

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

*May 2, 2012
3:30 p.m. – 6:00 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/Call to Order (<i>P. Diodati</i>) | 3:30 p.m. |
| 2. Board Consent | 3:35 p.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from February 2012 | |
| 3. Public Comment | 3:40 p.m. |
| 4. Compliance Committee Report (<i>J. Gilmore</i>) | 3:45 p.m. |
| 5. Assessment Science Committee Report (<i>P. Campfield</i>) | 4:35 p.m. |
| 6. Law Enforcement Committee Report (<i>M. Robson</i>) | 4:55 p.m. |
| 7. NEAMAP Report (<i>R. O'Reilly</i>) | 5:10 p.m. |
| 8. Discussion on Research Set Aside Program (<i>R. Beal</i>) | 5:35 p.m. |
| 9. Other Business/Adjourn | 5:55 p.m. |

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

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

*May 3, 2012
11:45 a.m. – 12:15 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>) | 11:45 a.m. |
| 2. | Board Consent (<i>P. Diodati</i>) <ul style="list-style-type: none">▪ Approval of Agenda | 11:50 a.m. |
| 3. | Public comment | 11:55 a.m. |
| 4. | Review of Non-compliance Findings (if necessary) | 12:00 p.m. |
| 5. | Other Business/Adjourn | 12:15 p.m. |

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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, May 2, 2012
3:30 p.m. – 6:00 p.m.
Alexandria, Virginia

Chair: Paul Diodati (MA) Assumed Chairmanship: 11/11	Vice Chair: Louis Daniel (NC)	Previous Board Meeting: February 8, 2012
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 February 8, 2011

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. Compliance Committee Report (3:45 p.m.-4:20 p.m.)

Background

- The Policy Board agreed to convene a committee of Commissioners to examine issues related to actions taken by several states to extend their recreational fisheries for scup.
- The Committee reviewed the Commissions policies related to calling board meetings, the definition of an emergency, and the Commission's ability to respond to a state or group of states deviating from an FMP with no apparent conservation impact and provided an initial report at the Winter Meeting.
- The Committee met a second time to complete the charge from the Policy Board.

Presentation

- The Committee Chair, Jim Gilmore, will present the results of the Committee's second meeting and the recommendation for next steps.

Board actions for consideration at this meeting

- Determine if the Policy Board should take any action based on the recommendations from the committee.

5. Assessment Science Committee Report (4:20 p.m.-4:40 p.m.)

Background

- The Assessment Science Committee met on April 2, 2012.
- Previous recommendations to the Board from ASC regarding stock assessment capacity

<p>issue included the following: <i>Modify assessment frequencies to reflect each species' stock status and life history.</i></p>
<p>Presentations</p> <ul style="list-style-type: none"> • Staff will provide an update on ASC activities.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • Review and approve the stock assessment schedule through 2015 • Provide direction to ASC on evaluating assessment frequencies for Board consideration, in order to address assessment capacity recommendation • Provide direction to ASC on developing Commission guidance on use of new MRIP estimates in stock assessments and Technical Committee analyses • Provide direction to ASC on 2012 Action Plan tasks regarding uncertainty

<p>6. Law Enforcement Committee Report (4:40 p.m.-4:55 p.m.)</p>
<p>Background</p> <ul style="list-style-type: none"> • The Law Enforcement Committee will meet on May 1, 2012
<p>Presentations</p> <ul style="list-style-type: none"> • The Law Enforcement Committee Coordinator will present a summary of the LEC meeting.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • None

<p>7. Update on FY2013 Federal Budget (4:55 p.m.-5:10 p.m.)</p>
<p>Background</p> <ul style="list-style-type: none"> • The President has submitted the FY2013 budget request. The request will likely have an impact on the ASMFC, NMFS, and the states.
<p>Presentations</p> <ul style="list-style-type: none"> • NMFS staff will provide an update on the status of the FY 2013.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • Is a Commission response needed regarding the FY 2013 budget.

<p>8. NEAMAP Report (5:10 p.m.-5:35 p.m.)</p>
<p>Background</p> <ul style="list-style-type: none"> • The NEAMAP Board met on February 17, 2012. • Received updates on the 3 NEAMAP program trawl surveys • Discussed the use of NEAMAP trawl surveys data in stock assessments • Completed 2012-2016 NEAMAP Management Plan
<p>Presentations</p> <ul style="list-style-type: none"> • NEAMAP Board Chair will provide an update on NEAMAP activities.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • None

9. Discussion on Research Set Aside Program (5:35 p.m. – 5:55 p.m.)

Background

- The Mid-Atlantic Fishery Management Council and NMFS administer a research set-aside (RSA) program for a number of species including summer flounder, scup, black sea bass, and bluefish.
- The Summer Flounder, Scup, and Black Sea Bass Management Board held a conference call in March and raised concerns regarding the administration of the RSA program.
- The Board requested that this issue be added to the Policy Board agenda for further discussion.

Presentations

- Staff will present a brief background on the program highlighting the administration and research that has been funded.

Board actions for consideration at this meeting

- Determine if the Commission wants to notify the Mid-Atlantic Council of its concerns regarding the RSA program.

10. Other Business/Adjourn

MEETING OVERVIEW

ISFMP Policy Board Meeting
Thursday, May 3, 2012
11:45 a.m. – 12:15 p.m.
Alexandria, Virginia

Chair: Paul Diodati (MA) Assumed Chairmanship: 11/11	Vice Chair: Louis Daniel (NC)	Previous Board Meeting: February 8, 2012
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

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- Approval of Agenda

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4. Review Non-Compliance Recommendations (If Necessary) (12:00 p.m.-12:15 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

5. Other Business/Adjourn

DRAFT

DRAFT

DRAFT

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 8, 2012

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INDEX OF MOTIONS

1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of November 10, 2011** by Consent (Page 1).
3. **Move to adjourn** by consent (Page 32).

ISFMP POLICY BOARD

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Loren Lustig, PA (GA)
Douglas Grout, NH (AA)	Gene Kray, PA, proxy for Rep. Schroder (LA)
Dennis Abbott, NH proxy for Rep. Watters (LA)	Roy Miller, DE (GA)
Ritchie White, NH (GA)	David Saveikis, DE (AA)
Paul Diodati, MA (AA), Chair	William Goldsborough, MD (GA)
William Adler, MA (GA)	Tom O'Connell, MD (AA)
Bob Ballou, RI (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Catherine Davenport, VA (GA)
David Simpson, CT (AA)	Louis Daniel, NC (AA)
Lance Stewart, CT (GA)	John Frampton, SC (AA)
Rep. Craig Miner, CT (LA)	Robert Boyles, Jr., SC (LA)
James Gilmore, NY (AA)	John Duren, GA (GA)
Pat Augustine, NY (GA)	Pat Geer, GA, proxy for S. Woodward (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Aaron Podey, FL (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	A.C. Carpenter, PRFC
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Jaime Geiger, USFWS
Leroy Young, PA, proxy for J. Arway (AA)	Carrie Selberg, NMFS

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

Ex-Officio Members

Staff

Vince O'Shea
Danielle Chesky

Bob Beal
Toni Kerns

Guests

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, February 8, 2012, and was called to order at 2:30 o'clock p.m. by Chairman Paul Diodati.

CALL TO ORDER

CHAIRMAN PAUL DIODATI: Welcome to the Policy Board Meeting. We are going to start. I think the only introduction is at least one new commissioner; and if I miss someone I'm sure I will be reminded, but Steve Train from Maine, who I don't see at the table right now, but we certainly welcome him to the ASMFC Family. Go ahead, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: The second is we did get a letter of notification that Aaron Poday has been officially designated by Jessica McCawley from Florida.

CHAIRMAN DIODATI: Is he administrative commissioner? Welcome, Aaron; you're not a stranger to the board, though. With that, I'm going to announce one change to the agenda, and that is moving up the discussion of Atlantic sturgeon to become Item 6. That will move that discussion up; so with that change, is there approval of the agenda? Terry.

MR. TERRY STOCKWELL: Mr. Chairman, I would like to add some discussion on clarification guidance for external assessment review and probably under Pat's report on the assessment capacity. It's in reference to some actions we've had with the Shrimp Section this winter.

CHAIRMAN DIODATI: Okay, I don't see any reason not to approve that; so that's fine and we'll add that. Anything else?

MR. STOCKWELL: Thank you for your introduction of Steve who is over on the Hill this afternoon.

CHAIRMAN DIODATI: Okay, getting us some money, great. Approval of the agenda; seeing no reason not to, we will move forward with that.

APPROVAL OF PROCEEDINGS

Approval of the proceedings from the November meeting; have you looked at those meeting minutes.

I see Pat Augustine nodding and other nods around the table. I think there is a consensus for approval.

PUBLIC COMMENT

There is opportunity for public comment. We will go to the audience. I see Patrick has his hand up. Go ahead, Patrick.

MR. PATRICK PAQUETTE: Paul, I'm Patrick Paquette. I'm a recreational fishing advocate from Massachusetts. Yesterday I waited for the Policy Board to bring up a subject. Yesterday over three different management board operations, three different working groups were established. At each one of them, using different language, the AP Chairs were asked to or approved to participate in those working groups. The language in each one was different and the message was a little bit confusing.

I wanted to ask the Policy Board – I thought it was most appropriate because I'm of the opinion that in each one of these cases that the advisory panels should be convened in some way, whether that's digitally by webinar or in actual meetings, to comment on the three subjects. One was in river herring, sea herring and striped bass.

In each case each one of the APs, being personally familiar with the membership of all three, each one of those APs are very diverse, have very strong opinions going in many different directions, and I don't think it's fair to ask any AP Chair to represent that many different ideals without having input from the body. In other words, I'm a big believer in giving the advisory panels a voice.

I thought it was more of a policy question than making arguments at individual boards. I just wanted to – I guess this is part question and part suggestion, but the question is, are those three APs going to formally be asked to comment and advise those working groups? If not, maybe the Policy Board should – maybe there should be a policy as to how APs interact with working groups.

MR. ROBERT E. BEAL: In those three instances, two management boards and the section all agreed that the advisory panels would meet and they would funnel their information to the working group, and the working group would incorporate that information into the deliverables that they have to the board and then bring it forward. All three of those advisory panels will be meeting prior to the working group taking action.

MR. PAQUETTE: Beautiful! Thank you, Bob, because like I said it was a little bit confusing to of us that were discussed them afterward.

CHAIRMAN DIODATI: Anyone else from the public that wants to address the board before we begin? Ritchie White.

MR. WHITE: I would just like to thank Vince and the staff for the new microphone setup. I was clearly one that complained about it sitting next to Vince, and I think this is a great addition. It clearly has shown how much better it works than the old ones.

CHAIRMAN DIODATI: How long did we have the old ones? Fifteen; well, you're going to get to know these pretty well, Ritchie. Going back to introductions, I see Carrie Selberg here today, and I want to welcome Carrie because it looks like you're here as a member of the board. Of course, you're a former member of the ASMFC staff, so welcome, Carrie. Would you like to say hello?

MS. CARRIE SELBERG: No, just thanks; it's good to be here.

ANNUAL AWARD OF EXCELLENCE PRESENTATION

CHAIRMAN DIODATI: We have an award ceremony today. It's the Award of Excellence, and I think our vice-chair is going to say a few words about this.

DR. LOUIS DANIEL: Yes, when I saw that this individual was going to be here this week, I was very glad to see him for many reasons, but mainly because he was my major professor in Charleston, at the College of Charleston. He was my mentor and probably still is today. Really a lot of what I do, I think back on my three years in Charleston, and it was probably the three best years of my life working with South Carolina Wildlife. Charlie Wenner was one of the main reasons for that.

The success that I have had I think is directly attributable to him or the fault of him, depending upon where you sit. He is probably one of the best fish biologists I have ever known. Probably the biggest thing that Charlie always emphasized to us was numbers. You never had to worry when you dealt with Charlie on a technical committee that you weren't going to get enough numbers.

If folks couldn't come to the table or if they couldn't make it work for otolith ages, you knew you could

send them to South Carolina and Charlie would get it done. For croaker, for red drum, for weakfish the body of work that this gentleman has produced – he doesn't have a lot of peer-reviewed publications. I've got one and I think he beats me; he has got a lot more than that.

He looked at the literature putting the information together that really benefited management of marine fisheries along the east coast of the United States. It is with great honor and pleasure that I would ask Dr. Charlie Wenner formally with the South Carolina Wildlife and Marine Resources Division to come to the front of the table here for just a moment.

The man catches more speckled trout and red drum, taught me how to catch speckled trout and red drum, got me in graduate school, so he has done a lot of good things and a lot of bad things, probably. Charlie, on behalf of the ASMFC I would like to present to you the Annual Award of Excellence for your scientific, technical and advisory merit. Congratulations! (Applause)

DR. CHARLIE WENNER: Thank you very much. I have worked with a lot of really nice people on these technical committees, a lot of the unsung heroes that worked for states and universities and whatnot that provide the information for these plans. I consider them the unsung heroes.

The one thing that I tried to live by when I collected information was that this information was going to be used to tell people or to manage the way that people conduct their affairs when it comes to fishing, so I tried to make it the best I could. It has been a pleasure to know many of you, and it has been a pleasure to know Louis, sometimes more than others, but thank you very much. I appreciate it. (Applause)

COMPLIANCE COMMITTEE REPORT

CHAIRMAN DIODATI: Okay, we actually had a subcommittee to work on a compliance committee report. I know that Jim Gilmore, chair of that committee, spent some time putting together a very lengthy presentation. He says he needs 90 minutes to run through this. No, I'm only kidding. Jim, why don't I just turn this right over to you, you frame it up and provide your report.

MR. JAMES GILMORE: I only said 90 minutes because I knew Gordon was going to be here and I had to upstage my old boss. Just to set the stage on this a little bit, I think most of you are aware at the end of scup season last year there were three northern

states, New York, Connecticut, and Rhode Island, that had extended the scup season beyond the FMP requirements because of an overage that we had – or actually for underharvest so we had a significant amount of fish left in the water, and this created some issues in terms of the commission in its operations and some new issues about emergency interpretations in calling meetings.

Chairman Diodati had charged a committee at the annual meeting after we had a couple of meetings at the executive committee and some other discussions during board meetings at the annual meeting to look at this. Paul had charged the committee to actually look at this and came up with some charges to the committee.

If you look at the PowerPoint, the committee was charged to examine the following issues. The first one was the practice and adequacy of the procedures in the commission regulation for calling board meetings; secondly, the meaning, application and adequacy of the definition of an emergency in the ISFMP Charter; and, third, the extent and adequacy of actions available to the commission to respond to state or states deviating from an FMP when the resulting action does not jeopardize conservation of the stock.

The committee is to identify any problems within these above areas and develop a proposed range of solutions. If status quo is recommended, the committee shall provide a rationale for that recommendation. The committee shall make its first report to the policy board at the February 2012 meeting.

Included in the charge from the chairman was the assemblance of a committee that was formed pretty much at the annual meeting, and the members of the committee included myself, Dennis Abbott, Robert Boyles, Bill Cole, John Duren, Adam Nowalsky, Jack Travelstead. We had a conference call on January 27th. Dave Simpson is a member of the committee. He was actually at a summer flounder meeting that day so he didn't make it. However, Malcolm Rhodes did sit in.

Bob Beal led the charge on this in terms of putting a lot of good background documents together to help the committee do their work. The conference call was very productive; and from that we came up with some products and some more work to do. First off, the committee divided the tasking into four components.

The first one was the practice and adequacy of the procedures in the commission's regulation for calling a board meeting; secondly, the meaning, application and adequacy of the definition of an emergency; third, the commission's ability to respond to the states deviating from an FMP; and then fourth, because of the issue that the scup situation had presented, that we sort of had a new animal or a new issue to deal with, was increasing the flexibility for species management boards.

I am going to take these one at a time and go over what we at least concluded on the call what we came up with in terms of decisions. First off, Item 1, the practice and adequacy of the commission's for calling a board meeting, we felt pretty much that the current language is appropriate for calling the meetings, and there were no changes recommended to the regulations.

There was quite a bit of discussion that recognized that the procedures for calling extraordinary meetings really need to follow points of consistent criteria, adherence to action plan and budget, encouragement to use the four scheduled commission meetings and then consider the consequences that might affect all the states if we suddenly had some of these meetings weren't called with some consistent criteria.

The second point, the meaning, application and adequacy of the definition of an emergency, Bob had done some research and found that the commission has infrequently used emergency actions to modify FMPs in response to urgent, unforeseen and serious conversation issues. It turns out we've only had eight emergency actions since 2001. Modifying the definition of an emergency would be difficult given the range of emergency provisions in state laws.

Modifying the emergency language to increase flexibility for boards may result in more frequent use of emergencies to address management, and this would decrease the transparency and public participation. Crafting language in the Charter to increase flexibility for all FMPs may not be possible or will result in overuse of emergency actions.

One footnote here; it was very helpful to have folks like Bill Cole and Jack Travelstead on this because Bill in particular had been around when I guess the first emergency language was crafted and I think his advice was you don't want to touch this. I think that was the southern accent I could do, but it was pretty good advice.

The third point was the commission's ability to respond to states deviating from an FMP. The committee agreed that non-compliant provisions in ACFCMA are adequate and effective in addressing issues where there is a conservation impact. However, the committee indicated there were not sufficient options to address short-term non-compliance and deviations that don't impact conservation.

And, again, back to the situation, we're in a new world where we're having too many fish as opposed to not having enough. We agreed to do the following. The recent actions regarding scup highlighted deficiencies in the system to address deviation from the FMPs, so we needed the staff – and this was a good point Jack raised up about there are legal issues involved with penalizing states through action such as reduced future quotas, reduced ACFCMA funding, et cetera.

There were some suggestions about maybe some slap on the wrist or some actions that could be taken, but because of the issues between states and federal and different legislations, that there are legal requirements that we have to look at. Again, this was one of the things from my state's perspective is that we had a conflict between our state conservation law and what the operating principles of the commission were, so that's something that we really need to explore a little bit more.

Consideration should be given to including delayed implementation provisions in other FMPs and removing the link to conservation to invoke delayed implementation penalties. State deviations from an FMP cause significant problems for all states and for the commission process. Lastly, additional committee discussions will be needed to fully develop options to address state deviations, so we have a little more work to do on that.

The last point, increasing the flexibility for species management boards, this was something that I think was a little bit on the more positive side in terms of how we can go into the future. Additional flexibility should be provided to the boards especially for fully rebuilt stocks. Modifying the Charter to do this would not be appropriate and generic language was not possible because there were so many differences in different species in terms of their condition and management that it would be almost impossible to do that

The committee agreed to do the following. Each species board should consider modifying FMPs to

provide increased flexibility for in-season adjustments if the stock is fully rebuilt; and again not all FMPs will need to be modified. The FMPs already include conservation equivalency provisions that provide flexibility to the states, and the transparency and public comment process should be considered when boards explore details to increase flexibility. I put our catalyst species up there just as an ending slide. Thank you; that's end of my report.

CHAIRMAN DIODATI: Great report, Jim, thank you. Any questions for Jim? I see none. Jim, you and members of the committee did a great job. I'll just ask is there going to be a written summary that we could probably have for the file? I'd like to have that.

MR. GILMORE: Bob handed out a summary of the report.

CHAIRMAN DIODATI: I have it as well and I wanted to make sure everyone has that. I don't think we need a motion to approve it, but I appreciate your work on this. Do you have any final recommendations or do you feel the committee's work is complete at this point?

MR. GILMORE: On that third item that we had to do, there were a few loose ends on that, and I think we were going to have maybe one more conference call just to discuss that a little bit more. Other than that, I think we're pretty well completed.

CHAIRMAN DIODATI: Okay, great. Jack, go ahead.

MR. JACK TRAVELSTEAD: I think we also wanted some clarification on those legal issues which I think staff was going to look into.

DISCUSSION OF ATLANTIC STURGEON ESA LISTING

CHAIRMAN DIODATI: Any other additions to that report? Okay, we'll look for an amended report for our next meeting, which is in May. The next item on the agenda is the discussion on Atlantic sturgeon relative to ESA listing. I think we have a visitor to provide that; Lisa Manning.

MS. LISA MANNING: Thank you for inviting me. I'm Lisa Manning. I'm from the Silver Spring Office of Protected Resources. I think since the final listing rules were published on Monday for Atlantic sturgeon, the burning question on a lot of people's minds is so what happens now? I'm going to just

give a really quick presentation to sort of go over what some of the questions and answers might be to that very question.

First to do a real quick recap of the events leading up to the actual listings that were published on Monday, back in July 2007 we did a status review. That was actually not the first status review for Atlantic sturgeon. It was an update of the 1998 status review. Several years later we actually received a petition from the Natural Resources Defense Council to list Atlantic sturgeon under the Endangered Species Act and to designate critical habitat for them.

We reviewed that petition and we published a positive 90-day finding which said we concluded that their petition did present substantial scientific evidence that listing was warranted. Then following the statutorily dictated timelines we actually came out with a proposed rule on October 6, 2010. Some of you were probably here when Kim Damon-Randall from our Northeast Regional Office came and gave a presentation to the board on those proposed rules.

Following the proposed rules, we had a 120-day public comment period, six public hearings and a long process. The final rules, of course, came out this past Monday. Those rules will become effective on April 6th. The next steps from here in terms of regulatory actions are we will be working on critical habitat and that will be done through separate rulemaking.

Also, still with recapping our events a little bit, the listing determination was to list five separate distinct population segments. Those were the Gulf of Maine DPS, New York Bight DPS, Chesapeake Bay DPS, Carolina and South Atlantic. One was listed as threatened, that's the Gulf of Maine DPS, and the rest were listed as endangered. The big threats, the real biggies are bycatch and habitat loss and degradation.

Moving on to our main piece here is once species are listed as endangered, take prohibitions become automatically applied to those species; so take meaning harm, harass, hunt, shoot, wound, trap, collect or attempt to do those things. Those DPSs or distinct population segments that were listed as endangered, those take prohibitions will become effective on April 6th.

The ESA, of course, has mechanisms to authorize take, so I'm just go over what some of those are and then, of course, just ask any questions you have as I go through these. I will start with Section 7 of the

ESA, and this only applies to federal action, so things that are federally funded, authorized or carried out.

To talk about what is already in the works, we're doing some analyses to already parse out which DPSs are being taken as bycatch in different federal fisheries so we can cover as many federal FMPs as possible by that effective date of the listing, so that's underway. What happens through Section 7 is we come up with – if we find that the federal action is going to jeopardize the listed species or adversely modify their critical habitat, which we don't have yet, we come up with reasonable and prudent alternatives to avoid that jeopardy or we come up with reasonable and prudent measures which are things that are considered necessary to mitigate the impact of that take. Those are the kinds of things we do through the Section 7 process.

Then we also have Section 10(a)(1)(A), which applies to scientific research and enhancement activity, so captive, propagation and release kinds of activities to sort of minimize the impact of these landings on ongoing projects, a lot of which we're actually involved with and/or funding. To minimize any impact on those research projects, we actually implemented a sort of pre-application process where we got people to come in with applications for scientific research permits before the listings went into effect, and we sort of got those in the pipeline.

We have 12 research permits that we really expect to have out the door as close as possible to the effective date of that listing. Last but not least we have Section 10(a)(1)(B). This applies to non-federal entities and it applies to incidental take, so take that's incidental to another wise lawful activity.

What is going on under Section 10(a)(1)(B)? I can run down a few items. The state of Georgia or Georgia DNR has already submitted an application for an incidental take permit to cover their shad fishery. That permit application should be coming out in the Federal Register soon for a required 30-day public comment period. South Carolina has gotten permission to have a copy of that application and they're in the process of developing their own application to cover their shad fishery, and they're modeling their application after the Georgia one.

Also, just to put in a plug for our Species Recovery Grants Program, we're funding some ongoing work that the New York DEC is doing in partnership with Stony Brook. They are looking at Atlantic sturgeon movements in particular marine aggregation areas to sort of develop some kinds of time/area management

scenarios that could be the basis for a conservation plan and incidental take permit application. Those are some examples of what is already going on there with 10(a)(1)(B).

We have lots of other examples of these kinds of permits on the west coast where we've issued some for the states of Washington, Idaho, Oregon; a lot for recreational fisheries and hatchery activities. And then some questions, of course, have already been coming in; so just to recap some of the questions we've already seen since they might be the same as one you have; how long does it take to get an incidental take permit?

The answer to that is it's really incredibly variable. It really depends on a lot of factors. It could be six months to years. I noted some of the steps that are actually just required in that it requires that there be a complete application. There is a required 30-day public comment period. A NEPA analysis is required; and then last but not least a Section 7 Consultation that we do on issuing that incidental take permit. So a lot of steps, so it can be pretty involved, but it doesn't always take the years, which is the long end of the range I indicated.

Then another question we have seen is, is ASMFC considered a federal agency for purposes of Section 7, and the answer to that is no. Another question is can we delay the effective date of the listing so that states can get incidental take coverage for all their fisheries; and again unfortunately the answer to that is, no, there is no mechanism under the Endangered Species Act to delay the effective date of the listings once they have been published.

And then I just put some names up there for folks wanting to know who do I talk to, who do I call to get information if I want to start developing an incidental take permit application. There folks in both of our regions that I've listed as contacts, both of which you probably already know. Also, since these permits are likely to be issued out of headquarters, I have noted another contact in the office where I am at. That is all I was going to say formally, but I guess if there are any questions I can attempt to answer them.

CHAIRMAN DIODATI: Okay, Lisa, I think there will be some questions. I have one first. Can you just clarify for the Gulf of Maine DPS; there is really none of this requirement required there, right?

MS. MANNING: That is correct, not at this time. We have already proposed protective regulations for the Gulf of Maine DPS. It's not going to be too far

off in the future that a final rule will be coming out. The public comment period for that rule closed in August, I believe, so we're not too far out from issuing a final regulation that would prohibit most forms of take for that DPS.

MR. TRAVELSTEAD: I'm not that familiar with these take permit applications, and I'm wondering if you could describe in some general terms how involved is that process; and maybe even Georgia, since they've already filled one out, could talk about how involved it is, how much time it takes, what it contains, et cetera.

MS. MANNING: I believe you're mostly asking about the incidental take permits. The application typically involves what we call a conservation plan or some folks will refer to it as a habitat conservation plan. It's not habitat-specific so that's kind of a bad name. In that plan the applicant would have to include things like the numbers of take that they estimate or the numbers of animals they expect to be taken as bycatch in the particular fisheries they're applying for that are involved with the incidental take permit they're after.

You need to have that basic understanding this is what we think is happening; this is how many fish we think we're taking annually or whatever. Also included in the plan has to be measures to minimize and mitigate the impact of that incidental take. In the case of New York, they're doing research right now to look at what would those things be, what would they look like, so they're trying to get a handle on where these fish are in certain areas and times.

The idea would be, then, to come up with something that would be a seasonal or area-based management measure that would minimize and/or mitigate the take of Atlantic sturgeon. It has to have to have those components. Another component is there has to be mentioned, too, about a funding source. The measures that you indicate in the plan, there has to be a way to pay for those. They can't just be on paper, so that's kind of often a difficult little bit.

Those are some of the basics. Then a lot of times the state or the agency – in this case we're talking about state agencies – will actually help prepare the NEPA analysis, which can really greatly speed things along if we work on that together. Those are two of the major first pieces that need to come together. I don't know if someone from Georgia wants to –

MR. PATRICK GEER: Jack, I can't speak specifically about the Section 10 because that's going

through our freshwater folks, but at least one component of that – I know it took them a fair amount of time – the Section 7 Consult, we’ve had to do a few of those for our research projects and it’s a fair amount of work. You’ve got to gather all your information.

The concern we have is that the delays occur. You’re going to be bombarded with a bunch of these requests, and how is that going to delay. You said six months to years, and the concern we have is, well, there is no time limit on how long before they get approved even if all the information is provided. We had a Section 7 Consult that took about two years to complete. We have two in the hopper right now that have been there since April that we’re still waiting on, and that is just one component of this.

MR. TRAVELSTEAD: I’m going to speed up my retirement process. Thank you.

MR. WILLIAM A. ADLER: First of all, because it’s the Endangered Species Act, does this go to the beach or just in federal waters? That’s my first question; the rules that come out go right to the beach like with the whale issue? That’s Question Number 1.

MS. MANNING: It’s everywhere the species occurs. The listing covers the actual species so it’s not by location.

MR. ADLER: Second question; when you say threatened versus endangered and you said that there is something going to come out for the Gulf of Maine where it’s threatened; is that going to be similar to the rules for endangered? That’s my second question; I’ve got one more.

MS. MANNING: When a species is listed as endangered, it receives the automatic protections of the Endangered Species Act, and so for take for an endangered species it’s automatic that take is prohibited, so the take definition is that long phrase. Harm, hunt, pursue, shoot one, all those activities are automatically prohibited for the endangered.

For the threatened we have more flexibility. What we do is issue a separate regulation. Sometimes it can be done along with the listing, but that carves out specifically what is going to be prohibited for a threatened species. The presumption, of course, is if you’re endangered you’re a lot worse off.

If you’re threatened, there might be some things that you could be less restrictive about. In the case of the

Gulf of Maine DPS, the particular things they carved out were scientific research and I think some salvage kind of activities that you would otherwise need a permit for. The final rule isn’t out yet so I don’t know what the specifics will ultimately be, though.

MR. ADLER: And the last question is being very familiar with the large whale take reduction team, do you envision that the Service will establish one of those types of a take reduction team for this species?

MS. MANNING: No, those kinds of teams are specific to an MPA species. I’m not sure; we do have other folks that sort of work collectively on sturgeon issues, but I don’t think it equates to a take reduction team. We will have a recovery team, which is different, but one of the next steps I didn’t mention is that we’ll have to develop a recovery plan for these listed sturgeon. That usually is a team – often states are involved in developing those, and those list what things are going to be needed, what actions are needed to recover the species and get them off the list.

CHAIRMAN DIODATI: Vince, did you want to say something about this?

EXECUTIVE DIRECTOR O’SHEA: I had a question, Lisa. Terminology seems to be important because when you say “take”, most of us just think that’s take it out of the water and take it home, and it means a lot of other things and not necessarily mortality. I think the worse case scenario is state-managed fisheries that have a catch of Atlantic sturgeon, and maybe you could walk through what is going to be the process to determine how much of that bycatch is acceptable and when that sort of ruling, if you will, to either stop that fishery or to allow that fishery, when that would take place.

MS. MANNING: To stop the fishery, you’d have to have a jeopardy determination and a lot can happen. That’s a conclusion of a Section 7, and a lot can happen along the way to sort of craft a way to minimize or mitigate the incidental take to avoid jeopardy. I can’t really answer your question. I’m just glad that I don’t do Section 7. It’s not easy.

Your question basically is how much is too much, and that is what you have to try and assess with the information you have, which can sometimes be limited and complex, and use that information to make a conclusion. That doesn’t mean that conclusion is final in the sense that once that biological opinion is issued, for example, or that permit is issued.

It can be revisited and things can change. We've had people come in, you know, my take limit is such and such, we now know there are tons more fish out there or something; can we increase our take limit, and the answer is yes. That happens with the research permits, which I'm more familiar with.

EXECUTIVE DIRECTOR O'SHEA: I understand. The issue in my mind, so this thing happens on the 1st of April, right, and so the states are all conducting fisheries – or not all of them but we have fisheries where there is interaction with sturgeon, so is incumbent on the states to start the process to document what that interaction is and then bring that back into the process to get a determination whether the fishery could be conducted. Then the next question is that's for state-managed fisheries; what is happening in the federally managed fisheries where there is interaction with sturgeon?

MS. MANNING: I think if I understood your first part is, is the first step the state deciding to come in for the application, and the answer is yes. We can't force you to come and do all the work that goes into putting together this permit application and saying here is our conservation plan and here is what we would do; give us the incidental take coverage. We can't force you to do that. We have listed species that are taken as bycatch in fisheries that do not have incidental take permits. That's just the reality.

The other reality is that it does put the states at litigation risk. That take is illegal take; and if someone is paying attention and is I love Atlantic sturgeon and they know that this is going on and they don't feel that something is being done about it, yes, there could be a lawsuit. If someone North Carolina is here, they can probably talk about that with sea turtle issues going in their state. That hopefully answers the first part.

The second part is we are working towards getting biological opinions together and analyses together to support a Section 7 Consultation on federally managed fisheries. The goal is to have as many of them covered as possible close to that effective date of April 6th. The biggie on the list is the monkfish fishery, and then there are four others they've identified. I think those are their priorities. They're working on those now. They have been working on some white papers to support the analyses, the things that you were kind of asking about like how do you know when enough is enough. They are working away on that.

EXECUTIVE DIRECTOR O'SHEA: So the motivator here is for outside people to look at what the states are doing; and if it's not moving in the direction to document that respond to the interaction, then it would be coming from outside forces as opposed to the federal government looking at a state fishery and trying to do something?

MS. MANNING: Yes, and then maybe on the positive side I could add that we would encourage you to come in for the incidental take permit. We do have funding through the Section 6 Program, and that's the Species Recovery Grants I mentioned. That's a great source to try and get funding to support some of the groundwork that might be needed to even develop an incidental take permit application.

Sometimes you don't have data readily available. Maybe you do or don't but say you don't have a great handle on what the level of take of Atlantic sturgeon is in a particular fishery and you want an incidental take permit for that fishery. We can fund the research that might need to be done or something along those lines or a gear modification study that you really want to do but the agency doesn't have money to fund, so we can try to support some of that work through our grant program.

CHAIRMAN DIODATI: Okay, I am going to run through the list, but I have ten people waiting. As I go through the list, think about your questions. I suggest you keep them short questions for today; but given that this is an important issue to a lot of people around the table, I'm going to suggest that these questions be recorded; that if you have other questions, maybe ASMFC staff could facilitate one letter on behalf of the representatives here that could get responded to by NOAA Fisheries rather than getting 15 or 18 letters from each independent state. Why don't we think about that as I run through the list? Jim Gilmore, you're next.

MR. GILMORE: Actually Vince had most of mine so I just have really one question, Lisa. I think you mentioned this during the presentation, but the question was really the difference between the initial listing that was several years ago and the one we have now. I think you mentioned about habitat because the thing that was confusing to us is that under that research program we seem to be getting a lot more sturgeon and the population is higher now.

Essentially the last time it failed but this time we seem to have more fish, it essentially was listed, and the second subpart of that question is that, of course – well, you mentioned it before. I have gotten a lot of

questions about that research program and is this going to affect us actually collecting data which is near and dear to a whole lot of people's hearts, particularly professors as SUNY Stony Brook, so if you could at least enlighten us a little on that. Thanks.

MS. MANNING: I'm not sure I followed the beginning part of your questions about the two rules or the difference between two rules.

MR. GILMORE: There was an earlier attempt at listing Atlantic sturgeon. It goes back over a decade ago and it was determined that it was not enough information to list it at the time. This time, when we saw that, comparing it to abundance numbers we have been seeing recently, we said, well, it probably wouldn't go again, but this time it was listed even though the abundance seems to be higher, so that sort of raised a lot of eyebrows at least in the New York area.

MS. MANNING: I don't know the specifics of the data about the abundance information, but I know that one of the key differences between the earlier – and I'm forgetting the date when we had a not warranted determination, that it was not warranted for listing. I guess it was close to 1998. The big part of that decision was that the fishing moratorium had just come out.

The thinking was overutilization for fishing, now we have a protective measure in place, it's going to be managed and therefore it doesn't warrant listing under the Endangered Species Act. Between that time and 2010 or even 2007 when we did the more recent status review, there was a lot more information about the threat of bycatch, which really wasn't considered at the previous determination when we decided it was not warranted.

The other thing I think they pointed to that was not considered at all was different habitat issues; some of them in the southeast in particular having to do with climate change or water quality issues. That new information about the threats to the species was a big piece of the difference between the then and now. In terms of abundance information, I don't know that there is any clear sign that the abundance has gone up in the Hudson.

It is very difficult to use some of the data that are out there to make strong inferences, so I'm not sure. I can't really respond to that. The second part of your question was will the research that is ongoing in the Hudson by the DEC and Stony Brook folks be

interrupted in any way because of the listing, and I think the answer is no because I think they're one of the many people captured by these 12 research permits that we already have in the pipeline and hope to get out pretty soon.

MR. DOUGLAS GROUT: My question is at what point is it warranted for a state to apply for an incidental take permit? In the 30 years I've been working in New Hampshire, close to 30 of those years shortnose sturgeon has been endangered. We've never applied for it. Luckily we have never taken one. In fact, the only two documented cases came before I started working in 1977.

Since I have working for the department, there has only been one known take of sturgeon in our state waters fishery and that was in the early 1990's. The guy was arrested by both the state of Maine and New Hampshire for doing it because it was after the plan was in place. The guy stretched gill net across the river and that was illegal, and he didn't have permits to do it, anyway, but he was on television and he was happier than a pig in – excuse me. My thought was that it really wouldn't be worth the time and effort for one take in 30 years, but then what is the consequence if, whoops, all of a sudden we get a second take ten years from now.

MS. MANNING: If it's two takes over ten or twenty years, you're probably not a huge litigation risk. Maybe a better person to ask, maybe Georgia could speak to behind the impetus and the motivation behind why they wanted to come in, why now, for the particular fishery. I would guess a lot of it has to do because they were well aware this was an issue.

I think that is part of our jobs. If you're well aware of a particular issue, we should probably do something about it. We're not going to get these species off the list if we know one of the main threats is bycatch and we're not doing anything about it. There are ways to do something about it and still let the fishery be the fishery. We can use novel solutions.

I think in the monkfish fishery case on the federal side we're doing gear testing, and I think they've had pretty good results so far with using a lower profile net that is getting similar catch of the target species, but it's really decreased by about 50 percent the bycatch for Atlantic sturgeon, and those are the kinds of things we want to be able to do.

MR. STOCKWELL: Thank you for being here today, Lisa. While your staff has worked very hard

and has been helpful, I do want to underscore the great amount of time it takes to propose and to have a conservation plan approved. It took the state of Maine well over a year to pull together the resources and the paperwork to be approved, and that was specific to our intent of being eligible for Section 6 funds with Atlantic large whales. I have three questions. One is when do you anticipate that the biological opinions and the RPAs will be published?

MS. MANNING: For the federal fisheries?

MR. STOCKWELL: Yes.

MS. MANNING: Well, I don't have a great answer for you. The goal is to have them complete as close to that April 6th date as possible for as many of the federal fisheries as possible, which I would take to mean they're not going to all come out on April 6th. I would also take that to mean it is not going to cover every single fishery that is taking Atlantic sturgeon. I think everybody is doing what they can to meet that deadline, but I don't know that it's going to be perfectly met.

MR. STOCKWELL: Has the agency considered permitting incidental takes by fishery rather than by states? You just talked about putting together a white paper for monkfish. I know the New England Council has got at least four FMPs that are going to need to be reviewed. I am not sure about the Mid-Atlantic. This commission has – I was just looking at the webpage – a number of candidates. Have you thought about how to involve both the commission and the regional fishery management councils in helping pull together these recovery plans because I think you have a lot of willing helpers around the table here.

MS. MANNING: Just correct me if I'm not fully answering the question, but your question about can we do incidental take permits fishery by fishery as opposed to state by state, I am not sure if we have any examples where we've done that.

MR. STOCKWELL: Marine mammals.

MS. MANNING: Through an ESA permit?

MR. STOCKWELL: MMPA and ESA for large whales.

MS. MANNING: Okay. I think someone else brought up the question can the Atlantic States Marine Fisheries Commission perhaps be the applicant, so they come in with the application and be

the permit holder in a sense, which would cover multiple states. I think that's definitely a possibility and that would sort of go to somebody's earlier point about there being a big bottleneck. If we get flooded all of a sudden with a bunch of applications, there would just be a big bottleneck trying to get all those done, so one option would be to have the Atlantic States Marine Fisheries Commission be the body that pulls together one massive application.

MR. STOCKWELL: You might want to check with your staff. The lobster fishery, for instance, has got an incidental take permit, and I don't know who the holder of the – and they come out to all the individual fishermen, and do you know, Bill, who is the master permit holder?

MR. ADLER: If I may, Mr. Chairman, yes, the National Marine Fisheries Service sends it to us and just says here is your take permit; be sure it's on your boat. It doesn't come through the state at all. It comes direct from the National Marine Fisheries Service for the whales, marine mammals.

MR. STOCKWELL: I'm just seeking ways to simplify this so that every state and an individual fisherman doesn't bombard you with thousands of permit applications. Thank you.

DR. EUGENE KRAY: Last week in the Philadelphia Inquirer – and Vince tells me it was also in the Washington Post – there was an article written about the Atlantic sturgeon in relation to the dredging of the Delaware River. That project has been on board for over 15 years. I know nine years ago I met with then – the day before he was elected governor – Governor Rendell's Chair of his Environmental Committee. We were talking specifically about the dredging and not about sturgeon as such, but the impact it might have downriver and down in the bay of the dredge and what the impact would have on the fishing, weakfish, summer flounder, striped bass, et cetera.

My point is the article suggested that NOAA and the Army Corps of Engineers have talked about this and it probably would not – to use her word – scuttle the idea, but it may delay the dredging of additional five feet. Now, some of that dredging has already been done down in the lower part of the bay in Delaware and New Jersey. They have yet to come up into the river.

I think they've done over a hundred miles but they have more to go. The article also suggests that one of the areas – it is an anchorage off one of the refineries in Pennsylvania – is scheduled to be dredged and yet

that has been identified as critical habitat for sturgeon. My question is have you any idea as to what is happening with regard to the habitat impact on the sturgeon and on other species down in the Delaware Bay because it's all part of the same geographic area covered by the locations where sturgeon locate themselves.

MS. MANNING: What I do know is fairly limited about that particular project, but I do know that when the proposed rules for Atlantic sturgeon came out NOAA Fisheries did start conferencing with the Army Corps of Engineers on that species, so basically meaning they started including that in their analyses when they were doing their Section 7 Consultation so when and if the listing went final it wouldn't be this sudden, oh, we have to now consider Atlantic sturgeon in this project and the effects on Atlantic sturgeon.

They're pretty much prepared to – they already basically considered it and they had a list of like ten different things that they would do to minimize the impact on Atlantic sturgeon. The idea was to sort of keep it going seamlessly without interruption when and if this listing went final.

DR. DANIEL: Trying to take our chairman's advice, I'll do my best. You've got to give credit where credit is due, but you also have to assign blame where blame is due, and I think what NMFS has done here is created a huge mess that was unnecessary. I think if you look at all of the information that we've provided, we provided a tremendous amount of information I think around the table.

None of us supported that and it seems to be par for the course with the partnerships that we have developed with NMFS that they come out and do something like this that is going to create a tremendous, tremendous problem for us. Jack has probably been the one that is most consistent and retire quickly. You can't imagine how much this is going to cost you.

When you see these Section 10 permits, a million bucks to implement a Section 10 permit last year for turtles in North Carolina, a million bucks. If you add sturgeon, you're probably looking at three times that. You've got to have observers. I had to put together a Protected Resources Section and hire ten people to implement my Section 10 permit for turtles.

Here we were all seeing positive signs on sturgeon and it just blows my mind. When it came out endangered, I couldn't believe it. They've created a

huge mess for themselves. I'm real curious to know where am I supposed to start; with the recreational fishery? Should I start with the trawl fishery, the gill net fishery? If I haven't got all the Section 10 permits in place by April 6th, what am I supposed to do with those fisheries? You have selectively implemented the Endangered Species Act on turtles; are you going to selectively implement it on sturgeon? There is no Section 10 permit requirement for the recreational fishery on turtles, so how are you going to pick and choose which fishery is going to have to develop a Section 10 permit?

MS. MANNING: Well, to clarify, the take prohibitions for sea turtles apply regardless of whether it's commercial or recreational. The fact that North Carolina was sued by the Karen Beasley Foundation for a particular fishery has nothing to do with whether all fisheries or just that particular fishery needs to be covered by an incidental take permit.

In terms of prioritizing which fisheries a particular applicant wants to come in for incidental take coverage, I think you're in a better position to make that decision than we are. I think conversations about that would be a great idea for starters. Are you expected to have incidental take coverage for all your fisheries come April 6th and realistically the answer is no. Is someone going to come charging down there and shutting everything down? The answer is no. The Endangered Species Act, we have the options and the mechanisms that I mentioned for authorizing take and that's what we have to do. Those are the tools we have at this point. I don't think I can make you feel better by giving you any kind of answer.

DR. DANIEL: That helped, Paul, thank you. I'm just telling you that you don't know what you're getting yourself into here, and I do still believe – you know, we can talk about this offline because you're going to get my blood pressure up. I'm not going to agree with you and you're not going to agree with me probably, and I think I've got a pretty good argument myself, but I'm just saying folks need to understand how expensive these Section 10 permits are.

At this point I've probably been involved with it more than anybody with a state-wide Section 10, potentially the only state-wide Section 10 permit application for turtles. It is a tremendous amount of work. There are documents that are this thick; I mean, it's hundreds and hundreds of pages and it's reams of information that you've got to collect in order to show how many sturgeon you're going to interact with in this fishery and what your recovery

plans are going to look like. It is an extraordinary effort to try to put this stuff together, and I just think it's important for my fellow commissioners to understand how onerous this is going to be on us.

I do think it's important because we're constantly being bombarded; and you may want to blame the Beasley Center, but there are a lot of folks that say, well, why don't you have to have an incidental take permit for the pound net fishery; you see a bunch of turtles in the pound net fishery. I can't answer that question. Why hasn't NMFS come down and said something to you about that? No idea. It's hard to gauge and judge which fisheries you need to go after because you've got to pick and choose; because if you try to do them all, you don't have the staff. None of us around this table have the staff to do what could potentially be required here.

CHAIRMAN DIODATI: We have five more on the list. A.C.

MR. A.C. CARPENTER: I'm going to take you at your word and pass, Mr. Chairman.

MR. THOMAS O'CONNELL: I'm going to try to be quick here. I kind of share with Louis' comments. It's a question regarding Section 10. The state of Maryland has invested 17 years in the Captive Brood Stock Program for Atlantic Sturgeon; a program that can provide great insights on habitat utilization, juvenile survival rates and potentially for stock enhancement. I'm just really concerned on the amount of time it's going to take and resources to develop a conservation plan. We tried this back in 2000 with shortnose sturgeon. After seven years we gave up.

Before we go down this road, I think it would be helpful if NMFS could give us a policy decision as to where they are with the stocking program. We have NMFS representatives at the ASMFC Technical Committee not giving a lot of hope that they would even support a hatchery program. I'm familiar with and Jaime can confirm that the Fish and Wildlife Service stopped their shortnose sturgeon program several years ago because NMFS would not support it.

I guess my request would be – and maybe this is part of the question that we send to NMFS is where is NMFS going to be on this policy issue before we invest significant resources trying to pull together a conservation plan? Thanks.

CHAIRMAN DIODATI: I don't think we'll get an answer to that this afternoon, Tom. Dennis Abbott.

MR. DENNIS ABBOTT: Mr. Chairman, I think I'll follow A.C. Carpenter's advice and be quiet.

CHAIRMAN DIODATI: Roy.

MR. ROY MILLER: I'm going to pass; thank you.

CHAIRMAN DIODATI: And last on the list I have Jaime Geiger.

DR. JAIME GEIGER: Lisa, thank you for being here and I appreciate the appreciation and the information you've provided. I do want to share that right now with the Fish and Wildlife Service, both Region 4 and Region 5 are reviewing the comments we did send in and trying to make sure and ensure that our comments were taken seriously and seeing where those responses to those comments are.

I must tell you that we're have some difficulty reconciling that, so we'll be in further communication and discussion with you on that. Secondly, I want to just reemphasize what Tom O'Connell said in Maryland. Hindsight is wonderful but I have to wonder at this moment if Maryland and the Fish and Wildlife Service had been able to institute that program seven years ago would the determination that you made on the Chesapeake Bay populations be the same or different today?

Again, I would just urge us that again we need to utilize all our available tools in terms of recovery of endangered and threatened species. I think we have much to learn from both the experiences of the Fish and Wildlife Service and the National Marine Fisheries Service. We have to maximize those lessons, but at the same time we have to be speedy, expeditious and thoughtful and reasonable in how we bring the tools to bear to recover these species in question.

Again, I think that's our collective challenge as we move forward and as questions about the ESA are continually being evaluated and discussed on a variety of different forums, including congress. Again, I would urge all of the states that provided comments to NOAA on this to make sure and look at and have their comments been considered, can you see yourselves or your comments being addressed in the responses. That is our responsibility as federal agencies as part of our due diligence process.

I certainly can understand Louis' concern and frustration with this. Again, I can understand it, but I just would urge that again for all of us in the federal service, when a species is on the endangered species list, we consider it a failure, our failure. We have failed in our responsibilities to manage species collectively.

Again, I'm disappointed, as I know all of us are, about this given, again, the steps that this commission has taken, great steps to try to start the process of restoration of Atlantic sturgeon. Again, I think it's to all your collective benefits and credit that you have done a lot of good work and continue to do a lot of good work on sturgeon restoration and hopefully those same issues and the same commitment and the same passion will persist as we develop recovery plans for the species. I would urge all of us to look at ways that we can speedily, expeditiously and reasonably put in consistent, hard-hitting, measurable, accountable measures for recovery of this species. Thank you very much.

CHAIRMAN DIODATI: Thank you, Jaime, and thank you, Lisa, for coming today and answering those questions. I think you're free to go if you'd like, but you might want to meet with Louis outside and he'll walk you to the car. (Laughter) Obviously, this is an issue of major concern to the commissioners.

As I said earlier, I'm going to ask Vince and Bob to look at how they can best help coordinate some of the questions that you raised today so you have those answers in writing and maybe to draw more questions out for you. Bob just shared with me a letter from the Northeast Regional Office to our director indicating there are opportunities for coordination and sharing of information here to improve the situation.

I sense the frustration but I suggest that's how we go. We don't need a motion. I think there is a consensus for that sort of thing, looking around the table. We'll look for that interaction between now and the next meeting. We have a presentation scheduled for Bob or a discussion that Bob is going to lead about the policy board involvement in species management.

ASMFC SURVEY RESULTS

MR. BEAL: The survey results are next.

CHAIRMAN DIODATI: All right, the survey results, those of you who were in the two-thirds of the commissioners that responded to the mandatory

survey, Bob is going to run through a summary of those results.

MR. BEAL: I'll go through pretty quickly through the results. This was on the briefing CD, the summary of the survey results so folks have been able to read it, but I'll just hit the highlights and possibly highlight changes from last year, really. As background, this survey is included in the annual action plan. This is the third year that we've conducted a similar survey.

The overall goal of the survey is to measure the commissioners' impressions on how they're doing moving toward the commission's goal. As Paul mentioned, 31 out of the potential 43 commissioners responded. There are a couple of vacancies in the commissioner ranks. We're at 45 when fully populated.

This year we used a scale of one to ten. This is the same scale we used last year. The first year we only had a scale of one to five. You can see a little bit of difference in the results, but hopefully we can summarize that and make sense of it all. The survey design; there are generally five topics, twenty questions in all, and then followed by five open-ended questions.

The lower the score, the less support or satisfaction there is at the commissioner level; and then as it goes up toward ten, the commissioners are generally happier or feel that the commission is in a better position. A quick summary by topic; the commission goals and values, the average for 2012 is a tiny bit lower than 2011; overall a pretty good score, 8.48.

The question is whether the commission has a plan to achieve its vision. This dropped it down below this threshold that we've used for the last couple of years where anything that scores below an eight, we consider that an area that needs some improvement. The difference between the 2011 number and 2012 number are pretty small, obviously, but there is a bit of a change there.

Execution and results; the score there went up a little bit, so it seems to be moving in the right direction. Measuring our progress and results; a bit of a drop as well. Utilization of resources dropped almost half a point so there is a bit of a change there. Hitting a couple of the highlights throughout the survey; under goals and values, the highest score throughout all the twenty questions was do the commissioners support the vision at the commission, and that's the highest

score of all the responses for all the twenty questions, and that averaged 9.06, so that's noteworthy.

And just a quick summary, the couple things I'll mention are all the responses that averaged below an eight, which again is just sort of an arbitrary threshold that we used the last couple of years to signify these are a little bit lower scores and may warrant some effort and consideration for changes by the commissioners.

Item Number 4 under goals and values is agreement with commission goals was slightly below 8, 7.71 there. Under the second topic, plan to achieve to commission's vision, Item Number 1, clear plan to achieve the vision, 7.8. Item Number 2, which is highlighted in red here – and there are going to be a couple of other items that are highlighted in red on the screen – this kind of notes the shorthand that there is a fairly significant change, about half a point change previous years in the average.

So whatever the reason is, Item Number 2, support of the approach that the commission is using to achieve its goal, there was a bit of a drop between 2011 and this year, so that's noteworthy. The low score throughout all the twenty questions was will the commission achieve its vision. This is the 2015 vision that is on all of our stationery and throughout the strategic plan.

This only ranked a 6.59, so this is the lowest score, as I mentioned, throughout all the survey numbers. Then you can see Items 2, 3, 4, 5 and 6 under execution and results all scored below the threshold of 8; mostly in the sevens. Cooperation between commissioners dropped down to about 6.9; and then you can see that Items Number 1 and 4, there was a fairly significant drop in both of those, so that's noteworthy that there is some change there, and the impression that the commissioners are giving is that there is some backsliding there and the position isn't as favorable as we were in 2011.

Measuring progress and results, Items 1, 2 and 5 fell below the threshold; again, not very significant changes from the previous years but just again noteworthy they're below 8. The last one, utilization of resources, there is a bit of a drop here as well. Last year we averaged about half a point higher for this as well, so the commissioners appear to be saying that the commission is not doing as well as they have done in the past in reacting to new information; so, again, about half a point drop there.

The open-ended questions at the end of the survey, all the responses verbatim that the commissioners provided are included in the summary that was on the CD. I'm not going to through all those. There are two or three pages of those. The quick summary of the common themes that showed up in those responses; question one is what is the single most significant problem that the commission and should solve?

Transition to multispecies management and ecosystem management came up quite a bit. Funding obviously is a concern and an issue for the states and for the commission. Sending appropriate goals, there were a number of comments that indicated where we're trying to go with a number of our species restoration may not be the right level. Then there were comments regarding the commitment of all commissioners moving toward the vision.

The second open-ended essay question was what is the single most important change the commission could make to improve results? Timely response to science, coordination with the councils and more frequent stock assessments came up as common themes throughout the responses to that question.

Item Number 3 for open-ended questions was what is the single biggest obstacle for the commission? Financial constraints, lack of political support and ecological factors beyond the control of ASMFC were all highlighted as things that are impeding the progress of ASMFC.

Item Number 4 was is the commission using the appropriate metrics; if not, what should be changed? Most of the responders said, yes, the metrics that are in the FMPs right now are adequate and appropriate, but there were some comments that said that we should consider moving toward multispecies reference points and focus more on the removal rates on animals coming out of the system rather than actually how many animals are in the biomass.

Number 5 is just additional comments. A lot of the comments said we're supportive of the commissioners and the staff saying keep plugging away, we're moving in the right direction, it's not always pretty but eventually we make some progress; continue to toward the vision; and the commission needs to focus on what it can control rather than things that are out of its control. That's my quick summary, Mr. Chairman, and I guess the question that we always pose is based on these findings are there changes or any reaction that the policy board and commissioners want to have to the survey results.

CHAIRMAN DIODATI: Thanks, Bob, and that is always the question of what to do about these results. It's interesting, though, so we're saying that most of the commissioners are highly supportive of our vision, but at the same time most of us don't believe we're going to achieve it; is that what that says?

MR. BEAL: That's what the results say.

CHAIRMAN DIODATI: We were at this point when I think last year we did a similar survey and you get these kinds of results and you ask that question, well, what do we do, how do we improve? We could spend a lot of time trying to answer that today, but what I suggest – Vince reminded me earlier this week that our five-year strategic plan is coming to an end soon. In fact, when is it, Vince; is it this year?

MR. BEAL: 2013.

EXECUTIVE DIRECTOR O'SHEA: Well, it will end in 2013, Mr. Chairman; so starting by 2014 you have to have a new plan, which means next year you need to be working on it.

CHAIRMAN DIODATI: Yes, next year so what would be I think a good suggestion is to use these results, last year's results, and work towards developing our new strategic plan. If there are things that need adjustment, although you all seem to like the vision, you just don't think we're going to achieve it, so that will be a good opportunity for us to make the necessary course changes. Vince, go ahead.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, just to recall the origin of this poll, when we did the last strategic plan, the contractor that we hired did an extensive amount of polling of the commissioners and developed the poll going into the strategic plan and asked the commissioners to evaluate how they did over a five-year period.

The response to that within the commissioners, while we were doing the strategic plan, was I'd like to see this – you know, the commissioners said we'd like to see this every year; don't wait for five years to evaluate how we're doing; five years is too late. The reason this is before you is because when we were doing it over a five-year period, the thought was do it more frequently so that you would have the opportunity to make tweaks and use it as a tool to manage performance.

CHAIRMAN DIODATI: Any questions for Bob on the report results, the summary itself? Bob.

MR. ROBERT BALLOU: Mr. Chairman, not so much a question as a suggestion; perhaps at a future meeting of the policy board maybe a discussion framed around those common themes that Bob put up as the – I guess from the general comments – perhaps might be enlightening. It might be nice to kind of drill into those key issues a little bit through a round table type discussion to see what we might be able to flesh out in terms of the issues that seem to be common concerns that seem to be common among the commissioners. I would just would like to – not for today but for a future policy board meeting suggest that as a potential agenda item.

CHAIRMAN DIODATI: I guess that's what I thought of as you were speaking, Vince, how do you do the tweaks, what is the process as we get these kinds of results, and so is it a policy board meeting like this? I kind of envision it has got to be of a workshop atmosphere. Go ahead if you want to respond.

EXECUTIVE DIRECTOR O'SHEA: Well, speaking bluntly, I think one of the concerns that were evidenced in that survey is 2015 is coming along. You're sitting at 2012; we've got three more years. Unfortunately you had a lawyer as an executive director when you did the first strategic plan and vision, so he said restore stocks or progress underway; so you don't have to restore everything by 2015, but I think you have an opportunity to satisfy yourselves that you're doing all that is possible to do the restoration. I just would suggest you think about how soon you want to get on some of this stuff given that – I mean at one point you had 18 years to get to 2015. Now you've got three years to get to 2015.

MR. GROUT: I look at this as staff has identified a lot of areas that we think we could do a little bit better, but there are certainly some areas on here that score much lower than any other thing. This how confident you are with your vision; well, that has always been low, but on the positive side things have improved.

We've got about a 0.5 increase in the number of people that think that we're going to achieve this vision, so obviously we're heading in the right direction on that, but still we have a long ways to go on that. The other thing that's in the 6 is are you satisfied with the cooperation between commissioners; that two out of the three years has been below 7.

I think clearly those would be some of the things that I would like to see us really work and improve on. It

looks like from this survey that our federal partners have done a pretty good job of improving our impression. We started off saying how satisfied are we of the appropriate level of cooperation with federal partners, we were at 5 the first year. We're now up over 7.

That's a huge increase, so clearly there has been something that has happened within this commission with our federal partners that has made us feel a little bit better about the cooperation. My recommendation – I think I made the same recommendation – let's take, say, the three lowest ones and let's see if we can come up with some kind of strategy to try and improve those scores.

CHAIRMAN DIODATI: So, Jaime, you're taking credit for the increase on the federal.

MR. LOREN W. LUSTIG: Mr. Chairman, I appreciate the opportunity to participate in these surveys. I find them very useful instruments. I think there was some confusion regarding the proposed deadline date and so that needed to be clarified, which it was done by staff. The electronic reminders were very helpful to me personally because I really needed those and was able to zero in on that deadline.

I believe that our percentage of respondees actually went up significantly from previous years, so I wanted to acknowledge that. I think the previous year we were down around 50 percent of commissioners responding, and this year it is up from that. I'd like to see a hundred percent but we're going in the right direction, so I'd like to see us continue this procedure. Thank you.

MR. ABBOTT: Mr. Chairman, I'm sitting here as a proxy and I didn't receive one this year. I don't know if it just went to the actual commissioners or whether those of us who regularly sit here as proxies were surveyed. I don't know if I was the only one.

CHAIRMAN DIODATI: Vince will respond to that.

MR. BEAL: I'll handle it for him and he can tell me if I did it wrong. Yes, you're right, we do send it to the actual commissioner rather than the proxies; and if the commissioner would like to hand that off to the proxy, then they're able to do that and have them fill out the survey. The reason we're doing that is so that we don't get multiple results from the same commission seat.

MR. ABBOTT: Yes, I think that probably had some influence on the amount of respondents that you had.

You do have legislators that do not appear; and if they don't communicate, you probably didn't get it. I don't know how it worked out.

EXECUTIVE DIRECTOR O'SHEA: Well, the participation thing, the survey is only as good as the people that participate. We've chatted about this over the years. It's a billion dollar a year business this board does, and you've got 43 people responsible for it. I think one of the things we could do next year is – and we do this in some other notifications – we'll try to see if we can get a way that we can send it to all the commissioners and maybe copy the proxies and make it clear, so at least you know that it has gone out and then maybe encourage the proxies to get in contact with the person they're representing and between the two of them decide what to do. Bob is right, it's one state one vote, one state three commissioner process, and that's what we're trying to stick with in doing the survey.

DR. GEIGER: Mr. Chairman, I always think these surveys are very productive and very informative, and I do think it gives you a pulse check of how we are doing collectively as a group. The one thing I continually have concerns about again – and I appreciate Vince's suggestions or comments to expand possibly to proxies, but I would also say in the future I think it would be a good move to also include those federal representatives to provide comments to how well we perform as well.

I do find it interesting that in every outreach document of this commission I would be hard pressed to show that the National Marine Fisheries Service and the U.S. Fish and Wildlife Service are part and parcel of this commission. I go on the Hill frequently to explain the programs of the U.S. Fish and Wildlife Service; and when I explain what we do or try to do to assist the ASMFC and the parent states, there are always question marks, well, we looked through the literature and we don't see you guys noticed or we don't see you acknowledged.

We go to our partners and our NGOs and they basically tell us the same thing. I'm mentioning this because I think in the future – and you're starting to see it now – as budgets become more and more problematic and we are being held more to show accountable resource outcomes that are measurable. These activities that we now do are going to be further challenged.

Again, I'm concerned, I'm concerned that unless we are able to continue to provide the same or more level of support to this commission and yet we are also

acknowledged more strongly and solidly as a functional component part of the ASMFC process, it is going to be harder and harder for at least – and I'll speak only for the Fish and Wildlife Service now – to further continue our investment in what we do and how we try to support this commission in its excellent role and responsibilities on managing interstate fisheries..

I think I've mentioned this several times in the past. I will continue to try to mention that. Again, I do see that as an issue that at some point in time I'd like to have the opportunity to discuss with the commissioners in more detail. Thank you very much.

CHAIRMAN DIODATI: Point well taken, Jaime. John.

MR. JOHN DUREN: Mr. Chairman, a few minutes ago you made a very pertinent comment when you said that a lot of us don't think we're going to realize our vision, and 2015 is coming soon; just three years. If you look at our stock status overview, we have ten species that are unknown whether or not they're overfished. Realistically we're not going to be able to answer that question for all those ten species by 2015; let alone have a rebuilding plan in place for them.

As Commissioner Ballou spoke earlier, I think this is a really important subject for us as a commission to address. I don't know exactly the best way to do it, but I sure support that we have some ongoing dialogue and discussion on how we do a better job in the next three years and get further on our goals.

CHAIRMAN DIODATI: Okay, I think that's it for questions on this. I think both Doug and Bob have good suggestions that we could identify at least I guess the problem areas – I'm reluctant to call them problem areas but areas where we need to improve and perhaps take that into a special session of the commission.

The question is when and we don't have to answer that now, but this is something that I'll ask that we queue it up. It looks like it might be a facilitated event and there is going to be a cost associated with it, but generally a workshop like what preceded us on Monday of this week. With that, you all made good points. Dennis, your point was a good one, too.

I was thinking I have designees like David and Dan and others, and it's easier for me because we're in the office together to sit and do the survey together,

although I didn't. I think we need to address, too. There are some real functional members of this commission that aren't taking the survey. Next on the agenda, Bob is going to give another outstanding report on the involvement of this board in species management. Bob, why don't you remind us all how this came about.

POLICY BOARD INVOLVEMENT IN SPECIES MANAGEMENT

MR. BEAL: This issue has quite a bit of history. Actually it was initiated by a discussion of survey results and every August the commission reviews the progress as far as rebuilding the stocks and the status of the stocks. In following up on some of those discussions, there was recognition that a number of things were occurring at the commission.

One of them was that varying degrees of conservation were being applied at different species management boards and there was oftentimes what appeared to be delaying difficult decisions by some of the species management boards. Some of the commissioners expressed concern on the lack of progress toward the rebuilding goals for a number of species as well as these other factors of differing levels of conservation and delaying hard questions.

That initiated a discussion at this board of should the policy board be more involved with individual species management. The policy board has discussed this I think at three of the four meetings in 2011. It was on the agenda for the policy board meeting up in Boston, but the menhaden meeting ran long and a number of other things pushed that off the agenda to this meeting.

There was a document titled "Policy Board Involved in Species Management" dated October 18th of last year that summarized kind of where the policy board is on this issue. The goal of this discussion and agenda item today is to decided whether the policy board wants to do anything additional on this issue; and if they do it probably requires some changes to the Charter. Between this meeting and the next meeting we could draft those changes to the Charter and bring them back to the policy board for consideration at the May meeting.

A quick summary of what was recommended and where the discussion ended up at the August meeting last year; there are a number of bullets there. The first two I've already mentioned. The bottom three are points that were made by a number of

commissioners as we moved forward on this. Whatever the outcome of this discussion is the policy board agreed that it should not result in a slower, more cumbersome process than we currently have.

The commission is able to move fairly quickly and it's a pretty nimble organization and the commissioners wanted to maintain that. The commissioners noted that at individual species management boards, if individual states aren't affected by a decision, a lot of times they abstain. I guess we saw that this morning with summer flounder or the black sea bass issue where there were three votes in favor, two votes against and seven abstentions.

The concern was if the policy board was more involved, would those states that abstain at the individual species board, would they get involved or it would just be a replay of the same species board meetings so it was a consideration for moving forward. There was concern that if a number of extra decisions were put on the policy board, would that overwork this group and then again delay the management actions by the commission.

The document wraps up with four options. The policy board was focusing on Option Number 2 and Option Number 3 at their last meeting. There was verbal consensus that that seemed like the direction that may make sense to most commissioners, but policy board decided to put it off for a meeting, sort of sleep on it and come back at the next meeting and decide where they wanted to go.

Option Number 2 would require that the chairs of the species management boards would come back to the policy board after each board meeting – and this only applies to management boards that coordinate the management of species that are listed as species of concern, depleted species or species of unknown status.

So, the chairs would come back to the policy board and really give the policy board an update on what happened during their most recent meeting so the policy can review those actions and comment on the direction that species management board is going in. Option Number 3 in the document is that it would be a modification to the Charter and would require the policy board to approve addenda to any FMP for a stock that is listed as concern, depleted or unknown status.

This would be a change. Right now any new amendments or fishery management plans come back

to the full commission for approval, but addenda are approved at the species management board level and that's end of it. There is no further review made by the commission. There is some additional wording in Option Number 3, and that is that only addenda that modify reference points or establish measures to achieve the biological reference points would come forward to this policy board for approval.

If there is something that deals only with allocation or data collection or something along those lines, that would not have to come back to the policy board for approval. For example, the addenda that was approved by the Bluefish Board this morning that dealt with data collection and otolith collection and the number of states, that would not have to come forward because it doesn't really modify the rebuilding levels or the management measures that are in place to achieve those rebuilding levels.

Mr. Chairman, those are the two options that the policy board was focused on the last time and a brief history of how we got here. Again, the question is does the policy board want commission staff to further dig into those two options or any other options and bring something specific back at the May meeting for possible action at that time.

CHAIRMAN DIODATI: So, are we going to torture Bob a little bit more? Go ahead, Dave.

MR. DAVID SIMPSON: Well, I don't know if I'm going to torture a little more, a lot more or save him a lot of grief. I get lost in all the different documents. There is the Compact, there is the Charter, rules and regulations, guidelines and so forth. The Compact is something that was an Act of Congress that – and correct me if I'm wrong – I'm looking at it right now.

It is the 81st Congress approved in 1950, August 19, and it actually has words in it, "The contracting states solemnly agree" and then there are several articles. Article 6 in there says that basically decisions on the management of a fishery shall be made only by the majority of states with interest in that species.

It does go on to say the commission can define what interest is; but when you take any of these issues to their logical and legal conclusion, you're talking about a relationship between a state government and the federal government. My question is can we – this is the Compact. It is a congressional act. It's in our statutes. What latitude do we have to actually make any of these changes or consider any of these changes here without going to all of our legislatures and going to congress?

MR. BEAL: Well, I think I'm comfortable in saying we don't want to get congress involved. Once ACFCMA was approved in 1993, that's what required that the Charter be developed by the commission. A lot of the provisions such as approving amendments and FMPs and how FMPs are going to be developed and public comment, timelines and participation in all those details are in the Charter rather than in the Compact.

Adaptive management, which is the addenda process, is in the Charter rather the Compact. You're right, there obviously is that language in the Compact. It's really up to this group, do the commissioners want to modify the Charter or modify the adaptive management process to have a different approval level at the ISFMP Policy Board I guess is one way to look at it.

MR. SIMPSON: But, what I'm saying is in 1950, fifteen or so states essentially signed a contract, went back to their legislatures. Their legislatures decided based on these terms, yes, we'll participate and the federal government sort of endorsed this and created this group. In there is this concept that you won't ask another sovereign state to do something unless it affects you. It's just exactly what we saw the southern states do this morning.

They recognized that this was not an issue that affected them even though they're on the board and they stayed out of it. This gets to me to the heart of how the commission should function. Is it an assembly of independent states coming together and trying to figure out how to work together in the spirit of the Compact that was – and the commission that was formed just four years after the end of World War II, when the UN was formed and this idea that we need to talk to resolve differences was most keenly recognized or is it the 1993 more willful approach of we can make you do anything and we're going to exercise that supposed authority at will?

CHAIRMAN DIODATI: Okay, Vince, I know you want to weigh in on this.

EXECUTIVE DIRECTOR O'SHEA: If it's a technical question of does the Compact provide room for states to decide issues on fisheries that do not directly impact individual states, I think that question has already been answered by the states in that amendments need to be approved by the full commission. We have been operating under the Atlantic Coastal Act with all the members of the states making a decision on compliance issues regardless of whether or not they had an interest in

the particular fishery. That is what the practice has been.

CHAIRMAN DIODATI: We'll circle back to your points, Dave. Let me go to Bill Adler.

MR. ADLER: I don't see what is wrong with the way we're doing it now. I like the idea that the addenda, frequently we can act pretty quickly on something. I know the amendment has to come back to the policy board, but most of the stuff we do is addenda or addendums or whatever you want. I think it's very good that we can go through the process for an addendum for whatever the species is for whatever the reason is, and we can handle it. I think that it works very well the way we are able to get things done through at least that process. I don't see why we have to bog it down by running through another group. Thank you.

MR. THOMAS FOTE: I do agree with Dave's analysis and I agree with Bill. I don't agree with Dave by signifying what the vote was on black sea bass because that was an instance where they should have gotten involved because you shouldn't allow three states to beat up on two states for their own betterment, and that is why you have the other members of the board there.

I'm not complaining; it's done and what is done is done. I feel comfortable when the operation – I've watched this for 20 years grow where it was a five-man management board at one time. That's all you had; and if you weren't on that board, even though you were a state you didn't have a say on how the board voted, and it came up later on.

I think there are enough checks and balances right now. I wouldn't bog down a system. There is a way for the policy board, if they don't like it, they can send it back to the board. We've done that a couple of times. I feel comfortable in the process. It might not always seem perfect. I mean as people have thought about menhaden, that should have been policy, but again if we took the vote on black sea bass right now it would probably come out the same vote as it was. I think Florida would have abstained and Georgia would have abstained so it would have been the same vote. I don't think it would have made a difference. I think I like the system the way it is.

DR. GEIGER: Mr. Chairman, I find it interesting that just a few short years ago this commission was considering seriously abolishing the policy board. Some of you probably remember those discussions. It was pretty animated and they were pretty

invigorated and they were pretty intense. I think wisdom prevailed at that time, that this collective body decided that the policy board had a distinct role and responsibility in the process, that the management boards were key to the success of the commission, that as we evaluate what gets done you evaluate it at the lowest level possible, and for the commission that is at the individual species management boards.

In addition to answer Dave's questions, I think the Compact certainly is the foundational document that drives this commission, but I'll also respectfully add modified by the Striped Bass Conservation Act, and as Vince said the Atlantic Coastal Cooperative Fisheries Management Act, which indeed clearly spells out the roles and responsibilities of the two federal agencies as part of this process.

Certainly we had an issue that came up in the last board meeting – and, Dave, I know you were intimately involved in that, and that seemed to indicate that we had maybe somewhat of a disconnect that appeared to be identified. This commission has always operated in my mind through the spirit of adaptive management.

I think this body has continually managed to evolve and get better and better through these adaptive management tools and opportunities. I see this as just another adaptive management step that as we perfect how we do business and be respectful to the individual states and all our partners supporting the mission of the commission, I think this is a logical step.

I feel comfortable with this. I feel comfortable with this approach. Again, I do think the success of this commission is our ability to change, recognize when we need that change, be conservative in how we implement that change and then monitor that we are achieving the desired results. That's the great strength of this commission and that is the great opportunity that we have to continue to rebuild fisheries resources along the Atlantic coast. Thank you.

MR. G. RITCHIE WHITE: Mr. Chairman, 15 minutes ago we were talking about how it was going to be difficult for us to get to our goal in 2015. I think part of the reason that we may not be able to get there is that the commission I believe in recent years has had a more difficult time following the science. I know there are a lot of reasons why that is happening and a lot of states have difficult times following the science.

I think that we're a policy board – there are much more stakes involved with the states. If the policy board would be able to look at it and see whether a management board was following the science to the degree that it should, so I kind of support Number 2 that just in extreme circumstances where a stock is depleted or overfished and the management board is not even coming close to following the recommended science, then I think that's when a policy board ought to take a look at that and have some objective states that are not involved in those species take a good hard look and does this make sense to not be following the science.

CHAIRMAN DIODATI: Okay, I'm only going to take two more comments on this. Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, I'll make it quick. A lot of good comments around the table, but my concern is a little different in that this policy board procedure that we have works effectively sometimes. It didn't work particularly well when we had the issue on – when we ended up with seven people on a board abstaining.

I'm not going to point fingers at those guys that we support all the time who couldn't make a decision because they were going to offend somebody. I don't mean to give you a hard time about that, but it just seems to me when a board decision is elevated to the policy board, we either need to have more clarity in the fact that if you're sitting around this table and are considered a participant in the process that's going on, that it would seem that each state to a degree should have a relatively deep or a good understanding of the issue that you're going to vote on.

You gentlemen did the right thing by maybe abstaining, but here is a case where what came out of that may not have affected certain states but to end up with a vote at three, two and seven, there has got to be something that we can do in either defining or clarifying that unless you have a real issue with voting on something that comes before the policy board, I think you have to take your best judgment and be here. That's why we're here to make decisions.

I don't know how we word that, but I thought that was a case where again if the policy board language in there had been a little clearer what our obligations after as voting members around this, abstention is you might not even be here; so either a yea or a nay or a null vote when there are two of you, that's something different. If we can get at that somehow, I

think it would help the process, but otherwise this works the way it is. Thank you.

CHAIRMAN DIODATI: A.C., last word for today on this.

MR. CARPENTER: I want to maybe throw out something a little bit differently that is not covered in this white paper and the role of the policy board with regard to concern, depleted or unknown status species. That is that it may be the policy board's responsibility not in connection with the framework here but at the time when we set the priorities for the following year, and we allocate funds available and time and staff resource available to the various species boards, species that are recovered, species that are in good shape shouldn't get the lion's share of the meeting time, shouldn't get the lion's share of the funds and the staff time just because they're the most popular.

Maybe that's where the policy board needs to direct this is in the work plan for the following year, to look at them and elevate these unknown and the depleted and the concerned, allow more time for their board meetings and allow more resources for those board meetings to concentrate on those to try to get you to where you want to go.

CHAIRMAN DIODATI: Thanks, A.C. I appreciate everyone's comment on this. I think there seems to be some preference around the table at least from those who spoke that leaving our process somewhat intact the way it is is probably the way to go, but what I'm going to suggest – we just talked earlier about a facilitated workshop coming up soon to improve our ability to achieve our goals, and I think this fits into that discussion.

Bob has already done a lot of work on this white paper, but I'm going to ask that you consider that, Bob, when we put the workshop together, how do we get to these particular issues. With that, I'm going to ask Gordon to come up to the table. I apologize for keeping you waiting so long, Gordon, but it was your colleague who bumped you in the agenda earlier today. Apparently she didn't want to be leaving the same time that Mr. Daniel was.

Gordon, I don't need to introduce you or the topic. It has been a topic at most of the fisheries meetings over the past several weeks, so why don't you just get right to it and say what you like.

UPDATE ON MRIP RE-ESTIMATION OF RECREATIONAL CATCH

MR. GORDON C. COLVIN: Thank you, Mr. Chairman, and thank the commission once again for accommodating us to give you an update on MRIP, which is an important component of our partnership. I will do what I can to try not to get the vice-chairman to where he wants to follow me out of the room later.

I think staff is delivering a fact sheet that addresses the topic of today's discussion, which will include an update for you on the new estimation method and the path forward. We're going to talk a little bit this from initially the perspective of the science that developed the process that we have to date, a little bit on the management transition and then as I said the path forward.

Very quickly in the way of background, the Marine Recreational Information Program or MRIP is the Service's program that is developing improved methods for collecting recreational catch data in response to both the recommendations of the National Research Council Panel Study that NOAA Fisheries commissioned in 2005 and the key findings of which were incorporated into the Magnuson Reauthorization of 2007.

MRIP really got started in 2007; and beyond as funding came behind those original mandates, the timeline here indicates our progress to date. Where we are now is that we beginning to receive the results of the various projects and pilot implication of improved survey methodologies that we will implement sequentially as they are completed, peer reviewed, fully vetted and ready for implementation.

The first step that we've taken is to generate a new method of estimating catch using the data that has been collected in our shoreside angler surveys, our access point intercept surveys for the Atlantic and Gulf Coast from 2004 to 2011. The important message here is that this is the first step that we're taking to implement improved methodologies. We have much more yet to do, and I'll talk about some of the things that are nearing completion a little bit later.

It's important to understand that this method addresses a fundamental design issue and sets the stage for us as we implement it to invest in further expansion of our data collection using a more sound approach to estimating catch. A major finding of the NRC Review is that there is a significant mismatch

between the manner in which we collect data in the intercept surveys and the method we use to estimate catch rates from the data that we collect.

That mismatch is a result of untested assumptions in the sample design that carried through into the estimation. We have created a new method for estimating catch with support of external expert consultants, including two of the scientists that were involved in the NRC Review. Their work has been peer reviewed and has now been implemented.

The new method, as I said, has allowed us to recalculate catch for the period going back to 2004, and I want to just share some of the results with you very briefly today and perhaps get into questions later if that is helpful. I apologize to those of you who have heard his before at the New England Council or the state directors' briefing and will hear it again next week at the Mid-Atlantic Council, but we're trying to make sure everybody has an opportunity to be briefed fully on the new method.

The two key results are that by eliminating the sources of bias that resulted from these untested assumptions, we have found that the new estimates do change, but there is no single direction to the changes that is apparent across all stocks or all regions. Some of the new estimates are higher; some are lower; some are about the same. What we do see – and this was not unexpected because the NRC Panel told us that they strongly felt that this was likely – we have been overestimating the precision of our estimates in the past.

The new estimates are less precise, but we are now confident that those estimates are accurate and give us a true picture of the actual precision of our estimates and set the stage for better understanding of the precision and how we ought to apply it because it is improved in accuracy and also for improving precision by increasing sample size.

Some of the representative results for species that are managed by the commission are indicated on this slide. Just one quick point; the 2011 figures do not include Wave 6; so when you see tautog falling off like that it's because it doesn't include Wave 6. These examples are kind of typical of what I said. You'll see examples here where the numbers are higher; numbers are lower; and some are very, very close.

These are estimates of harvest in numbers of fish. This is kind of a representation of one of the new outputs from the new query tool. When we posted

these new estimates to our website two weeks ago, we also unveiled a new query tool that's a little different from the one that you've seen in the past if you're at all familiar with it. It provides more options for the user, it's a little more user friendly and includes an option for a side-by-side comparison in either tabular or graphical form of the 2004 to 2011 times series of old and new method estimates.

These can be accessed by going directly to our countryfish.noaa.gov, which is our MRIP website, and selecting the option to query recreational data. It will take you over to the query tool and you can proceed from there. In addition to the fact that we don't see a single direction in the change in the estimates, we also looked at the overall magnitude of the change, and for the most part on a species-wide or a coast-wide basis the magnitude of the change between the old and new methods is not large.

Almost half changed less than 50 percent over the time period; another third less than 15 percent. Although this level of magnitude is what we see for the species across its entire range, when you look at smaller units, whether it's smaller time units, an individual year, or a wave across the time series or a mode of fishing across the time series or a state across the time series, we do see some larger differences.

We have some examples of that that frankly probably are a little redundant because this is exactly what you were talking about before lunch with summer flounder. In the case of the summer flounder graphs, which you'll see here, you clearly see larger differences between the new and old estimates for some of the states than you saw for the species as a whole across the entire range.

Kind of a key wrap-up observation on the new estimation methodology, we are confident that the MRIP estimates are more accurate than the old ones even in those cases where the estimates are not terribly dissimilar. The reason that we have that confidence is that we are confident in the methodology and the manner in which it was developed by a team of experts, including NRC members. The majority of stocks are not going to have significant management implications because the majority of the stocks don't exhibit large differences between the old and new estimates, particularly in the most recent years in the time series.

Nonetheless, the transition does have implications for stock assessment and management activities. We

recognize that and we expect to continue to work with the councils and the commissions as you need us to help complete that transition. We will be conducting a calibration workshop later this spring, more on it in a minute, but the fundamental purpose of the calibration workshop is to develop tools that the stock assessors can use to deal with essentially coming up with a way of looking at a longer time series than what is available for the 2004 to 2011 period.

I've included the terms of reference for the calibration workshop here. This is mainly for your reference moving forward, and I'm not going to read them to you, but I think it is and will be an important activity that we will be conducting. We will be inviting both the Atlantic and Gulf Coast state commissions to send a technical representative and a staff representative to the workshop so they will be involved, as we will also be doing with each of the fishery management councils and their SSCs.

The workshop is going to be held March 27th to March 29th. It is being organized for us by the staff at SEDAR. It looks like it's going to be in Raleigh, North Carolina, so there you go, Louis. I included this slide; it's very busy and you're not going to be able to read it well from there, but it is for your reference going forward. You will have access to it.

It's our schedule for making that science and management transition for both the new estimation methodology, the incorporation of the new estimates into management and next steps going forward. It will give you a more detailed sense of the actual timelines that we're operating under. The key things here are where we've gotten to until now.

A couple of things I'd like to highlight here; we've applied the new method to the data that we collected going back to 2004. I know we talked about this back in August, but the reason we couldn't go back earlier is that there was a difference in the intercept survey design in the earlier years that requires us to make some changes to the estimation method in order to do any earlier year estimation.

We are still planning to make those changes to the estimation methodology to pull that raw data back off our servers and do the analyses necessary to reanalyze back to 1998, which was the next year at which there was a change in the estimation methodology. That will allow us presumably to revise catch estimates for 1998 to 2003. That is presently scheduled to be completed by late summer, early fall.

One of the things that will be looked at in the transition workshop will be to give advice on how to incorporate those numbers and earlier year data once that work is done. The other things I wanted to point out was the beginnings of the work towards the implementation of other new methodologies, which is where we head to next.

This is kind of an overview of the overall MRIP strategy. Again, we've talked about this before, but essentially the four steps are to begin with addressing the fundamental design problems, the basic catch estimation methodologies, the removal of sources of bias in our estimates and in our survey designs, to pilot test new designs and new methods that will address and remove those sources of bias so that our estimates of catch become more accurate; then to move towards implementation of the fundamental design changes.

And then having done so, having improved and addressed the changes in methodology, having removed sources of bias and improve the accuracy of our estimates, then to invest in increased sampling in ways that enhance the timeliness, the geographic resolution, the coverage and the precision of the estimates.

A couple of things upcoming shortly to be looking out for in the very near future that will start to move us a little more quickly down this path – in addition to the estimation methodology, again as we've discussed, we are working on a companion piece which is a change to the design of the access point intercept survey itself to remove additional sources of bias from the data at the data collection point, and I'm going to talk bit more about that in the next couple of slides.

There was a pilot project done of that in partnership with our good supporters and partners in North Carolina. A final project report on the results of that pilot project is in final stages of completion now and is expected to be done and out for everybody's benefit before the calibration workshop. The results of that pilot project report will be needed for the calibration workshop, so we're going to make sure it's there then.

But, nonetheless, we are still going full bore on the planning for implementation of that new method for next year. We have been doing a lot of different pilot projects of changes and different approaches to single and dual-frame angler effort surveys, both telephone, mail and telephone and mail frames together around the country for a number of years.

A synthesis report that pulls together the findings of those various studies has been completed in draft, is under review now and should be out this spring again. Hopefully, we'll have a review draft available for the calibration workshop. The team that's working on that has recommended two quite new and quite different approaches to collecting effort data in the future, again which I'll talk about in a minute, but they're springing from the synthesis report and it will give us insight on where we need to go with effort surveys in the future.

Any day now the final report of the so-called timeliness project that sprung from the workshop last spring in St. Pete that examined the pros and cons and tradeoffs associated with shortening our sample waves from two months to one, from shortening the time period after waves from 45 days to a shorter time period to produce estimates and some other related improvements to timeliness as well as improved in-season projection methodologies; that report is done and it's going to be posted to the website within the week.

It does include recommendations moving forward on further assessment and analyses of those approaches and the tradeoffs that we will have to evaluate in decision-making based on them. Lastly, we conducted with Texas, the Gulf States Commission in Florida, a yearlong pilot of logbook reporting in charterboat fisheries in the Gulf of Mexico in 2010 and 2011, and the final project report on the results of that pilot should be out in April, I'm told.

Those results will be very informative to all of us on both coasts and potentially elsewhere in the country as we consider the prospect of moving from a sample-based survey to a census survey in the for-hire modes of fishing. Those are upcoming. Where that leaves us is that we're starting to really plan for implementation of some other changes in our survey designs beginning next year. The new dockside survey, as I indicated, is presently on schedule to begin next January.

The improved effort surveys will begin at some point next year depending on the results of the two major pilot projects that will be conducted this year. As we get those methods in place, we expect to increase sampling to improve timeliness and precision. As we'll discuss, we need to do some evaluation and dialogue with you all in deciding where to make those investments and make them most effectively.

I want to address each of those in a little bit more detail. In terms of the new intercept survey, the

implementation planning is ongoing. We have been actively incorporating our partners on both the Atlantic and Gulf coasts in this process going back into last year, and that work is continuing. The reconstruction of our so-called site register, the directory of all fishing sites on both coasts is enormously important and key component of the new intercept survey.

It needs to be complete, it needs to be accurate and we need to have pressure ratings for all modes of fishing for all times of the day because we will now be sampling at all times of the day in the future. All of the state personnel attended a wave meeting last fall and discussed the importance of getting the states involved in the process of bringing forward the new information to reconstruct a more complete and accurate site register.

There will be a wave meeting – our next wave meeting will be held at the end of this month in New Orleans. All of the Gulf and Atlantic coast states, as far as we know, are on board and will be there and participating. This is a pretty exciting prospect for us because this will be two wave meetings in a row when all of the states have been in the room. All of them have been working with us on rolling up our sleeves and getting down in the weeds and getting this work done.

A couple of things that you might be interested in knowing what your staff will be doing; we will have a new web tool that will constitute a web-based site register that can be accessed and updated by our partners directly and it will be a lot more easy for them to work with. That tool will be rolled out at that meeting. It will be hands-on for them.

Then following the meeting, importantly we'll have until around June or July to get all of the missing data, data edits and everything else into that site register that we need because we will then need to get that all cleaned up, set up and ready for pressure testing this upcoming late summer and fall. We've got a lot to do there but it's a critical first step in the process.

We're also going to be presenting a review and an overview of the current survey methods, how they'll be changing when we move to the new intercept survey. We will also be conducting a very detailed review of the new MRIP estimates, going right down to wave levels and finer levels of resolution than we have been able to talk about today or in most of our meetings with the directors. The staff will be looking at this in great depth.

Your contacts for the meeting are there, but at this point that may not be important because I was happy to learn that all of the states have basically booked rooms and they're ready to go. One of other last note on the intercept surveys, many of you may have heard that last week the contract for the angler intercept survey for 2012 was announced, and it is a new contractor.

RTI, International, is our new contractor. Those states that had been subcontracting to do intercept work will be hearing from RTI within the next few days, I am told. If you had a question about that, stand by; but if you do have any questions about the new contract or your continued participation, contact Tom Sminkey or Pattie Zielinski in our office; and if you need their phone numbers, I can give them to you.

Coming to the second, which was the improved trip data, as I indicated, the synthesis of effort pilot projects has resulted in the team wanting to test two new and quite different and ambitious methodologies for collecting effort data going forward. One is a mixed mode, mail and telephone, dual-frame survey, using both an addressed-based sample frame and the state registry frames. That is under way or will be actually in the data collection phase under way effective March 1 in the four South Atlantic states.

It's a big project and it's going to run for the better part of the year; and at the end of it, we'll have side-by-side data to compare with the CHTS. There is also a proposal for another major new pilot, which would be a single-mode mail address-based sampling with a supplemental sampling of registered anglers that the team has developed that is pending approval by the MRIP Operations Team in its current RFP end of this month. That's another very ambitious project.

Essentially the team is saying we need to run these two pilots, we need to look at the results, and when they're done we'll compare those results and decide what the permanent design will be for our effort surveys going forward. Now, some people might ask why are you still looking at dual frames, because of these are dual frames involving addresses, not telephones but addresses and registries, and the answer is that we've learned – short answer; we've learned in the pilot projects we've done that none of the state registries are sufficiently complete to prevent the problems of undercoverage bias and undercoverage error that we would experience if we relied on them alone.

Again, consistent with the explicit advice in the NRC Panel's Report, we have pursued dual-frame surveys

to prevent undercoverage bias from becoming a problem. We're hoping that a time will come in the future where working together we'll have much more complete angler registries from the states.

The team asked me to underscore whenever I talk to the states the importance of continuing to work forward and moving forward to try to eliminate as much as possible the exceptions to state licenses and to work to improve compliance with state licensing so that we get to a point where in the future we can rely entirely on that single frame, which will be much more efficient and much less expensive.

That said, just a couple of things to be aware of in terms of upcoming registry-related issues – as you know, there has been some delay in the process of arranging to get the states to submit their registry data to us that were generated initially by changes in security protocols requiring the states to pre-encrypt their data before it got sent to us.

I want to thank you all for your work with our IT staff. I think as of today, when we installed the encryption software in Rhode Island, all of the states are now on board with the new encryption methodology and we can now accept all your data. I think we have a little more work to do with you, Tom, but we're doing a different approach. It's a little bit more sophisticated and the guys are confident that it will be taken care of shortly.

Those states that have already submitted some data to us should have or should be getting shortly an evaluation, kind of a first-order high-level evaluation of the data quality. Within the next couple of weeks we'll be back to all of the states, except for the four that are in the pilot because we already have their data for the pilot, but for all the other states we should be back to you to arrange your deliveries.

Once those are in, you'll get another report back to us, a more comprehensive report on data quality and issues that we need to improve. Where that becomes important is that we are very close to ready for the second round of state registry grants. I'm going to be talking to Pat shortly about getting out an RFP probably in April with funds that are already available to the commission for that purpose, and the registry team is going to be talking about sequestering some of our FY-12 money for potentially a third round of grants looking even a little bit further away.

Be aware that you should be thinking about that next round and that those evaluations that will come of the

data once you submit it would be one focal point for you to consider when that becomes necessary. The third issue of timely and precise data, we have a major need before we make huge permanent investments in evaluating tradeoffs among investment and improving timeliness, improving precision and improving coverage and how that all relates to cost.

We have to sort out how best to get the best bang for our buck in terms of improving survey accuracy and improving customer service, essentially, meeting customer needs. The timeliness project report that I referred to earlier includes a recommendation to develop a simulation model that will enable us to quantitatively compare the effects of investment in different timeliness delivery options, data collection expansion options and cost so that we can ascertain how these things quantitatively trade off and make some intelligent decisions on where best to expand sample size and where best to improve the timeliness of the delivery of estimates.

A project proposal to develop that model is one of the others that is pending with the operations team for action this month. I'm pretty sure it will be approved and we will be developing it this year and we will be in a position to communicate more effectively with our partners once it's done to help us make the best decisions on where to invest in increasing sample and timeliness.

Related to that is just kind of a heads-up, too, that we are all as partners in ACCSP looking at potential changes in ACCSP standards that address these very subjects. There are recommendations pending from the recreational technical committee and the operations committee to establish new standards for precision, new improved standards for timeliness of delivery and so on and so forth.

In making those decisions we're going to want to understand the tradeoffs so there would need to be a dialogue potentially through ACCSP or otherwise that addresses all of this together, and we need to think about how to most effectively carry that dialogue out over this year and next. With that, Mr. Chairman, that pretty much wraps up the message for today. I did kind of breeze past one thing fairly rapidly on one of the slides and make note of the fact that this week we published in the Federal Register a Notice of Proposed Rulemaking to make some minor changes in the final rule that implements the Registry Program.

For the most part this is not going to have much effect on the states. There are a few kind of housekeeping things in there that addresses some of the provisions that relate to the continuing eligibility of states for exempted state designation. I encourage you to take a look at it. We have a few copies the proposed rule on the back table.

You can also directly access it again from countmyfish.noaa.gov; and as you look at it, if you have questions on it, we'd be happy to address them or you can talk to any of the members of the registry team. I think a few of them you know, including Spud Woodward and George Lapointe, Doug Grout and Chris Vonderweidt. Mr. Chairman, thank you.

CHAIRMAN DIODATI: Gordon, I want to thank you for that very comprehensive presentation. I want to thank you and the Service for your exhaustive efforts over the past few weeks and rolling this out actually going all the way back to the registry work that you've done. You've made it all very easy for us to comply and understand what is going on.

I'm going to ask that we don't give Gordon any questions unless you have something very pressing because I think we're pretty well informed on this because of Gordon's efforts. We still have Pat Campfield next; and believe it or not, a Tautog Board meeting coming up right after this. Gordon, I think you for that.

MR. COLVIN: My pleasure and thank you for the kind words, Mr. Chairman.

CHAIRMAN DIODATI: Pat, you are up.

REPORT ON ASMFC ASSESSMENT CAPACITY

MR. PATRICK CAMPFIELD: Staff is handing out some information that was on your CD regarding the stock assessment capacity agenda item. We're bringing this to the policy board's attention because each fall the commission's Assessment and Science Committee reviews the stock assessment schedule and the workload of all the assessment committees.

In recent years ASC is seeing increasing challenges in getting scientists onto assessment teams. This has resulted in some cases excessive workloads for the smaller assessment teams that we have gathered and in some cases delays in completing assessments and providing management advice. A couple of examples of that recently are the Atlantic Croaker and River Herring Stock Assessments.

To follow up on this, Assessment and Science Committee working also with our Management and Science Committee and a subset of commissioners, Tom O'Connell, Doug Grout and Steve Meyers, put their heads together and developed a number of recommended actions for the policy board to consider in order to address the assessment capacity problem. At this point we'd like to ask Tom O'Connell to walk through the recommended actions to improving the commission's ability to get all these assessments done.

MR. O'CONNELL: You all should have the handout by now. I'm just going to run through these relatively quickly. I think as we go through these, it's not like a silver bullet answer and we're probably going to be looking a multifaceted approach. The recommendations are broken up into actions the states can consider taking, actions for the commission, and some policy actions.

Just beginning with the state actions, the first recommendation is to have the states prepare a short summary of their state's ability to help solve this problem of assessment capacity. This summary plan would be provided to the policy board at their spring meeting. It addressed three items.

One is what is the state's ability to commit staff to full and active participation on the TC and the SASC? What is the state's ability to dedicate state funding or staff time for training workshops, interagency or in-house training, graduate course work and/or mentorship programs. ASMFC has had some modest success with bringing people up into the technical committees and retaining them. You see of their retainment percentages in the handout.

Another thing that the states could assess is what is the state's ability to hire additional trained stock assessment scientists? We're all probably struggling with funding right now, but maybe some of the states have the ability to hire some stock assessment people in the near future. Going forward to what the commission actions could be considered; one again what is the commission's ability to hire stock assessment scientists?

Are there potential cost savings to have additional stock assessment scientist hired by ASMFC to provide the assessment capacity support to the states, and perhaps that's a longer-term solution. What is the ability for ASMFC to increase the travel budget for a mentorship program? As we bring on new people at the state level, is there capability of providing some funding so that these designated

mentors can travel with your TC stock assessment committee members to meetings to get that experience and move into those roles in the near future.

Looking at whether or not there is the ability to form partnerships with university labs to assist with providing assessment capacity support. And then lastly some policy actions, modifying the assessment frequencies to reflect each specie's stock status and life history. As you guys are all familiar with, there is an overwhelming assessment schedule and perhaps we need to be looking at less frequent assessment for some of the species based upon the level of assessment capacity we currently have.

Another one is identify state SASC members when the policy board approves the assessment schedule; so each fall when the policy board reviews the assessment schedule, perhaps the policy board should spend some time and making sure that we have the staffs to support those assessments; and if not, have a discussion as to how we're going to overcome that challenge or establish some priorities.

And lastly to reconsider ASMFC stock assessment roles, whether the stock assessment should be led by the states or to ASMFC or a combination. I think we'll be better informed if we can get a brief summary of what the state's capacity is to meet the needs for the upcoming years, and with that information we'd probably get a better handle on whether there is the ability to get some more support at the state level or if it makes sense to look at getting more support at the ASMFC level. One note is the state assessment staffing survey that was completed in 2011 indicated an additional three to five scientists are needed coastwide in order to meet the demands of the current and future ASMFC assessment schedules. That is the summary of the workgroup's report. I think it's probably to be a combination of factors. I think one thing that would be helpful is perhaps if the states can go back home and look at some of these questions and provide a brief summary of what their capacities are to facilitate further discussion. With that, I'll turn it back over Patrick.

MR. CAMPFIELD: At this point we're not looking for a motion but perhaps any follow-up discussion or consensus from the policy board to guide staff on how to move forward.

DR. DANIEL: Tom, did you say we do have a list of the stock assessment capabilities of the individual states?

MR. O'CONNELL: Patrick is shaking his head yes. I have not seen the list but apparently there is a list.

DR. DANIEL: That would be helpful, but also one of the things that I have noticed is I think I've got three or almost three – I've got 2.5 right now stock assessment people. We're having to do a lot of in-house stock assessments that ASMFC wouldn't do. I think it takes on a larger role for that individual when they're a state lead on an ASMFC plan.

What I have found is when I get an ASMFC stock assessment that the ASMFC led, when I go back home and use it in a fishery management plan in my state, I tend to get a lot more support and I get a lot more buy-in to that coast-wide ASMFC assessment. I'd hate to lose that way of doing things at least for some of these bigger stock assessments.

DR. GEIGER: Mr. Chairman, sort of following up on that line, Patrick, do we have a breakdown of the current stock assessment expertise that is provided to the commission broken into those state stock assessment biologists, federal stock assessment biologists and/or university private sector stock assessment biologists that provide assistance or support to the ASMFC species boards?

MR. CAMPFIELD: Yes, we have a pretty good picture of that just based on the individual.

DR. GEIGER: Do we have it broken down by state, federal and NGOs?

MR. CAMPFIELD: We don't have an aggregate list across all the species assessment teams, but that is something that we could certainly develop but individually for a given assessment team.

DR. GEIGER: Okay, I would just recommend that we do have that information because I think it will give us a more complete and true estimate of what kind of stock assessment expertise is available to the commission and how it is being utilized. Secondly, I would say that the Fish and Wildlife Service has conducted many workload analyses and consistently our number one and number two needs within the Fish and Wildlife Service nationally is the need for qualified stock assessment biologists.

I'm assuming NOAA is not that far behind if not right at us or more among us. Habitat and stock assessment are usually one and two technical expertise that we need as an agency. Again, I think all of us are looking for more of this expertise. I see it becoming even more critical in the future, but I also

know that there are a lot of good folks out there and they do a lot of good work. I think by sharing these kinds of capacities and expertise we can get a long way down the road. Thank you, Mr. Chairman.

MR. ROBERT H. BOYLES, JR.: Tom, can you give me a sense of what full and active participation means and what the expectation would be?

MR. O'CONNELL: I'll give it a shot. We had this conference call I guess it was back in the fall. I guess it's trying to get a sense of what is the state's ability to provide additional staff to participate at these technical committee and SASC levels. I'm not sure about full and active. I think it's mainly just trying to identify where more resource can be brought in. I don't know if Patrick can add any clarity to that.

MR. CAMPFIELD: Yes, by full and active there are a couple of layers. Certainly, the technical committee members provide data when we start an assessment, but perhaps more importantly the need is for the lead analysts, the folks that run the models. That is where we really have a shortage so that is what we mean by the fullest and most active participation.

MR. GILMORE: Tom, the recommendation for hiring state assessment people is terrific. However, right now because of the civil service process in the state of New York – and I'm not sure how it works in other states – I actually have approval I got Friday to hire a biologist, and the first person my priority would be to hire a fishery stock assessment biologist.

My chances of actually accomplishing that are probably one in fifty because everything has to be equal and fair. It's going to be very difficult for me or maybe some of the states to actually do that. As an alternative – and I think the commission has helped out on this – is that we've been able to put money through the commission to hire fisheries staff, and that one I think can help the states out and the commission at the same time. Thanks.

MR. GROUT: Mr. Chairman, having participated on this, I think these are all good recommendations that we can take some portion of them and implement either at the commission level or at the state level to some degree. I'm one person that won't be hiring any full-time stock assessment people, but what I've done with some interested staff is run them through the ASMFC training process.

I've got some that are about ready to jump into the mix here and willing to do it not on a full-time basis

but maybe one assessment a year at best. The one thing that I recommended on here that I think would be good for implementation is this mentorship program. If the commission could put in its action plan for this upcoming year development of this mentorship program, I think that would be able to at least provide one or maybe even another person on my staff that could potentially start to contribute to these processes.

Even though they're not formally trained stock assessment biologists from URI or NC State, they still have the capability. Once they've had the opportunity to go under the wing of some of the more experienced people, I think they'd have the ability to help. I would like talk about potentially moving this forward as some recommendations that we would actually adopt here. I don't know if it's best at this meeting or at the action plan meeting in the fall where we actually start putting some money towards it and then to see what other states could do. They've got this list here and they can choose what they can do within their own financial resources.

CHAIRMAN DIODATI: Okay, Doug, let me take a few more questions, finish out questions, and then I'll try to respond to your recommendation. Vince.

EXECUTIVE DIRECTOR O'SHEA: I had a question maybe for Tom O'Connell or one of the other state directors on there. I'm on the back page on the policy issues; and we clearly identify under three that the survey indicated it looks like three to five scientists would be needed to keep up with the current and future demands of assessments, so that's an immediate thing right now.

And then up in number one it says maybe we need to go look at the standards for when we're doing benchmark stock assessments and when we could do updates. My question would be did the working group have any kind of discussion about what would start that review process? We could do that right now before we hired more people is decide to defer some benchmark assessments based on some criteria.

I am wondering if the group had looked who might be a good group to initiate that, whether it's the Assessment and Science Committee or the Management and Science Committee that would bring a recommendation to the board's consideration to perhaps defer some of these labor-intensive benchmarks; if they had any of that discussion, Mr. Chairman.

MR. O'CONNELL: Vince, I don't recall us getting into the specifics of any of that but I'll defer to Patrick or Doug to see if they recall that.

MR. CAMPFIELD: We did not get into those specifics but I might suggest the Assessment and Science Committee would be the right group to kick off that discussion. They will meet coming up in April.

MR. STOCKWELL: Mr. Chairman, from the state of Maine's perspective the upcoming loss of federal funds is going to result in a significant reduction of our science staff, so the thought of maintaining or increasing capacity is a real struggle for me right now. The one positive comment I have is that the training that the commission provided to some of our younger scientists a few years ago is invaluable and we've been able to move some of the younger scientists up through the ranks and encourage them to seek additional training and education. That's a way or perhaps a mechanism at a fairly low cost to help some of the youngsters along.

CHAIRMAN DIODATI: Okay, excellent discussion on this. I think what I'm going to suggest is that there are some questions that still need to be answered here by members of the commission and so, Pat, why don't you follow up maybe in getting those questions out to all the commissioners and get the right answers back.

I think my view at least in my shop we have increased our assessment capacity over the years to the point where we certainly have a higher capacity today than we did ten years ago and fifteen years ago. I think most areas have done that. However, the more we do the more work there is out there. I think the assessment work has just become greater.

We're managing things more quantitatively right now and there is still demand. I think that it has been a challenge to find good assessment people even if you have the money, but certainly you have to have money to do that, and I recognize that's the most difficult thing for all us. Today I'm seeing more selection out there. There are some excellent programs around the country; one right in our state at UMass SMAST, at producing some excellent highly skilled students with assessment skills. It's difficult for us to take advantage of that, but some of us I guess have had the opportunity to have hired some good people.

I think the idea of SAFMC continuing with the educational programs, I know a lot of my folks have

taken advantage of that. The way we do it is we have a couple of Derek Jeter type assessment people and then a lot of good people that could get on base, and that's what we're looking for. I think that's what we've got strive for.

I'd be willing to put some effort into doing some regional programs like the ones that ASMFC does so we can follow up on it and keep it going so if there are people close enough to us that want to come and take a course – folks like Steve Correira and Gary Nelson are pretty experienced at doing that – we're more than willing to do that in our shop.

EXECUTIVE DIRECTOR O'SHEA: We're way down in the weeds here now, now the other part with that is if we had a standardized module of what that training would be, which you already have at the commission, you could move the material and the course all around, which would lighten the lift for you guys if you were going to do it regionally, and then you'd make sure that if everybody takes Part A or Part B – because we do have sort of an introductory and advance course.

CHAIRMAN DIODATI: Well, we would be very, very interested in that. Jim.

MR. GILMORE: Did you say Derek Jeter, Mr. Chairman?

CHAIRMAN DIODATI: It just came out by accident. (Laughter) All right, obviously I think a lot of us have a strong interest in that and it wouldn't be a bad idea to start building our midlevel fisheries managers, too, and building those kinds of policy skills on our staff. If there are courses that you want to offer in that, Vince, or develop for that, believe it or not that's one of the more difficult things I have.

Assessments are easy in the sense that it's a science that you can learn, but putting it all together and managing a fishery is a skill that we're having trouble relaying to the next generation, and so that's something else to think about. There are a couple of other things here. One is a change in the schedule for tomorrow.

We're going to move the business meeting up from the late afternoon. We're going to bring it up to 10:00 to 10:30 and we have Acting Assistant Administrator Sam Rauch coming in to meet with you. I know many of you know Sam already; I certainly do. Those who don't know Sam, he's a terrific guy and I look forward to seeing Sam tomorrow. He is coming in to introduce himself or

reintroduce himself to those of you who know Sam. Vince.

EXECUTIVE DIRECTOR O'SHEA: Just to clarify, you didn't come across clearly, but that will start at 10:00 and go until 10:30.

OTHER BUSINESS

CHAIRMAN DIODATI: Ten to ten thirty, but that is going to be our business meeting essentially, right? Other business, I did talk to Rick earlier today. Rick wanted to introduce at least concept and something for us to think about and more about where to place it in our agendas in the future. Go ahead, Rick.

MR. RICK BELLAVANCE: Mr. Chairman, I'm kind of a newbie here and in an act of disclosure I don't really have a full institutional knowledge of everything that has happened at the commission over the years it has been around. I would like an opportunity just to spend a few minutes talking about something that has been discussed within the recreational and commercial fishery in Rhode Island.

It seems to be a growing thought that it would be helpful to have either multiyear or dual-year quotas or fisheries management measures on a lot of the stocks that we fish for to offer some stability to industry, both commercially and recreationally. I'm not exactly sure where to place that into the commission's work, but I thought I would just bring it up here and see where it went from there. Thank you.

CHAIRMAN DIODATI: Thanks, Rick. Yes, this certainly not a new idea. Stability and predictability is something that the industry needs in order to market seafood and in order to develop business plans. I think that the Magnuson-Stevens Act in terms of the rebuilding timelines is the biggest challenge relative to that. Dave, did you want to weigh in?

MR. SIMPSON: Yes, if I remember right there is the flexibility for two-year specification setting now and we're just as an old friend of mine used to say fraidie scared to do it because the stock condition can change so much that you'd require – you've get more oscillation and regulations. The stock could really get big or really get small in two years, so we're reluctant to go two years in a row. I certainly agree with the sentiment that in recreational fisheries we need to find a way to increase stability in our regulations.

CHAIRMAN DIODATI: I know that this is an international issue. The European Union not long ago adopted a program where they don't increase or decrease quotas now more than – I think 20 percent is the standard that they use; so any one year the fishing industry knows ahead of time that if things are heading direction, an upwards trend in the stocks, they're not going to see more than a 20 percent increase. Likewise if it's going down, it's not going to be more than a 20 percent decrease. These kinds of ideas are not new. They certainly have legs. Where we bring this up, I'm not sure. Certainly not this afternoon at 5:30, but it's on the record, Rick, and we'll discuss that. Go ahead, Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, I'd say it's more than on the record. Since 2003 this commission, its premier species has been two fish at 28 inches coastwide, but that's because you have a stock that's healthy enough to allow that. You could have probably gone to three or fish for a couple of years, in which case we would have gone back down to one fish. I think we've had a track record where you've had the ability to do that and you've let regulations stay in place.

CHAIRMAN DIODATI: Well, certainly the more risk adverse you're willing to be, the more likely you can come up with a regulation that is going to have some longevity to it. This is something that I guess we can talk about at some other venue. We are going to recess. I want the tautog folks to have an opportunity to – go ahead, Terry.

MR. STOCKWELL: Mr. Chairman, I'll be very brief because I know we're running late. The issue that I'm going to raise can be probably fairly easily resolved by staff working between now and our spring meeting. It's related to clarification and guidance for external assessments and reviews. We just went through a round of issues with setting the shrimp season. Staff is well aware of them. I've been working with Bob and Mike and Pat on these issues; and rather than taking more time, if we could just defer to them, we could bring it back up again at our May meeting.

CHAIRMAN DIODATI: Sorry, Terry, you did mention that to me. A.C.

MR. CARPENTER: Can you over tomorrow's schedule one more time, please.

CHAIRMAN DIODATI: Yes, the business session that scheduled late in the day tomorrow, sometime after 3:00, we're going to start the business session at

10:00 a.m., and it's probably going to go to about 10:30. Again, the acting assistant administrator is going to come in and say hello.

MR. CARPENTER: Then the other things are just pushed back after that meeting; is that how I understand that.

ADJOURNMENT

CHAIRMAN DIODATI: If need be, yes. We'll get as much work done as we can. Any other business to come before the policy board tonight. If not, we are recessed.

(Whereupon, the meeting was adjourned at 5:30 o'clock p.m., February 8, 2012.)

Compliance Committee Conference Call Summary

January 27, 2012

Committee Attendance:

Jim Gilmore, Chair
Dennis Abbott
Robert Boyles
Bill Cole
John Duren
Adam Nowalsky
Jack Travelstead

Other Commissioner Attendance:

Malcolm Rhodes

Staff:

Bob Beal

Relevant ASMFC Guidance Documents

- ASMFC Rules and Regulations language regarding calling meetings (*Attachment 1*)
- ISFMP Charter language regarding Emergency Actions (*Attachment 2*)
- ISFMP Charter language regarding delayed implementation (*Attachment 3*)
- Addendum XVI to the Summer Flounder, Scup, and Black Sea Bass FMP language regarding delayed implementation (*Attachment 4*)

Discussion Summary

The Compliance Committee held its initial call on January 27, 2012 to respond to the charge from the Commission Chair, Paul Diodati. The Committee divided the tasking into four components.

The practice and adequacy of the procedures for calling a board meeting

The Committee reviewed the guidance contained in the Commission Regulations and determined the current language is appropriate for calling meetings. The Committee did not recommend any changes. The Committee agreed there are benefits and justification for maintaining the current process. The procedure of the Commission Chair calling ordinary and extra-ordinary board meetings provides the following:

- Consistent criteria for calling meetings across all boards
- Adherence to approved Action Plan and budget
- Encouragement for boards to make decisions in the four scheduled Commission meetings
- Consideration of consequences of board action that might impact all states.

The meaning, application, and adequacy of the definition of an emergency

The Committee reviewed the language in the ISFMP Charter that defines an emergency. The Committee also was provided with a description of how difficult it was to develop and approve the current emergency language. The Committee agreed the current emergency provisions in the Charter provide adequate flexibility to address unforeseen issues through board action. The

requirement to approve emergency actions by 2/3 vote reduces the potential for boards to overuse this option. The Committee provided the following reasons for maintaining the current emergency language in the Charter.

- The Commission has infrequently used emergency actions to modify FMPs in response to urgent, unforeseen, and serious conservation issues (8 emergency actions since 2001).
- Modifying the definition of an emergency would be difficult given the range of emergency provisions in states laws.
- Modifying the emergency language to increase flexibility for boards may result in more frequent use of emergencies to adjust management. This will decrease transparency and public participation.
- Crafting language in the Charter to increase flexibility for all FMPs may not be possible or will result overuse of emergency actions.

Commission's ability to respond to state(s) deviating from an FMP

The Committee reviewed the options available to the Commission to respond to a state implementing regulations that are not consistent with the compliance requirements in an FMP. The Committee agreed the non-compliance provisions in ACFCMA are adequate and effective in addressing issue where there is a conservation impact. However, the Committee indicated there are not sufficient options to address short-term non-compliance and deviations that don't impact conservation. The Committee agreed to the following:

- The recent actions regarding scup highlighted deficiencies in the system to address deviations from FMPs.
- Staff should explore the legal issues involved with penalizing states through actions such as reduced future quotas, reduce ACFCMA funding, etc.
- Consideration should be given to including delayed implementation provisions in other FMPs and removing the link to conservation to invoke delayed implementation penalties.
- State deviations from an FMP cause significant problems for all states and for the Commission process.
- Additional Committee discussions will be needed to fully develop options to address state deviations.

Increasing the Flexibility for species management boards

The Committee agreed that additional flexibility should be provided to the species management boards especially in the case of fully rebuilt stocks. The Committee determined that modifying the Charter to provide flexibility would not be appropriate. Given that FMPs differ significantly, it would likely not be possible to create generic language to address the specifics of each FMP. The Committee agreed on the following statements:

- Each species board should consider modifying FMPs to provide increased flexibility for in-season adjustment if the stock is fully rebuilt. Not all FMPs will need to be modified.

- The FMPs already include conservation equivalency provisions that provide flexibility to the states.
- The transparency and public comment process should be considered when boards explore details to increase flexibility.

Attachment 1

RULES AND REGULATIONS

Article II. MEETINGS

SECTION 1. MEETINGS. Annual, semi-annual and other meetings of the Commission shall be held at the call of the Chair. Upon the written request of five states, submitted to the Executive Director, the Chairman shall call a meeting of the Commission. The Commission shall also conduct meetings of committees, sections, boards, advisory panels or other groups such as are established to assist in carrying out the Commission's responsibilities. Such meetings shall be called by the Executive Director with the approval of the Commission Chair. The Executive Committee shall establish guidelines for meetings, including meetings conducted by conference call or teleconference. A public notice will be provided at least two weeks prior to all meetings of the Commission and its various bodies, and at least 48 hours notice will be provided for any meetings held by conference call or teleconference; provided exceptions to these notice requirements may be granted by the Commission Chair.

Attachment 2

ISFMP CHARTER

Section Six. Standards and Procedures for Interstate Fishery Management Plans

(10) Emergencies - A management board/section may, without regard to the other provisions of Section Six (c), authorize or require any emergency action that is not covered by an FMP or is an exception or change to any provision in an FMP. Such action shall, during the time it is in effect, be treated as an amendment to the FMP.

(i) Such action must be approved by two-thirds of all voting members (i.e., entire membership) of the management board/section prior to taking effect. The decision may be made by meeting, mail, or FAX ballot in the case of an emergency.

(ii) Within 30 days of taking emergency action, the states and the Commission shall hold at least four public hearings concerning the action, including at least one in each state that requests it.

(iii) Any such action, with the exception of public health emergencies, shall originally be effective for a period not to exceed 180 days from the date of the management board/section's declaration of an emergency, but may be renewed by the management board/section for two additional periods of up to one year each, provided the board/section has initiated action to prepare an FMP, or initiated action to amend the FMP in accordance with Section Six(c). Emergency actions taken to address a public health emergency shall remain in effect until the public health concern ceases to exist (this determination to be made by the management board/section). The management board/section may terminate an emergency action at any time with approval of two-thirds of all voting members (i.e., entire membership).

(iv) Definition of Emergencies. The provisions of this subsection shall only apply in those circumstances under which public health or the conservation of coastal fishery resources or attainment of fishery management objectives has been placed substantially at risk by unanticipated changes in the ecosystem, the stock, or the fishery.

Attachment 3

ISFMP CHARTER

(h) **Procedure to Address Management Program Implementation Delays** –Each species management board shall evaluate the current FMP, amendment, and/or addendum to determine if delays in implementation have impacted, or may negatively impact, the achievement of the goals and objectives of the management program. Each of the species management boards, with the assistance of the respective technical committee if necessary, will conduct this evaluation and provide, in writing, a summary of its findings to the ISFMP Policy Board. Each species management board that determines that there is a negative impact due to delayed implementation will provide the ISFMP Policy Board a proposed timeline to develop an amendment or addendum to address delayed implementation.

If the ISFMP Policy Board determines that an amendment or addendum should be developed to address delayed implementation, the amendment or addendum should, at a minimum, include any penalties and repayments for delays in implementation, the minimum notification time that Commission staff must provide a state/jurisdiction prior to requiring an in-season management adjustment; and establishment of a reporting and tracking system for management changes.

Attachment 4

Addendum XVI to the Summer Flounder, Scup and Black Sea Bass **FMP**

The addendum is intended to provide a species-specific mechanism of ensuring that a state meet its obligations under the plan in a way that minimizes the probability that a state's delay in complying does not adversely affect other states' fisheries or conservation of the resource. These measures are deemed critical for the long term conservation of the species. This Addendum does not propose to modify the existing compliance review and sanction process that is described in the ASMFC guidance documents and the ACFCMA. This Addendum also does not propose to modify the existing conservation equivalency procedures for summer flounder, scup, and black sea bass. States have the ability to adopt measures that are more conservative than those approved by the Board.

Issue 1: Delayed Implementation of Commercial Regulations

A) Failure to adopt annual adjustments to minimum fish size for summer flounder, scup, and/or black sea bass

B) Failure to adopt initial Winter I trip limits by January 1 and Winter II trip limits by November 1 for the scup fishery.

C) Failure to adopt reduced scup trip limit for the Winter I and Winter II periods when required due to established triggers.

For each day that a state does not implement these commercial measures, an equal number of days during the same or equivalent time period will be closed in the following fishing season. For example, if a state does not implement appropriate minimum fish sizes for the first 2 weeks of the fishing season, in the following year the season would be closed for the first 2 weeks of the season. Similarly, if a state does not reduce scup trip limits for the Winter I or Winter II periods as required by established triggers, the following fishing season would be closed for an equal number of days the delay occurred after the trigger had been met.

D) Failure to close the black sea bass fishery and/or the summer scup fishery after the state quota has been reached.

The ASMFC allocates the black sea bass coastwide commercial quota and the summer scup commercial quota to states from Massachusetts to North Carolina. The ASMFC also monitors state landings to prevent individual states from exceeding their quota. The NMFS monitors the coastwide black sea bass and scup quota and closes the commercial fishery in federal waters when the coastwide quota has been reached. An individual state has the potential to exceed their state quota to the level that contributes to the NMFS closing the federal commercial coastwide fishery before all states have the opportunity to harvest their individual state allocation. This scenario has the potential to result in inequities between state and federal permit holders.

If a state fails to close its black sea bass and/or its summer scup fishery after the state quota has been reached, states will compensate pound for pound for up to 25% of the original state quota. Any overages beyond 25% of the state quota are compensated for at 1.5 times.

Issue 2: Delayed Implementation of Recreational Regulations

The following proposed compensation strategies would be applied to a state even if that state did not exceed its recreational harvest limit.

- A) Failure to adopt Board-approved size limits for summer flounder, scup, and/or black sea bass**
- B) Failure to adopt Board-approved seasonal closures for summer flounder, scup, and/or black sea bass**
- C) Failure to adopt Board-approved possession limits for summer flounder and/or scup by the date the current season opens.**
- D) Failure to adopt Board-approved possession limits for black sea bass by Jan 1 or the date the current season opens, whichever is later.**

**ASMFC Assessment Science Committee (ASC)
Report to the ISFMP Policy Board
May 2, 2012**

The Assessment Science Committee (ASC) held a meeting April 2, 2012 to address the following issues:

ACTION

- Stock assessment and peer review schedule was reviewed through 2015
 - Changes since the Policy Board approved schedule:
 - Lobster review scheduled for 2014 external ASMFC review
 - Bluefish will undergo a SARC review in summer rather than fall 2013
 - Coastal sharks to be determined for HMS SEDAR review in 2013
 - **Recommended additions and changes**
 - Tautog benchmark be scheduled for 2014
 - Weakfish benchmark be scheduled for 2014
 - If approve, **Board to populate stock assessment subcommittee**
 - Black drum benchmark assessment originally scheduled for 2013. ASC recommends 2014 benchmark with weakfish. The constitution of the stock assessment subcommittee has now changed, making even 2014 not feasible. If approve for 2014, need to prioritize scientists assigned to SASC.

DISCUSSION

- Concern regarding Atlantic states' stock assessment capacity
 - Previous recommendations to the Board from ASC, MSC and a few Commissioners to address assessment capacity issue included the following: *Modify assessment frequencies to reflect each species' stock status and life history*
 - **Board to provide direction to ASC on evaluating assessment frequencies for Board consideration**
- **Board to provide direction to ASC on developing Commission guidance on use of new MRIP estimates in stock assessments and Technical Committee analyses**
 - New MRIP estimates released recently and NMFS is developing tools to utilize these estimates
- **Provide direction to ASC on 2012 Action Plan tasks regarding uncertainty**
 - 2012 ASMC Action Plan tasks:
 - Task 1.5.1 – Establish policy regarding requirements for technical committees to provide risk and uncertainty estimates when presenting scientific advice. Scientific oversight committees develop best practices for characterizing uncertainty for different assessment types.
 - Task 1.5.2 – Develop Commission policy regarding risk tolerance and uncertainty in consideration/coordination of/with Councils. Policy/Mgmt Boards develop management strategies based on levels of uncertainty in assessments.
- Stock Assessment Training Program for 2012
 - Intermediate course: Mock assessment workshop
 - Advanced course: Introduction to R

