

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

The Westin Crystal City
Arlington, Virginia
May 2, 2019

Approved August 6, 2019

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

TABLE OF CONTENTS

Call to Order, Chairman Pat Geer 1

Approval of Agenda..... 1

Approval of Proceedings from February 2019 1

Public Comment..... 1

Review and Consider Draft Amendment 1 to the Cobia Fishery Management Plan for Public Comment..... 1

Review State-Gathered Public Input for Potential Management Action, Atlantic Croaker and Spot 17

Adjournment 25

INDEX OF MOTIONS

1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of February 2019** by Consent (Page 1).
3. **Move to approve Draft Amendment I to the Cobia Fishery Management Plan for public comment as modified today** (Page 16). Motion by Spud Woodward; second by Mel Bell. Motion carried (Page 16).
4. **Move to initiate addenda to the Spot and Croaker Fishery Management Plans to incorporate the revised TLA and redefine management response** (Page 23). Motion by Chris Batsavage; second by Lynn Fegley. Motion carried (Page 25).
5. **Motion to adjourn** by Consent (Page 25).

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

ATTENDANCE

BOARD MEMBERS

Jim Gilmore, NY (AA)	Pat Geer, VA, proxy for S. Bowman (AA), Chair
Emerson Hasbrouck, NY (GA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)	Robert Boyles, SC (AA)
John Clark, DE, proxy for David Saveikas (AA)	Mel Bell, SC, proxy for Sen. Cromer (LA)
Roy Miller, DE (GA)	Spud Woodward, GA (AA)
Craig Pugh, DE, proxy for Rep. Carson (LA)	Doug Haymans, GA (GA)
Russell Dize, MD (GA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Lynn Fegley, MD, proxy for D. Blazer (AA)	Marty Gary, PRFC
Phil Langley, MD, proxy for Del. Stein (LA)	

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

Ex-Officio Members

Staff

Toni Kerns	Jessica Kuesel
Robert Beal	Jeff Kipp
Mike Schmidtke	

Guests

Dave Bard, ECS/NOAA	Mike Millard, USFWS
Arnold Leo, E. Hampton, NY	Derek Orner, NOAA
Catherine Krikstan, ECS/NOAA	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 on Thursday, May 2, 2019, and was called to order at 10:00 o'clock a.m. by Chairman Pat Geer.

CALL TO ORDER

CHAIRMAN PAT GEER: Good morning everybody. My name is Pat Geer and I'm the Chairman of the South Atlantic State/Federal Fisheries Management Board. I welcome you all here this morning and I know we're between you and going home, so we will try to expedite this meeting as quickly as possible.

APPROVAL OF AGENDA

CHAIRMAN GEER: The first order of business is to approve the agenda. Are there any changes or modifications to the agenda? Hearing none the agenda is approved by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN GEER: The next item is approval of the proceedings from the February, 2019 meeting. Are there any issues with that at all, any changes? Hearing none, the proceedings from the February, 2019 meeting are approved by consent.

PUBLIC COMMENT

CHAIRMAN GEER: Is there any public comment from anybody? I haven't heard of any public comment. Is there anybody from the public who would like to speak about something that is not on the agenda today? Hearing none, well, Mike is going to go check real quick, to see if anybody signed up. Thumbs up, nobody, okay.

REVIEW AND CONSIDER DRAFT AMENDMENT 1 TO THE COBIA FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT

CHAIRMAN GEER: We're moving on. The first item of business is Review Amendment 1 of the Cobia Fishery Management Plan for Public

Comment. The PDT has been working on this for the last several months. We have a draft ready for you today and Mike is going to take the lead on that; so Mike, you have the floor.

DR. MIKE SCHMIDTKE: As Pat said the Plan Development Team has been working for the past few months on developing Draft Amendment 1 to the Cobia Fishery Management Plan. I will go through that now. First, before I get into the actual draft Amendment, just a reminder of the timeline that we're working on. We've gone through the whole PID process and we are currently at the highlighted step, where the Board is reviewing draft Amendment 1 for public comment. If everything goes through on the anticipated schedule, then final consideration for this amendment would occur at the August meeting of this year, preceded by a public comment period over the summer.

Here is a basic outline for today's presentation; and it generally follows that of the amendment. There are sections on compliance, research needs, and protected species information. Those are included in the Amendment; but won't be covered in today's presentation, since they don't include really any substantial changes or management decisions. But I do encourage the Board and the public to review these sections if they haven't already; during or after this meeting. If you see any necessary edits please let me know.

First, I'll go through the introductory section of the amendment. You'll notice throughout the presentation that I will be skipping over some sections; trying to stick to those that are most pertinent for evaluating the management options. There were some updates to the background information in the Amendment from the original FMP to reflect the most recent information for the fishery.

One example of this is included information from the SEDAR 58 Stock ID process. Again, I encourage review of these types of sections; to make sure everybody is working on current knowledge. First of all I'll start off with the

statement of the problem. On March 21, 2019, Regulatory Amendment 31 to the Coastal Migratory Pelagics FMP became effective; which means that Atlantic Cobia is now managed solely through the Commission's FMP.

The Commission's FMP was originally written to be complementary and dependent on the Coastal Migratory Pelagics FMP. For example, we use things like the ACL set through the Council, and the EEZ regulations that were previously recommended by the Council. That all came through the Coastal Migratory Pelagics FMP; and we kind of adopted that as part of our management process as well.

The Board also gave direction to the Plan Development Team in the process of switching this management plan to more of a sole management to establish a process for specifying aspects of harvest quickly, and through Board action, so harvest specification process is spelled out in this draft Amendment.

The most recent stock assessment was completed in 2013 and it indicated that the stock was not overfished, and overfishing was not occurring. A new assessment is currently underway through the SEDAR process. Prior to this assessment to SEDAR 58, a Stock ID process was conducted to evaluate the boundary between the Atlantic and Gulf stocks of cobia. This boundary remains at the Florida/Georgia line.

Results of the process do not dispute the boundary so it's continuing to be used for management and assessment purposes. However, the results were not clear on a specific boundary or the specifics of a transition area. Instead, they basically defined a region in northeastern Florida up into Georgia as an area of uncertainty; north and south of this area cobia show different genetic and movement characteristics.

The data workshop for the SEDAR 58 Assessment was completed a few weeks ago and assessment webinars will be held over the summer. The

anticipated completion date for the assessment is January of 2020. Presumably those results would be made available in time to set regulations for the 2020 fishing year. The commercial fishery for cobia has increased over the last 15 years; particularly due to increased landings in Virginia and North Carolina. A coastwide ACL was established in 2015 by the South Atlantic Council; and this was set at 50,000 pounds. Since the establishment of the ACL, it has been exceeded in every year leading to midseason closures of this fishery from 2016 through 2018. As has often been mentioned with cobia being that it is a recreational heavy fishery. MRIP recalibrated the landings estimates to the new mail-based fishing effort survey.

Currently management is operating on estimates from the former coastal household telephone survey and will continue to do so until the completion of SEDAR 58, after which landings, quotas, and targets will be based on the new FES estimates. Just to show a comparison of what we're managing on right now.

The telephone survey landings estimates, you see those here. With the ACL that was formerly in place through the coastal migratory pelagics FMP. That is shown there; and you can see the overages that occurred in 2015, '16, and '18. By comparison the landings estimates through the Fishing Effort Survey are shown here.

The overall picture, if you're comparing the numbers between the two; is that the FES landings are approximately double, in some cases a little bit more than double those of the telephone survey estimates. But one thing that I do want to be clear about here is that we are still managing on those telephone survey estimates; because all of the targets and the recreational harvest limit that we're operating on right now, were derived using the telephone survey landings.

Now I'll move into the goals and objectives section. First of all a brief summary of the brief management history, the Commission's FMP

was established in 2017; and first implemented last year. This adopted the coastwide commercial ACL from the coastal migratory pelagics FMP, and also set a recreational harvest limit, which was derived from the recreational ACL. The recreational harvest limit is the ACL less a 1 percent *de minimis* set-aside, and this is allocated as state harvest targets. Those targets are shown in the table.

Recreational landings are evaluated against these targets as three-year averages. The goal of the FMP is shown here on the screen with a recommended edit from the Plan Development Team; that includes language about equitable and sustainable access, while maintaining the original language concerning the timeliness of management.

If this Amendment is ultimately approved, this edit would be part of that decision making process. The Board would have to include it in a motion; along with any of the other options that are selected for approval. Similarly, the Plan Development Team recommends two additional objectives to those already in the management plan.

These would be subject to a similar process for approval as the edit to the goal. The additional objectives include implementation of management measures that allow stable, sustainable harvest to Atlantic cobia in state and federal waters; and establishment of a harvest specification procedure that will allow flexibility to respond quickly to a stock assessment results or problems in the fishery, while also providing opportunities for public input on more significant proposed management changes.

A third section that was considerably revised in the draft and it will also be subject to Board approval if you all approve the Amendment; would be the definition of overfishing. Previously we adopted the overfished or overfishing status as determined by reference points from the South Atlantic Council.

This section defines a Commission process for setting these reference points; based on peer-reviewed stock assessment information. The primary peer review processes that are mentioned here are SEDAR, which would be the primary over the ASMFC process; as the assessments are still being conducted through SEDAR going forward.

But if anything were to happen to that, then obviously the Commission would be able to use the independent external peer review process as well. Now I'll move into the monitoring program. There were a few changes that will need to be made to the monitoring programs concerning the shift over in management.

From the commercial side in 2019, NOAA Fisheries will continue to monitor the landings. However, beginning in 2020 non-*de minimis* states from the commercial side, which through the criteria that are being proposed later on in this draft Amendment that would include Virginia, North Carolina, and South Carolina.

Those states would begin monitoring the landings of the commercial fishery. On the recreational side the primary landings monitoring tool will continue to be MRIP. We are aware that Virginia has a required reporting process. This does not replace the MRIP estimates. To this point it may help inform some management decisions; but MRIP is still going to be the primary method by which recreational landings are estimated.

As I said previously, stock assessments will continue to be conducted through SEDAR. The Commission will work through the representation on the SEDAR Steering Committee to schedule future cobia assessments and monitor the status of this stock. Finally I'll get into the management program.

Within the management program there are nine issues that are laid out. Some of them have multiple options; some of them do not, and I'll identify those as we go through them. But this is a section that I'll try to take a little bit more time

and give some explanation on these different options; and what's being proposed here.

Issue 1 is the harvest specification process. There are really two parts to this; and you can read the specifics of the different options in Section 4.1 of the draft Amendment. But there are really two big parts to these options; the first part is what measures are subject to the harvest specification process.

As we have it, it's the same in all three options. That would be the total harvest quota, so a quota for both sectors could be set through this process. Vessel limits, possession or bag limits, minimum size limits, and the commercial closure triggering mechanism, which I will talk about a little bit later in the presentation. The other component of these options is the timing with which they would be set; and for which they would be in place. Option A has these measures set up to every two years; B is up to every three years, C is up to every four years. Really the distinction between the options is just the timing how long can the Board put management measures in place. The next section is the Sector Quota Allocation. There weren't any alternatives recommended by the PDT, mainly because there isn't any information that would suggest a deviation from what's currently in place.

The recommendation from the PDT, the only option that is spelled out in the draft Amendment is to adopt the sector allocation that was in place from the Council management, in which 92 percent of the coastwide total harvest quota is allocated to the recreational fishery, 8 percent is allocated to the commercial fishery.

Moving into the recreational management measures section, there were a few items there, a few management measures that are simply being carried over from the previous management plan; with no recommended deviation from those measures. The minimum size limit remains 36 inches fork length with the

total length equivalent for states that use that measurement.

The bag limit remains one fish per person. The vessel limit continues to be set by the states; not to exceed six fish per vessel, and the seasons and the allocations the methods for setting those remain the same. The table that you see on the screen is adapted from Table 10 in the draft Amendment; and these just show the allocation percentages that we're working under right now, and the corresponding state targets under the current 620,000 pound recreational quota.

The percentages that you see here, if you compare them to the original FMP they're going to be slightly off; because the original FMPs table did not include the *de minimis* set-aside that's included here. That causes a little bit of change to the percentage; but the numbers and allocations themselves are the same.

For Issue 3 under the Recreational Management Measures, this was the only option that was identified by the PDT; there weren't alternatives. This had to do with the evaluation of recreational landings; and a response to an overage. This really is trying to clarify some of the implementation of the process that was originally proposed in the FMP.

When the PDT took a look at that process from the original plan there was a lot of ambiguity in the language; so we're trying to shore up some of that more, distinctly spell out that process. The recreational landings as proposed here; the recreational landings would be evaluated at the same time as whenever the Board specifies harvest.

Those two processes would be tied together. The recreational landings would be evaluated as an average of annual landings; and this average would include up to the three most recent years of data. It would be a rolling average. The average would include years only with the same regulations, even if less than three.

I have a specific example that I'll go through after this slide; to try to spell out some of the different scenarios that may play out under this. The terminal year for evaluating landings will be the previous year. For example, if the evaluation or specification occurs at the August, 2020 meeting, the terminal year of the landings that would be used in that meeting would be 2019. We wanted to spell this out; because of the timing of the availability of data for the recreational and the commercial sectors of the fishery. States with consistent underharvest for at least three years may apply to relax measures while still remaining under their target. This is again something that was brought up in the original FMP.

But the PDT felt that adding the language of consistent underharvest, and putting a length of time to that would be helpful for spelling out which states can and can't apply for relaxed measures. Table 11 in the draft Amendment is a large, and looks like a pretty intimidating table. I want to step through that; because what it does is it shows a variety of different scenarios in which this landings evaluation and the management response process, how it plays out.

I'm going to be taking it section by section looking at these different time blocks. Looking at this first time block, these are all hypothetical harvests, and a hypothetical state that has a harvest target of 100,000 pounds. In order to accomplish this harvest target that state set the shown vessel limit and season; a four-fish season going from June 1st to August 30th.

The harvests that are shown there occurred and, when you average out the harvest from 2018 through 2020, they come out to an average of about 98,000 pounds. The state is in good shape there. They've achieved their target in those three years; so in 2021 when they're evaluated no changes are necessary, and they set their regulations for '22 through '24 based on the same ones that were already in place.

We move into the next evaluation time block, '21 through '23; with that evaluation and

specification process happening in 2024. In this case the harvest generally increased; so the average harvest over that three year time period from '21 through '23 is 5,000 pounds per year over the target. Therefore that state is required to reduce their season or their vessel limit in the next specification period.

Moving into the next period, you'll notice that there was a color change to these boxes. It doesn't show up on the screen quite well but 2025 and '26 are different colors there, because instead of having a season from June 1 through August 30 that state reduced their harvest by reducing their season. Now their season starts June 10; it starts a little bit later, and they're hoping that that would achieve their target of 100,000 pounds.

When we look at 2027 that is an evaluation year, you'll notice that the years that are evaluated in '27 are only '25 and '26. 2024, since it was on the old regulations, it is not included in that average. We're only looking at that two-year average instead of a three-year average, but those are the most recent years available under that management regime.

According to those landings they're under their target so they're in good shape. Regulations are then set for the next three years. Finally, we look at the three-year time block from '27 through '29. The state has consistently in every single year from '27 through '29 harvested under their target.

Because they have harvested under their target in every single year throughout that time block, they are able to submit liberalized measures to the TC and Board for their review; and for implementation in 2031. Obviously considering the previous management regime that was in place with a June 1 start date, if they were to only change their season they would have to go somewhere between June 1 and June 10. That information would be considered in the evaluation of whether the proposed measures would achieve the target.

But they are eligible to submit for those liberalized measures. Looking in previous years, there were years where it kind of bounced around or up and down; above and below the target. If that's the case then the state would not be eligible to submit for those liberalized measures. Again, the regulations will be set based on that information for the following three years.

Hopefully that was not too confusing when stepped through like that. But at the end of the presentation if there are questions about that I am certainly open to answering them. Moving on to the next issue, Issue 4, the options that are here are really just two options; the current the status quo option is to continue managing in terms of pounds for the recreational fishery.

Option B is to convert the pounds into numbers of fish; and that process is spelled out below the option itself, and the management would occur with landings, quotas and targets all being set in the numbers of fish. Moving into commercial management measures, Issue 5 is looking back at the minimum size limit for the commercial fishery.

Status quo option is to maintain the 33-inch-fork-length; which is equivalent to 37-inch-total-length minimum size limit. From public comments there was also some desire to set the commercial minimum size limit to be equal to the recreational. That is Option B. Option B has 36-inches-fork-length, 40-total-length, and that is equivalent to what the recreational minimum size is.

Another one of kind of the carryover measures that's not being reevaluated in this Amendment is the possession limit for the commercial fishery. The commercial possession limit would be maintained at two per person, not to exceed whatever the vessel limit is for that state. It's a coastwide vessel limit that would be set through Issue 6.

There was some desire through the public comment to reevaluate the commercial vessel

limit and look at reducing that. We have options here for 6-fish, 5-fish, or 4-fish vessel limit in the commercial fishery. Then moving into Issue 7, this is one of the issues where there was only a single option recommended by the PDT.

This involves the new quota-based management that would have to be operated by the Commission. It's really a somewhat similar management regime to what was in place under the Council; but now the Commission has to kind of accommodate the state processes for being able to close the fishery if the quota is met.

The coastwide commercial quota would be set through the harvest specification and sector allocation processes defined in the earlier sections. Landings would be monitored by the states in season; and there would be a trigger mechanism that would be set through that harvest specification process as well. In general it would be set such that if coastwide non *de minimis* landings hit X percent of the non *de minimis* quota, a coastwide closure would occur Y days later. To accommodate state processes, this trigger would need to be set allowing at least 30 days from the estimated trigger data to the estimated closure data. The trigger percentage and the number of days until the closure again would be set through the harvest specification process. Just giving an example, based off of recent commercial data using 2015 through '17 weekly commercial data and the 2019 quota that is currently kind of carried over from the previous council management.

The commercial fishery would close 32 days after the commercial landings reached 77 percent of the commercial quota. That is what would be in place. The landings will be monitored and, once they hit that threshold point, a closure date would be set and after that date a coastwide closure would occur. That would occur in the state waters. It would also be recommended to NOAA Fisheries for that closure to be enforced in the EEZ.

For Issue 8, Issue 8 brings up the establishment of a commercial *de minimis* status. Option A is

the status quo that there is no commercial *de minimis* status. Option B would bring that status into place. It spells out the eligibility criteria; state commercial landings for two of the previous three years must be less than 2 percent of the coastwide commercial landings for the same time period.

Many Commission plans use 1 percent as their threshold; but due to the small size of the commercial quota, there were one or two states that if 1 percent were the threshold they would kind of be flip flopping back and forth, in and out of *de minimis* status. That would be due to a fraction of a percent being over that threshold in some years.

To eliminate that it was set at 2 percent. The PDT felt comfortable with that still being a fairly minimal amount of landings. The commercial *de minimis* states would be subject to all coastwide commercial regulations including *de minimis* size, possession, vessel limits, as well as closures of the commercial fishery that would result from the quota being reached.

De minimis status would not be required to monitor commercial cobia landings for their state within the fishing year but they still would be required to report the annual landings through their state compliance reports. To account for the unmonitored landings in *de minimis* states, 3 percent of the commercial quota would be set aside and not accessible to the non *de minimis* states.

Finally Issue 9, the Recommendation for Federal Waters. This is the issue that gave Law Enforcement Committee all kinds of headaches on Tuesday. The recommendation is able to be set through the ACFCMA process. As I said in the commercial measures, and this would also be in place for recreational measures.

If any coastwide closure occurred in state waters through the Commission process, the Commission would recommend that NOAA Fisheries also close the EEZ in the same way. There were three options that were laid out for

this issue. Option A, regulations in federal waters would be recommended to correspond to those of the vessel's state of landing. Option B, the regulations would be recommended to correspond to the location of catch with essentially an extension of state regulations into federal waters. Option C would have kind of a hybrid of those two; in which the regulations in federal waters would be recommended to correspond to the state of landing, but there would also be the ability for states to apply for specified areas of restricted harvest, in which those specified areas would have a different set of measures than the general EEZ related to that state.

A rough example is shown at the bottom there where you have your state waters, hypothetical state with a three-fish-vessel limit going out into federal waters. The vessel would be accountable to whatever the landing state is; but you see that kind of dotted area. That would be one of those specified areas; and within that specified area there would be a one-fish vessel limit.

As I mentioned, this was brought to the Law Enforcement Committee on Tuesday and they gave some recommended edits to this section. First of all they are not in favor of Option C. The complexity of it and the enforceability of it doesn't seem realistic to them. They also recommended for Option A due to some individuals within the fishery having multiple licenses coming from multiple states, to try to diffuse any confusion about where that vessel may be landing to tie state of landing to the permits.

There is some language here. The regulations would be recommended to correspond to those of the vessels permitted or licensed state of landing. If that vessel or that individual possesses a permit or license for multiple states, all of which are open, then they would be fishing on the regulations for the most restrictive state.

If that individual possesses a permit or license for multiple states but only one of them is open, then they are able to fish on the regulations for

the state that is open. Then Option B; they in general supported that because when on-the-water intercepts occur, they are able to determine a location. Then they can see from the location these are the regulations for fishing in this location.

That was probably the most supported option from the Law Enforcement Committee although they did also put forth a recommendation that I believe in previous meetings wasn't heavily supported by the Board. But to have just kind of a blanket set of measures for federal waters that would be more easily enforceable than sectioning off sections of the EEZ, especially with respect to the seasons and the vessel limits that may differ by the corresponding state waters, or the adjacent state waters.

We did have a call with the Advisory Panel. There were two attendees to this call. One additional member did write in some comments. Nobody from the Advisory Panel objected to the options as presented in the draft Amendment that you see. The attendees supported equal minimum size limits between the sectors.

They did not express any preference for any of the federal recommendation options; but they do recognize that there are some difficulties really with any of those that would eventually be chosen. With that I can answer any questions; and just a carryover from my AP presentation, I am always looking for cobia pictures that we can put in presentations and on the website; so anyone that has those I would appreciate them.

CHAIRMAN GEER: Thank you very much, Mike for that great summary and all the work you've done on this document. I'll take comments at this time with discussion. Robert.

MR. ROBERT H. BOYLES, JR.: Mike thank you for that excellent summary. This is a lot of work and we're excited about taking a lead role in cobia stewardship. I want to go back to your last Section 4.9 and just remind the Board that these are federal waters management. Just be advised that in South Carolina, cobia are a game fish.

They have been a game fish for a number of years. Our legislature did that. Again, our commercial landings, very low documented commercial landings. That may throw a potential wrench in the works; because I like Option B, in terms of extension of those. But I think that's going to be something that we have to acknowledge and work through.

CHAIRMAN GEER: Adam.

MR. ADAM NOWALSKY: Obviously New Jersey is not going to be a large player in this fishery; but as I've sat through these Board meetings I've consistently been willing to engage on the recreational component, based on our experiences in other fisheries. When I look at Section 4.3.5, I'm encouraged by the multiyear evaluation perspective; to bring some stability. I had a question though with regards to the required reductions.

One of the things GARFO has moved towards is willing to accept the need for reductions or liberalizations based on confidence intervals around the harvest estimates. Is there consideration of that in here; or are we taking a step back from what we've moved to in the Mid-Atlantic and Northeast, with regards to using those catch estimates to determine whether or not we have exceeded or not exceeded a catch target?

DR. SCHMIDTKE: There isn't any consideration of confidence intervals about the estimates. I guess I would ask if GARFO has a multiyear averaging process there because, really, if they don't then there are just two different approaches to try to address the uncertainty associated with the recreational estimates.

One of them is looking at the three-year average; taking in multiyear uncertainty. The other is looking at confidence intervals for a given estimate in one year. There are two different ways of trying to get at the same goal of not taking a specific point estimate in one year; and using that to determine to make management decisions on that one estimate, and try to

incorporate some of that uncertainty and look at an overall trend.

CHAIRMAN GEER: Follow up.

MR. NOWALSKY: Yes, by and large we're doing things on an annual basis right now; although there is hope we can move to a multiyear basis. I think the takeaway is, is this Board comfortable that that has been given adequate consideration, and that the averaging approach will account for the interannual differences with the catch estimates? If you are okay great; move forward with it. If you're not I would encourage additional consideration of those widely varying fluctuations that are going to occur on a year-to-year basis. The second item here that caught my attention was that in the example, 2024 stated required reduction based on the over target average of the last three years. When we jump down to 2030, we go to may submit liberalized measures for TC and Board review. What caught my attention here is that one of the issues we've run into is that when states have had the opportunity to liberalize measures.

In many cases they have chosen not to take the full liberalization, or any liberalization, on the basis of well we're afraid of overharvesting in future years. There is a conservation benefit here to not liberalizing. The takeaway from that the unintended consequence however, is that you've now given up what you've been able to give back when you have to take a reduction.

I would be interested in hearing thoughts about this element of required reduction versus may liberalize; as that has proven to have a significant impact on our recreational fisheries. Is that how you want to proceed here? Is that going to not cause you to have the same deficit in regulations that we've had further north on the coast?

CHAIRMAN GEER: I'll chime in on that. I think using the word may, gives the state the option. The idea of this plan is to try to have as much flexibility as possible. I see where you're coming from; but relaxing regulations, I think that's up to the individual states in that regard. That is my

opinion. I don't know what everyone else around the table thinks. Spud.

MR. A. G. "SPUD" WOODWARD: I think Adam we're going into this realizing that we're probably going to have situations where we have recreational harvest estimates that are going to be very troublesome. In fact I would probably use the term "unconfidence" index around them instead of confidence indices; because that's what's plaguing us in this situation.

I think we're trying to find a balancing point where you have enough stability to be able to look at an annual estimate; and make some almost informed judgment determination of whether that estimate is valid to consider, in the aggregate of all the estimates. We know we're going to face this to some degree; and we're going to have to just probably make some difficult decisions.

I mean, the state of Georgia has literally gone from recreational catch estimates of zero to 250,000 pounds; over the course of three or four years. I mean that's how widely variable it can be; and that's not going to change. I think on the issue of liberalization. I think the thought there is as Pat said is to give states the option; because it's a risk and uncertainty analysis is what it comes down to.

If we liberalize, knowing that we're going to have catch estimates with unpredictable outcomes; then you could very easily come back in a situation where the pendulum swings back to the other end. I think this is going to be one of those situations where we're going to do it; and we're going to learn as we go. Then we're having an assessment that is coming forth based on new MRIP estimates; so who knows? There is a lot of uncertainty going on right now in this fishery.

CHAIRMAN GEER: I have Mike and then Lynn.

DR. SCHMIDTKE: I just wanted to add one additional comment related to the requirement to reduce. One thing to point out in this entire thing; and to highlight what this plan is. The

reduction is not a reduction in the target. It's not what the state would be shooting for. It would you know essentially what it means is the season and the vessel limit that you set is not achieving the target. We're still trying to achieve the same target. There are no types of reduction to that or payback. But in order to achieve that target we need to narrow on what is an appropriate season, what is an appropriate vessel limit to be able to catch that amount of fish.

CHAIRMAN GEER: Then I have Lynn.

MS. LYNN FEGLEY: Thank you, Mike, and to the PDT this is just a good document and a lot of work. To Adam's point about the averages, if I remember we had a really long conversation in regards to the *de minimis* states about whether to use an average or two out of three years, in determining whether a state was *de minimis*. Because the thought was just that if you have a sudden really large estimated catch; then using an average you could pay for it for a while. We wound up for the *de minimis* criteria it's two out of three years.

I don't know at this point. As Spud said there is a lot of uncertainty here. But we did have this conversation in regards to *de minimis*. I'm not sure we had it in regards to the evaluation. Then my other question was to the liberalization point. Because we're in a situation where the *de minimis* states match their neighbors, Maryland is matching Virginia.

If Virginia gets to a point where they submit to liberalize; and its decided they can liberalize, but Maryland doesn't want to liberalize, because to us it looks like if we did liberalize we could be kicked out of *de minimis*. How would that work? Because the Plan says we're matching; would we have the ability to maintain status quo, even if our neighbor state liberalizes? I assume we can always be more conservative than the Plan.

DR. SCHMIDTKE: That's something that is not quite addressed and that may be something that requires some additional thought. I mean the first thought that comes to my mind is the ability

for states to be more conservative; and trying to reconcile that with the *de minimis* criteria of matching a neighboring state. That is something that I don't have an immediate answer for.

CHAIRMAN GEER: Let's go to Toni.

MS. TONI KERNS: I have to think through it in full. A state can always be more conservative than the FMP; it is their prerogative to do that. But for the *de minimis* measures they're tied to their neighboring state. If you want to be more conservative than your neighboring state then I think you should probably be able to figure that out.

I need to read the *de minimis* language again; and see if it would cause any issues, because then does that require – so if we have Maryland, Delaware, New Jersey are all *de minimis*. Say Delaware decides to be more conservative than Maryland. Does that mean New Jersey has to match Delaware's regulations? I need to think through that issue.

CHAIRMAN GEER: Lynn, follow up.

MS. FEGLEY: I think it might be worth just thinking through that one, thank you Toni, a little more; and really what happens as the year's progress. If you're getting farther apart, how does that play out in the future? I don't have a suggested answer right now; but we may want to think about it.

Then Mike, I guess my question to you is, as for the averaging issue on the evaluation, do you have any thoughts as to whether or not using that rolling average is a better solution in the face of widely varying estimates than using a two out of three years? Do you have any thoughts on that particular issue?

DR. SCHMIDTKE: I couldn't advocate one versus the other. I wouldn't really want to because it's not fully my decision to make. But if it's the Board's pleasure of having an option of consideration for that evaluation response to be two out of three years, as opposed to an

average. I guess now that I'm thinking about it, one issue that it brings up is if management changes, because if you go with a two out of three, then that means you need three years in there to evaluate.

If you have an evaluation year, specification year where there was a recent management change; would you want to include a year or up to two years of management that was already determined to be unsustainable, and be evaluated based off of those regulations? The thought that the PDT had was no; which is why the rolling average was introduced; so that you would only be evaluated based on management that at the time seems like it is going to be sustainable.

CHAIRMAN GEER: I have Chris next.

MR. CHRIS BATSAVAGE: I would like to go back to; I think it is Option 9, and Robert's concerns on how that's written relative to the game fish status in state waters for South Carolina. I think his concern was going under Option B where the state measures get extended out into federal waters. That would extend gamefish status out into federal waters; where right now commercial fishing is allowed in federal waters off South Carolina.

When we were putting these options together, we were really contemplating the recreational fishery; because we don't have state-specific-commercial measures. It's going to be basically whatever the size limit is and whatever the per person and vessel limit out coastwide. To fix this issue that South Carolina faces, can we specify that these options are for the recreational fishery or won't impact the commercial regulations in federal waters, to kind of work around the problem South Carolina currently has that the other states don't have?

CHAIRMAN GEER: I have Mel.

MR. MEL BELL: Just to follow up on that a bit. We do have a different approach from our conservation measures and our regulations that

are in place; if we had the ability to extend some of our state codified measures into federal waters that would be great, not necessarily all of them. That would be one solution I guess; to tease out commercial specifically. But we've also got some differences too in that we have an area in the southern counties that the three sounds down there that are the spawning grounds for this distinct population segment that we're trying to rebuild right now. Right now, the month of May, it's no retention. Wouldn't necessarily want to extend that out into federal water; and then draw another line. You know you would have, let's say the boundary between Georgia and South Carolina and North Carolina and South Carolina extended out. I'm not looking to extend another line out for the southern counties.

If we have the flexibility to implement at least some of our state codified measures that would be great, but I don't really know if the way things are worded that it allows you to do that or not. It's sort of all of nothing; or could we actually just propose to extend specific things out, or do we need to change something right now to facilitate that?

CHAIRMAN GEER: Toni.

MS. KERNS: I have a question about the Law Enforcement Committee's recommended language to add to the document. In lobster we use the most restrictive rule; and when you have the most restrictive rule and one state is closed, then that permit you cannot fish in either of the areas that you're allowed to fish in.

Under the first part of this I would think that that would apply. If you have multiple permits and one of those seasons is closed, then you wouldn't be able to fish at all. But then in the second sentence it says if you have multiple states, only one of which is open, then you could fish. You see where I'm going.

Under one it doesn't let you fish; and then in the other it does let you fish. It's sort of counter intuitive to me. I'm trying to figure out the

rationale there. Is it that you're trying to prevent someone from fishing that has multiple permits; but then giving them the opportunity when only one state is open? But you're not giving them that opportunity when one state is closed and the rest are open.

CHAIRMAN GEER: I have Mike.

DR. SCHMIDTKE: The first part of that it's a conditional statement. There are two conditions. If they have obviously multiple permits and if the permits for both of those states are open. Then it is more restrictive; and the goal of that was so that you can't just have multiple permits and pick the one that is least restrictive.

That was the reasoning behind that. But at the same time if somebody has multiple permits, they have multiple permits so that they can be able to fish from multiple states. The second part is if there was a closure in one of those that they are still able to operate. I mean this can certainly be edited; but this was something that was proposed there. Because of the conditions I think that is why it wasn't seen as contradictory.

MS. KERNS: I guess my point. I'll use an example to try to make my point come home. If you have a permit from Georgia, South Carolina, and North Carolina, and two of those states are open but one is closed. Under that first condition you wouldn't be able to fish; because the most restrictive rule would apply, and one state is closed. But under the second condition it says that only one state is open; then you could fish. See where I'm going?

DR. SCHMIDTKE: In the example that you stated, multiple states have open seasons. Right, but multiple states have open seasons, therefore you can fish on the most restrictive, and maybe it's most restrictive open state. Maybe that needs to be added.

MS. KERNS: Okay, it needs to say the most restrictive open state because if it's the most

restrictive rule applies, the most restrictive is closed.

CHAIRMAN GEER: Adding the word most restrictive open state shall be applied. Is that okay with everybody? Mel's looking it over. Are there any other questions or comments? Lynn.

MS. FEGLEY: I just had one question and one editorial comment. The question was, I just wanted to clarify under Issue commercial *de minimis*. Under the option, Option A, where a state cannot apply for *de minimis* for commercial, if that option was chosen then that means that that state has to figure out how to monitor its landings in season? Is that correct? Okay, all right thank you for that.

Then the other one I just wanted to say was there is language in the Plan; and I think I wrote it down. It's on Page 42 that talks about the TC and the Management Board coming up with an equivalent total length for a 36-inch-fork length, but a 40-inch-fork length is offered later in the document in a couple of spots as an equivalent to 36 inches. Just be aware that that slight inconsistency is there. I can send it; mail it to you if you want.

CHAIRMAN GEER: Mel and then Adam.

MR. BELL: I think Robert mentioned this earlier but, related to what we're looking at there. Option B under there appeals to me. Our focus is really more on the recreational fishery. We had a commercial fishery in state waters; and our recreational fishery was predominantly state waters forever.

What we did for decades was we heavily fished spawning aggregations of these fish in the southern counties, which is what we've now determined genetically is a distinct population segment. But because of what we did to that DPS, that resulted in us achieving gamefish status for cobia, because basically that was the heart and soul of our cobia fishery.

The commercial fishery is gone in state waters. We've dealt with that for a few years. The recreational aspect now, so B appeals to me if what we're able to do there is extend our conservation practices related to that distinct population segment out into federal waters. I'm not so much concerned about the May closure, again, because when we're out there it's kind of a mixed stock, if you will.

When they come into our sounds, we can genetically distinguish them as sort of our fish but would like to afford the degree of protection in the recreational fishery through implementation of the three-fish boat limit out there. Regardless of where your boat is from, and since we're fairly close to Georgia at that point, and we know we get fishermen out of Savannah that do fish on the artificial reefs off this area that are potentially right now allowed six fish in the boat. What we would prefer to do; and it's not a matter of equitability or fairness to our fishermen, because they would tell you they're not happy with that six-fish boat limit either. Our fishermen will tell me as they have consistently; I mean they would even go for a two-fish boat limit. But they would prefer to see, if South Carolina is going to take some responsibility for management of cobia in our waters out there, they would like to be more conservative. If B allows us the ability to have that as an option, where you would abide by a three-fish boat limit in federal waters off of South Carolina, then I think we're good.

I just want to make sure that I'm reading this right; and that we could actually do that because I know there was some concern about okay what is the registration of the boat, is it a Georgia boat, is it a South Carolina boat that sort of thing? But implementing enforcement on the site where the fish are aggregated, where the fishermen are aggregated. To me that makes sense from an enforcement standpoint. You go where the fishermen are if you want to check cobia fishermen.

I just want to make sure B allows for that option, because that's our concern. Right now the

recreational state fishery is really no longer there. We're a federal fishery now. I'm real sensitive to our ability to influence federal waters. If we're allowed to do that this way then I'm fine with that. If I'm not reading that right or there are some issues, then maybe we need to discuss that or seek some other wisdom.

CHAIRMAN GEER: Mel that is my understanding, if anybody on the PDT thinks differently, I think that was our thought on that. It's extending it out into the federal waters along those lines. I get thumbs up; Spud.

MR. WOODWARD: That is thoroughly my understanding. I do think this matter of being able to land fish caught in federal waters and sell them in South Carolina is still somewhat uncertain. But as I understand it, if the state of South Carolina says that you can land and sell a cobia caught in federal waters, then that applies along that same corridor just like your bag limit and anything else would. I mean it's my understanding that that's how that would work.

CHAIRMAN GEER: Mel, follow up on that.

MR. BELL: Yes and to that point. We have no intention of desiring to close down the federal fishery out there; the commercial aspect of it. We're fine with that. We don't have a huge fishery anyway; it's maybe 4,000 pounds or something. If B works for those purposes then we're happy.

CHAIRMAN GEER: Adam, I saw you had your hand raised.

MR. NOWALSKY: Yes, I was going to go back to the recreational issues unless you would like me to defer to make sure that conversation about this topic is complete first.

CHAIRMAN GEER: Let's make sure this is done first, thank you. Are there any other comments or questions on this issue? Wait one second, a couple more minutes' folks, all right Toni. I apologize for the delay.

MS. KERNS: Sorry, Mike and I were trying to think this through. I think under Option B, you might want to have sort of a sub-layer, one for recreational one for commercial. On the recreational one you would say you would extend your boundaries for your recreational fishery; but for the commercial fishery.

I think maybe the solution would be to make a recommendation to NOAA Fisheries that the regulations in federal waters are bound to the commercial vessels landing permit in order to give them a set of regulations that they could enforce when offshore in federal waters for South Carolina because, if you just extended the boundaries then it would be nothing. There would be no regulation because you're gamefish. You would need something for them to have. That is the only solution I can think of off the top of my head.

CHAIRMAN GEER: Mel.

MR. BELL: Yes to that specifically. There is no federal cobia permit within the coastal migratory pelagics group, which it was.

CHAIRMAN GEER: It was it's not any more.

MR. BELL: Cobia didn't have a permit and that was part of the problem we were having in managing it. There isn't anything to reference there.

MS. KERNS: That's why I would suggest tying it to their landing; the commercial vessels landing permit, because they would have to land somewhere.

MR. BELL: You mean their state license.

MS. KERNS: Their state license or landing permit, yes.

CHAIRMAN GEER: Does anybody have problems with us adding that wordage? Does everyone feel comfortable with the PDT taking that on; or do they want to see it first? Just try to do it on the fly? Mel.

MR. BELL: Can I just clarify something in my mind how this works? The states monitor their commercial landings. No problem. We reach the allocation or the limit or whatever. Then we as a state would notify the Commission, who notifies NOAA or we notify NOAA that we've reached that limit? You mentioned earlier that then NOAA Fisheries would have to actually close the fishery in federal waters. I was just trying to figure out the mechanics of that how it works.

CHAIRMAN GEER: Mike.

DR. SCHMIDTKE: The states would monitor the landings. They would report the landings; and I guess the way that I'm envisioning it is the states would report commercial landings to the Commission. When the non *de minimis* landings hit that 77 percent or whatever that example was. But whenever they hit that threshold, then the Commission would inform NOAA. We would recommend that NOAA close the EEZ on this date. We would also be informing the states that the closure date is this date.

CHAIRMAN GEER: Toni.

MS. KERNS: I would just say that under this extension scenario federal waters wouldn't necessarily close on the commercial fishery side, when one state harvested their quota, because if there are other states that can still fish in federal waters they could still do that. Then bring home to their state of landing for commercial. It is similar to how we manage summer flounder, in the sense that a state may achieve their quota, but other states haven't, so there is still fishing going on in federal waters. For the recreational it would be different.

CHAIRMAN GEER: Yes Mike.

DR. SCHMIDTKE: Commercial is a coastwide quota. It's not state quotas. Coastwide measures, coastwide quota.

CHAIRMAN GEER: I have Spud, and then I have Lynn.

MR. WOODWARD: Yes I can give you a scenario. Georgia is a minor contributor to the coastwide commercial harvest; but what would happen is basically when North Carolina and Virginia sort of hit that 77 percent mark, then we're going to be notified and we'll basically advise the Commissioner of DNR to take action at some point, 30 days or whatever later, to basically prohibit the commercial sale of cobia in Georgia. That's how it would work. It will be whatever happens as a coastwide aggregate drives the process.

CHAIRMAN GEER: Lynn, did that answer your question?

MS. FEGLEY: Yes, I think it did. I think so. I know in Maryland when we vote regulations for cobia, it's very small, but all of our fish harvested from our coastal waters are required to go through federal dealers so that NOAA gets that information pretty much immediately. I don't know, just to make you aware in the monitoring. Like I said, we're a really small player; but I think the scenario that Spud laid out makes sense.

CHAIRMAN GEER: The *de minimis* states that quota is already taking out and considered already. That is off the board already. Then I have Mel.

MR. BELL: In that scenario the actual closure of the federal waters would be an action taken by NOAA Fisheries. Okay, because where I'm going with this is then therefore by reference we would automatically close. I don't have to go to a Commission or I don't have to go to my legislature to close it. Just like previously, whatever they said. We call it the, what they say we say law, so if the Feds say it's closed it is closed. That works for us.

CHAIRMAN GEER: Lucky you. Okay anything else on this issue? Not hearing anything else everyone is satisfied? Okay, Adam.

MR. NOWALSKY: Going back to the recreational side again. The states reporting a consistent underharvest for liberalization, am I to read that

as a consistent underharvest means underharvest every year? Is that what that is supposed to mean?

DR. SCHMIDTKE: Underharvest every year for at least a three year period.

MR. NOWALSKY: What was the rationale that the PDT used for using those criteria versus the average landings during the three year timeframe?

DR. SCHMIDTKE: Because of the fluctuations that landings may have above and below the target; in the same way that you know the landing may go above and below the target within a three year timeframe and still achieve the goal, the target, the average landings are beneath whatever that target is.

The scenario for liberalized measures, the PDT really wanted to apply only to states where it is abundantly clear that these measures could be liberalized; that an additional fish could be taken, and they would not exceed their target. The PDT felt well if they're bouncing around their target already then there is a probability there that if they liberalized that they would start exceeding.

CHAIRMAN GEER: Follow up.

MR. NOWALSKY: But yet in the previous paragraph we're saying that if it's bouncing around there is no chance that we may be under. We're bouncing around, our average is over, and therefore we have to reduce. I'm not comfortable with it. Just from the experiences, the pain we've had. I mean to channel Robert Boyles' comments about using state descriptions earlier.

This is supposed to be the kinder, gentler Board that we have here. I don't really want to see the South Atlantic Board in front of the Policy Board the way the Summer Flounder Board has consistently been there. I think this section should be modified to at least provide options;

so that the opportunity to liberalize and reduce are treated the same.

I think that there should be an option to consider the confidence interval or “unconfidence” interval around the three-year average. If we can’t get there in a reasonable timeframe, if there is no consensus around the table here to do that. I think I would probably find myself in abstaining on the vote to release this; just because I don’t endorse, and I wouldn’t endorse this in our other recreational fisheries.

I think it’s a step forward. It’s there. But I think the options here can be better; especially for a fishery that is 92 percent recreational. I know there has been a lot of pain already. I think the fact that there are no members of the public here today speaks to the pain that has already been suffered with this. I see these options here as causing more pain for the recreational sector.

CHAIRMAN GEER: If we take that up, the PDT would have to meet again and we would have to – we could put some wordage. If it’s the pleasure of the Board that we do that we can address it. We would probably have to send final approval out through an e-mail or some other manner. Nobody really wants to do it that way. What does the Board think about this? I’m not hearing anything from anybody? Chris.

MR. BATSAVAGE: I don’t have a solution. But I would expect to hear some concern, definitely feedback from the recreational community on this option. I’m on the PDT. I understand why we put in this measure we need to have three years of consistent underharvest before a state could consider liberalizing; just due to the very high variability in recreational cobia harvest. We want to prevent states from chasing one year estimates. But I agree with Adam. There is going to be a lot of, I think concern from the recreational community on this issue.

I don’t know a way around it because we’ve seen with other fisheries with better, more consistent recreational harvest estimates that we can get into a trap where we think we’re liberalizing a

little bit, and then the landings are much higher than expected. I guess all I’m doing is acknowledging Adam’s concerns that we will hear this when we go out for public comment. But I don’t know what the solution is. It’s based on the nature of the harvest estimates.

CHAIRMAN GEER: The PSEs for some of the states are very high. Like Spud pointed out, some years in Georgia it is zero, some years it’s a quarter million pounds. That is a part of the nature of this fishery and the MRIP data. I’m not sure if I know how to address that. If we put confidence intervals on these they are going to be so broad. I don’t know if the management action is going to be useful at all; that’s the problem. I agree; I mean I think you brought up some very good points, Adam. I’m just not sure how we can address them with this species. Mel.

MR. BELL: It just seemed like we’re taking the approach where we’re looking at the three year period versus what we used to do. When we were living under federal management we were living from year to year and we were having some horrible things happen, you know in a given year. It seems like we are heading in the right direction. We’re better off than we were.

We may hear some more from the public when this goes out. But you know I don’t know how to tweak it at this point and any more. But I am more comfortable with looking at three years of data than just what we were doing under the old process with federal management. I feel we’re better off than we were.

CHAIRMAN GEER: I see a halfhearted hand from Lynn.

MS. FEGLEY: I’m really torn. This is very difficult; and I don’t have a solution, except that I wonder if there is a way to incorporate some language that would allow during this evaluation for a year, for an outlier harvest estimate to be considered differently. I think it was New Jersey that had that really large estimate in one year that was an outlier.

I think that is what led us to those two out of three years, versus average for *de minimis*. But I wonder in this case, because we want to be evaluated over this time period, if there is a way to just categorize a particular estimate as an outlier, which might provide the Board some flexibility during the evaluation and harvest specifications.

CHAIRMAN GEER: Mike.

DR. SCHMIDTKE: The Cobia TC, this was something that they were tasked with previously; and the Cobia TC their basic statement on this is MRIP is going to have outliers in either direction, so if you treat the high as an outlier are you also going to be treating the low as an outlier? That was the concern the TC had about recommending any type of outlier analysis in this type of plan is will it be one directional.

CHAIRMAN GEER: Are there any other comments? What is the pleasure of the Board at this point? What would you like to do? Do you want this moving forward or do you want it to go back to the PDT at this time for further refinement; Spud?

MR. WOODWARD: I'll make a motion that we approve Amendment 1 to the Cobia Plan for public comment.

CHAIRMAN GEER: Seconded by Mel Bell. Toni.

MS. KERNS: Spud, would you be open to adding as modified today?

CHAIRMAN GEER: Any further discussion on this? Hearing none I'll read the motion. Move to approve Draft Addendum I to the Cobia Fishery Management Plan for public comment as modified today; motion by Mr. Woodward seconded by Mr. Bell. Chris.

MR. BATSAVAGE: Never mind, they changed it to Amendment 1 up there on the board now, thanks.

CHAIRMAN GEER: I'll read it again. Move to approve Draft Addendum I, Amendment I'm sorry. I'll start over again. It's been a long week. Move to approve Draft Amendment 1 to the Cobia Fishery Management Plan for public comment as modified today; motion by Mr. Woodward, seconded by Mr. Bell.

All those in favor please raise your hand; those opposed, abstentions, null votes. The motion passes 8 to 0 to 1 to 0. Thank you very much for that and it will be going out on public comment on this. Mike will be getting with everybody about that and having comments in your states. I'm sure in Virginia, hopefully it will be very lively in Virginia, North Carolina, and more people will show up. He'll be getting with everyone about that soon.

REVIEW STATE-GATHERED PUBLIC INPUT FOR POTENTIAL MANAGEMENT ACTION, ATLANTIC CROAKER AND SPOT

CHAIRMAN GEER: Moving on the other item on the agenda today is Review State-Gathered Public Input for Potential Management Action, Atlantic Croaker and Spot. Back in August we talked about an addendum to the spot and croaker plans, the omnibus for spot and croaker FMP to make changes to the traffic light approach, to do a regional approach. Oh, he has a presentation. I don't have to say anything. Okay, Mike here you go.

DR. SCHMIDTKE: All right so a brief presentation; just kind of bringing everybody back up to speed on what has occurred to bring this about. In 2017 a benchmark stock assessment was completed for both Atlantic croaker and spot; but it did not pass peer review for several reasons. But one of the difficulties that occurred with that was due to the conflicting abundance in harvest signals; which are also used in the traffic light analysis.

In February 2018, the Plan Review Team for spot and the croaker TC recommended changes to the traffic light analysis and that's included in the memo that is in your materials. These changes,

if all implemented, would result in management action being triggered. Here is a table that you've seen before, a comparison of the current TLA and the proposed new TLA. There are changes there to the adult abundance indices.

Additional indices would be incorporated as well as a regional type of approach for evaluating those indices; then an incorporation of ages into those index evaluations, also a change to the reference time period. The triggering mechanism and ultimately the result that you saw last year, when there was a direct comparison made between these two methods for croaker and spot, there was no trigger in 2018.

But using the updated proposed TLA, both species would be triggered due to the indices in harvest that are seen in the Mid-Atlantic region. Following these results the Board talked about potential management actions; and also asked the PDT what the recommendations would be, as far as this regional approach, and what resulting management actions would follow from there.

The Croaker, Spot PDT recommended that management action be taken as the result of a trigger; that some form of baseline management measures be established in the form of seasons and/or trip limits. Right now neither croaker nor spot have a coastwide management in place; any type of management measures in place.

There are some state level management measures for one or both species; but nothing from a coastwide level, so the PDT would be recommending that the Board consider a coastwide set of measures in response to a management trigger, if the new TLA were adopted. As a result of this the Board requested additional time to gather some public input from the stakeholders; and several states went out to gather this input.

I have a really short summary of the different state public input summaries that were submitted in materials. You can reference those

for more complete description and the state representatives can certainly bring up details that I don't include here. But I tried to stick mostly to the potential management measures that would result. Maryland, their public were focused more on spot; because they already have size, creel, and season limits in place for croaker at the state level.

The public were hesitant to support any form of reduction to the harvest or setting any minimum size, possession or season limit. There was also the comment that any regulations leading to reductions in Maryland should also be reciprocated in other states. For Virginia there was general comment against size limits; but they weren't completely against an adequately sized bag limit. They provided a suggested bag limit of 30 to 50 fish per day. In North Carolina there was not much support for any new spot or croaker measures. They suggested that the declines in landings were due to reduced effort as a result of commercial regulations. Again, if there are additional details or if I misstated something, feel free to correct me, representatives from those states. But I can take questions on that and turn it back over to Pat for discussion.

CHAIRMAN GEER: Does anyone have any questions for Mike on that? Chris.

MR. BATSAVAGE: Thank you, Mike, I appreciate the presentation, kind of showing what we've done over the last year or so. A good reminder to me and I'm sure others. Just to add to the general comments we heard in North Carolina besides not wanting to implement any additional measures or any measures for spot and croaker. I think the public acknowledge the fact there are fewer spot and croaker around than in the past.

There is really not much dispute to that. But there were also, they mentioned that just environmental changes were potentially a cause. Natural predation may also contribute; so things kind of out of the control of what we manage, and not necessarily a result of fishing being the primary reason why there are fewer spot and

croaker found in the state. But I just wanted to add that to the general list of comments we received in our state.

CHAIRMAN GEER: I'll go to Lynn.

MS. FEGLEY: I just want to echo what Chris said. I think there was also a lot of discussion in Maryland about the environmental variables; and an acknowledgement that there are fewer fish. But the other thing that came up in our discussion was really the question if anything that we can do for spot could offset the issues with the shrimp trawl bycatch. If there is anything that we can do to offset that they had a lot of concerns about that.

We've gone back with North Carolina has got the additional bird requirements going in place in July, so we've updated our constituents with that information. But I just want to go on the record that there was a lot of concern that by implementing regulations in these little fisheries would just be nibbling at the edges and not attacking the problem where it lies.

CHAIRMAN GEER: That was expressed in Georgia as well as surprisingly, sorry in Virginia, forgive me. A lot of folks said that we're nibbling at the edges if we're not addressing the shrimp trawl fishery. A lot of our folks were saying it's cyclic. It's just a cycle issue. But surprisingly there was a fair amount of support for a bag limit; as Mike said.

During our discussions we didn't know what they were talking about because they said they need them for bait. That is why they didn't want a size limit. When we asked them well how many, they kind of said numbers that we were thinking anyway, so that was pretty promising in some regards for us. Commercially we get a more difficult time.

They threw out some ideas. Obviously they weren't crazy about size limit, because of culling and everything. But we were kind of trying to ask them about shortening the season just a little bit; you know trying to do something. We didn't

have a lot of folks at our meeting. We had to actually create a subpanel for one of our fisheries panels to do it, so we only had a few people actually come and speak about it. Marty, you had something to say?

MR. MARTIN GARY: PRFC didn't submit any formal comments to Mike with the other jurisdictional partners. But we did participate in the calls. I did note, and I'll note for the record now that we have several boat liveries along the river that rent boats. A lot of the folks come from metropolitan D.C. area, for instance, come down to fish with their families; a lot of them that are subsistence fishers.

Those two species are important to them; but again the abundance has been down, as we've already noted and heard from a couple people. I did broach the subject with them to talk about what if we started to see resurgence in either species, would there be a thought on adjusting creels or anything like that.

They didn't have interest; similar to what Chris said in doing that. I just want to make a note that that is an important species. We're hoping that maybe in the future that that we'll be able to have something similar to what we've had historically. In the meantime it's all you can catch invasive blue catfish for those folks. But croaker and spot are important and we'll continue to follow it.

CHAIRMAN GEER: What about the other states? Did they talk, I'll go with Delaware with John Clark first.

MR. JOHN CLARK: I would just follow up with what we've heard in the past. We didn't specifically go out and ask on this. But we already have a size limit in place for croaker; and for spot we hear the same thing the other states do, people want no size limits so it can be used as bait. In terms of a possession limit, we haven't broached that. But I don't think that would be a problem; similar to what you found in Virginia.

CHAIRMAN GEER: Any of the southern states? I know South Carolina already has an aggregate bag. I mean Georgia already has a 25 fish limit on both spot and croaker. Adam, is there anything from New Jersey at all? We're kind of at a point where we have this traffic light approach that we've been going under.

Do we want to continue to task them to do things when we're not? We keep seeing problems but we're not doing management actions as a result; no management measures are coming forth. If we want to use these new measures we have to do an addendum, we'll have to do an addendum. The TC has put a lot of time into this. They've gone ahead and made several recommendations. We're kind of like in this, as Mike said, I kind of chuckled, the saga continues.

I mean it's like we've kind of been going around with this. What do we want to do? Do we want to move forward? Do we want the TC to continue to approach this? But I've sat up here at this table. Mike is on one side, you know the TC Chair is on the other side, and they both tell me we need recommendations for management measures from the Board.

What are we going to do? We're seeing that the abundance is low; but we haven't come up with any kind of recommendations. What does the Board want to do? I'm looking for something we can tell the TC we want them to move forward with. I mean do we want to wait until August and see what the new numbers look like? Do we want them to run the numbers both in the old method and the new method? It's a fair amount of work. I'm looking out for you folks to provide some guidance to the TC. Let's go with Chris and then Mike.

MR. BATSAVAGE: Yes we're definitely at a crossroads now. If we initiate an addenda to adopt these new traffic light analyses that would result in some sort of management response, if we went that route, if you look at how it's written in the current addenda as far as what we need to do. That doesn't really match up with what we can do with the TLAs.

It talks about percent reductions. We've talked about it in previous Board meetings that the traffic light analyses aren't designed to do that. I guess that would be one option to initiate addenda for both species to adopt the new traffic light analyses; but also to modify the management response to have it more in line with what we can do.

Going back to the comments that we received from the public, there was concern that under the harvest metric there is a lot of red showing up; due to the lower landings. It was pointed out there is just a lot less fishing going on; due to just less people in the fishery, but also due to other management measures that impact the spot and croaker fisheries, at least in North Carolina.

Things such as the hundred pound trip limit for weakfish; you know really had an impact on the long haul seine fishery. Management measures in place to protect bottlenose dolphin have also impacted where commercial fishermen can set gillnets for spot. I guess this is a question for Mike. Is it possible for the Technical Committee to explore incorporating some sort of effort component into the harvest traffic light?

Because right now we just see the trends in overall landings, commercial and recreational. But it doesn't speak to whether it's just less people fishing. But is there some way to work in an effort component into that to just get a better sense of what's driving the trends? Is it just less people fishing; or is it a lower catch per unit effort, which would indicate a problem with those populations?

CHAIRMAN GEER: Jeff.

MR. JEFF J. KIPP: The TC did look at effort data and talk about effort data. I think that we would be comfortable with that for some states; but from a coastwide perspective is where we would run into issues on adequate effort data to do something like that.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: Maybe the way forward, you know in our state there was a lot of conversation, and I suspect this was true up and down the coast to the degree of the conversations we had. The idea of equity, you know making sure that if action is taken that there is parity amongst the states was of critical importance.

Also, a subject of discussion was the idea that we cannot quantify any sort of percent reduction that is required or would work to get us out of the red in the traffic light. The memo to the Board said that rather than focusing on a specific numeric goal for percentage red that may not be attainable through management alone. The PDT Recommends an alternative goal of initially establishing management measures for those fisheries which have no regulations. Maybe knowing that there is a commercial season which seems somewhat palatable. I mean the idea of a commercial season seems somewhat palatable, and the idea of a bag limit for recreational seems somewhat palatable.

Maybe the way forward would be to accept the new traffic light and, in the course of management response could the TC or the PDT, look at options which result in a neutral state for the fisheries? By that I mean, the states are truly bookending. You know Maryland's commercial season would be set so that there would be a bookend to the season as it runs on average; but not necessarily a reduction, so that it can be moved in the future if we need a reduction.

If there is a year when the fish appear, when we have spot in the Bay in an anomalous time that those spot would be sheltered from the fishery, because we've set the season. Ditto bag limits that we're basically we're going forward with a bookend. We have something on the books that could potentially be adjusted in the future if needed. But we're not having the coastal, we're doing the best we can to achieve equity among the states. I hope that made sense, thank you.

CHAIRMAN GEER: That's a good idea, Lynn. Lynn, I think you and I, we've talked about this. A lot of what you were doing, we were doing

independently, coming up with the same kind of things where you can look at the bookends of the fishery by looking at cumulative percent by date; and you really end up, you're not having that much of an impact if you take a little bit off the beginning of the year, a little bit off the end of the year.

I know in our state we did look at effort data; and we were seeing in some fisheries catch per unit effort was not going down that much for a couple of fishers; gillnets it definitely was. But what we were seeing was a fairly good decline in the size of the fish. You know the fish were declining in size as well. I think that's an interesting approach and I would support that. Mel.

MR. BELL: That's kind of how we ended up with our aggregate bag limit for small sciaenids. We were basically just trying to put something in place; almost as a firewall. You just got to get a placeholder, get it in place, and the public got used to that. We were seeing some things; particularly during the spot run where a garbage can full of spot. That stuff went away.

We did have a little bit of an impact; but it was more of just kind of get us going in that direction, because anything related to small sciaenids for us, I mean we just didn't have it. I guess it was kind of a baby step or a first step; but I think that's a great concept. I think we do need to move in this direction.

If you're being advised by the TC, here is what we're seeing, here are some recommendations. We admit, well things may not be like they used to be with the fishery or maybe not be what we would like to see. But then we just don't act and don't act. That doesn't send a good message to the public; and it doesn't send a good message I think to the TC if we're kind of not listening to them. If there is a way to adopt some things to at least get us going? I think that does make sense.

CHAIRMAN GEER: I agree. Phil.

MR. PHIL LANGELY: I would support some type of additional effort looking into this; just to the fact that the importance of this fishery, I know it is spot and croaker and it's been something that's been unmanaged. But you know this is the fishery that most of the children are introduced to. There are peer fishermen that may not be able to maybe vacation and they may not be able to economically afford to go out on a charterboat or take their kids out.

But this is how we introduce young fishermen to the fishery; and young fishermen make big fishermen. I just think it's important as well as the charter, and especially the headboat fishery. You know within our states it's an important fishery. Certainly we have seen a decline; which is alarming to a lot of constituents, you know within the state. But as was stated here, it's kind of hard for one state to make adjustments and with a species that is up and down the coast to make it more impactful.

CHAIRMAN GEER: I agree with that. As Mr. Woodward once called it the under loved sciaenids. We've been down this road before a few times, huh Spud? Are there any other comments? What I'm hearing right now is that we should be moving forward with something. I've heard potentially asking the TC to look at effort data if that is available. I know it's available in Virginia. Jeff, is it available in the Mid-Atlantic? I mean is it better in one region than in another?

MR. KIPP: Yes, so I think certainly some of the states from a commercial perspective have what we thought was good effort data; and then recreationally there is effort data. But I think there was some concern with that is from MRIP how to quantify that as effort. There is kind of different metrics you can consider from an effort standpoint with MRIP data; and I think we kind of circulated around that but didn't come to any conclusion.

CHAIRMAN GEER: I think Chris's concern with the effort was primarily probably commercial, right, Chris?

MR. BATSAVAGE: Yes I think it's going to have to be looked at, at the gear level to follow trends. I don't know if every state has that; and I'm guessing that is some of the concerns that the TC has is just as far as what level of effort data is available from the individual states.

CHAIRMAN GEER: I know we can provide that. I've run that analysis for our meeting that we have with the general public.

MR. KIPP: Yes, I think the Technical Committee didn't really consider smaller spatial scales when doing this. We were kind of looking from a coastwide perspective. If we could come up with something that we think is representative from a smaller spatial scale, either regional or coastwide trend. That is I think something that we could look into a little bit further.

CHAIRMAN GEER: Does anybody want to make a recommendation to the TC? We're going down that route; but we've talked about asking to look at effort data. Do we want them to continue to pursue looking at the new regional approach? I mean we're hoping that those numbers can be ready by August; and be provided, so this will be the second year we can have those new numbers. I don't think we're going to see anything different though. I think it's from what everyone said you know 2018 wasn't any better than the previous years. Mike.

DR. SCHMIDTKE: I guess one additional thing; I mean it's not a huge addition to the workload, but it is an additional workload to what the current TLA is. I would ask if there is specific direction from the Board to the TC to run the updated TLA for this year; given that the side-by-side comparison was done last year.

Is there additional information that the Board things that they're going to get out of seeing another year of side-by-side, or should the standard TLA that is currently in place be the one that is run and used in management this year? Regardless of what the Board decides today, there isn't going to be something passed by August, which is when we normally do the TLA

that would change the methodology in the way that this is talked about. Is there any direction to do the updated TLA in addition to the current TLA for 2019?

CHAIRMAN GEER: Any thoughts on that? I am kind of the thought; I mean Jeff, tell me if I'm wrong. I mean once they have the datasets is it that difficult to run the TLA?

MR. KIPP: I think a lot of it is gathering the data; but yes the actual framework is pretty much set in place. It depends also on the framework which you go with. The regional one would take, I think, a bit more work, because there is splitting indices based on size and that stuff. There is a little bit more from the regional perspective than the coastwide, I believe.

CHAIRMAN GEER: Well at the very least we have to do coastwide. At the very least we must do coastwide; and we need those numbers by the August meeting. I didn't know if Toni wanted to talk or not. Okay. Even if we don't take on the regional approach, and that continues to show, well we had the conflict in mind on that.

I would like them to see if we could do both that would be my, but I don't want to task them with something. I don't want to set them up for failure is my concern; and then if we asked them to look at effort data too that's going to be even additional work. Mike.

DR. SCHMIDTKE: I do have a question about the tasking; just to make sure that it's clear when talking about TC looking at the effort data. Is that looking at it in the context of trying to alter the recommended changes and possibly incorporating a CPUE style of approach to replace the harvest metric, or I guess what's the end goal in looking at the effort data that the TC should be driving towards in that task?

CHAIRMAN GEER: Chris.

MR. BATSAVAGE: My thought was if there was a way to incorporate effort into the harvest component, not replace it but just give it some

context. But I'm getting the sense that the data is a little sparse; and it could be a pretty heavy lift for the TC in terms of just the workload versus what we may get. We don't know if this is even doable. If the Board supports having the TC look at that that's great. If we're concerned about the time and effort this would take in addition to other tasks such as the annual TLA update. Maybe we could forego this exercise and think about moving forward with maybe an addendum to accept the new revised traffic light approach, and then go from there.

CHAIRMAN GEER: Chris, are you suggesting that now or in the August meeting?

MR. BATSAVAGE: It might be, if we could decide which path to go today, whether we task the TC with looking at this effort idea, or just based on the conversations that we've had and heard from Jeff and Mike that that may not bear the fruit that we're hoping. Then the other option is at least entertain a motion for the revised traffic light analyses as they are, and then talk about how to handle the management response.

CHAIRMAN GEER: Any discussion on that? Lynn, you look like you're hesitating.

MS. FEGLEY: I think Chris is on the right track. I think we need to bust a move here one way or the other.

CHAIRMAN GEER: It's the pleasure of the Board. Chris.

MR. BATSAVAGE: Okay to get off the dime. I move to initiate addenda to the Spot and Croaker FMPs to incorporate the revised traffic light analyses and redefine the management responses.

CHAIRMAN GEER: We'll get that up in a second. We have a second by Lynn Fegley. Is there any discussion on this? Roy.

MR. ROY W. MILLER: Mr. Chairman, perhaps Chris or Lynn could inform us. If we're going to incorporate the revised TLA, and redefine

management response, I presume that the management responses suggested would have the goal of moving this out of the red zone and into the green zone. Is that the general idea or not? Lynn is shaking her head.

CHAIRMAN GEER: No. Lynn, do you want to respond to that?

MS. FEGLEY: As I understood and as it's written in the memo to the Board, there is no way to define what those responses should be to get us out of the red. It struck me that what we would go forward is as Mr. Bell said, rather than asserting that we're going to get ourselves out of the red that if there are no regulations on a species that we will simply bookend that species. We will simply put a firewall in place that is not necessarily a reduction; it's just something to bookend the fishery.

If the fishery expands out of where it has historically been functioning, either by a season or by a bag limit. Then it provides a buffer. But it's not designed to produce as a particular reduction; because we don't know what that reduction should be. The goal is to get something on the books; so that if we get an assessment that's helped us understand what a reduction should be, we are basically set up to get there, because we have something on the books. The question becomes, well I'll leave it there.

CHAIRMAN GEER: Roy, did you have a question, follow up on that?

MR. MILLER: Would we be taking this action if the TLA wasn't in the red zone? In other words this bookending process, would we do that if it was in the green zone or the yellow zone?

CHAIRMAN GEER: We would have to adopt the new traffic light approach. We would have to do an addendum anyway. This new regional approach, we would have to go through an addendum process just to adopt that if we did nothing else. But talking to some folks, they're feeling that why go through an addendum

process to adopt this new traffic light approach if we're not going to try to have some kind of management measure associated with it. Yes, regardless of what it was. If we're using this new method we would have to have an addendum; any other discussion on this? I see Lynn's hand again.

MS. FEGLEY: I guess my question is when we say redefine management response. We would adopt these TLAs. Currently the way the plans are written as I understand, once we adopt the TLAs, they trigger, we are required to take some sort of action. In that wording of redefine management response, does that mean that this would give us the opportunity to adopt the new TLA but not be bound to take immediate action? Is that what redefine management response means? Could we just do an addendum to adopt the TLAs and nothing else? That's the shorter way to ask the question.

CHAIRMAN GEER: I guess I would ask Chris what his thought was on the terms.

MR. BATSAVAGE: I didn't know how best to word that part. But as I mentioned earlier, if you look at the current addenda I think it talks about a management response that incorporates percent reductions, which you really can't do. We talked a lot today about the Technical Committee's recommendation of kind of bookending the fishery; and Lynn has talked about how that could possibly be done.

Replace the language that is in the current addenda with that. Although now the question as to whether we would have to take action after adopting the revised TLAs, I think we would. But that's where you're redefining the management response. We can say what that is, who would have to implement management.

We've heard from states that already have management in place. Maybe the Board feels that the states that have already implemented measures already have those bookends for their fisheries, and it may not be necessary to do more, as opposed to states that don't have any

management that perhaps they should be the ones putting in measures.

CHAIRMAN GEER: I would assume those measures and actions are going to be defined in how we do the addendum; how we write the addendum. **Is there any other discussion on this? All right let me read the motion. Move to initiate addenda to the Spot and Croaker FMPs to incorporate the revised TLA and redefine management response.**

Motion by Mr. Batsavage and seconded by Ms. Fegley. All those in favor raise your hand; all those opposed, abstentions, null votes. The vote carries unanimously. Okay, is there anything else on spot and croaker we have to address today? Anything else this Board has to consider today, any other items? Chris.

MR. BATSAVAGE: Just a quick heads up to the Board. Normally this is the meeting that we would request an e-mail Board vote on an exemption to the Spanish mackerel size limit. After evaluating the information that we received from sampling, we are not going to move forward with that this year. We're going to stay at the 12 inch size limit that's in place coastwide.

ADJOURNMENT

CHAIRMAN GEER: Thank you, Chris; is there anything else to come before this Board today? Motion to adjourn, seconded. Thank you very much for coming and safe travels home, folks.

(Whereupon the meeting adjourned at 12:00 o'clock p.m. on May 2, 2019)