

# Atlantic States Marine Fisheries Commission

## Summer Flounder, Scup, and Black Sea Bass Management Board

*October 25, 2012  
1:15-3:15 p.m.  
Philadelphia, Pennsylvania*

### Draft Agenda

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

1. Welcome/Call to Order (*D. Simpson*) 1:15 p.m.
2. Board Consent 1:15 p.m.
  - Approval of Agenda
  - Approval of Proceedings from February 2012
3. Public Comment 1:20 p.m.
4. Review wave 4 recreational data for summer flounder, scup and black sea bass (*T. Kerns*) 1:30 p.m.
  - Potential actions in the Federal FMP if catch levels exceed recreational ACLs
5. Overview of 2013 recreational management process for black sea bass (*T. Kerns*) 2:30 p.m.
  - Consider initiation of an addendum to allow for management tools other than coastwide measures **Action**
6. Other Business/Adjourn 3:15 p.m.

The meeting will be held at the Radisson Plaza-Warwick Hotel, 220 South 17th Street, Philadelphia, PA 215.735.6000

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

# MEETING OVERVIEW

**Summer Flounder, Scup, and Black Sea Bass Management Board Meeting**  
**Thursday, October 25, 2012**  
**1:15-3:15 p.m.**  
**Philadelphia, Pennsylvania**

Chair: David Simpson (VA) Assumed Chairmanship: 1/11	Technical Committee Chair: Jason McNamee (RI)	Law Enforcement Committee Representative: Chicketano
Vice Chair: David Pierce	Advisory Panel Chair: vacant	Previous Board Meeting: February, 8, 2012
Voting Members: MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, NMFS, USFWS (12 votes)		

## 2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 8, 2012

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

## 4. Review wave 4 recreation data for summer flounder, scup and black sea bass (1:30-2:30 p.m.)

### Background

- Wave 4 harvest estimates should be posted on October 15, 2012.
- Wave 3 harvest estimates were close to the recreational harvest limit for black sea bass.
- The Federal FMP includes accountability measures for in-season adjustments if the recreational ACL is exceeded, specifically if catch estimates exceed the ACL the fishery will close.

### Presentations

- Staff will present wave 3 and 4 MRFSS harvest estimates for summer flounder, scup and black sea bass

### Board actions for consideration at this meeting

- None

## 5. Overview of 2013 recreational management process for black sea bass (2:30-3:15 p.m.)

### Action

- ### Background
- Addendum XXII to the Black Sea Bass FMP, which allowed for a combination of regional and state-by-state recreational measures in 2012, expires on December 31, 2012.

- The FMP only allows for a single set of coastwide recreational measures, unless a new addendum is initiated that allows for conservation equivalency.

**Presentations**

- Staff will present possible management scenarios for the 2013 black sea bass recreational fishery

**Board actions for consideration at this meeting**

- Initiation of an addendum to allow for conservation equivalency in 2013 for the black sea bass recreational fishery

**7. Other Business/Adjourn**

**DRAFT**

**DRAFT**

**DRAFT**

**DRAFT PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SUMMER FLOUNDER, SCUP AND BLACK SEA BASS  
MANAGEMENT BOARD**

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

**These minutes are draft and subject to approval by the Summer Flounder, Scup and  
Black Sea Bass Management Board.  
The Board will review the minutes during its next meeting.**

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**Other Business..... 14**

**Adjournment ..... 15**

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of November 8, 2011 by consent** (Page 1).
3. **Move for 2012 Summer Flounder, Scup and Black Sea Bass seasons use the MRFSS estimates for recreational specification setting** (Page 7). Motion by Pat Augustine; second by Jack Travelstead Motion carried (Page 8).
4. **Move to approve recommended summer flounder options that were approved by the TC in the document, except for Delaware which is allowed to return the status quo option** (Page 8). Motion by Pat Augustine; second by Roy Miller. Motion carried (Page 9).
5. **Motion that the board approve Addendum XXII for final approval with Option 2, which is state-by-state measures with liberalization for the northern region** (Page 11). Motion by Pat Augustine; second by Peter Himchak.
6. **Motion to substitute Option 3 and allow the southern states to set their fishing season consistent with the federal regulations** (Page 12). Motion by David Pierce; second by Rick Bellavance. Motion carried (Page 14).
7. **Motion to adjourn by consent** (Page 15).

**ATTENDANCE****Board Members**

David Pierce, MA, proxy for P. Diodati, (AA)  
 William Adler, MA (GA)  
 Jocelyn Cary, MA, proxy for Rep. Peake (LA)  
 William McElroy, RI (GA)  
 Mark Gibson, RI, proxy for R. Ballou (AA)  
 Rick Bellavance, RI, proxy for Rep. Martin (LA)  
 David Simpson, CT (AA)  
 Lance Stewart, CT (GA)  
 Rep. Craig Miner, CT (LA)  
 James Gilmore, NY (AA)  
 Pat Augustine, NY (GA)  
 Brian Culhane, NY, proxy for Sen. Johnson (LA)  
 Peter Himchak, NJ, proxy for D. Chanda (AC)  
 Thomas Fote, NJ (GA)

Adam Nowalsky, NJ, proxy for Asm. Albano (LA)  
 David Saveikis, DE (AA)  
 Roy Miller, DE (GA)  
 Bernie Pankowski, DE, proxy for Sen. Venables (LA)  
 Tom O'Connell, MD (AA)  
 Bill Windley, MD, proxy for B. Goldsborough (GA)  
 Russell Dize, MD, proxy for Sen. Colburn (LA)  
 Jack Travelstead, VA, proxy for S. Bowman (AA)  
 Catherine Davenport, VA (GA)  
 Louis Daniel, NC (AA)  
 Bob Ross, NMFS  
 A.C. Carpenter, PRFC  
 Jaime Geiger, USFWS

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

**Ex-Officio Members**

Jason McNamee, Technical Committee Chair

**Staff**

Robert Beal  
 Vince O'Shea  
 Toni Kerns

Mark Robson  
 Danielle Chesky

**Guests**

Mike Armstrong, MA DMF  
 Raymond Kane, CHOIR  
 Jeff Brust, NJ DFW  
 Tom McCloy, NJ DFW  
 Wilson Laney, USFWS  
 Leah Sharpe, NMFS  
 Gordon Colvin, NMFS  
 Rob O'Reilly, VA MRC  
 Michael Luisi, MD DNR  
 Carrie Kennedy, MD DNR

Tammy O'Connell, MD DNR  
 Charles Lynch, NOAA  
 Peter Burns, NMFS  
 Ellen Cosby, PRFC  
 Jessica Coakley, MAFMC  
 Benson Chiles, Chiles Consulting, NJ  
 Skip Feller, Virginia Beach, VA  
 Don Stauffer, Ocean City, MD  
 Mike Petoney, NMFS

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, February 8, 2012, and was called to order at 12:12 o'clock p.m. by Chairman David Simpson.

### **CALL TO ORDER**

**CHAIRMAN DAVID SIMPSON:** Welcome to the Fluke, Scup and Black Sea Bass Management Board. I'm Dave Simpson, Chair. The Vice-Chair is Dr. Pierce.

### **APPROVAL OF AGENDA**

**CHAIRMAN SIMPSON:** The first agenda item is to approve the agenda. Are there any changes for the agenda? Seeing none, we'll consider that approved.

### **APPROVAL OF PROCEEDINGS**

**CHAIRMAN SIMPSON:** We need to approve the proceedings from our annual meeting. Are there any issues with the proceedings? Seeing none, we'll consider that approved.

### **PUBLIC COMMENT**

**CHAIRMAN SIMPSON:** Public comment on items not coming up on the agenda; I don't think anyone signed up. Any comment on items not on the agenda? I don't see any hands. The next agenda item is to consider approval of state summer flounder recreational proposals. Between Jason and Toni, they'll take us through that.

### **APPROVAL OF STATE SUMMER FLOUNDER RECREATIONAL PROPOSALS**

**MR. JASON McNAMEE:** I'm Jason McNamee from the great state of Rhode Island. I work for the Division of Fish and Wildlife. We've got a presentation where we'll walk through the summer flounder proposals. The state proposals were put together. In each of the state proposals there is a summary of a number of pieces of information.

They put together information on their fishery performance since conservation equivalency was put into place. That goes back to 2002. There is a detailed analysis for the most recent two years in each state proposal. There is an analysis of the methods used to develop their liberalizations or reductions for each state's unique situation.

We'll start talking about some data caveats. The fundamental underlying one is this last bullet up here, and that is that each proposal assumes effort and availability in 2012 will be exactly the same as in 2011. While we're talking about data caveats, one of the things the technical committee about at length was this issue of availability.

For summer flounder the availability in any given impacts the harvest that can occur and it can actually create a lot of variability from year to year just because the fish become more available. There are a number of things that can affect availability; weather events, so good and bad weather can have a significant impact on harvest in any given year; and year class strength.

From the stock assessment information, the year classes coming out of 2008 and 2009 look to be pretty big, and those could have impacts depending on which state you're talking about down the road at some point in that there will be more fish available and harvest could increase. Okay, the next slide is something I'm sure you'll talk at some length about today, but this is MRIP. Just to describe the table that's up there first; the left-hand side is each individual state.

The second column over from the left-hand side, this is the information from the old recreational catch information. That's the MRFSS information. The numbers represented in that column are what the states had originally been working on when they developed their proposals, so these are the amounts of in most cases liberalization, in one case a reduction that we thought we had to make for our conservation equivalency for 2012.

The third column over is now the new MRIP information so this is the improved analytical techniques, the same information that was used from MRFSS and just analyzed differently. You can see from that third column over that the playing field has changed a little bit. Two of the things we looked at to kind of judge how this was affecting the harvest analysis in any given state was to look at how many years the estimate was less than the MRFSS estimate.

For that first row there, for Massachusetts only one out of the eight years of information available was less than what MRFSS had originally estimated. Then the last column there is the annual average amount that the new MRIP information was either higher or lower than the MRFSS estimates. We just looked at all the information and took an average.



So, again, keeping with Massachusetts, they tend to be, based on the new MRIP information, about 31 percent higher on average in any given year for that information. I've flipped slides here, but I just wanted to give one last piece of information on that. We had developed our proposals under the existing MRFSS information.

We all boarded our airplanes or got in our cars and got to the meeting that day and then realized that the MRIP information had come out so we had a pretty lengthy discussion on that. You'll see that reflected in the remainder of the slides here. One other thing that we talked about – and this came up relative to a couple of unique situations in a couple of states – was this issue of harvest distribution.

When we're working in conservation equivalency, we're talking about proportions and everything is dealt with in proportions and you lose sight of the fact that we're actually talking about a proportion applied to a harvest amount. The point the technical committee wanted to make to the board was that harvest level in any given state can be dramatically different.

We've illustrated one example up on this slide. The reason for picking these two states was they were the two extremes; one with the highest amount of harvest and the one with the lowest amount of harvest. The point is that states with a higher amount of harvest – you can apply the same proportion to two states, and the one with the higher amount of harvest, it's going to be a bigger impact on the level of harvest.

So when you take it at the coast-wide level, a 10 percent overage in one state can be a very minor amount of fish when looked at in another state level. So, just right off the top state proposals, we can dispense with a couple of them pretty quickly. The technical committee approved the Rhode Island, the Maryland and the North Carolina proposals. This applies for both the MRIP information and the MRFSS information. What you're going to see is the format of the rest of the summer flounder presentation is in each case we're going to look at a state and we're going to give you the technical committee advice relative to the MRFSS estimate and then the same advice relative to the MRIP estimate.

That's how we've decided to move forward with this not knowing which way you all were going to go with which estimate you were going to use or any other impacts that this change in harvest estimate was going to have. For these three states either way works, so they were all approved. We'll start with

Massachusetts. Massachusetts came forward with two options. They focused on dropping their minimum size for their proposals.

They put forward two proposals. One drops them half an inch to 17 inches and the other drops them a full inch to 16-1/2 inches. Everything else, bag limit and season was kept the same. Under the MRFSS estimate all of these would be approved, but I'll focus you in on the last bullet on that slide and just make note that the technical committee viewed that Option 1, that full inch drop to 16-1/2 as risk prone.

The reason for that was Massachusetts provided their historical performance relative to their targets. In the years when they had 16-1/2 inch fish, they tended to have higher harvest rates, so we wanted to make note of that. We did that by designating it as risk prone. And then under the MRIP harvest estimate, that first option wouldn't have even passed.

Under MRFSS their liberalization was somewhere in the vicinity of 259 percent, but under the MRIP information it was greater on a hundred percent, so the Option 1 put them over that 100 percent threshold. Moving on to Connecticut, under both the MRFSS and the MRIP information, all of their options would be approvable with one exception, and that is they have offered a split mode where they wanted to propose a shore mode at a smaller size limit.

They had put this forward and got it approved actually in the previous year. The technical committee decided not to approve that option for a couple of reasons. The first was that according to the FMP to split a mode you need to meet a PSE threshold of 15 percent, and it doesn't meet that metric.

But additionally and probably the more important aspect of this that we talked about was they had a year with a split shore mode. They may have actually done this, but what the technical committee was looking for at that point was some collection of information on that shore mode to kind of take a look at what had actually happened.

The way we viewed it was Connecticut ran an experiment with a split shore mode or they dropped the size limit down, but then the technical committee wasn't provided the data with which to analyze that experiment. Those were the two main points that we discussed with the Connecticut proposal.

What we suggested was we would like to see a commitment to an enhance data collection program for a state to split that mode off and run that experiment. At the same time we felt that if the board does approve a shore mode, we would recommend doing so in a more gradual fashion.

Their proposal was to drop it – I believe it would a full inch so we suggested perhaps dropping it half an inch might be a little more precautionary. Again, the last bullet there was to emphasize that there was little to no data that we could look at and get our hands on to support a shore mode analysis.

Moving on to New York, under MRFSS all the options, one through six, would be approvable. They all meet the liberalization cap. As well they provide an adequate amount of buffer with each of their options. But under MRIP, Option 1 we felt could be approved but the rest of them all go above the cap that the harvest liberalization would allow.

One addition point with the New York information, Option 1 is actually above that as well; but when we looked at the methodology used by the technical committee representative from New York, he had build in a lot of conservation and a lot of caution into his methodology, so that 4 percent difference between what his calculation was and what we felt was approvable, the end point is that we felt that one was okay and would be allowed under at least the MRIP harvest.

Okay, New Jersey, under both MRFSS and MRIP all of the options were technically approved. They all met that liberalization cap. However, the technical committee wanted to note that Option 6 through 7 were risk prone using MRFSS because there was no buffer allowed in that calculation. In other words, they had a 38 percent liberalization and they ran all of their options right up to that 38 percent.

There was also a suite options that were put forward by the New Jersey technical committee member that used their voluntary angler survey as their source of information. At that time there were reservations from the technical committee as to using that to get at effort. What the technical committee kind of came forward with was if we're going to use that sort of information, which we were interested in what the New Jersey representative had done, we thought it was interesting but we wanted to be able to concentrate on that and get a better feel for how effort was being calculated through the use of that volunteer angler survey information.

There may be an issue with the information we were provided at that time relative to what analysis was actually done, so I'll leave that conversation at that. In any case we'll have a slide at the end regarding that as well. There were also a couple of options with split size limits. While they met the criteria to keep under that liberalization cap, the technical committee just wanted to note that splitting size limits makes future years analysis much more difficult.

There was also discussion on enforcement issues and things of that nature with having different sizes for different modes. Okay, Delaware, relative to the MRFSS harvest estimate we would approved Option 2 through 5, but we would not approve Option 1 and that's because Option 1 put forward by Delaware was a status quo option, which would get them a zero percent reduction.

Under the MRFSS scenario they would need to take an 8 percent reduction in 2012. Option 1 does not meet the MRFSS reduction, but it does meet the MRIP analysis, which actually allows them to liberalize by 8 percent. It kind of as on both sides of the fence there relative to MRFSS and MRIP. The Delaware situation, we had a pretty lengthy discussion on that. This is where the discussion about how harvest is not equally distributed along the coast came up. That was if Delaware goes over by 8 percent it's not the same as if New Jersey does or New York or somewhere with a higher harvest.

Virginia, under the MRFSS scenario we would approve all four of Virginia's options. The only difference there with MRIP is that Option 4 would not meet that threshold, and you'll see the Virginia information provides a range of liberalizations. The Virginia committee member does an exhaustive amount of work to look at a whole bunch of different data sources to get himself and the technical committee very comfortable with the information that is being looked at.

The only one that kind of put us out of that comfort range was relative to MRIP, and with that Option 4 there were some higher estimates coming out of that suite of information. Okay, we're done with the state proposals, but one other piece of information the technical committee wanted to bring to you all was this recreational length sampling information.

Just to describe the table, what you see is again the states are on the left-hand side there. The second column over is 2010 intercepted fish. These are fish that a sampler has gone out and actually measured.

The third column over is that same information but from 2005, and you'll see some pretty dramatic drops from 2005 to 2010.

There are a couple of reasons for this. One is that the states to constrain harvest over the recent past increased their size limits to get at some of that reduction. What happens when you do that is there is less fish to intercept. There is also an issue of add-ons. These are additional interviews that are paid for by the states being put on to the surveys, and those have gotten less and less or in some cases altogether dropped over time.

The reason for bringing this to your attention is just to let you know that the amount of information on length that we're getting for the summer flounder fishery is getting less over time. When you're looking at things like increases or reductions based on length distributions in the fishery, this makes getting at that information much more difficult because there is less to look at.

This is getting back to a discussion that we've already had. I guess the technical committee was actually requesting that the board task it to evaluate the use of voluntary angler surveys in recreational proposals other than for length information. This gets back to New Jersey did a very interesting and complex analysis with their volunteer angler survey; where effort was involved, whether the effort was being extracted from the logbook or from an external source is up in the air.

Well, it's not up in the air but it was at the technical committee meeting. In any case, the technical committee would just like to look at this in more detail. As well, there was a recent workshop and the technical committee could take some guidance from that workshop. The workshop was on volunteer angler surveys, so there is some information that we could kind of grab hold of to look at regarding this issue. Should I take a pause there?

MS. KERNS: Today when Jason went over both the proposals looking at MRIP as well as looking at MRFSS, in 2012 both MRIP and MRFSS harvest estimates will be conducted and available for use to evaluate our proposals and the success of the regulations for 2012. When the board is deciding what proposals to approve, both information will be available for 2012, and it's up to the board to decide how you want to evaluate these proposals, whether it's to MRIP or whether to MRFSS.

MR. SIMPSON: All right, thanks; that was a good presentation and summary of what the TC went over. Pete.

MR. PETER HIMCHAK: Mr. Chairman, I think a clarification is in order on the volunteer angler survey. Perhaps our technical committee says that there was using it as effort data, and there was not. It's used for a catch rate or for size distribution and not for estimating effort. I think that clarification should be made.

While I have the microphone, Mr. Chairman, just to address the technical committee's concerns on performance evaluation of management measures going over 10 percent in one state versus 10 percent in another state, our technical member did an analysis of the eleven-year history on conservation equivalency, and mean on the percent over or under is we've been under 2 percent for the eleven-year period.

This is always a challenge for our New Jersey Marine Fisheries Council essentially not to open up the floodgates when opportunity may appear to be there, and I think to their credit they have been very successful in taking a risk-averse approach. Thank you.

MR. ADAM NOWALSKY: Jason, I wonder if you could give us as formal description as you can of how the technical committee has defined risk prone. Specifically, I heard it referred in this presentation in two ways; one with regards to some proposals where they butted right up to the maximum liberalization taken.

I also heard it used to describe a proposal whereby the change in size was an inch going down. I heard that described as risk prone, but in another instance it wasn't risk prone. Is the technical committee working with a formal definition of risk prone that we can apply to all of this as we evaluate these here today?

MR. McNAMEE: The way we kind of used that, in a lot of cases where we've got very clearly defined metrics that we're using to judge liberalization, so we use those, but in some instances – so a proposal can butt right up against that cap and still be considered approved because they met that metric of you're allowed to liberalize by X percent and your proposal indicates that you were only liberalizing by X percent.

We look at a bunch of information as well as rely on the experience and knowledge of the technical committee member to get a feel for these ancillary pieces of information. To use the Massachusetts example where we used that risk-prone designation, they met all of the constraints under the MRFSS scenario with a buffer under that liberalization cap.

But when we then viewed their performance over time from previous years, there appeared to be the potential to harvest a lot more than was being indicated. Now, that could be because now is different than back then. We talked about those sorts of things. As far as a formal definition, no, but we use it to provide the board information of, yes, this proposal meets the metrics, but we have some additional concern based on these additional pieces of information, which are all noted in the memos that are produced and things like that. I hope that answers your question.

MR. NOWALSKY: Just to follow up, in recent years as we've gone through the board's approved – and speaking specifically from New Jersey and I'm sure this applies to other states as well – our methodology as opposed to dealing with specific options here, and it has provided a real challenge as we've sat down internally.

The Marine Fisheries Commission gets together and tries to say, okay, well, can we do this, can we do that, feeling that ultimately even though a methodology is approved here in the past and/or today, we may still have to go back and ultimately resubmit things to the TC to say, okay, were they risk prone or not, because that's an approach the board has taken before, approve the methodology assuming the TC doesn't deem it risk prone. It provides a challenge to our state and I'm sure other states as well.

MR. JAMES GILMORE: Actually, I have two questions and let me take the easier one first. Jason, this is just on the unequal distribution and essentially that issue about some states have a very small percentage so them going over is not a big an impact. Were there any recommendations that came from the TC about actually trying to do something formal about that in terms of how we manage the fishery or was that just a FYI?

MR. McNAMEE: Yes, it's the latter. We hadn't talked about developing any methodologies to account for that or anything like that. We're working under the framework that we have for conservation

equivalency, and we just thought it was a piece of information for the board to look at.

MR. GILMORE: Thanks, and I won't follow up on that because that's for another day. Now the more difficult question, which is after the agenda we got to – this is the first meeting we're having where we're throwing MRIP numbers out. It's a little bit unfortunate because the cart is before the horse. I see Gordon is here and we're going to hear more about MRIP after this.

But, the concern obviously we have is that we've got two sets of numbers on the street right now. I think if we go back over the last couple of years this has been a question from this board and many other boards about when we have two numbers on the street what are we going to do with them because we could get into a little bit of chaos because of one saying something and one saying something different, and obviously we've got that right now.

We need to get a clear policy on this I think from both the feds and then also from the commission in general, from the policy board. I'll throw out my two cents right now on this. First off, the MRIP, we have a piece of it right now, which is great. I'm glad to see we finally got something and we're looking at it.

I have been on the observer team and I think they've been addressing a lot of the issues and I'm pretty comfortable that they are starting to do that. Now we've got a set of numbers sitting out there, and then we've got other pieces of MRFSS still in our management over the last many years and allocations still in there, and now we're kind of mixing apples and oranges.

My take on it right now is we're still using MRFSS until we have MRIP. We don't have MRIP yet. The things that you guys presented from the TC are very helpful because it gets to start seeing what it's looking like. My concern and I hope other people's concern is that if someone is going to suggest that we're going to in the middle or towards the end of the process of setting our specifications for 2012 we're going to go back and start reconsidering those for next year because MRIP may affect that, I'm going to have a major problem with that. I'm just looking at the MRFSS numbers and I think we're not going to be having MRIP for maybe a long time and maybe even a couple of years, but I'll leave that up to the discussion.

CHAIRMAN SIMPSON: Yes, thanks, Jim, I think it's an important point to bring up. Fortunately, there

aren't too many states this time through where it makes – I mean, it puts them either in a plus or minus category. It does to Delaware a little bit, but fortunately it's small. I think the reason the TC provided that little FYI was – you know, a couple percent of one percent is not going to cause overfishing, so keeping it in perspective. David Pierce.

DR. DAVID PIERCE: It would help, Jason, if you could elaborate a little bit regarding what led the technical committee to conclude that the history of the Massachusetts recreational fishery was such that 16-1/2 inches as a minimum size as opposed to 17 would make us risk prone? Risk prone isn't the way to put it; that it's not a strategy that the technical committee has approved for board consideration going to the 16-1/2. Based upon the nature of the fishery and how it has performed in the past, could you elaborate a little bit as to why that's the case; what is the issue?

MR. McNAMEE: When we were going through the Massachusetts proposal, Paul put together the proposal and it met all the requirements; but when we looked back at – Paul put together – it's Table 1 in the proposal and it's basically going back to 2001, and Massachusetts performance relative to their harvest targets, and each of the years where Massachusetts, which is 2001 through 2004, had that 16-1/2 inch size limit they had pretty consistent harvest numbers, and all of them would be higher than their – not all of them, but in any case there was some concern on the part of the technical committee that at 16-1/2 inches we believe – and this was in the proposal as well – that there is more fish available to the Massachusetts fishery that turned into harvest. That was the concern voiced by the technical committee, that factor would put them over their target for next year.

DR. PIERCE: Okay, I see where the technical committee is coming from. We did have however in those years, when we had a harvest that was close to the target, we did have a larger bag limit like two fish and we did have a season, and it was year long as opposed to a more restricted season.

With that said, it makes me wonder whether I agree with the technical committee advice. However, when looking at the length frequency information of fish on the grounds, what we can expect in 2012 for availability of fluke within that half-inch window, 16-1/2 to 17 and then 17-1/2, I do believe that the technical committee – its recommendation that we go slow and that we be cautious is a good

recommendation because there likely will be great availability of fluke around 16-1/2 inches.

Even though I have some reservations about the nature of the technical committee recommendation, I will support it. Based upon information I have in hand provided by my staff, Paul Caruso, there will be a hell of a lot of fluke out there this year close to that 16-1/2 inch mark.

Regarding MRIP information I find myself in a real curious position on MRIP. We're now dealing in New England with Gulf of Maine cod, the problem with Gulf of Maine cod, and the fact that the recreational catch of Gulf of Maine cod is extremely high recently as judged from MRFSS. But, MRIP information that has been provided to us indicates that the information regarding recreational catch that was used in the recent stock assessment was wrong, that the recreational catch was far less than what we thought.

I am intending to use the MRIP information for Gulf of Maine codfish, so how do I not use the MRIP information for fluke? It's an interesting situation. Even though that the MRIP information is not yet a done deal – I'm still not exactly sure why that's the case – I'm be using the MRIP information as a way for us to move forward with fluke and likely the other stocks as well unless I hear some convincing arguments to go in a different direction. I'll do so because I want to be consistent with how I'm treating MRIP and the Gulf of Maine cod.

CHAIRMAN SIMPSON: I'm going to jump in and take the chair's prerogative to follow up on a question that had because it has come up a couple of times, the performance of individual states. A few years ago, I can't recall how many now, we did a performance correction adjustment to each state's approach, which I viewed as a one-time fix to improve the performance of hitting the target.

Since that time do you have a perspective on the performance of states? Going back to 2001 includes pre-adjustment time periods, and my sense is that states have done a better job since then. Since do you have any insight? Has that been three or four years now?

MR. McNAMEE: My sense is – and I think actually Pete may have just made this comment right in the beginning – that we have done a good job. I don't think Pete was just talking about New Jersey. I thought you were talking about the whole coast, Pete, but in any case I think – even if that's not the case, I

think we've been fairly cautious liberalizers and we've done a good job at not exceeding on a coast-wide level that amount.

CHAIRMAN SIMPSON: All right, thanks, because it is my sense; and since we did that we've done better at staying within our limits. Jack, you were next.

MR. JACK TRAVELSTEAD: I have raised my hand to support what Jim Gilmore – the concern he was expressing about using MRIP at this point. I do agree with those comments. I think he sort of mentioned it's sort of an apples and oranges thing. We have a stock assessment that provides us with quotas for the fishery that is based on MRFSS data.

We allocate that quota based on 1998 MRFSS data. Until all of that is wrapped up with MRIP data, it doesn't make sense to me to use MRIP data this year to judge how we can liberalize or not. I would suggest that we ignore that for now and keep using MRFSS until we have a stock assessment that is based on MRIP data. If we have to go back and reconfigure the allocations based on an MRIP 1998 or some other set of years, then that's what we should do.

MR. JOHN CLARK: Mr. Chairman, I understand the concerns and the cautions about going with the MRIP. Of course, in our specific situation in Delaware the MRIP works out favorably for us. We would prefer to go with the status quo option. I think just in light of our situation where for 2011 we were under our allocation and the projection shows using MRFSS that we'd be 8 percent over our allocation for 2012 and yet the MRIP shows we'd be 8 percent under, I would just like the board to consider our status quo option, which is our preferred option. Thank you.

MR. AUGUSTINE: A statement, Mr. Chairman, and then I'd like to make a motion. The statement is I agree with Mr. Travelstead and Mr. Gilmore. There is no question MRIP is the right way to go eventually; but as Jack had pointed out, everything has been based on MRFSS for all these years.

All of a sudden this section of the program has come around and it has been delivered to us and we have this comparison. At the end of the day, until the stock assessment has been readjusted or looked at or those other elements, I think again we're comparing apples and oranges, and we've put ourselves in an uncomfortable position where states were backed into

a corner on purpose and that we had to come forward with our options for 2012.

We did it knowing full well that within a matter of a few days or a week the MRIP information would come out. We forewarned our fishermen that this was likely to happen. The questions raised there was why are we changing the horse in the middle of the stream; the same thing. I think we can debate this all the rest of this time, **but I would move that for the 2012 summer flounder season, that we stick with the MRFSS approach and hold the MRIP program in abeyance until we have clear information to its applicability.** It may be too many words. If you want to change it, we can; if you want to do it for one year, I'm open for help on that.

CHAIRMAN SIMPSON: Yes, Pat, I think it makes sense to lay that out at the beginning. I would suggest considering broadening it to the three species we're dealing with today and just say use MRFSS numbers for our business today.

MR. AUGUSTINE: Could we do that, Mr. Chairman, add scup and black sea bass.

CHAIRMAN SIMPSON: Okay, we have a motion; is there a second to that? Jack Travelstead. Discussion on the motion? I don't see any comments; if you want to take a minute to consider this and caucus. The motion is for 2012 summer flounder, scup and black sea bass seasons to use the MRFSS estimates for recreational specification setting. Motion by Mr. Augustine and second by Mr. Travelstead. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: The question here would be in terms of what is the risk, and it would seem to me that if – in some states now, according to MRIP, last year they may have been over, but under MRFSS – in other words, they can't liberalize as much under MRIP as they can under MRFSS, so those states potentially run the risk of being over next year.

The only really harm then would be that they would then next year have to impose more restrictive regulations for next year as a result of that. That's the risk here, and right now it probably only involves I think two states, three states, so I understand what we're talking about here.

CHAIRMAN SIMPSON: Yes, I think that's fair. I view it as we have another set of numbers. My perspective on it is that this just goes to further demonstrate the uncertainty and the estimation nature

of what we deal with in recreational fisheries management. Yes, the confidence limits are wider than we previously used to state they were. I think we all knew that.

I think all the states have been well advised that be careful if you have the opportunity to liberalize because you do have to deal with that in the coming year. I think everyone knows what they're facing and what this means. With that, all in favor of this motion raise your hand, 9 in favor; opposed same sign, zero; any abstentions, 3 abstentions; any null votes, none. **The motion passes.** I think at this point do you have any other items?

MS. KERNS: The board needs to consider approval of the state proposals.

CHAIRMAN SIMPSON: So the question is how to take these. There were some technical committee comments and advice. I believe the only one that – let me ask this to be clear. Every state used the accepted protocols for calculating restrictions or liberalizations. Is that right, the technical committee provided some of their thoughts about the level of risk prone or risk adverse, so all states used standard protocols and have options that by standard protocol mathematically come within the limits?

MS. KERNS: I believe it's Delaware that has an option that does not meet the requirements under MRFSS, which was their Option 1.

CHAIRMAN SIMPSON: So Delaware was the one that was either going to be 8 percent over or 8 percent under depending on which guesstimate we use, and you were suggesting the latitude from the board to just use status quo measures and split the difference right down the middle.

MR. CLARK: Yes, Mr. Chairman, because of the administrative cost to change our regulations over such a small change in the allocation, we would like – and plus how small our harvest is overall anyhow, we would just like to keep that status quo option. Thank you.

CHAIRMAN SIMPSON: Okay, so I think everyone understands that. There was discussion about Delaware is a 1 percent state, and I'll make the observation that not every state used their full liberalization allowed under the rules, so the sum of all measures should deliver a recreational harvest that's under the limit coastwide. Pat.

MR. AUGUSTINE: Are you ready for a motion, Mr. Chairman?

CHAIRMAN SIMPSON: I am.

MR. AUGUSTINE: Mr. Chairman, **I move that recommended options that were approved by the TC for all states presented in this document are approved by the board with the exception of Delaware who is allowed to remain status quo for the year 2012.** Do you want it separated or would you like it as one motion, Mr. Chairman. I think we could do it all at once.

CHAIRMAN SIMPSON: I think that's fine, so the intent of the motion is say that all the measures submitted met the – right, all the measures submitted met the criteria for doing the calculations; and notwithstanding the technical committee commentary on the relative risk of those, you're saying all those measures should be approved. Delaware would be given the latitude to remain status quo for the coming year. Does everyone understand it that way?

MR. AUGUSTINE: That's correct, Mr. Chairman.

MR. MILLER: I'll second that, Mr. Chairman, and I'd like to add that maybe just change the wording just a little bit; that Delaware is allowed to retain the option for status quo. We're not necessarily promising at this time that will be the option selected or has it been, John? Maybe I'm out of date.

CHAIRMAN SIMPSON: I think it's implied that you could always do something more conservative, yes. Pete.

MR. HIMCHAK: Mr. Chairman, I just wanted to just make it understood that contained within the motion, that approving the options, that it is actually approving the methodology used to develop the options, because, God knows, we end up with the Marine Fisheries Council and they could come up with a, oh, change one day, and the methodology will stay the same.

CHAIRMAN SIMPSON: Right, I think over the years it has become implicit in what we do that if you end up going to one of your board's advisory groups and they want to do the one or two days here or there, as long as the protocol is followed, the same protocol, we accept that. Connecticut, for example, we're going out to public hearing next week on this, two different hearings, so like everyone else we face that possibility. Toni.

MS. KERNS: And, Pete, it does indicate that in the document, and it specifically states for those states that did not make adjustments to one or more aspects of their proposals, that those states would have to come back to the TC if they were to adjust those measures in the future.

MR. THOMAS FOTE: Call the question.

CHAIRMAN SIMPSON: I was about to. I'm going to read it for you, Joe. Move to approve recommended summer flounder options that were approved by the TC in this document, except for Delaware which is allowed to retain the status quo option. Motion by Mr. Augustine and seconded by Mr. Miller. I'll give you a couple of moments to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Okay, you've had a chance to caucus. All those in favor raise your hand, 10 in favor; opposed, none; abstentions, 2; null votes, none. **The motion passes.** For a second, we need to revisit the idea of the use of volunteer angler data, and Toni is going to remind us what that issue is.

MS. KERNS: The TC just asked the board to charge them to evaluate the use of volunteer angler survey data when setting recreational proposals other than using the length frequency information. There was some confusion at the meeting with what New Jersey was doing. It has been clarified today, but there was a workshop that the Mid-Atlantic Council held in conjunction with somebody else – I'm not a hundred percent sure who that was – and some good information came out of that. I think it would be useful for the TC to look at that and then make some recommendations for future recreational proposals in upcoming years, so if you could consider charging them to do that.

CHAIRMAN SIMPSON: Is there any objection to doing that? I think it makes sense. I think there is a growing interest in volunteer angler data. I don't see any objection so we'll consider that done. Scup is next.

### **APPROVAL OF STATE SCUP RECREATIONAL PROPOSALS**

MR. McNAMEE: Okay, we also discussed scup in a subsequent conference call. In this situation we don't have any specific proposals that we're dealing with, so what we thought we'd do is look at the methodology used in the scup proposals to just kind

of give you an idea of what we're using, give you our caveats.

I'm not sure how your discussion is going to evolve after that, but we do have an ability to – the technical committee members – and this is specifically the members of the northeast recreational scup region. I believe the rest of the states are all remaining at status quo; is that right, Toni?

MS. KERNS: Correct.

MR. McNAMEE: Yes, so this is specifically the northeast scup recreational region. We have a number of pre-developed options. We kind of tried to shoot the gamut and in fact the technical committee member from New York did a ton of work on this, and he did a good job. If you guys want to get an idea of what your liberalization is going to be for any specific option, I've got a matrix that I can kind of look at and give you an idea.

With that said, the methodology we used is very similar to what we were using for the summer flounder proposals in most cases to look at seasonal changes, so these are changes in harvest based on changing seasons, making them longer in this case. We looked at the MRIP harvest data for 2011. We looked at it for 2010, and then we have a third iteration where we looked at 2009 through 2011.

We're calling it MRIP here just because that's what it is now for 2011, I think. The reason for these three kind of variations; 2011 had very low harvest rates for scup. Conversely, 2010 had very high harvest rates for scup. We thought perhaps to get a better idea of what the situation has been and kind of dampen down some of that variability we took an average of the past three years. Those three options are available to use.

For bag limit changes we looked at the Massachusetts for-hire bonus season information. They have a really nice program where they collect a lot of information on scup specifically, so we often use that to look at these sorts of things. In this case we'd be using that as a proxy for the northeast region.

And then we also looked at MRFSS 2007 catch data as well and combined those two sources of data. And then for minimum size changes, we used the MRFSS 2011 length data. If you're wondering why we've kind of bounced around for both the bag limit and the minimum size, it had to do with the periods of time when we could get at information.



So 2007 was the last time we had a higher bag limit, so we could get an estimate from that information, but it's always ideal to use the most recent years. Since one of our major assumptions is that 2012 is going to be the same as 2011, so we had the ability to use some MRFSS information or MRIP information from 2011, and we used that for length.

And then just a caveat, which I've already mentioned, the 2011 data had very low harvest rates for scup; but if 2010 is used by itself many of the options that we looked at would not be compliant. That's all I have for that. Thanks.

CHAIRMAN SIMPSON: Thanks, Jason. Do you have more to follow on? Okay, any questions for Jason? So everyone from New Jersey south, the intention was to stay status quo. The region made up by the states of Massachusetts to New York I think are going to try to meet early next week and iron out an approach for regional management once again.

We will get back to the board and through the technical committee with those decisions and proposed options with a fax poll vote, Toni tells me. Any other questions or issues on scup? I think we go to the addendum, then. We have to do black sea bass through an addendum because the plan calls for a coast-wide measure. This will be the second year we would be doing an addendum to do state-by-state measures. Toni.

## **FINAL APPROVAL OF DRAFT ADDENDUM XXII**

**MS. KERNS:** I'll quickly go through this addendum document and the public comment that was received. Today we're considering final action for the 2012 black sea bass recreational measures. The addendum proposes to subdivide the recreational black sea bass coast-wide allocation into a regional state-by-state management program for 2012 only.

Addendum XXI expired at the end of 2011, which was the first year that we utilized something other than coast-wide measures, and we're trying to address the fact that coast-wide measures impact states differently. These measures that would be put in place through the addendum would be effective in state waters only.

Federal permit holders would have to follow federal regulations. Those regulations are an open season from May 19<sup>th</sup> through October 14<sup>th</sup> and a 25-fish bag limit, as well as open from November 1<sup>st</sup> through December 31<sup>st</sup>. The size limit is 12-1/2 inches.

Option 1, which is just a continuation of the 2011 measures with the exception of North Carolina, allowing North Carolina to have the same measures as Virginia, Maryland and Delaware, which are similar to those of the federal measures.

Option 2 is to have state-by-state measures with liberalization or a reduction for the northern region. Again, North Carolina through Delaware would have the same measures as last year. If this option was to be put in place, the states would have to develop proposals for their recreational measures, have those approved by the TC, and then the board would need to approve those measures.

This option allows Massachusetts to liberalize by 34 percent, Rhode Island by 16 percent, New York 72 percent and New Jersey 100 percent. The state of Connecticut would have to reduce their harvest by 29 percent. Option 3 is a regional liberalization. All states would agree to regulations that would be implemented within the region.

It's not required that the states have exactly the same regulations, but they would try to develop regulations for as seamless as possible of a management program within the region. That region would contain Massachusetts through New Jersey. The liberalization allowed would be 57 percent. The states of Delaware through North Carolina would have the same regulations as they did last year.

Option 4 is somewhat similar to Option 3, but the region would be Massachusetts through New York. They would be able to liberalize 45 percent. New Jersey would be standalone. They could liberalize 100 percent. The states of Delaware through North Carolina would have the same regulations as last year. The states of Massachusetts through New York had put out an option for consideration contained in the addendum.

This would be a minimum size of 13 inches in Rhode Island, Connecticut and New York and a minimum size of 14 inches in Massachusetts; a possession limit of 12 fish for all states; and an open season of July 1<sup>st</sup> through December 31<sup>st</sup> in Rhode Island, Connecticut and New York, and in Massachusetts of May 12<sup>th</sup> through October 27<sup>th</sup>.

There was an indication that the seasons in some of states could be adjusted. At the time of going out for public comment we had not defined how much of a liberalization this would be. It's about an 18 percent liberalization so they would only be utilizing 18 out

of the total 45 percent that would be allowed, so this is a conservative proposal.

The TC, when they evaluated that liberalization, they utilized – we had to project that Wave 6 harvest because we didn't have any – and the 2011 harvest has been unusually low and because the winter months were much warmer last year, we utilized previous years' data where estimates of catch were slightly higher just in case the Wave 6 estimates come in higher than the rest of the year due to the warm weather conditions and the potential for increased trips.

The public comment, there was one hearing held in Rhode Island. There was one attendee. That person supported Option 2, state-by-state measures, to allow the flexibility of the states to craft measures to meet their needs. There were two letters that came in. Those letters came in I think on Friday and over the weekend.

One of the letters from the Berkeley Striper Club and the other letter was from the Jersey Coast Anglers Association. Those letters were passed out at the beginning of the meeting today. Both of the letters supported Option 2 and 4. The advisory panel met to discuss the addendum as well. We had three members of the advisory panel present from New York, Rhode Island and Virginia.

The advisory panel had support for the state-by-state measures in Option 2, allowing the states to develop measures to meet their needs. There was one recommendation that the southern states should adjust their measures to be consistent with federal regulations because last year's regulations changed slightly to have a Saturday-to-Saturday start and finish.

They had recommended to change the season from May 19<sup>th</sup> to October 14<sup>th</sup> and November 1<sup>st</sup> to December 31<sup>st</sup> for those southern states. The advisory panel also brought up a concern that the higher size limits that have been implemented in some of the northern states are causing an increased mortality rate when fishing in deeper waters because it takes more time to find a fish that is of a larger size, so they're throwing back a lot more fish, and those fish that have gotten pulled up from deep waters are dying. That's my report.

CHAIRMAN SIMPSON: Okay, thanks, Toni. It was clear I think in going through there that each of the options includes the North Carolina modest liberalization to come in line with all the states

immediately to their north. That's why those seasons look the same; that would be the adjustment. If you were curious about the regulations they had last year, that's in Table 2 on Page 9. Any comments? Pat.

MR. AUGUSTINE: I thought it was a great report. When you're ready for a motion, I'm ready to do it.

CHAIRMAN SIMPSON: Okay, we need to select an option that the states are going to – Pat.

MR. AUGUSTINE: Mr. Chairman, **I move that the board approve Addendum XXII for final approval with Option 2, which is state-by-state measures with liberalization for the northern region.**

CHAIRMAN SIMPSON: Okay, there is a motion; is there a second to that motion? I see a second from Pete Himchak. Discussion on the motion? A.C.

MR. A.C. CARPENTER: I would like to make a friendly amendment to that, that the southern states would be allowed to set the dates consistent with the federal dates.

CHAIRMAN SIMPSON: Okay, is that acceptable?

MR. AUGUSTINE: Yes, Mr. Chairman.

CHAIRMAN SIMPSON: Any other discussion on this motion? I'm going to dance around the awkward situation of having to comment while being the board chair. This one option requires the state of Connecticut, which has a fishery similar to or smaller than North Carolina, to reduce by 33 percent, and I would ask the board latitude for us to do basically whatever New York does so that there is some consistency with our neighbor that nicely blocks us from hurricanes when they come up from exposure to the ocean. Pat.

MR. AUGUSTINE: Yes, Mr. Chairman, I think for the record that the board might want to know what impact that might have. What are we talking about in terms of fish; a very small number, I know?

CHAIRMAN SIMPSON: I think our estimate is around 12,000 fish, plus or minus 12,000 fish by MRIP. We're about 1 percent.

MR. AUGUSTINE: Can we just add it, Mr. Chairman, as either a friendly amendment; and if we said status quo for Connecticut, would that be more helpful or have the same regulations as New York? Which would be clearer? For us to say same

regulations as in New York would be great because they can come from your side or our side and enforcement could have a ball and get them on either side. They're all going to be the same size. Do you want to think about it?

CHAIRMAN SIMPSON: Our preference would be to do whatever you do.

MR. AUGUSTINE: Okay, similar regulations of New York, so if you can word that in there, fine.

DR. PIERCE: You made an important point, Mr. Chairman, regarding Connecticut's situation, and I don't know whether this particular motion actually does address Connecticut's concerns that you have expressed so clearly. However, it seems to me that perhaps a better alternative would be all of the states to take the same sort of liberalization so that we end up with your not having to take a 33 percent reduction. You could actually have a 45 percent liberalization and all states would have that.

**I would make a substitute motion that Option 3 be the choice and that is the regional liberalization with state-by-state measures. That way Massachusetts through New Jersey has the ability to liberalize by 45 percent and we don't end up with dramatic differences between states as to what sorts of liberalization or cuts they have to take.**

CHAIRMAN SIMPSON: Is there a second to that motion? Second from Rick Bellavance. Adam, a comment.

MR. NOWALSKY: Mr. Chairman, just to clarify, the actual liberalization under Option 3 is revised up to 57 percent, I believe. The document in the back as well as the one that was on the meeting materials showed only Options 1 through 3 and are not the revised 1 through 4 options that were actually in the presentation today. I believe Toni's presentation was actually a 57 percent liberalization under Option 3. I believe that's what was in the presentation.

CHAIRMAN SIMPSON: Thanks, Adam, we'll look at that. Any other comment while Toni is looking for that?

MS. KERNS: Option 3 is the 57 percent liberalization. I'm not sure what is in the back at this moment. It should be a 57 percent liberalization, which is what went out for public comment.

CHAIRMAN SIMPSON: Okay, and that's good, so it's a 57 percent liberalization under Option 3 and not 45. A.C., you had your hand up.

MR. CARPENTER: I would like to make the same friendly amendment to this one and allow the southern states to use the federal dates.

CHAIRMAN SIMPSON: Okay, thanks. David, are you good with that?

DR. PIERCE: Yes.

MR. WILLIAM A. ADLER: So, Toni, the difference between the 45 percent chart and everything going to 57 percent; is that the MRIP versus MRFSS reasoning behind it or something else happened?

MS. KERNS: The 45 percent was for Option 4. Option 3 is 57 percent.

MR. ADLER: My Option 3 says 45.

MR. AUGUSTINE: Mr. Chairman, we can't support this. The advisory panel was very clear and recommended – and they're collectively from all the states – they recommended Option 2 with 4 as a possible fallback. This is one of those cases where some people win a little bit more and some people lose a little bit. Being true to the advisory panel and to the states and their efforts to what we've done, we just can't support Option 3. Everybody gets an equal break and I'm not sure that's the way the thing is set up. Thank you.

CHAIRMAN SIMPSON: So you feel differently on this one than you do on summer flounder?

MR. AUGUSTINE: Yes, but we've suffered for how many years with summer flounder and we took a back seat on it.

MR. NOWALSKY: Mr. Chairman, I did find the one document that appears to reflect everything and that was the link under the public input section on the ASMFC Website, so the public has had the right document, but again I believe the links that we've had under the meeting materials show the original version of this draft document, which I think is some of the confusion I'm hearing further up the table.

CHAIRMAN SIMPSON: Great, thanks, Adam. Any other comment? Rick.

MR. RICK BELLAVANCE: I just had a quick question in regards to the other options. Are those numbers all correct or are there any changes that need to be made to Option 2 or 4?

MS. KERNS: The other options are 34 for Massachusetts for liberalization; 16 for Rhode Island; 29 percent reduction for Connecticut; 72 percent liberalization for New York; and 100 percent for New Jersey.

MR. FOTE: As you saw from some of the letters that we received from certain clubs in New Jersey, they were not really happy with what transpired last year. Last year we went out to public hearings. A motion went on the table. We voted on the motion and we never reviewed the public hearing documents at the meeting and basically even listened to where all the people showed up to those meetings to basically voice their concerns.

They also didn't like the methodology that was used last year because it based – instead of a base year on what was not normal for the previous years and you allowed some states to basically be rewarded for actually basically harvesting more fish and penalizing the states that have historically had catch. That was their concerns.

What they're afraid of, by approving this method and going for the Option 3 or 4 and not Option 2, you are basically compounding that same decision that we made last year. That is the concerns of the anglers they basically expressed to me in the state of New Jersey and that's expressed in the two letters that I have received from New Jersey.

I was more comfortable with Pat's motion because it reflected at least going back to some kind of, you know – and it also reflected what the advisors said, which last year we paid no attention to whatsoever. I mean, that's how I'm concerned going forward so that's why I can't support this over the original motion.

CHAIRMAN SIMPSON: I do remember quite well how things transpired last year. I think what we have done and to the extent I've been able to influence it, I've tried to take pains to avoid setting up a – backing into a state-by-state allocation based on the last available year. The further we continue down state-by-state measures the more you engrain what we did last year.

I appreciate what you're saying and I appreciate the extra sacrifice that New Jersey made to accommodate

all the states to your south, which is what you did and Massachusetts did to even a larger degree and every other state to the north took I think it was a 33 percent cut in order to basically hold the southern states harmless. Tom.

MR. FOTE: Remember that New Jersey was under last year and that was a whole different ballgame. The figure was supposed to – where the northern states went over their original quotas, so I just want to be clear on that. The other problem here is when you started raising the size limits in the south, we have those fish – the bigger fish start migrating north and so the catches in the north have increased dramatically over the years because of raising the size limit.

The same thing, you know, when we look at '94 at what happened when we started raising the size limit and North Carolina, Georgia – I mean, North Carolina, Virginia and Maryland took cuts more dramatically and ended up – yes, because the fish started migrating and the bigger fish were up north.

That's our fear here is the reallocation again because we're raising size limits and now we're basically setting a precedent to the northern states. That was not their historical catch of black sea bass. And that's the concerns our fishermen are having, and that's why they supported Option 2 at the advisory and the comments that I've had.

CHAIRMAN SIMPSON: Thanks, Tom. You're right, what was done last year was not based on history and it was trying to deal with the problem of coast-wide measures and how it can affect states differently, so that's where we are. Any other comment on this motion? I'll give you a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: I'll read the motion; move to substitute Option 3 and allow the southern states to set their fishing season consistent with the federal regulations. Motion by Dr. Pierce; seconded by Mr. Bellavance. It's understood that in the northern region we don't have to have exactly the same measures but just like in scup we're looking for that spirit of that, and we'll work it out as a group. Any comment from the audience?

MR. JOSEPH HUCKEMEYER: Joseph Huckemeyer, Massachusetts partyboat operator. You might have just answered my question. On the Option 3, are you talking about holding to what was

on the screen for Option 3 as the regulations or a little clarification that the liberalization would be equal amongst the states but the states would have some flexibility?

CHAIRMAN SIMPSON: There would be some flexibility. Toni.

MS. KERNS: The actual regulations that were up on the screen was for Option 4 and not Option 3, so the states would have to get together and develop regulations and then come back.

MR. HUCKEMEYER: But they wouldn't have to all be the same?

MS. KERNS: It could be similar to the scup regional approach.

MR. HUCKEMEYER: Well, scup is all the same in the region. This is not a regional approach; this is just spreading the liberalization over the northern states.

CHAIRMAN SIMPSON: Yes, there are subtle differences even in the scup northern region. We try to get as close as we can but we provide the flexibility where we just – you know, states really feel like they need it. Are we ready for the question? All those in favor raise your hand, 3 in favor; opposed, 2 opposed; any abstentions, 7; any null votes. That surprised me but I guess it shouldn't when I think about the particular issue. **The motion passes three, two, seven, and that's three to two to seven.** What else do we have, Toni.

MS. KERNS: I just would need a date for which –

CHAIRMAN SIMPSON: We need to vote again, right?

MS. KERNS: Yes, you need to vote again, but you also need a date.

CHAIRMAN SIMPSON: **Okay, to make this formal we need to vote this again as the main motion; so all those in favor of this as the main motion raise your hand, 3 in favor; opposed same sign, 2 opposed; abstentions, 7.** We get the same outcome. Toni.

MS. KERNS: We need a date at which the states would put forward a final regulation and the TC would then need to look at the methodology, and then the board would have to approve those regulations.

CHAIRMAN SIMPSON: Does March 15 work for everyone to finalize their state management measures? I get a nod from A.C., and that should be good enough for the group.

MS. KERNS: Does that work for all the northern states regulatory process to get your regulations in place in time?

CHAIRMAN SIMPSON: Yes, I don't see anyone indicating differently, so March 15<sup>th</sup> we'll have state-specific options in. If it wasn't clear, that motion was to approve the addendum as modified today. Is that it?

### APPOINTMENT TO CESS

MS. KERNS: **There has been a recommendation to add Jose Montanez to the Summer Flounder, Scup and Black Sea Bass Committee on Economics and Social Sciences. Jose is a member of the Mid-Atlantic Fishery Management Council and was considered for approval of the CESS.**

CHAIRMAN SIMPSON: Is there any objection to that? No, okay. Toni, one last thing.

MS. KERNS: As a reminder, if states could send me what regulation you are putting in place for summer flounder as soon as possible, they are due to me on March – well, I'm supposed to turn them into the National Marine Fisheries Service on March 1<sup>st</sup>. I realize that not everybody will get me that information then, but please try to do so as quickly as possible.

### OTHER BUSINESS

CHAIRMAN SIMPSON: With that, if there is no other business – comment, Tom.

MR. THOMAS McCLOY: Thank you, Mr. Chairman, for indulging me. The regulatory process for New Jersey and the fact that we can liberalize with black sea bass, we actually need to be able to move with our council faster. They meet every other month so their next meeting is March 1<sup>st</sup>. Their following meeting is the first Thursday in May, whatever that is.

But the fact that we can liberalize, we could potentially open before that May council meeting. To do so we need to have some information from the TC that what we're putting together is better or approvable before we go to that March meeting. I understand that's a tight timetable for everybody else,

but if we could work something in to at least get a preliminary review I would appreciate it.

CHAIRMAN SIMPSON: Okay, so it's the end of the first week in February now; do you think you could get something to the TC in the next week or so?

MR. McCLOY: I think we could, yes.

CHAIRMAN SIMPSON: And the TC, if they had a couple of weeks, would they be able to review?

MS. KERNS: Well, the states need to – that 57 percent liberalization is meant for the region so we have to have what all the states have put in place. You can't just evaluate one state's regulation and not have the other states.

CHAIRMAN SIMPSON: Except that if no state goes beyond 57 percent, the balance will come out 57 percent or less, right? Yes, so if you individual state goes more than 57 percent, the sum will be within 57 percent. So is the timeframe a couple of weeks, is that okay, understanding that they don't want to be waiting until May to decide on their regulations for 2012.

MS. KERNS: Yes.

CHAIRMAN SIMPSON: That was yes, so we'll take that.

MR. McCLOY: I'll take what I can get, thank you.

MR. GILMORE: Just a quick question for Toni; Toni, on summer flounder you said you wanted them ASAP, but what was the final deadline?

MS. KERNS: The deadline is March 1<sup>st</sup>. For black sea bass, you mean? Jim, are asking about black sea bass?

MR. GILMORE: No, fluke because we already – as I said we went out and talked to our council about our numbers and then in all fairness we should be providing them with – you know, to look at the MRIP numbers just so they have it. Unfortunately, we're not meeting until March 13<sup>th</sup>, so it looks like it's a moot point.

MS. KERNS: That's fine, Jim, there are other states that won't turn it into me until April 1<sup>st</sup>.

## ADJOURNMENT

CHAIRMAN SIMPSON: If there is nothing else before the board, I'll accept a motion from Pat Augustine only to adjourn. Thank you, Pat.  
(Whereupon, the meeting was adjourned at 1:40 o'clock p.m., February 8, 2012.)