 (HMS Am. 2)
Blue	No	No	ICCAT Standing Committee on Research and Statistics Report (2015)
Shortfin Mako	No	No	ICCAT Standing Committee on Research and Statistics Report (2012)
All other	Unknown	Unknown	
Aggregated Large Coastal Sharks (LCS)			
Atlantic Blacktip	Unknown	Unknown	SEDAR 11 (2006)
Aggregated Large Coastal Sharks Atlantic Region	Unknown	Unknown	SEDAR 11 (2006); difficult to assess as a species complex due to various life history characteristics/ lack of available data
Non-Blacknose Small Coastal Sharks (SCS)			
Atlantic Sharpnose	No	No	SEDAR 34 (2013)
Bonnethead	Unknown	Unknown	SEDAR 34 (2013)
Finetooth	No	No	SEDAR 13 (2007)
Hammerhead			
Scalloped	Yes	Yes	SEFSC Scientific Review by Hayes et al. (2009) Hayes, et al. (2009): Rebuilding ends in 2023 (HMS Am. 5a)
Blacknose			
Blacknose	Yes	Yes	SEDAR 21 (2010); Rebuilding ends in 2043 (HMS Am. 5a)
Smoothhound			
Atlantic Smooth	No	No	SEDAR 39 (2015)
Research			
Sandbar	Yes	No	SEDAR 21 (2010)

Overview of Species of Concern

Prohibited			
Dusky	Yes	Yes	SEDAR 21 (2016); Rebuilding ends in 2107 (HMS Am. 5b)
Basking		No	Campana (2008)
Night		No	Carlson et al (2008)
Sand Tiger		No	Carlson et al (2008)
White		No	Curtis et al (2014)
Bigeye Thresher		No	Young et al (2016)
All other	Unknown	Unknown	

Board Adherence to Scientific Advice

- Based on Technical Committee advice, the Board approved FMP regulations that generally complement regulations in federal waters, ensuring F does not exceed F_{MSY} or $F_{REBUILD}$, and protecting shark pupping grounds in state waters.
- The Board manages the commercial fishery via management groups based on biology, fisheries, and stock status of various species.
- The Board approved a January 1, 2017 opening date for all commercial management groups in the Atlantic shark fishery, in conjunction with federal waters' fisheries.
- The 2017 commercial fishery is year-round, therefore, adjustable commercial retention limits for the aggregated large coastal shark and hammerhead shark management groups were implemented, in conjunction with federal waters fisheries, to ensure equitable distribution of the resource throughout the fishing season. The default commercial retention limit is 45 sharks per trip per vessel; it can be adjusted in-season to 0 – 55 sharks per vessel per trip.
- In 2017, a commercial possession limit of 8 blacknose sharks per trip was implemented in federal waters; the Commission adopted the possession limit via the 2017 specifications.
- To complement the Shark Conservation Act of 2010, the Board implemented a fins naturally attached policy for all sharks, with a limited exception for smooth dogfish. Harvesters can remove the fins of smooth dogfish provided the weight of the fins onboard does not exceed 12% of the total weight of smooth dogfish carcasses.

Monitoring and Management Measures

- May 15 – July 15 closed season from New Jersey-Virginia to protect pupping females for the following species: sandbar, silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead.
- Fins to remain attached to the carcass through landing for all species except smooth dogfish (25% catch composition applies)
- Recreational fishing controlled through possession limits with a 4.5' fork length size limit for all species except for Atlantic sharpnose, finetooth, blacknose, and bonnethead which do not have a size limit, and 6.5' for all hammerhead shark species.
- Recreational anglers can only harvest sharks caught with a handline or rod & reel.

Next Assessment: Variable by species/complex

Rebuilding Trajectory: Variable by species/complex

Overview of Species of Concern

Horseshoe Crab: Concern

2013 Assessment Update Findings

- Abundance has increased in the Southeast and Delaware Bay Region (New Jersey through coastal Virginia), and decreased in New York and New England.
- In the Delaware Bay, increasing trends were most evident for juveniles, followed by adult males. A small increase in adult females was observed in the Virginia Tech Benthic Trawl Survey, but the survey has not been conducted since 2013. These patterns are indicative of population recovery, given that horseshoe crab females take longer to mature than males.
- Declines in the New England population were also apparent in the 2004 and 2008 assessments; however, the 2008 declines in New York represent a downturn from the 2004 assessment. The Technical Committee believes decreased harvest quotas in Delaware Bay encouraged increased harvest in nearby regions.
- The Technical Committee recommends continued precautionary management to address effects of redirected harvest from Delaware Bay to outlying populations.

Regional Trends in Horseshoe Crab Abundance

Region	Time series duration of longest dataset	Conclusion about population change
New England	1978 - 2008	Declined
New York	1987 - 2008	Declined
Delaware Bay	1988 - 2008	Increased
Southeast	1993 - 2009	Increased

Needed Information/Data

- Dedicated funding for a coastwide survey or surveys by broader geographical region
- Biological reference points
- A mechanism to include biomedical data and mortality estimates in regional assessments without compromising data confidentiality

Board Adherence to Scientific Advice

- Addendum VII, approved in 2012, implemented the Adaptive Resource Management (ARM) framework, which was used to set annual specifications for horseshoe crabs of Delaware Bay origin. The ARM framework has been used since 2013.

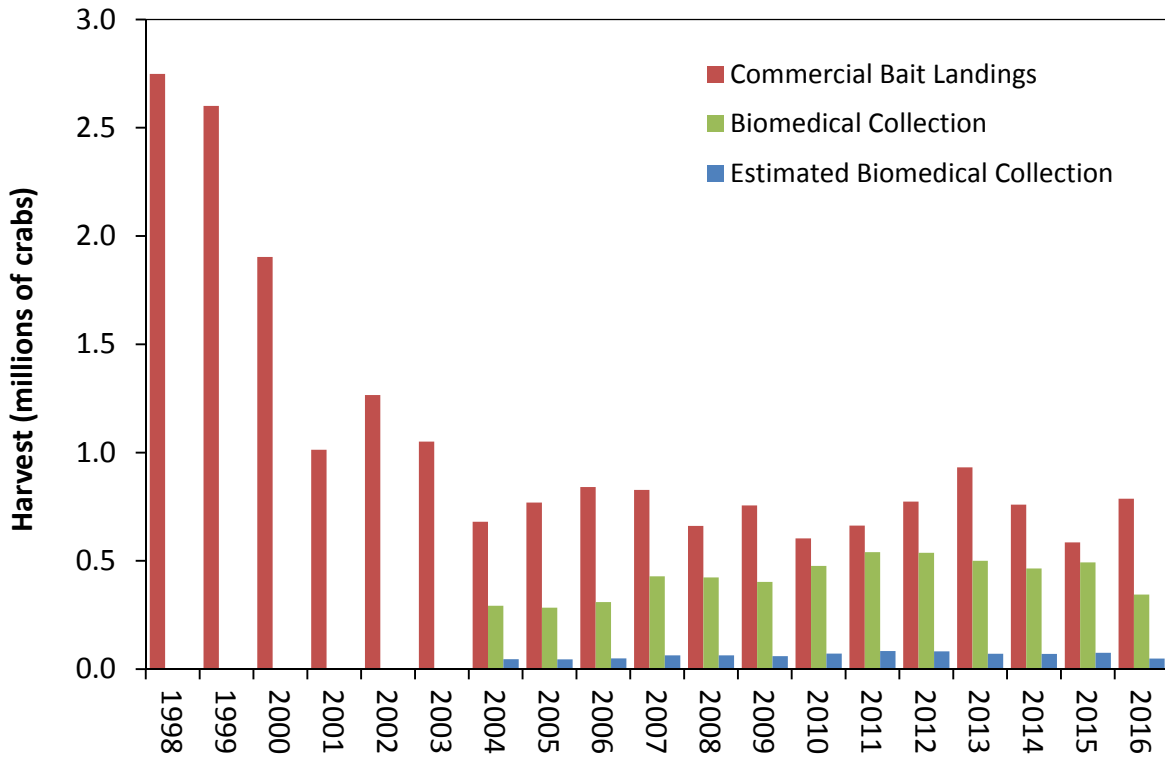
Next Assessment: Benchmark stock assessment scheduled for 2018

Rebuilding Trajectory: Varies by region (see table)

Overview of Species of Concern

Horseshoe Crab Bait Landings and Biomedical Collection

ASMFC State Compliance Reports, 2017



Please note the following details regarding biomedical collection numbers:

* Biomedical collection numbers, which are annually reported to the Commission, include all horseshoe crabs brought to bleeding facilities except those that were harvested as bait and counted against state quotas.

* Most of the biomedical crabs collected are returned to the water after bleeding; a 15% mortality rate is estimated for all bled crabs. This is noted in the above graph as 'Estimated Biomedical Mortality.'

Timeline of Management Actions: FMP ('99); Addendum I ('00); Addendum II ('01); Addendum III ('04); Addendum IV ('06); Addendum V ('08); Addendum VI ('10); Addendum VII ('12)

Overview of Species of Concern

Summer Flounder: Concern

Assessment Findings (2015 Assessment Update)

- Not overfished, but overfishing was occurring relative to the biological reference points ($F=.390$ in 2015, 26% above $F_{MSY}=3.09$).
- Spawning stock biomass was estimated to be 79 million pounds in 2014, 65% of the target (138 million pounds)
- Recruitment over the past six years (2010-2015) were below average.
- 2016 commercial landings were approximately 7.81 million pounds or 96% of the 2016 the commercial quota
- 2016 recreational harvest was approximately 5.42 million pounds or 114% of the recreational harvest limit. Harvest in 2016 increased by 31% relative to harvest in 2015.

Scientific Advice Based on Assessment Findings

- Retrospective patterns are evident in the assessment and have substantial implications for the reliability of the model projections.
- Projections are made assuming the acceptable biological catch (ABC) will be fully harvested, but not exceeded. However, there are trends in harvest indicating an increased likelihood of catches exceeding the ABC.
- For 2017, the probability of overfishing is higher than the Mid-Atlantic Council's risk policy.

Board Adherence to Scientific Advice

- 2017 acceptable biological catch was decreased by 30% to reflect declines in stock size.
- The Board approved a regional approach for recreational management measures which is a more precise use of the MRIP data. MRIP estimates are best used in aggregate - annually and at the state or regional level.

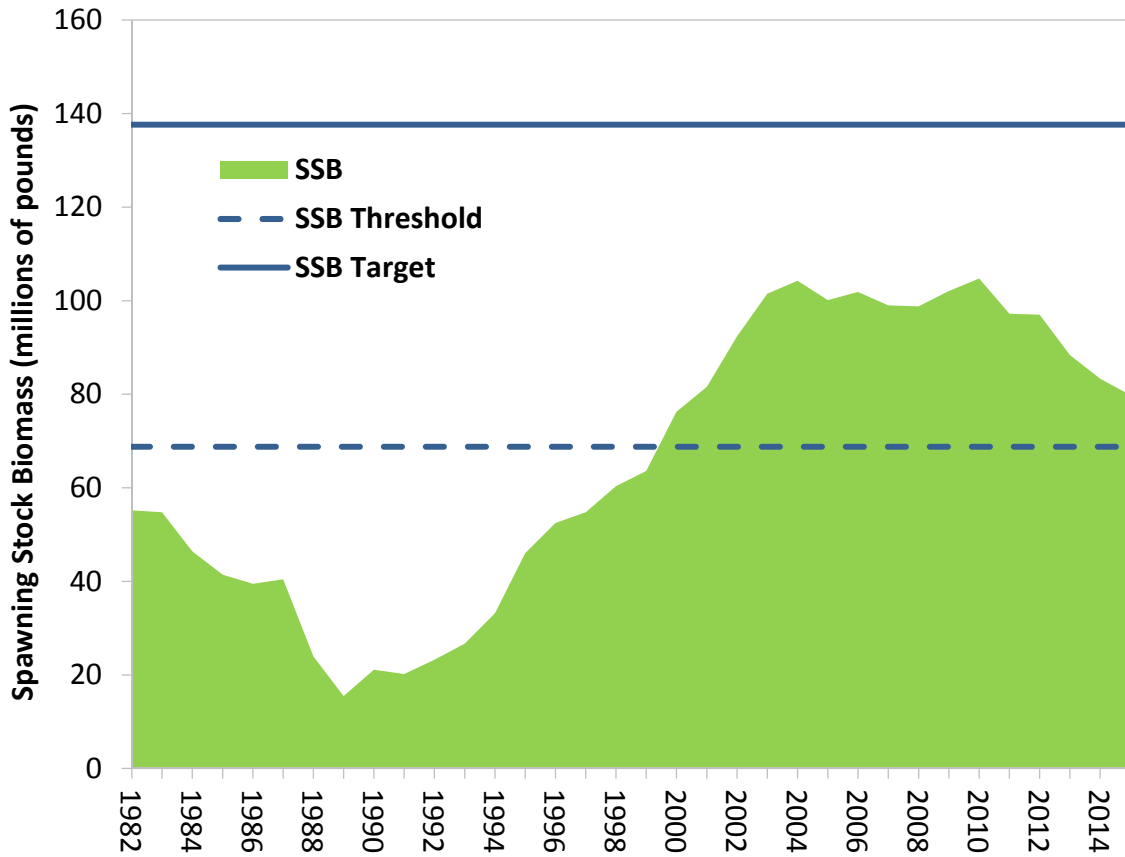
Next Assessment: Benchmark Stock Assessment in 2018 through the NEFSC SAW/SARC process

Rebuilding Trajectory: Declining

Overview of Species of Concern

Summer Flounder Spawning Stock Biomass

Source: Northeast Fisheries Science Center Stock Assessment Update, 2016



Timeline of Management Actions: FMP ('88); Amendment 1 ('91); Amendments 2 -5 ('93); Amendment 6 ('94); Amendment 7 ('95); Amendments 8 & 9 ('96); Amendment 10 ('97); Amendment 11 ('98); Amendment 12 ('99); Amendment 13 ('03); Addendum XVII ('05); Addendum XVIII ('06); Addendum XXV ('14); Addendum XXVI ('15); Addenda XXVII ('16); Addendum XXVIII ('17)

Overview of Species of Concern

Winter Flounder - GOM: Concern

2015 Groundfish Stock Assessment Update

Overfished Unknown

- Assessment is now based on 30+ cm area-swept biomass estimated directly from the surveys. The update assessment was accepted for management use.
- B_{MSY} and F_{MSY} are unknown, and consequently the F and SSB targets could not be generated.
- The lack of an apparent relationship between a large decrease in catch and little change in indices and age or size structure cause poor fit in models that have been used.

Overfishing not Occurring

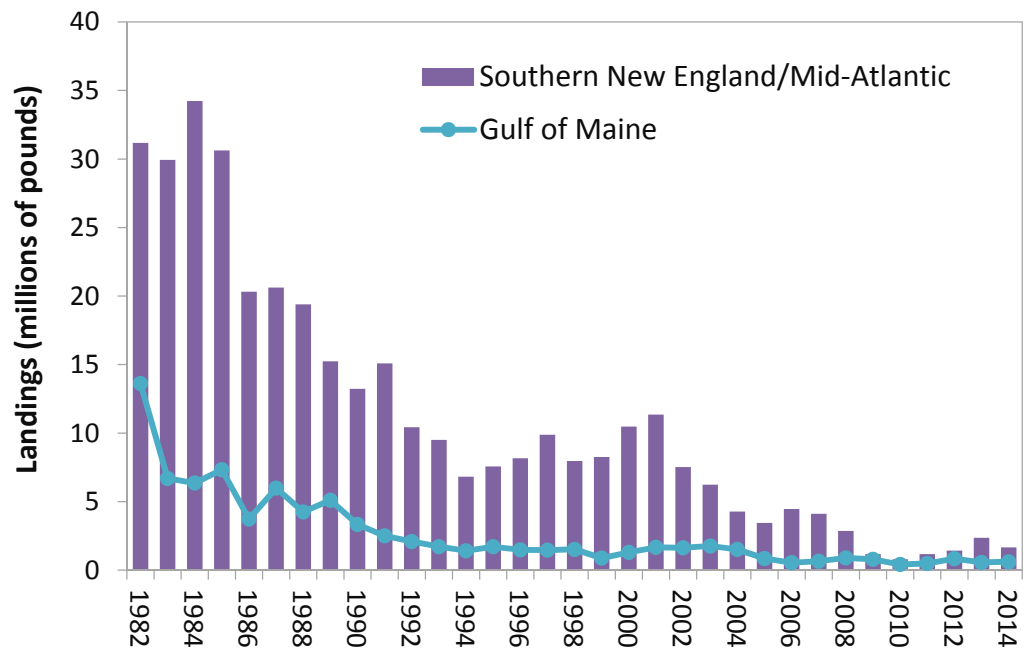
- Updated 2014 fall 30+ cm area-swept biomass (4,655 mt) implies an OFL of 1,080 mt based on the E_{MSY} proxy and a catch of 810 mt for 75% of the E_{MSY} proxy.
- It is unknown why the stock is not responding to low catches and low exploitation rates.

Board Adherence to Scientific Advice

- Addendum I measures, implemented in 2009, reduced recreational and commercial harvest by an estimated 11% and 31%, respectively
- In response to the 2011 stock status, NOAA Fisheries increased the 2012 state water sub-component to 272 mt (a 450% increase of 2010 level) based on the overfishing status.
- Following this federal action, the Commission’s Winter Flounder Board approved Addendum II in October 2012 to increase the maximum possession limit for non-federally permitted commercial vessels to 500 pounds.
- In response to the 2015 assessment update, NOAA Fisheries increased the 2016 state water sub-component to 122 mt (from 87 mt in 2015) and total stock-wide annual catch limit to 776 mt (from 489 mt), roughly three times the harvest in 2014.
- The Commission’s Board maintained the same management measures since the 2015 fishing season.

Winter Flounder Commercial Landings by Stock Unit

Northeast Fisheries Science Center, 2015



Timeline of Management Actions: FMP & Addendum I ('92); Addendum II ('98); Amendment 1 ('05); Addendum I ('09); Addendum II ('12); Addendum III ('13)

Next Assessment: N/A

Rebuilding Trajectory: Flat at low levels

American Eel Commercial Landings and Ex-Vessel Value

Source: ACCSP Data Warehouse, 2017

Overview of Depleted Species

American Eel: Depleted

2012 Benchmark Assessment

Depleted: Trend analyses and model results indicate the American eel stock has declined in recent decades and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern.

Overfishing Determination: No overfishing determination can be made at this time.

Assessment Findings

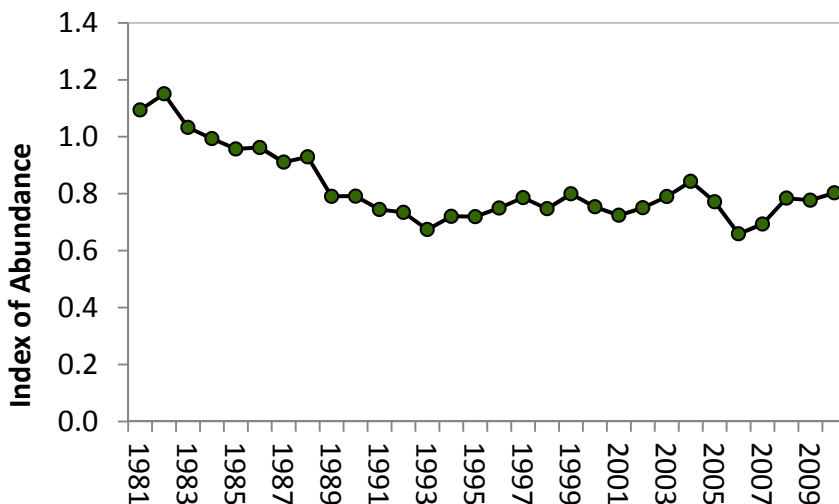
- In recent decades there has been neutral or declining coastwide abundance.
- Decreasing trends in yellow eels were seen in the Hudson River and South Atlantic regions
- Although commercial fishery landings and effort in recent times have declined in most regions, current levels of fishing effort may still be too high given the additional stressors affecting the stock such as habitat loss, passage mortality, and disease as well as potentially shifting oceanographic conditions.
- Management efforts to reduce mortality on American eels in the U.S. are warranted.

Board Adherence to Scientific Advice

- Based on results of the 2012 benchmark assessment the Board has implemented two Addenda to reduce fishing mortality on American eels.
- Addendum III (2013) increased the commercial and recreational minimum size to 9 inches, reduced the recreational bag limit from 50 fish/day/angler to 25 fish/day/angler, prohibited most silver eel fisheries, and places restrictions on the growth of pigmented eel fisheries.

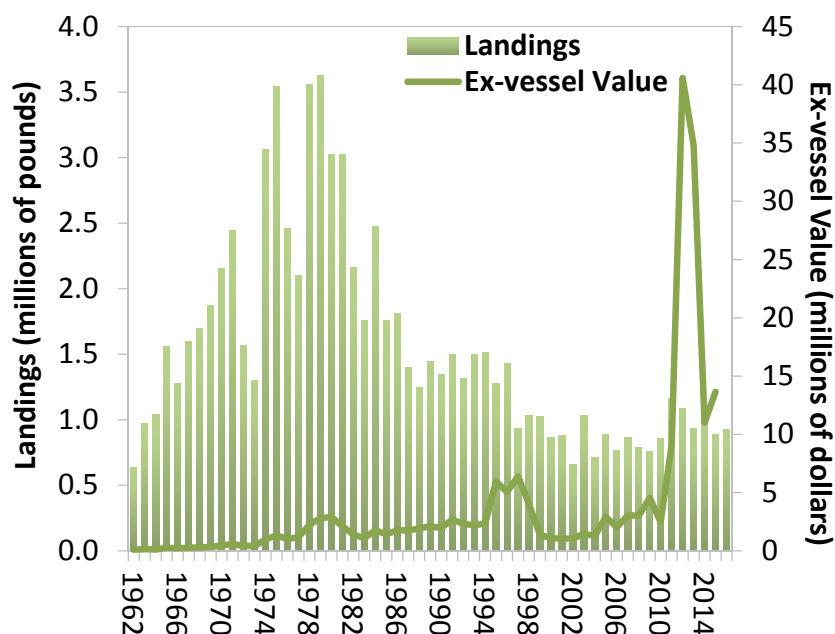
30-Year Index of Abundance for Yellow-phase American Eels along the Atlantic Coast

Source: 2012 American Eel Benchmark Stock Assessment Report



American Eel Commercial Landings and Ex-Vessel Value

Source: ACCSP Data Warehouse, 2017



* 2016 landings are preliminary; elevated 2012 & 2013 ex-vessel values are due to increased demand and price/lb of glass eels

Timeline of Management Actions: FMP ('99); Addendum I ('06); Addendum II ('08); Addendum III ('13); Addendum IV ('14)

Overview of Depleted Species

- Addendum IV (2014) established a 907,671 pound coastwide quota for yellow eel fisheries, reduced Maine's glass eel quota to 9,688 pounds based on 2014 landings, and allowed for the continuation of New York's silver eel weir fishery in the DE River. Management triggers exist for yellow eel state quotas if necessary.

Next Assessment: Stock Assessment Update in 2017

Rebuilding Trajectory: Unknown

Overview of Depleted Species

American Lobster - SNE: Depleted

Assessment Findings (2015 Benchmark Stock Assessment)

- Depleted and overfishing not occurring
- Abundance at 42% of threshold
- Current exploitation (0.27) below threshold (0.41)
- Model estimates for recruitment are near zero and the lowest on record
- The inshore portion of the stock shows a dramatic decline in spawning stock abundance
- The stock has not rebuilt and is in recruitment failure
- Little possibility of recovery unless fishing effort is significantly curtailed

Board Adherence to Scientific Advice

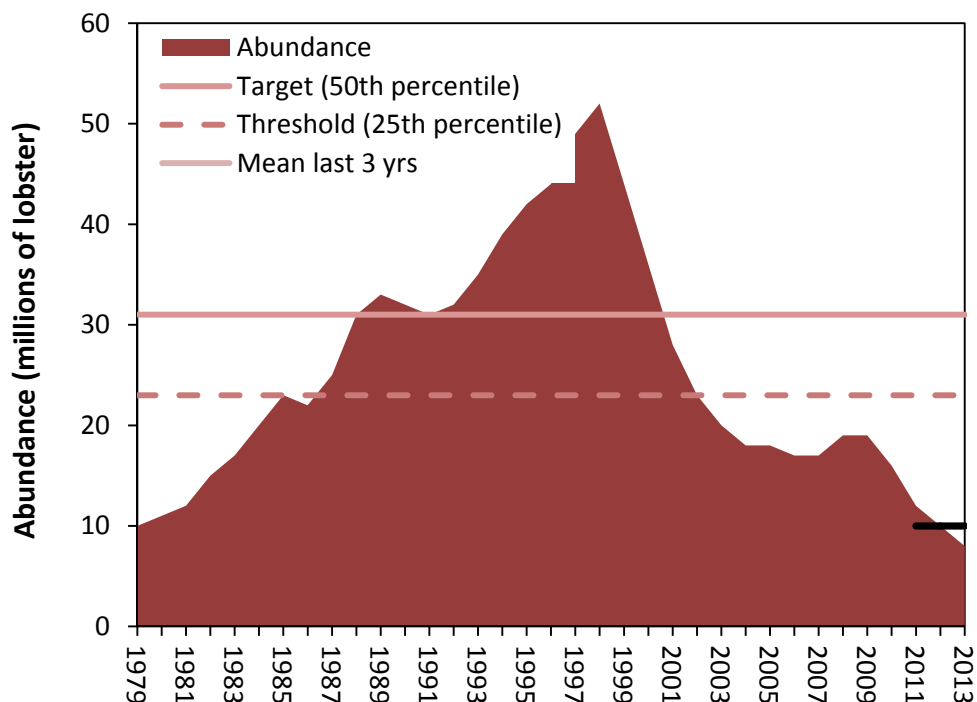
- Technical Committee has advised use of output controls, Board continues to use input measures
- Technical Committee has advised prohibiting conservation equivalency in LCMA 6, Board approved program
- Technical Committee has advised 100% trip level harvester reporting; Board maintained at least 10% active harvester reporting
- Technical Committee has advised 50-75% reductions in SNE LCMAs; Board approved 10% reduction.

Rebuilding Trajectory:

Population continues to decline; Addendum XI (May 07) established a 15-year rebuilding timeline (ending in 2022) with a provision to end overfishing immediately.

Southern New England Lobster Abundance

Source: American Lobster Benchmark Stock Assessment, 2015



Timeline of Management Actions: Amendment 3 ('97); Addendum I ('99); Addendum II ('01); Addendum III ('02); Addenda IV & V ('04); Addenda VI & VII ('05); Addenda X & XI ('07); Addendum XIII ('08); Addendum XIV ('09); Addendum XV ('09); Addendum XVI ('10); Addendum XVII ('11); Addendum XVIII ('12); Addenda XIX – XXIII ('13); Addendum XXIII ('14); Addendum XXIV ('15); Addendum XXV ('17)

Overview of Depleted Species

American Shad: Depleted

2007 Assessment Findings

- 86 river systems assessed; 64% of which have unknown stock status
- Collectively, stocks are at all-time lows and do not appear to be recovering

Scientific Advice Based on Assessment Findings

- Improved monitoring (fishery independent and dependent) and fish passage
- Management measures based on total mortality (Z), which combines fishing and natural mortality.
- Lower JAI threshold needed to trigger management action
- The next assessment has not been scheduled.

Board Adherence to Scientific Advice

- Management Board approved Amendment 3 in February 2010
- Management actions contained in the Amendment are based on recommendations from the stock assessment.
- Member states/jurisdictions were required to submit sustainable fishery management plans (SFMPs) by August 1, 2012 (for TC review and Board approval). As of January 1, 2013, the Shad and River Herring Management Board approved SFMPs for Massachusetts, Connecticut, the Delaware River, the Potomac River, North Carolina, South Carolina, Georgia, and Florida. States/jurisdictions without approved SFMPs by January 1, 2013 were required to close their American shad fisheries, with the exception of catch and release recreational fisheries.
- By August 1, 2013, states/jurisdictions were required to submit a Habitat Plan, which contains a summary of current and historical spawning and nursery habitat; the most significant threats to those habitats; and a habitat restoration program to improve, enhance and/or restore habitat quality and quantity. In February 2014, the Board approved habitat plans for the majority of states and jurisdictions.

Next Assessment: Assessment update in 2018

Rebuilding Trajectory: Variable by River System (see accompanying table)

Trends in Stock Status of American Shad Populations

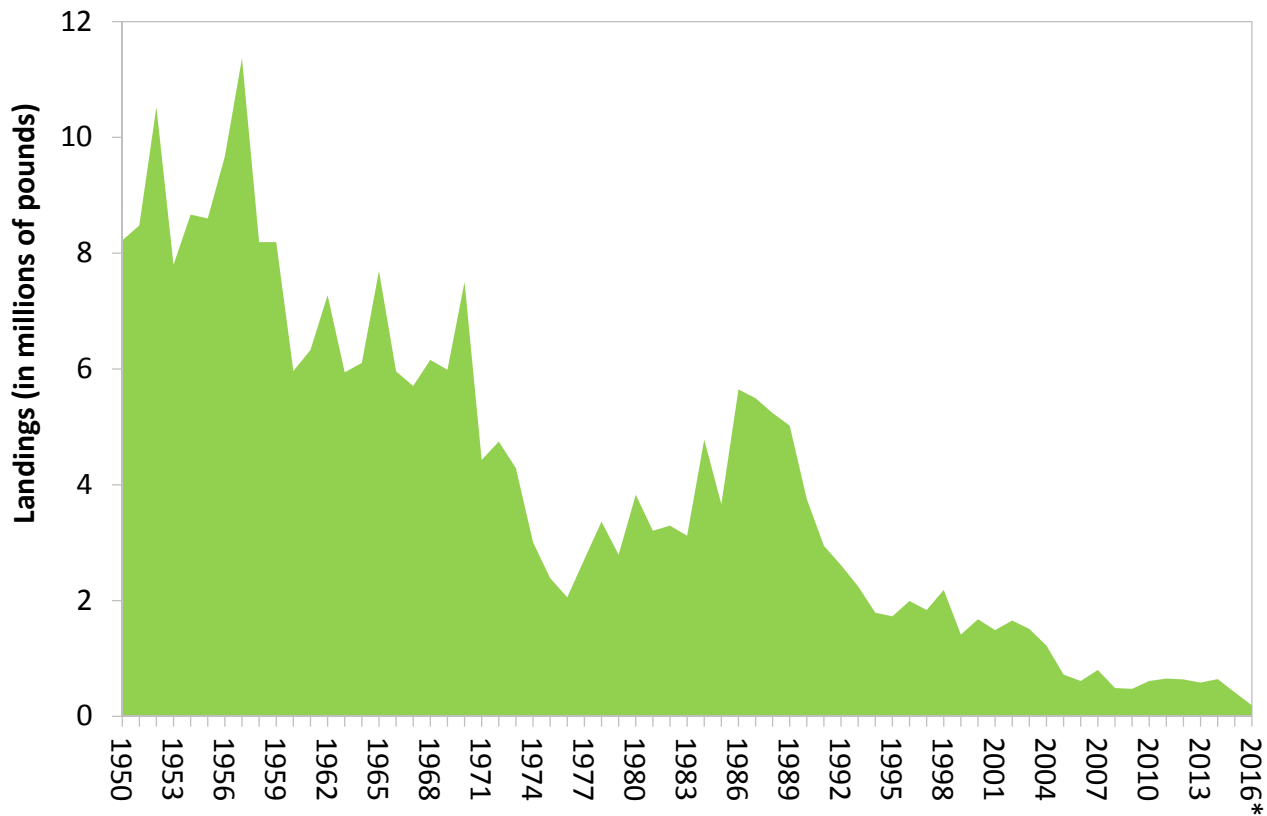
Trends based on a comparison of 2007 assessment results to 1998 assessment results. Sources: ASMFC American Shad Stock Assessment Reports for 2007 and 1998

State	River	Trend
ME	Saco and Kennebec	Declining
NH	Exeter	Declining
MA	Merrimack	Low, Stable
RI	Pawcatuck	Declining
CT/MA	Connecticut	Stable
NY	Hudson	Declining
NY/PA/NJ/DE	Delaware River and Bay	Low, Stable
PA	Susquehanna	Declining
DC/MD/VA	Potomac	Increasing
MD	Nanticoke	Low
VA	York	Increasing
	James	Declining
	Rappahannock	Stable
SC	Santee	Increasing
	Edisto	Declining
GA	Altamaha	Declining
FL	St. Johns	Declining

Overview of Depleted Species

American Shad Commercial Landings

Source: ACCSP Data Warehouse, 2016 and State Compliance Reports, 2017



* 2016 data are preliminary

Timeline of Management Actions: FMP ('85); Amendment 1 ('99); Amendment 3 ('10)

Overview of Depleted Species

Northern Shrimp: Depleted

Assessment Findings (2016 Stock Status Report)

- The Technical Committee evaluated a suite of indicators including catch and landings data from the winter research-set-aside (RSA) program, survey indices of abundance and biomass, and environmental conditions, to determine the status of the stock.
- Using these indices, the Technical Committee determined stock status continues to be critically poor.
- Total biomass, spawning biomass and harvestable biomass have remained at unprecedented lows for five consecutive years
- Recruitment failure has been observed in three of the past five years (the 2011, 2012, and 2014 year classes). The 2013 year class, which was well below the long-term average recruit abundance, is responsible for the increase in spawning biomass observed in 2016. Long-term trends in environmental conditions are not favorable for northern shrimp, suggesting a need to conserve spawning stock biomass to help compensate for what may continue to be an unfavorable environment.

Scientific Advice Based on Assessment Findings

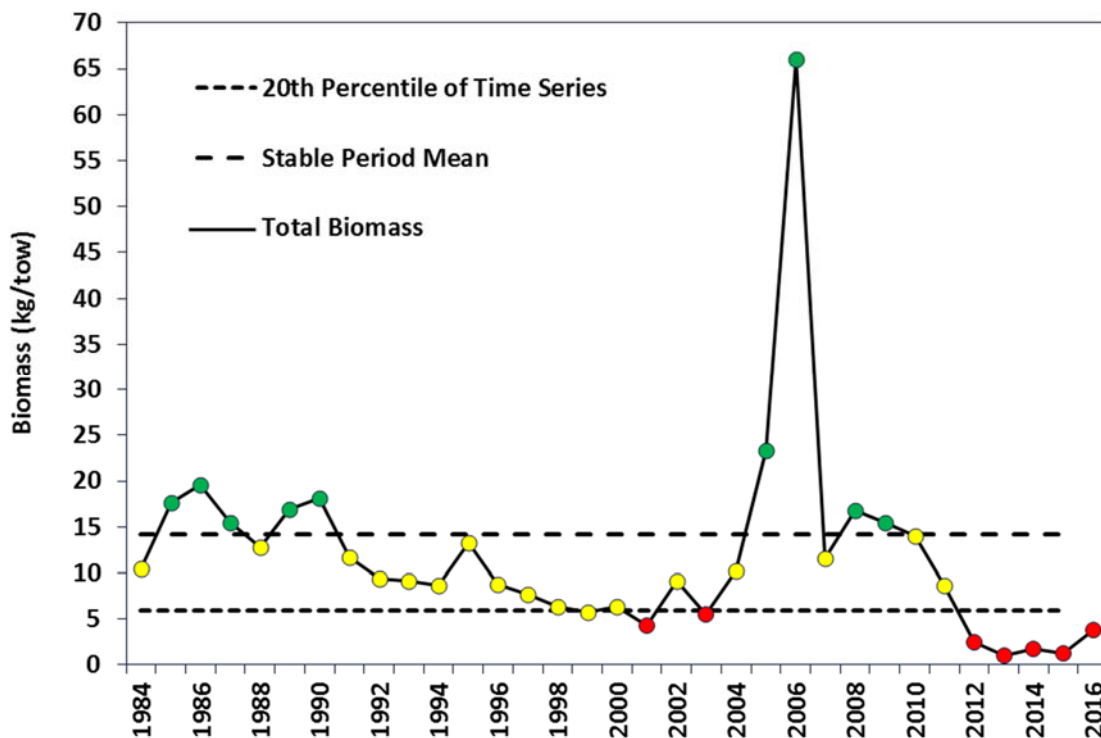
Given the continued poor condition of the resource, the poor prospects for a 2017 commercial season, and the value of maximizing spawning potential to rebuild the stock, the Technical Committee recommended extending the moratorium on fishing through 2017 to build on the conservation gains from the current moratorium.

Board Adherence to Scientific Advice

- The Section has implemented a fishery moratorium since 2014.
- Prior to closure of the fishery in 2014 due to a collapsed resource, the Section initiated development of Amendment 3 to address overcapacity in the fishery. The amendment explores state-by-state allocations

Total Biomass of Northern Shrimp from the Gulf of Maine Summer Shrimp Survey

Stock Status Report for Gulf of Maine Northern Shrimp, 2016



The graph represents the annual biomass index relative to the reference period (dotted line) and to the 20th percentile of the time series (dashed line). The reference period (1985-1994) is the time period during which the fishery experienced stable landings and value. Green dots are values that are equal to or above the stable period mean (SPM); red dots are values that are equal to or below the 20th percentile of the time series; yellow dots are values between the SPM and the 20th percentile.

Overview of Depleted Species

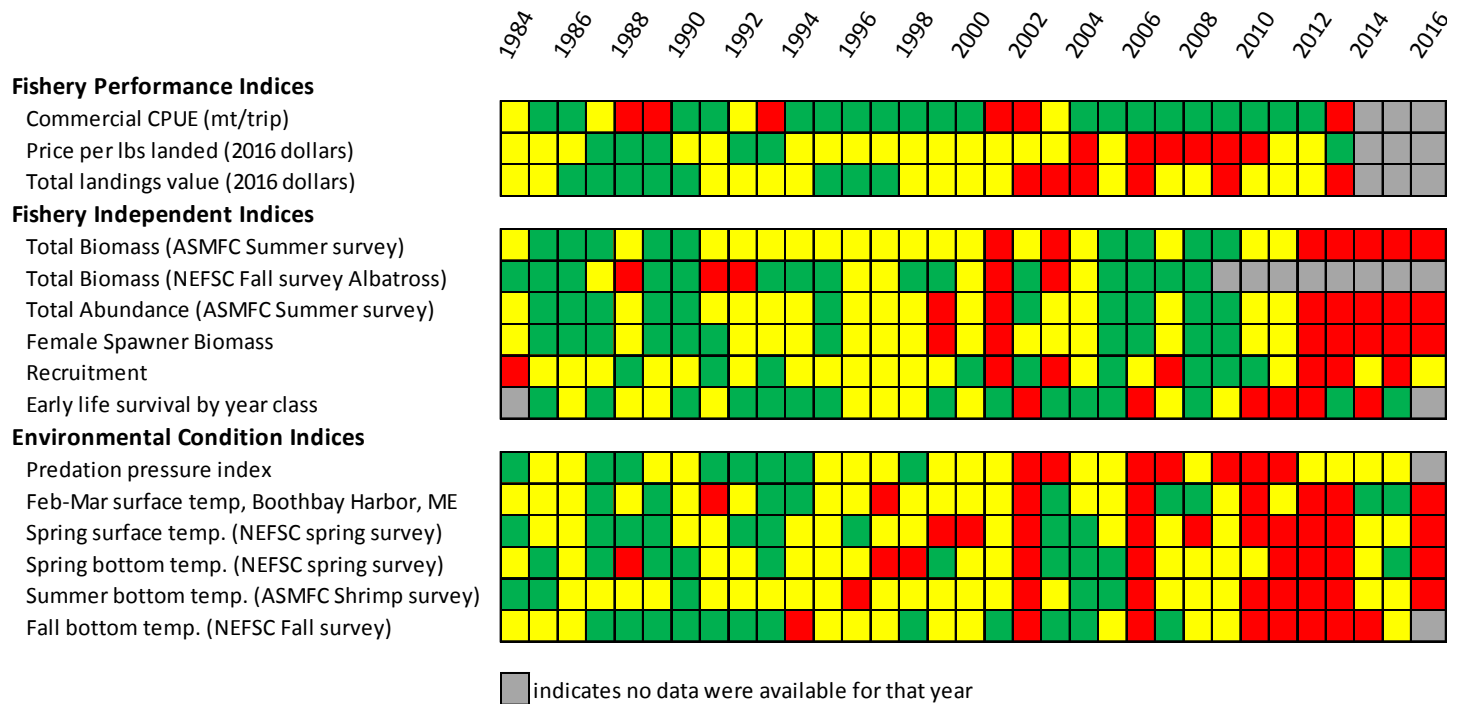
and accountability measures to adequately manage effort in the fishery, gear requirements to minimize harvest of small shrimp, and reporting measures to ensure all shrimp caught are being reported.

Next Assessment: 2017 Stock Status Update; benchmark assessment, 2018

Rebuilding Trajectory: Declining

Strict Traffic Light Approach (STLA) Results

Red indicates unfavorable conditions or status, yellow indicates intermediate values, and green indicates favorable conditions or status.



Timeline of Management Actions: FMP ('86); Amendment 1 ('04); Amendment 2 ('11); Addendum I ('12)

Overview of Depleted Species

River Herring: Depleted

Depleted: The coastwide meta-complex of river herring stocks on the US Atlantic coast is depleted to near historic lows (2012 Benchmark Assessment).

Overfishing Determination: No overfishing determination can be made at this time.

Assessment Findings

- Of the 52 stocks of alewife and blueback herring for which data were available, 23 were depleted relative to historic levels, one stock was increasing, and the status of 28 stocks could not be determined because the time-series of available data was too short.
- 14 out of 15 river specific YOY indices showed no (7 rivers) or declining (7 rivers) trends.
- Mean length, maximum age and mean length-at-age for both species have declined.
- Recent domestic landings totaled <2 million pounds in any given year.
- Commercial landings by domestic and foreign fleets peaked at 140 million pounds in 1969.
- The “depleted” determination was used instead of “overfished” and “overfishing” because of the many factors have contributed to the declining abundance of river herring including habitat loss, predation, and climate changes

Board Adherence to Scientific Advice

- In 2009, the Board approved Amendment 2, in response to concern for river herring stocks.
- The Amendment prohibits state waters commercial and recreational fisheries beginning January 1, 2012, unless a state or jurisdiction has a sustainable management plan reviewed by the Technical Committee and approved by the Management Board.
- Amendment 2 required states to implement fisheries-dependent and independent monitoring programs, and contains recommendations to conserve, restore, and protect critical river herring habitat.
- As of January 1, 2012, the Shad and River Herring Management Board approved sustainable fishery management plans for Maine, New Hampshire, New York, North Carolina and South Carolina.

Next Assessment: Assessment update in 2017

Rebuilding Trajectory: Unknown

Status of Select Alewife and Blueback Herring Stocks along the Atlantic Coast

Source: 2012 River Herring Benchmark Stock Assessment Report

State	River**	Status Relative to Historic Levels / Recent Trends*
ME	Damariscotta	Depleted ^A , Stable ^A
	Union	Increasing ^A , Stable ^A
NH	Cochecho	Unknown ^{A,B} , Stable ^{A,B}
	Exeter	Depleted ^A , Unknown ^A
	Lamprey	Depleted ^A , Increasing ^A
	Oyster	Depleted ^B , Stable ^B
	Taylor	Depleted ^B , Decreasing ^B
	Winnicut	Depleted ^{A,B} , Unknown ^{A,B}
MA	Mattapoisett	Depleted ^A , Unknown ^A
	Monument	Depleted ^A , Unknown ^A
	Parker	Depleted ^A , Unknown ^A
	Stony Brook	Depleted ^A , Unknown ^A
RI	Buckeye	Depleted ^A , Unknown ^A
	Gilbert	Depleted ^A , Decreasing ^A
	Nonquit	Depleted ^A , Decreasing ^A
CT	Connecticut	Depleted ^B , Decreasing ^B
NY	Hudson	Depleted ^{A,B} , Stable ^{A,B}
MD, DE	Nanticoke	Depleted ^{A,B} , Decreasing ^{A,B}
VA, MD, DC	Potomac	Depleted ^{A,B} , Unknown ^{A,B}
NC	Chowan	Depleted ^{A,B} , Stable ^{A,B}
SC	Santee-Cooper	Depleted ^B , Increasing ^B

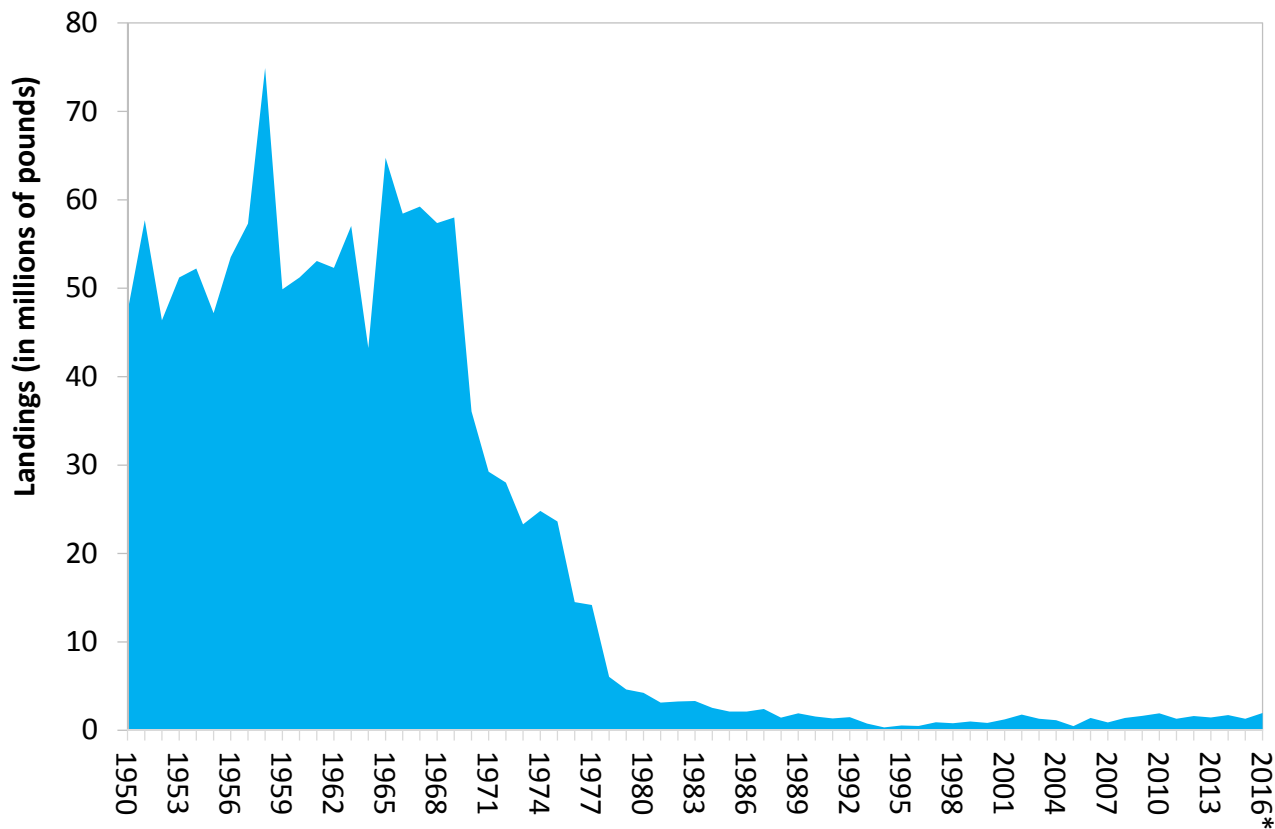
A = Alewife, B = Blueback Herring

Status relative to historic levels is pre-1970. Recent trends reflect last ten years of data.

Overview of Depleted Species

River Herring Commercial Landings

Source: ACCSP Data Warehouse, 2016 and State Compliance Reports, 2017



* 2016 data are preliminary

Timeline of Management Actions: FMP ('85); Amendment 1 ('95); Amendment 2 – River Herring ('09)

Overview of Depleted Species

Tautog: Depleted

Assessment Findings

2016 Stock Assessment Update

- The assessment includes data through 2015
- The LIS and NJ/NY Bight regions indicate overfishing
- LIS, NJ/NY Bight and DelMarVa regions are overfished

Scientific Advice Based on Assessment Findings

- The assessment proposed new reference points for each region (see table for stock condition and regional stock definition)

Board Adherence to Scientific Advice

- Board initiated Draft Amendment 1 to consider regional stock definitions, reference points and management measures, including a commercial tagging program

Rebuilding Trajectory: Flat at low levels

Tautog Stock Status by Region

Source: ASMFC Stock Assessment Update, 2016

Stock Region	MSY or SPR	SSB Target (mt)	SSB Threshold (mt)	SSB 2015 (mt)	Stock Status
Long Island Sound	MSY	2,865	2,148	1,603	Overfished
New Jersey – New York Bight	MSY	3,154	2,351	1,809	Overfished
Delaware - Maryland–Virginia	SPR	1,919	1,447	621	Overfished

Stock Region	MSY or SPR	Fishing Mortality Target	Fishing Mortality Threshold	3-year Average (2013-15)	Stock Status
Long Island Sound	MSY	0.28	0.49	0.51	Overfishing
New Jersey – New York Bight	MSY	0.20	0.34	0.54	Overfishing
Delaware – Maryland – Virginia	SPR	0.16	0.24	0.16	Overfishing Not Occurring

Timeline of Management Actions: FMP ('96); Addendum I ('97); Addendum II ('99); Addendum II ('02); Addenda IV & V ('07); Addendum VI ('11)

Overview of Depleted Species

Weakfish: Depleted

2016 Benchmark Assessment

Depleted: Spawning stock biomass (SSB) at 37% of threshold in 2014

Overfishing Not Occurring: Total mortality (Z) in 2014 was above the threshold but below the target, indicating that Z is still high but within acceptable limits.

Assessment Findings (2016 Benchmark Assessment)

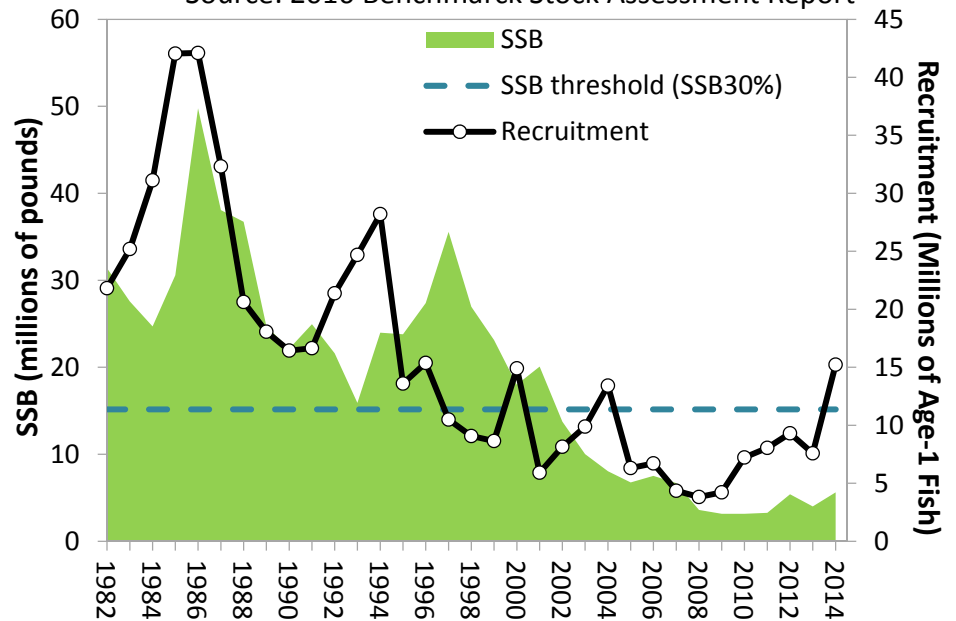
- Natural mortality (M) has increased since the mid-1990s, from approximately 0.16 in the early 1980s to an average of 0.93 from 2007-2014. Potential factors causing high M include predation, competition, and changes in the environment.
- While the assessment indicates some positive signs in the weakfish stock in the most recent years, including a slight increase in SSB and total abundance, the stock is still well below the SSB threshold.
- Weakfish landings have dramatically declined since the early 1980s, dropping from over 19 million pounds in 1982 to roughly 200,000 pounds in 2014.

Board Adherence to Scientific Advice

- Based on results of the 2009 stock assessment and peer review, the Board approved Addendum IV, which 1) revised the biological reference points; 2) implemented a commercial trip limit, and 3) reduced the recreational bag limit, the commercial bycatch limit, and the finfish trawl fishery's allowance for undersized fish.

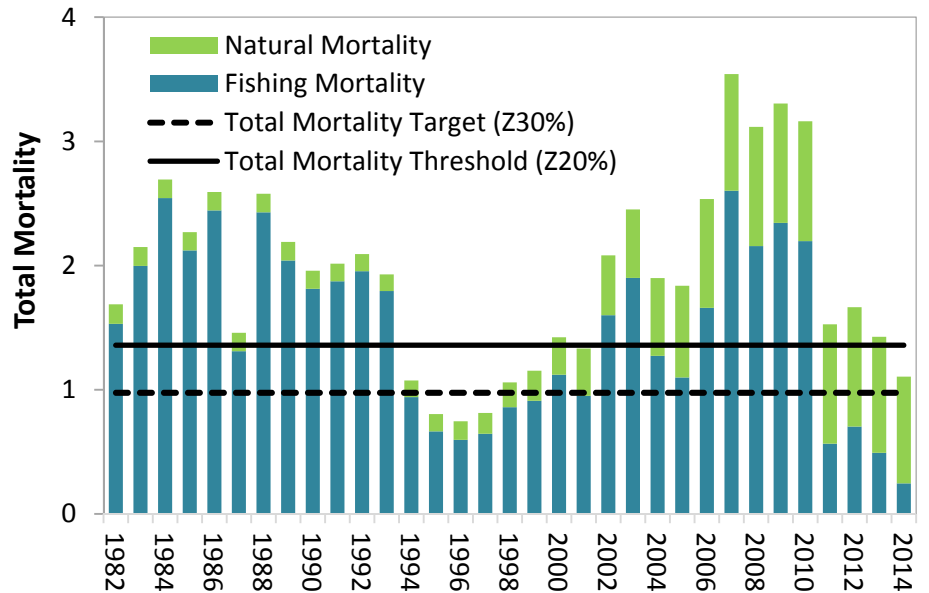
Weakfish Spawning Stock Biomass and Recruitment

Source: 2016 Benchmark Stock Assessment Report



Contributions of Fishing and Natural Mortality to Weakfish Total Mortality

Source: 2016 Benchmark Stock Assessment Report



Timeline of Management Actions: FMP ('85); Amendment 1 ('91); Amendment 2 (1995); Amendment 3 ('96); Amendment 4 ('02); Addendum I ('05); Addenda II & III ('07); Addendum IV ('09)

Overview of Depleted Species

- Following the 2016 stock assessment, the Board maintained strict regulations on the harvest of weakfish in the commercial and recreational fishery. The Board also adopted new reference points based on SSB and Z, per the recommendation of the Technical Committee.

Next Assessment: Assessment Update in 2018

Rebuilding Trajectory: Slight increase in SSB and abundance

Overview of Depleted Species

Winter Flounder - SNE/MA: Depleted

2015 Groundfish Stock Assessment Update

Overfished: Stock is at 23% of SSB target. While there have been some modest increases over the last decade, the stock has remained at approximately a quarter of the target since the early 2000s. Since 1981 recruitment has been declining, 2013 is the lowest in the time series which is approximately 4% of the estimated recruitment in 1981 (the highest in the time series). While the 2014 recruitment estimate increased slightly, the overall stock productivity continues to decline.

Overfishing is Not Occurring: 2014 $F = 0.16$ which is 49% of the overfishing threshold ($F_{MSY} = 0.325$)

Board Adherence to Scientific Advice

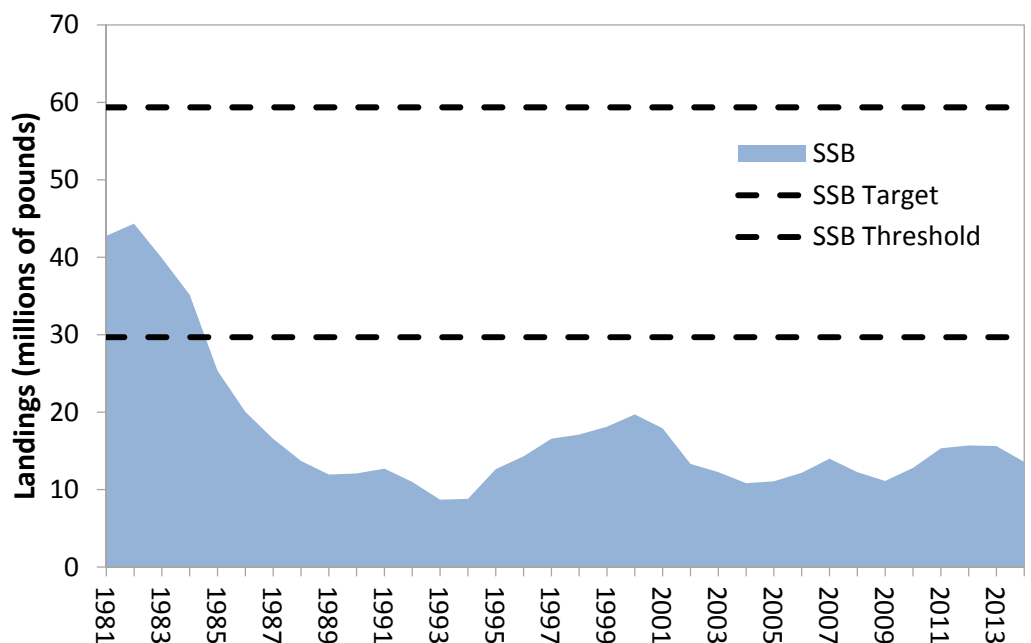
- Stock status remains unchanged since the 2011 benchmark assessment.
- After reviewing the 2015 assessment update, the Board sent a letter to the New England Council and NOAA Fisheries expressing its concern regarding winter flounder stocks, specifically highlighting the SNE/MA stock. The Board requested the Technical Committee further investigate the impacts of the zero possession limit on the SNE/MA stock.
- In 2016, the Technical Committee presented the following report to the Board, *A Review of the SNE/MA Winter Flounder Fishery and Management Program Under Zero Possession Limits*. The Technical Committee believes the length of the moratorium (May 1, 2009-April 30, 2013) may not have been long enough to positively impact the stock.

Most surveys indicate a declining trend in abundance, suggesting the moratorium did not result in increased stock size. While the Technical Committee did not recommend a reduction in the trip limits, currently set at a bycatch limit of 50 pounds, it encouraged the Board to choose management actions that continue to reduce fishing mortality and maintain a bycatch fishery in state waters.

- Following Technical Committee advice, the Board maintained a 50-pound trip limit for non-federally permitted commercial vessels for the 2017 fishing season.

Southern New England/Mid-Atlantic Winter Flounder Spawning Stock Biomass

Source: Groundfish Assessment Review Meeting Update, 2015



Timeline of Management Actions: FMP & Addendum I ('92); Addendum II ('98); Amendment 1 ('05); Addendum I ('09); Addendum II ('12); Addendum III ('13)

Overview of Depleted Species

- For 2016, NOAA Fisheries reduced the state water sub-component to 70 mt (from 117 mt in 2015) and the total stock-wide annual catch limit to 749 mt (from of 1,607 mt), but these levels are still high (in 2016 only 617 mt were harvested).
- In 2014, NOAA Fisheries extended the rebuilding timeline for this stock to 2023 and allowed for increased fishing opportunities. The Board extended the recreational season from March 1 through December 31 to increase fishing opportunities based on species' availability.

Next Assessment: N/A

Rebuilding Trajectory: Flat at low levels

Overview of Species of Unknown Stock Status

Atlantic Croaker: Unknown

2010 Stock Assessment Findings

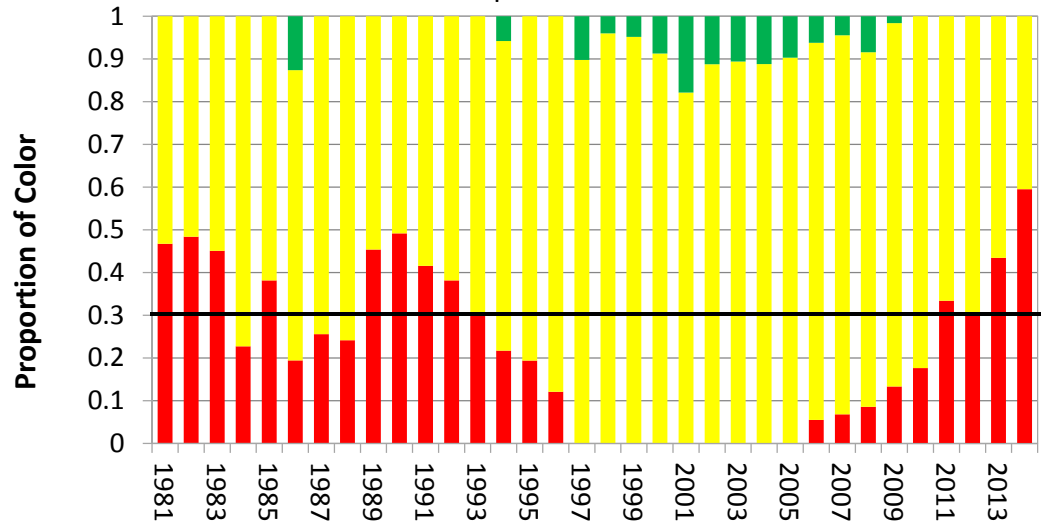
- Atlantic croaker is not experiencing overfishing. The assessment shows increasing biomass and an expanding age structure in the population since the 1980s. Atlantic croaker are considered to be a single stock on the Atlantic coast.
- Due to a high degree of uncertainty in the amount of shrimp trawl discards, the overfished status could not be determined. Similarly, values of spawning stock biomass (SSB) and fishing mortality (F) are not considered reliable; however, estimated trends show increasing biomass and decreasing fishing mortality.

Board Adherence to Scientific Advice

- In July 2015, the PRT completed traffic light analysis for the 2014 fishing year. The results showed declining trends in the fishery independent indices as well as a drop in both commercial and recreational landings. While the harvest index was above the 30% threshold with a red proportion of 44.5%, management measures were not tripped since the abundance index was below the threshold at 14.2%. Per Addendum II, a traffic light analysis (TLA) was not conducted in 2016 due to the on-going benchmark stock assessment.

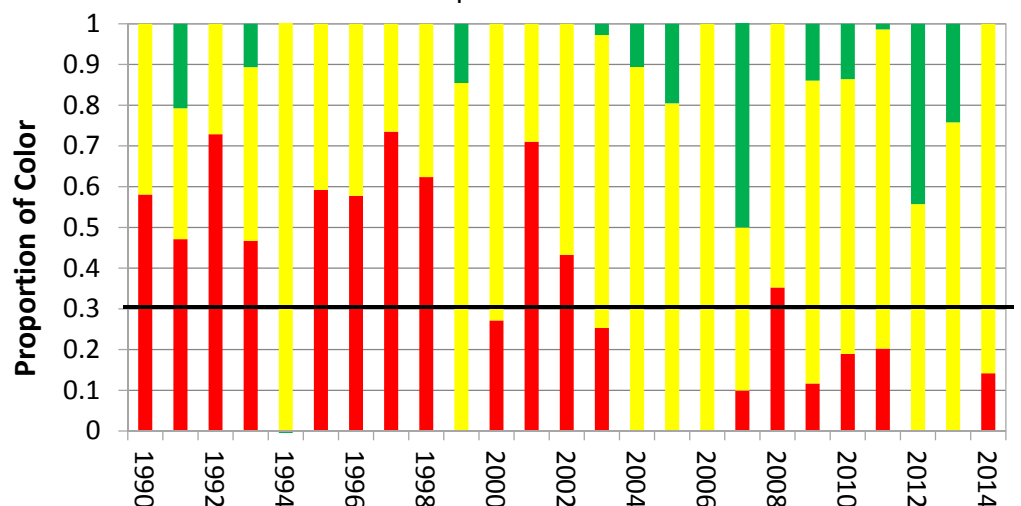
Traffic Light Analysis of Atlantic Croaker (Harvest Metric)

Solid line represents 30% threshold



Traffic Light Analysis of Atlantic Croaker (Abundance Metric)

Solid line represents 30% threshold



Management response is triggered when proportion of red exceeds the 30% threshold level for three consecutive years in both fishery characteristics (harvest and abundance metrics).

Timeline of Management Actions: FMP ('87); Amendment 1 ('05); Addendum I ('11); Addendum II ('14)

Overview of Species of Unknown Stock Status

- While the 2017 stock assessment was not approved for management advice, marked improvements were made in the estimation of removals of Atlantic croaker as discards from the shrimp trawl fishery. These discards are the vast majority of removals from the stock, so the Board directed the TC to investigate methods for incorporating an index of removals by the shrimp trawl fishery into the annual TLA. Potential methods for accomplishing this will be presented at the Summer Board Meeting.

Scientific Advice Based on Assessment Findings

- The 2010 Review Panel stressed the importance of developing valid estimates of shrimp trawl discards to improve the certainty of future assessment results. The following were also highlighted as needs for data and analysis:
 - Fishery-dependent biological sampling to improve age length keys
 - More information on growth rates, age structures, estimates of fecundity, and maturity
 - Increased focus on collecting subsamples in the species southern range through fishery independent surveys

Monitoring and Management

- Under the TLA management program, if thresholds for both population characteristics (adult abundance and harvest) achieve or exceed the management threshold of 30% for the specified three year period, management action will be taken.

Rebuilding Trajectory: Increasing

Next Assessment: N/A

Overview of Species of Unknown Stock Status

Atlantic Sturgeon: Unknown

Available Information

- Commercial landings of Atlantic sturgeon peaked in 1890 at an estimated 7.5 million pounds.
- Populations throughout the species' range are at low levels of abundance.
- Data from fishery-independent surveys conducted in New Jersey and North Carolina (along with some rivers in Georgia and South Carolina) suggest populations may be rebuilding (figures below).
- Effective April 6, 2012, NOAA Fisheries listed five distinct population segments (DPS) of Atlantic sturgeon under the Endangered Species Act (Gulf of Maine DPS as threatened and the New York Bight, Chesapeake Bay, Carolina and South Atlantic DPSs as endangered)
- In response to the ESA listing, the Atlantic Sturgeon Board initiated development of a coastwide benchmark assessment, which is scheduled for peer review in August 2017
- States have been working with NOAA Fisheries on their Section 10 incidental take permits
- In June 2016, in accordance with the ESA, NOAA Fisheries released two proposed rules (one for each regional office) designating critical habitat across all five listed DPSs. The Final Rule is expected to publish late-summer 2017.

Needed Information/Data

- Increased fishery-independent monitoring efforts directed at sturgeon
- Conduct assessments of population abundance and age structure in various river systems
- Improve fishery-dependent monitoring or sturgeon bycatch and ship strike reporting efforts
- Improve bycatch and annual mortality estimates, including ship strikes.

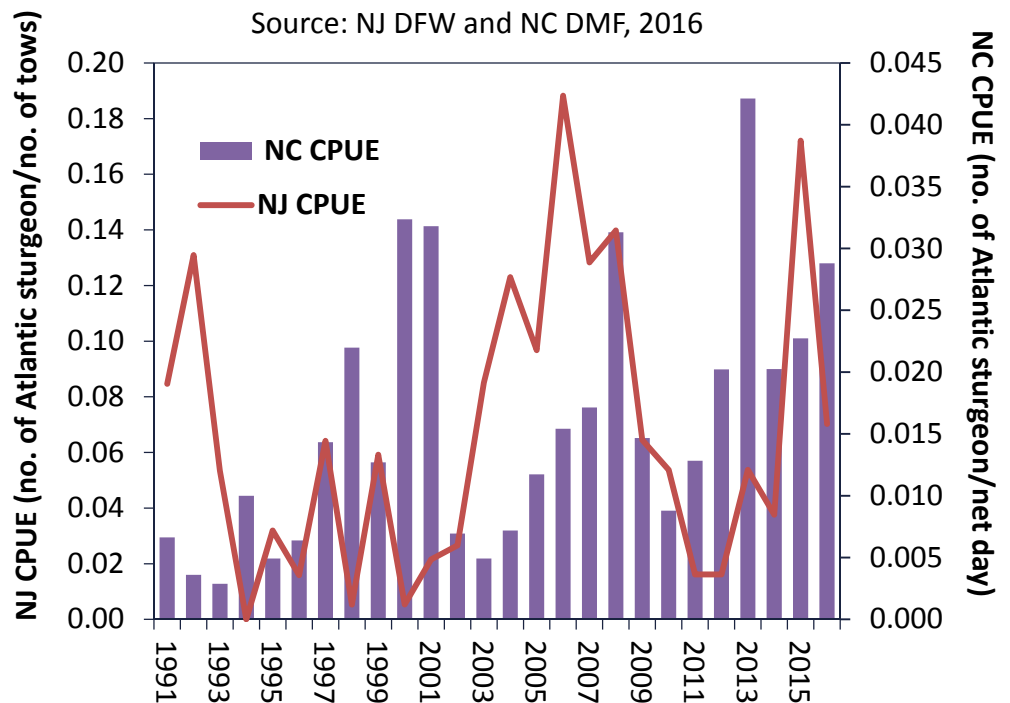
Monitoring and Management Measures

- Monitoring: States must report annually on Atlantic sturgeon bycatch, fisheries-independent monitoring, habitat status and authorized aquaculture operations.
- Management: In 1998, the ASMFC implemented a coastwide moratorium until a minimum of 20 year classes of spawning females is protected.

Next Assessment: 2017 benchmark assessment

Atlantic Sturgeon Fishery-independent Catch-Per-Unit-Effort in NJ's Coastal Waters & NC's Albemarle Sound

Source: NJ DFW and NC DMF, 2016



Timeline of Management Actions: FMP ('90); Amendment 1 ('98); Addendum I ('01); Addendum II ('05); Addendum III ('06); Addendum IV ('12)

Overview of Species of Unknown Stock Status

Jonah Crab: Unknown

Available Information

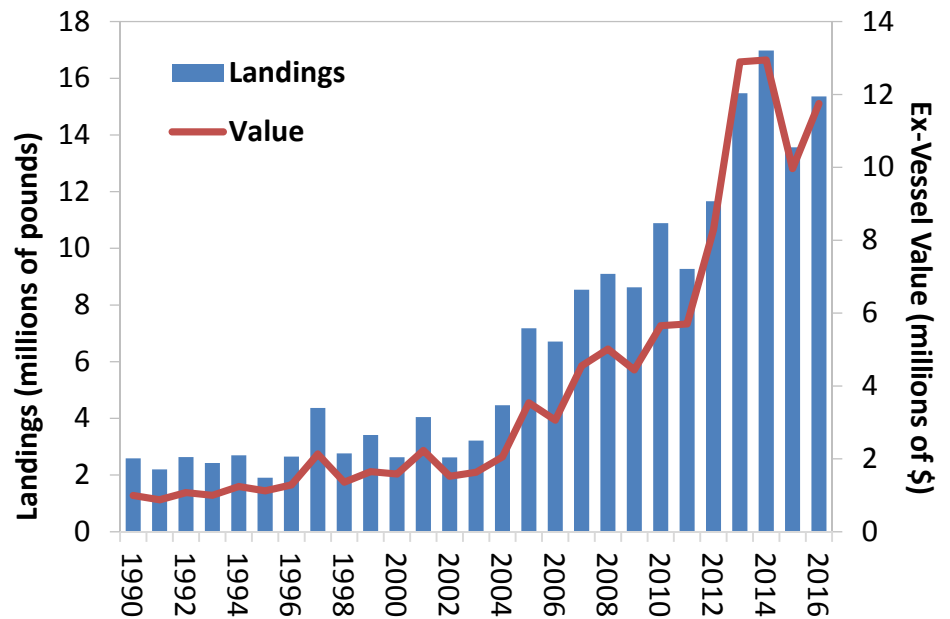
- Jonah crab landings have increased 6.48 fold since the early 2000s, with over 17 million pounds of crab landed in 2014. Roughly 13.5 million pounds of Jonah crab were landed in 2015.
- The status of the Jonah crab resource is relatively unknown and there is currently no data on juvenile recruitment.
- Bottom trawl surveys conducted by the Massachusetts Division of Marine Fisheries found Jonah crab are frequently caught north, rather than south, of Cape Cod.
- The Northeast Fisheries Science Center 2014 surveys showed record high abundance in Georges Bank and Gulf of Maine regions. The spring survey in Southern New England has been fairly stable.

Needed Information/Data

- Conduct age-at-maturity studies in U.S. waters.
- Investigate the extent and motivation of annual migrations patterns.
- Research the recruitment of juvenile Jonah crabs into the fishery.
- Determine the extent of sampling as well as the size distribution, sex composition, and ovigerous condition of Jonah crabs.

Jonah Crab Landings and Ex-Vessel Value

Source: ACCSP Data Warehouse



Timeline of Management Actions: FMP ('15); Addendum I ('16); Addendum II ('17)

Management and Monitoring Measures

- Following the recommendations of the Jonah Crab Fishery Improvement Project, the Board approved an Interstate Fishery Management Plan for Jonah Crab in August 2015 which included a 4.75" minimum size and a prohibition on the retention of egg-bearing females. To address concerns about bycatch in the fishery, the Board approved Draft Addendum I in May 2016, setting a 1,000 crab limit for non-trap gear and non-lobster traps.
- The Board will consider approving Draft Addendum II for public comment in August 2016. The Draft Addendum proposes establishing a coastwide standard for claw landings.

Next Assessment

No assessment is currently scheduled for Jonah crab due to a lack of data.

Overview of Species of Unknown Stock Status

Spot: Unknown

Data Trends

- Coastwide commercial landings have declined since 1950; with a high of 14.52 million pounds landed in 1952 and a low of 1.37 million pounds in 2012.
- Recreational catches between 1981 and 2015 are variable but show a slight decline.
- Traffic Light Analysis of the 2014 fishing year showed a decline in harvest through 2012 and a reversal of this trend in 2013. Adult abundance fell and was above the 30% threshold at 43.5%. Management measures were not tripped since the harvest index was just below the threshold at 26.5%.
- Commercial catch-at-age data, which showed an expansion of the age structure in the early 2000s, has contracted since 2007.
- Recruitment indices show large inter-annual variability as expected, with low abundance observed in 2009 and 2011.
- Most indices of adult spot abundance in the species core area exhibit high inter-annual variability, with noticeable peaks in 2005 and 2012.
- A stock assessment has not been completed; ability to conduct a defensible assessment has been hindered by inadequate discard data, particularly in the South Atlantic shrimp trawl fishery.

Board Adherence to Scientific Advice

- The Management Board followed recommendations from the Plan Review Team to monitor the stock with available data the last four years, evaluate data availability and adequacy for a stock assessment, and conduct a life history workshop.
- In 2014, the Plan Review Team recommended spot for a stock assessment, which was subsequently scheduled for 2016.

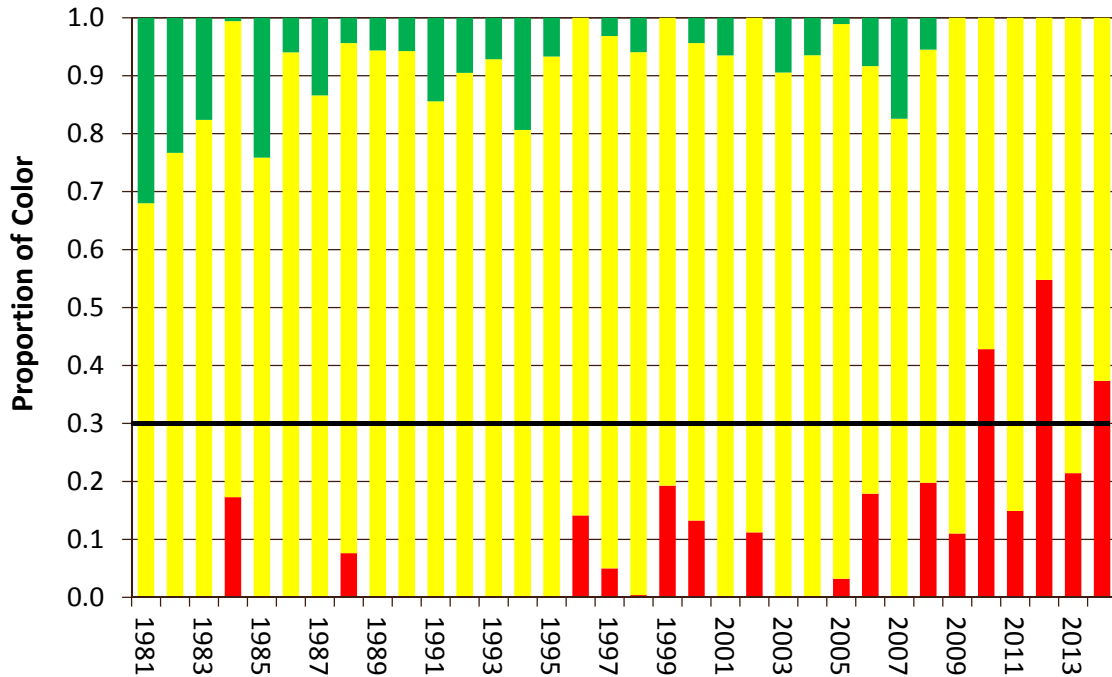
Monitoring and Management Measures

- Omnibus Amendment, approved in 2011, updated the Spot FMP by adding management triggers to annually monitor the stock status of spot until a coastwide stock assessment is completed. The Amendment also sought to increase the level of research and monitoring on spot bycatch.
- Addendum I (2014) established the Traffic Light Analysis as the new management framework to evaluate trends in the fishery. When harvest and abundance thresholds are exceeded for two years, management actions are developed. The Traffic Light Analysis is not updated during years in which a stock assessment is being conducted.

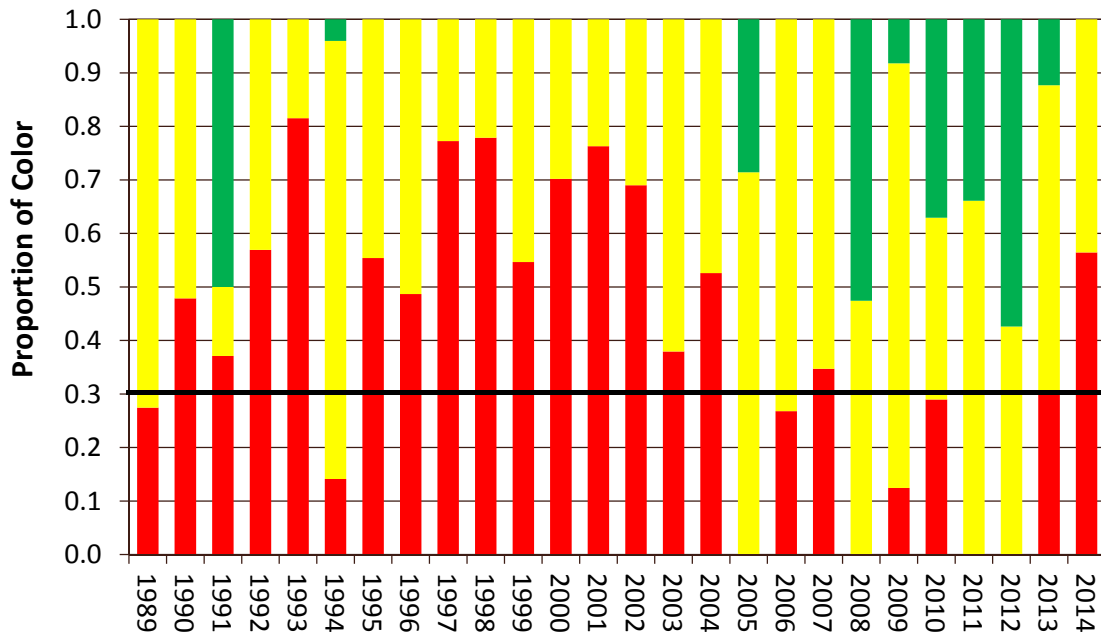
Next Assessment: Benchmark: 2017

Overview of Species of Unknown Stock Status

Traffic Light Analysis of Spot Commercial and Recreational Harvest (Harvest Metric)
Solid line represents 30% threshold



Traffic Light Analysis of Spot Fishery-independent Survey Indices (Abundance Metric)
Solid line represents 30% threshold



Management response is triggered when proportion of red exceeds the 30% threshold level (black line) for two consecutive years in both fishery characteristics (landings and fishery-independent survey indices).

Timeline of Management Actions: FMP ('87); Omnibus Amendment ('11); Addendum I ('14)

Overview of Species of Unknown Stock Status

Spotted Seatrout: Unknown

Available Information

- Commercial landings have generally decreased from the 1970's through 2014.
- Recreational catches have increased since 1981; however, the number of releases has also increased and harvest has remained stable.
- State stock assessments
 - NC and VA: stock assessment covering 1991-2013 indicated SPR above 20% goal; shows expanded age structure but a decline in recruitment after 2010
 - SC: SPR just above 20% goal in 1992; non-peer reviewed assessment through 2004 indicated SPR below 20% goal
 - GA: SPR below 20% goal in 1995
 - FL: SPR = 67% northeast region, 45% southeast regions during 2007-2009; goal of 35% SPR

Needed Information/Data

- Examine the stock structure of spotted seatrout on a regional basis, with an emphasis on tagging techniques
- Collect data on the size or age of spotted seatrout released alive by anglers and the size and age of commercial discards
- Develop state-specific juvenile abundance indices and fecundity estimates

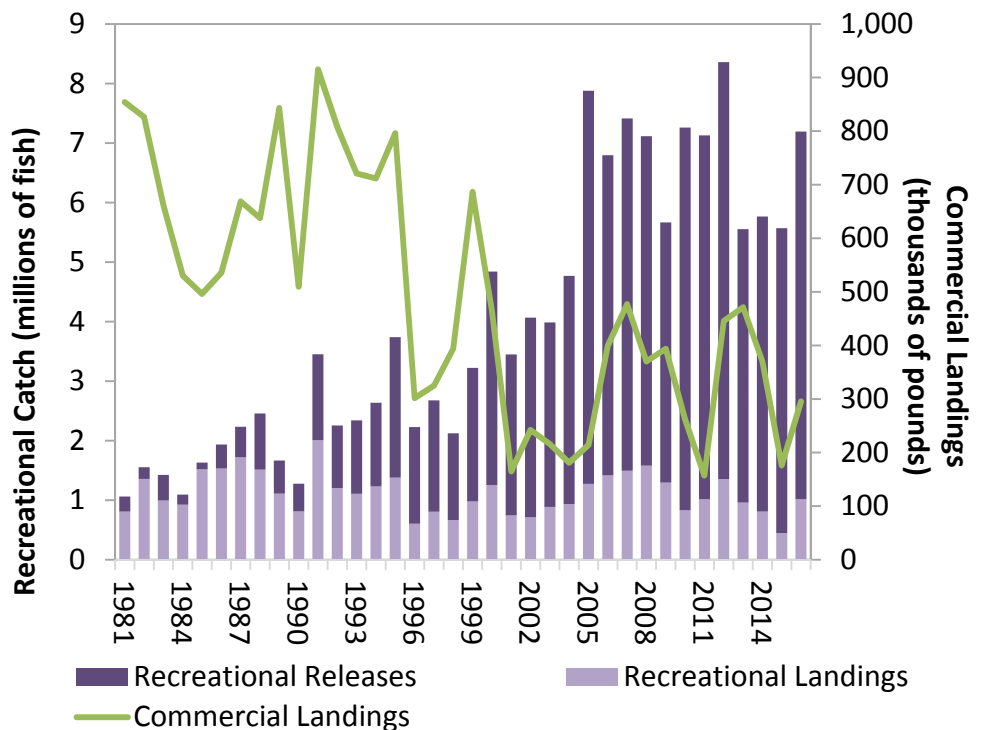
Monitoring and Management

- Amendment I sets the objective of the FMP to achieve 20% spawning potential to minimize the possibility of recruitment failure. Florida has established a 35% SPR.
- The Omnibus Amendment, approved in 2011, updated the Spotted Seatrout FMP to include at 12" TL minimum size and recommended measures to protect the spawning stock.

Next Assessment: No coastwide assessment planned or recommended by PRT due to the non-migratory nature of the species and the lack of available data.

Spotted Seatrout Commercial Landings and Recreational Catch

Source: ACCSP Data Warehouse and NMFS Fisheries Statistics Division, 2017



Timeline of Management Actions: FMP (1985); Amendment 1 (1991); Omnibus Amendment (2011)

ASMFC Standard Operating Procedures for Meetings

February 1, 2017

As established by the Interstate Fisheries Management Program Charter, the Atlantic States Marine Fisheries Commission (Commission) generally uses Roberts Rules of Order to conduct its business. There are some deviations from Roberts Rules adopted by the Commission. The following operating procedures are provided to make Commission meetings more effective and efficient.

Required Elements

The following voting and quorum provisions are established in the Commission guiding documents and are not subject to the discretion or interpretation by the meeting chair.

Quorum – The following quorum provisions are included in the Commission guiding documents. These provisions are not subject to the meeting chair’s discretion.

- The presence of Commissioners representing a majority of the state members (>50%) constitute a quorum at a meeting of the Commission.
- Any state shall be recorded as present when represented by one or more of its Commissioners.
- A quorum for any Commission group shall be a majority of the members of such body, provided that any such body may petition the Executive Committee in advance for approval of an alternative quorum procedure.

Voting – The following voting provisions are included in the Commission guiding documents. These provisions are not subject to the meeting chair’s discretion.

- The Commission’s Business Session, and management boards and sections shall be by state (or by jurisdiction or federal agency) with one vote per state. A state’s vote shall be determined by the majority of that state’s delegation of Commissioners who are present. Based on the number of delegates present, votes may be cast in favor, in opposition, in abstention, or null. A null vote occurs when only two state delegates are present and they do not agree on a position. A null vote can also occur if three state delegates are present and one delegate abstains from participating in the state caucus and the other two delegate do not agree on a position.
- No person may, by proxy, vote more than once on any issue.
- Any Commissioner or Commissioner Proxy or duly authorized representative of a jurisdiction or agency that is a member of a management board/section may make or second any motion; provided the maker of the motion and second (when necessary) must each come from a different state, jurisdiction, or agency.
- Any meeting-specific proxy appointed by a Legislative or Governors’ Appointee Commissioner may not vote on a final action being considered by a management board/section. Meeting-specific proxies may vote on preliminary decisions such as issues to be included in a public hearing draft or approval of public information documents.
- A final action is defined as: fishery specifications (including but not limited to quotas, trip limits, possession limits, size limits, seasons, area closures, gear requirements), allocation, final approval of FMPs/amendments/addenda, emergency actions, conservation equivalency plans,

- and non-compliance recommendations. A meeting-specific proxy may participate in the deliberations of the meeting, including making and seconding motions.
- The roll must be called for all final actions unless there is no objection to the motion.
- A two-thirds majority, which is required for an emergency action, extending a management action, or amending/rescinding a final action, is defined by the entire voting membership. However, federal agency abstentions do not count when determining the total number of votes.

Discretionary Elements

The following process recommendations are meeting best management practices for use by a meeting chair to effectively and efficiently run Commission meetings.

Process – The meeting chair has the discretion to manage the meeting conduct and application of the following best management practices.

- All board members should have the opportunity to speak once prior to anyone speaking a second time.
- An individual may not be recognized to speak on a motion more than two times during a single board meeting.
- If the chair believes there may not be opposition to the motion, he/she will seek board consent of the action by asking “If there is no objection, this item will be adopted.” After pausing for any objections, the chair states “As there are no objections, this item is adopted unanimously.” It is not necessary to ask for a show of hands.
- If the chair determines too much time is being consumed by speakers, he/she can set a time limit on such speeches.
- The meeting chair can use either of the following options for “one in favor/one against”:

Options for use of “one in favor/one against”:

Option 1: At any time in the meeting based on concern regarding limited time availability to conduct the full business of the board/section or in cases when extensive debate on an issue has occurred, the chair can limit debate to one in favor/one against.

Option 2: After all members have had the opportunity to speak on a motion twice, the chair will limit debate to one in favor/one against. If there is no one left to speak in favor/against the chair will call the vote on the motion.



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfmc.org

MEMORANDUM

TO: ISFMP Policy Board
FROM: Assessment Science Committee
DATE: April 24th 2017
RE: Stock assessment schedule updates

At its April 2017 conference call, the Assessment Science Committee (ASC) met to discuss various issues and receive presentations on several topics. The ASC had a number of recommendations to present to the ISFMP Policy Board regarding the ASMFC Stock Assessment Peer Review Schedule.

1. Following the request of the Horseshoe Crab Management Board, a benchmark assessment was added to the schedule in 2018.
2. SAW-SARC reviews were added to the schedule for Atlantic herring in 2018 and the 2019 summer flounder assessment was changed from an update to a benchmark at the Fall 2016 NRCC meeting, with the potential to move it forward to 2018.
3. The benchmark assessment for Northern shrimp was moved back to spring 2018 to accommodate a calibration study for the State-Federal (ASMFC) Summer Survey. A necessary equipment change on the Summer Survey requires these side-by-side calibration tows.
4. Per the request of the South Atlantic Board, a cobia SEDAR review was added to the schedule in 2019.
5. The ASC also discussed the implications of the MRIP Coastal Household Telephone Survey transition to the Fishing Effort Survey. Following calibration model peer review, the re-estimation of historical catch and effort could lead to changes to stock status or quotas that may require management action. The ASC divided ASMFC-managed species into anticipated levels of impact based on the amount of recreational harvest. For now, since most of the potential “high” impact species, including striped bass and summer flounder, are already on the stock assessment schedule for a benchmark trigger in the near future, the ASC decided to leave the assessment schedule as is. Once the calibrated numbers are released, the ASC and TCs can reevaluate the schedule and timing based on the difference between the calibrated numbers and the previous numbers. Jointly or cooperatively managed species are being updated on the Federal schedule.
6. The ASC updates the Assessment Scientist Workload Scoresheet on an annual basis as a means to calculate the workloads of the TC and SAS members along the coast. Historically, this scoresheet has only included benchmark stock assessments and more recently assessment updates. This overlooks participation and assignments on other science committees as well as tasks outside of a stock assessment and in-state duties. The ASC is working with Science Staff to identify a more representative way to capture scientist workload which could help with future task prioritization and will bring this improved scoresheet to the ISFMP Policy Board at Annual Meeting.

Long-Term Benchmark Assessment and Peer Review Schedule (Updated April 2017)

Species	2009	2010	2011	2012	2013	2014	2015	2016		2017	2018	2019	2020
American Eel				ASMFC						Update			
American Shad											Update		
American Lobster	ASMFC						ASMFC						x
Atlantic Croaker		SEDAR 20								ASMFC			
Atlantic Menhaden		SEDAR		Update		SEDAR				Update		SEDAR	
Atlantic Sea Herring	Update			SARC 54			Update				SARC-Spring		
Atlantic Striped Bass	Update		Update		SARC 57		Update	Update			SARC-Fall		
Atlantic Sturgeon										ASMFC			
Black Drum						ASMFC						x	
Black Sea Bass	Update	Update	SARC-Fall	Update	Update	Update	Update	SARC- Fall		Update	Update	Update	Update
Bluefish	Update	Update	Update	Update	Update	Update	SARC-Spring	Update		Update	Update	Update	x
Cobia												SEDAR	
Horseshoe Crab	ASMFC				Update						ASMFC		
Menhaden ERPs	Update			Update		Update						SEDAR	
Northern Shrimp	Update	Update	Update	Update	Update	SARC-Spring	Update	Update		Update	ASMFC	Update	Update
Red Drum	SEDAR						SEDAR						x
River Herring				ASMFC						Update			
Scup	Update	Update	Update	Update	Update	Update	SARC-Spring	Update		Update	Update	Update	x
Spanish Mackerel				SEDAR 28									
Spiny Dogfish	Update	TRAC	Update	Update	Update	Update	Update	Update		Update	Update	Update	Update
Large Coastal Sharks			SEDAR					SEDAR					
Small Coastal Sharks			SEDAR		SEDAR								
Spot										ASMFC			
Spotted Seatrout	VA/NC	FL					VA/NC	FL					
Summer Flounder	Update	Update	Update	Update	SARC 57	Update	Update	Update		Update	Update	SARC	Update
Tautog			Update			ASMFC		Update				x	
Weakfish	SARC-Spring							ASMFC			Update		
Winter Flounder			SARC 52			Update	Update			Update			

SA Staff
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2013 marks transitioning to the new NE Stock Assessment Process

Please note that all species scheduled for review must be prioritized by management boards and Policy Board.

Additional Notes:

- Black Sea Bass: 2016 benchmark to include new model development
- Large Coastal Sharks: 2016 Update dusky, 2017 Standard sandbar, 2018 Update blacktip
- Small Coastal Sharks: SEDAR 34-HMS bonnethead and Atlantic sharpnose 2013
- Spot: PRT annually reviews
- Spotted Seatrout: States conducting individual assessments
- Winter Flounder: Operational assessment Sept 2017 with 20 groundfish stocks

- SEDAR External Review
- ASMFC External Review
- Fall SARC Review
- Spring SARC Review
- x = 5 year trigger date or potential review
- Completed

Italics = under consideration, but not officially scheduled

- 1 =active member of SASC
- 2 =co-lead for assessment
- 3 =lead for stock or stock unit/DPS
- =combined score for multiple updates

		2019					
		Summer flounder*	Menhaden (ERPs)	Menhaden (Single-species)	Black drum	Tautog	Updates
Scientist	Kristen Anstead		1				
	Jason McNamee	1	3	1		1	
	Katie Drew		1			2	
	Laura Lee						
	Jeff Kipp				3		
	Jim Uphoff		3				
	Amy Schueller		1	3			
2017							
Benchmarks							
Sturgeon	Mark Terceiro	3					1
Spot	Alexei Sharov		1	1		1	
Croaker	Matt Cieri		1	1			
Updates							
American eel	Jeff Brust	1	1			1	
River herring	Chris McDonough				1		1
Atlantic menhaden	Michael Celestino		1				
	Micah Dean		1	1			
2018							
Benchmarks							
Atlantic striped bass (SARC-F)	Gary Nelson						1
Horseshoe crab	John Sweka						1
Spiny dogfish (SARC-S)	Gary Shepherd						1
Atlantic herring	Maggie Hunter						1
Northern shrimp	Burton Shank						1
Black sea bass (SARC-F)?	Kim McKown						1
Bluefish (SARC-F)?	Tracy Pugh						1
Scup (SARC-S)?	Kierstin Curti						1
Updates							
American shad	Kathleen Reardon						1
Weakfish	David Chagaris		1				
	Howard Townsend		1				
2019							
Benchmarks							
Atlantic menhaden (ERPs)	Katherine Sosebee					1	
Atlantic menhaden (Single-species)	Mike Bednarski						
Black drum	Dawn Franco						
Summer flounder (SARC)	Harry Rickabaugh						
Cobia	Joseph Munyandorero						
Tautog	Mary Fabrizio						
	Michael Bailey					1	1
Yearly updates							
Bluefish	Scott Newlin						
Northern shrimp	Edward Hale						
Scup	Ed Hale						
Spiny dogfish	Rob Latour			1			
Spot (TLA)	Kurt Gottschall						
Croaker (TLA)	Anne Richards						
American lobster (Stock Indicators)	Josh Newhard						
Summer flounder	Greg Wojick	1					
	Chris Legault	1					
	Steve Doctor	1					
	John Maniscalco	1					
	Joe Cimino				1		
	Yan Jiao						
	Chris Bonzek	1					

*=Jointly managed with Councils handling most of assessment workload

How our State and Federal Partners are working to Protect SAV

On the 20th anniversary of the Commission's SAV Policy publication, the Habitat Committee decided to check in on the progress of each state and federal agency to conserve SAV over the past two decades. In January, the Habitat Program Coordinator sent out a survey asking each partner a series of questions based on the goals and components of the original policy statement.

The goal of the policy was to preserve, conserve, and restore where scientifically possible, in order to achieve a net gain in SAV distribution and abundance along the Atlantic coast and tidal tributaries, and to prevent any further losses of SAV in individual states by encouraging them to:

1. Protect existing SAV beds from further losses due to degradation of water quality, physical damage to the plants, or disruption to the local benthic environment;
2. Set and achieve state or regional water and habitat quality objectives that will result in restoration of SAV through natural re-vegetation;
3. Develop and attain state SAV restoration goals in terms of acreage, abundance, and species diversity, considering historical distribution records and estimates of potential habitat.

The policy provided six key components to achieving its goal: 1) Assessment of historical, current and potential distribution and abundance of SAV; 2) Protection of existing SAV; 3) SAV Restoration; 4) Public Education and Involvement; 5) Research; and 6) Implementation.

The summarized results below are from nine states (those who responded to the survey and have marine seagrass species within their borders), as well as five federal agencies. The states include New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Maryland, Virginia, North Carolina, and Florida.

Seven of the nine states have implemented a resource assessment and monitoring strategy to quantitatively evaluate SAV distribution and abundance (Figure 1). One state is currently in the process of developing an assessment. All nine states have put measures in place to limit permanent and irreversible direct and indirect impacts to SAV and their habitats. Evaluation of the effectiveness of these measures has been mixed along the coast (Figure 2). One third of the states have carried out an evaluation, and one third have not. Two states have evaluations in development, and one state has conducted an evaluation in the past, but is not currently doing so.

55% of the states have set restoration goals, whereas 45% have not (Figure 3). Most (89%), however, have identified the key reasons for SAV loss in their state (Figure 4). Two thirds of

states have identified suitable areas for protection and restoration, and two states are in the process of doing so (Figure 5). One state identifies conservation areas as needed.

Information is being included in aquatic education programs across the coast. Seven states have incorporated it directly, and other entities (such as National Estuarine Research Reserves) have taken on that role (Figure 6). Most states (8) have also supported research on SAV (Figure 7).

From the survey, we found that most of our federal partners do not have regulatory authority, but do serve in an advisory role and can designate specific SAV areas as protected. More than half have developed technical guidance or SAV standards, and promote particular Best Management Practices. While they have not implemented the Commission's SAV Policy, most have implemented other, similar policies to protect SAV.

There has been a lot of process to conserve SAV over the past 20 years on the Atlantic coast, but work can still be done. To read the Commission's original SAV Policy, please visit <http://www.asmfc.org/uploads/file/savpolicy.pdf>.

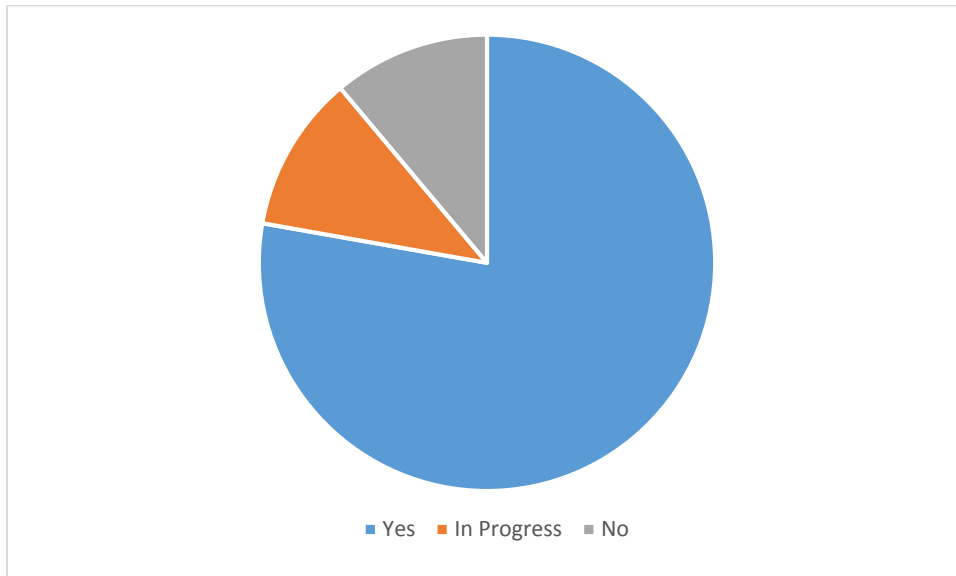


Figure 1. Proportion of states that have implemented an SAV assessment and monitoring strategy. Total = 9.

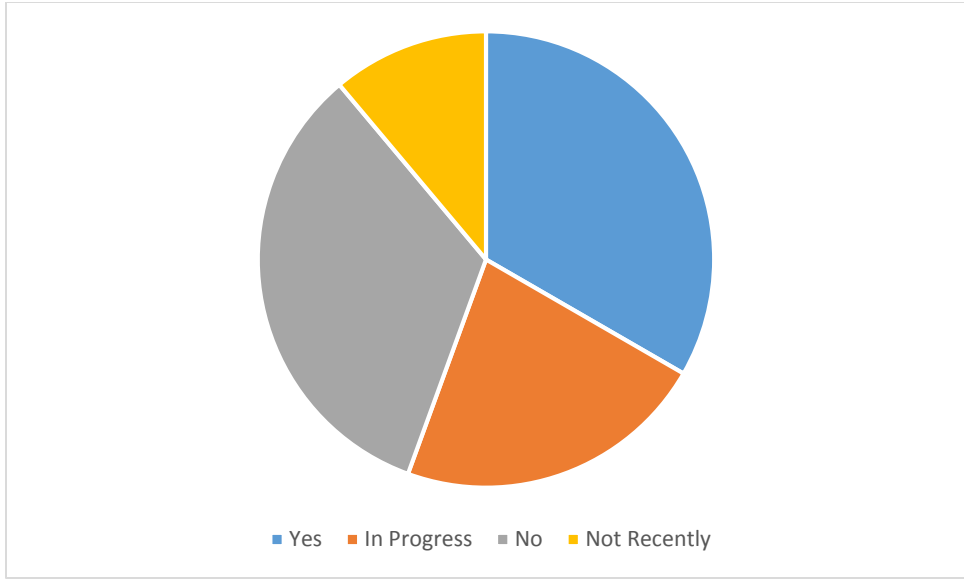


Figure 2. Proportion of states that have evaluated the measures they put in place to limit permanent and irreversible direct and indirect impacts to SAV and their habitats. Total = 9.

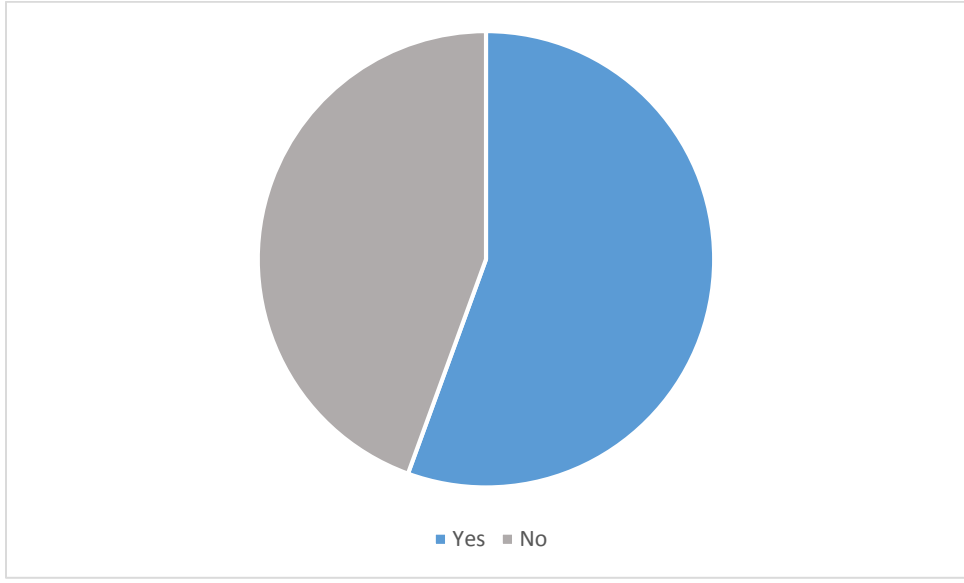


Figure 3. Proportion of states that have set restoration goals. Total = 9.

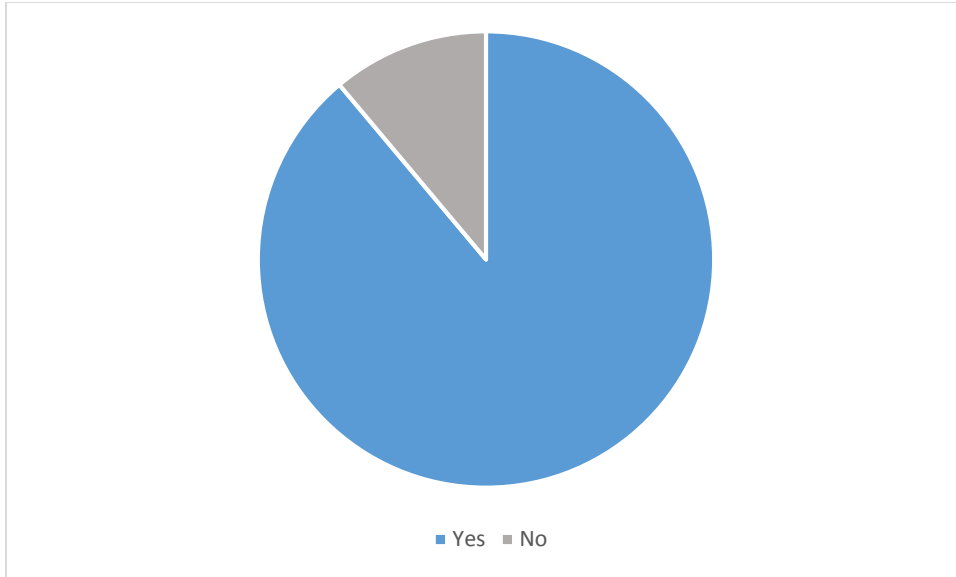


Figure 4. Proportion of states that have identified key reasons for SAV loss. Total = 9.

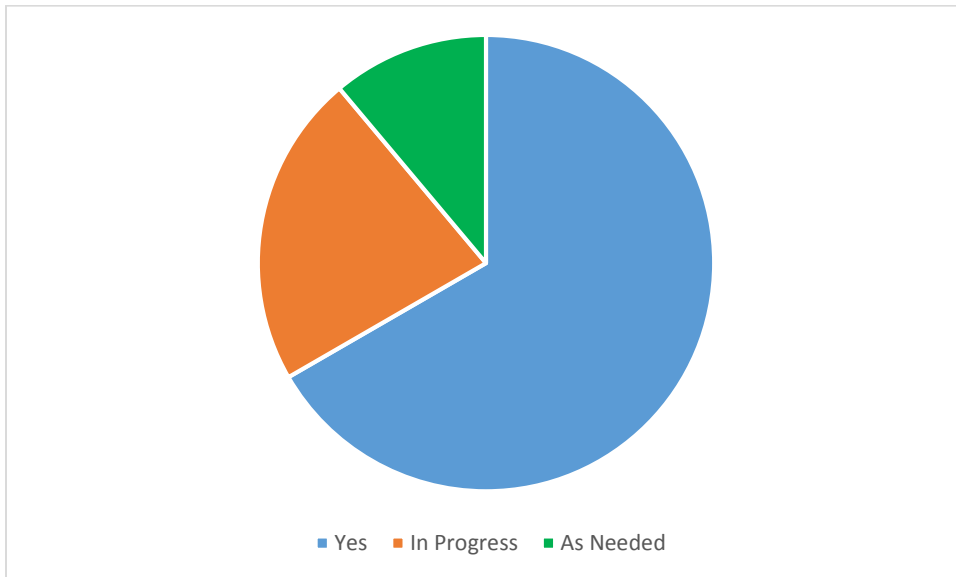


Figure 5. Proportion of states that have identified suitable areas for conservation. Total = 9.

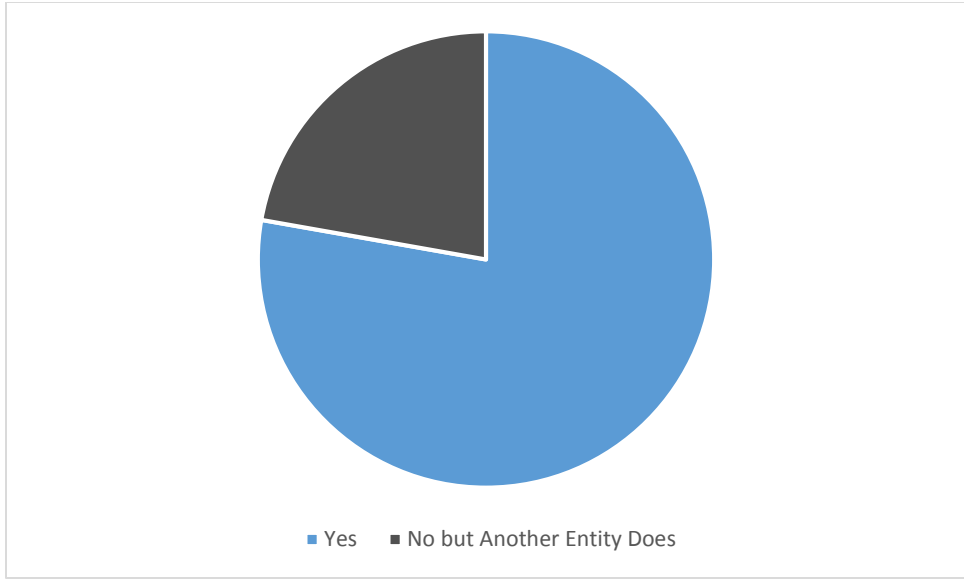


Figure 6. Proportion of states that have included SAV in their aquatic education programs. Total = 9.

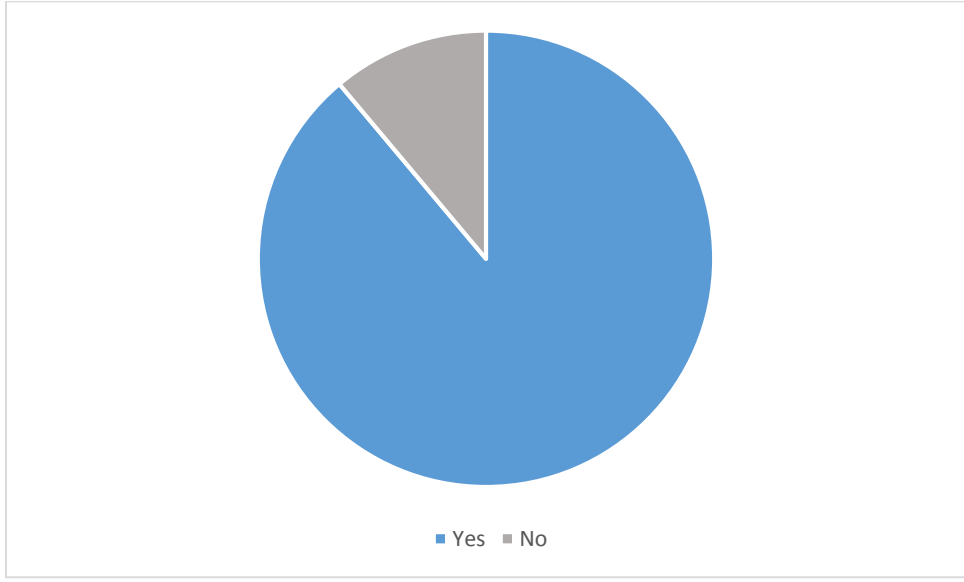


Figure 7. Proportion of states that have supported SAV research. Total = 9.