

# Atlantic States Marine Fisheries Commission

## ISFMP Policy Board

*August 7, 2013  
2:45 – 3:45 p.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; Introductions (*P. Diodati*) 2:45 p.m.
2. Board Consent (*P. Diodati*) 2:45 p.m.
  - Approval of Agenda
  - Approval of Proceedings from May 2013
3. Public Comment 2:50 p.m.
4. Management and Science Report (*M. Hunter*) 2:55 p.m.
5. Review of Stock Rebuilding Performance (*T. Kerns*) 3:05 p.m.
6. Review and Consider Habitat Program Guidance Document (*M. Yuen*) **Action** 3:25 p.m.
7. Atlantic Coastal Fish Habitat Partnership Report (*E. Greene*) 3:35 p.m.
8. Other Business/Adjourn 3:45 p.m.

The meeting will be held at the Crowne Plaza Hotel, 901 North Fairfax Street, Alexandria, Virginia; 703-683-6000

*Working towards healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.*

# Atlantic States Marine Fisheries Commission

## ISFMP Policy Board

*August 8, 2013  
2:30-3:30 p.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.

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|------------------------------------------------------------|-----------|
| 1. Welcome/ Introductions ( <i>P. Diodati</i> )            | 2:30 p.m. |
| 2. Board Consent ( <i>P. Diodati</i> )                     | 2:30 p.m. |
| • Approval of Agenda                                       |           |
| 3. Public Comment                                          | 2:35 p.m. |
| 4. Discussion of Jonah Crab Management ( <i>S. Train</i> ) | 2:45 p.m. |
| 5. Discussion of Whelk Management ( <i>T. Kerns</i> )      | 2:55 p.m. |
| 6. Review of Non-compliance Findings (if necessary)        | 2:45 p.m. |
| 7. Other Business/Adjourn                                  | 3:30 p.m. |

The meeting will be held at the Crowne Plaza Hotel, 901 North Fairfax Street, Alexandria, Virginia; 703-683-6000

*Working towards healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.*

# MEETING OVERVIEW

**ISFMP Policy Board Meeting**  
**Wednesday, August 7, 2013**  
**2:45-3:45 p.m.**  
**Alexandria, Virginia**

Chair: Paul Diodati (MA) Assumed Chairmanship: 11/11	Vice Chair: Louis Daniel (NC)	Previous Board Meeting: February 20 and 21, 2013
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 22, 2013

**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.

<b>4. Management and Science Report (2:55-3:05 p.m.)</b>
<b>Background</b> <ul style="list-style-type: none"><li>• The MSC met and recommended a report on the disjuncture between science, management, and fishermen observations</li></ul>
<b>Presentations</b> <ul style="list-style-type: none"><li>• Management and science report by M. Hunter</li></ul>
<b>Board actions for consideration at this meeting</b> <ul style="list-style-type: none"><li>• None</li></ul>

<b>6. Review of Stock Rebuilding Performance (3:05-3:25 p.m.)</b>
<b>Background</b> <ul style="list-style-type: none"><li>• As part of the ASMFC 2009-2013 Strategic Planning process, the Commission agreed to conduct more frequent reviews of stock status and rebuilding progress.</li><li>• The ASMFC 2013 Annual Plan tasks the Policy Board with conducting a review of stock rebuilding performance.</li></ul>
<b>Presentations</b> <ul style="list-style-type: none"><li>• A presentation will be given on the stock rebuilding performance for each species that is managed by the Commission by T. Kerns (<b>Briefing CD</b>)</li></ul>
<b>Board actions for consideration at this meeting</b> <ul style="list-style-type: none"><li>• The Policy Board will need to determine if the rebuilding performance for each species is consistent with the Commission Vision and Goals.</li><li>• If the performance is not consistent with Vision and Goals, what action should be taken.</li></ul>

<b>12. Review and Consider the Habitat Program Guidance Document ( 3:25-3:35 p.m.)</b>
<b>Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>The HC submitted the draft Habitat Program Guidance Document (formerly known as the Habitat Program’s Operational Procedures Manual) for ISFMP Policy Board review and approval. The Guidance document revisions include the recommendations from the Habitat Program Review and make it consistent with the guidelines in the Technical Committee Guidance and Assessment Process document. The new document includes a goal for the Program (rather than a mission and vision), a better description of the chair, vice chair, committee members and coordinator responsibilities, a description of the annual work plan, which monitors the HC’s progress towards completing their action plan tasks, as well as many other revisions.</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>Overview of the Habitat Program Guidance Document by M. Yuen (<b>Briefing CD</b>)</li> </ul>
<p><b>Board actions for consideration at this meeting</b></p> <ul style="list-style-type: none"> <li>Approval of the Habitat Program Guidance Document</li> </ul>

<b>13. Atlantic Coastal Fish Habitat Partnership Report (3:35-3:45 p.m.)</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>In 2012, ACFHP solicited applications for on-the-ground habitat conservation and improvement projects and related design and monitoring activities, reviewed applications received, and submitted a ranked list to the USFWS.</li> <li>In May 2013, ACFHP solicited project endorsement applications in support of the NFWF Bring Back the Natives/More Fish funding program.</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>E. Greene will provide a report on ACFHP submitted projects that were approved for FY13 USFWS funding, and Bring Back the Natives/More Fish projects proposals that were endorsed by ACFHP.</li> </ul>
<p><b>Board actions for consideration at this meeting</b></p> <ul style="list-style-type: none"> <li>None</li> </ul>

**14. Other Business/Recess**

**MEETING OVERVIEW**

**ISFMP Policy Board Meeting**  
**Thursday, August 8, 2013**  
**2:30-3:30- p.m.**  
**Alexandria, Virginia**

Chair: Paul Diodati (MA) Assumed Chairmanship: 11/11	Vice Chair: Louis Daniel (NC)	Previous Board Meeting: February 20 and 21, 2013
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

**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. Discussion of Jonah Crab Management (1:45-2:15 p.m.)**

#### **Background**

- Commission members have requested the policy board provide guidance on what types of data would be necessary for the Board to consider potential management action for this species.

#### **Board actions for consideration at this meeting**

- None

### **5. Discuss Whelk/Conch Management (2:55-3:10 p.m.)**

#### **Background**

- The Horseshoe Crab Management Board, requested the Policy Board discuss the consideration of a whelk/Conch FMP in February and staff presented the Policy Board information on current whelk/conch management and biology

#### **Presentations**

- Overview of previous Policy Board discussion and possible next steps by T. Kerns

#### **Board actions for consideration at this meeting**

### **6. Review Non-Compliance Recommendations (If Necessary) (3:15-3:45 p.m.)**

#### **Background**

- Species management boards and sections review compliance on an on-going basis.
- If a board/section recommends that a state be found out of compliance, the Policy Board must review this finding prior to the Commission taking action.

#### **Presentations**

- Staff will provide background on any non-compliance recommendations

#### **Board actions for consideration at this meeting**

- Determine if a recommendation should be made for the Commission to notify the Secretaries of Interior and Commerce of a state's non-compliance

## 7. Other Business/Adjourn

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

**Crowne Plaza Hotel - Old Town  
Alexandria, Virginia  
May 23, 2013**

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 2013 by Consent** (Page 1).
3. **The ISFMP Policy Board moves that the board accept the changes as presented in the ISFMP Charter today** (Page 4). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 4).
4. **Move to approve the research proposals from Georgia and Maine** (Page 25). Motion by Pat Augustine; second by Bill Cole. Motion carried (Page 25).
5. **Move that the ASMFC support initiatives taken by the New England, Mid-Atlantic and Western Fisheries Management Councils in support of amending the Magnuson-Stevens Fisheries Conservation Act to authorize the National Marine Fisheries Service to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets as sustainable-based upon the requirements of the Act** (Page 26). Motion by Louis Daniel; second by Terry Stockwell. Motion carried (Page 26).
6. **Motion to adjourn by Consent** (Page 26).



## ATTENDANCE

### Board Members

Terry Stockwell, ME, Administrative proxy	David Saveikis, DE (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
G. Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Paul Diodati, MA (AA)	Bill Goldsborough, MD (GA)
Bill Adler, MA (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Robert Ballou, RI (AA)	Jack Travelstead, VA (AA)
David Simpson, CT (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Dr. Lance Stewart, CT (GA)	Louis Daniel, NC (AA)
James Gilmore, NY (AA)	Bill Cole, NC (GA)
Pat Augustine, NY (GA)	Robert Boyles, Jr., SC (AA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Malcolm Rhodes, SC (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Spud Woodward, GA (AA)
Tom Fote, NJ (GA)	Patrick Geer, proxy for Rep. Burns (LA)
Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Loren Lustig, PA (GA)	Kelly Denit, NMFS
Leroy Young, PA, proxy for J. Arway (AA)	Bill Archambault, USFWS

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

### Ex-Officio Members

### Staff

Bob Beal	
Toni Kerns	Mark Robson
Kate Taylor	Katie Drew

### Guests

Karen Abrams, NMFS	Danielle Rioux, NOAA
Anthony Rios, Ofc. Sen. Phil Boyle, NY	Bob Ross, NMFS
Peter Burns, NMFS	Olivia Rugo, NOAA
Derek Orner, NMFS	John Bullard, NOAA
Steve Meyers, NOAA	Russ Allen, NJ DFW

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, May 22, 2013, and was called to order at 2:45 o'clock p.m. by Chairman Paul Diodati.

### **CALL TO ORDER**

CHAIRMAN PAUL DIODATI: We're going to begin the Policy Board. Welcome, everyone, to the Policy Board Meeting.

### **APPROVAL OF AGENDA**

CHAIRMAN DIODATI: You have an agenda before you. Before I ask for approval of it, I think Toni might have some changes. Toni.

MS. TONI KERNS: We have two changes to the agenda. Item Number 5, the discussion of concerns with the implementation of the MRIP Program has been removed. For tomorrow's agenda we had on there to consider the Shad and River Herring Research Proposals; and if we have time, we're going to go ahead and move that to today since we took that 30-minute item off the agenda, depending if we can catch up.

CHAIRMAN DIODATI: If there are no questions, there will be opportunity for members to bring up other business at the end of the meeting. I know at least one or two people have approached me about that, so we do have a couple of items for the end of the meeting. Without any objection, I will consider the agenda approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DIODATI: You should also have the minutes from our February meeting. If there are no questions or comments about those proceedings, I will consider those approved. Toni.

MS. KERNS: I just want to note that the minutes from the second day of the meeting were not recorded and that is why you do not have them.

### **PUBLIC COMMENT**

CHAIRMAN DIODATI: And as always we like to take public comment. If there is any public comment about any issues that aren't on the agenda, we will take that now. Seeing none; we will be moving nice and quickly through this agenda given that it is 2:45 because of one of our earlier boards going a little bit long. We have Karen Abrams here today from the National Marine Fisheries Service, and Karen is going to talk about their proposed rule for Shark Act of 2010.

### **PROPOSED RULE FOR THE DOMESTIC ELEMENTS OF THE SHARK CONSERVATION ACT**

MS. KAREN ABRAMS: Thanks for having me today. My name is Karen Abrams. I am with the National Marine Fisheries Service, Office of Sustainable Fisheries, Domestic Fisheries Division. I will be talking to you a little bit about the proposed rule to implement the Shark Conservation Act of 2010.

The 2010 Shark Conservation Act was signed into law on January 4, 2011. It amended the High Seas Drift Net Fishing Moratorium Protection Act and the MSA to improve existing international and domestic shark conservation measures. It prohibits the removal of shark fins at sea, and that is the key portion that I will be talking about today, but does not impose a universal prohibition on the possession or sale of shark fins after they have been landed.

The National Marine Fisheries Service is implementing the Shark Conservation Act actually through three separate rulemakings. The first is a rulemaking that addresses some of the international portions of the Act and does that by revising the definition of illegal, unreported and unregulated fishing. That rulemaking was finalized in January of 2013.

There is a second rulemaking that I think Karyl Brewster-Geisz brought up with you yesterday having to do with the savings' clause for smoothhound sharks. As she reported yesterday, that rule is still in development. The rule I will

be talking about is the rule to implement the domestic provisions of the Shark Conservation Act.

That was published on May 2<sup>nd</sup> and we are accepting comments through June 17<sup>th</sup>. We published the proposed rule primarily because we needed to bring the existing regulations and U.S. Federal Domestic Shark Fisheries into compliance with the domestic provisions of the Shark Conservation Act. Like I said, the comment period is open through June 17<sup>th</sup>. Public comments can be submitted through regulations.gov.

Some of the key elements of the rule are that it includes a prohibition on the possession of shark fins aboard a fishing vessel or landing, transferring or receiving shark fins or carcasses unless the shark fins are naturally attached to the corresponding shark carcass. Previous regulations under the Shark Finning Prohibition Act of 2000 prohibited shark finning and the possession of shark fins without the corresponding carcass.

Fishing vessels could have fins removed from the shark carcasses as long as those carcasses were still on board. This rule changes that and requires that the fins remain naturally attached through some portion of uncut skin. It is important to point out that congress, while it prohibited the removal of shark fins at sea, it did not impose a universal prohibition on the possession or sale of shark fins after they are landed.

The rule also clarifies that this does not apply to skates, rays or individuals fishing for smoothhound sharks. The rule explains NMFS' view on preemption of state laws. One of the things that the proposed rule does recognize is there are territories and state laws, including Maryland and Delaware now, as well who have enacted laws that with a few exceptions prohibits the possession, sale, trade or distribution of shark fins and explains that a state law that interferes with the purpose and objectives of Magnuson could in fact be preempted.

Because of obvious sensitivity here with states, this triggers the Executive Order 13132, which requires us to reach out to states, which we did. Prior to publishing proposed rule, we reached to all states with actually enacted laws prior to publication, so that was Maryland. Delaware's law was enacted after the rule was actually published.

We understand there are quite a few other states with laws that are being considered right now similar to Maryland and Delaware. At this point the rule is there and we are looking forward to comments. We really welcome comments. We are particularly interested in comments or suggestions that help to clarify the rule and any aspects of the implementation part of the rule. We really looking forward to comments related to the potential interference between the state laws and the federal laws and places where those conflicts could be minimized. Those kinds of comment will be very helpful to us for further coordination with all the states. That is where we are and again here is the link to submit comments. That is really it in a nutshell, so thank you very much.

CHAIRMAN DIODATI: Are there any questions for Karen? Okay, I'll go to Mr. Adler.

MR. WILLIAM A. ADLER: Back on the Shark Board thing; was there a question about whether the commission should submit some comment to the federals on the rule? I think that was brought up at maybe the Spiny Dogfish and Shark Board. They said that probably the ISFMP Board would be the place to make that.

CHAIRMAN DIODATI: That is on the agenda; that will be the first decision of the day. Pat.

MR. PATRICK AUGUSTINE: Is there any thought about covering skates and rays? Usually there is something in the wings; but someone has a hidden agenda out there that would eventually want to put some kind of control on skates and rays and that sort of thing. I'm not aware of any. I have gone through all the documents and I haven't found anything yet. Is there anything that you're aware of?

MS. ABRAMS: No, not that I'm aware of.

MR. AUGUSTINE: Good; make sure they don't.

CHAIRMAN DIODATI: Okay, there is the issue that Bill Adler just mentioned; whether or not the commission should forward a comment letter about the Shark Conservation Act of 2010 Proposed Regulation. Are there any thoughts on that? Well, I don't think we need a motion. I would like to have a little – if there is a consensus; that would be fine. I don't think we need a motion on this. Pat, did you want to say something on this?

MR. AUGUSTINE: Mr. Chairman, I do think we should support their efforts. NMFS has been very forthcoming; the HMS Group has been very supportive; we have been very supportive of them. They have kept us informed as to changes as they have been occurring. I do think that we should send a letter back supporting these changes that quite frankly are overdue. That would be our position, Mr. Chairman.

MR. WILLIAM GOLDSBOROUGH: I think there are several things we could say to NMFS. Our hands may be a little bit tied based on the actions we took yesterday; but from my understand some of NMFS' public comments on the Act were not particularly flattering. I'm just suggesting that the exception for smooth dogfish was potentially problematic.

It seems also from our discussion yesterday that there is more information out there about potential fin-to-carcass ratios. We did talk about one study that I don't think has been peer reviewed yet or run by our technical committee. Then we heard in public comment about another analysis that had been done that actually suggested that the ration was 3.5 percent for smooth dogfish. It seems like one of the things we could suggest would be that they look at all available information on that and perhaps try and nail down a more precise estimate and assure them that we would also probably benefit from that work in the future.

CHAIRMAN DIODATI: I'm hearing that the ratios on specifically in this rule are being dealt with, but we will go back to yesterday's board and review some of the concerns that were raised. Is there an objection to sending a comment letter that would be in general support of the proposed rule? I'm not seeing any objection.

We thought that there might be because there might be some conflicts with state law on this; so why don't we draft a letter and circulate it back to the board before we send it. We do have time to do that. I want to make sure that you will be comfortable with it. Okay, thank you, Karen. As Toni indicated, we're skipping Item Number 5 on your agenda, and I guess we will go to Item Number 6, which is to talk about the possible revisions to our Charter.

#### **CONSIDER REVISIONS TO THE ISFMP CHARTER**

MS. KERNS: If you recall, at the last ISFMP Board Meeting we approved a new technical support group guidance and benchmark stock assessment process document. I noted once that document was approved that we would go through the Charter and make any changes that we thought were necessary to be consistent with that document.

I have a couple of changes to quickly go through. There is a change to the description of the Assessment Science Committee's role. It is just how the Assessment Science Committee provides input to the species stock assessment subcommittees during the benchmark stock assessment process and that they can provide input and advice when a model change or a major revision of the data are conducted.

It no longer has that committee jointly appointing the species stock assessment subcommittees with the technical committee. We usually have the technical committee make recommendations or the board itself will make recommendations on who should be on the stock assessment committee and then it is finally approved by the board.

We also noted that the ASC may provide overall guidance during an assessment update, but they don't have to. Next is looking at a description of the technical committee's role, and it is just that the technical committee will address specific technical or scientific needs requested by the respective boards and committees. As requested, it does not have to be in writing.

We also noted that the technical committee may be requested to provide technical analysis by the advisory panel. Next is looking at a change in the description of the species stock assessment subcommittee. It just notes who will be on that committee and that the technical committee members with the appropriate knowledge and experience in stock assessment and biology of the species being assessed, as well as individuals from outside the technical committee with the expertise in that species, can be nominated if necessary.

It also notes that under the subcommittee that a stock assessment update consists of adding the most recent years of data to an existing peer review and board acceptance stock assessment model without changing the model type or structure to make that definition consistent with the guidance document.

We also note that instead of having the Chair appoint the Habitat Committee once on an annual basis, they can be appointed anytime during the year. But still consistent with all other committees, we only make a committee member change for each state once each year. You can't change a committee member multiple times.

We also added a description of the Artificial Reef Committee. It is a standing committee of the commission appointed at the discretion of the Chair. The Artificial Reef Committee advises the Policy Board with the goal of enhancing marine habitat for fish and invertebrate species through the appropriate use of man-made materials. Then it just describes who is on that committee.

Next we changed the name of the votes that we take electronically. It was called a fax ballot and

we have made that change to reflect with the times and we are now calling it an electronic ballot. We also did the addition of the LEC, which is consistent with the action plan to have someone from the Justice Department as a possibility on the committee.

CHAIRMAN DIODATI: I think I would like a motion to accept these changes. If there is a motion and a second, then we will have some discussion, if needed. Pat.

MR. AUGUSTINE: **Mr. Chairman, I move that the ISFMP Policy Board accept the changes as presented in the document as of this date.** I don't know whether you want to fill in anymore than that or not, Mr. Chairman. I think reference to the document is important.

CHAIRMAN DIODATI: Seconded by Mr. Adler. Okay, is there any comment or question about the motion or the changes? Adam.

MR. ADAM NOWALSKY: The change to electronic ballot; does that preclude the use of any of the other methods used previously, including fax. Is that an issue that we're just going to do anything that we're not here as a group only by e-mail or we're going to use whatever is available at that time?

MS. KERNS: Adam, I consider a fax machine an electronic device, so you can send it in via fax, via e-mail, any of those ways.

CHAIRMAN DIODATI: I think the Charter was written prior to e-mails becoming as popular as they are and so fax was invented and used commonly, but now by changing it to electronic it is more encompassing of contemporary modes of communication. Are there any other comments on this? All right, I will read the motion.

**The ISFMP Policy Board moves that the board accept the changes as presented in the ISFMP Charter today. The motion is by Mr. Augustine; seconded by Mr. Adler. All in favor, show of hands; all opposed same sign; abstentions. Thank you; the motion passes.**

The next is a discussion on what direction the commission might want to head relative to whelk or conch management and if we're going to proceed with the development of some new management vehicle. Actually it would be very new; we don't have one right now. Toni, I think there is a document; are you going to walk through this?

### **DISCUSSION OF WHELK/CONCH MANAGEMENT**

MS. KERNS: At the request of the Horseshoe Crab Board, the Policy Board began to discuss whelk management at the last meeting, but we ran out of time and so the Policy Board asked me to put together a white paper on some background information of what is going on in whelk management and a little bit about the status of the species. The Horseshoe Crab Board was concerned with the recent increases in catch and effort in the whelk fishery and the possible impacts of these trends on horseshoe crab.

A little bit about the life history of whelk or conchs – I am going to call them whelks for the rest of the time. There is limited information on the life history of all the species of whelks that we catch on the Atlantic Coast. I found five species of whelk that are the majority of the harvest. There is no planktonic life stage for whelk.

The eggs are put into the coil and once the eggs are hatched, they go straight to the benthic phase. Their movement is for food and breeding, but it is limited movement overall. From the scientists that I spoke with, they don't think that there is much movement between state waters; maybe neighboring states, but that would be it and not across multiple states.

The knobbed whelk bury into substrate for feeding and so therefore are more susceptible to dredges and trawls. Channeled whelks are more likely to be scavengers and so they're likely to be caught in pots. The females are larger than males, and there is a mixture of sizes at maturity. Three studies that I found were from Georgia, Virginia and Massachusetts. I am aware that there are others out there.

The females reach sexual maturity at ages ranging from six to twelve and the males from ages four to nine. Exchanges between closely situated populations is likely limited, which could explain why the growth and size at age and sexual maturity can differ significantly from one population to another.

This is the information that we have on landings for the coastwide. I have spoken with a couple of individuals and they don't think that the landings represent necessarily what has been going on in the past. There isn't required reporting in all of the states nor is there consistent reporting in all of the states.

This is from the ACCSP for the reporting that we do have, and you can see since 2005 there has been a significant increase in landings; and then from 2010 to 2011 there was a small drop-off. In your white paper there are those landings by state as well. Your major landings come from Massachusetts.

The ex-vessel value in millions of dollars for the coast has been increasing over the past couple of years. In 2008 it was almost \$5 million and then in 2009 and 2010 it was about \$6.5 million and then in 2011 it was close to \$9 million. For all the states, they have varying regulations. There is no consistent set of regulations, but they include limits on participation, some have minimum shell size either for length or for width.

There are gear requirements, harvest timing requirements and season or area closures. The effectiveness of an exploitation rate with effort controls may not be certain due to latency in some states as well as a poor relationship between the number of traps fished and the number of traps hauled similar to how that poor relationship is in the lobster fishery, as well as the effectiveness of biological measures is not necessarily certain because it is based on market and not biological measures for some states.

Because it is likely there is limited movement of whelk across multiple states and there is the varying size at age and sexual maturity, a multi-state management program may not have a

significant impact on the population because it is not a migratory species. A uniform size limit may not be effective unless maybe we had one minimum size, which was based to the lowest common denominator. We may want to recommend that all the states – if the board does anything, we may want to recommend mandatory reporting requirements – or not mandatory but the states go back and have reporting requirements so we could have a better understanding of what is being caught in each of the states’ whelk fisheries. In most cases the reporting requirements only comes when it is a bycatch in another fishery such as blue crab. That’s all I have.

CHAIRMAN DIODATI: I have a feeling this was probably generated by the Commonwealth of Massachusetts. Before I take questions on it, I will just say that the reason why is because we have been more recently aggressively managing our whelk fishery given that value. I know we’re up somewhat over \$6 million of that.

This has become the alternative fishery in Southern New England for what was our lobster fishery. It is rather sudden and increasing fairly rapidly. We have put in a fair amount of controls on effort; and looking at sexual maturity, our minimum size we found protected none of the females from spawning at all.

We have just made a proposal to increase our minimum size by three-quarters of an inch, and in fact that will give us 50 percent maturity would be protected at that. We have a fair amount of whelks coming into our state or they were from other places that either don’t have any minimum sizes or below ours. It becomes one of those classic management issues for us that we’re dealing with.

Based on what I have heard, it doesn’t sound critical to this body whether or not we want to take it on as a management board, but there seems to be other fisheries in other states that might have concerns about it or see some benefit in working together at least. With that, I will take any questions. Mr. Adler.

MR. ADLER: I don’t know how many other states have a fishery similar to us. I would like to at least know that. At the same time there was a recommendation or some comment just made by Toni having to do with the differences and how difficult it would be to have a uniform size and some of the other things because of the changes; and also the other fact that the whelk don’t go running up and down the coast like some of the species.

I personally think it would be better if the states rather than this commission could monitor and regulate their own fishery. I do agree with you, Paul, about getting together with the states to try to get some uniform thing, but I don’t know if we want to establish another board, which is going to have to deal with all the states and their little idiosyncrasies. So, you know, another board meeting when a state could handle it, I think. That is just my thoughts on this.

MR. THOMAS McCLOY: Mr. Chairman, a question for Toni; did you get a sense that this is predominantly state water fisheries as opposed to any EEZ harvest? Can you shed some light on that? I know we have a fishery, but I don’t know if it ventures very far offshore.

MS. KERNS: I believe it is mostly a state water fishery. For example, in New Jersey, in talking with Brandon, I think a significant portion is bycatch and dredge and your blue crab fishery. New Jersey is probably the only other state that is up to the level at times with Massachusetts, but that is not very consistent. It was one year where your state was over a million pounds, but I don’t think there is much in the EEZ.

MR. ROY MILLER: Mr. Chairman, I know there is a fishery for smooths or channel whelk offshore of Delaware; a pot fishery in the EEZ. I don’t know the extent of it; but when I first saw horseshoe crabs and whelks lumped together in the same heading, I thought we were perhaps going in a different direction.

For some years, we have known that the tooth-bar dredge that is commonly employed in the whelk fishery damages horseshoe crabs as bycatch, so there is a bycatch mortality

component associated with the use tooth-bar dredges. I kind of thought that was maybe where we were going but apparently it isn't.

I just put that out there for public information that there is some loss of horseshoe crabs due to the use of this gear. We've found in Delaware that this is a boom-or bust fishery, and for a while we kind of left it alone. Then the price went up and our landings spiked in 2001, and there was a gold rush mentality, which we heard about yesterday with another species, concerning licenses. The state had to deal with that. I think that the boom-or-bust phenomenon is fairly common in this fishery, and it takes a long time for this resource to recover once it crashes. This is just food for thought. Thank you.

MR. JAMES GILMORE: New York has had a similar experience to what you have described. There seems to be a lot of our lobster fishermen have transitioned over to whelk and we seem to be having some significantly large harvest based upon the number of permits that we have been issuing has been significantly increasing.

We definitely need to do something. We're not a hundred percent sure if we have the resources to do that and would be speaking in favor of maybe doing something jointly because we may need the help in terms of some of the data. It is a localized population. Ours is in state waters like everybody else's.

The other complication we have had, too, is we have been having this expanding PSP issue, which has been pretty traditional in New England. It is very new to us, but we had to change our regulations last year because the whelk pick up the toxin pretty well and we have to shut down those fisheries, also. We've got a combination of an expanding fishery and a potential public health issue, so we clearly need to do something more about it. Thank you.

CHAIRMAN DIODATI: I think the reason why we brought it to this body was because in dealing with this over the past three years I think we started intensely looking at it; we conducted a maturity study, we increased our minimum

size, we limited entry to the fishery. We prohibited the use of horseshoe crabs as bait in the conch fishery.

Now we're moving forward to make it permit owner on board. It would have been helpful if we had the opportunity for regional discussions to learn about your fisheries and what you're doing. The boom-or-bust nature of this fishery is common in other parts of the world and not just in the U.S., but we have seen that and have documented that. We have done a fair amount of work on this, and I'll probably go to Dan McKiernan before we stop and ask Dan to make any follow-up comments. Why don't you wait, Dan, until we go through the list? I have got a few people here that want to speak on it. I saw, Rick, you had your hand up and I'll come back to you once we get around the table. I have Tom, Jack, Terry and Adam. Tom.

MR. THOMAS O'CONNELL: I was going to kind of say the same thing that Roy just said. In Maryland we do have a federal water fishery. It is pretty significant. We have experienced this boom-and-bust style fishery and several years ago we put a six-inch minimum size limit to try to stabilize the fishery. My neighboring states have lower size limits and our fishermen have always kind of raised the issue about the inconsistencies. I think we would be supportive of a dialogue to see if we can provide some regionalization on the management of conch. I think it would be beneficial.

MR. JACK TRAVELSTEAD: Mr. Chairman, while I don't favor development of a fishery management plan coastwide at this point, I think we could benefit as a number of others have said from simply understanding what the other states are doing in their respective states. I wonder if staff couldn't just simply compile some type of table or listing of what the various rules are in the various states and we can have a look at that.

I mean, clearly, what occurs in some states can affect the rest of us and it would be worth keeping an eye on. We have a fishery both in state and federal waters. We have had a limited entry in the state water fishery for some time and minimum size limits and bushel limits. They do



differ from the neighboring states. I would be interested in knowing what the other states are doing.

MR. TERRY STOCKWELL: Mr. Chairman, I just wanted to advise the board that Maine has had a long-term state waters waved whelk fishery. It is a trap fishery only. It has a number of conservation measures. Time and size are the two principals; but as Jim indicated, it is limited by PSP closures. The epicenter of the fishery is Downeast and adjacent to where we have our mahogany quahog fishery. We do a lot of monitoring to keep it open. I would be happy to share any of this information with staff.

MR. NOWALSKY: Mr. Chairman, it sounds like the sharing of information is certainly beneficial to everyone. I have a question for all the states that have been increasing the management in recent years; and that would be is there pushback from your fishermen; is there encouragement from the fishermen on this?

When I look at the mandate for an FMP here and possibly a Policy Board; that requires state biologists, that is going to require us to curtail time with other management boards that we already have time issues with. What would be the problems that this commission by creating a board or an FMP would be helping states with at that point?

Is it specifically to help with pushback from fishermen that are opposed to measures that are being implemented to say you need to do it? What else can we provide at that point, and I would love to hear what pushback states may be having in creating the regulations to manage their state fisheries.

CHAIRMAN DIODATI: I will go to Dan next to answer that, but I will quickly say that we have had both pushback and encouragement. As always, there is a split. A good deal of this industry is made up of long-time participants and looking for as much management as possible, particularly of growing effort. Then there are newcomers to the industry that are less interested in controls right now and want to see continued access to the fishery. It has gone both

ways, but I will let Dan speak a little bit about our experience.

MR. DAN McKIERNAN: I did want to clarify one statement you made about the ban of the use of horseshoe crabs. We actually banned it in traps other than the whelk pots and the eel pots. What we were finding is that some lobstermen were using – there were allegations of some lobstermen using horseshoe crabs in their lobster pots as a means to catch more whelks.

In Massachusetts we have a limited entry scheme. We have a low trap limit of just 200, and we're doing our best to not have the bust. We have a boom and we don't want to experience the bust. One of the things Paul mentioned was we are increasing our minimum size, and we worked with Rhode Island.

They came up to our minimum size and now we're taking that next step. All the available evidence suggests that our size at maturity and theirs is the same, so we plan to talk to them about seeing if they would consider following suit. One of the bigger problems we have, of course, is we're home to a large number processors, and our Law Enforcement Division isn't too keen on seeing a lot of undersized animals coming into our state and into our processors even if it is from out of state.

In addition to increasing the minimum size, we plan to do it one-eighth of an inch in terms of the shell width over the next two years on what we hope was going to be a six-year schedule. Our regulatory commission gave us the first two years and then they want to look at it after that. I did want to mention sort of the genesis of this idea of talking about horseshoe crabs and whelk in the same conversation, and that had to do with the fact that the whelk pot fishery is one of the biggest demands for horseshoe crabs.

To the extent that we can understand trends in the whelk pot fishery, if effort is escalating, if trap hauls are escalating, then we will understand the reasons for increased horseshoe crab demand and maybe increased harvest. Just trying to manage this holistically, we intended and we have done this, we have told the public

that we really don't want to see an escalation of the whelk pot fishery because of the demands it does put on horseshoe crabs.

As far as the pushback, again, minimum size, the dealers are concerned that if we go too far, not only will they lose market, being to bring product in from out of state, but it might displace some of the fishing to places where the larger whelk will be, so that was the rationale for going slowing, eighth of an inch over six years. One more thing; we did invent a new gauge.

It is an aluminum square pipe that has been cut in half, so it is like a shoot with high walls on either side. So far we have gotten very good feedback from the industry. We've built a bunch for about three or four hundred dollars, and we handed them out for free so we had hoped to get some compliance.

What we did find is our law enforcement officers, before we came up with the gauge, when they boarded boats – one officer boarded 12 boats one day in November of last year, and one boat had a gauge. This hasn't been an area that has gotten a lot of attention for enforcement compliance, and you can tell by the lack of gauges. We think that handing out the free gauges, we're going to get better compliance.

MR. MILLER: In response to Adam's concerns and questions that he raised, I don't know if I have the definitive answer for this as to whether Delaware would prefer to approach whelk management through an interstate cooperative agreement or not. I know we have had difficulty coming to terms with our neighboring state the other side of Delaware Bay in regard to a common size limit for our two fisheries.

Delaware has a six-inch minimum size limit and we got there the way Dan talked about in steps a number of years ago. New Jersey I believe has a five-inch minimum size. I see no easy way to resolve that in terms of joint management. Perhaps an interstate effort and part of an FMP might facilitate that at least for our state to do it by regulation. I guess you could say that is one reason to consider an FMP. Thank you.

MR. DAVID SIMPSON: Earlier did I understand you correctly; did you say you prohibit the use of horseshoe crabs for whelk?

CHAIRMAN DIODATI: No, just the opposite; I misspoke. Rick.

MR. RICK ROBINS: Mr. Chairman, Rick Robins with the Chesapeake Bay Packing and Bernie's Conchs. I appreciate you putting this item on the agenda and bringing attention to the fishery. I appreciate the work staff has done to evaluate it. I would like to just follow on one of staff's recommendations, and that was specifically about the issue of reporting.

I raise this issue because Toni had a chart up there on coast-wide landings of all the different whelk species. In some of those years I processed more in those years than were indicated for the coast-wide landings. I think just to put it in perspective there is a significant scale issue where the extent of the fishery is not well understood.

I think if we at least at the individual state level had an effective data collection system for requiring landings to be reported at the harvester level and possibly at the dealer level, that would help collect that baseline information that has really been missing throughout the evolution of this fishery. Some of the states have that in place already and some don't.

It sounds like a little bit of a mixed bag in terms of what states have in place in order to manage and limit effort into the fisheries. I think the coast-wide landings on channeled whelk at least have probably have been in the six to eight million pounds a year range, which is significantly different than the available landings' information that we have.

There is a significant scale issue there. I think if the board at least encouraged the states to implement data collection systems, that would help. I think it would also be helpful given the fact that these are localized populations to collect at least some baseline biological sampling information from those landings and to encourage the states to try to develop some

understanding of those population dynamics throughout the range of the fishery.

I have been involved in one ongoing study in Virginia that should establish some of that information when the study is complete. There have been a couple of others up and down the coast. These are early investigations into the population dynamics, but I think those are going to be important in the future. I do think that some of expansion of the fishery that has happened in recent years, if that continues it may jeopardize the sustainability of those local populations.

I think it is a very important issue that I think can be dealt with effectively if the states are able to do it at the individual state level. There is one emerging fishery that is important to be aware of and that is in New Jersey and New York there is a fairly rapidly expanding fishery for waved whelk, and this is a relative new phenomenon over the last two to three years.

We have had a request at the Mid-Atlantic Council to consider developing a control date for that fishery because it is expanding relatively quickly. We haven't taken that up yet as a council discussion, but I would anticipate at some point in the future that we will have to talk about the waved whelk fishery.

That is taking place in about 25 fathoms of water, so that is a federal waters fishery at least in the Mid-Atlantic Region pretty exclusively. I just wanted to commend the staff for their work and also suggest that requiring mandatory reporting at the state level might be helpful for collecting that basic information. Thank you.

CHAIRMAN DIODATI: Okay, I think we have dried up the discussion on this, so to speak, and the summary that was put together by staff doesn't provide a recommendation to the board. I think coming into this meeting, I think the thought was should we or should we not develop a new management board for whelk.

That is possible; we have the resources to do that. To Adam's point, that would certainly put more work on the states and staff especially in

the early stages when we're collecting information about regulations and science and baseline information. That is always a big effort in the beginning.

I'm not getting the sense that we have a consensus on this. I think there is a split. I don't think we're ready to do a board. I think some people are nodding. I think there is a consensus that there would be tremendous benefits if we can come up with some way to work together short of a board. I don't know if that suggests a whelk workshop that perhaps the commission could facilitate where some recommendations might be generated, and I don't know if we have the funds for that.

We do have an executive committee meeting tomorrow morning and maybe this is a topic we can speak about with the executive director at that time and come back to the full board in August. We have gone many, many years without a whelk board and interstate plan, so I think we can wait until August.

Why don't we do that and we will have a discussion tomorrow morning, and then we might ask staff for a firmer recommendation as to how to move forward. Is that okay with everyone? Thank you; this has been helpful. All right, Toni is going to give us a short report from the Artificial Reef Committee.

#### **DISCUSSION OF ARTIFICIAL REEF COMMITTEE LETTER**

MS. KERNS: The Artificial Reef Committee met this spring and came forward to request that the Policy Board consider writing a letter to MARAD. MARAD is part of the U.S. Department of Transportation and Maritime Administration. Recently MARAD has changed their policy on the vessels that are eligible for sinking of artificial reefs. They have made a change to say that vessels built prior to 1985 may no longer be considered for sinking.

The Artificial Reef Committee felt that this change in the policy was arbitrary, too restrictive and limits the states' options for vessel use. The report that came back from MARAD said that

the policy change was made in consideration of a state's time and cost to obtain a MARAD non-retention vessel for reefing.

The committee had argued that vessels have been successfully remediated of all regulated PCBs in the past and that these storied vessels are very attractive to divers and that states see economic benefits from the vessels. The committee is requesting the commission send a letter to MARAD to rescind the policy that does not allow these vessels to be candidates for artificial reefs and to allow all vessels that are slated for disposal and safe to transport to become candidates for artificial reef support.

The letter that was put together by the committee was included in your briefing materials and a similar letter is also being considered by the Gulf States Commission, who we meet jointly when the Artificial Committee meets with the Gulf states.

CHAIRMAN DIODATI: You have the letter. It is a 3-1/2 page letter. Pat, do you want to say something about the letter?

MR. AUGUSTINE: I do, Mr. Chairman. I think it is a great letter. It is a bit wordy. I think it would be stronger stated as to the actual value of those vessels that have been used for reefs. It just says some nice things about it. They were used, they're there, and, yes, the divers like it. It just seems to me we could come with some economic impact value and what improvement there has been or what type of stock building has occurred around those if that information is available. Otherwise, it seems like pretty much of a pro forma letter, we don't like the decision they made, we would like to have them rescind it because there are some ships older than 1985 that could be available for our usage. I do think we need a letter, Mr. Chairman.

CHAIRMAN DIODATI: Well, we're thinking very much alike, Pat. My thought was that the letter could be shortened considerably. Why don't we ask staff to take the letter from the committee and rewrite it to make a little bit more succinct and to the point. I doubt whether we're going to have that economic information, but

anything we have to include in the letter we will do that. Is there any opposition to sending a letter like this; a short letter? Bob.

MR. ROBERT BALLOU: No opposition necessary – and, Toni, you may have said this and I'm sorry, but what was the basis for the decision to preclude use of these vessels?

MS. KERNS: From my understanding, it was to – the policy change was made in consideration of a state's time and cost to obtain a MARAD non-retention vessel for reefing. I believe that it is because the older vessels can take longer and cost more money to remove all of the contaminants, PCBs, et cetera, in order for them to safe for sinking. The committee made the argument that while it may take time and cost money, these older, larger, storied vessels are really what attracts the divers to come and the economic benefit to a state from having that tourism exceeds the cost that it takes to sink.

MR. BALLOU: I just find it odd that the federal government is suggesting that because of increased costs to states they don't want the states to bear that increased – it doesn't make any sense so I agree for that reason alone a letter to at the very least seek more clarification on the basis for the change in policy and then to set forth our reasons for why we want more flexibility.

MR. DENNIS ABBOTT: Mr. Chairman, what is the fate of the vessels prior to '85 that aren't allowed to be sunk; where do they go? Would they not require the same remediation of contamination?

MS. KERNS: I don't know where all of the vessels go. I wasn't at this Artificial Reef Committee Meeting. I do know that some of the vessels are recycled and the scrap metal gets recycled and used for other things.

CHAIRMAN DIODATI: Okay, I'm not going to seek an action here. I'm not seeing opposition to sending a letter with the qualifiers that we spoke about. The only question I have is does the board have a need to see the letter that staff is going to rewrite? Jim.

MR. GILMORE: Toni, the letter seems to heavily discuss PCBs, but you said other contaminants, so was it really PCBs that was the issue or was it other contaminants? I know we had tried to put some things in the water that had asbestos in it, and they wanted that all removed.

MS. KERNS: I said "other contaminants" because I recall reading something that said PCBs and other regulated measures or something, so I assumed there are other contaminants potentially.

MR. THOMAS FOTE: Asbestos is no problem in the water. We went through this battle and basically have gotten a ruling from the EPA it wasn't a problem in the water because it doesn't basically do damage in the water. If you look at the ambient parts of asbestos that is allowed in drinking water, it hundreds of thousands more than is in the water contained there.

A lot of the vessels that aren't used for artificial reefs because you're taking it in the air and taking the asbestos out and the PCBs. A lot of them are being sold overseas because the environmental controls over there are not as strict as us, so the people that work on them don't have to wear the mask and don't have to worry about asbestos getting into their lungs. That is what happened to a lot of those. They wind up on the beaches as you see those pictures of boats being scrapped on the beaches somewhere in Southeast Asia.

MR. ADLER: I find this a little bit strange that they wouldn't be brought in as scrapped for money; and as he said, they take them out and sink them; and we talk about marine debris and we're after discarded lobster traps and nets, and yet we can go out and sink a ship out there. That is not debris and must have been a hell of a good trip for a diver when they sunk – apparently in part of the letter they sunk an aircraft carrier out there. That must be quite a dive to get to an aircraft carrier. Once again I was wondering like, well, who decided to sink it instead of ripping it up and selling the steel. Strange things happen.

CHAIRMAN DIODATI: Okay, so this letter will be reworked and sent out under the commission's signature. Next on the agenda is a report from the Chairman of the Management and Science Committee, and that is Dr. Armstrong, who has joined us. Mike.

#### **MANAGEMENT AND SCIENCE COMMITTEE REPORT**

DR. MIKE ARMSTRONG: I believe circulating right now is a one-page summary, a bulletized list that I will be reading from. The Management and Science Committee; I think we complained about a year ago to this board that we didn't have much to do and you fixed that. We have been very busy in the last few months, lots of conference calls, and we just had a full eight hours of meeting and lots of discussion around four major topics.

Each one of them is really complex in their own right. The first concerned the tasking of looking at the changing distribution of species in relation to climate change, developing an ASMFC policy regarding risk and uncertainty in our assessments and management advice, ecosystem-based fisheries management and looking and research priorities for 2013 and beyond.

I will very briefly just go through each one of those; and if you have any questions at the end, I'd be happy to talk about them. We charged from the October meeting by this board with investigating whether climate change and coastal warming of our waters was causing shift in several different species that we manage; and further if there are shifts occurring, could we reconsider looking at state-by-state allocations and how it would that.

In response to that, we came up with what we hope is a good plan to address this charge. Attached is the memo from myself and the committee to this board on February 13<sup>th</sup> with a time line. Since then we have been addressing Items Number 1 through 3 mainly, a little bit 4. We made some significant progress.

Since then we've formed a subcommittee and we have met several times. Most importantly, we've also met with NMFS to look at the efforts that they're making, and we have made really great progress, lots of literature review. It is clear we all know there are changes occurring. The challenge is to document in a quantitative way that we can use for decisions.

We're very pleased to have on Jon Hare from NMFS who is instrumental in looking at and has published on the change of species in response to temperature. He is going to be a tremendous asset. We initially pared down to probably maybe just looking at black sea bass and fluke. Since then we're probably going to ramp back up to more species just because of the tremendous capabilities of Jon Hare.

He is also going to look at zooplankton and larval distribution in addition to just the changing of the species distribution. We are progressing with that and you will have a report. Hopefully we will have a lot of the results of the analysis in October when we meet again. We did talk about adjusting state-by-state allocations, and we're uncomfortable because we don't know exactly what your charge is.

I'm not asking for it now, but we will give you further information when we talk again. We talked about from pure biological distribution we could certainly allocate probably some scheme. That is probably not the way you want to do it, so we'd like you to think about what the endgame is reallocating to a more contemporary distribution of the fish.

On to the next one; we have been developing a policy on providing risk and uncertainty advice to managers. We have formed a subcommittee. The Assessment Science Committee has also been working in parallel, and they have made some great progress in coming up with policies in two different documents; a general and a more specific document on addressing uncertainty.

Some of what is going into that is looking at every federal council has a different methodology of doing it. They tend to be very

strict. Then put things into bins. What we think the feel of this board is we'd like more flexibility, and that is the road we're going down. We brought up ecosystem-based management, and we have been dragging this along for quite some time because it is a complex issue.

We did have a great presentation by Rich Seagraves from the Mid-Atlantic Council on their efforts of implementing ecosystem type things. What they're going down the road is not ecosystem-based management but an approach called ecosystem approach to fisheries management; the difference being ecosystem-based management is you craft an ecosystem that you want it to be, very complex.

A more realistic approach is probably the ecosystem approach to fisheries management, which means you start with single-species management. You get that as good as you possibly can and then start adding the pieces in as you can for environment, for interaction between species, so you don't try and conquer the world all at once.

As Rich called it, it is evolution and not revolution we're trying to achieve here. I think this is a good model that we should be following, and in fact we had discussions at length about we are already ahead of the game, and we should be very proud of that for the Multispecies VPA and Biological Ecosystem Reference Points Workgroup have accomplished some significant things, and that is in fact ahead of what most of the councils are at.

We also discussed that we would like to provide and feedback to the Biological Ecosystem Reference Points Working Group. We would like to be the board that provides the guidance and feedback, and they asked us at the meeting to be sounding board for what they're discussing. Rather than directly to the management boards, they would like to vet their advice through us first and we think that is a reasonable approach.

Finally, we looked at research priorities and a significant accomplishment by Jeff Kipp is

we're about to release the renewed research priorities for 2013, and this is a redoing of the document from 2008. Jeff went through all the research recommendations of every assessment, updated them, queried all the technical committees, so we have a 75-page document outlining research priorities.

Further, the MSC is developing what we call a comprehensive critical research needs, so that is trying to come up with a handful of research recommendations, each one that is comprehensive and will cover common themes that occur across multiple species problems. Each one is fairly expensive. We talked about trying to put numbers on these research initiatives that need to be done. It will be difficult but we think that might be part of where we're going.

Also, we want to develop a short list and not these large things that need to be done that would cover a lot of species but also pulling out some of the most critical research needs that pop up that would change assessments that can be done with a concentrated effort. What we would like to become is the clearinghouse for trying to take these recommendations that come from technical committees. They put them out there and then the technical committees have to move on to other technical committee, and someone needs to shepherd these research priorities, so the Management and Science Committee would be happy to do that.

We got an update on the observer program that was funded through the ACCSP money. We put in a proposal a few years ago to greatly increase the observer sampling on small-mesh fisheries in the Mid-Atlantic. We looked at some of those results. We have, in fact, dropped the CVs on some of the estimates of discard by as much as 50 percent in some cases to levels below that 30 percent magic number where we start really believing the numbers.

The next step is we discussed do we continue trying to get grants to do that or do we move on to other priorities and try and address those. Those conversations will keep going in the next

couple of weeks. Finally, we talked about funding mechanisms for 2013 and how we can get money, not just ACCSP but a host of other grant programs that may have money to address ASMFC research needs.

Then finally we talked about a briefing on the MRFSS/MRIP ratio estimators that a working group came up with how do you convert the data from MRFSS to MRIP because there is a scaling factor. We can only go back to 2004 data right now, but we discussed how that would be implemented.

Each technical committee is going to have to look at their specific data and decide if they want to apply that correction. In many cases the correction is very small and probably not worth changing the time series to do that, but in some cases it is. We also touched on what you skipped over, Number 5. We touched on the new MRIP problems, perhaps, and we will be meeting and having NMFS folks come in the fall and talk to us more about that. We thought it was important that the MSC be involved with these sorts of things, also. Mr. Chairman, that is all I have.

CHAIRMAN DIODATI: Thanks, Mike, that was very uplifting, positive, but it sounds like nothing really is for today; it is all coming in the future.

DR. ARMSTRONG: We are in the cusp of many great achievements here.

CHAIRMAN DIODATI: When you said the next meeting; we're meeting again in August, but you meant October.

DR. ARMSTRONG: October. We're right on the timeline for all these.

CHAIRMAN DIODATI: Well, actually it sounded like a lot of progress is being made somewhere, and it was actually pretty exciting work and we look forward to it. Tom.

MR. FOTE: Actually, I've got a couple of questions. I'll start off with MRIP. This year we're going to start – from my understanding,

they're going to start finally sampling night trips that weren't being sampled before for bluefish and other species that are taken from night charters and go out. They haven't included that information before.

If those trips that have been going on for the last 50 years all of a sudden are producing more trips, more fish; is anybody figuring out how we're going to handle those more fish and not just come back to the state and say, oh, by the way, like we did to New York when they found out they had more trips and everything – by the way, you're overfishing and now you have got to reduce everything. Are we going to figure out any way of handling that? That is my first question because I've been asking the question for ten years and I've not gotten an answer yet.

How do we handle, when we have new information that adds both trips and fish to the equation and deal with that and just don't tell the state, oh, we found out you were doing trips like this and all of a sudden your quota is this and you're overfishing the quota. That is an easy question, I guess.

DR. ARMSTRONG: I can answer that. You're not going to get the answer from me. (Laughter) I am not the expert on this sort of thing, but the estimates will change. They will be more accurate and they're going to have to look at how to go backwards through the time series to calibrate it again like we just did.

MR. FOTE: Okay, and the northern migration, that is the other question I'm asking. It is not about how we basically divide quota up or we increase quota; but as we start finding like black sea bass in New Hampshire – I have friends that go up there – we know that stock is now moving further north. We know that is new habitat.

Again, that is additional fish that weren't there before, more black sea bass. How do we handle that coming into the stock assessment work since there is not a lot of data being accumulated? That is a question for later on in the Policy Committee; how do we deal with putting the regulations?

You know, New York and New Jersey are put in southern regulations for a long time even though we didn't have a lot of those fish, and those fish would show up once in a lifetime. But those states up north are now seeing black sea bass and don't have regulations. I fish in the recreational sector. If it is commercial, we will start picking it up, but recreational will be ahead of the curve. How do we at least get the size limits to reflect them?

DR. ARMSTRONG: Okay, if I understand the question, I think the first part the challenge is teasing out increased abundance from change of distribution. If in fact us up north are just getting more fish because the abundance is getting greater and the stock is spreading out, that is different than translocating. These models will show that sort of thing.

But in terms of trawl surveys, the abundance will be captured by these trawl surveys. Just occurring in a different spot doesn't mean that the surveys will be different. I mean it will not capture that. So this is the challenge; one is translocating – do we want to move allocations based on where the fish now reside?

If we took a snapshot and did allocations now rather than in the early 1990's where many were done, it would be a different picture, but it is complicated about landings and where boats land and that. But the challenge is, as you said, there are fluke and scup and black sea bass in the Gulf of Maine now, and I don't believe Maine or New Hampshire has a quota.

MS. KERNS: They have a quota.

DR. ARMSTRONG: They have a quota? Then that is the challenge for this board here is what is the equitable thing to do.

MR. FOTE: Just a followup; black sea bass is not basically a good barometer in the trawl survey because it doesn't pick it up, so how do we handle – that is the problem; how do we handle that increase because it isn't – you know, we have known that.



DR. ARMSTRONG: I can't answer that. I thought this was going to be easy, Tom.

MR. DOUGLAS GROUT: Well, I think part of this is the challenge in what you're trying to address in Number 1 here. It sounded like you were having some discomfort with adjusting state-by-state allocations without some kind of a guidance –

DR. ARMSTRONG: Yes.

MR. GROUT: – from the Policy Board. The way I was reading this – and tell me if I'm wrong – was that you're going to be providing us some information in October, and at that point you're going to ask for further guidance from us on this issue or are you looking for guidance now without you telling us what you have come with?

DR. ARMSTRONG: No, we have a good several months of looking at the analysis and I think we will be able to show you quantitatively, yes, Species X has moved 200 kilometers to the north, to the east, around Cape Cod. At that point, the next step is to talk about reallocating, and we do need a little more guidance of what we're hoping to achieve with that. Is it purely biologically based or do we need to bring in other factors?

MR. GROUT: So we should be prepared after we get that report to start looking at how we provide guidance. We don't have regulations on black sea bass because they are relatively new, but we have had complementary rules on flukes since the fluke plan came in. We just don't have a creel limit because we have never caught more than two or three per angler, and even that was – it is pretty rare even today.

CHAIRMAN DIODATI: We're not going to need any guidance for Mike today. Are there any other questions for Mike or any comments about the report? Seeing none; thank you, Mike. Next we will have a report from the Law Enforcement Committee by Mark Robson.

## **LAW ENFORCEMENT COMMITTEE REPORT**

MR. MARK ROBSON: We have provided you a brief summary of the meeting we had on Monday and Tuesday. I will just hit a couple of quick highlights. In addition to a lot of discussion that we had about American eel, one of the tasks I believe of the LEC is to kind of keep an eye out for any emerging or potential enforcement issues surrounding management of our fisheries.

One of the things that came up that is not really a major problem, but just something that we want to look into a little bit more, deals with a situation where you might have commercial vessels that have more than one state's landings on them. In most states they're not allowed to land more than any other state's landings, but there are one or two exceptions, and it is being looked at in other states.

So, there are obviously some enforcement issues or concerns that might come up there. If you have officers on the dock that have to deal with a vessel that has potentially landing limits from two different states and how those are dealt with if there is a suspicion of any overage on total landings; some other issues regarding quota transfers; so we're going to take a look at this and discuss it a little bit more at the LEC level and down the road come back to the ASMFCA with any kind of report of suggestions as to how we might deal with any of these issues as they come up; not that it is an overwhelming problem at this point, but just something as a heads-up.

We benefited again from our meeting of having Bruce Buckson attend. Bruce is the head of NOAA's Office of Law Enforcement, and it is always a good thing for the LEC to have that kind of opportunity to interact with somebody at his level. At our last meeting we had the opportunity to have Woody Wilkes from the U.S. Fish and Wildlife Service attend, and that was also very helpful for the LEC.

It is a really good opportunity for your Law Enforcement Committee representatives particularly from the states to interact with our

federal partners as well. The last thing I'll say, Mr. Chairman, is like everything else we have had some institutional knowledge loss in our committee.

You're aware I guess of the fact that we've recently had retirements on the LEC from Dorothy Thumm, Jeff Bridi from Pennsylvania and Jeff Marston from New Hampshire. We have just learned also that John Tulik from Massachusetts will be retiring or leaving us soon. We're sorry about that loss of institutional knowledge. We have had some great participation on the LEC.

We're really happy to have some replacements come in to fill the void, and we've got a continuation of the process with the LEC, particularly the new member from Florida, Rama Shuster, Timothy Huss from New York. We're looking forward to some additional replacements from the other states. We will continue our work. That is my report, Mr. Chairman.

CHAIRMAN DIODATI: Thank you, Mark. Are there any questions for Mark? Okay, seeing none, we're going to go to Rob O'Reilly for the NEAMAP Report.

### NEAMAP REPORT

MR. ROB O'REILLY: Today's report will be brief. I did want to recognize Melissa. It looks like Melissa's term will be before I end my term as board chair. Melissa has been a joy to work with. I can't say that enough. You get calls a lot and mostly people want you to do things. If Melissa calls and wants me to do something, I'm quite amenable to anything she has to suggest. She makes it a joy.

Things that are not in this presentation, which I want to update you on, NEAMAP is a little more fully operational than you're used to. One aspect is there is an Analytical Committee that once the NEAMAP Board figured out what the Analytical Committee was, we now are using that approach.

The Analytical Committee is to help with getting the data that is necessary for stock assessments and to make sure that there is feedback all along the way about those data that are needed for stock assessments. Truly, not of us until about last February could piece together what the Analytical Committee was all about.

Also, the Trawl Technical Committee, which had been very important back with the design of the Southern New England and Mid-Atlantic component of NEAMAP, will be getting back together, and that is important. The Operations Committee, which is the backbone of NEAMAP, gets tasked with most of the situations that the board has to find information on. There is a 2013 draft operations plan.

With that, I will go forward a little bit. You have seen much of this information. The one thing about NEAMAP, it took until about a year ago before it was clear the infrastructure of NEAMAP is what is important; not necessarily that there are three surveys, which I'm going to show here, the first one looking at the overall Gulf of Maine to Cape Hatteras and the fact that we do have a Southern New England/Mid-Atlantic Survey, a Maine/New Hampshire Survey and a Massachusetts Survey, but the importance is towards the data sharing and the data end of this whole approach for NEAMAP.

NEAMAP is broader than that. Several members on NEAMAP reminded the board in the previous meeting that really when this started it was to take a look at all surveys, state surveys, federal water surveys, and not forget that and actually have an approach to be able to keep that going in NEAMAP.

Certainly, there are long-term estimates needed for abundance, biomass, length-and-age structured, diet composition and data that is for stock assessments. What you may know and you will see that of the surveys that I'm going to go over, the Mid-Atlantic/Southern New England Survey is relatively new; twelve full surveys completed.

I think in a document I saw earlier I saw fourteen, but it did start with one survey in the

fall of 2007, so twelve full surveys. This is a “wow” slide to look at all the different biological information that has been collected; stomachs, aging samples, and at the very bottom new elements to field sampling are the horseshoe crabs and the egg stage of American lobster.

If you look at the nearshore trawl survey of NEAMAP and you look at the web portals, the GIS results, abundance indices and food habits’ database are available online now. I don’t know whether you’re handout gives you all the web addresses, but certainly they’re available for you to peruse those sites.

There have been many stock assessments uses for various species. Clearly, with the Massachusetts Survey having a 35-year track record and a fairly long survey record for Maine/New Hampshire, some of the stock assessment haven’t yet incorporated CPUE indices from the Southern New England/Mid-Atlantic Survey, but that won’t be long.

To talk about the Maine/New Hampshire Inshore Trawl Survey, two surveys, just as with the Southern New England and Massachusetts, off Maine coastal waters, so that is in about its thirteenth year, and you can see the vessel is the Robert Michael. Seasonal abundance indices, you can read through this with me, and collections are done in a collaborative approach.

Many age samples, especially the otoliths are important. The species are listed right there. In terms of the stock assessments, there has been input for lobster, shad and other species. Massachusetts, again a long-term survey; it also has many stations; as you can see over 6,000; age processing capabilities and aged indices, so different ages with age keys available for summer flounder; cod, different part of the cod for your areas; yellowtail flounder; winter flounder; and another winter flounder there. This sort of summarizes it.

One of your pages of your handout should have this information. Again, to concentrate on the newest survey, the Southern New England and Mid-Atlantic, that has been 2007 on, you can see

that it is a little bit generic about provided data. In talking to Chris Bonzak from VIMS, one of the lead investigators, he indicates they supply what they can.

It is a choice of that stock assessment as to how that data will be used, and it will just be a matter of time, as I said before, before more data are used. The Maine/New Hampshire Survey, you can see the highlights there. For the Gulf of Maine assessment in 2009, you can also see at the bottom that used in direct biomass area-swept estimates.

Massachusetts, 2009 abundance indices; it also has biomass indices for 2011 that were used; and aged indices to calibrate the model. Similar to Maine/New Hampshire, it has used for computation of swept-area biomass estimates. In terms of stock assessments, which is the real focus today, the personnel attend assessment workshops.

The benefit of that is if you have ever sat around an assessment workshop, a lot of time is spent trying to figure who knows about metadata and there is no one there tell you; so instead of metadata, the use of the folks who are actually aware of how, when and why the data were collected. The Analytical Committee, as I mentioned earlier, will conduct reviews of stock assessment needs that are linked directly to NEAMAP, to the surveys, and that should also move everyone a step forward and be a real time saver.

Definitely more sharing through the committees; what is not mentioned here as well – it may be in your hand out – there is also a pool of personnel. It is not a big pool right now, but it is a way to share resources for these surveys, and that is something that came online last year. The Data Management Committee will have a workshop in June and share their data management practices and also look at some software and hardware, and that is a NEAMAP full participation, Maine through North Carolina.

The Operations Committee, as I mentioned, has a draft operations plan for 2013, and several items here that will be going forward including

aging workshops and also reestablishment of the personnel exchanges. I mentioned the Trawl Technical Committee earlier. That was instrumental when things got started up with the Southern New England/Mid-Atlantic.

They're going to look at more technologies that would either increase or streamline data collection as well as review the fixed gear surveys, and so pots I guess they're looking at there for black sea bass and also how that data is going to be included under NEAMAP. A very important slide, funding, and the Southern New England/Mid-Atlantic Trawl Survey has been funded by RSA over the last several years.

I know that doesn't set well with everyone, but it is the state of affairs. Last June at the Mid-Atlantic Council, the Mid-Atlantic Council staff had made a recommendation that RSA money strictly be allocated for NEAMAP, and at least a dozen of the board members there indicated that NEAMAP was very important but they did not want to go down that road right now.

RSA continues to have some comments, a little bit of debate, and that is going to continue. It is funding this particular survey. Maine/New Hampshire needs \$375,000, as you see. Massachusetts DMF is supported by the Wallop-Breaux project on a three-to-one fed-to-state match. It does bring something to me which is even though NEAMAP transverses many states, there should be some conversations, and it hasn't happened with the board yet, but it will next time on why wouldn't some states look into some type of funding from Wallop-Breaux, if that was available. I'm sure it doesn't have to be on a state-specific basis. That is just my thought. It has not gone before the board yet. That is my presentation.

CHAIRMAN DIODATI: And an excellent presentation. We have a few questions. Roy.

MR. MILLER: Rob, thank you for that report. Of the 1.1 million that you mentioned is available from RSA for the Southern New England/Mid-Atlantic NEAMAP Program; is that adequate, Rob, or is more funding needed to fully support that program?

MR. O'REILLY: Melissa might want to chime in because I thought it was 1.3. There was an allocation, and I don't have the name correct, but through the Rhode Island Cooperative Fisheries, that has stopped; so Melissa may want to indicate whether it is really 1.3 for the need.

MS. MELISSA PAINE: I think it is actually just 1.1. Previously the board might have heard a higher figure because that was including the Maine/New Hampshire Survey; but just for the VIMS run, Southern New England Survey, it is just 1.1.

MR. MILLER: If I understand what you're saying, Rob, you're saying that funding amount is adequate?

MR. O'REILLY: That is what I'm saying.

MR. BALLOU: Rob, a two-part question regarding black sea bass. One is how well does NEAMAP do in capturing black sea bass information? I'm thinking that it might not do that well given the nature of the species and their tendency to aggregate around rocky outcroppings. Secondly, related thereto, to what extent is NEAMAP information actually or potentially able to contribute to the scientific uncertainty that is keeping black sea bass in the Tier 4 category?

MR. O'REILLY: Well, on Question 1, Toni had made requests for the states to supply data, which included NEAMAP, for black sea bass. I think the limitations are that it is a snapshot approach when the sampling occurs, fall and spring, but it has at least been used. Whether or not it will get the Level 4 down to a Level 3, I think that is something that is being worked on probably on more bases than just that. The Mid-Atlantic Council, I know, through the SSC is working diligently to try and get a reevaluation there. Clearly, there are still some limitations; and whether it goes Level 4 to 3, we have to see.

MR. FOTE: Rob, I heard you mention Wallop-Breaux money and I heard you basically mention research set-aside. We need to find a different method of funding NEAMAP than either one of those two options. First of all,

Wallop-Breaux is what funds the states to do the research they're doing, Especially in New Jersey; there is no money in Wallop-Breaux to do that.

Again, we're taking money selling black sea bass, and that provides a major amount of the money that goes into this besides summer flounder, and it is not the best way of sampling for black sea bass. Again, research set-asides were set up for a different reason. New England doesn't allow that to be used up in their council is what I was informed the other day; the same way we're doing at the Mid-Atlantic Council. As I go over to congress, I talk about the reason – SEAMAP is funded as a line item from NMFS, and that is really where we should be going. This is NMFS responsibility to do stock assessments.

If the ships hadn't been so big and started getting bigger and bigger and they can't take them inshore, that is where they were basically supposed to be doing it. That is the way we should be following it. We shouldn't look at Wallop-Breaux and we shouldn't be looking at research set-asides. We should look at NMFS' responsibility in doing stock assessments.

MR. O'REILLY: Okay, thank you. There is no question there, but that is exactly why I prefaced my report about RSA with I know there is dissatisfaction. Wallop-Breaux, I'm not sure with Massachusetts how many years that goes back, but certainly is there a lesser of the two as far as usage. Maybe that is something that still needs to be talked about I think while we wait for NMFS to take care of their responsibility.

CHAIRMAN DIODATI: Well, funding for all of these surveys has been a pressing need since the beginning, for many years, and it is going to continue to be, I'm sure. Roy.

MR. MILLER: I was just going to briefly add that a few of us made a foray over to the Hill on Monday to talk to our congressional delegation. One of the programs we emphasized was funding for NEAMAP. The reason I was asking questions of Rob, I wanted to make sure that I didn't make a fool of myself by mentioning the

need for funding for NEAMAP. But, thanks to the followup from Tom, it appears that we were on the right footing to talk about that with our congressional delegation, so thank you.

MR. O'REILLY: It is not as if there haven't been bumps in the funding of NEAMAP, if everyone doesn't know, and there have been some times where it has been waiting to make sure that even with the RSA that the money could be available. It is not just a closed door, open door, closed door kind of situation.

Some of the years in the last five have been partial funding and then waiting for other funding. I think that's why for at least the Southern New England/Mid-Atlantic part of the trawl, that is why there was funding coming from another source for a certain number of year, from the Cooperative out of Rhode Island.

CHAIRMAN DIODATI: Okay, thank you, Rob, for that presentation. We're going to go to the next issue, which is the Habitat Committee Report from Toni.

#### **HABITAT COMMITTEE REPORT**

MS. KERNS: The Habitat Committee met at the beginning of May. The New York DEC hosted. The committee had updates and presentations from ACFHP, the Artificial Reef Committee concerning the MARAD letter, as well as the Nature Conservancy's Aquatic Connectivity Project.

They went through and reviewed their progress on the 2013 Action Plan and are moving forward on target with their proposed action items. They discussed Kent's participation in the strategic planning that we just had yesterday and pulled together articles and assignments for those articles for the Habitat Hotline for 2013. They all have a regulatory theme to those articles, so be on the lookout.

The committee discussed habitat bottlenecks for the commission's managed species with poor stock status. Red drum has already been addressed through the addendum that was done and will be looked at tomorrow. There were no

identifiable habitat bottlenecks in that species currently. They have discussed including bottlenecks for the lobster draft habitat section that will be presented to the Lobster Board in August.

Then they want to identify a problem or a potential problem for species' recovery and suggest management measures or research recommendations to mitigate that problem. When the problem cannot be identified or directly mitigated, other management measures may need to be considered or considered to indirectly mitigate, meaning some type of fishery control.

They concluded on the next installment of the Habitat Management Series, which will be Habitat Implications of Nearshore and Estuarine Aquaculture. It will address finfish and shellfish, looking at recent NOAA Fisheries and regional management council policies. It will also reference the 2002 Commission Aquaculture Report.

The committee also went through and reviewed the American Lobster Habitat FMP Section that was written by Dr. Jason Goldstein from UNH. They have made some recommendations to Jason and he will provide those edits and will be reviewed by the technical committee and given to the board in August.

The Habitat Committee also provided some comments for the Black Drum FMP Habitat Section, which we will go through tomorrow in the South Atlantic Board. Their second FMP full habitat addendum was supposed to be black drum this year, but the committee has requested instead to work on a sciaenid source document. They would like to do this for their 2014 Action Plan instead of just doing a Black Drum Habitat Addendum for this year.

The committee also worked on the Habitat Guidance Document. It is their governing document for the Habitat Program Committee and Products. It includes a Habitat Program review and recommendations and also works off of the technical committee guidance and assessment process. They will be bringing that

forward to the Policy Board for their consideration in August. That's it.

CHAIRMAN DIODATI: Are there questions for Toni? Bill.

MR. ADLER: Toni, very quickly, back on the Lobster Habitat, like what are they looking at under the Lobster Habitat thing; what kind of general – what are they doing?

MS. KERNS: It is a complete update of the Habitat Section of the FMP for lobster. Jason did a literature review and it looks at – I'm trying to remember – habitat needs, life history information, gear impacts to habitat. It is consistent with sections that are identified in the FMP for habitat.

MR. FOTE: After Bill Goldsborough received his award last night, Bill and I were talking about the start of the Habitat Committee and where it came from and when Al Goetz and myself planned it years ago when we started moving along. We were talking about at one time how Diane was – we had a full-time person handling habitat for using grants and things like that. Also, at that period time most of the commissioners were members.

I remember Phil Coates was a member, Gordon Colvin was a member, I was a member. A lot of the governors' appointees and legislative appointees and state directors were members because we thought of the importance of habitat in the program. Is there any chance of looking at grants where – again, I know it is a part-time job, but I'm looking forward and how we move in the next direction that we basically get one person that basically that is the fulltime – you know, we used to put our habitat hotline and things like that.

I'm looking with all the talk that went on I guess at the meeting that I didn't attend last week because it was too expensive, but maybe they were looking at ecosystems and other things that maybe that is the way we should be moving forward. I just think that for your consideration.

MS. KERNS: If it is the desire of the Policy Board for us to look into grants, we can. I will note that Megan – as I had said in my memo about staffing updates, Megan will be finished in June. Melissa Yuen is going to take over as the Habitat Committee Coordinator. We promised 30 percent of her time, which is an increase in time from what Megan was putting in; and then any additional time that Melissa has, she will put that to habitat if her species coordination is on its low or low level.

CHAIRMAN DIODATI: Thank you, Toni, and staying with the Habitat Team, we will go to the Atlantic Coastal Fish Habitat Partnership Report by Emily.

#### **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT**

MS. EMILY GREENE: I just wanted to update the board on a handful of activities that the partnership has been up to over the last few months. I will start with NFWF River Herring Conservation Initiative. I mentioned in my winter update that the partnership submitted a proposal to NFWF, particularly their River Herring Keystone Initiative in partnership with the University of New Hampshire and the Nature Conservancy for a project to prioritize river herring restoration needs in Southern New England, the Mid-Atlantic and Southeast Regions.

We learned in April that we were approved for the grant. However, the final word on that is contingent upon NFWF's receipt of various sources of funds. It could be several months before that information becomes available. However, hopefully, when it does, we will be working with ACFHP partners to identify experts and stakeholders to participate in a series of webinars and an in-person workshop to achieve the end goal.

The end goal will include these two major products that I have listed on the screen; a working paper summarizing information on river herring habitat needs and a report from the in-person workshop, which includes the

prioritization of river herring needs within those specific river systems.

Earlier this month the National Fish Habitat Partnership unveiled its ten waters to watch list for 2013. This is an outreach campaign for collection of rivers, streams, estuaries, watershed systems and lakes that will benefit from strategic conservation efforts to protect, restore or enhance their current condition.

Among these rivers selected was the Cape Fear River in North Carolina, which was jointly nominated by the Atlantic Coastal Fish Habitat Partnership as well as a second fish habitat partnership, the Southeast Aquatic Resources Partnership. This river is located in a priority area identified in the North Carolina Department of Marine Fisheries Coastal Habitat Protection Plan.

This project will provide half an acre of spawning habitat for American shad and may indirectly provide spawning habitat for striped bass, sturgeon and river herring. They will place approximately a thousand tons of crushed granite in the Cape Fear River below Lock and Dam Number 2 in Bladen County.

In addition to the on-the-ground restoration, the project will also assess benthic habitats along a three-mile stretch of river. It will develop a substrate map identifying potential spawning habitat restoration areas and conduct annual post-construction survey of eggs within the vicinity of enhanced habitat.

Also, earlier this month the steering committee of the Atlantic Coastal Fish Habitat Partnership met in Long Island where it unanimously approved the addition of a new MOU partner, the Merrimac River Watershed Council. The Watershed Council is a partner-focused organization with a regional impact. Its alignments with ACFHP include objectives to improve water quality and quantity; restore habitat and watershed health; and watershed planning.

In addition to the Merrimac River being among the top 5 percent in the northeast for its

importance to connectivity for migratory fish as part of Great Marsh, the largest salt marsh in New England, its lower portion is also important to coastal fish. Dr. Carrie Shumway, who is the executive director of that organization, currently serves as the Partnership's Science and Data Committee Chair, so we're pleased to have the Watershed Council on board formally.

The last update that I wanted to provide to you, we're currently soliciting applications for letters of endorsement in support of the NFWF's Foundation Bring Back the Natives/More Fish Program. They recently announced its 2013 request for proposals to restore, protect and enhance native populations of sensitive or listed fish species, especially on lands on or adjacent to federal agency lands.

The program has made special efforts to align itself with the priorities of existing fish habitat partnerships and the National Fish Habitat Action Plan; and specifically the priorities which align with ACFHP are shown on the screen here. They are looking for projects that address habitat alteration, lack of adequate in-stream flows and invasive or non-native species.

They're also looking for projects that protect coastal and marine habitats and those that provide benefits to native Atlantic Coast estuarine-dependent or anadromous species. They're also encouraging competitive proposals to describe how the project meets one of the National Fish Habitat Action Plan goals and strategies. If there is a nexus with the Fish Habitat Partnership, they've encourage applicants to reach out to a fish habitat partnership for a letter of support.

The Atlantic Coastal Fish Habitat Partnership is encouraging the development of native fish habitat projects that meet priorities and criteria outlined in the RFP as I have just described, particularly habitat protection projects that will benefit one of ACFHP's regional priority habitats, which are shown in our strategic plan, and one or more of the species listed below.

These are not the only species that ACFHP considers, but they are of particular interest for

this RFP. In order to include a letter of endorsement from ACFHP in a pre-proposal, we are requesting that folks send in applications by May 27<sup>th</sup>, which is next Monday. I apologize for the tight turnaround; but if any of your staff are considering applying for this grant, I would encourage them to visit the ACFHP Website, download an endorsement application and shoot me an e-mail. Thank you; that is the end of my update.

CHAIRMAN DIODATI: Thank you, Emily, it is nice to see the partnership growing and continuing to grow, so that is great. Are there any questions or comments?

MR. WILLIAM ARCHAMBAULT: Just a quick note, Mr. Chairman; as far as the future allocation formula for NFWF, the Service does have a group pulled together looking at future allocation methodologies. Under all the formulas we're looking at, it would become clear to us that this partnership should see some additional funding in the future. We hope to have a final recommendation some time this summer and the new formula will be rolled out probably in 2014, but you should see some increase in the partnership funding.

CHAIRMAN DIODATI: Great, thank you, Bill. Okay, thank you, Emily. We have one final issue that we're going to deal with before we recess tonight, and Kate Taylor has at least one or two research proposals for shad and river herring to talk about.

MS. KATE TAYLOR: There are two research proposals that were submitted in your briefing material. Since the Shad and River Herring Board is not meeting during the May Meeting Week, this is going up under the Policy Board. Shad and river herring is a coast-wide board, and the majority of the members here sit on that board.

The first research proposal is for a stocking program in the state of Georgia. This is for a five-year experimental stocking program to determine the effectiveness of a stock program for American shad and also hopefully to increase



the numbers of American shad that are occurring in the Ogeechee River.

This complements the recent closures to the American shad fishery in the Ogeechee. The state of Georgia will attempt to collect the brood fish from the Ogeechee River; but if needed, they may supplement it from other rivers. This program is slated to begin in 2014, but they are beginning their planning process right now, and so it is going in front of the board for this meeting.

The technical committee did review this proposal. They recommend that the board consider approval of the plan with the requirement that only fish taken from the Ogeechee – it is amended that only fish are taken from the Ogeechee as well as the state continues its young-of-the-year and adult monitoring programs and it coordinates also with Georgia EDP on water quality monitoring, and also it attempts to verify any OTC marks that are placed on American shad that are stocked in the Ogeechee. Additionally, the technical committee did feel that the stocking program may also be premature and recommended additional research on American shad habitat in the Ogeechee.

The state of Maine also just submitted a proposal to the technical committee as well just for their review. They will be collecting juvenile river herring for research. This research is focused on diet analysis, aging and the habitat use of river herring. This research is supported by Maine DMR. It is being conducted by the University of Maine as well as the National Marine Fisheries Service.

This research will be taking place in a river that is outside of the rivers that Maine has approved in their Sustainable Fishing Plan, so this will just be an additional source of mortality on another river. The technical committee supports this research as it may provide valuable information for the next stock assessment. Thank you, Mr. Chair.

CHAIRMAN DIODATI: I know that Robert had either a question or a comment.

MR. ROBERT H. BOYLES, JR.: Kate, do you know on the Georgia Proposal – the technical committee said about looking for OTC marking – are there not genetic tools available now to determine where the fish are stocked?

MS. TAYLOR: There are some genetic marking tools that the technical committee did discuss. The current FMP only requires OTC marking for a stocked fish.

CHAIRMAN DIODATI: Okay, we have two research proposals before the board. I imagine they're coming before the board because we have to provide authority for these two areas to work outside of the plan; is that correct? I see Pat Augustine is very ready to make a motion.

MR. AUGUSTINE: I am, Mr. Chairman, with one question first. Do you know what the technical committee's reservations were when they said it was too early? It looked as though Georgia had done their homework and were prepared to move forward with this, but you had a one-liner that was a zinger, and I wonder if that is going to be a knockout factor.

MS. TAYLOR: There was some concern about water quality in the Ogeechee River and its impact to American shad successful reintroduction, and so there was a request that the state may – it may be more beneficial to conduct water quality analysis to look at other factors that are limiting shad from currently increasing their population on their own naturally before they go and restock American shad in that river. Also, just for reference, the board did approve in February an American shad stocking proposal for the Altamaha River in Georgia.

MR. AUGUSTINE: Thank you for that and would Georgia want to respond to that, that they believe the water quality is adequate that it would suffice to run this program successfully, Mr. Chairman?

MR. SPUD WOODWARD: Pat, I can respond to that. What is sort of driving this is there was a very large fish kill in the Ogeechee River last year because of an unauthorized discharge of

some contaminants into the Ogeechee River. As part of the penalty settlement, money has been allocated to DNR to do some shad stocking; and so what we're trying to do is take advantage of that opportunity to use that money on an experimental basis.

There are a couple of things here that we think we can address. One is why that Ogeechee River population has been in an apparent state of decline and where are the spawning areas in the Ogeechee River for shad. It used to have a very vibrant population of shad, which has declined over time.

There is some concern – I believe that maybe the water quality concerns are regarding some alteration as to the hydrology that occurred in the lower Ogeechee River during the plantation era where rice plantations were built and there is some back-feeding of saline water into the lower river, but this will actually give us a chance to maybe test that and see what is going on.

MR. AUGUSTINE: Mr. Chairman, based on that answer, **I surely would like to make a motion that the board approve the Georgia Proposal.**

CHAIRMAN DIODATI: I see several seconds, so I will go with Mr. Bill Cole. That was for both proposals, right, Pat.

MR. AUGUSTINE: Both proposals, yes, Mr. Chairman.

CHAIRMAN DIODATI: **Georgia and Maine. The motion is move to approve the research proposals from Georgia and Maine. Motion by Mr. Augustine; seconded by Mr. Cole. I don't see any question on the motion. Is there any objection to approval of this motion? Seeing none; consider this motion approved.** We have one more item of business and it has to do with the other business section. Our vice-chairman had something he wanted to introduce to the board.

## OTHER BUSINESS

DR. LOUIS DANIEL: Mr. Chairman, two things real quick; just one for the Policy Board's information. We were unable to get any matching funds for the Striped Bass Water Tagging Cruise, so it is not looking like that is going to go off this year. We do have about \$8,000 to do the charterboat stuff, but it is not the trawl so it won't be as efficient. We will at least be able to continue but nobody was able to afford the match.

The New England, Mid-Atlantic and the Western Pacific Fishery Management Councils have all discussed, in support of amending the Magnuson-Stevens Act, an opportunity and is looking for support to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets. I think this is a good thing. It has great potential to assist our domestic producers and so I had asked Kate to put the motion up on the board. It is a long motion.

CHAIRMAN DIODATI: While that is going up, Louis, I am assuming that this would be a recommendation from this commission relative to the reauthorization of the Magnuson-Stevens Act, so this would be a recommendation for the federal agency to create a certification program?

DR. DANIEL: Yes, and I talked with Chairman Robins and his recommendation was to send a letter to the agency; but then once the reauthorization discussions began, that we would be in a position to lobby for that position, to try to get that certification program. From my understanding, a lot of the folks around the table have already discussed and voted on this issue at the New England and the Mid-Atlantic Council.

CHAIRMAN DIODATI: I will take some questions while the motion is going up on the board.

MR. DAVID SIMPSON: I think it is a great idea, and I was just wondering about the other

regional councils; no chance to discuss it with them to join in the motion or they had a different view.

CHAIRMAN DIODATI: Do you mean all eight? I don't know other than the Mid, but it looks like we might have someone who knows. Go ahead, Terry.

MR. STOCKWELL: Mr. Chairman, first I will second the motion. To answer your question, Dave, the other councils haven't met yet. This was discussed at the Managing Our Nation's Seafood a couple of weeks ago, and it is going to move forward out to each of the councils.

DR. DANIEL: Mr. Chairman, if you would like I'll read that. **Move that the ASMFC support initiatives taken by the New England, Mid-Atlantic and Western Fisheries Management Councils in support of amending the Magnuson-Stevens Fisheries Conservation Act to authorize the National Marine Fisheries Service to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets as sustainable-based upon the requirements of the Act.** Motion by Dr. Daniel; second by Mr. Stockwell.

MS. KELLY DENIT: I just wanted to provide an additional point of information as sort of a followup to the Managing Our Nation's Fisheries Conference. The Marine Fisheries Advisory Committee, which is the group that provides advice to the Secretary regarding fisheries management, has been tasked with looking at this concept, including the costs of running such a program. I just wanted to make the commission aware that there are some activities already underway looking into this. Thank you.

CHAIRMAN DIODATI: Thank you, Kelly. Roy.

MR. MILLER: Mr. Chairman, if a fishery is undergoing restoration or undergoing rebuilding;

is it possible for that fishery to receive certification when it is not fully rebuilt?

CHAIRMAN DIODATI: I think that would come after certain criteria would be established to what qualifies, I imagine. I don't know the answer to that. I don't know how MSC does it or other established programs. This is not an established program. As it becomes established, if this was in the next authorization, then I imagine the National Marine Fisheries Service would develop a program perhaps through the rule-making process, I don't know, and that sort of thing would be qualified. Are there any other questions about the motion? **All in favor raise your hands; opposed same sign; abstentions, 1. The motion passes; thank you.** One other piece of business.

MS. KERNS: We got through both days' Policy Board agendas unless a compliance issue comes up tomorrow in one of the other species boards. I want to remind you that we do have a full business session. If the South Atlantic Board does approve the Black Drum FMP, then the full commission will need to approve that FMP, so we will need a quorum there for that. Please don't run on home.

#### ADJOURNMENT

CHAIRMAN DIODATI: And we have an executive committee meeting at 7:30 morning. Okay, so the Policy Board is in recess.

(Whereupon, the meeting was adjourned at 4:50 o'clock p.m., May 22, 2013.)

# Atlantic States Marine Fisheries Commission

## *Annual Performance of the Stocks: 2013 Review*

July 2013

**Objective:** – Support the ISFMP Policy Board’s review of stock rebuilding performance and management board actions and provide direction to management boards for 2014 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; (2) rebuilding; (3) concern; (4) depleted; and (5) unknown.

### **Rebuilt:**

American Lobster (GOM and GBK)  
Atlantic Croaker  
Atlantic Herring  
Atlantic Striped Bass  
Black Sea Bass  
Bluefish  
Scup  
Spiny Dogfish  
Summer Flounder

### **Rebuilding:**

Red Drum  
Spanish Mackerel

### **Concern:**

American Shad  
Atlantic Menhaden  
Coastal Sharks  
Horseshoe Crab  
Northern Shrimp  
Spot  
Spotted Seatrout  
Winter Flounder (GOM)

### **Depleted:**

American Eel  
American Lobster (SNE)  
River Herring  
Tautog  
Weakfish  
Winter Flounder (SNE/MA)

### **Unknown:**

Atlantic Sturgeon  
Black Drum

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## **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  
Atlantic Croaker  
Atlantic Sturgeon  
Horseshoe Crab  
Shad & River Herring  
Spot  
Spotted Seatrout

## Rebuilt Species

- American Lobster - Gulf of Maine and Georges Bank
- Atlantic Croaker
- Atlantic Herring
- Atlantic Striped Bass
- Black Sea Bass
- Bluefish
- Scup
- Spiny Dogfish
- Summer Flounder

### Summary Table of Rebuilt Species

Species	Biomass % of Target	Assessment Schedule	Caveats/Notes (what actions need to be taken to maintain rebuilt status)
American Lobster (Gulf of Maine)	161% of abundance threshold, no target set (2009 assessment)	Benchmark Assessment - 2014	Record high effort and abundance levels <b>Area 514: very high exploitation rates and declines in recruitment warrant further restrictions</b>
American Lobster (Georges Bank)	247% of abundance threshold, no target set (2009 assessment)	Benchmark Assessment - 2014	Record high effort and abundance levels Sex ratio skewed toward females (~80% from 2005 to 2007) for unknown reasons. <b>Warrants caution: stock could experience recruitment problems if male numbers remain low</b>
Atlantic Croaker	Biomass has been increasing since the late 80s and overfishing is not occurring (2010 assessment)	Benchmark Assessment – 2015 (unless triggered sooner)	Biomass trend based on increasing relative abundance indices and expanding age structure in indices and catch. However, a biomass determination cannot be made until the discards from the South Atlantic shrimp trawl fishery can be adequately estimated and incorporated into the stock assessment. Only the ratio of F/FMSY can be used to determine if the stock is subject to overfishing.
Atlantic Herring	>300% of biomass target (SAW/SARC 54)	SAW/SARC 54 – June 2012	Area 1A annual quota fully harvested for last several years. Harvest controls implemented to slow landings (TAC, days-out).
Atlantic Striped Bass	109% of SSB target (2011 assessment update)	SARC 57 – July 2013	Age- and tag-based model F estimates 0.23 or less, well below the 0.30 target. Low recruitment from 2005 – 2010. Stock abundance has declined since 2004, which is more apparent in areas largely dependent on contributions from the Chesapeake stocks (such as Maine) than areas dominated by the Hudson stock.
Black Sea Bass	102% of SSB target (2012 assessment update)	Projection Update- 2013	The black sea bass model average retrospective pattern suggests that F is underestimated and recruitment and total biomass are overestimated in the terminal year.
Bluefish	90% of SSB target (2012 assessment update)	Annual Assessment Updates; Benchmark Assessment – 2014	Age/length key incomplete necessitating assumptions regarding year class allocation of some important size classes. Addendum I, implemented in 2012, establishes coordinated sampling at the coastwide level to achieve a representative biological sample of the fisheries.

### Summary Table of Rebuilt Species

Species	Biomass % of Target	Assessment Schedule	Caveats/Notes (what actions need to be taken to maintain rebuilt status)
Scup	202% of SSB target (2012 assessment update projection)	Projection Update - Summer 2013	There is no consistent interval (within the 2010 assessment model) retrospective pattern in F, SSB, or recruitment evident in the scup assessment model.
Spiny Dogfish	100% of SSB Target (2012 NEFSC update)	Assessment Update - Fall 2013	2008-2012 SSB exceeded target SSB. Mature segment of population is roughly 75% male. Projections show declines in future SSB levels due to low recruitment from 1997 - 2003.
Summer Flounder	100% of SSB target (2012 assessment update projection)	Benchmark Assessment – Summer 2013	Historically, the summer flounder stock assessment model has exhibited a retrospective pattern of underestimating fishing mortality and overestimating SSB. For the last several terminal years, however, fishing mortality has been overestimated and SSB underestimated. A recent pattern of retrospective overestimation in recruitment is also evident.

## **Species Undergoing Rebuilding**

- Red Drum
- Spanish Mackerel



### Summary Table of Species Undergoing Rebuilding

Species	Biomass % of Target	Assessment Schedule	Caveats/Notes (what actions need to be taken to continue rebuilding)
Red Drum	Unknown, but age 1-3 abundance generally increasing (NJ-NC) or stable (SC-FL); overfishing not occurring.	Benchmark Assessment – 2015	Northern stock component above SPR target; cannot determine similar result for southern component due to uncertainty. Lack of adequate adult data results in estimates of abundance and exploitation for fish age 1-3 only, and only the trend is reliable for the southern component. Age 1-3 exploitation generally increasing in southern region since 1992.
Spanish Mackerel	Unknown, but $B/B_{MSY}$ trend shows overall increase since 1984; not overfished and overfishing not occurring ('12 benchmark assessment)	Next Assessment TBD	Assessment did not produce useable annual estimates of F or B or biological reference points due to uncertainty in the input data, sensitivity to model assumptions, and lack of fishery-independent indices of adult population size. Only the ratio of $F/F_{MSY}$ can be used to determine if the stock is subject to overfishing. The current fishing mortality rate does not seem to be inhibiting stock growth.

## Species of Concern

- American Shad
- Atlantic Menhaden
- Coastal Sharks
- Horseshoe Crab
- Northern Shrimp
- Spot
- Spotted Seatrout
- Winter Flounder - Gulf of Maine

## Overview of Species of Concern

### American Shad: Concern

#### 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.

#### 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

#### 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 are 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.

**Next Assessment:** None scheduled.

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

## Overview of Species of Concern

### Atlantic Menhaden: Concern

#### 2012 Assessment Update Findings

- Based on the terminal year of the assessment (2011), the stock is experiencing overfishing, but it is unknown if the stock is overfished. The uncertainty in the overfished determination comes from conflicting results of sensitivity runs explored in the 2012 stock assessment update.
- The Technical Committee is currently exploring the uncertainty in the assessment update through an investigation of additional datasets and modeling approaches as part of the benchmark stock assessment process.

#### Scientific Advice Based on Assessment Findings

- Back in 2010, the Peer Review Panel noted that Atlantic menhaden population abundance had declined steadily and recruitment had been low since the last peak observed in the early 1980s. Fishing at the F threshold reference point in the terminal year (2008) has resulted in approximately 8% of the maximum spawning potential (MSP). Therefore, the Panel recommended alternative reference points be considered that provide greater protection for spawning stock biomass (SSB) or population fecundity relative to the unfished level.

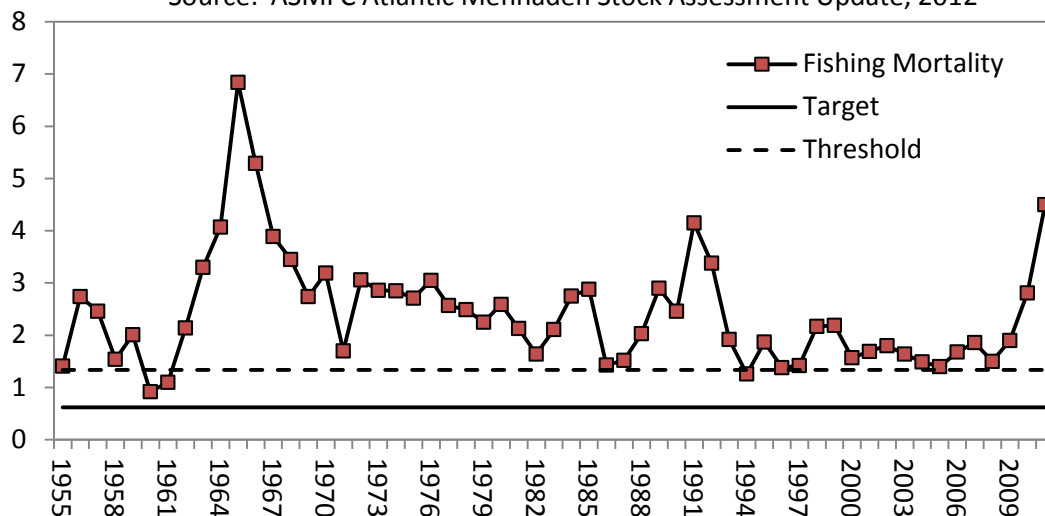
#### Board Adherence to Scientific Advice

- Addendum V, implemented in 2011, established interim reference points (F15% MSP threshold and a F30% MSP target). Amendment 2 followed in 2012 with SSB reference points based on MSP (SSB15% threshold and SSB 30% target). The new reference points adopted by the Board aim to increase spawning stock biomass, and Atlantic menhaden availability as a forage species. The Board also directed the Multispecies Technical Committee and the Atlantic Menhaden Technical Committee to focus on the development of ecosystem based reference points.
- The Board took action through Amendment 2 to end overfishing by establishing a 170,800 MT total allowable catch beginning in 2013 and continuing until completion of, and Board action on, the next benchmark stock assessment, scheduled for 2014.

**Next Assessment:** 2014 Benchmark Assessment

### Atlantic Menhaden Fishing Mortality (Full F)

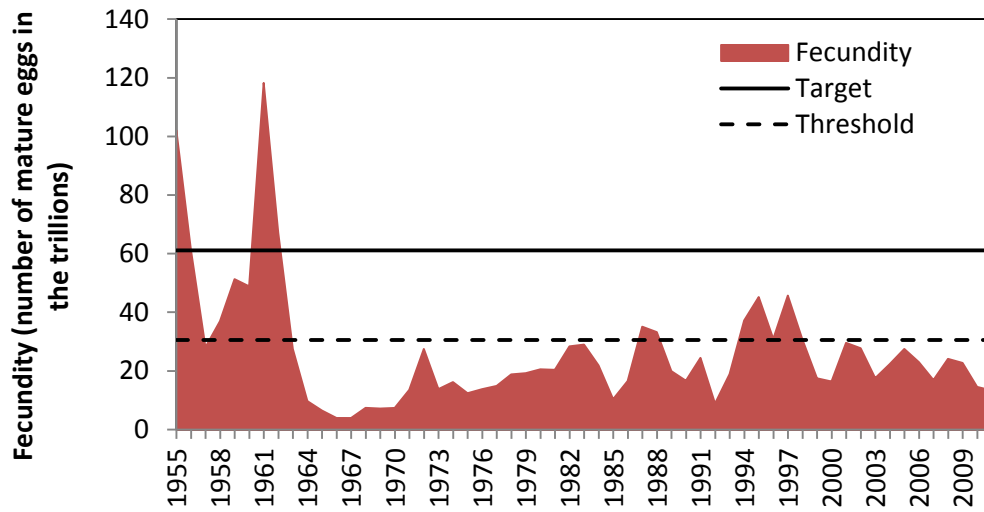
Source: ASMFC Atlantic Menhaden Stock Assessment Update, 2012



# Overview of Species of Concern

## Atlantic Menhaden Fecundity

Source: ASMFC Atlantic Menhaden Stock Assessment Update, 2012



Timeline of Management Actions: FMP (1981); FMP Revision (1991); Amendment 1 (2001); Addendum I (2004); Addendum II (2005); Addendum III (2006); Addendum IV (2009); Addendum V (2011); Amendment 2 (2012); Technical Addendum I (2013)

## Overview of Species of Concern

### Coastal Sharks: Concern

#### Assessment Findings

Species or Complex	Overfished	Overfishing
Porbeagle	Approaching	Yes
Dusky	Yes	Yes
Large Coastal Sharks	Unknown	Unknown
Blacktip (Atlantic)	Unknown	Unknown
Sandbar	Yes	No
Atl. Sharpnose	No	No
Blacknose	Yes	Yes
Bonnethead	No	No
Finetooth	No	No
Smoothhound Sharks	Unknown	Unknown

#### Board Adherence to Scientific Advice

- Based on TC advice, Board approved FMP regulations that generally complement regulations in federal waters, ensuring F does not exceed  $F_{MSY}$  or  $F_{REBUILD}$ , and protecting sandbar shark pupping grounds in state waters.
- There is general concern among members of the TC that a 12-to-88 fin-to-carcass ratio may create a loophole because different states retain different fin sets.

#### Monitoring and Management Measures

- May 15 – July 15 closed season from NJ-VA to protect pupping females for the following species: 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. Addendum II allows commercial fishermen to process (remove the fins) smooth dogfish at sea year round but requires a 88-12% carcass to fin ratio for all dressed smooth dogfish carcasses.
- 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:** SEDAR 34 (Atlantic sharpnose and bonnethead)

**Rebuilding Trajectory:** Variable by Species/Complex

## Overview of Species of Concern

### Horseshoe Crab: Concern

#### Assessment 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 is now beginning to be observed in the Virginia Tech Benthic Trawl Survey. 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 assessment; however, 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

- Coastwide survey or surveys by broader geographical region
- Reference points

#### Monitoring and Management Measures

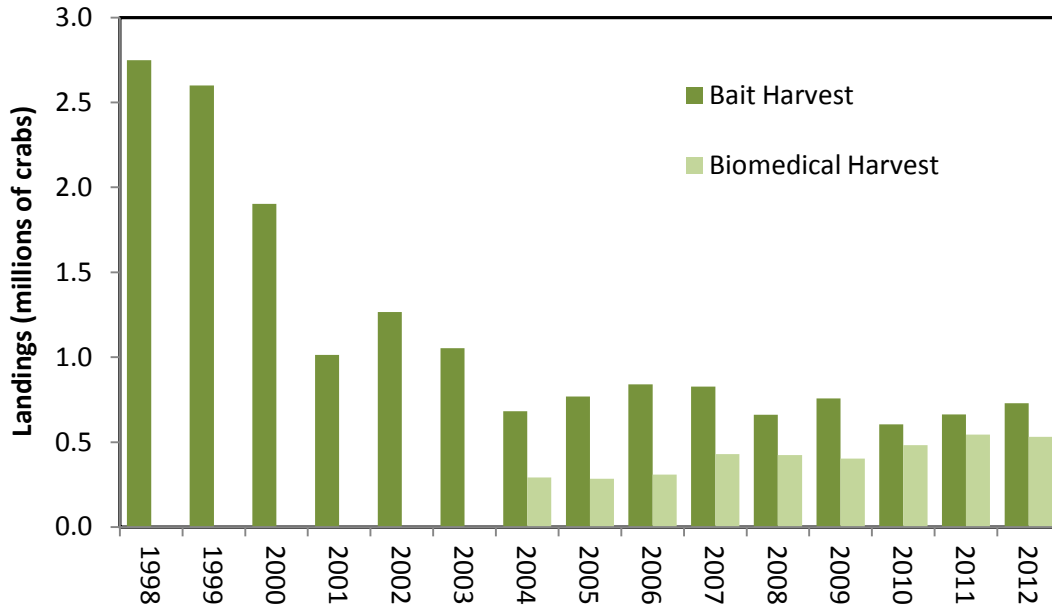
- Precautionary cap on harvest
- Reporting harvest for bait by month, sex, and harvest method (done consistently)
- Reporting biomedical harvest and mortality (inconsistent methods of reporting across states)
- Identify spawning and nursery habitat (completed in most states)
- Addendum VI extended the management measures under Addendum V (Delaware Bay).
- Addendum VII, implementing the Adaptive Resource Management framework, will be the basis for management starting in the 2013 season.

**Next Assessment :** Update in 2013

## Overview of Species of Concern

### Coastwide Horseshoe Crab Bait Landings and Biomedical Harvest

Source: ASMFC State Reports, 2012



**Timeline of Management Actions:** FMP (1999); Addendum I (2000); Addendum II (2001); Addendum III (2004); Addendum IV (2006); Addendum V (2008); Addendum VI (2010); Addendum VII (2012)

**Please note the following details regarding biomedical harvest numbers:**

- Data prior to 2004 are not available.
- Crabs harvested solely for biomedical use are returned to the water after bleeding; a 15% mortality rate is estimated for all bled crabs.

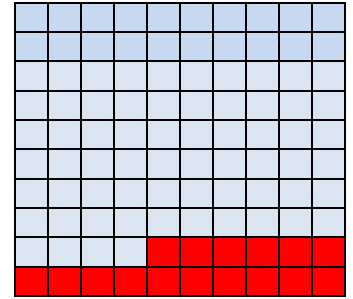


## Overview of Species of Concern

### Northern Shrimp: Concern

#### 2012 Stock Assessment Update Findings

- Overfished – Current Biomass = 1,500 MT, which is below both the threshold of 9,000 MT and the limit of 6,000 MT. The Section has not established a biomass target.
- Overfishing is occurring – Current F (1.08) is above the limit (0.60) threshold (0.46) and target (0.36).



16% of Biomass Threshold

#### Scientific Advice Based on Assessment Findings

The Technical Committee recommends that the Section continue its efforts to maintain fishing mortality at or below the FMP target value, currently estimated as  $F_{1985-94}=0.36$ . The NSTC also finds that recent GOM temperature data suggest the need to conserve spawners to compensate for what may be an increasingly unfavorable environment for northern shrimp. Therefore, because N. shrimp are hermaphroditic, protecting younger shrimp is recommended for both economical and biological reasons.

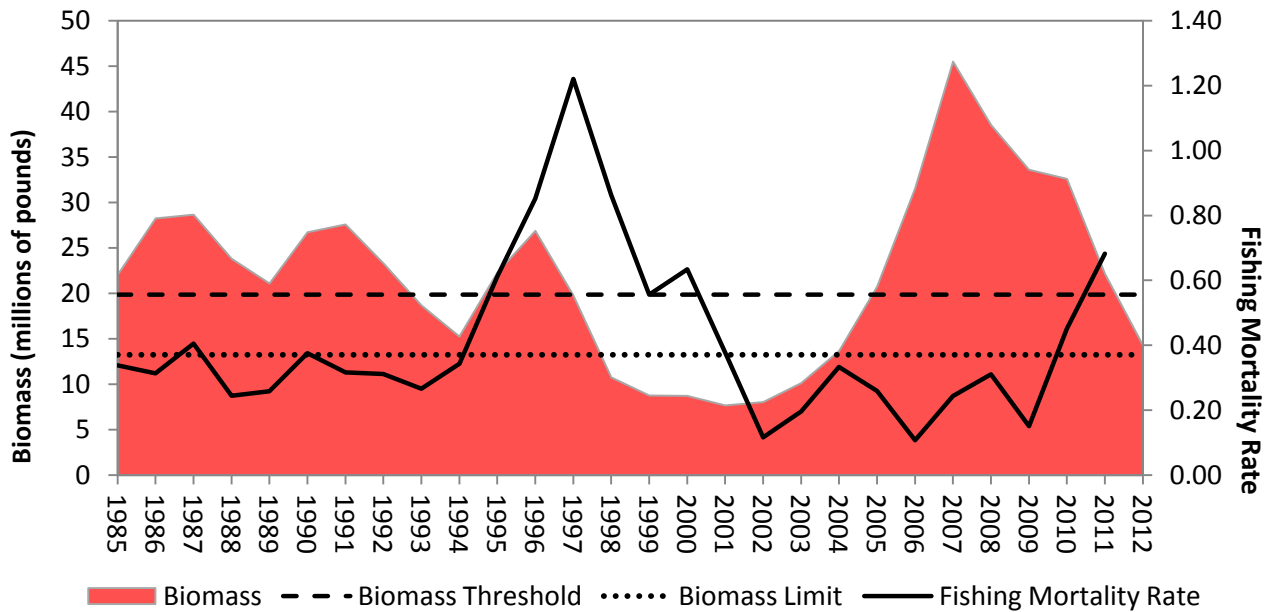
#### Board Adherence to Scientific Advice

- The Section chose a TAC based on the F threshold as opposed to the target to offset the economic impacts of a low TAC in 2011.
- The Section approved an addendum to provide themselves with several new management tools to slow catch rates of Northern Shrimp and are exploring a limited entry program to adjust the size of the fishery to the size of the northern shrimp resource.

**Next Assessment:** 2013 Benchmark Assessment

### Gulf of Maine Northern Shrimp Total Stock Biomass and Fishing Mortality

Source: ASMFC Northern Shrimp Technical Committee, 2012



**Timeline of Management Actions:** FMP (1986); Amendment 1 (2004); Amendment 2 (2011); Addendum I (2012)

## Overview of Species of Concern

### Spot: Concern

#### Unfavorable Data Trends

- Coastwide commercial landings have declined since 1950; commercial harvest-per-unit effort generally stable or declining in the two states with the largest landings.
- Commercial catch-at-age data, which showed an expansion of the age structure in the early 2000s, has contracted the last several years.
- Length-at-age and weight-at-age have decreased for ages 1-3 from 2009-2012 for both measures.
- Distribution of trophy citations for recreational catch of spot has decreased the last several years.
- Recruitment indices show great inter-annual variability as expected, but those with longer time series exhibit a decline in the magnitude of peaks over time with poor recruitment in 2009 and 2011 in recent years.
- Most indices of adult spot abundance in the species core area exhibit high inter-annual variability.

A stock assessment has not been completed; ability to conduct a defensible assessment is 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.

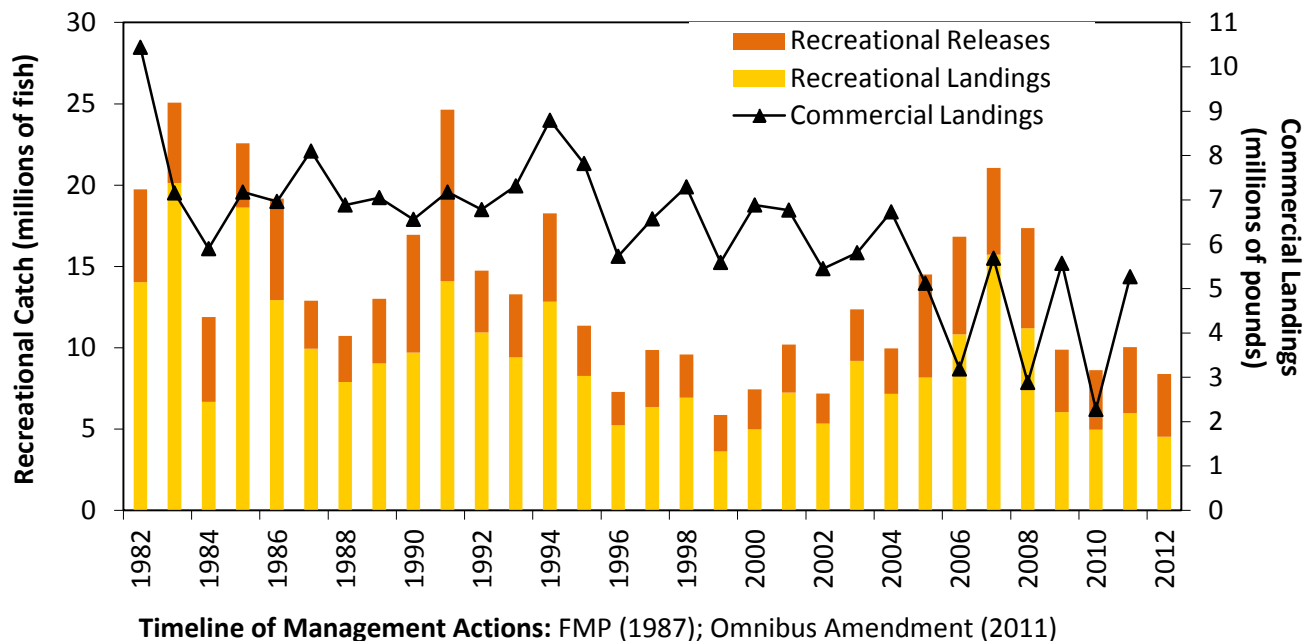
#### Monitoring and Management Measures

- Omnibus Amendment, approved in 2011, includes a management trigger to assist Board in monitoring stock status until coastwide stock assessment can be completed.
- High levels of spot bycatch present a challenge in terms of both yearly management and overall assessment of stock health.

**Next Assessment:** None scheduled.

### Spot Recreational Catch & Commercial Landings

Source: NOAA Fisheries Statistics Division, 2013



## Overview of Species of Concern

### Spotted Seatrout: Concern\*

\*Note that the Florida spotted seatrout stock is estimated to be significantly above the SPR target. No additional management action is needed to protect or rebuild this stock.

#### Available Information

- State stock assessments
  - NC (including VA): SPR = 10% in 2006; goal of 20% SPR
  - SC: SPR just above 20% goal in 1992; non-peer reviewed assessment through 2004 indicated below 20% goal
  - GA: SPR below 20% goal in 1995
  - FL: tSPR = 62% northern region, 51% southern regions in 2006; goal of 35% SPR

#### Needed Information/Data

- Recent estimates of SPR from GA and SC
- Assessments would benefit from additional fishery-independent abundance indices, improved discard information, and additional biological sampling of fisheries

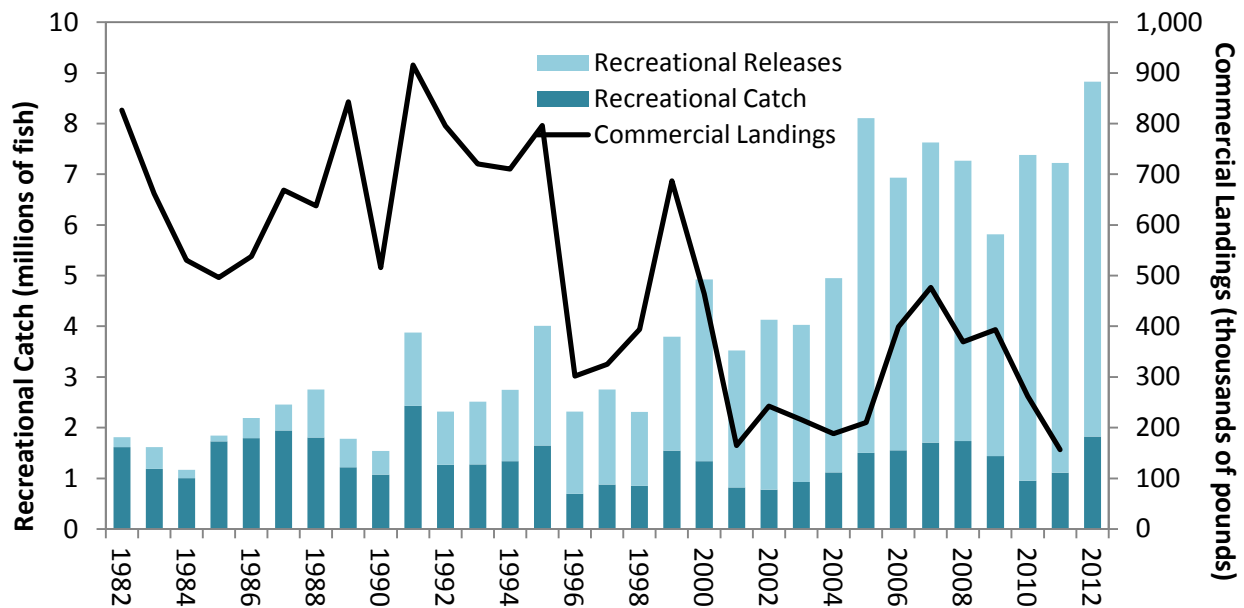
#### Monitoring and Management

- FMP recommends a 20% SPR goal, 12" minimum size limit with comparable mesh size for directed fisheries, and improved fishery-independent and -dependent monitoring programs
- Omnibus Amendment, approved in 2011, includes recommended measures to protect the spawning stock, as well as a required coastwide minimum size limit of 12"

**Next Assessment:** No coastwide assessment planned or recommended by PRT

#### Spotted Seatrout Recreational Catch & Commercial Landings

Source: NOAA Fisheries Statistics Division, 2013



**Timeline of Management Actions:** FMP (1985); Amendment 1 (1991); Omnibus Amendment (2011)

## Overview of Species of Concern

### Winter Flounder - GOM: Concern

#### Overfishing Unknown: (2011 SAW 52)

- The SAW/SARC GOM analytical assessment model was not accepted, BMSY and FMSY are unknown, and consequently the F and SSB targets could not be generated.

#### Overfishing not Occurring

- A proxy F Threshold of 0.31 was derived from a length-based yield per recruit analysis. The overfishing status is based on the ratio of 2010 catch to survey based swept area estimate of biomass exceeding 30 cm in length. 2010 F estimated at 0.23.

#### Board Adherence to Scientific Advice

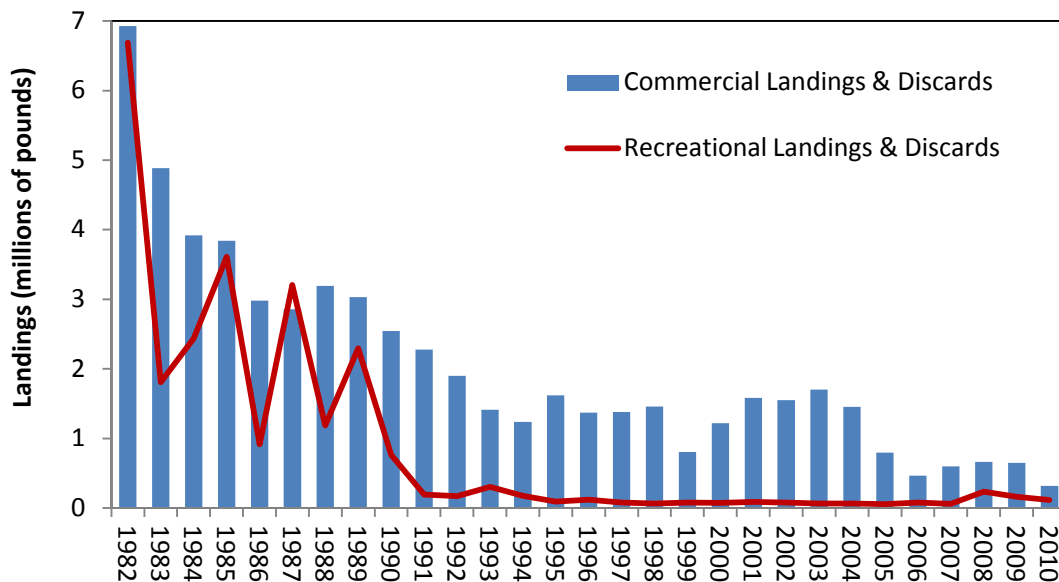
- GARM III estimated an 11% F reduction necessary to achieve  $F_{MSY}$
- Addendum I measures estimated to reduce recreational and commercial harvest by 11% and 31% respectively
- In response to the 2011 stock status, NMFS increased the 2012 state water sub-component to 272 mt (a 450% increase of 2010's 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 2013, NMFS maintained the state water sub-component at 272 mt. The Commission's Board also maintained the same management measures as 2012 for the 2013 fishing season.

**Next Assessment:** Unknown

**Rebuilding Trajectory:** Positive; unlikely to meet 2015 rebuilding goal

### Winter Flounder Gulf of Maine Landings and Discards

Source: NMFS 52nd Northeast Regional Assessment Workshop, 2011



**Timeline of Management Actions:** FMP & Addendum I (1992); Addendum II (1998); Amendment 1 (2005); Addendum I (2009); Addendum II (2012); Addendum III (2013)

## Depleted Species

- American Eel
- American Lobster – Southern New England
- Tautog
- River Herring
- Weakfish
- Winter Flounder – Southern New England/Mid-Atlantic

## Overview of Depleted Species

### American Eel: Depleted

**Depleted:** Trend analyses and model results indicate that 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 (2012 Benchmark Assessment).

**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-stage American 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 (with the possible exception of the glass eel fishery), 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

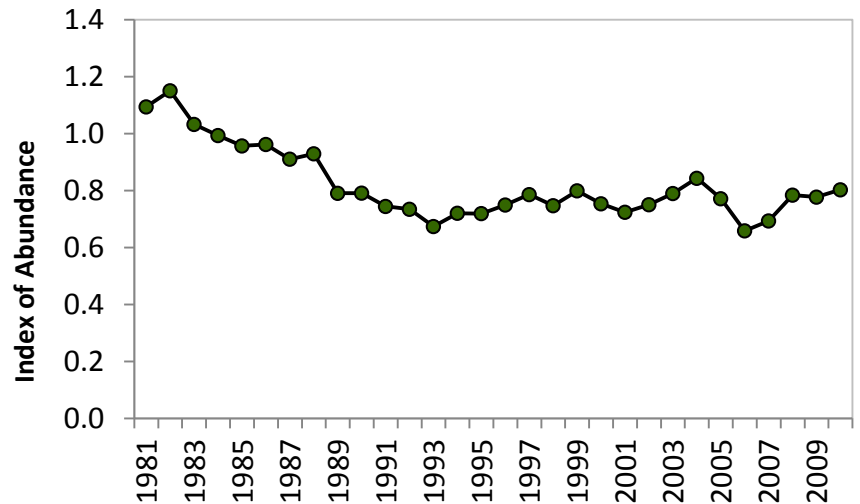
- The Board tasked the TC with developing management options based on the assessment results and the recommendations of the peer review panel.
- Based on the TC recommendations, in August 2012 the Board initiated the development of Draft Addendum III. The Board will consider final action on the addendum in 2013.

**Next Assessment:** None scheduled

**Rebuilding Trajectory:** Unknown

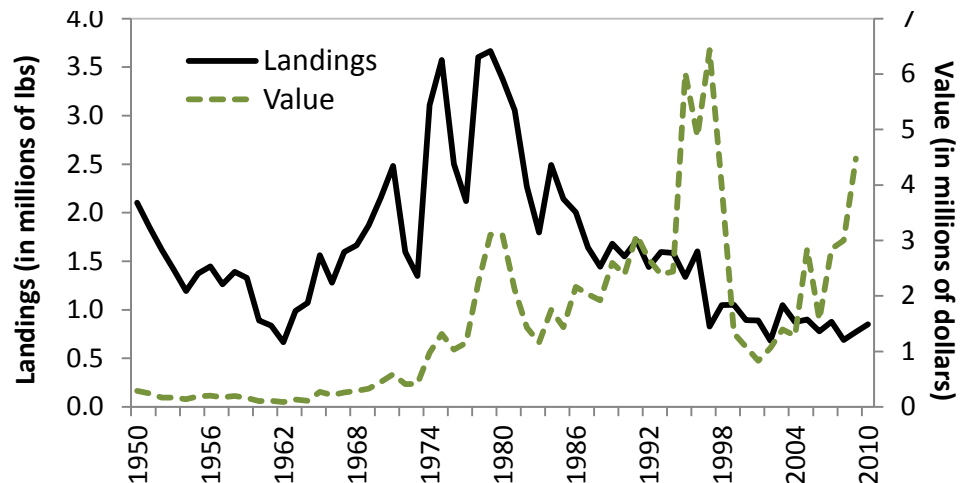
### 30-Year Index of Abundance for Yellow-phase American Eels along the Atlantic Coast

Source: 2012 American Eel Benchmark Stock Assessment Report



### Commercial Landings and Value

Source: 2012 American Eel Benchmark Stock Assessment Report



**Timeline of Management Actions:** FMP (1999); Addendum I (2006); Addendum II (2008)

## Overview of Depleted Species

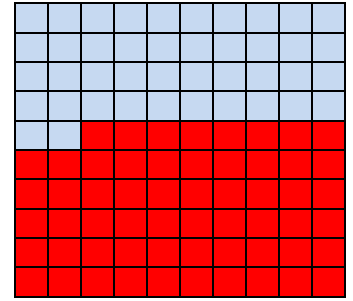
### American Lobster - SNE: Depleted

**Depleted:** Abundance at 73% of threshold (25<sup>th</sup> percentile) and 58 % of the target (50<sup>th</sup> percentile) (2009 benchmark assessment)

**Overfishing not Occurring:** Current effective exploitation (0.32) below threshold (0.46) and target (.41)

#### Assessment Findings

- SNE stock to be in poor condition
- Current abundance is lowest observed since the 1980s even though exploitation rates have declined since 2000
- Recruitment at very low levels throughout SNE between 1998 and 2005



58% of SSB Target

#### Board Adherence to Scientific Advice

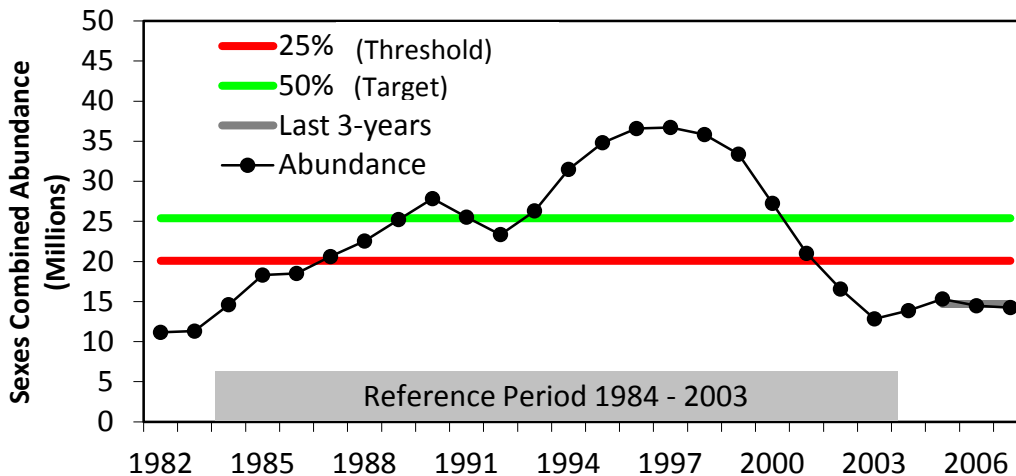
- TC advised to use output controls, Board continues to use input measures
  - TC also advised significant reductions in fishing mortality; Board adopted a 10% reduction in exploitation and 50% reduction in traps in LCMA 2 over a 6-year period; and a 25% reduction in traps in LCMA 3 over a 5 year period.
- TC advised to not allow conservation equivalency in LCMA 6, Board approved program
- TC advised 100% trip level harvester reporting; Board adopted 10%

**Next Assessment:** 2014

**Rebuilding Trajectory:** Flat at very low levels; 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 Reference Points

Source: 2009 American Lobster Benchmark Stock Assessment Report



**Timeline of Management Actions:** Amendment 3 (1997); Addendum I (1999); Addendum II (2001); Addendum II (2002); Addenda IV & V (2004); Addenda VI & VII (2005); Addenda VIII & IX (2006); Addenda X & XI (2007); Addendum XIII (2008); Addenda XII, XIV & XV (2009); Addendum XVI (2010); Addenda XVII & XVIII (2012); Addenda XIX & XX (2013)

## 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:** None scheduled

**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 <sup>A</sup> , Stable <sup>A</sup>
	Union	Increasing <sup>A</sup> , Stable <sup>A</sup>
NH	Cocheco	Unknown <sup>A,B</sup> , Stable <sup>A,B</sup>
	Exeter	Depleted <sup>A</sup> , Unknown <sup>A</sup>
	Lamprey	Depleted <sup>A</sup> , Increasing <sup>A</sup>
	Oyster	Depleted <sup>B</sup> , Stable <sup>B</sup>
	Taylor	Depleted <sup>B</sup> , Decreasing <sup>B</sup>
	Winnicut	Depleted <sup>A,B</sup> , Unknown <sup>A,B</sup>
MA	Mattapoissett	Depleted <sup>A</sup> , Unknown <sup>A</sup>
	Monument	Depleted <sup>A</sup> , Unknown <sup>A</sup>
	Parker	Depleted <sup>A</sup> , Unknown <sup>A</sup>
	Stony Brook	Depleted <sup>A</sup> , Unknown <sup>A</sup>
RI	Buckeye	Depleted <sup>A</sup> , Unknown <sup>A</sup>
	Gilbert	Depleted <sup>A</sup> , Decreasing <sup>A</sup>
	Nonquit	Depleted <sup>A</sup> , Decreasing <sup>A</sup>
CT	Connecticut	Depleted <sup>B</sup> , Decreasing <sup>B</sup>
NY	Hudson	Depleted <sup>A,B</sup> , Stable <sup>A,B</sup>
MD, DE	Nanticoke	Depleted <sup>A,B</sup> , Decreasing <sup>A,B</sup>
VA, MD, DC	Potomac	Depleted <sup>A,B</sup> , Unknown <sup>A,B</sup>
NC	Chowan	Depleted <sup>A,B</sup> , Stable <sup>A,B</sup>
SC	Santee-Cooper	Depleted <sup>B</sup> , Increasing <sup>B</sup>

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

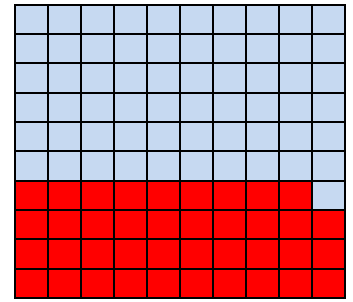
### Tautog: Depleted

**Overfished:** SSB at 39% of target (2011 assessment update)

**Overfishing Occurring:** Current F (0.31) above target (0.15)

#### Board Adherence to Scientific Advice

- Technical Committee recommended target F = 0.15 (39% reduction) or lower to rebuild stock
- Addendum VI reduced target F to 0.15 (39% reduction) beginning in 2008
- Technical Committee projects the stock will exceed threshold around 2019 and will not exceed target within 15 years.



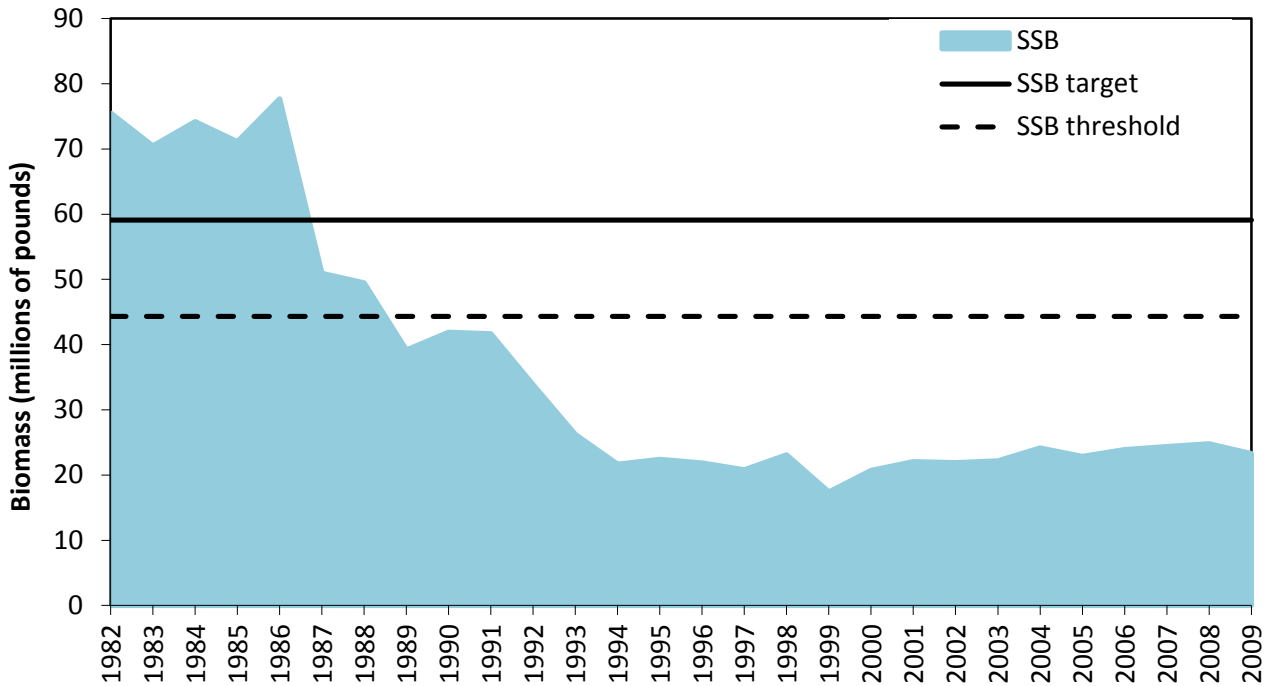
39% of SSB Target

**Next Assessment:** 2014

**Rebuilding Trajectory:** Slightly positive slope; unlikely to meet 2015 rebuilding goal

### Tautog Spawning Stock Biomass

Source: 2011 Tautog Stock Assessment Update



**Timeline of Management Actions:** FMP (1996); Addendum I (1997); Addendum II (1999); Addendum III (2002); Addenda IV & V (2007); Addendum VI (2011)

## Overview of Depleted Species

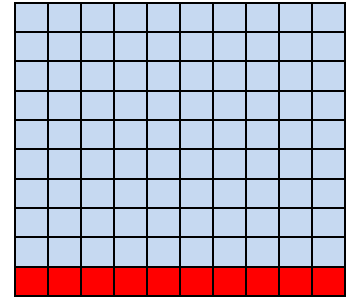
### Weakfish: Depleted

**Depleted:** Spawning potential at 10% of target (2009 benchmark assessment, SARC)

**Overfishing Not Occurring:** Recent fishery removals considered to be unsustainable under current stock conditions (high M)

#### **Board Adherence to Scientific Advice**

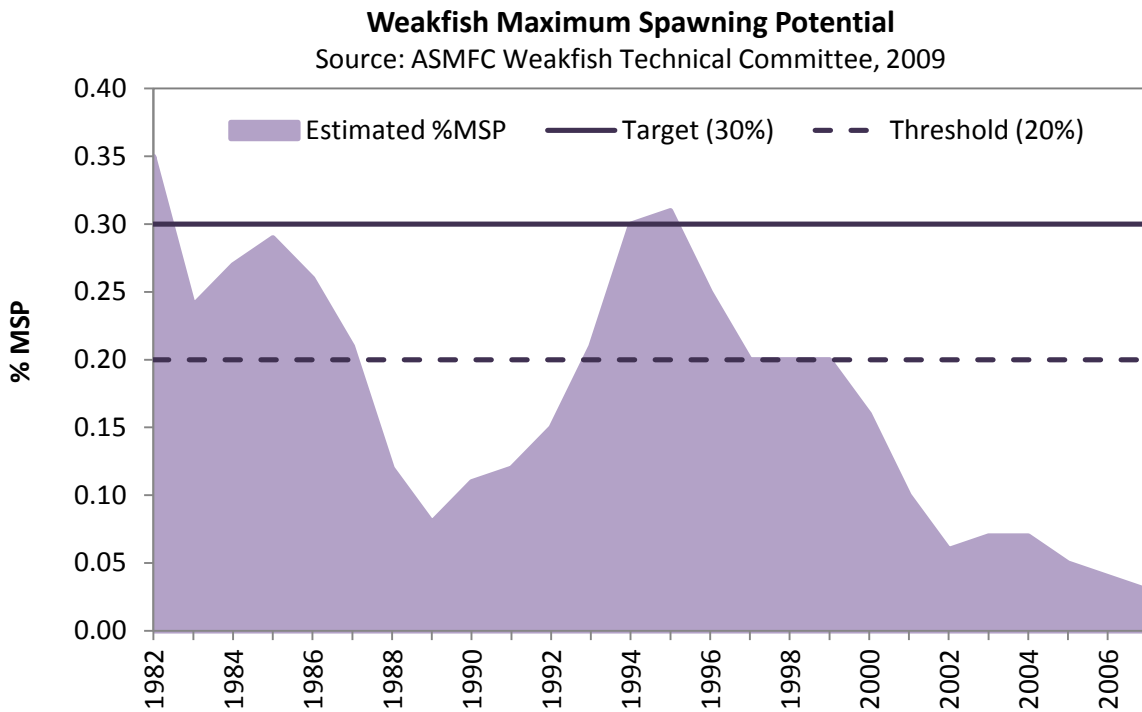
- Based on results of the stock assessment and peer review, the Board approved Addendum IV, which 1) revised the biological reference points; 2) implemented a commercial trip limit, and 3) reduced the recreational bag limit, the commercial bycatch limit, and the finfish trawl fishery's allowance for undersized fish.
- The Board will annually assess stock status indicators (e.g., relative F, juvenile indices) to monitor weakfish population changes until the next benchmark assessment.



10% of MSP Target

**Next Assessment:** 2015

**Rebuilding Trajectory:** Negative; unlikely to meet 2015 rebuilding goal



**Timeline of Management Actions:** FMP (1985); Amendment 1 (1991); Amendment 2 (1995); Amendment 3 (1996); Amendment 4 (2002); Addendum I (2005); Addenda II & III (2007); Addendum IV (2009)

## Overview of Depleted Species

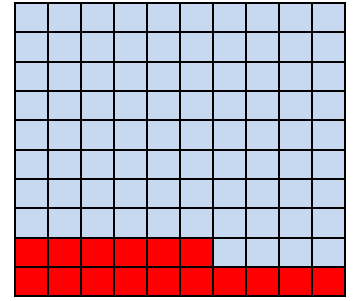
### Winter Flounder - SNE/MA: Depleted

**Overfished:** Stock is at 16% of SSB target (based on 2011 SAW/SARC 52)

**Overfishing is Not Occurring:** 2010 F = 0.051 well below F target (0.217)

#### Board Adherence to Scientific Advice

- GARM III estimated a 100% F reduction to achieve  $F_{REBUILD}$
- Following the TC advice, the Board approved Addendum I in May 2009, establishing small possession limits to discourage directed fishery and prevent increases in dead discards. Following the TC advice, the Board maintained a 50-pound trip limit for non-federally permitted commercial vessels when it set the 2013 specifications.



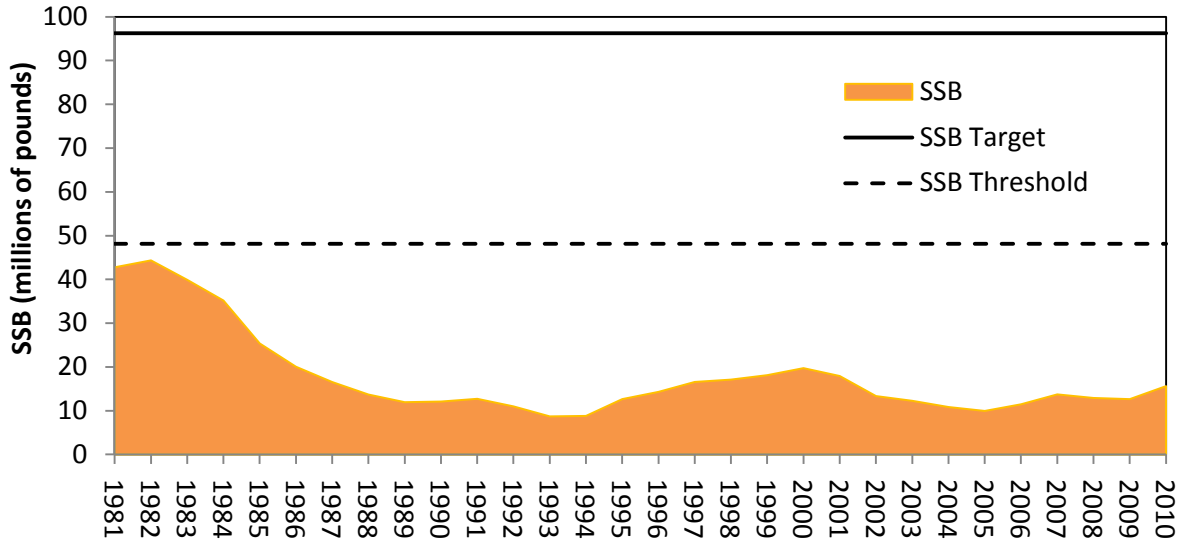
16% of SSB Target

**Next Assessment:** To be determined.

**Rebuilding Trajectory:** The SNE/MA winter flounder stock did not meet its 2014 rebuilding goal. NMFS set a new rebuilding target of 2023 for SNE/MA winter flounder and lifted the fishing moratorium that was implemented since 2009. For 2013, NMFS set the state water sub-component at 235 mt and a total stock-wide annual catch limit of 1,612 mt (a 167% increase from 2012’s 603 mt). The Commission’s Winter Flounder TC advises that an average annual stock increase of 15% is necessary to rebuild by 2023.

### Winter Flounder, SNE/MA Spawning Stock Biomass (SSB)

Source: NMFS 52nd Northeast Regional Assessment Workshop, 2011



**Timeline of Management Actions:** FMP & Addendum I (1992); Addendum II (1998); Amendment 1 (2005); Addendum I (2009); Addendum II (2012); Addendum III (2013)

## Species of Unknown Stock Status

- Atlantic Sturgeon
- Black Drum

## Overview of Species of Unknown Stock Status

### Atlantic Sturgeon: Unknown

#### Available Information

- Current populations throughout the species' range are at low levels of abundance.
- The Hudson River stock may be showing a small increase in abundance, along with some rivers in Georgia and South Carolina, suggesting some population rebuilding.
- Commercial landings of Atlantic sturgeon peaked in 1890 at 7.5 million pounds.
- Effective April 6, 2012, NMFS 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 DPS' as endangered)
- The states have been working with NOAA Fisheries on their Section 10 incidental take permits
- An Atlantic sturgeon bycatch reduction workshop was conducted in January 2013 to discuss technological solutions for reducing bycatch of Atlantic sturgeon and sea turtles.
- NOAA Fisheries released a draft biological opinion that found the continued operation of 7 Northeast federal fisheries does not jeopardize the survival or recovery of Atlantic sturgeon.

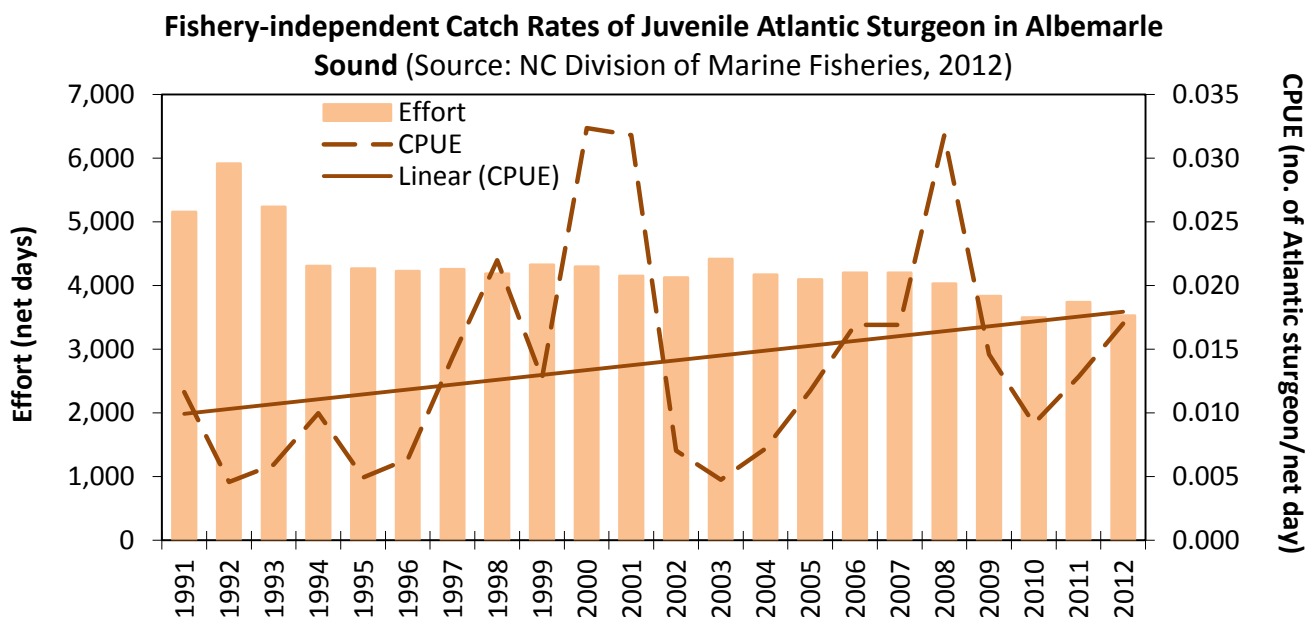
#### Needed Information/Data

- Conduct assessments of population abundance and age structure in various river systems
- Clearly define unit stocks of Atlantic sturgeon
- Improve bycatch and ship strike estimates.
- Further quantify critical habitat

#### Monitoring and Management Measures

- Monitoring: States must report annually on Atlantic sturgeon bycatch, fisheries-independent monitoring, habitat status and authorized aquaculture operations.
- Management: Coastwide moratorium until 2038.

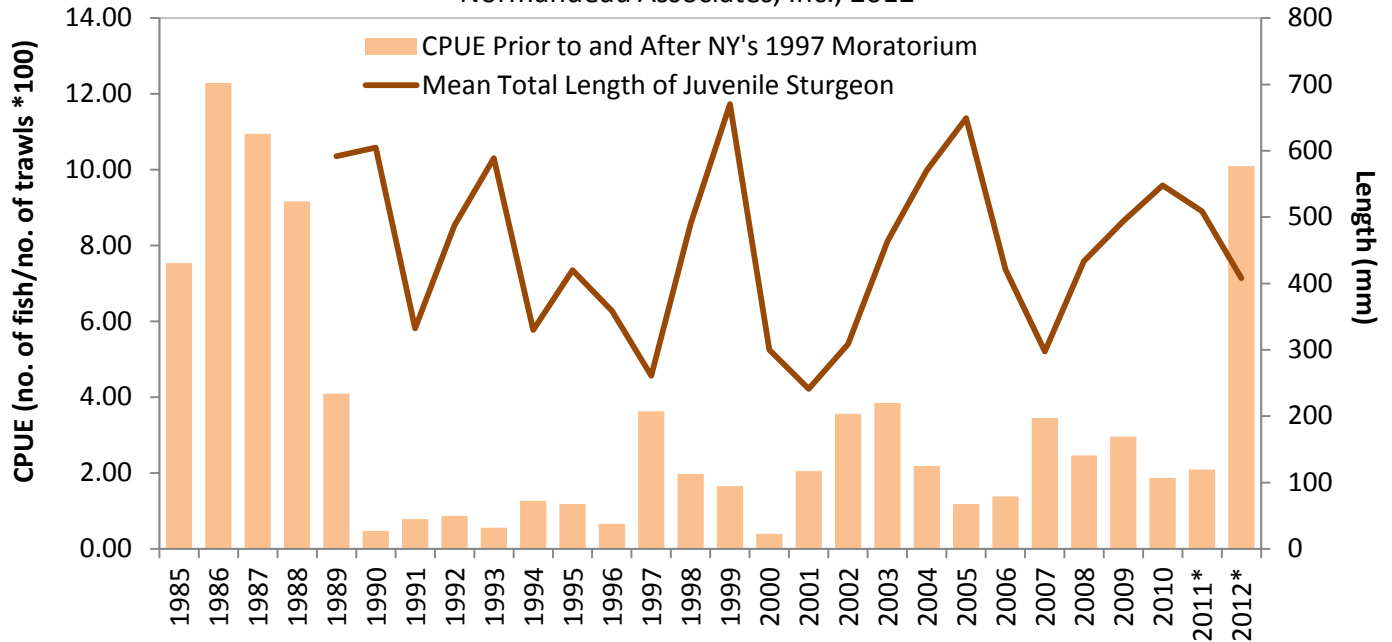
**Next Assessment:** 2014 benchmark assessment



## Overview of Species of Unknown Stock Status

### Catch Per Unit Effort (CPUE) of Juvenile Atlantic Sturgeon in the Hudson River

Source: NY State Dept. of Environmental Conservation Survey Data Collected by Normandeau Associates, Inc., 2012



Note: 2011-2012 values are estimated.

**Timeline of Management Actions:** FMP (1990); Amendment 1 (1998); Addendum I (2001); Addendum II (2005); Addendum III (2006)

## Overview of Species of Unknown Stock Status

### Black Drum: Unknown

#### Available Information

- Tagging evidence suggests black drum migrate along the coast, with a range extending along the nearshore western Atlantic coast from the Gulf of Maine to Florida, into the Gulf of Mexico, and as far south as Argentina
- Black drum are fast growing, long-lived fish that spend most of their life in nearshore waters along the Atlantic coast.
- The targeted fishery in some areas may be on very young fish, which have yet to contribute to the population, and other areas may be more heavily targeting the established breeding stock.
- In recent years, harvest of black drum has increased substantially in both the commercial and recreational sectors.

#### Needed Information/Data

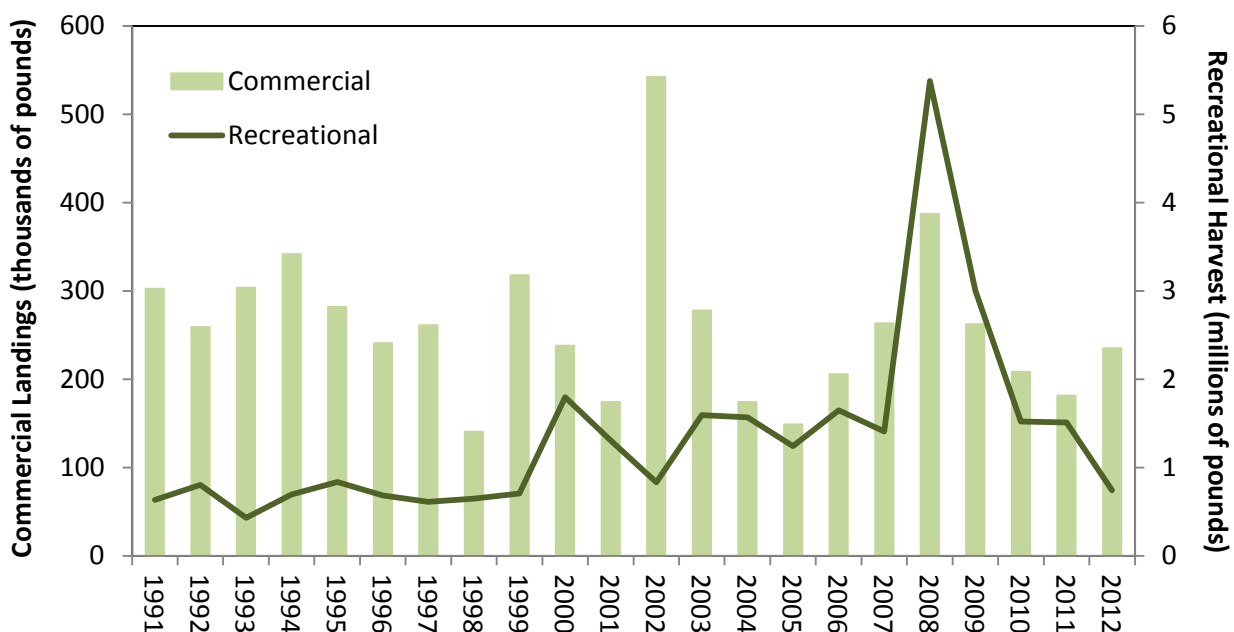
- Further quantify critical, spawning, and essential habitat
- More information on threats at each life stage, from offshore wind to beach nourishment
- Indices of juvenile abundance (set to be determined in August 2013).

#### Management Measures

- FMP approved in 2013; All states are required to maintain current regulations for black drum and implement a maximum possession limit and minimum size limit (of no less than 12 inches) by January 1, 2014. States will be required to further increase the minimum size limit (to no less than 14 inches) by January 1, 2016.

**Next Assessment:** Scheduled for peer review in 2014

**Recreational and Commercial Black Drum Landings along the Atlantic Coast** (Source: ACCSP Data Warehouse and MRIP, 2013)



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# **Atlantic States Marine Fisheries Commission**

## **Draft Habitat Program Guidance**



**Pending approval of the ISFMP Policy Board**



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*Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration  
well in progress by the year 2015*

# **Atlantic States Marine Fisheries Commission**

## **Habitat Program Guidance**

**Pending approval of the ISFMP Policy Board**

A publication of the Atlantic States Marine Fisheries Commission pursuant  
to National Oceanic and Atmospheric Administration  
Award No. XXXXX



## **ACKNOWLEDGEMENTS**

The Habitat Program Guidance was drafted by Megan Caldwell, a contractor for the Commission's Habitat Program, with review and contributions from a working group of the Habitat Committee, which consisted of the current Chair, Kent Smith, current Vice Chair, Jake Kritzer, and past Chairs, Bob Van Dolah and Wilson Laney. The Habitat Committee reviewed and approved the document during their May 10, 2013 meeting.

This document is modeled after the Commission's *Committee Guidance and Assessment Process* document (February 2013). Section 5.0 (Meeting Policies and Procedures) and 6.0 (Communication Policies and Guidelines) are excerpted directly from the Committee Guidance document. Portions of Section 3.0 (Committee Responsibilities), Section 4.0 (Committee Tasking) and 5.0 (Committee Expectations) have been included and combined with more specific Habitat Committee guidance in Section 4.0 (Committee Expectations) of this document. If changes are made to the *Committee Guidance and Assessment Process* document, those changes will take precedence over the content of this document. The Habitat Committee will maintain this document and update it as needed to comply with the *Committee Guidance and Assessment Process*, as well as to modify any policies specific to the Habitat Program. Any major changes to this document must receive approval from the Interstate Fisheries Management Program (ISFMP) Policy Board.

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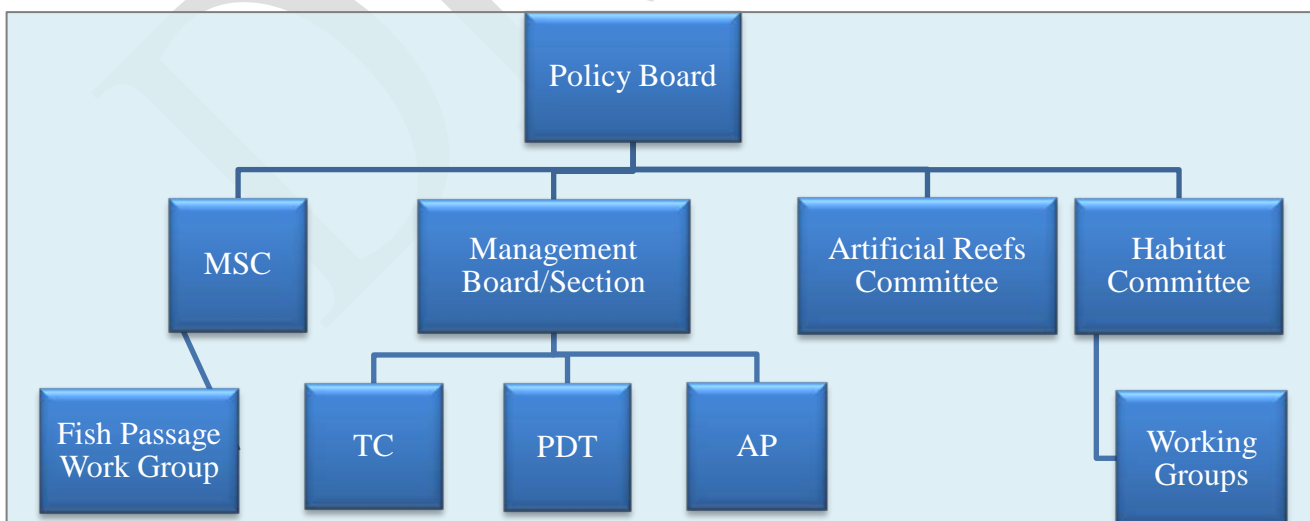
## **1.0 INTRODUCTION**

The Habitat Program of the Atlantic States Marine Fisheries Commission (Commission) is a branch of the Interstate Fisheries Management Program (ISFMP), which serves to support and supplement the efforts of the ISFMP Policy Board, fisheries Management Boards and Technical Committees. The goal of the Habitat Program is to identify, enhance, and cooperatively manage vital fish habitat for conservation, restoration, and protection, and supporting the cooperative management of ASMFC and jointly-managed species. Many of the Commission's committees are involved in working towards achieving this goal, but the Habitat Committee reports directly to the ISFMP Policy Board on the Commission's progress toward achieving this goal. The purpose of this document is to outline the Habitat Program structure and function and to promote understanding of Program processes.

## **2.0 ASMFC BOARDS AND COMMITTEES INVOLVED WITH HABITAT**

This section contains a brief outline of the structure, composition, and function of the Habitat Program. The Habitat Program can be defined as all of the Commission committees involved with carrying out the habitat related goals of the Commission's Strategic Plan. The shaded box around the organizational chart depicts the Habitat Program, which is comprised of the Committees that most frequently interact with the Habitat Committee, or which also can be tasked by the ISFMP Policy Board to address habitat issues. These Committees include the Management and Science Committee (MSC), Management Board / Section, Artificial Reef, and Habitat Committees with input from and the working groups, technical committees (TCs), planning and development teams (PDTs), and advisory panels (APs). While these committees and their supporting entities are not required to report directly to the Habitat Committee for approval of their work or products, the Habitat Committee should exchange frequent updates with each of these groups. The *Committee Guidance and Assessment Process* and the Interstate Fisheries Management Program Charter contain complete lists of additional committees and their descriptions.

### **Habitat Program**



## 2.1 Habitat Committee

The Habitat Committee advises the ISFMP Policy Board with the goal of identifying, enhancing and cooperatively managing vital fish habitats for conservation, restoration, and protection, and supporting the cooperative management of ASMFC and jointly- managed species. Further, the Habitat Committee reviews, researches, and develops appropriate responses to concerns of inadequate, damaged, or insufficient habitat for Atlantic coastal species of concern to the Commission (ISFMP Charter, 2009). The Habitat Committee's responsibilities are to:

- Advise the ISFMP Policy Board on the conservation, restoration, and protection of vital fish habitat for ASMFC managed species.
- Prepare habitat related documents, position papers, and resolutions regarding proposed projects or general habitat altering activities that affect ASMFC managed species.
- Prepare, review and update, as needed, the habitat sections of all ASMFC Fishery Management Plans.
- Educate ASMFC Commissioners, stakeholders, and the general public about the importance of protecting, restoring, and enhancing habitat to achieve successful fisheries management goals.

The Habitat Committee is a standing Commission committee appointed at the discretion of the Commission Chair. Membership includes state representatives, representatives of several federal agencies and non-governmental organizations (NGO). Membership details are provided in section 4.1. The Habitat Committee reports directly to the ISFMP Policy Board.

### 2.1.1 Habitat Work Groups

The Habitat Committee can create work groups to address various tasks outlined in the Annual Action Plan. Generally, Habitat Work Groups consist of Habitat Committee members, but outside experts can also be appointed for specific tasks. Most commonly, these work groups address updates to habitat sections in an FMP. When developing a habitat section, Technical Committee members are also invited to participate. A work group may also be created to develop an issue of *Habitat Hotline Atlantic*, a new installment in the Habitat Management Series, or another task or issue identified in the Annual Action Plan, but work group functions are not limited exclusively to these tasks. Each work group is given clear direction on the expected deliverable, as well as a timeframe for completion.

## 2.2 Artificial Reefs Committee

The Artificial Reefs Committee is a standing Commission committee appointed at the discretion of the Commission Chair. The Committee advises the ISFMP Policy Board with the goal of enhancing marine habitat for fish and invertebrate species through the appropriate use of man-made materials. The Committee is comprised of the state artificial reef coordinators, representatives from the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service. The Artificial Reefs Committee works in close coordination with Habitat Committee, collaborating on relevant topics, reporting to one another on current efforts, but the Artificial Reefs Committee reports directly to the ISFMP Policy Board.

## 2.3 Management and Science Committee

The MSC provides advice concerning fisheries management and the science of coastal marine fisheries to the ISFMP Policy Board. MSC's major duties are to provide oversight to the Commission's Stock

Assessment Peer Review Process, review and provide advice on species-specific issues upon request of the ISFMP Policy Board, evaluate and provide guidance to fisheries managers on multispecies and ecosystem issues, and evaluate and provide advice on cross-species issues (e.g., tagging, invasive species and exotics, fish health and protected species issues). The MSC also assists in advising the Policy Board regarding stock assessment priorities and timelines in relation to current workloads. The MSC is comprised of one representative from each member state/jurisdiction, the NOAA Fisheries Northeast and Southeast Regions, and the U.S. Fish and Wildlife Service (USFWS) Regions 4 and 5 who possess scientific as well as management and administrative expertise.

### **2.3.1 Fish Passage Work Group**

In 2009, the ISFMP Policy Board established the Fish Passage Working Group to address a number of tasks that were developed during the Commission workshop entitled, “Fish Passage Issues Impacting the Atlantic Coast States.” This Work Group consists of fish passage experts from state agencies, federal agencies, and non-governmental organizations working to improve passage of diadromous species managed by the Commission. The Fish Passage Working Group convenes as needed to discuss developments in fish passage and promote critical thinking to mitigate the negative effects of barriers to fish passage on diadromous species. The Fish Passage Working Group reports to the Management & Science Committee, and provide frequent updates to the Habitat Committee.

## **2.4 Management Boards / Sections**

Management boards are established by and advise the ISFMP Policy Board. Each board/section is comprised of the states/jurisdictions with a declared interest in the fishery covered by that board/section. The boards/sections consider and approve the development and implementation of FMPs, including the integration of scientific information and proposed management measures. In this process, the boards/sections primarily rely on input from two main sources – species technical committees and advisory panels. Boards/sections are responsible for tasking plan development teams (PDTs), plan review teams (PRTs), technical committees (TCs), advisory panels (APs) and stock assessment subcommittees (SAS). Each management board/section shall select its own chair and vice-chair. Chairmanship will rotate among the voting members every two years.

### **2.4.1 Technical Committees**

Management boards/sections may appoint TCs to address specific technical or scientific needs requested periodically by the respective board/section, Plan Development Team (PDT, see below for description of this group), Plan Review Team (PRT<sup>1</sup>), or the Management and Science Committee (MSC<sup>2</sup>). A TC may be comprised of representatives from the states, federal fisheries agencies, regional fishery management councils, Commission, academia, or other specialized personnel with scientific and technical expertise and knowledge of the fishery or issues pertaining to the fishery being managed. The Habitat Committee works with the Technical Committees in the development of species-specific habitat sections of FMP's, and seeks their input on reports or issues that may influence a particular species.

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<sup>1</sup> The PRT is responsible for providing advice concerning the implementation, review, monitoring and enforcement of FMPs that have been adopted by the Commission.

<sup>2</sup> The MSC provides advice concerning fisheries management and the science of coastal marine fisheries to the ISFMP Policy Board

### **2.4.2 Plan Development Team**

PDTs are appointed by boards/sections to draft FMPs. They are comprised of personnel from state and federal agencies who have scientific and management ability, knowledge of a species and its habitat, and an interest in the management of species under the jurisdiction of the relevant board. Personnel from regional fishery management councils, academicians, and others as appropriate may be included on a PDT. The size of the PDT shall be based on specific need for expertise but should generally be kept to a maximum of six persons. The Habitat Committee coordinates their efforts to update habitat information in an FMP with that of a PDT's to develop an FMP, amendment or addendum.

### **2.4.3 Advisory Panels**

Advisory Panel (AP) members include stakeholders from a wide range of interests including the commercial, charter boat, and recreational fishing industries, conservation interests, as well as non-traditional stakeholders. Members are appointed by the three Commissioners from each state with a declared interest in a species because of their particular expertise within a given fishery. APs provide guidance about the fisheries that catch or land a particular species. The AP's role is to provide input throughout the entire fishery management process from plan initiation through development and into implementation. APs have provided some very key information on habitats used by ASMFC species, and/or their interaction with other species.

## **2.5 Atlantic Coastal Fish Habitat Partnership**

The Atlantic Coastal Fish Habitat Partnership (ACFHP) is a coast-wide collaborative effort to accelerate the conservation of habitat for native Atlantic coastal, estuarine-dependent, and diadromous fishes. The Partnership consists of resource managers, scientists and professionals representing 30 different states, federal, tribal, non-governmental and other entities. ACFHP works in areas stretching from Maine to the Florida Keys, and from the headwaters of coastally draining rivers to the edge of the continental shelf, with a focus in estuarine environments.

ACFHP is a recognized Fish Habitat Partnership (FHP) of the National Fish Habitat Action Plan (NFHAP), and is a separate entity from the Commission. However, ACFHP does receive administrative support from the Commission. Habitat Committee members may serve as steering committee members or organization representatives for ACFHP. ACFHP works in a parallel, complementary function with the Habitat Committee throughout the Commission member states to complete aquatic habitat conservation projects, including on the ground restoration projects. ACFHP coordinates closely with two adjacent and partially overlapping FHPs, the Southeast Aquatic Resources Partnership (SARP) and the Eastern Brook Trout Joint Venture (EBTJV). Collaboration and clear communication between ACFHP, adjacent NFHP's, and the Habitat Committee is beneficial to Commission habitat conservation goals associated with managed species.

ACFHP's primary goals are to:

- Prioritize fish habitat conservation needs among stakeholders.
- Support on the ground habitat conservation projects by securing and leveraging funding.
- Develop coast-wide scientific assessments and projects, whose outcomes provide decision support tools for partners and other interested stakeholders.
- Facilitate stakeholder access to tools and guidance for on-the-ground conservation and prioritization.



## **2.6 Coordination with Other Committees/Groups**

Bi-annual updates are exchanged with the Commission's MSC. The Habitat Coordinator works with the MSC Coordinator to ensure that important, relevant news is exchanged between the two committees. There are additional work groups for which the Habitat Committee either receives updates or enlists the participation of Habitat Committee member(s) (e.g. ASMFC Ecosystem Based Fishery Management Work Group). Information and updates are regularly exchanged between the Habitat Committee and Artificial Reef Committee, as well as the Habitat Committee and Fish Passage Work Group.

Species Boards/Sections may consider referring broader habitat issues to the Habitat Committee. Boards/sections will develop specific and clear guidance whenever tasking committees for advice. ISFMP staff, in consultation with the board/section Chair and technical support group Chair, will develop the written charge. The charge will contain terms of reference to clearly detail all specific tasks, the deliverables expected, and a timeline for presentation of recommendations to the board/section. It is the responsibility of the ISFMP staff and any technical support group Chair present at board/section meetings to ensure the timeline can be met. Any problems or discrepancies encountered by the technical support group in meeting the charge will be discussed with the appropriate ISFMP staff and board/section Chair.

## **3.0 PROGRAM DOCUMENTATION**

### **3.1 Annual Action Plan**

The Commission's Annual Action Plan details the activities and tasks to be accomplished and budgeted for the year. Most of the Habitat Program's responsibilities are outlined in Goal #4, "Protect, restore, and enhance fish habitat and ecosystem health through partnerships, policy development and education," but additional tasks may also be found under other goals within the Action Plan. Goal #4 includes all habitat-related tasks covered by the Commission's budget and may be assigned to Habitat Committee, Artificial Reef Committee, or ACFHP. Each year, the Habitat Coordinator will work with the Habitat Committee Chair and the ISFMP Director to update the Habitat Committee strategies in the ASFMC Action Plan. The Habitat Committee will have an opportunity to review and approve the Habitat Program's activities and planned schedule prior to submission. Annual budget planning will take place as part of this action planning process. The Coordinator will work separately with the Artificial Reef Committee to develop and approve the tasks assigned to Artificial Reef Committee. The ACFHP coordinator will facilitate the process for those tasks assigned to the Partnership.

### **3.2 Habitat Committee Annual Work Plan**

To best align the Habitat Committee's efforts and time with that of the Commission's goals and objectives, the Habitat Coordinator and Habitat Committee Chair, in consultation with the ISFMP Director, will prioritize the Annual Action Plan tasks that pertain to the Habitat Committee. The work plan will clarify the task, identify who is responsible for accomplishing the tasks (e.g. Coordinator, a potential contractor, committee member, working group or Committee as a whole), the process, and timeline to complete the task.

### **3.3 Habitat Committee Annual Effectiveness Review**

At the spring Habitat Committee meeting each year, an annual review of the effectiveness of the Habitat Program should be conducted. This review should be completed by September to allow time to incorporate changes into the Commission Annual Action Plan for the following year that is approved at the Commission annual meeting week. The review should proceed as follows:

1. Tasks completed by the Committee should be reviewed and compared to the Commission Annual Action Plan.
2. Accomplishments (regardless of inclusion in the Action Plan) should be noted.
3. Deficiencies should be realized and a plan to address them should be discussed.
4. Activities should also be evaluated in the context of the Commission's Five-Year Strategic Plan.
5. In light of this review, suggestions should be made for changes to the Annual Action Plan for the coming year.
6. Commissioners will complete a similar review of the Habitat Program once every five years, in conjunction with the revision of the Commission's Strategic Plan.

### **4.0 COMMITTEE EXPECTATIONS**

The Habitat Committee, under the direction of the ISFMP Policy Board, is a standing ASMFC Committee that conducts the activities of the Habitat Program, with the assistance of the Habitat Coordinator. Committee members should expect to attend ~2 meetings each year. The Habitat Committee operates under the principle of consensus agreement.

Even though all Committee members have been appointed by a specific agency, it is not appropriate for members to represent the policies and/or politics of that agency. It is the responsibility of each committee member to use the best scientific information available and established techniques consistent with the current state of scientific knowledge. Although each Committee member will have a different background, the Committee as a whole is expected to work in support of the Commission's broader goals, mission, and vision. The individuals on the Committee represent the expertise of their agency or organization and should offer opinions that focus on best available science when considering Commission habitat issues, which at times may differ from their own agencies or organizations. All participants in the Commission process should act professionally and expect to be treated with respect. See Section 5.6 on meeting etiquette.

#### **4.1 Committee Membership**

Each member state of the Commission shall be allowed (and encouraged to present) one nomination to the Habitat Committee for the Commission Chair's consideration. Nominations shall not include current ASMFC Commissioners. However, all ASMFC Commissioners are welcome and encouraged to attend any Habitat Committee function at their discretion.

The U.S. Fish and Wildlife Service and National Oceanographic and Atmospheric Administration Fisheries Service (NOAA Fisheries) each have two nominations (one from each geographic region within the Commission's jurisdiction) to the Habitat Committee for the Commission Chair's consideration. The following federal agencies are each provided one nomination to the Habitat Committee for the Commission Chair's consideration: National Ocean Service, Environmental Protection Agency, U.S. Geological Survey, and the Army Corps of Engineers. Additional agencies

may be added at the discretion of the Commission Chair in consultation with the Executive Director of the Commission.

Two seats shall be available on the Habitat Committee for members from non-governmental organizations (NGO). Upon the resignation of an NGO member, the NGO seat shall become available to the NGO selection process described in Section 4.3. NGO seats shall not automatically turn over to another member of the previous member's organization.

The ISFMP Policy Board shall evaluate changes to the overall structure of membership on the Habitat Committee.

All Habitat Committee members should be able to demonstrate a strong knowledge of general fish habitat for Commission managed species, a familiarity with current Atlantic estuarine and marine habitat issues, and understanding for the habitat management process within a state or Federal waters. Committee members also must be willing to dedicate a reasonable amount of time to the activities of the program, including meetings, conference calls, workshops, document review, and work group functions.

It is also important that each committee member provide periodic briefings to his/ her agency's Administrative Commissioner on the discussions and actions taken at all Habitat Committee meetings. **These briefings should be done after every Habitat Committee meeting at a minimum.**

#### **4.2 Participation Review Process**

It is important that all members of a Commission committee fully participate in all meetings and activities of the committee. In the event that it comes to the attention of the Habitat Coordinator, or the Habitat Committee, that any individual Committee member is non-participatory in activities and meetings for the period of at least one year, a participation review may take place. The appropriate Administrative Commissioner should be informed if a committee member is unable to commit to the level of participation required.

If a NGO member is found to be non-participatory, a consultation will be made with the relevant organization. If the NGO member is not able to increase participation, the NGO seat shall become available to the NGO selection process described in Section 4.3.

Habitat Committee members are encouraged to send meeting-specific proxies to meetings that they are unable to attend. Commission staff should be contacted by the committee member prior to the start of the meeting if he or she is unable to attend. The committee member, with appropriate approval from the agency supervisory staff if necessary, should provide staff with the name of his/her proxy for that committee meeting in writing (email or letter). Proxies must be from the same state or jurisdiction or agency/organization as the individual making the designation. Proxies shall abide by the rules of the committee. Advance notification of proxy names must be submitted to the Habitat Coordinator prior to the meeting to ensure proper distribution of meeting materials and inclusion on the travel authorization.

### **4.3 NGO Selection Process**

The selection process for NGO representatives to the Habitat Committee will be similar to the process for the selection of non-traditional stakeholders to Commission Advisory Panels. In the event that a NGO seat is vacated on the Habitat Committee (through non-participation, resignation, or the Commission Chair's evaluation), a "Call for Nominations" will be distributed to the public.

The NGO seat will be open to any organization, regardless of type (i.e., environmental, academic, industry, etc.). Interested organizations will be required to submit a nomination form (posted on the Commission's website or obtained from the Habitat Coordinator) identifying the nominated individual's qualifications, and present a letter of support to the Commission. Nominees should be able to demonstrate a strong knowledge of general fish habitat, a familiarity with current Atlantic habitat issues, and be an effective advocate for fish habitat. Nominees also must be willing to dedicate a reasonable amount of time to the activities of the program, including meetings, conference calls, workshops, document review, and working groups.

Demonstration of the ability to increase the credibility and expertise of the Habitat Program so that it will become a recognized authority on Atlantic coastal habitat issues will be a key element of the evaluation of nominations. The Habitat Committee will have the opportunity to review nominations and make a recommendation to the Commission Chair for the appointment of the vacant NGO seat. Ultimately, the selection of new NGO representatives will be at the discretion of the Commission Chair.

### **4.4 Chairmanship**

Unless otherwise specified, all Commission committees and subcommittees will elect their own Chair and Vice Chair. Chairs serve two-year terms and chairmanship should rotate among members of the committee. The role of the Chair is demanding and only those willing and able to commit the time and energy required by the job should agree to serve. The Chair must be willing to perform the job and state/federal agencies/NGOs must be willing to provide the Chair time to attend to Commission business. At the end of a sitting Chair's term, the Vice Chair will become the Chair, and nominations for a new Vice-Chair will be solicited from the Habitat Committee. The Vice Chair will serve in this capacity for a 2-year term under the acting Chair. It is the responsibility of all officers to facilitate meetings in an objective manner and represent the viewpoints of all committee members, including opposing opinions and opinions in opposition to their own. In the event that circumstances require a Chair to resign their position during their term, the Vice-Chair shall replace the Chair, and have the option of serving the remainder of the previous Chair's appointment in addition to their own anticipated two-year term. For Chair and Vice Chair meeting responsibilities, please see Section 6.3.

### **4.5 ASMFC Staff Responsibilities**

The Habitat Coordinator is responsible for organizing all Habitat Committee activities. The Habitat Coordinator will also serve as a liaison on species-specific issues between the ISFMP Policy Board, Management Boards/Sections, Technical Committees, Advisory Panels, Artificial Reefs Committee, Law Enforcement Committee, and Management & Science Committee. The Coordinator, in consultation with the Chair and Vice-Chair, is responsible for scheduling committee meetings, drafting agendas, and distributing meeting materials. The Habitat Coordinator works with the Habitat Committee, Habitat Committee Chair, and ISFMP Director to identify, prioritize, and carry out program activities as are outlined in the Commission's Annual Action Plan.

The Habitat Coordinator, in consultation with the Chair, will assist in prioritizing tasks assigned to the Habitat Committee and its work groups. Staff should track committee meeting attendance and provide records upon request. The Habitat Coordinator and the Chair should assist in clarifying the details of any tasks assigned to the Habitat Committee by the ISFMP Policy Board. Assistance should also be provided in the development of the written charge, including all specific tasks, expected deliverables, and a timeline for presentation of recommendations to the Board.

The Habitat Coordinator and a Habitat Committee work group are responsible for producing the newsletter, the *Habitat Hotline Atlantic*.

## **5.0 MEETING POLICIES AND PROCEDURES**

For the purpose of this section, a meeting can be attended by Habitat Committee members in-person, through a conference call, or via webinar unless specified otherwise in a specific format.

### **5.1 Meetings announcements**

A public notice, via the Commission website ([www.asafc.org](http://www.asafc.org)), will be provided at least two weeks prior to all in-person meetings of the Commission and its various committees, and at least 48 hours notice will be provided for any meetings held by conference call; provided exceptions to these notice requirements may be granted by the Commission Chair. A non-committee member can request, through Commission staff, to be notified of committee meetings via email (*Note: the public notice of the Commission website is the official notification of a scheduled meeting.*). Non-committee members may attend any in-person or conference call committee meeting, unless confidential data are being discussed.

If a non-committee member would like to attend a webinar, he/she should contact the Habitat Coordinator or other appropriate Commission staff 24 hours prior to the webinar in order for staff to determine if space is available. If Commission staff is not contacted, priority for available webinar space will be given to committee members.

### **5.2 Materials Distribution**

Meeting materials will be distributed to committee members prior to committee meetings via email or FTP site, if necessary. Agendas and documents for public review will be available via the Commission website. Draft materials with preliminary content and/or with confidential data will not be distributed outside of the committee. The Chair will explain at the outset of meetings that all data and analyses are preliminary and not to be shared until they have been finalized and distributed to the appropriate board/section.

### **5.3 Roles of Chair and Vice-Chair at Meetings**

It is the responsibility of the Chair to conduct and facilitate meetings. The Chair will lead committees through agenda items in consultation with staff, including items requiring specific action. The Chair is responsible for working with the Habitat Coordinator to ensure that the activities identified in the Commission Annual Action Plan are completed. The Chair should assist in clarifying the details of any tasks assigned to the Habitat Committee. Assistance should also be provided in the development of the written charge, including all specific tasks, expected deliverables, and a timeline for presentation

of results and/or recommendations to the Board. The Chair should attend all Board meetings and should be in frequent contact with the appropriate ISFMP staff. It is also the responsibility of the Chair of the technical support group to provide presentations to the relevant oversight committee on all findings and advice. All formal presentations should be conducted in a manner consistent with the guidance provided in Subsection 6.4.5.

The Habitat Committee Chair is also responsible for clarifying the majority and/or minority opinions, where possible. **The overall goal of all technical support groups is to develop recommendations through consensus. The committee should not vote on issues, but should develop a majority and minority opinions for presentation to the board. It should be noted that minority opinions should be used only as a last resort when full consensus cannot be reached.** The Commission will periodically conduct meetings management and consensus-building seminars for all Chairs and Vice-Chairs of technical support groups, and others as appropriate. Chairs and Vice-Chairs should attend these seminars in order to improve your their ability to conduct efficient meetings, objectively facilitate discussions and development of consensus recommendations, and objectively represent opposing viewpoints.

The Vice Chair will act as Chair when the Chair is unable to attend a meeting or conference call. It is the role of the Vice Chair of committees to take meeting minutes that will be used to develop meeting summaries and committee reports. A member of the committee will be appointed by the Vice Chair to take minutes when the Vice-Chair is acting as Chair.

#### **5.4 Meeting Records**

Meeting summaries are provided for all Commission committee meetings (a committee report or meeting minutes can serve as the meeting summary). If the Vice-Chair is unable to take minutes or there is no Vice-Chair, another committee member will be appointed to take minutes. Meeting summaries will be distributed by ISFMP staff to all committee members for review and modification. Meeting summaries should be finalized and approved by the Habitat Committee no later than 60 days following the meeting. Draft meeting summaries will only be distributed to Habitat Committee members for review. The Chair should ensure that all Habitat Committee member comments are addressed prior to approval and public distribution of meeting summaries and committee reports.

Commission staff should ensure that meeting summaries of all Commission technical support groups are distributed to other appropriate support groups, including APs, TCs, Law Enforcement Committee (LEC<sup>3</sup>), and MSC. All board/section meeting summaries, and appropriate documentation, should also be provided to technical support groups. Upon approval, these documents will also be posted to the Commission website.

#### **5.5 Public Participation at Meetings**

Public comment or questions at committee meetings may be taken at designated periods at the discretion of the Habitat Committee Chair. In order for the committee to complete its agenda, the Chair, taking into account the number of speakers and available time, may limit the number of comments or the time allowed for public comment. The Chair may choose to allow public comment

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<sup>3</sup> The LEC provides information on law enforcement issues, brings resolutions addressing enforcement concerns before the Commission, coordinates enforcement efforts among states, exchanges data, identifies potential enforcement problems, and monitors enforcement of measures incorporated into the various FMPs.

only at the end of the meeting after the Habitat Committee has addressed all its agenda items and tasks. Where constrained by the available time, the Chair may limit public comment in a reasonable manner by: (1) requesting individuals avoid duplication of prior comments/questions; (2) requiring persons with similar comments to select a spokesperson; and/or (3) setting a time limit on individual comments. The Commission's public participation policy is intended to fairly balance input from various stakeholders and interest groups. Members of the public are expected to respect guidelines outlined in section 6.6, meeting etiquette.

Members of the public may be invited to give presentations at committee meetings if the board/section has tasked the committee with reviewing their materials, or if members of the public have been invited in advance by the Habitat Committee Chair to respond to a request from the Habitat Committee for more information on a topic. Invitations will be offered in advance of the meeting. Public presentations will not be allowed without these invitations. See Section 8 for additional details regarding public participation in stock assessment data, assessment, and peer review workshops.

#### ***5.5.1 General Submission of Materials***

Public submissions of materials for Habitat Committee review outside of the benchmark assessment process must be done through the board/section Chair (see Section 4.0). The Chair will prioritize the review of submitted materials in relation to the existing task list. Materials provided by the public should be submitted to the Chair at least one month in advance of the meeting. A committee is not required to review or provide advice to the board/section on materials provided by the public unless it is specifically tasked to do so by the Chair in writing or from the board/section. Materials will be distributed to the Habitat Committee by Commission staff.

#### **5.6 Meeting etiquette**

It is the role of the Chair to ensure participants (committee members and members of the public) are respectful of the following meeting guidelines. The Chair should stop a meeting if a participant is not following these guidelines, and direct them as to the appropriate way to continue. Commission staff should note when these guidelines are not being followed if the Chair does not do so. If a participant is being disruptive, the Chair may ask the individual to leave the meeting.

- **Come prepared.** Read the past meeting summary prior to the meeting. Bring something on and with which to write. All presenters should ensure their handouts, presentations, etc., are organized and complete, and that appropriate arrangements have been made with the Habitat Coordinator for needed media support and material distribution.
- **Be respectful of others.** Hold your comments until the Chair asks for comments, unless open discourse throughout the meeting is encouraged. Do not interrupt other attendees. Wait to speak until the Chair recognizes you. Avoid holding side-bar discussions with others until a meeting break or after the meeting is adjourned. Side conversations are disruptive to other participants and inconsiderate of the group.
- **Mute electronics.** Turn all cell phones on vibrate or turn them off completely. Do not answer your phone while in the meeting, and step out of the room to take emergency calls.

- **Attend the entire meeting.** Make travel arrangements to allow participation in the entire meeting. Early departure by committee members disrupts the meeting and impacts the development of consensus recommendations and decisions.

If complaints arise, they can be brought to the attention of the Chair of the committee, Commission staff, or the Commission's Executive Director.

## **6.0 COMMUNICATIONS POLICIES AND GUIDELINES**

### **6.1 Email Policies**

For the purposes of distributing draft committee documents, distribution will be limited to committee members. Non-committee members may request to receive notices of committee meetings, agendas, approved meeting summaries and final committee reports.

### **6.2 Recordings**

Committee meetings are open for the public to attend and as such may be recorded (audio or video) by any participant (public or committee member) with notification to the Chair and staff prior to the start of the meeting, and so long as those recordings are not disruptive to the meeting. The Chair and/or staff will notify committee members prior to the start of the meeting that they will be recorded. Staff may record meetings for note taking purposes, but the official meeting record is the meeting summary or committee report. Staff recordings will not be distributed.

### **6.3 Webinars**

While committee members are encouraged to attend all technical meetings in person, the Commission acknowledges occasional travel constraints or other impediments to attendance in person. If a committee member cannot attend a technical meeting in person, that member may request that a webinar be arranged to accommodate them. However, the Commission cannot guarantee that the audio or visual quality of the webinar will be sufficient to allow remote complete participation in the meeting by committee members. Committee members should contact Commission staff at least twenty-four hours in advance if they require a webinar, and those requests may be accommodated as feasible.

If a committee meeting is held via webinar (i.e., there is no in-person meeting), it shall be open to the public. As with in-person meetings, public comment or questions at committee webinars may be taken at designated periods at the discretion of the committee Chair (see Section 6.5 for more detailed guidance on public participation in committee meetings). Certain agenda items may not be open to the public; these include discussion of confidential data and preliminary model results. Non-committee members will be asked to leave before confidential issues are discussed. To ensure that enough bandwidth is reserved for the meeting, members of the public who wish to attend the webinar must contact staff 24 hours prior to the webinar to ensure there is available space.

Commission policy on meeting etiquette (Section 6.6) applies to webinars as well as in-person meetings. In addition, participants are asked to mute their phone lines when not speaking to reduce background noise that may disrupt the call.

Quarterly Commission Board Meetings are broadcast via webinar and information regarding listening to those meetings will be available via the Commission's website.



## 6.4 Reports

All reports developed by any Commission committee should include, at a minimum, the following components (1) the specific charge to the committee, (2) the process used by the committee to develop recommendations and/or advice, (3) a summary of all committee discussions, and (4) committee recommendations and all minority opinions. All committee reports are a consensus product of the committee, not an individual member<sup>4</sup>.

6.4.1 Non-Committee Member Reports: Outside of the benchmark stock assessment process, a non-committee member may submit reports for committee review through the board/section Chair (see Section 6.5.1). The board/section Chair will determine if the report should be reviewed by the appropriate committee and specify tasks to be completed in the review. Non-committee reports will follow the same formatting guidelines and distribution procedures as Commission committee reports.

6.4.2 Distribution of Committee Reports: Draft committee reports will only be distributed to committee members. All committee member comments should be addressed prior to approval and distribution of committee reports. Stock assessment and peer review reports will not be distributed publicly until the board/section receives and approves the reports for management use. Results of a stock assessment may not be cited or distributed beyond the committee before the assessment has gone through peer review and been provided to the board/section. Commission staff will distribute reports to the appropriate boards/sections and post committee reports on the website following board approval.

6.4.3 Corrections to Reports: Corrections to published stock assessment reports can be made on rare occasions when mistakes are found after board/section approval. All corrections will be highlighted in yellow within the report. A new publication date will be added below the original publication date on the cover of the report, e.g., *Corrected on March 29, 2012*. An explanation of the correction will be included in the introduction or executive summary and highlighted.

6.4.4 Presentations: Chairs and committee members will be responsible for presenting technical reports to boards/sections, APs, and other committees who may have a limited technical background. It is important to effectively present technical information to fishery managers and stakeholders in a straightforward and understandable manner.

All presentations should be developed using a Power Point template provided by Commission staff. Staff can assist in the development of presentations. A copy of the presentation should be provided to staff prior to the meeting. Presentations should be developed consistent with guidelines for other professional presentations, such as the American Fisheries Society. Some general guidelines include:

- Keep visuals simple, limit one idea per slide.
- Prepare figures and tables specifically for your presentation. Copies from manuscripts or papers usually contain too much detail for a presentation.
- When working with words, think brevity. Use a maximum of 6 words per line with 5 or 6 lines per slide. Use key phrases to emphasize important points.
- Tables should be simple with a maximum of 3 columns and 5 rows or vice versa.

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<sup>4</sup> However, a committee report can acknowledge an individual member, or members, has/have been largely responsible for production of a document/report.

- Graph/table values should be in a large enough font to be clearly viewed.
- Visuals appear confusing when too many colors are used; limit to 2 to 4 contrasting colors.

## **7.0 FMP HABITAT SECTIONS**

### **7.1 Guidance on the development of habitat sections of FMPs**

For species under the sole jurisdiction of the Atlantic States Marine Fisheries Commission (Commission) or managed complementarily to federal FMPs, this document will serve as the primary guide for preparation of the habitat portion of the FMP. For species managed jointly by the Councils and the Commission, or by the Commission and NOAA Fisheries (e.g. coastal sharks), the NOAA Fisheries guidance and regulations, pursuant to current federal fishery management legislation, must be used as well. The complete ISFMP FMP outline can be found in Appendix 1.

The Commission has chosen to adopt Essential Fish Habitat (EFH) designations prepared by the Regional Fishery Management Councils (Councils) for any species managed jointly or in association with the Councils: such as bluefish, scup, summer flounder, Atlantic herring, spiny dogfish, coastal sharks, and black sea bass. For species solely under Commission management, the Commission has chosen to identify all habitat and Habitat Areas of Particular Concern but will refrain from the identification of EFH. ***When an HAPC is described for a species solely under the management of the Commission, the designation does not have any regulatory authority. Please refer to the ASMFC HAPC document for a list of species under Commission management only and description of the corresponding HAPC (ASMFC 2013b).***

The five basic sections of the habitat component required for Commission FMPs include:

1. Description of the habitat
2. Identification and distribution of habitat and HAPCs
3. Present condition of habitats and HAPCs
4. Recommendations and/or requirements for fish habitat conservation/restoration
5. Information needs/recommendations for future habitat research

A Commission FMP may also include habitat-relevant information on:

- Ecosystem considerations
- Habitat monitoring programs
- Habitat conservation and restoration management program implementation, including:
  - Preservation of existing habitat
  - Habitat restoration, improvement, and enhancement
  - Avoidance of incompatible activities
  - Fisheries practices
  - Mandatory habitat compliance requirements for states
  - Artificial reef development/management

Background synthesis information can be included in a FMP Background Document. Habitat information appropriate for the background document may be included in the FMP Background Document, or published as a separate habitat source document. In this guidance, all habitat

information used for FMP development will be referred to as information for “habitat section” preparation, rather than designated for inclusion in either FMPs or background documents. For an overview of the habitat sections of an FMP, please refer to Appendix 2. For complete description and guidance on the content of the habitat section and its parts, please refer to Appendix 3.

The best available science-based information and data should be used in development of the habitat sections. Statements should be supported by citations, which are listed in a “literature cited” section. Peer-reviewed literature, gray literature (state or federal technical reports, Doctoral dissertations, or Masters theses), and personal communication with knowledgeable professionals should be sought, utilized, and cited in the document. This includes, but is not limited to, that body of biological, environmental, and ecological data concerning habitats and their function and value, provided that the methods of collecting such information are clearly described and are generally accepted as scientifically valid. Data may come from state, federal, or private databases. If original unpublished information from the author is available, then this information should be included, with any necessary explanation about the materials and methods that were applied.

In many cases, such as the determination of how much habitat is necessary to support a given population size, there will likely be insufficient information upon which to draw conclusions. This should be clearly stated, in order to show that the information was sought but unavailable, and to identify the issue as a research need.

## **7.2 Process for development of habitat sections of FMPs**

1. Development, or revision, of a habitat FMP section will be initiated by notification from the appropriate FMP Coordinator to the Habitat Coordinator. Alternatively, the Habitat Committee may submit a request to a species board to initiate development of a FMP addendum to deal with an important habitat issue that the Committee feels should be addressed for a species that is inadequately (as determined by the Habitat Committee) covered in previous plans and amendments.
2. The Habitat Coordinator works with the Habitat Committee, or work group, to identify authors for the habitat section and create timelines for review and completion.
  - a. The Habitat Committee may create ad hoc species-specific work groups to develop habitat sections of FMPs. Such a work group may consist of Habitat Committee members and Technical Committee members. In addition to the work group and if funds are available, the Commission may initiate a contract for the development of a habitat section. The work group would provide oversight of contractor’s work.
3. The Habitat Coordinator is responsible for ensuring the section is compliant with all Commission’s requirements, and must coordinate with the FMP coordinator. Additional writers identified by the Habitat Committee can provide additional information to ensure scientific accuracy.
4. The Habitat Committee working group (when applicable) will review and approve the draft habitat section for the FMP. The draft will then be sent to the Habitat Committee for final review and approval.
5. The draft is then sent to the appropriate Technical Committee for review and approval.

6. The appropriate Management Board or Section reviews the draft and provides ISFMP staff with direction to develop an addendum for the new or revised FMP.
7. The designated Management Board or Section reviews the draft addendum and approves it for public comment.
8. The specified Management Board or Section reviews the draft addendum and public comment and considers final approval of the document.

## **8.0 HABITAT SOURCE DOCUMENTS**

### **8.1 Process for development of source documents**

1. Upon approval by the ISFMP Policy Board, the Habitat Committee can initiate the development of a habitat source document on topics of immediate and broad interest to ASMFC Commissioners that will provide needed information to the states, and advance the Commission toward achieving its vision. For a full list of topics already addressed, please visit <http://www.asmfc.org/educationOutreach.htm>.
2. Development and timing will be planned by the Habitat Coordinator with final approval of the ISFMP Director to ensure that staff and funds are available to complete the proposed documents in a timely manner.
3. Before time and effort are put into any source document, an evaluation of the usefulness of the document and goal/objective/program compliance must be conducted. In this evaluation process, the Habitat Committee must consider the following components:
  - a) Clearly define the purpose of the document. Be sure the focus and expectations are well articulated.
  - b) Be sure that the objectives of the document adhere to and advance the mission of the habitat program and the Commission as a whole.
  - c) Develop an outline of the entire document in as much detail as possible before contractors are hired or a work group appointed to complete the work.
  - d) Set a realistic, detailed timeline for completion of the document.
4. The Habitat Coordinator may request an informal editorial review of the document (or sections therein) from the Habitat Committee before it is completed.

### **8.2 Process for source document approval**

1. Once a document is determined by the Habitat Coordinator to be complete, it will be presented to the Habitat Committee for formal review and approval. No documents will be formally approved until they are complete.
2. Following approval by the Habitat Committee, the document will be forwarded to the ISFMP Policy Board for final approval.

### **8.3 Process for selection and evaluation of authors/contractors**

1. Following Habitat Committee completion of a detailed outline for the given source document, a "Request for Proposals" shall be distributed that clearly outlines the direction of the document. Proposals shall be submitted to the Habitat Committee for consideration.

2. The Habitat Committee shall carefully and critically review all submissions, and select the appropriate author(s). If no (or very few) submissions are made, the ISFMP Director and Habitat Coordinator shall work with the Habitat Committee to locate an appropriate author.
3. Authors shall be made aware of, and agree to, the expected timeline for completion and content of the document.
4. Authors shall use the current American Fisheries Society Style Guide for document formatting and citations.
5. Contractors shall not receive final payment until the document is ready for publication.
6. The Commission reserves the right to request revisions of the document until it is completed to the satisfaction of the Habitat Committee, ISFMP Policy Board, and Commission staff.

## **9.0 HABITAT-RELATED POLICY STATEMENTS AND RESOLUTIONS**

The Commission may use policy statements and resolutions to take a position on an issue that may hinder the restoration or stock status of Commission-managed species in multiple jurisdictions. Unlike the project or permit commenting process discussed below, a policy statement or resolution is not specific to one project or one location, rather it refers to a broader scale issue that may impact a species or several species in several locations (e.g. fish passage or water quality).

### **9.1 Drafting ASMFC policy and recommendations for action on habitat related issues**

1. The Policy Board may direct the Habitat Committee to develop a policy statement to address an issue or the Habitat Committee can initiate the development of policies by Committee action in response to a request from the Policy Board to address an issue.
2. The Habitat Committee works with the Habitat Coordinator to draft the policy and recommendations for action, if any.
3. The Habitat Committee reviews and approves the draft policy before forwarding it to the ISFMP Policy Board for approval.
4. The Habitat Coordinator and the Habitat Committee should continually work to determine the effectiveness of policy statements in accomplishing the policy goal.

### **9.2 Drafting ASMFC resolutions on habitat related issues**

1. The Policy Board may direct the Habitat Committee to develop a policy statement to address an issue or the Habitat Committee can initiate the development of resolutions by Committee action in response to a request from the Policy Board to address an issue.
2. The Habitat Committee works with the Habitat Coordinator to draft the resolution and gather supporting documentation for a position.
3. The Habitat Committee reviews and approves the resolution before forwarding it to the ISFMP Policy Board for approval.

## **10.0 THE ASMFC PROJECT/PERMIT COMMENT PROTOCOL FOR HABITAT IMPACTS**

The Commission may have input on project and permit review that may affect Commission managed fisheries. Other federal and state agencies have the expertise, resources, and responsibility to conduct these reviews. However, in the event that a project may affect Commission-managed migratory

species, it may not only be appropriate, but responsible, to comment on landscape-scale impacts, in accordance with the Commission's unique inter-jurisdictional role.

Any input the Commission provides to permitting agencies will be as a party with an interest in protecting fish, fish habitats, and the fisheries dependent upon them. The Commission will not devote the time and resources to review and comment on permits and projects unless several conditions, outlined below, are met. However, the Commission should still call to the attention of the permitting agencies relevant information that the Commission has gathered in the form of FMPs and Habitat Management Series Reports. In this process, it is the responsibility of the Habitat Committee to evaluate a project based on its technical aspects as it may affect fisheries habitat and/or fish populations, and the responsibility of the ISFMP Policy Board to evaluate a project based on its implications to fishery management.

This process is separated into two distinct events: 1) early involvement by the Habitat Committee in the technical review of developing projects (e.g., scoping process for an EIS), which result in an informational letter that does not provide a Commission position or opinion; or 2) review by the Policy Board (usually later in the permit process), which results in a letter specifying a Commission position or policy or course of action.

### **10.1 Process for sending an informational letter**

1. Project Identification
  - a. *Who*: Commissioners, Habitat Committee members, Management and Science Committee members, Advisory Panel members, Technical Committee members, interested stakeholders, and/or Commission staff
  - b. *What*: Alert the Habitat Coordinator of a proposed project/permit that potentially impacts Commission-managed species or their supporting habitat.
  - c. *When*: As early as possible during the scoping period
2. Notification
  - a. *Who*: Policy Board
  - b. *What*: Habitat Coordinator issues notification that the Habitat Committee is examining a particular project/permit and implementing the review process.
3. Deliberation
  - a. *Who*: Habitat Committee and any interested Commissioners
  - b. *What*: Discussion to determine if the project/permit meets the following criteria:
    1. The project may have significant stock-level impacts on Commission-managed species and their supporting habitat.
    2. Staff thinks that Commission involvement has the potential to make an impact on the process.
    3. The project has inter-jurisdictional implications.
    4. The project would establish either a highly desirable, or highly undesirable, precedent from the Commission's perspective.
    5. Commission staff, with the assistance of Habitat Committee members and/or federal and state agency staff, can adequately research and address the proposed project in a reasonable time frame and within the existing budget.

#### 4. Writing and Sending an Informational Letter

- a. *Who*: Whomever proposed that an informational letter be sent, in coordination with the Habitat Coordinator, interested Habitat Committee members, and interested Commissioners
- b. *What*: The Commission has pertinent information regarding impacts of a project on a Commission species or habitat, and the Habitat Committee determines by consensus that the issue is significant enough to warrant an informational letter. Interested parties in coordination with the Habitat Coordinator compose and distribute the letter. An informational letter may include, but is not limited to, information gathered from:
  1. FMPs, including EFH designations for jointly-managed species.
  2. Habitat Management Series Reports.
  3. Commission Policies and Resolutions.
  4. External peer-reviewed literature.

**Note:** The informational letter does not provide an opinion or position of the Commission, but rather provides information necessary for the permit agency to properly evaluate their action.

### **10.2 Process for sending a recommended course of action (or comment) letter**

1. Project Identification
  - a. *Who*: Commissioners, Habitat Committee members, Management and Science Committee members, Advisory Panel members, Technical Committee members, interested stakeholders, and/or Commission staff
  - b. *What*: Alert the Habitat Coordinator of a proposed project/permit that potentially impacts our managed species or their supporting habitat; this may be a project/permit for which an informational letter was sent previously from the Habitat Committee, or it may be an entirely new project/permit.
  - c. *When*: During the public comment period (as early as possible, especially if no informational letter was previously sent)
2. Notification
  - a. *Who*: Policy Board
  - b. *What*: Habitat Coordinator issues notification that the Habitat Committee is examining a particular project/permit and implementing the review process.
3. Deliberation Phase 1
  - a. *Who*: Habitat Committee and any interested Commissioners
  - b. *What*: Discussion to determine if the project/permit meets the following criteria:
    - i. The project may have significant stock-level impacts on Commission-managed species and their supporting habitat.
    - ii. Staff thinks that Commission involvement has the potential to make an impact on the process.
    - iii. The project has inter-jurisdictional implications.
    - iv. The project would establish either a highly desirable, or highly undesirable, precedent from the Commission's perspective.
    - v. Commission staff, with the assistance of Habitat Committee members and/or federal and state agency staff, can adequately research and address the proposed project in a reasonable time frame and within the existing budget.

4. Deliberation Phase 2
  - a. *Who*: Policy Board
  - b. *What*: Based on technical aspects, the Habitat Committee recommends to the Policy Board that the Commission issue a letter recommending a course of action for the project/permit. The Policy Board considers the Habitat Committee's recommendation, and deliberates commenting on the project based on its implications to fishery management. The Policy Board makes a decision based on a vote that requires a simple majority of participating and voting members in favor to pass.
5. Writing a Recommended Course of Action Letter
  - a. *Who*: Whomever proposed that a recommended course of action letter be sent, in coordination with the Habitat Coordinator, interested Habitat Committee members, and interested Commissioners (plus Advisory Panel or Technical Committee members if needed)
  - b. *What*: A recommended course of action letter is developed by interested parties in coordination with Commission staff, and may include, but is not limited to:
    - i. Indicating a recommended course of action.
    - ii. Indicating the level of concern.
    - iii. Presenting a justification for the recommended course of action.
    - iv. Any other pertinent information, especially if an informational letter was not sent previously.
6. Letter Review and Distribution
  - i. *Who*: Commission Chair, and anyone else (including other Commission technical committees) that he/she deems appropriate
  - ii. *What*: A brief opportunity to review the recommended course of action letter and request changes. After those changes are incorporated, the letter shall be sent to the responsible permitting agency.
  - iii. *When*: This process shall be completed in a timely fashion, according to the temporal restrictions set by the given comment period. This may require that deliberations and voting happen electronically.

## **11.0 COMMENTING ON OTHER NON-ASMFC DOCUMENTS**

*The following process describes the review of a non-ASMFC document that is not a project or permit proposal.* This process was developed following a request by the Commission Chair for the Habitat Committee to comment on the 2007 Draft Framework for a National System of Marine Protected Areas.

1. The ISFMP Policy Board, or Commission Chair, may request at any time that the Habitat Committee formally review and comment on a non-ASMFC document that is not a project or permit proposal.
2. If members of the Habitat Committee would like to initiate comment on a non-ASMFC document, they may approach the ISFMP Policy Board with a request to allow comment from the Commission.
3. If the Habitat Committee is directed to comment on a non-ASMFC document by the ISFMP Policy Board, or Commission Chair, they shall complete a review in a timely manner as organized by the Habitat Coordinator.
4. Prior to submitting their review, the Committee's comments shall be provided to the Commission Chair, and if deemed necessary the Policy Board, for consent.



## **APPENDIX 1. ISFMP FISHERY MANAGEMENT PLAN OUTLINE**

This document outlines the contents of Commission FMPs developed by the ISFMP. It contains FMP elements required by the ISFMP Charter as well as suggestions on other sections, should information on these elements be available.

It is intended that this outline be a working document for use by PDTs, PRTs, and others in drafting, compiling, and reviewing FMPs as guidance in FMP development and implementation. The ISFMP Charter, Section Six, lists the required elements of a FMP.

This outline was adopted by the ISFMP Policy Board during the Spring Meeting in Atlantic Beach, North Carolina on May 20, 1999. Suggestions for additional changes to the FMP outline are welcomed and should be forwarded to ISFMP Staff.

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### ACKNOWLEDGEMENTS/ FOREWORD

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## **APPENDIX 2. CONDENSED HABITAT FMP OUTLINE**

The following is a quick reference for all of the habitat related sections within the Commission's FMP outline.

### 1.0 INTRODUCTION

#### 1.4: Habitat Considerations

##### 1.4.1: Habitat Important to the Stocks

##### 1.4.1.1: Description of the Habitat

- A. Spawning Habitat
- B. Eggs & Larvae Habitat
- C. Juvenile Habitat
- D. Sub-Adult Habitat
- E. Adult Habitat

##### 1.4.1.2: Identification and Distribution of Habitat and Habitat Area of Particular Concern

##### 1.4.1.3: Present Condition of Habitats and Habitat Area of Particular Concern

##### 1.4.1.4: Ecosystem Considerations

#### 1.5: Impacts of the Fishery Management Program

##### 1.5.4: Other Resource Management Efforts

##### 1.5.4.1: Artificial Reef Development/Management

### 3.0 MONITORING PROGRAM SPECIFICATIONS/ELEMENTS

#### 3.7: Habitat Monitoring Program

### 4.0 MANAGEMENT PROGRAM IMPLEMENTATION

#### 4.4: Habitat Conservation and Restoration

##### 4.4.1: Preservation of Existing Habitat

##### 4.4.2: Habitat Restoration, Improvement, and Enhancement

##### 4.4.3: Avoidance of Incompatible Activities

##### 4.4.4: Fisheries Practices

##### 4.4.5: Habitat Monitoring

### 5.0 COMPLIANCE

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### 6.0 MANAGEMENT AND RESEARCH NEEDS

#### 6.2: Research and Data Needs

##### 6.2.4: Habitat

### **APPENDIX 3. DEVELOPING AND/OR UPDATING HABITAT SECTIONS OF ASMFC FMPS**

The numbering of the following sections corresponds to the ISFMP Outline for FMPs. Please note that this numbering is subject to change in any given FMP depending upon the included sections.

#### **1.0 INTRODUCTION**

##### **1.4: Habitat Considerations**

###### **1.4.1: Habitat Important to the Stocks**

###### **1.4.1.1: Description of the Habitat**

This subsection should describe the habitats, including the associated biological community, which are typically used by the species. Habitats should be classified by life stage to include spawning, egg/larvae, juvenile, sub-adult, and adult resident and migratory habitats.

General descriptions of the functional habitat types (e.g., intertidal marsh, SAV beds, oyster reefs, etc.) that the species uses should be presented, along with a description (narrative, maps, and figures) of the distribution of these habitats. Overall range maps are appropriate, and the use of GIS is encouraged. General migratory pathways should also be identified. Some states have classified/identified areas with important habitat attributes and/or functions for fish such as, “Outstanding Florida Waters” and “Aquatic Preserves” in Florida, and “Primary Nursery Areas”, “Strategic Habitat Areas,” and “Outstanding Resource Waters” in North Carolina. These areas have significance in the states’ permitting programs, and should be integrated here if they overlap with habitat where the species is found. Additionally, the seasonality of the species should be addressed.

Information on biological, ecological, physical, and chemical habitat variables should be included in this subsection. Ecological variables include the biological community upon which the species depends (e.g, preferred prey species, or preferred or obligate habitats such as shell beds or submerged aquatic vegetation) or with which the species is associated. Characteristics such as substrate preference, dissolved oxygen levels, temperature, salinity and other pertinent variables should be identified. If habitat “dependence” has not been documented, then habitat utilization or association should be presented in this subsection. Where possible, documented linkages between habitat and species production should be described.

#### ***Approaches***

A number of approaches have been used to identify species-specific fisheries habitats. Approaches should be combined in order to present the best information with the widest geographic coverage, on a local scale.

Species distribution and/or relative abundance as indicated by fishery independent surveys has been proposed as a surrogate for habitat preference. This approach is useful; however, it is limited by the geographic and technical bounds of the fishery independent survey and possibly by selectivity of the gear employed for the survey, and should be augmented by additional information.

Important habitats for managed species have also been identified by local technical experts. Peer reviewed information of this type, including a review of relative abundance and distribution data, has been assembled for most Atlantic estuaries by the National Ocean Service.

In most cases, species-specific information is not available for all local habitats. In these instances, alternative information should be presented. Examples of alternative information include habitat suitability modeling, identification of usable habitats, and presentation of information for similar species. The limitations of each of these approaches should be clearly stated, and multiple approaches should be considered.

A method applied to coastal fisheries habitats that may have more significant use in the future is habitat suitability (HSI) modeling (USGS: <http://www.nwrc.usgs.gov/wdb/pub/hsi/hsiintro.htm>). This methodology includes the identification of specific habitat variables that are significant to the distribution of the species. The coexistence of these variables can then be identified regionally and used to predict species presence in areas where species distribution is unknown. HSI modeling is limited by both the number of developed and tested models and the geographic range over which the assumptions are valid.

The identification of usable habitats is similar to habitat suitability modeling, although somewhat less refined. It simply includes the regional identification of all habitat types that are used by the species or with which the species is associated in other regions.

Finally, for species for which a paucity of information exists, identification of habitats used by similar species (i.e., species of the same genus or with similar life history characteristics) should be used as a surrogate.

### ***Elements and format***

1. A narrative description of important habitats, including the elements discussed above. Information should be presented using the following outline:

- I. Description of Habitats (including residence and migration routes)
  - A. Spawning Habitat
  - B. Eggs & Larvae Habitat
  - C. Juvenile Habitat
  - D. Sub-Adult Habitat
  - E. Adult Habitat

2. Maps describing local and regional habitats, migratory routes, and seasonal species ranges.

3. A table that includes any significant environmental factors affecting the species at different life stages such as, but not limited to, habitat bottlenecks<sup>5</sup>, ecological functions, changing predator/prey niches, climate change, etc. with citations for all information included.

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<sup>5</sup> A habitat bottleneck is defined as a constraint on a species' ability to survive, reproduce, or recruit to the next life stage that results from reductions in available habitat extent and/or habitat capacity and reduces the effectiveness of traditional fisheries management options to control mortality and spawning stock biomass.

#### **1.4.1.2: Identification and Distribution of Habitat Area of Particular Concern**

The intent of this subsection is to identify habitat areas or habitat area of concern that are unequivocally essential to the species in all their life stages, since all used habitats have already been identified in Subsection 1.4.1.1.

Habitat Areas of Particular Concern, or HAPCs, are areas within EFH that may be designated according to the Essential Fish Habitat Final Rule (2002) based on one or more of the following considerations: (i) the importance of the ecological function provided by the habitat, (ii) the extent to which the habitat is sensitive to human-induced environmental degradation, (iii) whether, and to what extent, development activities are, or will be, stressing the habitat type, or (iv) the rarity of the habitat type. Descriptions of EFH are not currently being included in Commission FMPs. The definition of HAPC is therefore modified to be areas within the species' habitat that satisfy one or more of the aforementioned criteria. *When an HAPC is described for a species solely under the management of the Commission, the designation does not have any regulatory authority. Please refer to the ASMFC HAPC document for a list of species under Commission management only and description of the corresponding HAPC (ASMFC 2013b).*

A HAPC is a subset of the "habitats" described in Subsection 1.4.1.1, and could include spawning habitat (e.g., particular river miles or river reaches for striped bass populations), nursery habitat for larvae, juveniles and subadults, and/or some amount of foraging habitat for mature adults. HAPCs are geographic locations which are particularly critical to the survival of a species. Determination of the amount of habitats (spawning, nursery, subadult, adult residence, and adult migration routes) described in Subsection 1.4.1.1 that should be classified as HAPC may be difficult.

Examples of HAPC include: any habitat necessary for the species during the developmental stage at which the production of the species is most directly affected; spawning sites for anadromous species; benthic areas where herring eggs are deposited; primary nursery areas; submerged aquatic vegetation in instances when species are determined to be "dependent" upon it; and inlets such as those located between the Atlantic Ocean and bays or sounds, which are the only areas available for providing ingress by larvae spawned offshore to their estuarine nursery areas.

The extent of habitats or HAPC for a species may depend on factors such as habitat bottlenecks, the current stock size and/or the stock size for which a species Management Board and Technical Committee establishes targets, etc. Given the current state of knowledge with regard to the relationship between habitat and production of individual species, this information may not be available for many species.

If known, the historical extent of HAPC should also be included in this subsection, in order to establish a basis for Subsection 1.4.1.3. Use of GIS is encouraged to depict the historical and current extent of HAPCs, and determine the amount of loss/degradation, which will assist in targeting areas for potential restoration.

#### **1.4.1.3: Present Condition of Habitats and Habitat Area of Particular Concern**

This subsection should include, to the extent the information is available, quantitative information on the amount of habitat and HAPCs that are presently available for the species, and information on current habitat quality. Reasons for reduction in areal extent (either current or historical), should be



addressed, for example, “dam construction has eliminated twenty percent of historical spawning habitat” (ASMFC, 2008), “forage habitat bottleneck has reduced the young-of-year populations by thirty percent”, or “fishing gear continues to disturb fifty percent of the forage habitat”, etc.

Any habitats or HAPCs that have diminished over time due to habitat bottlenecks should be incorporated to the extent information is available. Habitat bottlenecks can occur due to natural disasters, fishing disturbance, impacts of development, or other complex processes that can cause habitat shifts. This subsection can further address options to reverse or restore current known habitat bottlenecks.

All current threats to the species’ habitat should be discussed in this subsection. If known, relative impacts from these activities should be identified and prioritized. For example, addressing hydrological alterations and their impacts are a high priority for anadromous species. These may include freshwater inflow/diversions; changes in flows due to hydropower, flood control, channel modifications, or surface/aquifer withdrawals; and saltwater flow or salinity changes due to reductions in freshwater inflows or deepening of navigation channels, which facilitate upstream salinity increases. Threats should also be assessed for their effect on the ability to recreationally and commercially harvest, consume, and market the species (e.g., heavy metals or chemical contamination which results in the posting of consumption advisories, or prohibition of commercial fisheries for a species, e.g. striped bass in the Hudson River, NY).

This subsection will serve as a basis for the development of recommended or required actions to protect the species’ habitat, which will be outlined in Section 4.4. For example, the effectiveness of water quality standards should be reviewed in this subsection. If they are ineffective or inappropriate at protecting water quality at a level appropriate to assure the productivity and health of the species, then a recommendation should be included under the recommendations section (Section 4.4) for improvement of water quality standards.

### ***Elements and format***

This subsection should include separate segments for each different type of habitat that was identified in Subsection 1.4.1.1. The following outline should be used:

#### **I. Habitat Type 1**

- A. Estimates of habitat quantity and any changes over time, such as but not limited to aerial extent and trends over time, availability to the species and changes in availability, etc.
- B. Description of habitat quality and any changes over time, such as but not limited to water quality, functional ability of wetlands, etc.
- C. Description of current threats, including:
  - a. What is the magnitude of the impact, especially in light of the use by the species?
  - b. What is the length in time of the impact and does it occur when the habitat is used by the species?
  - c. Are the impacts irreversible?
  - d. How can the impacts be avoided, minimized, or mitigated? (This information will be especially important for Section 4.4)
  - e. Estimates of cumulative and secondary impacts to the habitat.

- f. Known or suspected habitat bottlenecks.
- D. Any affects of degradation or loss of this habitat on the ability to harvest and/or market the species.

## II. Habitat Type 2 (etc.)

### **1.4.1.4: Ecosystem Considerations**

There are increasing attempts to incorporate ecosystem management into fisheries management, currently referred to as ecosystem based fisheries management. Ecosystem based fisheries management can be interpreted as: a) the incorporation of the protection and enhancement of habitat features that contribute to fish production into the fishery management process; and b) the consideration of how the harvest of one species might impact other species in an ecosystem and incorporating that relationship into management decisions (i.e., forage considerations). The process of considering more than one species in fisheries management decisions is also called multi-species management. For the purposes of this section, the focus would be on the important habitat features that contribute to fish production. To address part b) multispecies management, the Management & Science Committee should be consulted.

Human activities can influence habitats or entire ecosystems by altering one or multiple elements contributing to such systems at any time. Given that the flow of energy and nutrients between organisms and their environment provide the framework for understanding ecosystems, a focus on ecological function and how abiotic structure and other habitat elements affect the biotic community structure and vice versa is essential. Abiotic factors include the space providing connectivity between specific life history stage habitats, spatial and temporal uses of those habitats, water quality and quantity, and the physical changes to these factors over time. Biotic factors include the position of these species within the food web (i.e., forage species, predator/prey), community dynamics, biotic engineering of habitat, etc.

In addition, the spatial and temporal resiliency of the system (the measure of the ability of a system to withstand stresses and shocks, and recover to pre-stress characteristics) is another consideration to include in this section.

This section should focus on ecosystems functions on a landscape scale rather than duplicating habitat use information contained in the preceding sections of this document. Changes in ecological functions, shifts, or dynamics resulting in or from habitat bottlenecks may be discussed within this section if not previously addressed.

## **3.0 MONITORING PROGRAM SPECIFICATIONS/ELEMENTS**

### **Section 3.7: Habitat Monitoring Program**

The purpose of this section is to outline habitat monitoring considerations for a given FMP. Building upon the baseline information covered in Section 1.4, FMP developers are encouraged to identify specific habitat variables (e.g., spatial extent and type of SAV beds) that should be monitored that are significant to the distribution of the species. This section may also include information on existing habitat monitoring programs. The goal of habitat monitoring programs should be to provide guidance

to achieve integration of fish management activities with management of habitat and Habitat Area of Particular Concern.

It is recommended that population monitoring surveys and stock assessments be coordinated with existing state, federal, and regional habitat monitoring programs to achieve cost benefits and allow for synthesis of water quality, aquatic habitat, and watershed information to better assess whether declines in fishery stocks are caused by degraded habitats or ecosystems.

Section 1.4 provides a strong foundation for the establishment of a robust monitoring plan. FMP authors and managers are encouraged to use all available information to determine those limiting factors that can best serve as timely indicators of habitat loss or degradation. It is recommended that documented linkages between habitat and species production and/or mortality be described.

The identification, distribution, and present condition of habitat and HAPC (Subsections 1.4.1.3 and 1.4.1.3) requires extensive background information to determine what areas are unequivocally essential to the species. These subsections will already describe many of the currently reported habitat variables that are applied by state, federal, regional, and other fishery management entities to monitor habitat condition. By maximizing the use of existing data and monitoring programs, FMP developers may recommend that certain factors be periodically observed and documented to detect changes in habitat quality or quantity.

With the emerging need and challenges for developing new indicators for specific habitat bottlenecks/limitations for species any new improved methodology or modern/cutting edge monitoring tools should be identified to help developing monitoring plans. Inadequate or missing data are bottlenecks in and of themselves. Identify inadequately specified or insufficiently quantified causes or data relating to bottlenecks to help managers plan the most effective ways for monitoring. Identify any developed approaches for enhancing bio-complexity and key habitat features (e.g., seagrass, connectivity, etc.) required to boost habitat rehabilitation processes.

Elements of a monitoring program should include the following:

1. Development of a monitoring plan based on historic and existing habitat quality and quantity records/data.
2. Designation of reference sites based on life stage requirements.
3. Determination of appropriate spatial and temporal scales for monitoring specific habitat types and locations.
4. Coordination of monitoring of essential habitat across all life stages.
5. Enhanced coordination of fish stock assessment and management with habitat monitoring.

As the Atlantic Coast fisheries community moves toward ecosystem-based adaptive management that is more integrated with coastal habitat, existing monitoring programs on local and regional scales should be better coordinated to provide efficient and meaningful monitoring to quantify and track changes in quality habitat for the life stages of all fishes. A broad overview of existing monitoring programs has revealed common approaches, issues, and needs for a future Atlantic Coast monitoring program. An author may want to consider reviewing the design elements of and recommendations from the National Estuary Program (NEP) and the corresponding jurisdictions' Comprehensive

Conservation and Management Plans (CCMPs) (e.g. APNP 2012). Below are elements that should be considered for such a monitoring program:

### **1. Issues and options associated with monitoring programs**

- A. Scale:
  - 1. Regional vs. site specific - broad indicators/remote sensing tools vs. single indicators
  - 2. Regional approaches – existing landscape approaches e.g. river basin/coastal association or Commission data
  - 3. Species range approach – monitor on a species by species FMP approach
- B. Frequency: Cost-benefit
- C. Prediction: Quantify/track cumulative effects of climate change, habitat bottlenecks, and continued watershed and coastal development on aquatic habitat
  - 1. Land use/management plans to select landscape indicators
  - 2. Climate prediction models to select precipitation/storm surge effects to monitor
- D. Location: Overlay all life-stage habitat types for all species with FMPs and develop coordinated monitoring by location
- E. Existing fish stock information: Coordinate with collection and analysis of habitat information

### **2. Monitoring indicators: Referenced with natural variation and analyzed spatially/temporally**

- A. Large-scale: Remote sensing and existing monitoring programs- coordinate and fill gaps
  - 1. Land use – include infrastructure (roads, etc.), water, development, dredging, channelization, riprap, etc.
  - 2. Specific habitat types (quantity and quality)
  - 3. Temperatures of rivers, tributaries, estuaries, and oceans – ridge to reef
  - 4. Sediment movement and changes
  - 5. Water quality and quantity
  - 6. Other known habitat bottlenecks indicators
- B. Intermediate-scale: Aquatic communities, species numbers, diversity, and distributions

### **3. Integration of habitat and water quality data with fishery monitoring data through Geographic Information System (GIS) analysis**

## **4.0 MANAGEMENT PROGRAM IMPLEMENTATION**

### **4.4: Habitat Conservation and Restoration**

This section should emphasize that each state should implement identification and protection of habitat for the given species within its jurisdiction, in order to ensure the sustainability of important life history stages that either are produced or reside within its boundaries. It should also be noted that such efforts should inventory historical habitats, identify habitats presently used, and specify those that are targeted for recovery, and impose or encourage measures to retain or increase the quantity and quality of essential habitats for the given species.

Information from previous sections, including EFH (for joint Commission/federal plans), HAPCs, and other known habitat used by the species, should all be considered in crafting recommendations for fish habitat conservation and restoration. This will ensure protection of all values and benefits of habitat

for fisheries, and aid in making decisions on setting priorities for fish habitat restoration. This section of the plan should integrate the discussion from Subsections 1.4.1.1 through 1.4.1.4, in developing the recommendations for habitat conservation/restoration. These recommendations should come from an assessment of the qualitative and quantitative information on habitat, the health of the stock, and the status of the fishery.

Recommendations should be directed to the state marine fisheries agency, since these are the agencies involved in development of FMPs. Often the objective of habitat related recommendations will be carried out by another entity such as a state water quality agency. In these cases, the recommendation should be worded so that it directs the state marine fisheries agency to either communicate the recommendation to the other entity, or, to the best of its ability, ensure that the other entity meets the recommended objective. The recommendation must be clearly stated and may require substantial explanation in order to facilitate its implementation, especially when the objective may be met by another entity.

A number of habitat-related recommendations are listed below which may be appropriate for many FMPs and should be considered for inclusion in the habitat section. These recommendations should be considered in addition to the species-specific recommendations that should be identified from Subsections 1.4.1.1 through 1.4.1.4.

#### **4.4.1: Preservation of Existing Habitat**

##### ***Example Recommendations***

1. States containing spawning and other essential habitats, such as nursery areas, for the given species, should notify the appropriate federal and state regulatory authorities, in writing, of the locations of habitats utilized by the species.
2. Regulatory agencies should be advised of the types of threats to populations of the given species, and recommended measures that should be employed to avoid, minimize, or eliminate any threat to current habitat extent or quality.
3. Where sufficient knowledge is available, states should seek to designate essential habitats for the given species for special protection. These locations should be designated “High Quality Waters” or “Outstanding Resource Waters,” and should be accompanied by requirements for non-degradation of habitat quality, including minimization of non-point source runoff, prevention of significant increases in contaminant loadings, and prevention of the introduction of any new categories of contaminants into the area.
4. State marine fisheries agencies should coordinate with state water quality agencies and state coastal zone management agencies to ensure that Clean Water Act Section 319 non-point source control plans and Coastal Zone Act Reauthorization Amendment Section 6217 coastal non-point source control plans are developed and implemented so as to minimize adverse impacts of non-point source pollution on the species. In particular, marine fisheries agencies should consider whether areas merit designation as critical coastal areas under state 6217 programs (non-point source pollution control under the Coastal Zone Management Act amendments of 1990) due to water quality impacts to fish habitat, and should provide input to the 6217 lead agencies.
5. State marine fisheries agencies should coordinate with and provide input to the state water quality agency in development and updating of the Clean Water Act section 303(d) list (priority

list of water not meeting state water quality standards). In addition, state marine fisheries agencies should review the adequacy of water quality standards to protect the species of concern and should participate in the triennial review of the state water quality standards.

6. State fishery regulatory agencies should develop protocols and schedules for providing input on water quality state regulations to the responsible agency, to ensure to the extent possible that water quality needs for the given species are restored, met, and maintained.
7. State fishery regulatory agencies should develop protocols and schedules for providing input on Federal permits and licenses required by the Clean Water Act, Federal Power Act, and other appropriate vehicles, to ensure that habitats are protected for the given species.
8. Water quality criteria for spawning and nursery areas should be established or existing criteria should be upgraded to levels which are sufficient to ensure successful reproduction. Any action taken should be consistent with Federal Clean Water Act guidelines and specifications.
9. All state and federal agencies, including regional fishery management councils, responsible for reviewing impact statements and permit applications for projects or facilities which may impact spawning and nursery areas should provide appropriate recommendations or mandate measures to ensure that those projects will have no or only minimal impact on spawning stocks. Any project which would result in the elimination or significant degradation of essential habitat should be avoided.
10. State marine fisheries agencies should identify the state permitting and planning agencies that regulate those activities identified in Subsection 1.4.1.3 as likely to adversely affect HAPCs and habitats, either by destruction of habitat or degradation of quality. The marine fisheries agency should work with the relevant permitting or planning agency in each state to develop permit conditions and planning considerations to avoid or mitigate adverse impacts on HAPCs or other habitats necessary to sustain the species. Standard permit conditions and model policies that contain mitigation techniques should be developed. The development of Memoranda of Understanding (MOUs) with other state agencies are recommended for joint review of projects and planning activities to ensure that habitat protections are adequately incorporated. North Carolina passed the North Carolina Fisheries Reform Act in 1997, which requires the state to develop Coastal Habitat Protection Plans (CHPP). These CHPPs could be used a model for the implementation of planning process to protect HAPCs (e.g. Deaton et al. 2010). When impacts to a habitat or species are expected to occur from an activity described in Subsection 1.4.1.3, actions should be initiated to eliminate or substantially reduce these impacts. This could be in the form of limiting the time frame the activity could be done (e.g., establishing dredging windows to avoid impacts to susceptible life stages) or other acceptable alternative approaches that can be demonstrated to avoid or minimize harm.
11. State marine fisheries agencies should coordinate with appropriate state agencies to strengthen compliance with National Pollutant Discharge Elimination System (NPDES) or State Pollutant Discharge Elimination System (SPDES) permits.
12. State marine fisheries agencies should work with state coastal zone management agencies to determine whether:
  - a. additional state policies for habitat protection should be adopted under the state coastal management program
  - b. additional federal activities should be added to the state coastal management programs list of activities subject to state consistency review

- c. the state is fully utilizing the Coastal Zone Management Act federal consistency process for protection of fish habitats

#### **4.4.2: Habitat Restoration, Improvement, and Enhancement**

##### ***Example Recommendations***

1. Each state should review existing literature and data sources to determine the historical extent of occurrence of and habitat use by the given species within its jurisdiction. Further, an assessment should be conducted of areas historically but not presently used by the given species, for which restoration is feasible.
2. Every effort should be made to eliminate existing contaminants from habitats where a documented adverse impact occurs to the given species.
3. States should work in concert with the USFWS, Divisions of Fisheries and Ecological Services, and NOAA Fisheries, Office of Habitat Conservation, to identify hydropower dams that pose significant threat to maintenance of appropriate freshwater flows to, or migration routes for, spawning and/or nursery areas, and target them for appropriate recommendations during Federal Energy Regulatory Commission (FERC) relicensing evaluation.
4. When states have identified habitat restoration as a need, state marine fisheries agencies should coordinate with other agencies to ensure that habitat restoration plans are developed and funding is actively sought for plan implementation and monitoring.
5. State marine fisheries agencies should work closely with water quality agencies in the development or revision of river basin plans to identify degraded or threatened resources and recommend preventative, remedial, or mitigation measures.
6. State marine fisheries agencies should work with the appropriate agencies to develop contaminated sediment remediation plans or active sediment pollution prevention programs for areas with or susceptible to sediment contamination.
7. State marine fisheries agencies should coordinate with appropriate National Estuary Programs (NEP), National Wildlife Refuges (NWR), and National Estuarine Research Reserves (NERR) to ensure that NEP, NWR, and NERR Comprehensive Conservation and Management Plans identify and implement habitat protection and restoration needs.

#### **4.4.3: Avoidance of Incompatible Activities**

##### ***Example Recommendations***

1. Federal and state fishery management agencies should take steps to limit the introduction of compounds that are known or suspected to accumulate in fish tissue and that pose a threat to human health or fish health [see Table 10.1 in Taub (1990)].
2. Each state should establish windows of compatibility for activities known or suspected to adversely affect life stages and habitats of the given species, such as navigational dredging, bridge construction, and dredged material disposal, and notify the appropriate construction or regulatory agencies in writing.
3. Projects involving water withdrawal from spawning or nursery habitats (e.g. power plants, irrigation, water supply projects) should be scrutinized to ensure that adverse impacts resulting from larval/juvenile impingement, entrainment, and/or modification of flow, temperature and

salinity regimes due to water removal will not adversely impact spawning stocks, including early life stages.

4. Each state which contains spawning and nursery habitat areas within its jurisdiction should develop water use and flow regime guidelines which are protective of spawning and nursery areas and that will ensure to the extent possible the long-term health and sustainability of the stock. States should endeavor to ensure that proposed water diversions/withdrawals from rivers tributary to spawning and nursery habitats will not reduce or eliminate conditions favorable to use of these habitats by the given species.
5. When impacts are expected to occur from an activity described in Subsection 1.4.1.3, but probably not above some *de minimus* level, prohibition of the activity may not be warranted, but the marine fisheries agency should request that the appropriate agency consider requiring application of Best Management Practices for the activity.
6. State marine fisheries agencies should review oil spill prevention and response plans for preventing accidental release and recommending prioritized response in HAPCs.
7. State marine fisheries agencies should work closely with the appropriate United States Coast Guard District Office in the development, amendment, and implementation of area-wide oil spill contingency plans.

#### **4.4.4: Fisheries Practices**

##### ***Example Recommendations***

1. The use of any fishing gear or practice which is documented by management agencies to have an unacceptable impact on the given species (e.g., habitat damage, or bycatch mortality) should be prohibited within the effected essential habitats (e.g., trawling in spawning areas or primary nursery areas should be prohibited).

#### **4.4.5: Habitat Monitoring**

##### ***Example Recommendations***

1. States already conducting monitoring of estuarine, coastal, and marine habitats (for any reason) that are listed as HAPCs in the FMP should seek to coordinate habitat monitoring with ISFMP fishery data collection.
2. States already conducting monitoring of estuarine, coastal, and marine habitats (for any reason) that are listed as HAPCs in the FMP should seek to coordinate monitoring activities, including indicator selection, sampling methods, and spatial and temporal approaches.
3. Every effort should be made to eliminate duplication of effort among state, regional, and federal monitoring programs, and to coordinate monitoring across the species range and life history.
4. States should work with regional and federal programs to coordinate monitoring of estuarine, coastal, and marine HAPCs.
5. State agencies conducting restoration activities in HAPCs should work with all other agencies responsible for implementation of the FMP to develop a monitoring program that measures the effectiveness of restoration efforts.



## **5.0 COMPLIANCE**

### **5.1: Mandatory Compliance**

#### **5.1.1: Mandatory Elements of State Programs (*as applicable*)**

##### **5.1.1.5: Habitat Requirements**

FMP recommendations and requirements differ in that **requirements** are mandatory actions under the Atlantic Coastal Fishery Cooperative Management Act (P.L. 103-206 et. seq.), which may result in penalties if not implemented. An example of an issue that is appropriate to address as an FMP requirement is a significant impact to a HAPC from fishing gear. ISFMP staff species coordinators should be consulted for further information on the use of required measures in FMPs, and the appropriateness of habitat-related requirements that may be considered for inclusion in this section.

## **6.0 MANAGEMENT AND RESEARCH NEEDS**

### **6.2: Research and Data Needs**

#### **6.2.4 Habitat**

This section should contain any recommendations, preferably in priority order, for research that the Commission views as necessary for the sound management of the species and its habitat. This may include basic life history information, which will result in the more complete identification of the habitat requirements or bottlenecks of the species for all life stages, tagging studies for determination of migratory pathways and habitat use patterns, and other habitat related information. Recommendations should be developed by reviewing Subsections 1.4.1.1 through 1.4.1.4, and identifying topics requiring further information.

Research recommendations should provide for the comprehensive identification of the habitat requirements of the species, or species assemblages, that define the interrelationship between the species, its environment, potentially perturbing natural and human activities, and habitat bottlenecks. Research is encouraged at an appropriate spatial and temporal scale that is directed at determining and reasonably predicting the impacts of natural and human activities on HAPCs. The habitat research plan of the NOAA Fisheries may be a useful reference, since it provides a framework to conduct coastal and estuarine research, and, most importantly, transfers results to those management components involved in permit reviews and development of habitat sections of FMPs.

**APPENDIX 4. REFERENCES**

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## HABITAT COMMITTEE Report to ISFMP Policy Board for August 2013

### **American Lobster Habitat FMP Section**

The American Lobster Technical Committee has reviewed the draft lobster habitat section written by Dr. Jason Goldstein. The Habitat Committee (HC) is developing content for the habitat monitoring and management recommendations for the FMP. The habitat addendum will be presented to the American Lobster Management Board at the ASMFC Annual meeting for consideration and approval for public comment.

### **Red Drum Habitat FMP Section**

*Draft Addendum I to Amendment 2 to the Interstate FMP for Red Drum: Habitat Needs and Concerns* was open for public comment until June 30, 2013. No comments were received. The draft addendum will be presented to the South Atlantic Board for consideration and final approval at the ASMFC Summer meeting.

### **Habitat Program Guidance (aka Operational Procedures Manual)**

The HC is submitting a draft of the *Habitat Program Guidance* (formerly known as the *Habitat Program's Operational Procedures Manual*) to the ISFMP Policy Board for consideration and approval at the ASMFC Summer meeting. These revisions are in response to the recommendations from the Habitat Program Review and to comply with the guidelines in the *Technical Committee Guidance and Assessment Process* document. The new document includes a goal for the Program (rather than a mission and vision), a better description of the chair, vice chair, committee members and coordinator responsibilities, a description of the annual work plan, which monitors the HC's progress towards completing their action plan tasks, as well as many other revisions.

### **Upcoming Meetings and Tasks**

The Habitat Committee plans to hold a conference call on August 22 and meet in person during the ASMFC Annual meeting. During the conference call, the HC will discuss its Action Plan for 2014 and working groups will provide progress updates on their tasks. At the Annual Meeting, the HC will:

- Receive an update from ACFHP;
- Review progress towards completing its 2013 Action Plan tasks and the draft 2014 Habitat Action Plan, including development of the Sciaenid Source Document;
- Receive an update on the Fish Passage program from Jeff Kipp (ASMFC Stock Assessment Scientist);
- Review the Habitat Bottlenecks Working Paper for Commission-managed species with poor stock status;
- Discuss the progress of the *Habitat Hotline Atlantic*; and
- Review the final draft of the *Habitat Management Series: Habitat Considerations for Nearshore and Estuarine Aquaculture*.