

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SOUTH ATLANTIC STATE/FEDERAL FISHERIES MANAGEMENT BOARD

The Westin Crystal City
Arlington, Virginia
August 6, 2019

Approved October 31, 2019

Proceedings of the South Atlantic State/Federal Fisheries Management Board Meeting
August 2019

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of May 2019** by Consent (Page 1).
3. **Move to approve the language addressing Issues 1 (Goals), 2 (Objectives), 4 (Commercial Landings Monitoring), and 11 (Commercial Quota Management) in Draft Amendment 1 to the Cobia FMP** (Page 6). Motion by Chris Batsavage; second by Malcolm Rhodes. Motion carried (Page 6).
4. **Move to approve language addressing Issues 3 (Definition of Overfishing), 6 (Sector Quota Allocation), and 7 (Recreational Harvest Evaluation)** (Page 9). Motion by Spud Woodward; second by Lynn Fegley. Motion Amended.

Motion to Amend: Move to amend to change in Issue 7 “the underharvest evaluation time period to a minimum of two years.” (Page 9). Motion by Adam Nowalsky; second by Spud Woodward.

Main Motion as Amended: Move to approve language addressing Issues 3 (Definition of Overfishing), 6 (Sector Quota Allocation), and 7 (Recreational Harvest Evaluation), with the underharvest evaluation time period changed to a minimum of two years. Motion carried (Page 11).

5. **Move to adopt Option B under Issue 5 coastwide total harvest quota, vessel limits, possession or bag limits, minimum size limits, and commercial closure triggering mechanism may be set for up to three years** (Page 11). Motion by Lynn Fegley; second by Spud Woodward. Motion carried (Page 11).
6. **Move to adopt Option B under Issue 8: Recreational landings, quotas, and targets will be evaluated and set in units of numbers of fish** (Page 11). Motion by Mel Bell; second by Chris Batsavage. Motion carried (Page 12).
7. **Move to adopt Option A, status quo, under Issue 9, commercial fisheries would continue to operate under a minimum size of 33 inches fork length, or the total length equivalent (37 inches)** (Page 12). Motion by Lynn Fegley; second by Adam Nowalsky. Motion to substitute (Page 12).

Motion to Substitute: Move to substitute “to adopt Option B, commercial fisheries would operate under a minimum size limit of at least 36 inches fork length or the total length equivalent (40 inches).” (Page 12). Motion by Chris Batsavage; second by Mel Bell. Motion fails (Page 14).

Main Motion: Move to adopt Option A, status quo, under Issue 9, commercial fisheries would continue to operate under a minimum size of 33 inches fork length, or the total length equivalent (37 inches). Motion carried (Page 14).

8. **Move to adopt Option A, status quo, under Issue 10: All states shall maintain a daily vessel limit, not to exceed 6 fish per vessel** (Page 14). Motion by Doug Haymans; second by Ellen Bolen. Motion carried (Page 14).
9. **Move to adopt Option B under Issue 12 which would allow states to apply for de minimis status for their commercial fishery** (Page 15). Motion by Lynn Fegley; second by Mel Bell. Motion carried (Page 15).

INDEX OF MOTIONS (continued)

10. **Move to adopt Option A for Issue 13: recommend to the Secretary to implement regulations in federal waters corresponding to vessels' permitted/licensed state of landing (all sectors)** (Page 18). Motion by Adam Nowalsky; second by Lynn Fegley. Motion carried (Page 19).
11. **Move to recommend to the Commission the approval of Amendment 1 to the Cobia Interstate Fishery Management Plan as amended today, with an implementation date of July 1, 2020** (Page 20). Motion by Malcolm Rhodes; second by Spud Woodward. Motion carried (Page 21).
12. **Motion to adjourn** by Consent (Page 22).

Proceedings of the South Atlantic State/Federal Fisheries Management Board Meeting
August 2019

ATTENDANCE

BOARD MEMBERS

Jim Gilmore, NY (AA)	Pat Geer, VA, proxy for S. Bowman (AA), Chair
Maureen Davidson, NY, Administrative proxy	Ellen Bolen, VA, proxy for B. Plumlee (GA)
Emerson Hasbrouck, NY (GA)	Mike Blanton, NC, proxy for Rep. Steinburg (LA)
Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
Joe Cimino, NJ (AA)	Mel Bell, SC, proxy for R. Boyles (AA)
Russ Allen, NJ, proxy for T. Fote (GA)	Malcolm Rhodes, SC (GA)
Craig Pugh, DE, proxy for Rep. Carson (LA)	Spud Woodward, GA (AA)
Stewart Michels, DE, proxy for David Saveikas (AA)	Doug Haymans, GA (GA)
Roy Miller, DE (GA)	Rep. Thad Altman, FL (LA)
Phil Langley, MD, proxy for Del. Stein (LA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Lynn Fegley, MD, Administrative proxy	Marty Gary, PRFC
Robert Brown, MD, proxy for R. Dize (GA)	Roy Crabtree, NMFS
Sen. Monty Mason, VA (LA)	

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

Ex-Officio Members

Angela Giuliano, Chair, Cobia Technical Committee	Chris McDonough, Chair, Atl. Croaker Technical Committee
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Staff

Toni Kerns	Mike Schmidtke
Robert Beal	Tina Berger

Guests

Sam Chin, NOAA	Zach Greenberg, Pew Trusts
Allison Colden, CBF	Aaron Kornbluth, Pew Trusts
Heather Corbett, NJ DFW	Loren Lustig, PA (GA)
Chris Dollar, TRCP	Tim Sartwell, NOAA
Walker Golder, Nat'l. Audubon Society	Sherry White, US FWS
Joseph Gordon, Pew Trusts	Jack Travelstead, CCA

The South Atlantic State/Federal Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, August 6, 2019, and was called to order at 10:15 o'clock a.m. by Chairman Pat Geer.

CALL TO ORDER

CHAIRMAN PAT GEER: Welcome to the South Atlantic State and Federal Fisheries Management Board. My name is Pat Geer. I am the Chairman, and I'll have a few introductions. To the left is Angela Giuliano who is the TC Chair for the Cobia Committee. Mike Schmidtke is to my right; he is our lead planner on all this.

Then, I have Chris McDonough, who is our Croaker and Spot TC Chair as well, and he'll be giving a presentation today as well.

APPROVAL OF AGENDA

CHAIRMAN GEER: Let's start the meeting with the approval of the agenda. Are there any additions or comments on the agenda, hearing none, Toni?

MS. TONI KERNS: It's not to the agenda, but just to the running of the meeting. Jess, who used to do motions, has gone on to Grad school, and so we have staff working on our motions today. But because we're a little rusty in doing motions, if everyone could just make sure you speak slowly when you do the motions and work with us as we get the motions up on the table, and have patience, it would be greatly appreciated.

CHAIRMAN GEER: And there are quite a few motions today. There are at least 13 or 14 on cobia.

APPROVAL OF PROCEEDINGS

CHAIRMAN GEER: Approval of the proceedings from the May, 2019 meeting, is there any additions or comments to that? Hearing none; the agenda and the proceedings are approved by consent.

PUBLIC COMMENT

CHAIRMAN GEER: Is there any public comment?

We don't have a list, but is there anybody who wants to speak from the public about issues that are not on the agenda? Hearing none we'll move on.

AMENDMENT 1 FOR THE COBIA FISHERIES MANAGEMENT PLAN FOR FINAL APPROVAL

CHAIRMAN GEER: We're going to move on to Amendment 1 for the Cobia Fisheries Management Plan for Final Approval. We'll start off with a presentation from Mike. Mike, you have the floor.

DR. MIKE SCHMIDTKE: First I'll be going through the public comment summary for Draft Amendment 1 to the Cobia FMP. After that I'll be giving the AP report as well. We weren't able to have our AP Chair represented here today, so I'll do that. Then we'll also have a TC report finally, going through the actual issues of the Amendment for the Board's consideration.

Just a reminder of kind of where we've come from with this entire amendment process, this was all started back in 2018, and today we are on the final step; where the Board will review public comment on Draft Amendment 1, and consider it for final approval by both this Board and passing it on to the whole Commission. Again, a reminder of the statement of the problem, this Amendment has come about because in part of Regulatory Amendment 31 to the Coastal Migratory Pelagics FMP from the South Atlantic Council. That became effective in March of this year, which means that Atlantic cobia is now managed solely through the Commission's FMP.

Previously the Commission had been managing in a complementary fashion with the Council under the original FMP. A lot of the language under the current FMP is reflecting that complementary relationship. In addition, the Board also gave direction to establish a process for specifying aspects of harvest, and being able to do so through Board action.

PUBLIC COMMENT SUMMARY

DR. SCHMIDTKE: For the public comment summary, and really kind of similarly throughout the presentation, I'm going to be dividing up the issues a little bit out of order that they are in the Amendment, but more to be able to group up the single-option issues, those that really don't have any alternative as they are written in the draft amendment, and then those with multiple options.

First of all, looking at the written comments, the written comment period was open during the summer through July 15. Eight comments, eight written comments were received. Three of those were from organizations; the American Sport Fishing Association, Hilton Head Island Sport Fishing Club, and Virginia Saltwater Sport Fishing Association, and five individuals submitted comments as well. Most of the comments that were submitted expressed support for the single-option issues or did not specifically address them.

The exceptions to this are shown on the screen. For Issue 3, the ASA recommended additional language that would allow the Board to establish fishing mortality and spawning stock biomass targets. The current language in the draft Amendment only reflects thresholds for these metrics. They also recommended renaming that section to reflect the inclusion of an overfished status definition, so they recommended something along the lines of stock status criteria more than just overfishing definition.

Issue Number 6, Sector Allocation, ASA recommended a description of the methods that were used originally to calculate the sector allocation. That was done in Amendment 18 of the Coastal Migratory Pelagics FMP, and the methods for that can be added. But they also asked for recalculation of the sector allocation based on the recalibrated MRIP estimates.

As a reminder for those that are not familiar, last year the Marine Recreational Information Program, which estimates recreational harvest,

they transitioned their effort survey from a telephone survey to a mail-based survey. The management for cobia right now is still based on the telephone survey, because all of the limits and targets and all the allocations, they were all based on the telephone survey data.

Now with the shift to the mail-based survey that is kind of happening on a little bit of a slower time scale for cobia, because there is an ongoing stock assessment SEDAR 58, and that will incorporate the new mail-based recreational data. But the current Amendment has the same allocations and all of the units based off of the telephone data. That transition will happen for cobia after the assessment is completed. That is one of the things that are brought up by ASA in their comments. Additionally, they recommended for the recreational evaluation issue, Issue Number 7 that the time period of consecutive underharvest that would allow for application for relaxed measures that that be reduced to two years. In the current Amendment it is written as three years. Additional written comments included the ones that you see on the screen, one of them recommending delayed action on this Amendment until completion of the stock assessment, one recommending closure of all non-subsistence cobia fishing.

One, stating that cobia management specifically off South Carolina should be done exclusively by South Carolina, and finally ASA also recommended that the state allocation percentages that are used to calculate the recreational harvest targets that those be recalculated to reflect the FES calibration of MRIP harvest estimates as well.

There were four public hearings that were held, three of those were in person, and one of those was via webinar. Virginia, North Carolina and South Carolina held the in-person hearings. The webinar was intended as kind of a catch-all for any states that did not have in-person hearings, and announcements were sent out along with that.

There were no attendees to the webinar hearing, so there aren't any comments related to that webinar hearing; but there is in the Public Comment Summary you have the comments from the Virginia, North Carolina and South Carolina hearings. A couple of the highlights from those are Virginia and North Carolina continued to be concerned with MRIP harvest estimates, and some of the comments there asked for consideration of other data.

Specifically, a few of them mentioned the Virginia Cobia Reporting Program. For Issue Number 13 that was one where there were comments really from both sides of that issue. In general, Virginia supported recommending federal regulations based on the port of departure and return, regardless of the catch location or licenses held.

The comments from that hearing indicated that current options could be confusing for anglers, because of the language involving multiple licenses. For South Carolina that hearing, the public represented there. They expressed concerns with anglers from other states fishing reefs off of South Carolina, potentially with less restrictive regulations than what are allowed for those anglers.

There is a table in the Public Comment Summary Document. I do have to make one correction to that. Issue Number 8, Recreational Units. In that table in the document it is shown that A has the unanimous support. It's actually Option B, Numbers for the Recreational Units that had the unanimous support.

All of the numbers that are in A should be in B, and that is corrected in the table that you see there on the screen. But here you can see kind of the breakdown of the support for options on those issues that have multiple options. For Issue Number 5 the majority of comments supported Option A.

For Issue 8, all of the comments supported Option B. Issue 9 there was a pretty close split between Options A and B, but it was definitely

done so on what looks like a regional basis. Issue 10 there was a split as well. Issue 12 there was a unanimous support for Option B, and Issue 13 was split as well. With that I can take any questions related to the public comments.

CHAIRMAN GEER: Does anybody have any questions for Mike? Hearing none, any comments? All right, Mike.

ADVISORY PANEL REPORT

DR. SCHMIDTKE: Next I will give the Advisory Panel Report. It's really not so much a Panel report as opposed to an individual report. We held a webinar on July 8, and there was one attendee from the South Atlantic AP. It was one of our representatives from Virginia attended, and he provided his comments.

In follow up to the webinar, I sent e-mails to the South Atlantic AP, both requesting that they provide additional comments, even if they agreed with those that were already given, if they would express some level of support so we could gauge this in different areas and throughout the Committee, and I didn't receive any additional comments.

Just bear that in mind as we go through this report. This was the one individual that did show up for the hearing. But he expressed no objections to the language for all of the single-option issues; 1, 2, 3, 4, 6, 7 and 11. He stated positions on the multi-option issues that I'll go through here on this next slide.

For harvest specification there was support for Option A, which is the two-year option. For the recreational unit, support for Option B, using numbers of fish. For the commercial minimum size, Option A, which is the status quo for that minimum size limit, for Issue Number 10, Option C, the four-fish per vessel. But he did specifically state that he would only support four-fish per vessel if this limit would apply regardless of the number of commercial license holders on the vessel.

This is kind of a Virginia-specific rule that's in place, in terms of the number of license holders that is applied to the commercial fishery. But as a general principal, and this is probably guiding more of his direction of support, he feels that the commercial vessel limit should be equal to or one fish greater than the recreational.

I know that doesn't quite line up with what's in the FMP, because the recreational can have a vessel limit of up to six fish, if the state wants to put that limit in place. But I think he's speaking more from a perspective of what he's experiencing as specifically a Virginia commercial fisherman.

For the commercial de minimis Issue 12, he supported Option B, which does allow for a commercial de minimis status, and finally Issue Number 13, the recommendation for federal waters, he supported Option A, which used regulations based on the license or permitted state for both the recreational and commercial sectors. With that I can take questions related to the AP.

CHAIRMAN GEER: Are there any questions for Mike? I would like to make a comment on this. Mike and I talked about this having only one AP member participate on the phone call. I mean, you get with your AP members and see if they're still interested in sitting on these committees. It's hard for us to function when only one person out of a whole group is participating. Get with them, and if they're not interested see if you can get new representation. We had that as well with some of the general public meetings as well, they weren't very well attended.

I think maybe it's a trend that we're seeing in general. Maybe we need to have a discussion moving forward on how we can get better participation, because we've got a lot of cobia fishermen in Virginia, but we only had less than a dozen folks show up. That is an ongoing trend that we see.

How can we get more people engaged in this process so that the regulations come out, and

then they get upset, after we're done with the process? It's frustrating for us and it's frustrating for them, but they have a voice and they're just not taking advantage of it.

TECHNICAL COMMITTEE REPORT

CHAIRMAN GEER: We're going to move on to the TC Report, and Angela is going to give that. Oh, excuse me, Spud.

MR. A.G. "SPUD" WOODWARD: I'm disappointed too. I guess my concern at this point is that we even consider for the record this being an Advisory Panel Report, because it really isn't. I think we need to make clear that it was submitted on behalf of one individual, and that we don't have it in the record as an Advisory Panel report.

CHAIRMAN GEER: Toni.

MS. KERNS: On the report it does note that only one individual did show up for the meeting although Mike did send that report out to the full Advisory Board and he specifically asked, please look at this. Do you disagree, do you have other opinions? He did not get any responses, if I remember correctly. There was that that did happen, as well just as an FYI for the Board.

DR. SCHMIDTKE: Yes, I e-mailed the AP asking both for any additional comments as well as even if you agree. Craig Freeman was the representative that showed up. Even if you agree with Craig, please let me know that you agree with him. In addition, within that e-mail it also asks if those AP members wanted to continue to serve on that AP, or if we should contact the states to let them know if representation needs to change.

Even related to that I only got two responses affirming that they want to continue serving on the AP, and the two that responded in that way, they said that they would look at the report and send any additional comments, and I just never received anything further from that.

CHAIRMAN GEER: Anything else on this? Thank you, Mike. Let's move on to Angela, she's going to give the TC Report.

MS. ANGELA GIULIANO: The Technical Committee met on July 25, to review Draft Amendment 1. Similar to Mike's presentation, for all of the options that were either single options or just edited text, the TC was in support of the edits of the sections as edited or written. Moving on to Issue 5, which is the first one where there was an option. For harvest specification process, the TC supported Option B, which would allow specifications to be done up to every three years. However, this was with a caveat that should management change or we have an assessment, basically that the knowledge that the Board could act sooner if needed. For Issue 8, regarding recreational units being either in pounds or numbers of fish, in line with the Technical Committee Memo from July of 2018, the Technical Committee supported Option B, which is monitoring the quota and landings in numbers of fish.

This goes back to the fact that MRIP often has good estimates of numbers of fish, but especially for a species like cobia, the biological data is often lacking. There was some discussion on the TC call about the average weight used to convert the current recreational harvest limits from pounds to numbers. Currently they use the 28 pound average.

The TC discussed how landings weight can vary year to year, as well as spatially. There was some discussion on how often bait-specific pound information on average weights could be brought to the Board, but in general. Hopefully we'll be able to get a quota in numbers out of the upcoming assessment.

Issue 9, it's regarding the commercial size limit, of whether to keep it at 33 inches fork length, or 36 inches fork length, which would match the recreational fishery. The TC supported Option B, to match the recreational fishery. While the quota is monitored obviously in pounds when it's

shut down, there is not really a biological reason for increasing the minimum size.

Obviously it's the higher size limit you're probably going to have fewer fish harvested at the same quota poundage. But the TC did recognize that having the two match could lessen angler confusion, as well as simplify enforcement. Moving on to Issue 10, just the commercial vessel limit, the TC supported the status quo, which is that the vessel limit not exceeds six fish per vessel. Similar to the previous issue, the quota is monitored and the fishery shuts down when it's been reached.

Lowering the vessel limit while it potentially could prolong the season, there didn't really seem to be much other information for it to be changed. On Issue 12, commercial de minimis, the TC supported Option B, allowing states to apply for a commercial de minimis status, and for Issue 13, the Technical Committee supported Option B, which for recreational regulations would expand the latitudinal boundaries of the states into federal waters, and commercial regulations would be based on the state of permitting. With that I can take any questions on the TC Report.

CHAIRMAN GEER: Are there any questions for Angela? Chris.

MR. CHRIS BATSAVAGE: Thank you for the report, Angela. Did the Technical Committee have any concerns about increased discards in the commercial fishery by raising the size limit to 36 inches?

MS. GIULIANO: That wasn't brought up by anybody on the Committee.

CHAIRMAN GEER: Lynn.

MS. LYNN FEGLEY: Thank you, Angela very much. Did the TC talk at all about the same issue, Issue 9 about the fact that the fish may be smaller to the north than if there is an access issue if you raise the commercial size limit?

MS. GIULIANO: That was not discussed on the TC call either.

**CONSIDER FINAL APPROVAL OF
AMENDMENT 1**

CHAIRMAN GEER: Anyone else? Okay, I thank you Angela, greatly appreciate that. Moving on, we have 13 Issues you need to address. Of those issues, six of them have options. However, three of the ones without options we had some public comment that we need to address. The approach we're going to take is we're going to deal with Issues 3 – I'm looking at Mike, he can nod yes or no – 3, 6, and 7. Oh, it's up on the board, okay 3, 6, and 7. Then we'll discuss those and make a single motion?

Okay, we're going to do 1, 2, 4, and 11 first. We'll do a single motion on that and then we'll do the other ones are 3, 6, and 7. We'll do an individual motion on that and then we'll go to the issues that have options, and go by those one at a time, and we'll have our discussion as we move forward. There will be 13 motions, well there will be 10 total motions, I believe. Right, is that what it adds up to be? There is a lot. We're going to go through this. We're going to start, and Mike do you want to start the discussion on that?

DR. SCHMIDTKE: I just wanted to show on the screen for the Board's consideration those single option issues that don't have the suggested changes first. The first one would be Issue 1, Additional Language for the Goal of the Amendment that adds language talking about equitability and sustainability.

Then Issue Number 2 that adds two objectives related to the added language to the goal, as well as the harvest specification process. Issue Number 4 that describes how commercial landings and catch would be monitored under the Amendment, and how that process would now be going through the states.

Issue Number 11, discussing the establishment and the management of a commercial quota that

also would be monitored in season by the states; we've had some conversations among those states that would potentially be non de minimis, Virginia, North Carolina, South Carolina as far as how that could be accomplished.

We're looking into some different avenues. SAFIS was brought up as one potential avenue for collecting that data. But that's not something that needs to be really addressed within this Amendment; kind of the how-to is something that we'll figure out in the aftermath, if these issues are approved. With that we can I guess pause.

CHAIRMAN GEER: Okay, is there any discussion on these four issues? Chris.

MR. BATSAVAGE: If there is no discussion, I would like to keep things moving along and make a motion to approve the language addressing Issues 1 (Goals), 2 (Objectives), 4 (Commercial Landings Monitoring), and 11 (Commercial Quota Management) in Draft Amendment 1 to the Cobia FMP.

CHAIRMAN GEER: Second by Dr. Rhodes. Is there any further discussion on this motion? All right, I'll read the motion. Move to approve language addressing Issues 1 (Goals), 2 (Objectives), 4 (Commercial Landings Monitoring), and 11 (Commercial Quota Management) in Draft Amendment 1 to the Cobia FMP. **Motion by Mr. Batsavage and seconded by Dr. Rhodes, all in favor raise your right hand; opposed, abstentions, and null. The vote carries 10 to 0, 1 abstention, and no null votes, okay, we're moving right along.**

DR. SCHMIDTKE: Next I'll go through the three issues that are single-option issues, but did receive some public comment related to them. First there is Issue Number 3, the definition of overfishing. This section was incorporated so that the Commission can now define overfishing. Previously that was set through the Coastal Migratory Pelagics FMP.

Right now the language in this section talks about addressing F and SSB thresholds, and the public comment that we received indicated some desire to incorporate target language within that. The threshold language was used previously a lot with the South Atlantic Council, and so that is kind of how that got carried forward.

There is kind of a description on the screen related to that section, as well as within the Amendment itself. Issue Number 6 is the next one that received some comment that had to do with the sector quota allocation. Right now we're currently operating under a 92 percent recreational quota, 8 percent commercial quota.

Finally Issue 7 had to do with the evaluation of recreational landings and the response to any overages. The three-year-averaging process that is in the original FMP that's been continued forward, there has just been some additional details related to that language that have been added through this Amendment process. The comments related to this had to do with changing that threshold at the bottom.

States with consistent underharvest for at least three years may apply to relax measures, changing that to two years. Sorry I didn't bring up previously, the comment related to the sector allocation had to do with basically running the same process that the Council ran to come up with the 92-8 split, running those same reference years to come up with what the sector allocation would be using the FES calibrated harvest estimates.

CHAIRMAN GEER: Are there any questions for Mike? Lynn.

MS. FEGLEY: I think I need a little clarification. Issue 5 is the one where we would decide whether we are doing harvest specification two, three or four years, correct? Does that relate to the table under Issue 7? For example, right now I think that under Issue 7, the evaluation and response to overages is this three-year-running average. But if we go to a two-year spec, does

that change the calculation of that table so that you're evaluating on the average over two? To me the issues seem related, but I'm trying to understand if they are.

DR. SCHMIDTKE: The timeframes of those two things can be independent. That example assumes that in Issue 5 that Option B was selected, but it's not dependent on Option B being selected. The thing that would change is that instead of the evaluation being conducted every three years, as it is in the example, the evaluation would be conducted every two years. But it would still be done in a way that if regulations have been in place for three years, then a full three-year average could still be used on that running average type of basis. Does that make sense?

CHAIRMAN GEER: Are there any other questions or comments? I have Adam and then Chris.

MR. ADAM NOWALSKY: On Issue 7 that is still up on the board. I know we had quite a bit of discussion about this at the last meeting, with the takeaway at that time that changes would require some analysis from the PDT, and the preference of the Board was not to delay action on this, so we didn't pursue those concerns.

Where would this leave us with changing the underharvest timeline for evaluation for states to liberalize? If we chose to change that today, is it within the purview of the document that went out for us to change it, and does it in fact require PDT analysis when it seemed that was the takeaway when we discussed other options at the last Board meeting? I'll just note that I'm in favor of moving in that direction.

MS. KERNS: I think it's fine, Adam, because it goes from a single year to three years, so it falls within the realm of what you could say went for public comment to a degree, as long as there is no objection by the Board, and everybody consents to it then we can move forward with it. If it were more than three, then we might run into some issues.

CHAIRMAN GEER: Any other questions or comments, I'm sorry, Chris.

MR. BATSAVAGE: Also on Issue 7, a question that the public asked me was regarding if a state has exceeded their three-year average, and it has to adjust the regulations. Could other information besides MRIP data be used? It's not explicit in the document regarding whether a carcass collection program or other volunteer angler survey information could be used to craft regulations. Is that something that could be allowed, without explicitly stating it in the document, but then would potentially have to put it back out to public comment?

CHAIRMAN GEER: I believe the idea is if new data becomes available we can use it. It's not explicitly said in there. I'm under the assumption that yes, if new data becomes available it can be used. Toni.

MS. KERNS: The Technical Committee would have to do a thorough vetting of that information, dependent on what the Board is going to utilize that information for. For example, in some species we use alternative datasets to help craft regulations, but we do not use those datasets to determine the amount of the overage or underage that that state achieved. It could depend on what it's being used for, but regardless that dataset would need to be thoroughly vetted by the TC, and then considered for approval by the Board at the time of use for each time it is used.

CHAIRMAN GEER: It can be considered if it is vetted through the process. Okay. Adam.

MR. NOWALSKY: One other question. Under Issue 6 it explicitly states that the allocation could be changed via addendum. For Issue 7, the timeframes that we're talking about here as we go through the evaluation process, could that also be done through an addendum? What part of 7 could be done versus in an addendum versus amendment, since it doesn't explicitly state what can be changed in that section like it did under

Issue 6? I'm glad I'm asking the easy ones to get us started this morning.

CHAIRMAN GEER: We always appreciate it, Adam. Adam, we really appreciate your question. It's a good one though.

MR. NOWALSKY: I really appreciate sarcasm.

DR. SCHMIDTKE: Adam, so changing that timeframe could be done through an addendum. It should be noted though as well, depending on what gets chosen in Issue 5 for the specification process that is the timeframe with which any application, so to speak, for underharvest would be evaluated. That is when that evaluation specification process would occur.

The underharvest for at least any timeframe of underharvest that application would be considered, the alternative regulations would need to be considered at the next evaluation. They wouldn't be considered like on the fly, in between evaluations. Does that make sense?

MR. NOWALSKY: Does that suggest that whatever the timeline we're applying in Issue 5, should match the timeframe that we're using in Issue 7? Is that what we're suggesting?

DR. SCHMIDTKE: It does not have to, no. The timeframe that you're using in Issue 5 runs on its own timeframe. You can still conduct a three-year-rolling average if you're evaluating every two years, because you just take the last three years. If there has been a regulation change the language here states up to the three most recent years of data. You may have some.

If say Option A were chosen with the harvest specification, you may have some years if a state is changing regulations often that they're going to be evaluated on a two-year average some years. That is the data that you would be working with so that no state gets penalized for unsustainable regulations that they've moved away from.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: I know Adam has a follow up, but you know, so in my opinion, and I understand the response, but for simplicity of management and for the ability for the public to understand what is going on. It seems to me that those two things in 5 and 7 really ought to match. It just makes me very nervous when we're evaluating on one timeframe, and determining responses on another. I'm uncomfortable with that.

CHAIRMAN GEER: Spud.

MR. WOODWARD: I think what we're wrestling with there is the application of the principal of adaptive management, and one of the reasons that we have such a difficult time doing that is that we're trying to build in flexibility to accommodate an unpredictable future. I mean I can understand the desire to have the two things synced up, but I think it can disadvantage a state if we do that. I don't have a strong opinion one way or the other, but I think we need to keep our eye on the ball, and that is we're trying to use principals of adaptive management here. There is a little bit of trial and error in that.

CHAIRMAN GEER: Follow up Lynn?

MS. FEGLEY: To Spud's point, so for example the Table 11 is written on a three-year average. If Issue 7 was set to three years that wouldn't preclude the Board from acting at two if they saw a need, right?

DR. SCHMIDTKE: No. That wouldn't, the Board would specify, you know for any given timeframe, and if they saw a need, yes the Board could revisit during that timeframe.

CHAIRMAN GEER: Spud.

MR. WOODWARD: Just, I want to make sure I understand what the process will be. Let's just say theoretically that the state of Georgia had two zero years of recorded cobia harvest, and decided that it wanted to make petition for more liberal limits. It would present its case, and then the case was reviewed by the TC, and validated. Then this Board, not through an addendum or an

amendment, because it would authorize the state of Georgia to change its regulations, or is it going to require an addendum or some other more structured action?

DR. SCHMIDTKE: It would be done through Board approval. I guess the stating of the case, just to point that out. It would be presenting the harvest from the time period in question, as well as what the new regulations would be, because that is what the TC would really be evaluating. They would be looking at what are the regulations you had in place, what were the harvest during that time? What are the new regulations that you want to put in place, and will those be sustainable and keep that state under its target?

CHAIRMAN GEER: Good point, are there any other questions or comments? No further discussion? Do you need to have a motion at some point? Does someone want to make a motion? We can either do each issue separately, or do them as a whole and accept the changes. We've already got something up there. Spud.

MR. WOODWARD: I'll make a motion. Move to approve language addressing Issues 3 (Definition of Overfishing), 6 (Sector Quota Allocation), and 7 (Recreational Harvest Evaluation).

CHAIRMAN GEER: Second by Lynn Fegley. Discussion, Adam.

MR. NOWALSKY: This motion as it is written would use the language, as it appears not any of the suggestions we got from the public input process and previously discussed, correct? I'm seeing nodding of heads, so to that end, I would move to amend this to change in Issue 7 the underharvest evaluation time period to at least two years.

CHAIRMAN GEER: Do we have a second on that motion? Second on the motion?

MR. WOODWARD: I'll second for the purpose of the further discussion, because I want to make

absolutely clear I understand. I think I know what your intent is, but as I read that language, we're not bound by three years; it can be some period less than three years, right? In my example I said if we had two years of zero harvest, and we felt like we could make a compelling case to change our regulations, we could still do it based on those two years.

DR. SCHMIDTKE: I was under the impression that the two years of harvest you described would, so no I'm sorry, I misunderstood your example. You would need three years of harvest underneath the target, in order to apply for liberalized measures. The state would then submit the liberalized measures that they would be proposing.

MR. WOODWARD: Well in that case I'll let my second of Mr. Nowalsky's motion stand as a second.

CHAIRMAN GEER: Spud, did you say you wanted your second on that? You do, okay, Doug and then Adam.

MR. DOUG HAYMANS: Just to clarify for myself. Page 44, the fourth paragraph that's what's changing, of at least two years?

CHAIRMAN GEER: Sorry, Doug we didn't have the document open.

MR. NOWALSKY: If it helps, Mr. Chairman as the maker of that motion that is exactly where I intended for this change to occur.

CHAIRMAN GEER: Mike yes that would be the only change; and that's in the correct place, Spud.

MR. WOODWARD: Follow up. I think a little bit of the confusion might be coming from the use of the term at least, and probably in hindsight if we had written it to be the underharvest evaluation time period of a minimum of two years, maybe some of this confusion might have been avoided. I'll offer that as a suggestion to

the maker of the motion to change from at least to a minimum of two years.

CHAIRMAN GEER: Adam, would you support that?

MR. NOWALSKY: If without objection from the Board and if staff believes that contains the intent, I have no objection.

CHAIRMAN GEER: Any further discussion? Adam.

MR. NOWALSKY: Just the discussion we had at the last meeting suggested that if a state was to underharvest, zero harvest in the example two years and in the third year they were 0.01 pound over the harvest, then you would not be able to have the opportunity to discuss liberalization. I think in the vein of adaptive management, in the vein of flexibility, this provides flexibility and one of the takeaways here is that it remains within the purview of the state to ultimately make that decision, whether or not they want to pursue a liberalization of measures, and then the Board to approve those measures.

If it is not appropriate, even if they underharvest in that timeframe, but they choose not to pursue it, they would still have that flexibility, but it would preclude that issue of if you're just one pound over in the three years then you can't do it. It would give us that flexibility.

CHAIRMAN GEER: I have Chris.

MR. BATSAVAGE: I was on the PDT when we were putting this option together, and I think the discussion was around just the high variability of MRIP harvest estimates, to where three years would be a safer bet. But I see Adam's point, with maybe two years providing some flexibility with the state having the option to look at it, to determine whether or not they want to move forward with liberalizing.

The way things are going with the cobia fishery; this is more likely to apply at least in the short term, along the southern end of the range of the

fish, as they seem to be moving north and staying north for a longer period of time. Georgia was given as an example, but potentially North Carolina could find themselves in a situation like that too, where we're consistently under harvesting under regulations that weren't designed for what we're currently seeing. I think I might be able to support this amended motion.

CHAIRMAN GEER: Any further discussion? All right let's take this to a vote? Is there any opposition to the alternative motion as said? Let me read it into play first. **Move to amend to change in Issue 7 "the underharvest evaluation time period to a minimum of two years." Motion by Mr. Nowalsky and seconded by Mr. Woodward. Is there any opposition to this? Hearing none motion carries by consent.**

Now this becomes the primary motion, and we have to add this to the initial motion. Give us a second to move it up there. This is the main motion now. I'll read it. **Move to approve the language addressing Issues 3 (Definition of Overfishing), 6 (Sector Quota Allocation), and 7 (Recreational Harvest Evaluation), with the underharvest evaluation time period changed to a minimum of two years.** Well actually we need someone, is this change in the motion, no?

MS. KERNS: There is no maker and seconder; it becomes property of the Board when it changes.

CHAIRMAN GEER: Sorry about that. **Let's see a show of hands for this one in favor of, opposed, abstentions, and null votes. The motion carries, 10 to 0, 1 abstention and no null votes.** Good, moving along. We're moving into the issues that had options that we need to discuss at this point.

DR. SCHMIDTKE: This one and I think if this is right Pat, we're taking these in like issue by issue.
CHAIRMAN GEER: Yes, we're going to take them issue by issue.

DR. SCHMIDTKE: Okay, so Issue 5, this is the Harvest Specification Process. This defines what the Board can set through Board action in the maximum timeframe, which they can set these

measures. These would include the total harvest quota, vessel limits, possession or bag limits, minimum size limits, and the commercial closure triggering mechanism. The distinguishing factor between these options is the maximum timeframe for which the Board can set these measures in place, with Option A being 2 year, B being three years, and C being four years.

CHAIRMAN GEER: Is there any discussion on this Issue? Hearing none, do I have a motion? Lynn.

MS. FEGLEY: I would move to adopt Option B under Issue 5 that the coastwide total harvest quota, vessel limits, possession or bag limits, minimum size limits, are set for up to three years. Probably more words than you needed.

CHAIRMAN GEER: Give us a second while we get it in. Do we have a second? Seconded by Spud Woodward, is there any further discussion? All right, I'll read the motion. **Move to adopt Option B under Issue 5 coastwide total harvest quota, vessel limits, possession or bag limits, minimum size limits, and commercial closure triggering mechanism may be set for up to three years. Motion by Ms. Fegley, seconded by Mr. Woodward; let's see a show of hands in favor, opposed, abstentions, and null votes. The motion carries, 10 to 0, 1 abstention, no null votes,** next issue.

DR. SCHMIDTKE: The next issue is Issue 8, the recreational units. Option A is the status quo of managing in units of pounds for the recreational fishery. Option B would manage in numbers of fish.

CHAIRMAN GEER: Any further discussion on this? Do we have a motion? Mel.

MR. MEL BELL: Yes Mr. Chair, I would move to adopt Option B under Issue 8.

CHAIRMAN GEER: Do I have a second to the motion? Chris Batsavage. Is there any further discussion? Hearing none, is that motion clear enough the way that's written? I think we have to have the links.

MS. KERNS: It's not required, but it would be nice so that the public can tell what that is.

CHAIRMAN GEER: Yes it would be nice to have.

MS. KERNS: We could add manage the fishery.

MR. BELL: I can fix that if you would like. That's the way we do it at the Council.

CHAIRMAN GEER: **Thank you very much for putting that in there, move to adopt Option B under Issue 8: Recreational landings, quotas, and targets will be evaluated and set in units of numbers of fish. Motion by Mr. Bell, seconded by Mr. Batsavage; let's see a show of hands in favor. That's going to be tired at the end of the day; opposed abstentions and null votes, the motion carries 10 to 0, 1 abstention, no null votes.** The next issue is 9.

DR. SCHMIDTKE: Issue 9 is for the commercial fishery. This is looking at the commercial size limit; Option A being to maintain the current minimum size for the commercial fishery of 33 inches fork length, or 37 inches total length. Option B would change this to match the recreational fishery at 36 inches fork length, 40 inches total length.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: I would just like to preface this motion quickly with the idea that because the commercial fishery is managed under a quota that the biological reason for the size limit is not particularly impactful, and also because we tend to have smaller fish to the north. **With that I would like to move to adopt Option A, status quo, under Issue 9, so that commercial fisheries will continue to operate with a minimum size of 33 inches fork length, or 37 inches total length.**

CHAIRMAN GEER: Do I have a second? Let's get the motion up there. Adam, are you seconding that motion? Okay. Discussion, Doug.

MR. HAYMANS: I want to make sure that I understand that shall maintain a minimum size.

I'm at 36 on commercial. I'm not going to go back down to 33 that is okay, right?

CHAIRMAN GEER: It's at least. Are you 36 on commercial, Doug? Okay, same as recreational?

MR. HAYMANS: Yes, we made it the same.

CHAIRMAN GEER: Would that be solved by having at least a minimum? Would the makers consider a friendly amendment?

MS. FEGLEY: Yes.

CHAIRMAN GEER: Adam, are you okay with that? Okay, any further discussion? Chris.

MR. BATSAVAGE: As we know, the commercial quota is pretty small, and we've been hitting that quota earlier in the year where we have close dates now in early September. Most of the landings are coming from two states. There is a lot of interest in trying to extend the season out as much as possible. **I would like to offer an amended motion. I move to adopt Option B under Issue 9; commercial fisheries would operate under a minimum size limit of at least 36 inches fork length or the total length equivalent of 40 inches.**

CHAIRMAN GEER: A substitute, okay, is there a second on this motion? Seconded by Mel Bell, discussion on the substitute motion? Let's go with Joe and then back to Chris.

MR. JOE CIMINO: I apologize if Angela covered this. I'm seeing this in the TC's recommendation. Could we just, if I forgot here, why they recommended this?

CHAIRMAN GEER: Angela.

MS. GIULIANO: I guess on the call there was some discussion of anglers being confused about two different regulations for commercial and recreational anglers, especially, like correct me if I'm wrong but, in some states anglers can have both commercial and recreational license. It was more that it might help simplify enforcement

and less any biological reason, especially because it's managed by a quota.

CHAIRMAN GEER: Just to follow up on that. The TC did not consider the possible dead discards?

MS. GIULIANO: No, we didn't discuss additional discarding.

CHAIRMAN GEER: All right, Chris.

MR. BATSAVAGE: Yes that is another kind of to that point. A lot of states have folks with both commercial and recreational licenses or for-hire and commercial licenses. It does make it easier for enforcement to have the same minimum size limit, so fishermen don't decide which hat they want to wear dependent on what size fish they catch. Again, being a small quota it comes down to numbers of fish, as far as hitting your 50,000 pounds when you know they're pretty good sized fish.

I asked about the discards too, whether that was a concern, because it's largely incidental catch in the commercial fishery. However, with the season closing in September the last couple of years and probably will close early again this year. We already have discard issues once the season closes. I'm not sure which is going to create more, but I think any opportunities to try to put in some measures to extend the season are a step in the right direction.

CHAIRMAN GEER: Mel.

MR. BELL: Yes and our rationale is I talked to law enforcement about this. They would prefer consistency, and also we have some of the same issues where some of the folks that are actually the directed fishery, if you will for cobia, are recreational/commercial, and they can kind of turn their hat one way or the other.

Enforcement asked me if we could have consistency. That would be much simpler for things. The way this sort of evolved too, while it was under the Council it was 33, 36, and I don't really know how that originated, but I know in

the hand-off in Amendment 31 over to ASMFC, the Council was really focused on the recreational fishery, and we weren't even thinking about the commercial fishery.

You know the fact that there was a different size; I don't recall us talking about that a lot at the Council level. Then we basically, because the issues we were dealing with were recreational issues. I don't know if that was kind of an oversight on our part. Now and I realize what's going on now with the fish moving north, so there is opportunity, maybe smaller fish to the north. But that's not what back when it was managed under the Council, and the fish weren't doing that as much that wasn't an issue.

It's something that has just sort of presented itself as a potential opportunity or a potential issue. But I do know from our standpoint, my enforcement folks have really asked me if we could be consistent it would be less confusing for them and for the fishermen in general from our perspective.

CHAIRMAN GEER: Adam.

MR. NOWALSKY: I think this conversation about consistent measures is really important, because if you look at this from another direction it would really support the original motion. Specifically as per Doug's comments, if we went with Option A here that would not preclude a state with going to more restrictive commercial measures to match their recreational measures for consistency of regulations.

For the states that have de minimis recreational measures that currently are tied to Virginia's measures, as Virginia's measures change I know there is a lot of conversation in our own state, and I'm sure other de minimis states about going to some other measure, which is likely going to have a lower size limit. Option A would give those states the opportunity to bring their commercial measures closer, if not the same, to the recreational measures. For that reason I would continue to support the original motion.

CHAIRMAN GEER: Mel.

MR. BELL: I agree with Adam. I mean the state still has the flexibility to adopt consistent for itself, or more stringent measures. That's a very good point. I was just trying to kind of perhaps deal with our issues in one. We will have to go back as a state and adjust some things anyway. But that's a good point.

What you're saying does provide flexibility for other folks, where perhaps the fish aren't as big, so I get that. My thinking was kind of focused on my world down there, what we're dealing with. But you're absolutely right. The state would have the ability like Doug does to deal with that.

CHAIRMAN GEER: Adam, there is no tying de minimis states to Virginia or other states for the commercial measures.

MR. NOWALSKY: No, I understand that. But I was referring to the tie that currently most de minimis states have chosen on the recreational side. I suspect those states are going to be looking at moving in a different direction based on what's occurring.

CHAIRMAN GEER: Any further discussion on the substitute motion? All right we're going to take a vote. Move to substitute "to adopt Option B, commercial fisheries would operate under a minimum size limit of at least 36 inches fork length or the total length equivalent (40 inches). Motion by Mr. Batsavage, seconded by Mr. Bell; let's see a show of hands in favor. All opposed raise your hand, abstentions, null votes; the motion carries 9 to 0, 2 abstentions and no null votes. Excuse me? It fails, I'm sorry. The motion fails 0 to 9 to 2 abstentions, no null votes. I apologize on that. One, I thought there were two. Chris did you abstain?

MR. BATSAVAGE: We nulled.

CHAIRMAN GEER: I'm sorry. I will say this again. **It fails 0 to 9, 1 abstention, 1 null vote.** Okay, I need to look at the board more often. **That goes back to the main motion then, which is move to**

adopt Option A, status quo, under Issue 9, commercial fisheries would continue to operate under a minimum size limit of 33 inches fork length, or the total length equivalent (36 inches).

That's all I need, I'm sorry. **All those in favor, those opposed, abstentions, null votes, I'm going to make sure I got it right this time, the motion passes 10 to 0, 1 abstention, no null votes.** The next issue is Issue 10, which is the vessel limits.

DR. SCHMIDTKE: Issue 10 is the Commercial Vessel Limit. Status quo is that states set their commercial vessel limit not to exceed 6 fish per vessel. The alternatives would reduce that maximum vessel limit to 5 or 4. The states would still maintain the ability to set their own vessel limit; it would just be how high could a state set that limit?

CHAIRMAN GEER: I'll open the floor for discussion. Hearing no discussion does anyone have a motion? Do we have a preferred motion? Doug.

MR. HAYMANS: I thought you all had this all worked out. **Mr. Chair, I would move that under Issue 10 we accept Option A. Oh that all states shall maintain a daily vessel limit not to exceed 6 fish per vessel.**

CHAIRMAN GEER: Which is status quo. Do we have a second on that? Ms. Bolen. Is there further discussion on this, any discussion on this? **All right hearing none, I'll read the motion. Move to adopt Option A, status quo, under Issue 10: All states shall maintain a daily vessel limit, not to exceed 6 fish per vessel, motion by Mr. Haymans, seconded by Ms. Bolen. All those in favor raise your hand, those opposed, abstentions and null votes. The motion carries 10 to 0, 1 abstention and no null votes,** all right Issue 12, Commercial De Minimis Options.

DR. SCHMIDTKE: Issue 12 determines whether a commercial de minimis status would be established. Option A is the status quo that

there is no de minimis status for the commercial fishery, Option B establishes this status with the criteria shown below. There are no alternative regulations for de minimis states, but they would not need to account for their commercial landings in season.

CHAIRMAN GEER: Discussion on this issue, Joe.

MR. CIMINO: This is an option that I was hoping was crafted for this with the intent that the 3 percent set-aside would allow de minimis states to continue to harvest throughout the year, to sort of a directed vs. bycatch quota, in my mind. But I've been reading this; I guess that second bullet as if the directed states harvested the entire quota. In other words, went over their 97 percent. The de minimis states would still need to shut down. It doesn't quite get at what I was hoping for with this option.

CHAIRMAN GEER: Any other? Lynn has her hand up.

MS. FEGLEY: I was going to make a motion, but also preface this that as a de minimis state. In the state of Maryland we have very little capability or resources right now to implement yet another in-season monitoring program for a fish that is so rare. **With that I would move to adopt Option B under Issue 12 which would allow states to apply for de minimis status for their commercial fishery.**

CHAIRMAN GEER: Do we have a second to that motion? Seconded by Mel Bell, is there any further discussion? Okay, I'll read the motion. **Move to adopt Option B under Issue 12 which would allow states to apply for de minimis status for their commercial fishery. Do we want to put the 3 percent de minimis set-aside in there?**

It's part of it, okay. Motion by Ms. Fegley, seconded by Mr. Bell, all those in favor raise your hand, opposed, abstain, and null vote; the motion carries 10 to 0, 1 abstention and no null votes. The last issue, Issue 13, I'm sure this is going to bring up quite a bit of discussion though.

DR. SCHMIDTKE: Yes the final issue has to do with the recommendation to NOAA Fisheries for regulations that would go into federal waters. Option A would have that recommendation be according to the vessels permitted or licensed state of landing, and this would apply to both the commercial and recreational sectors.

Option B would distinguish the sectors. Recreational would be determined by the location of catch, with regulations persisting along the latitudinal extension of state boundaries into federal waters. The commercial fishery would still operate under the vessels permitted or licensed state of landing.

CHAIRMAN GEER: Discussion on this issue, Doug or Mel, I see you're both raising your hand. Mel.

MR. BELL: I could make a motion and then we could discuss it, would that work?

CHAIRMAN GEER: If there is no discussion, is there any discussion? Chris.

MR. BATSAVAGE: Just a question. I know we talked about this at the meeting in May, where we talked about vessels of fishermen with multiple state licenses being held to the most restrictive state. How does this work, in other ASMFC managed fisheries? I suspect, especially in the northeast where the states are all pretty close to each other. It is probably not uncommon for a fisherman to have multiple state licenses while fishing for summer flounder, for instance out in federal waters. Does conservation equivalency just wave all that? I'm just having a hard time understanding the difference between what goes on for that fishery versus the options here for the state of landing option.

CHAIRMAN GEER: Toni.

MS. KERNS: For example, species in the northeast it is by state of landing, and no matter if you have multiple licenses, you're telling enforcement officers where you're going, and you have to follow the rules of the state that you

are landing in. If you had more fish than that state allowed for, then you would be in violation.

CHAIRMAN GEER: Adam.

MR. NOWALSKY: The option for the recreational side in B is pretty straightforward for states that have a truly north/south coastline, when you start deviating from that this definition has a very different meaning. For example, in the state of New Jersey where the majority of our coast runs northeast/southwest, turning east out our inlet we call going up the beach. That is what it is, because that is essentially what you're doing.

You look at Florida, where you've got more of a southeast/northwest orientation, going due east is essentially running down the beach. Then we go to New York, which obviously is a minimal player, although as we see shifts it changes entirely, where they have a predominantly east/west shoreline. What would this even mean to a state like New York? Do they have any waters here at this point from a federal perspective, if we went with this option?

I'm not clear as to why we didn't get any Law Enforcement feedback on this issue. The sense of continuity of regulations for where the fish are landed on the recreational side is complimentary to most of our other recreational species in the Mid-Atlantic. That is pretty much most of all our species are treated that way. I think from a consistency of measures that would have much more consistency, Option A here would, and that is what I'll be supporting on this issue.

CHAIRMAN GEER: Mel.

MR. BELL: No surprise, because I've mentioned this before, Option B would be my preference. There was some feedback from Law Enforcement I recall, I think the last meeting. They were kind of good points, bad points to either. It kind of depended on the perspective they were looking at perhaps with their own individual state.

I know in talking with our enforcement folks they would prefer B. Another reason for B, specifically for us, is that if the state is going to accept some responsibility for management of this species out into federal waters, we would like to be able to extend our influence and our management approach out there.

We have perhaps just a situation where, and it's primarily between us and Georgia, but as well as North Carolina/South Carolina, where South Carolina has a number of artificial reefs that we've built off of South Carolina, which depending on how you draw a line. You might shave a piece off and find it in Georgia, and it's the same for North Carolina. But we can talk about the due east versus what the CFR actually says for drawing that line. But our cobia fishery is really focused on those artificial reefs, so South Carolina would like to be able to extend management out onto those artificial reefs, and the only way to really do that. If we go to a system where Georgia still maintains the 6 fish boat limit, we have a 3 fish boat limit.

Fishermen come out of Savannah, which they do, and fish those artificial reefs. Now enforcement has got a situation where Georgia boats can have 6 fish out here, South Carolina boats can have 3 fish out here. It's not really so much the issue of the equitability, or really making our fishermen mad over that.

Our fishermen don't want 6, because recall that these fish are part of that southern distinct population segment that was identified in the last stock assessment that we're trying to rebuild. We know through acoustic tagging and regular tagging, monitoring movement. Those fish do not just appear in our inlets magically, they actually show up in federal waters, they move in, they move out, they go back and forth during like the month of May, April/May into June.

If we can conserve the fish and try to rebuild that DPS in our own state waters that's great, but if they all get caught out in the federal waters on these artificial reefs, our ability to rebuild that

DPS just lags behind, or we may never get there. That is why we have such an interest in extending some additional conservation maybe out a little bit farther, and being able to enforce it out there.

Because if you have a situation where you go back to whatever the neighboring state allows, then you could be extracting those fish off of that reef at twice the rate, perhaps as you might yourself. That is why we were focused on that. Enforcement has asked me to try to focus on that and make that happen. That is why it's appealing to us. For whatever reason, I think that is the way the TC went, in terms of their recommendation.

I know this may be a little unique, in terms of how they do it up the coast, but that is why we preferred Option B, and I would support Option B. I don't know if now we want to talk about the line, if that is a good time to talk about the line or not, how it's oriented. The way it says it and the way we took it to the public would be aligned due east that is what it says. But if you go into the CFR that defines the dividing lines between the states that extends out into the EEZ, it's a different line. It's not a due east.

On a 1-3-5 heading with North Carolina for us, and a 1-0-4 heading for Georgia, so it's basically an extension of the state lines. Those lines are used for other things, I know in consideration of wind energy discussions and mining and that sort of thing, gas exploration. Those are the lines that exist in the CFR, they exist in the CFR also related to coastal migratory pelagics related to the dividing line for North Carolina for king mackerel, I think. This is I guess a procedural question. I don't know that we can change that.

Even if we liked Option B and we chose Option B, I don't know because we've taken this out to the public and it's sort of been vetted that way, and commented on that way. I don't know that the public really cared if it was a 0-9-0 or 1-0-4 heading, but that would be a better line in my opinion is to follow the existing lines that are in the CFR, not the due east, if we went with the

Option B. But that's my logic behind that. It may be a South Carolina specific issue, but if we're going to accept responsibility for helping to manage those fish out in federal waters, and particularly with us we have conservation measures in place to try to rebuild that DPS component of this stock. That is the direction we would like to go in.

CHAIRMAN GEER: Mel, since we are making a recommendation to the Feds on this that we can make some changes to this line, I mean all we're doing is putting forward a recommendation on these.

MR. BELL: Well that would make sense to them too, I guess. That's their line, so it might make more sense.

CHAIRMAN GEER: Spud.

MR. WOODWARD: Just a follow up on that. Are we using the CFR Line to delineate between the Atlantic group and the Gulf group? We're not using the CFR Line? For consistency sake it seems like we would be using, maybe Roy knows the answer to that question.

DR. ROY E. CRABTREE: I don't know the answer to that question off the top of my head. I would encourage you not to go down this path though. I think for this to work cleanly, regulations need to be based on where you land the fish. I think when we start turning this around to things that require at-sea enforcement on all of these; it just opens up a whole host of problems and issues.

I understand where you're coming from, Mel, but I just regard it as unworkable and very difficult to enforce. I think that's why, when you look at other times we've done these kinds of things we haven't gone down this path, because I just don't think it's a workable way. I'm going to support Option A. If there are questions about the CFR Lines we can look those up, but I can't tell you off the top of my head.

CHAIRMAN GEER: Are there any other comments on this? Roy Miller.

MR. ROY W. MILLER: It just occurred to me that I don't think the Commission manages any other species in the fashion suggested in Option B. Therefore, if we adopt Option B it would be precedent setting, and perhaps complicating for some other species that we all love. I'm inclined to go with Roy Crabtree's suggestion towards Option A.

CHAIRMAN GEER: We do not manage any other species that way. Are there any other comments or discussion? Do we have a motion? We need a motion from somebody, Adam.

MR. NOWALSKY: Move to adopt Option A for Issue 13.

CHAIRMAN GEER: Okay we have to get some verbiage in there.

MR. NOWALSKY: Yes, I didn't get the cheat sheet with what the right motions were, so thank you.

CHAIRMAN GEER: Do we have a second on this motion, motion by Mr. Pugh, further discussion, Lynn? Oh, okay. Christ Batsavage.

MR. BATSAVAGE: Since we enforced our regulations for fish like this, you know when the fish come back into the state. I think either option would work for our enforcement officers. You know it's a question about what happens when a fisherman is boarded out in federal waters is the question which gets to the Option B.

However, this is the only concern I have with Option B, is just with the CFR lines if we chose those. They make sense from a state boundary perspective for sure, if you look at due east, and for some of them it doesn't at all. My only concern is just the fishermen knowing exactly where they are beyond three miles with that line. Whether it is 90 degrees or 104 or 135, it could probably just get a little problematic, as far as fishermen crossing the line accidentally.

CHAIRMAN GEER: From my understanding, and Toni correct me if I'm wrong. If in federal waters

and you're approached by an officer, they'll ask you where you are returning into, what port. If you provide license for that state that is what regulation you're under.

MS. KERNS: That is correct.

CHAIRMAN GEER: Roy.

DR. CRABTREE: Yes, and I suspect that will be a significant problem, because I think there will be a lot of recreational anglers who won't be sure what side of line they're on, or even if there is a line. But they're going to know where they're landing the fish, and they're going to think that's the rules they are supposed to follow. That is part of the complication interject that you've got to follow a set of rules where you're landing, then when you cross the line you've got to follow a set of rules that aren't where you're landing. I think that is going to confuse people.

CHAIRMAN GEER: Mel.

MR. BELL: Yes, and I follow all that. Ours is perhaps just a unique situation. This fishery is really focused on those specific artificial reefs, so they know when they're on the Hilton Head Reef, or the Betsy Ross Reef. That is where enforcement goes, because that is where the fishermen are.

Whether it's Coast Guard or our guys doing JEA work, it is perhaps a little oversimplified, the picture off of, but it is very, very geographically specific off of South Carolina. But I understand what you're saying, in terms of the complexity of it. It may not fit kind of the model, but that's why we're focused on that.

We also feel that since we built those reefs that we have a responsibility to try to extend our management out there. We take ownership. Even though they are in federal waters, they are permitted to our state, so we kind of assume some responsibility for that. We would like to be able to extend our conservation measures out there. But in terms of confusion over where they are, there is no confusion when they're on those

specific reefs. But then again, when they transit they're not. I get it.

CHAIRMAN GEER: Spud.

MR. WOODWARD: I hesitate to even ask this question. Could we bifurcate this and apply Option A to one area and Option B to another?

CHAIRMAN GEER: No. That's as simple as I can put it. Toni.

MS. KERNS: That would be called a special management zone, which is something that we can look into. I would need to talk with Roy about exactly how we would go about the process for doing SMZs, which for the sake of time, if that is something that South Carolina would like to pursue then we can work on that later on. But in order to keep us moving, and try to keep us as close to being on time. I would say we could explore that option at a later meeting.

CHAIRMAN GEER: Spud, my comment was referring to this Amendment. It can be done but Roy.

DR. CRABTREE: Yes, I was thinking along the lines of what Toni said. If there are a limited number of very specific places, then maybe we could identify those as some sort of special management zone and look at a future date coming in, and making some specific provisions for those spaces.

CHAIRMAN GEER: Mel.

MR. BELL: To that point specifically, those reefs are already designated as Special Management Zones within the context of the Snapper Grouper Plan, not cobia at the moment. Yes, maybe we could visit that in the future, perhaps.

CHAIRMAN GEER: Is there any other comment? All right I'm going to read the motion. **Move to adopt Option A for Issue 13: recommend to the Secretary to implement regulations in federal waters corresponding to vessels' permitted/licensed state of landing (for all**

sectors). **Motion by Mr. Nowalsky, seconded by Ms. Fegley, all those in favor raise your hand, all those opposed, abstentions, null votes. The motion carries 9 to 1, with 1 abstention and no null votes.** Now we have to approve entire Amendment as we've discussed today. Wait a minute, Toni.

MS. KERNS: Included in that motion or in a separate motion, you would need an implementation date as well.

CHAIRMAN GEER: We have to approve the entire Amendment with an implementation date. We have to pick a day. We can start it January or whenever. I mean we have to come up with a date on that. Spud.

MR. WOODWARD: I believe some states, like our neighbors over here are going to have to do some of this through legislative process, so probably January 1 is not a realistic date for everybody. Just to put something out there for discussion, July 1, 2020.

CHAIRMAN GEER: Did you say July 1, 2021 or 2020? Would that be possible for all states? Mel.

MR. BELL: For us, assuming we could work this through, get it in, considered that would be probably the soonest that we could implement it in our state, in terms of working through the General Assembly, because we will have to change some things. That is our normal. Our normal start date on these sorts of things would be 1 July. That is just us. Chris.

MR. BATSAVAGE: There are some options that we approved earlier that aren't regulatory changes, but it changes how we do things, such as monitoring the quotas for instance. I mean this motion doesn't preclude states from putting those in place before July 1. I just want to make sure that's clear, because we can move quicker, but understand other states can't move as quickly.

CHAIRMAN GEER: States can go more quickly if they want, yes. Adam.

MR. NOWALSKY: How would the implementation process for the specification setting described in here be compatible with what is essentially an implementation date mid fishing year?

DR. SCHMIDTKE: One thing to consider within the discussion of dates is that kind of the plan from the PDTs perspective, and at the directive of Board members has been for that initial specification of harvest for the Board to occur following the assessment, following the stock assessment, which will be available in January of next year.

That is something for consideration. If the Board would like to take action to put in measures for the 2020 fishing year, the fishery really hasn't started in February, it starts later in the year. The actions at that meeting, they would impact the 2020 year. But that's for the Board's consideration.

CHAIRMAN GEER: Adam, follow up.

MR. NOWALSKY: If this had the implementation date of July 2020 then, we've put 2020 measures in place this winter. Would we then essentially use this Amendment for 2021 management? Is that essentially what we're saying?

DR. SCHMIDTKE: With a July implementation date then that would likely be for 2021 management.

CHAIRMAN GEER: Any further discussion? Lynn.

MS. FEGLEY: Just to clarify, with that implementation date the first year used in an evaluation would be 2021.

DR. SCHMIDTKE: Yes, but if there is the case where a state does not need to change their regulations, and they are able to keep their regulations the same, then the TC would have the data. Well, PRT would be the ones initially

looking at it, but they would have the data needed to form that three-year-rolling average. They could consider earlier years. But with the three-year timeframe that was specified previously for the evaluations, the three-year average could start with 2021.

CHAIRMAN GEER: Are there any other comments, questions? We need a motion. Malcolm, or are you pointing at Spud?

DR. MALCOLM RHODES: Oh no, I thought it was already made. But move to recommend to the Commission the approval of Amendment 1 to the Cobia Interstate Fishery Management Plan as amended today, with an implementation date of July 1, 2020.

CHAIRMAN GEER: Second the motion by Spud Woodward. No further discussion on this, Adam.

MR. NOWALSKY: I just want to offer a word of thanks to this Board, to staff to PDT. I've been a very vocal voice on this issue, probably more so than I have been, but just because of the lessons we've learned recreationally. I think there have been a number of steps here towards recreational management that I hope we can see implemented in some other fisheries.

I hope this works well. I agree it's adaptive. There is going to be a learning process. But I think there have been many significant strides here from the way this Commission has managed other recreational species. I'm happy to say I'll vote in favor of this at this time. Thank you again.

CHAIRMAN GEER: Your comments have been greatly appreciated, and you beat my thunder on that. I was going to thank the PDT and Mike and everyone else. I appreciate that. I'm going to read the motion. **Move to recommend to the Commission the approval of Amendment 1 to the Cobia Interstate Fishery Management Plan as amended today, with an implementation date of July 1, 2020, motion by Dr. Rhodes, seconded by Mr. Woodward. All those in favor raise your hand. Toni.**

MS. KERNS: This is a final action, so we could ask if there is any objection, or if there is objection then we'll need to do a roll call.

CHAIRMAN GEER: **Are there any objections? Are there any abstentions? Thank you very much. The motion carries unanimously.** All right, thank you very much and hopefully we won't have to raise our hands to often. I thank you very much for doing that ten times.

UPDATE ON THE TRAFFIC LIGHT ANALYSIS FOR ATLANTIC CROAKER AND SPOT FOR 2018

CHAIRMAN GEER: We're going to move on. Chris McDonough has an update on the Traffic Light Analysis for Atlantic Croaker and Spot for 2018. Chris, it's all yours.

MR. CHRIS McDONOUGH: For the harvest composite for spot in 2018, the traffic light for the individual year did exceed the 30 percent threshold, just below 60 percent. The adult composite traffic light just exceeded the 30 percent threshold in 2018. However, since both of them did not trigger across the two consecutive years, there was no management concern triggered in 2018.

The decline in the harvest composite was driven mostly by a commercial decline. For the juvenile index, this is an advisory index. It did trigger above the 60 percent threshold in 2018, this is the Maryland Juvenile Fish Survey, as it has for a number of years. This basically just continues to indicate poor spot recruitment in that region.

Then the shrimp discards for 2018 were not available for this meeting. They will be for the annual meeting in October, but that was in really no danger at this point of triggering. Like the juvenile index, this is also an advisory index. To sum up for spot. Under the current traffic light management scheme, management concern was not triggered for this year, since neither the adult composite index nor the harvest composite exceeded the 30 percent threshold in two consecutive years.

The juvenile one did trigger in 2018, indicating poor recruitment, and then the shrimp traffic light will be available at the next meeting, when we'll discuss the regional applications for the traffic light, which is coming down, coming up. Are there any questions on spot before we go on for croaker?

For croaker, the harvest composite did trigger in 2018, the red proportion that exceeded 60 percent as commercial landings continue to decline. However, the adult composite characteristics, which is the SEAMAP Survey and the Woods Hole Fall Groundfish Survey did not trigger in 2018.

In recent years it actually did drop down a little bit, because you've got some red showing up in that composite index. But it's still not consecutive years, the three consecutive years in the case of croaker, unlike the two in the spot. All right for the juvenile indices, which are the VIM Survey in North Carolina, VMF Program 195, it did not trigger in 2018, although these two surveys have kind of been working back and forth, in terms of opposing trends in the last several years.

But as far as composite goes, it has stayed above the long term average. With the shrimp trawl fishery, it's like with spot, data is not available for 2018 yet, it will be in October, but hits through 2017 it stayed below the 30 percent threshold. To conclude for croaker, under the current management scheme it did not trigger for this year, since only the composite index triggered but not the adult index.

The juvenile composite did not trigger in 2018 either, but it has shown a fairly high pattern of variability between the two indices, and then the shrimp fishery data will be available, and like with spot we'll be discussing the regional approach in October with this for modifying the traffic light. With that any questions on either?

CHAIRMAN GEER: Are there any questions to Chris on the TLA? Not hearing any, it says action

here but we don't need to take an action today on this, it's just an update.

**2019 FMP REVIEWS AND COMPLIANCE FOR
ATLANTIC COBIA AND ATLANTIC CROAKER**

CHAIRMAN GEER: If there are no questions or comments, all right. Thank you very much, Chris. To save some time, if there are no objections, I'm going to ask that the FMP Compliance Reviews for Atlantic Cobia and Atlantic Croaker be done via e-mail. Does anybody have any objections to that?

ADJOURNMENT

CHAIRMAN GEER: Is there any other business to come before the Board today? Hearing none; meeting is adjourned.

(Whereupon the meeting adjourned at 12:10
o'clock p.m. on August 6, 2019)