Atlantic States Marine Fisheries Commission

Summer Flounder, Scup, and Black Sea Bass Management Board

February 7, 2012
11:45 a.m.-12:45 p.m.
Alexandria, VA

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)*	11:45 a.m.
2.	Board Consent • Approval of Agenda • Approval of Proceedings from November 2011	11:45 a.m.
3.	Public Comment	11:50 a.m.
4.	Consider approval of state summer flounder recreational proposals **Action** • Technical Committee Report (*J. McNamee and T. Kerns*)	11:55 a.m.
5.	Consider approval of state scup recreational proposals **Action** • Technical Committee Report (*J. McNamee and T. Kerns*)	12: 10 p.m.
6.	Draft Addendum XXII for Final Approval **Final Action** • Review Options (*T. Kerns)* • Public Comment Summary (*T. Kerns*) • TC Report (*J. McNamee)* • AP Report • Consider final approval of Addendum XXII	12:20 p.m.
7.	Review and Populate Committee on Economic and Social Sciences Membership (*T. Kerns)* **Action**	12:40 p.m.
8.	Other Business/Adjourn	12:45 p.m.

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

MEETING OVERVIEW

Summer Flounder, Scup, and Black Sea Bass Management Board Meeting
Tuesday, November 8, 2011
10:45-11:45 a.m.
Boston, MA

Chair: David Simpson (VA) Assumed Chairmanship: 1/11	Technical Committee Chair: Chris Batsavage (NC)	Law Enforcement Committee Representative: Chicketano
Vice Chair: David Pierce	Advisory Panel Chair: vacant	Previous Board Meeting: November 8, 2011
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 November 8, 2011

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

4. Consider approval of state summer flounder recreational proposals (11:55 a.m.-12:10 p.m.) Action

Background

- At the December joint meeting with the MAFMC the Board voted for conservation equivalency for the 2012 summer flounder recreational regulations
- States submitted proposal for technical committee review and approval (**Briefing CD**)

Presentations

- TC chair and staff will present state summer flounder proposals (**Supplemental Materials**)

Board actions for consideration at this meeting

- Approve state summer flounder recreational proposals

5. Consider approval of scup recreational proposals (12:10-12:20 p.m.)Action

Background

- At the December joint meeting with the MAFMC the Board voted for conservation equivalency for the 2012 scup recreational regulations
- States submitted proposal for technical committee review and approval

Presentations

- TC chair and staff will present scup proposals (**Supplemental Materials**)

Board actions for consideration at this meeting

- Approve scup recreational proposals

6. Draft Addendum XXII for Final Approval (12:20-12:45 p.m.) Final Action

Background

- Draft Addendum XXII proposes options to allow state-by-state or regional measures in the recreational black sea bass fishery **(Briefing CD)**. It was approved for public comment in January.
- Public comment was gathered in January **(Handed out at meeting)**.
- The Advisory Panel reviewed the draft addendum in January **(Handed out at meeting)**.
- The Technical Committee reviewed the options in January

Presentations

- Overview of options and public comment summary by T. Kerns.
- TC Report by J. McNamee
- Advisory Panel report by T. Kerns

Board actions for consideration at this meeting

- Select management options and implementation dates.
- Approve final document.

7. Committee on Economics and Social Sciences (CESS) Membership (12:40 -12:45p.m.) Action

Background

- Dr. José L. Montañez from the MAFMC has been nominated by the CESS as the economist representative to the Plan Development Teams and Technical Committees for summer flounder, scup and black sea bass.
- Dr. José L. Montañez is an economist on staff at the Mid-Atlantic Fishery Management Council and is the assistant coordinator for Summer flounder, Scup and Black sea bass

Presentations

- Nominations by T. Kerns

Board actions for consideration at this meeting

- Approve Dr. José L. Montañez.

8. Other Business/Adjourn

DRAFT PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD

The Langham Hotel
Boston, Massachusetts
November 8, 2011

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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INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).

2. **Approval of proceedings of March 24, 2011 by consent** (Page 1).

3. **Move that the Summer Flounder, Scup and Black Sea Bass Management Board recommend that the ISFMP Policy Board determine the appropriate response to the actions taken by Rhode Island, Connecticut and New York for their scup recreational fisheries. This recommendation is based on the plan review team's finding that Rhode Island, Connecticut and New York have implemented regulations that are not consistent with the FMP. The plan review team has also stated that regulations are not likely to result in the recreational harvest limit or the overall scup total allowable landings to be exceeded. There are no provisions in the FMP or Charter authorizing states or groups of states to unilaterally liberalize their regulations or transfer quota between commercial and recreational sectors. This action taken by these three states has implications that extend beyond scup management and should be addressed by the policy board** (Page 4). Motion by Jack Travelstead; second by Louis Daniel. Motion carried (Page 10).

4. **Motion to adjourn by consent** (Page 10).

ATTENDANCE

Board Members

Paul Diodati, MA (AA)
David Pierce, MA Administrative Proxy
William Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
William McElroy, RI (GA)
Robert Ballou, RI (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)
Byron Young, 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)
John Clark, DE, proxy for D. Saveikis (AA)
Roy Miller, DE (GA)
Bernie Pankowski, DE, proxy for Sen.Venables (LA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Steve Bowman, VA (AA)
Jack Travelstead,VA, Administrative Proxy
Catherine Davenport, VA (GA)
Jimmy Kellum, VA, proxy for Sen. Stuart (LA)
Louis Daniel, NC (AA)
Bill Cole, NC (GA)
Mike Johnson, NC, proxy for Sen. Wainwright (LA)
Bob Ross, NMFS
A.C. Carpenter, PRFC
Jaime Geiger, USFWS

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

Ex-Officio Members

Staff

Robert Beal
Vince O'Shea
Laura Leach
Tina Berger
Toni Kerns
Kate Taylor
Geoff White
Danielle Brzezinski
Chris Vonderweidt

Guests

Cherie Patterson, NH F&G
Peter Burns, NMFS
Doug Grout, NH F&G
Aaron Podey, FL FWC
Dennis fleming, PRFC
Alison Fairbrother, Public Trust Project, DC
Raymond Kane, CHOIR
Mark Alexander, CT DEP
Chris Moore, CBF
Joe Grist, VMRC
Nichola Meserve, MA DMF
Kyle Schick, PRFC
Russ Allen, NJ DFW
Chip Lynch, NOAA
Mike Ruccio NOAA
Paul Caruso, MA DMF
Jeff Tinsman, DE DFW
Robert Boyles, SC DNR
Jessica Coakley, MD FMC
Michelle Duval, NC DMF
Candy Thomson, Baltimore Sun
Bob Bowes, PRFC
Jennifer Stritzel-Thomson, MA DMF
Tom Houdel, MA DMF

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Wilson Ballroom of the Langham Hotel, Boston, Massachusetts, November 8, 2011, and was called to order at 11:10 o'clock a.m. by Mr. Robert E. Beal.

CALL TO ORDER

MR. ROBERT E. BEAL: Let's go ahead and get started with the Summer Flounder Board. This is going to be a very quick meeting for I think an important issue.

APPROVAL OF AGENDA

MR. ROBERT E. BEAL: The first item on the agenda is approval of the agenda. It's pretty straightforward. Any objections to approving the agenda that was distributed in the briefing materials?

APPROVAL OF PROCEEDINGS

MR. ROBERT E. BEAL: Seeing none, the next item is approval of the proceedings from March 2011. Any objections or corrections to the approval of the minutes from March 2011? Seeing none, we'll move on.

PUBLIC COMMENT

MR. ROBERT E. BEAL: We're at the public comment portion of the meeting. Is there any public comment on items that are not on the agenda? Seeing none, we'll move on. The first presentation is the plan review team report on the 2011 Scup Recreational Fishery, and I'll ask Toni Kerns to do that.

PLAN REVIEW TEAM REPORT ON THE 2011 SCUP RECREATIONAL FISHERY

I should have mentioned this at the outset. David Simpson is the chairman of this board and David Pierce is the vice-chair of the board. They both asked that I staff this meeting and chair the meeting given that they wanted to participate in the discussions at the board level. That's the reason I'm chairing and they're in their regular seats and participating in the discussion. I just wanted to get that on the record. Toni.

MS. TONI KERNS: The 2011 scup recreational regulations were approved in December at the joint meeting in 2010. For the states of New York through Massachusetts we had status quo measures that are consistent with the regional approach that we have taken for the scup recreational fishery.

In September Connecticut requested an emergency conference call to extend the 2011 scup recreational seasons based on projections that neither the recreational harvest limit nor the commercial quota would be reached in 2011. The commission leadership deemed that the request was not an emergency action and therefore no call was held.

In late September the states of Connecticut, Rhode Island and New York extended their 2011 scup recreational season beyond the approved dates. The plan review team for scup was tasked with reviewing the actions of Connecticut, New York and Rhode Island, describing any impact the regulations may have had on the conservation of the fishery and reviewed the information provided by Connecticut and any other information on a year to date and projected harvest data.

Looking at the consistency of the regulations that were put in place and whether or not they're consistent with the fishery management plan, the plan review team found that the regulations are not consistent with the board-approved measures. The approved closure dates for the three states for the private mode was on September 27th and for the for-hire mode on October 12th.

The new measures implemented by the three states for both of their for-hire and private mode, their fisheries would close on December 31st. That is not being consistent with those approved by the board. The three states provided several reasons for justification on why they extended their recreational season, and one of those was that the commercial quota would not be fully utilized.

The fishery management plan for scup does not allow for the transfer of quota from one sector to the other, so therefore the PRT deemed that this was also not consistent with the regulations in the FMP for the justification of why the season was extended. In looking at the recreational data, the plan review team had data that was available from the Marine Recreational Survey in Waves 1 through 4.

The team projected the harvest for Waves 5 and 6 and found that it's not likely that the recreational harvest limit would be exceeded in 2011. Using the projected numbers, we found that it's likely there would be an underage of 2.5 million pounds for the recreational harvest limit in 2011.

In reviewing the commercial data, the PRT first looked at the summer period harvest. They concluded that it was not likely that the summer period quota would be reached. The plan review team memo has a different set of numbers, but I looked at the quota monitoring report to have them as up-to-date information, and we have harvest for the summer period through October 29th as of today on the quota monitoring report in the NMFS website.

It's estimated that there will be a 1.6 million pound underage for the summer period quota for the scup fishery. Looking at the Winter 1 Fishery, the Winter 1 underage this year was 3.36 million pounds. This underage is rolled over into the Winter 2 quota as is listed in the FMP. The new Winter 2 quota is now listed at 6.6 million pounds; and because there was that rollover, the trip limit gets increased and that new trip limit is 8,000 pounds.

We did not have any models available to us at the time of the PRT review to predict fleet behavior patterns, so the PRT did not project the Winter 2 harvest. We did not feel we would be able to give the board an accurate projection of what we thought the Winter 2 harvest would be. Recent years' trip limits have been significantly lower than 8,000 pounds with the exception of 2005 where the trip limit was 6,500 pounds.

Because we cannot reasonably project the Winter 2 harvest, there cannot be a projection of the total commercial harvest for 2011, but the PRT has concluded that it would not be likely that the full commercial quota would be utilized and that management triggers that are already in the FMP would prevent any gross overages if any were to occur.

It's likely that underage for the commercial quota will be at least a minimum of 1.6 million pounds, which is based off of the underage that we're already seeing from the summer period. The PRT also concluded that the current scup market dynamics would likely prevent any gross overage of the commercial TAL. In 2011 we had a significant increase in the TAL and we have seen a lag in market development because of that large increase.

The Winter 2 Fishery the harvest is often dependent on the price per pound; so any significant increases in the trip limit will likely impact the price per pound and would likely affect the landings' patterns. In conclusion, the PRT found that the TAL would not likely be exceeded. The scup is considered rebuilt at the time of the PRT review.

If the TAL is not exceeded, then the stock status would not be appreciably changed from those previously projected relative to the biological reference points. The regulations put in place by Connecticut, New York and Rhode Island are not consistent with those approved by the board.

MR. BEAL: Thanks, Toni. Any questions on the plan review team report?

DR. JAIME GEIGER: Mr. Chairman, help me understand, if I can, the ability to approve an emergency call. Are those procedures well laid out in the ISFMP Charter?

MR. BEAL: The procedures are included in the commission's rules and regulations on how calls are granted or not granted, and, frankly, when board meetings are called to order. I think that agenda item is going to be on the executive committee meeting tomorrow morning since that is an issue that's bigger than summer flounder, scup and black sea bass. It goes across all the species that the commission manages.

DR. GEIGER: Mr. Chairman, I appreciate that, but again if it indeed comes before the executive committee, you know, again, as a member of the Fish and Wildlife Service on this particular management board as well as on the policy board, I am not part of the executive committee. Again, I would hope that in the policy board discussion, if this issue does come up, that we have a little more transparency and a little more understanding about what comes out and what about these rules and processes that are clearly laid out so everybody understands what the rules are and how these calls can be initiated, how they can be approved or is it by best professional judgment or whatever. Thank you, Mr. Chairman.

MR. PETER HIMCHAK: I had a question on the underage of the commercial quota. You had the Winter 1 period, which is coastwide, and then you have the summer period – the summer quotas. They were not exceeded either as a totality or just for the affected states of Connecticut, New York and Rhode Island because I thought typically they did reach their summer state-specific quotas. I'm trying to figure out which underage occurred. Could you qualify that a little bit, and then I have a further comment on the Winter 2 period.

MS. KERNS: The Winter 1 period is a coast-wide period for the quota, and that was not exceeded and we did have an underage of 3.6 million pounds, but that is rolled over into the Winter 2 period. The

summer period quota, in the past we have come very close to reaching it. The commission divides that quota into state shares, but as a totality it was not achieved, and the underage as estimated from the most recent quota monitoring report is 1.6 million pounds at this time. There are usually late landings, et cetera, that might come in later.

MR. BEAL: Pete, you said you had a followup?

MR. HIMCHAK: Yes, I did. The states that increased their recreational seasons; did they exceed their summer scup commercial allocations?

MS. KERNS: Not at the time of the review. I haven't looked at individual states this morning when I looked at the quota monitoring report, but it's not likely that they did. In the plan that we have for scup if there is not a coast-wide overage, no individual state has to pay back any quota from any summer period individual state overage because we didn't reach the entire coast-wide quota.

MR. HIMCHAK: Yes, I realize that but the summer quota – New Jersey, we don't harvest anything so it is just thrown into a pool to cover any other states so that doesn't seem problematic to me. But the Winter 2 now, just to give everybody an appraisal of what happened at the Mid-Atlantic Council meeting in August for the Winter 1 scup commercial fishery we did increase or we voted to recommend an increase to 50,000 pounds with no limit on the number of days of harvest during the season.

That was something that industry was pushing because of the development of new markets. Again, I don't think – and, boy, they're all over in China right now. You try calling the docks in New Jersey, they're all in China. I mean, the pattern of underage, I just wanted to point that out that Winter 2 is not really a big fishery for us; but given the current system of exploring new markets, what is rolled over from Winter 1 may be significant to them. That's all.

MR. BEAL: Tom Fote and then Louis Daniel. Try to focus on questions of the PRT and then we'll get into the discussion of where the board wants to go next.

MR. THOMAS FOTE: I was just trying to figure out – so we're going to talk about what went on and the rules and the guidelines at the executive committee but not at the policy board?

MR. BEAL: Well, what comes out of this board and is forwarded to the policy board I think is something that clearly this group needs to discuss, so that's unclear. Louis.

DR. LOUIS DANIEL: I'll wait; I didn't have a question. I've got a bigger question.

MR. BEAL: Fair enough. Any other questions of the PRT report? Seeing none, I think where we are is we've got three states that have implemented regulations that are not consistent with the FMP. The plan review team has indicated that the process they used to implement those was not consistent with the FMP as well.

However, it doesn't look like those actions by those three states will result in a recreational overage this year, so I think this board is kind of in a very unique spot that probably needs to be talked through. I think people have talked offline, and obviously there are implications here that may be a lot bigger than just for scup so just keep that in mind as you move forward. Dr. Daniel.

DR. DANIEL: I think this is a big issue. Some impression that I'm getting is that as long as it doesn't have an impact on the stock it's okay to do something contrary to a plan. I don't think that's right. We've tried to get corrections made to striped bass overages and underages. If we go over our quota and it doesn't result in overfishing or overfished status, is that okay? I mean that's word I'm getting is that if I can prove that I didn't cause harm to the stock that I can do pretty much whatever I want to unilaterally. North Carolina would be very happy with that outcome.

I think this is a serious issue and one that there needs to be some retribution for doing this type of thing. You can't just call an emergency meeting at any time. Now, I'm not going to say that three states calling for an emergency meeting was maybe not a reasonable reason to have an emergency meeting as opposed to just one state, but the fact that it went forward; and we're talking about it didn't have an impact is what I'm hearing, that shouldn't even play into this discussion in my opinion.

MR. JACK TRAVELSTEAD: I share a lot of Dr. Daniel's concerns. There have been I'm sure many times over the years where every state has been in a situation where they would have liked to be able to change their management regulations in season but were not able to do so because there are no provisions in most of our management plans for in-season adjustments.

I'll give you one example. Last year Virginia was 70 percent under its recreational striped bass quota. I would have loved to have been able to raise the bag limit to three fish. We probably even then would not have been able to hit our quota, but there are no provisions in the management plan that allow for that. I tell that to our anglers.

That's not going to work now because they have seen other states take action in season and potentially get away with it. While I understand New York and Connecticut and Rhode Island's attempts at what they were trying to do, I think it puts all of the other states sort of in a box when it comes to dealing with our fishermen.

God knows this job is hard enough to do when everything is going your way, but something like this makes it that much more difficult. I think this issue, as you just said, Bob, has a lot more implications than just to scup. I think it deserves a lot more discussion by the policy board. I don't think we have time here in the next 20 or 30 minutes to get through this. I think it should be sent on to the policy board for further debate.

In fact**, I would like to offer a motion to move that the Summer Flounder, Scup and Black Sea Bass Management Board recommend that the ISFMP Policy Board determine the appropriate response to the actions taken by Rhode Island, Connecticut and New York for their scup recreational fisheries.**

I would say that this response could include a finding of non-compliance. It's not solely limited to that finding. **The motion is based on the plan review team's findings that the three states have implemented regulations that are not consistent with the FMP. The PRT has also stated that regulations are not likely to result in the recreational harvest limit or the overall scup total landings to be exceeded.**

There are no provisions in the FMP or Charter authorizing states or a group of states to unilaterally liberalize their regulations or transfer quota between commercial and recreational sectors. This action taken by these three states has implications that extend beyond scup management and should be addressed by the policy board.

DR. DANIEL: Second.

MR. BEAL: Second by Dr. Daniel. Any comments on the motion? David Simpson.

MR. DAVID SIMPSON: This is relevant to the recommendation. First, in my read of the guidelines, the Charter, all the commission proceedings, there is no such thing as an emergency conference call. The process, if you'd like to meet as a board, is to contact the executive director, who under the guidelines of the commission is to serve as the executive secretary of this group to facilitate dialogue, discussion, debate and decision-making of the commission.

That's what I did. I contacted the commission and asked to meet with you folks to discuss a situation and the facts of the case as I saw them developing and what was becoming clearly an underutilization of the scup TAL, because it was clear that the commercial fishery is unable to handle – there is no market for all the fish they were allocated this year.

If you remember last year, in December we made an adjustment to the overall TAL – the National Marine Fisheries Service did – to prevent a further restriction in the scup season in state waters. I remind you all that 98 percent of scup harvest does occur in state waters. The fact of the plan, the way the allocation occurs, for every two fish we were trying to give the recreational fishery we had to give the commercial fishery eight more, and they simply have no place to sell it.

As evidence of that, the most recent prices coming out through ACCSP indicates that mediums are going for seventeen cents a pound, large scup are going for twenty-five cents a pound, and jumbo scup are going for forty-nine cents a pound. We had a dealer ship several thousand pounds of scup to New York.

The price that came back was a quarter a pound, which meant that he lost about $3,000 just getting them there, so this is the loser. Needless to say, that kind of market response to a glut of scup in the marketplace says don't land anymore. Hence, my firm belief that the quota won't be caught.

In addition to the obligations and the function of the executive director, if you look at the emergency regulation-making process of the commission, it says that under the ISFMP Charter, Section C 10, emergencies, management boards may, without regard to other provisions of Section 6 C, the normal regulation-making process, authorize or require any emergency action that is not covered by a fishery management plan or is an exception or a change to any provision in an FMP.

So it would be up to the management board to make that call, and so what I was looking for was the opportunity to discuss with you the situation as it had developed, unique, unforeseen circumstances in the eyes of the commission – I could see from a mile away that the commercial fishery would not be able to utilize its quota.

The unforeseen part in my eyes was that the recreational also would not in the face of a stock that is at 200 percent of target biomass, unprecedented stock size. We simply wanted the opportunity to talk to you about this potential to suspend our season for a few more weeks, which is in all, in practical terms it is, because the scup have left our waters now. And this week's weather notwithstanding, it's not conducive to the families that go out in 17-foot boats, five of them at clip, wearing their life jackets, which is your typical urban scup family outing kind of thing, they don't do that in November and December. They don't 25-foot boats and go out in the ocean. They own small boats or they fish from shore.

I wanted that opportunity to try to persuade you that an emergency action was justified. Emergencies can be called to authorize, which to me is allow latitude; not restrict but authorize. It was your call to make; no one else's. I can assure you that Connecticut, for one, would not have gone out of compliance if you folks weighed in – it would require a two-thirds majority, eight out of twelve of you – to say, yes, we agree, under the circumstances you can have your ten-fish limit for the rest of the season, as long as the fish are stills around.

There is no way on earth I could have forwarded that through our government and gotten an overt non-compliance. However, when the commission turned its back on us, this went through pretty quickly when I said, hey, we have this urgent concern. I did a whole lot of work to document the conditions, make the argument, worked through the practical steps in taking emergency action.

We're all very familiar as states with taking emergency actions. This board more than any other, Massachusetts through North Carolina, we have unique abilities in our states, Connecticut, to circumvent all of our normal rulemaking process to implement fisheries management measures. In our state government a definition of emergency is imminent threat to life or property, but now it has been amended to say or in the case of when you need to do something for fisheries management.

That's our definition of an emergency in the state of Connecticut. We have special declaration authority from the commissioner to allow unilateral decisions by the commissioner. No public hearings, no legislative review committee action, nothing, he signs a piece of paper and in ten days it's the law. We have done that 141 times since 2003, completely short-circuited our legal process in the interest of fisheries conservation and management.

So when I see emergency action, I think I see it with a little e and not a capital E, and I suspect you folks do, too; that in this world of not just fighting to rebuild the stock to that hundred percent target, but we have healthy rebuilt stocks providing opportunity when they exist. Those things need to swing both ways.

In fact, our guidelines and our Charter allows that, to authorize or require emergency action. It's there; it's available for use. Again, I'll reiterate we would not be here today if we had had the opportunity to bring it to you folks, you the responsible parties for declaring an emergency or not. We wouldn't be here today talking about this if you had said no. If seven of you had said yes and not eight, we wouldn't be here today.

It really is about process, it's about openness of process. It's not about e-mails coming in private. I have hundreds and thousands of pages that got sent out to us. I have three binders like this and that's only part of what got sent to us. I know you're all in the same boat, but no room for this in any of our documentation, a closed door meeting to discuss this. It's not the right way to do business. This is a collaboration.

States are giving up sovereign rights to self-government. There is a great letter in the binder under menhaden from the Attorney General of Maryland – I think it starts on Page 490 – going on about public trust resources, public trust responsibility, ownership of that resource in your state waters, and I think this board and this commission really has to reflect and think long and hard before they intrude on a state's rights.

Is it really necessary to achieve overall conservation and prevent detrimental effects to your states? There are times when we have to do that and we're willing to do that, but this was clearly a case, in our view, of no harm, no foul, and provide a little bit of opportunity and all that benefit it provides at ten fish, when we saw trip limits going – you know, our neighboring state, and very legitimately, going to

20,000 pounds a trip, 30,000 pounds a trip, 40,000 pounds a trip, and we're going to tell – and we were going from 200, which we normally have to have for our commercial fishery, to 2,000 pounds because we're only at 30 percent of our quota.

Two years ago we couldn't get through September. There is this overabundance, overallocation of fish that we responding to. I try to do things very publicly in Connecticut, and we send letters out to everyone. We don't send commercial information just to commercial and recreational to recreational.

I was in the position on September 15th of having to tell the public, "Recreational guys, you guys are done, ten fish is too much, you can't have it. Commercial guys, we're going to increase your trip limit by tenfold." This does get back to the roots of the management. We follow whatever the Mid-Atlantic Council says except in certain cases; most notably the summer quota, which is illegal under federal rules.

It's a violation of Magnuson to allocate by state because it has been shown to be violation of National Standard 4. The commission went ahead and did it, anyway, so we certainly have plenty of precedent for deviating from the federal partnership. That allocation was based on waste in the federal waters fishery; much of it our fisheries.

This isn't fingerpointing. Some if it is the same boats but under federal management. During the allocation years the commercial fishery discarded dead 300 million fish in ten years. They have improved. In the last ten years they have only discarded a hundred million fish dead, but their allocation was based on a very messy fishery.

You simply reach a point where we think this needs to be addressed; and for a couple of weeks we thought, okay, emergency action, this will be 142 times for Connecticut. That was our perspective if you folks were willing. I never had that opportunity to bring that in front of you, and so we did take the action we did because our back was turned to us.

All of this information was communicated clearly to the commission leadership; it was communicated at the highest levels of NOAA Fisheries; do you have any concerns whatsoever. I didn't hear a single word, but it was communicated at the highest level of NOAA Fisheries because we did not want to do anything to undermine conservation. We certainly didn't want to put the commission in a difficult spot; but if you turn your back on us, you know, unfortunate things can occur. That's my comment on the motion.

MR. JAMES GILMORE: Mr. Chairman, just to add a few things in terms of, Louis, your comment and Jack. First off, this decision was not done lightly or taken in any kind of a cavalier fashion. We understood the implications of it, and it was not the ends will justify the means. We understood this was going to open up a can of worms, but we found ourselves in a dilemma for a lot of reasons. First off, and I want to make sure it's clear that the scup fishery up here is a four-state region.

The first thing we did was the four states got together, and that was a unanimous decision to try and get an action from the board. Massachusetts, of course, didn't have the same latitude as the other three states in terms of emergency action. The three states that put those regulations forward were supported by a unanimous decision of the four states, so I want to make that is clear.

I know we're going to talk about this a lot more probably tomorrow and at the policy board, but it's a process issue. There are pieces of this that were extremely frustrating because there were interpretations of emergencies, emergency actions, emergency phone calls, those types of things, and it was a little bit – as Jaime had indicated earlier, it was a little unclear as to what quantified or would certify us to do that.

I guess the concern that was raised with me first was that the statement was only maybe for negative things were emergencies but a positive thing couldn't be an emergency. I don't think that was clear anywhere in the rules. We've got a lot to talk about process because there is just a lot of unknowns with that.

We also looked at this from a resource perspective. I mean, we're sitting here with an overabundant resource and at the same time we're looking at a 53 percent reduction in black fish and trying to take pressure off of that. Again, it was those pieces of this that we were concerned about that we're trying to maybe help out another fishery in addition to making an economic benefit.

The other part of the process which I'll raise now and I think we need to talk about a little bit more is that beyond the emergency provisions of this, Article IX of the Charter also talks about not usurping state authority. Within New York and I think it's probably in many of the other states and I think the three states that are considered here, I was in a real dilemma

because my state law says if I have a healthy fishery and it's in the condition that we were talking about, I'm bound by state law to make that available for both recreational and business improvements.

So I'm sitting here with conflicting issues and the Charter pointblank says if that happens, that it can usurp what is going on in the state, so that's another thing I think we have to address besides emergency powers. I'll leave it at that other than to echo what Dave said; when I brought this up to the executive branches of the state of New York, this went through in record time because, again, we're in a bad economy. It was not about the end justifying the means.

It was about making a resource available in a poor economy. This thing I think broke a record in terms of how fast it went through the emergency procedures. In my state I have to go through the governor's office, my own commission and the Department of State and a bunch of attorneys. And, trust me, this is the first time I've ever seen nine attorneys involved that all agreed in five minutes. I'll leave it at that. Thank you.

MR. ADAM NOWALSKY: I hear comments from two different viewpoints I think from what we've heard before. Obviously, those states that went forward with this have expressed their support for it. The makers of the motion here have expressed their specific concerns. I have to start out by saying that I find that it's important to note that there is an indication here that fisheries management is now looking at yield for the fishermen.

We have in the ASMFC mission statement that we're restoring fisheries. As I've expressed before, as you've heard around here we're at a time and economic climate where we need to focus on jobs, tax revenue. I think in terms of when you look at this purely from that perspective, not sitting here around the table, I think most people would look at it and fishermen would say, hey, okay, this is a reasonable thing to contemplate doing.

I think the real devil here is in what are we defining as the thing. Did we go ahead – do these go ahead and utilize fish that weren't going to be utilized; was that the thing here or was the thing that happened that they went ahead and contemplated and promulgated a transfer from one sector to another, commercial to recreational, which is explicitly not allowed in the plan as it's currently written.

I think that's what we need to decide on this motion and any other action that we contemplate here today is what is it that we really have the concerns with? Is it specifically that was the problem, that they contemplated a transfer from the commercial to recreational that wasn't allowed? Is the problem that they wanted to go ahead and utilize yield?

That's what I'm contemplating in my mind as I look at this. I hear, though, that – and this is a concern shared by both sides that we've heard so far is that process is the problem. The two areas that I look at here as specific areas of concern with the process is, one, I think that this really highlights that we need more flexibility in the tools that we have available to us.

From a management board level I think that means we really need to look at the FMP as it exists. As we look at moving forward with addendums and amendments, I think we really need to look at the tools we have available to us. The second thing I think that would be relevant here is a formal response from the commission as to why the request for action was denied to these states so that we could all then have that in front of us and understand why the commission itself took the action they did in denying these states' request without giving us the opportunity to be part of that decision-making process.

MR. BEAL: Thank you, Adam. I think I've got eight or nine hands left and we've only got seven or eight minutes left, but keep in mind if this motion is passed and this issue goes forward to the policy board there will be obviously additional time there to discuss the issue. Hopefully, we can go through the remainder of these comments fairly quickly. Tom.

MR. FOTE: When I first read the e-mail that three states had unilaterally done this, I was very upset. Sitting here as a commissioner since 1990, on and off, I believe in the process and I believe in what we do. But I also believe that we're a compact of states and that we work together cooperatively.

I was reminded by myself thinking about this, that it's really those four states, Rhode Island, Massachusetts, Connecticut and New York, that make up the recreational scup fishery, and they've allowed indulgences in New Jersey over the years since we're the southern – as matter of fact, we have no closed season this year because they allowed us to do that, so I looked at that.

And then I also looked at the fact at how we've changed rules and regulations. In the old days if we wanted to have a meeting to discuss something like this, we just made phone calls around and said how do you feel about this? I didn't receive an e-mail asking me how I felt about this as a commissioner, whether we should have a special meeting or not, and I don't agree with that.

This is a compact of a board that we should be basically polled on how we feel about having an emergency meeting. Maybe that's not what the guidelines say; so my part, when I look at this motion, unless it basically says something – and that is why I was going to look towards amend this – to say something that we should be looking at the guidelines so we can correct this type of problem.

I can't vote for this motion; so unless you want to include something to that effect, then I'll look at it. If we're going to address the problem, then we should address the whole problem, because I think that to me was the most serious part of this process when three states that make up a majority of this fishery come to the commission and ask them to have a meeting to basically discuss their problems and we refuse to do a meeting on that, I feel very upset over that.

DR. GEIGER: Certainly, the last sentence in this, "this action taken by these three states has implications that extend beyond scup management and should be addressed by the policy board"; certainly I think the first part of that statement is absolutely correct. I can look around every state in the commission and say but for the grace of God go I.

All right, each and every one of you has been in this position with one management species or another, but we stayed true to a process. That process is not perfect; it is not flawless. It is still in the process of being perfected, but it has served the commission, the member states and the federal agencies well in terms of sustainability of the fisheries.

I will state that I am uncomfortable kicking this can down the road. This is a management board problem. It should be fixed by the management board and not kicked down the road to the policy board. This is how we do business here. This is how we should do business here. I believe the implications and the intent of the ACMA Act and legislation basically demand and require that.

I am voting against this motion although I support the basic premises up here, but I do believe we need to fix the problem at the board level. Again, I am continually being troubled by either the transparency or the lack of transparency that we've seen over the last year or two not only with this issue but other issues, but that in itself is a policy board discussion. Thank you, Mr. Chairman.

MR. TRAVELSTEAD: I just wanted to briefly speak to my intent in offering the motion. It was not to see that the three states are punished. That's not what this is about. This about having a dialogue about how we want to manage fisheries; and if there are problems in our management plans need to be fixed that allow states more flexibility for in-season adjustments, then let's fix them.

I think ultimately what this comes down to is perhaps it's a communication problem. We need to have a dialogue about how staff and how the hierarchy responds when they get questions of this nature or situations like this developing in the states. I think the policy board is the place to have that discussion.

DR. DANIEL: I think Dave did an excellent job outlining his concerns and issues; excellent job. I seconded the motion to do what the gentleman from New Jersey suggested that we do, and that is look at the ways to fix this. I go back to my original statement that it's not about the impact of the action. It's the precedent that it sets.

I don't know if punishment is the right word, retribution is the right word, but we've got to do something I think so that I'm not put in this position when I go home that, well, they did it in Connecticut with scup; why can't we do it in North Carolina with weakfish or bluefish or any of the other species of concern. I think that's the big question and I think it is a policy board issue, which would be transparent, which would address Jaime's concerns, I think, but this is an overall issue. It's not just a Scup Board issue in my opinion.

MR. ROY MILLER: Mr. Chairman, some might wonder why a state to the south of this is even weighing in on this issue, but we are being asked our opinion on this. Clearly, if it comes to a vote our vote will matter. I'd just like to remind the board that down our way we haven't had a recreational fishery on adult scup since the 1960s. Now why is that?

It's because perhaps the range has contracted. Therefore, I fail to see why a surplus or even the term was used "overabundant resource" constitutes an emergency. If it's an overabundant resource, perhaps its range will eventually extend and southern states will once again enjoy a fishable abundance of scup.

Process notwithstanding, I just don't see where it constitutes an emergency. Thank you.

DR. DAVID PIERCE: Jack Travelstead gave a very good explanation as to the reasons why he has made this motion. I agree with his rationale. When this issue came to the surface, when David Simpson in particular approached us and expressed his specific concerns, we expected that there would be some discussion with the full management board.

However, that did not happen, and David has already referenced the fact that if that discussion had occurred there might have been a different outcome. I read the e-mail as did other members of my staff read the e-mails going back and forth between David and between the leadership and the other states as well, Rhode Island and Connecticut and New York. Frankly, very compelling arguments were made by David and by the leadership of ASMFC as to what should or should not be done.

We decided to support the position of David and the other states to be on board with that; not to change our regulations but to support that position with an understanding that this is a big issue with that downsides already described by people like Louis, some downsides, and that this would work its way to the policy board for some further discussion since there needs to be some discussion about how requests from individual states or from group of states relative to action that should be taken relative to reallocation or other decisions of that sort should be speedily addressed by the full board.

That is my suggestion that indeed it passes, it goes on to the policy board. It is not kicking the can down the road, absolutely not. A decision by this board, for example, for a non-compliance ruling would accomplish absolutely nothing. It's a policy board issue that I hope will lead to some fruitful discussion and a resolution so we don't have a repeat of this situation in the future.

MR. PATRICK AUGUSTINE: Mine very quick is to table this motion until the issue is remanded to the policy board; also task the staff, after having talked to the four states and gleaning information as to recommendations – Mr. Nowalsky had some excellent ideas as to how we could approach this problem – to develop a white paper that suggests what we could do to change the FMP.

Relative to playing with commercial or recreational quota, that's an issue that has to be developed and looked at by the Mid-Atlantic Fishery Management Council. It's a joint plan. In order to do that, we would have to come up with some way to make the quota transfers flexible, to be similar to what the bluefish FMP looks like.

I think we have on our radar screen this needs to either be tabled until further development of a white paper, reviewed by the policy board and go forward. I think in terms of finding out of compliance, that's ludicrous. That's my position. If someone would second that motion, we'll move forward, Mr. Chairman. Thank you.

MR. BEAL: Pat you're suggesting the policy board does not do anything at this meeting, but there is some work at the staff level to develop a white paper to address the issues that you had talked about?

MR. AUGUSTINE: Exactly, because I think we've heard some thoughts around the table. We've heard the discussion by Mr. Simpson and also followed up by Jim Gilmore and Dr. Pierce. They all did their action in good faith based on what they saw, what their fishermen were going through and what they saw.

One item that wasn't considered and should be considered is we need to look at what states seasons are open, of the species that are open during these periods of time when we set those schedules. For instance, in New York and Connecticut –

MR. BEAL: Well, let's not get into the details of a potential white paper just yet.

MR. AUGUSTINE: Yes, present a white paper and table this or kill it, whichever you want to do.

MR. BEAL: Is there a second to the idea of postponing this action? I see none so we'll move on. Bob Ross was the last speaker I had on the list and then we'll caucus and vote.

MR. BOB ROSS: Yes, I'll try to be quick here, but a lot of the talk around the table today has been on process as pointed out both by Connecticut and Fish and Wildlife Service. My concern with this process to date is two-sided. One, I think the majority can acknowledge the plan review team's determination that in fact those states did not comply with the FMP.

However, my concern is with some key words in this motion that include the reference to "this response could include a finding of non-compliance". My interpretation of the commission's charter on non-compliance indicates that it initiates at the board

level. In this case I would not support this measure with that sentence in the document. From my perspective, this board has to make the first decision and go forward from there to the policy board as the next step. Thank you.

MR. TRAVELSTEAD: Take it out.

MR. BEAL: The maker indicates that he is comfortable taking out the sentence referencing non-compliance. Dr. Daniel, are you okay with that. The seconder indicated willingness to take that phrase out. All right, that sentence is now removed. I'll read the motion into the record while the states are caucusing and then we'll vote: move that the Summer Flounder, Scup and Black Sea Bass Management Board recommend that the ISFMP Policy Board determine the appropriate response to the actions taken by Rhode Island, Connecticut and New York for their scup recreational fisheries.

This recommendation is based on the plan review team's finding that Rhode Island, Connecticut and New York have implemented regulations that are not consistent with the FMP. The plan review team has also stated that regulations are not likely to result in the recreational harvest limit or the overall scup total allowable landings to be exceeded. There are no provisions in the FMP or Charter authorizing states or groups of states to unilaterally liberalize their regulations or transfer quota between commercial and recreational sectors. This action taken by these three states has implications that extend beyond scup management and should be addressed by the policy board. Motion by Mr. Travelstead; second by Dr. Daniel.

Is there anymore caucusing needed? Seeing no indications, all those in favor of the motion please raise your right hand; those in opposition; abstentions; null votes. **The motion carries unanimously.**

This board should be prepared to go to the Mid-Atlantic Council at their December meeting in Williamsburg to talk about recreational specifications and also review the new summer flounder and scup stock assessments. I think this board also likely needs to be prepared to come to the Mid-Atlantic Council in February to review the results of the economic analysis that is being conducted on the scup fishery as well as the new results from the SARC for black sea bass. Those two things will be talked about in December. Toni has a specific announcement for the December meeting regarding hotel reservations.

MS. KERNS: The December meeting is going to be on December 14th. It will be a full day where we will likely start at 8:30 in the morning and go until all the business is conducted. There is a lot of business to be done there. Hotel room cut-offs I believe are at the end of next week so please be on the lookout for an e-mail from me to make your hotel reservations.

MR. ROBERT BALLOU: Bob, the issue we just voted on, will that be taken up by the policy board tomorrow or Thursday.

ADJOURMENT

MR. BEAL: Tomorrow. Anything else before the Summer Flounder Board? Seeing none, we are adjourned.

(Whereupon, the meeting was adjourned at 12:10 o'clock p.m., November 8, 2011.)

Rhode Island
Department of Environmental Management

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Proposal for 2012 Recreational Summer Flounder Management Options in Rhode Island

By: Jason McNamee
RI Department of Environmental Management
Division of Fish and Wildlife

Background:

For 2012 Rhode Island (RI) will have a recreational target of 157,885 fish. As per a memorandum from the Atlantic States Marine Fisheries Commission (Toni Kerns, January 6, 2012), the state of RI is allowed to liberalize harvest in its recreational fishery by 11%, the difference between RI's 2011 estimated summer flounder recreational harvest of 142,877 fish (MRFSS) and the 2012 harvest target of 157,885 fish. However, if the imprecision of the MRFSS estimate is taken in to account, the liberalization will be less than this maximum amount. The percent standard error associated with the 2011 Rhode Island MRFSS estimate is 16.6%. This is higher than the percentage that RI can liberalize, thereby making any liberalization risky. The lower liberalization percentage was the metric used by RI as its maximum allowed liberalization in 2011. Keeping in line with this risk adverse strategy and in an effort to be protective of imprecision in the MRFSS harvest data, RI will only analyze very minor liberalizations and will proceed with caution when developing 2012 management options.

Action:

Conservation equivalent measures were adopted by the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fisheries Management Council (MAFMC) in lieu of a coastwide option for 2012. Therefore, RI is allowed to develop a state-specific management plan which includes management measures (i.e. possession limits, size limits, and seasons) to achieve not in excess of the recreational harvest target of 157,885 summer flounder.

Method:

Possession and Size Limits

A recreational percent increase table (see Table 1a and 1b) based on size limits was calculated using length frequency data from RI waters from 2 sources. The two sources are the 2011 RI Division of Fish and Wildlife (DFW) trawl survey, and the RI eRec volunteer angler logbook data. The trawl dataset is 754 fish in 2011 for which lengths were recorded. While the gear type used to collect these fish is certainly different than that used in the recreational fishery, the trawl data is a robust and comprehensive representation of the size frequency that occurred in RI waters in 2011 (see Table 1a, Figure 1). The second data source interrogated was the RI eRec logbook data (volunteer

angler logbook, see Table 1b), a data source directly comparable to the recreational fishery. There were 1,817 summer flounder lengths recorded in this dataset representing 372 trips. The mode captured is predominately the charter mode, but there is a significant number of private boat information represented as well. There is no shore mode information in the dataset.

It was found that even a ½" decrease in minimum size (from 18.5" as the current minimum size to 18") will put RI at a liberalization higher than the allowed 11% increase in harvest.

Changes to possession limits were difficult to analyze as the most recent years have maintained a 6 fish bag limit, which increased in 2011 to 7 fish. Due to this, an attempt at using a historical dataset was undertaken, but the last time RI had at least an 18.5 inch fish and a bag limit over 7 fish was longer than 5 years ago. This was deemed too long ago to be used as a proxy.

A second attempt was to look at 2011 RI eRec data. Based on this dataset (Table 2), the calculated increase in harvest from 7 fish is represented in Table 2 below.

Since there is no viable way to decrease minimum size and stay within the allowed liberalization, and given that the current season in RI effectively covers the entire time period during which summer flounder are in RI waters, the only possibility of liberalization would be to increase the bag limit. A range of options are presented but as stated previously, RI will proceed with caution due to variability in the MRFSS estimates which is the baseline by which conservation equivalency is measured.

Table 1a. The effects of various size limits on the 2011 summer flounder recreational landings in the state of RI, calculated as percent increase from current management configuration. Based on data from RI trawl survey.

Possession Limit	18"	18.5"
7 fish	13%	0%

Table 1b. The effects of various size limits on the 2011 summer flounder recreational landings in the state of RI, calculated as percent increase from current management configuration. Based on harvest records from RI eRec logbook

Possession Limit	18"	18.5"
7 fish	27%	0%

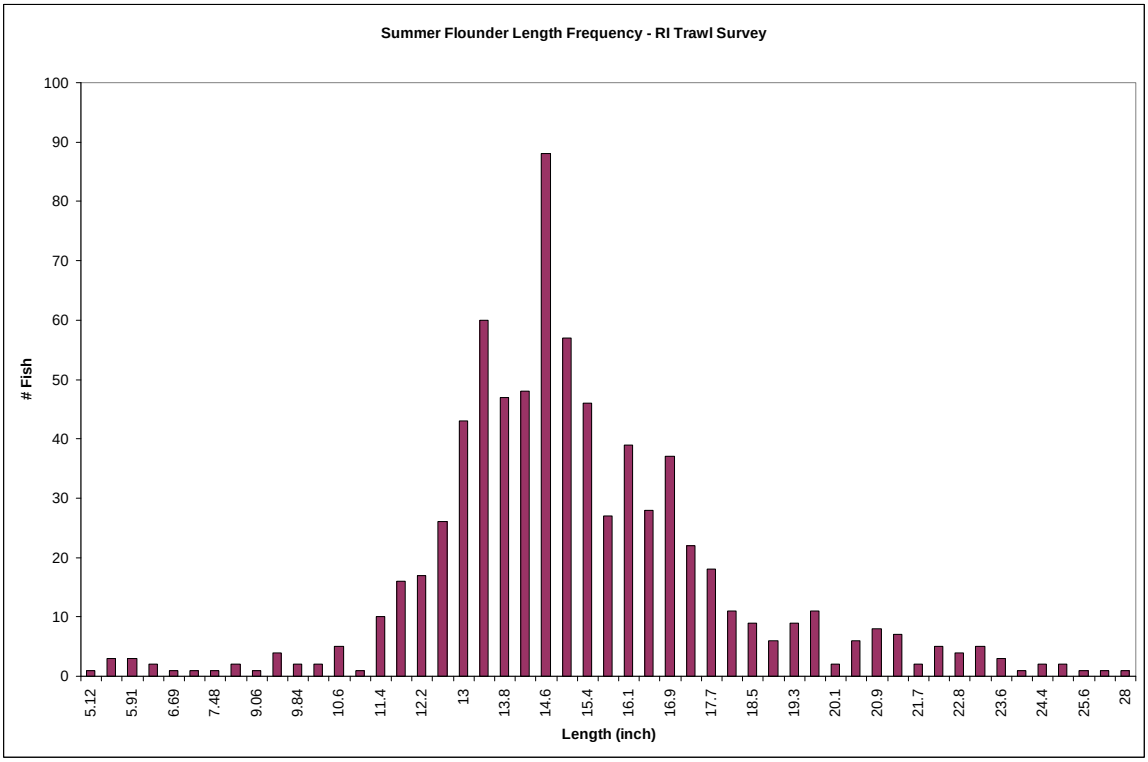

Figure 1. Summer Flounder length frequency data from RI DFW Trawl Data (n=754).

Table 2. The potential effect of various possession limits on 2011 summer flounder recreational landings in the state of RI. The tables contain the proportional increase in number of summer flounder landed based on 2011 eRec data.	
Bag Limit Increase	**18.5”**
8	**2%**
9	**6%**
10	**7%**

Seasonal Adjustments

As mentioned previously, a season length of May 1 through December 31 encompasses the entire effective season for the RI recreational summer flounder fishery. This was the season for 2011 and because RI does not have to reduce harvest in 2012, seasonal increases were not analyzed.

Proposed Management Strategies for 2011

The following are RI’s proposed 2012 Recreational Summer Flounder management options (Table 3). When considering options for 2012, RI will proceed with caution as the allowed liberalization is low relative to recent years, and as mentioned previously, RI is concerned with variability in harvest estimates derived by MRFSS. In addition, RI factors in other sources of uncertainty including stock size increases and past management performance. These sources of uncertainty will not be factored in empirically for 2012 as RI has done in the past, but consideration of these sources will weigh heavily in RI’s eventual management decisions for 2012.

One additional note, a split mode approach was used in CT in 2011, and the RI constituency was interested in a program similar to that implemented in CT that would allow a decreased bag limit for the shore mode. In 2011, RI did not entertain this option due to the fact that there was no reliable estimate of harvest for the shore mode. This situation has not improved for management decisions in 2012; the percent standard error for the shore mode harvest in RI was 100% in 2011. Due to this constraint and coupled with the sources of uncertainty already mentioned, I do not believe RI will attempt a split mode option to allow a smaller minimum size for the shore mode, unless a significant proposal on how RI will capture shore mode data comes forward between now and the end of the RI recreational management regulatory process for 2012.

Table 3. Management options to meet ASMFC target (#s fish; 193,000) and percent liberalization (maximum of 122.7% adjusted to 83.9%) specifications for the 2011 summer flounder recreational fishery in RI

	Open Season	Bag Limit	Bag Limit % Increase	Size Limit	Size Limit % Increase	Total % Liberalization[1]
Option 1	**5/1 – 12/31**	**7**	**0**	**18.5”**	**0**	**0**
Option 2	**5/1 – 12/31**	**8**	**2**	**18.5”**	**0**	**2**
Option 3	**5/1 – 12/31**	**9**	**6**	**18.5”**	**0**	**6**

1 – Total Increase = (X+Y) - (X*Y);

X = The percentage increase associated with seasonal closure(s).

Y= The percentage increase associated with size/possession limit.

Management Performance Evaluation

Below is a table of management measures for RI over time (Table 4). RI has had a number of different minimum sizes going from 17.5” to 21” as well as bags from 5 to 7 fish and seasons of varying lengths. RI’s performance relative to targets with these different management measures does not indicate any obvious correlation with any particular management strategy. It is noted that RI has not been below 200,000 fish harvested during very many years. For this reason, and the desire to not exceed its limits in 2012, RI will set management measures cautiously. These measures are not included in the above calculations due to the uncertainty of implementation and buy-in by the RI stakeholders.

Table 4. Management measures in place for the summer flounder recreational fishery in RI, 2001 - 2010						
Year	**Min Size**	**Bag**	**Season**	**Performance Relative to Target (%)**	**Harvest (# fish)**	**Target (# fish)**
2001	**17.5”**	**6**	**5/26 – 9/3**	**19**	**268,244**	**225,000**
2002	**18”**	**5**	**5/25 – 9/20**	**-23**	**190,741**	**249,000**
2003	**17.5”**	**5**	**5/1 – 9/20**	**-12**	**205,435**	**233,000**
2004	**17.5”**	**7**	**4/1 – 12/31**	**15**	**288,428**	**251,000**
2005	**17.5”**	**7**	**4/1 – 12/31**	**-31**	**187,983**	**271,000**
2006	**17.5”**	**7**	**4/1 – 12/31**	**26**	**263,716**	**209,000**
2007	**19”**	**7**	**5/18 – 9/16**	**68**	**232,495**	**138,000**
2008	**20”**	**7**	**1/1 – 12/31**	**78**	**206,501**	**116,043**
2009	**21”**	**6**	**6/16 – 12/31**	**-56**	**51,293**	**117,000**
2010	**19.5”**	**6**	**5/1 – 12/31**	**-41**	**84,525**	**144,000**
2011*	**18.5”**	**7**	**5/1 – 12/31**	**-11**	**142,877**	**157,885**

* data through wave 5 with projected wave 6 data

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Mary B. Griffin
Commissioner

TO: **ASMFC Summer flounder, Scup, and Black Sea Bass Technical Committee**

FROM: **Paul Caruso, Senior Marine Fisheries Biologist**

SUBJECT: **Massachusetts' 2012 Recreational Summer Flounder Management Proposal**

DATE: **January 16, 2012**

As per a memorandum from the Atlantic States Marine Fisheries Commission (Toni Kerns, January 6, 2011) we are allowed to adjust our recreational summer flounder regulations for this coming season to obtain an increase in the recreational fishery harvest of 259 percent, the difference between our estimated 2011 harvest (42,588 fish) and our 2012 harvest target (153,000 fish). The 2011 summer flounder recreational fishery regulations were 5 fish at a minimum size of 17.5" with an open season of May 22 through September 30 (108 days). For most years Massachusetts' estimated summer flounder harvests have been well below harvest targets (Table 1).

Table 1. MA Summer flounder harvest versus target 2001 – 2011. Harvest in years with shaded cells exceeded the target.

Year	Harvest	Target	Difference	Size/Bag	Season
2001	152132	218000	-30%	16.5"/7	All
2002	155377	241000	-36%	16.5"/7	All
2003	177449	226000	-21%	16.5"/7	All
2004	280938	244000	15%	16.5"/7	All
2005	203201	263000	-23%	17"/7	All
2006	218996	203000	8%	17"/7	All
2007	75860	133000	-43%	17.5"/5	66 days
2008	150031	218286	-31%	17.5"/5	67 days
2009	48311	114000	-58%	18.5"/5	44 days
2010	45506	140000	-67%	18.5"/5	108 days
2011	42588	187000	-77%	17.5/5	132 days

During this time frame the harvest exceeded the quota only two times (2004 and 2006), with overages of 15% and 8 %, respectively. Landings from 2007 to 2011 were well below the allowable harvest. It appears that the only substantial over harvest event (2004) occurred when our minimum size did not increase from the previous year and a relatively large year class recruited to our fishery. This point should be kept in mind for 2012 as despite predictions of a relatively large harvest in 2011 due to incoming recruitment of the robust 2008 year class, subsequent stock assessment results have shown that the 2008 year class was over estimated in size. Perhaps one reason 2010 predicted harvest was not realized. However, the 2009 year class, although not as big as previously estimated, is still expected to be relatively large. My tagging study results confirm the presence of a large 2009 year class with high daily CPUE's of fish in the size range of fish presumed to recruit to the proposed minimum size in 2012. Thus caution in the liberalization of recreational fluke regulations is urged for 2012.

Our current season encompasses all of the time period when fluke are in our waters in catchable quantities, so a lengthening of the season is not proposed. In addition, the effect of bag limit increases could not be explored as local fishery dependent catch frequency information for the fishery from any contemporary source is scarce, and non-existent for discards, except for a handful of party boat intercepts. Thus it is not possible to estimate how a bag limit increase in addition to a marked reduction in the minimum size down to our long term population mean lenght would affect recreational harvest in 2012. As such this proposal contains only a single management proposal - decreasing the minimum size from 17.5" to 16.5", for an expected increase in harvest of 227-233 percent.

The expected harvest increase (227%) estimated from lowering the minimum size was determined from a sample of 444 fish caught with rod and reel on Division research vessels and local party boats during the course of a tagging study conducted during the summer of 2011 (Table 2 and Figure 1). An alternative analysis includes both the tagging study lengths and lengths for 52 fish obtained through our volunteer angler E-log web site function. This yields a sample size of 496 fish and estimates a similar increase in harvest from the proposed 16.5" minimum possession size (233%). Analysis of our fisheries independent survey data (Figure 2) reveals a similar distribution of lengths in 2011 and all years of the survey and estimates a 155% increase in the retained catch at the proposed minimum size. The difference in the estimates can be attributed to the proportionally larger number of big fish that the survey gear captures vs. the rod and reel fishery (fishery selectivity).

The distribution of effort and catch from the tagging study is a reasonable proxy for the recreational fishery as a whole as the temporal and spatial distribution of the sampling are similar and the same capture methods are used and the frequency of fish greater than 16" is similar from both the tagging and volunteer angler data sources. The length frequency distribution from the tagging study sample is also similar to the tagging study data set used last year for the same purpose, but with a slightly lower mean size indicative of the influence of the 2009 year class on catch (Figure 1).

Table 2. Length frequency distribution of fish > 16.5” from 2011 tagging study catch and estimated increases to harvest from different minimum sizes from tagging study catch (TSC) and tagging study catch and volunteer angler data (VAD).

length (cm)	min size	# caught	% harvest increase from 2010 TSC	% harvest increase From 2010 TSC + VAD
419	16.5"	36	227%	233%
419				
419				
419				
419				
420				
420				
421				
421				
421				
422				
422				
423				
425				
426				
426				
428				
428				
434	17"	18	64%	113%
435				
436				
437				
438				
438				
442				
445	17.5"	11	0%	0%
446				
450				
451				
452				
455				
480				
482				
482				
491				
507				
total catch				
444				

Figure 1. Catch length frequency distribution from the 2011 tagging study.

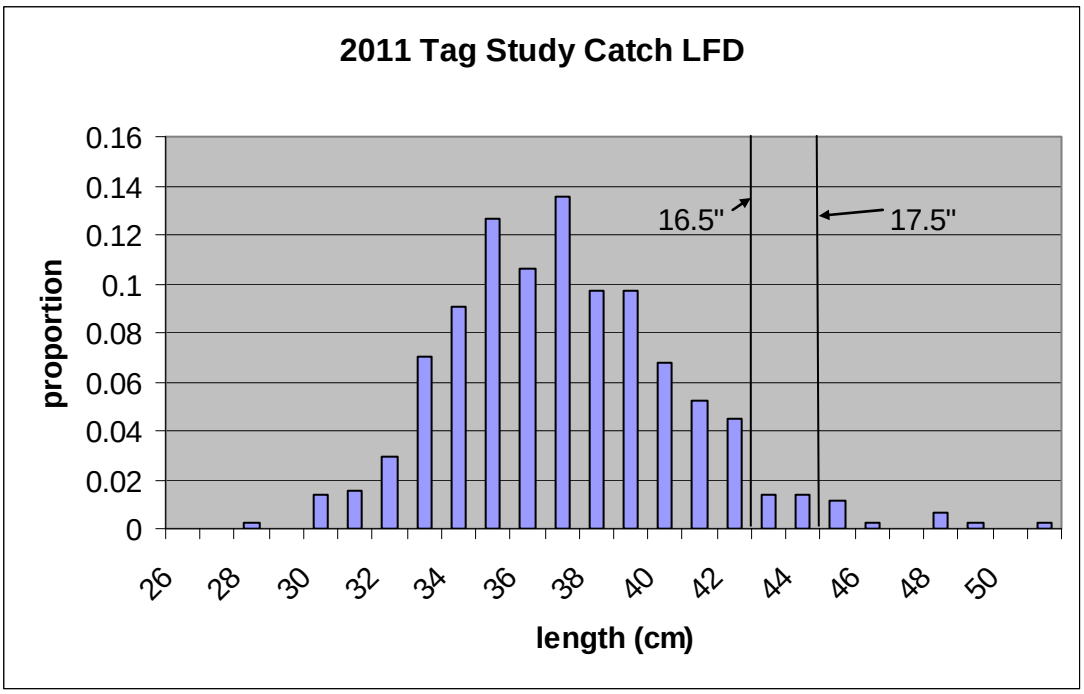
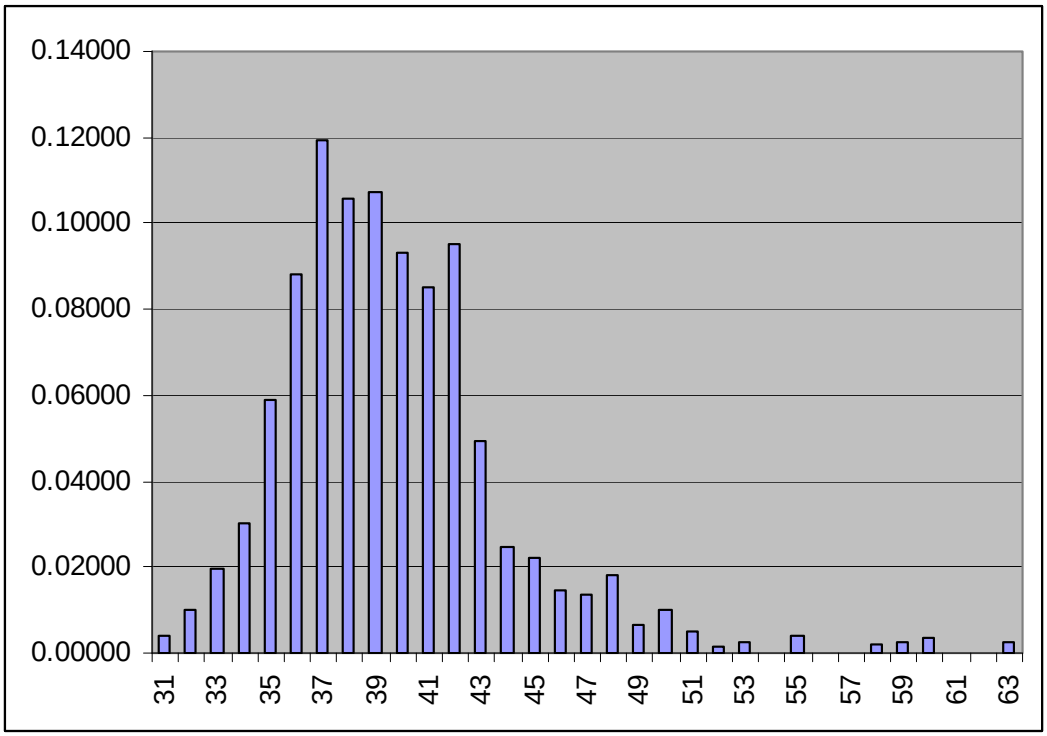


Figure 2. Trawl survey length frequency distribution from fall 2011 tows.

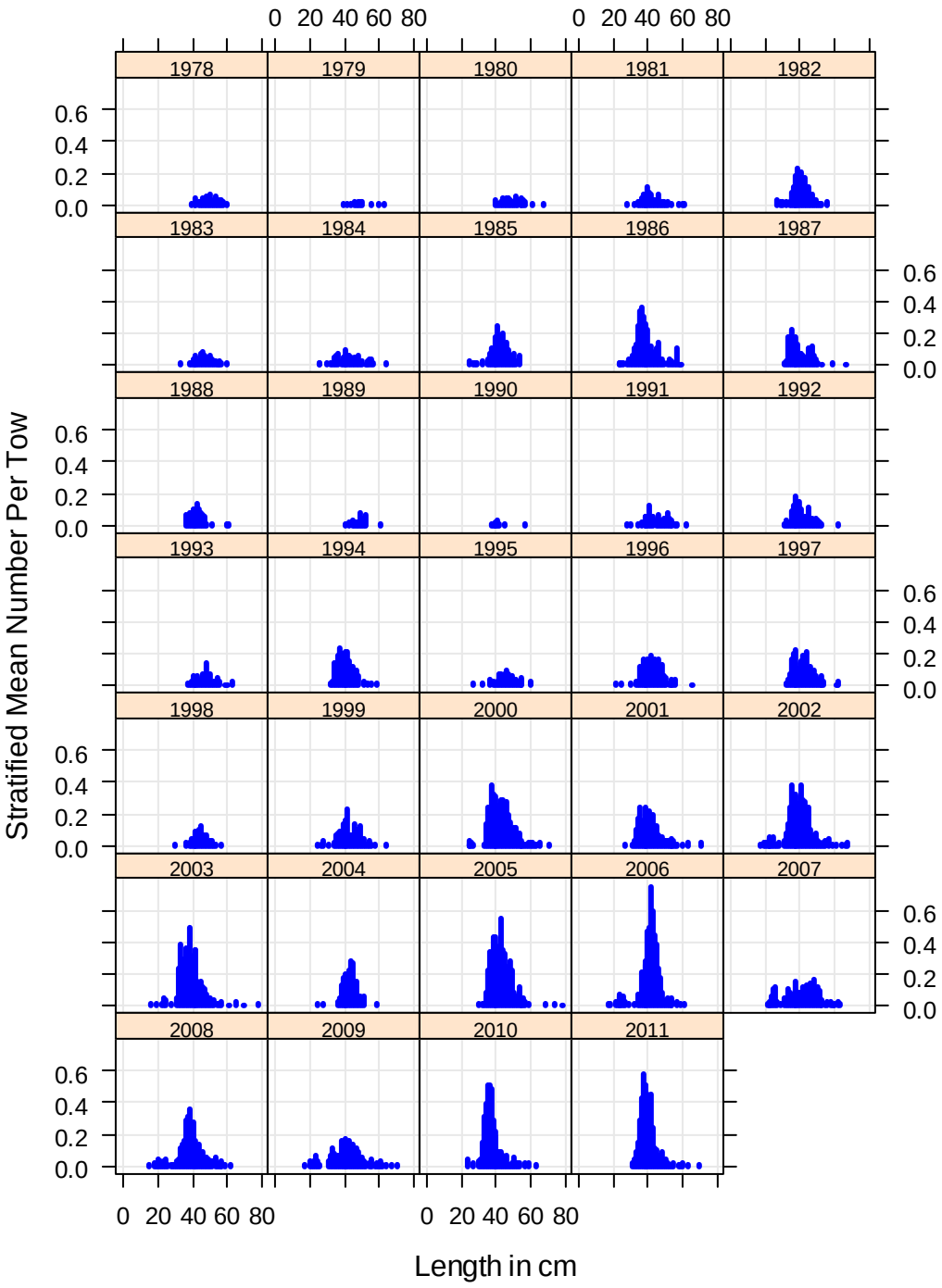


Notes for TC on fluke proposal.

Hey folks. Sorry I couldn't join the meeting but I'd planned on this vacation long before the meeting was scheduled. Toni will present our fluke proposal and all the information is in the memo to you but I just wanted to give you a bit more info.

Bottom line - we are much like Maryland (and North Carolina for that matter) in that our fishery takes place almost entirely within major estuaries, Nantucket Sound, Vineyard Sound and Buzzards Bay. These are relatively shallow warm water environments and so our population trends to an abundance of smaller fish. The length distribution of fluke caught in our fishery in our waters yields a mean length around 15.0" or so. Our fisheries independent trawl survey length frequency distribution (34 year data time series) has a similar length distribution – mean size of 15.5" -see below R plots. While we do catch some bigger fish here, they are in the shoal water early in the season when there is little directed angling activity and in the very deep water later in the season where access is more difficult and our small boat anglers generally do not fish.

In short, as much as the proposal only leaves about a 30% buffer between the expected harvest increase and allowed harvest increase - looking at our past performance I'm pretty confident we won't exceed our target unless we have some type of major distribution change or unexpected change in fishery behavior.


Summer Flounder
MADMF Fall Survey, Regions 1-5
Stratified Mean Number Per Tow
Length in cm
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
0 20 40 60 80
0.0
0.2
0.4
0.6

Connecticut Department of ENERGY & ENVIRONMENTAL PROTECTION

To: Summer flounder, Scup and Black Sea Bass Technical Committee
From: Greg Wojcik, CT DEP Marine Fisheries Division
Date: January 17, 2012

Connecticut Recreational Summer Flounder Fishery Compliance Options for 2012

According to Table 1 in the Technical Committee's (TC) memo dated January 6, 2012, Connecticut harvested 62,542 fish in 2011, 48% of the 128,000 fish target. The target harvest for 2012 is 104,000 fish, allowing a 67% liberalization of harvest in 2012. Our 2011 regulations consisted of a 18.5 inch minimum size, 3 fish creel limit and an open season from May 15 – September 5. At designated shore locations, there was a minimum length of 17 inches and a creel limit of 1 fish. I am requesting approval from the technical committee of the methods used to calculate management options for the 2012 fishing year. I have provided examples of management options (Table 1) for Connecticut to increase harvest within the limits of the 2012 quota.

LIBERALIZATION METHODS USED FOR CALCULATING 2011 REGULATIONS

The cumulative liberalizations were made using the formula (X+Y)-(X*Y) with X as the percent liberalization associated with season and Y as the percent liberalization associated with the size/possession limits.

Season (X)

Harvest per day rates for waves 3 and 4 came directly from the 2011 landings provided by MRIP, specifically 694 fish per day for wave 3 and 482 fish per day for wave 4. Since wave 5 was only open for 5 days in 2011 the MRIP estimates were 0 fish. If there is an expansion of wave 5 in the 2012 season, recreational landings are expected. Calculations to estimate a catch per day rate for wave 5 were done by using the proportion of landings by wave from the most recent years the season was open. The method used was to take the average percent harvest per wave for the most recent years that had all of wave 5 open (2001 to 2006, Figure 1) and expand 2011 landings to open all year. Estimates can then be made to arrive at a more accurate catch per day value for wave 5. This resulted in 118 fish per day for wave 5. The estimate used to calculate 2011 wave 5 harvest was 74 fish per day. The MRIP estimates from being open for 5 days were 0 fish per day.

Possession and Size (Y)

The MRIP sample size of measures summer flounder (Type A fish) in 2011 was only 37 fish. This sample size did not allow an accurate length frequency table to be created for making liberalizations for the 2012 fishing year. As a replacement, the 2010 and 2011 combined Connecticut Volunteer Angler Survey (VAS) data was used to calculate size limit liberalizations (Figure 2). This data has a combined sample size of 2,600 lengths. Using both years was done as a precautionary measure. When using just the 2011 data, results were less restrictive than using the combined 2010 and 2011 lengths. Seeing this difference from one year to the next provoked

combining the data to get a more accurate distribution to use for calculating 2012 liberalizations. Typically in VAS data, fishermen round the length to the whole inch rather than half inch increments (Figure 2). If you use this raw length data when calculating liberalizations it results in uneven values. To account for the digit bias that appears in the VAS data, smoothing procedures were performed. The lengths were placed in whole inch bins and then distributed evenly to the whole length and the half length.

Liberalization of the creel limit was done using the 2008 Connecticut VAS data. This is the most recent year the creel limit was 5 fish. Proportions of trips by creel size were created and put into a matrix table (Table 3) with the length limits using the formula (X+Y)-(X*Y) to account for the interaction between the creel limit and minimum size.

SHORE MODE SIZE AND POSSESSION LIMIT

Over the past decade Connecticut shore fishing opportunities have been lost due to increasing minimum size requirements in interstate fishery management plans. Shore mode catch and harvest has historically been a very small portion of the total catch and harvest for summer flounder (Figure 3). Landings have not exceeded 4,000 fish over the most recent eight years. Connecticut would like to continue to restore this small portion of the summer flounder recreational fishery by giving these shore fishermen a better opportunity of keeping fish. In order to accomplish this and remain under the 2012 target, Connecticut is proposing lowering the minimum length for specific designated shore locations to 16" with a creel limit the same as the other modes. To account for any uncertainty in regards to the shore mode harvest, 'worst-case scenario' calculation measures were used to determine the harvest estimates. This calculation assumes that 100% of 2011 the shore mode catch will be harvested in 2012. This catch will then be added to the harvest estimates of the other modes as if it were an entirely new fishery (Table 1).

PAST PERFORMANCE

The past performance of Connecticut's harvest being constrained to the target is provided in Figure 4. Since 2001 when Connecticut harvest has been restricted to targets set by the fishery management plan. The target has only been exceeded 3 times, remaining within 23% of the target in these years.

Table 1. 2012 Connecticut Summer Flounder Regulation Options with Harvest Estimates.

Regulations				Harvest Estimates			*Harvest Estimates including a Shore Mode Fishery		
Option	Season	Creel	Min Size	Estimated Landings	% Lib	% under Target	Estimated landings	% Lib	% under Target
Status Quo	5/15/12 - 9/5/12	3	18.5	62,541	0%	40%	68,121	9%	34.5%
1	5/15/12 - 10/31/12	5	18"	92,811	48.4%	11%	98,391	57.3%	5.4%
2	5/15/12 - 10/31/12	3	17.5"	92,436	47.8%	11%	98,016	56.7%	5.8%
3	5/01/12 - 10/31/12	3	18"	92,936	48.6%	11%	98,516	57.5%	5.3%

*These estimates assume all shore mode catch is landed, regardless of size.

Table 2. 2010 – 2011 Connecticut Summer Flounder Number of Days open and Catch per day values used to determine liberalizations.

Year	Wave 3		Wave 4		Wave 5	
	Days Open	Harvest per Day	Days Open	Harvest per Day	Days Open	Harvest per Day
2010	47	197	56	551	0	76*
2011	47	694	61	483	5	118*

*Calculated value based on the proportion of catch by wave from 2001 – 2006.

Table 3. Percent Liberalizations used to calculate options based on the size limit and creel limit.

Size Limit	Creel Limt		
	3	4	5
18.5”	0.000	0.098	0.133
18”	0.170	0.285	0.325
17.5”	0.321	0.450	0.614

Figure 1. Distributional changes in summer flounder catch (A+B1+B2) by wave in Connecticut from 2001-2006.

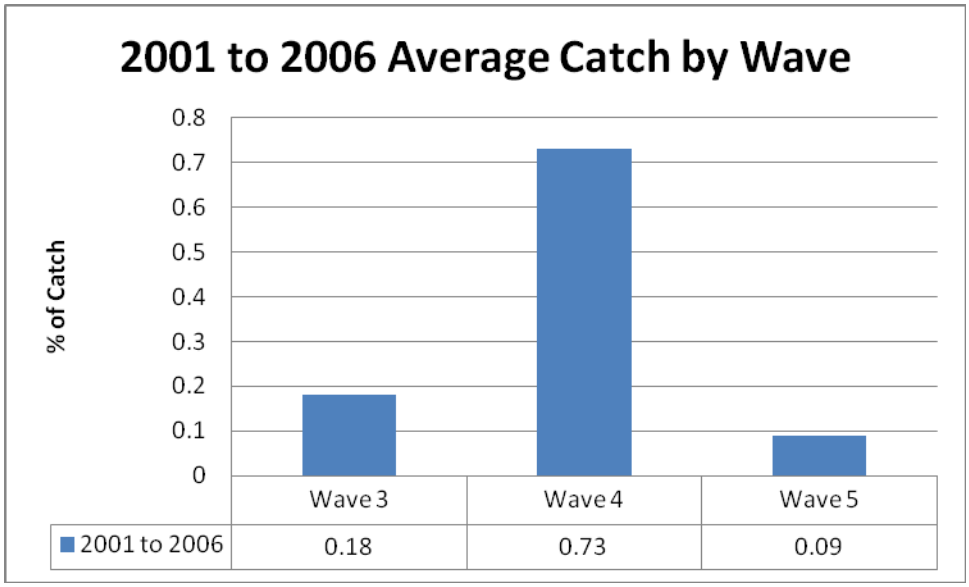


Figure 2. Combined 2010 and 2011 CT VAS Summer Flounder Catch by Length.

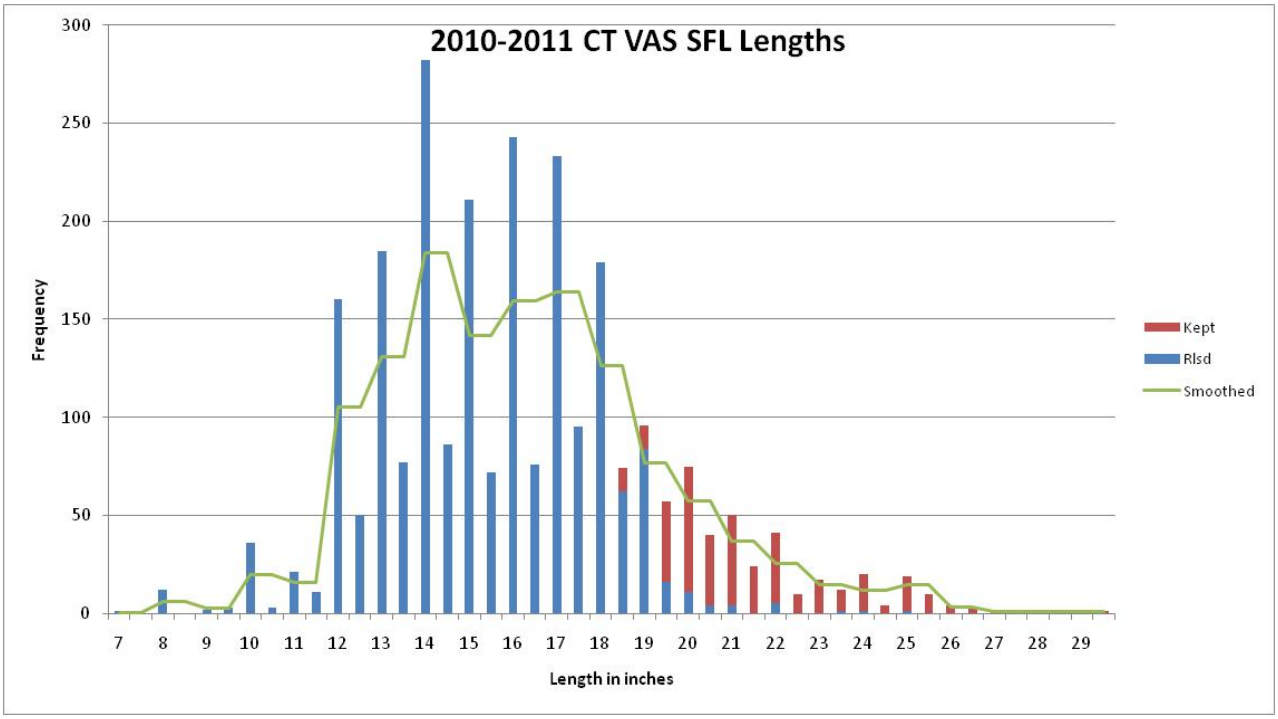


Figure 3. 2000 – 2010 MRFSS Summer Flounder Catch Estimates by Shore Mode and all other Mode Combined.

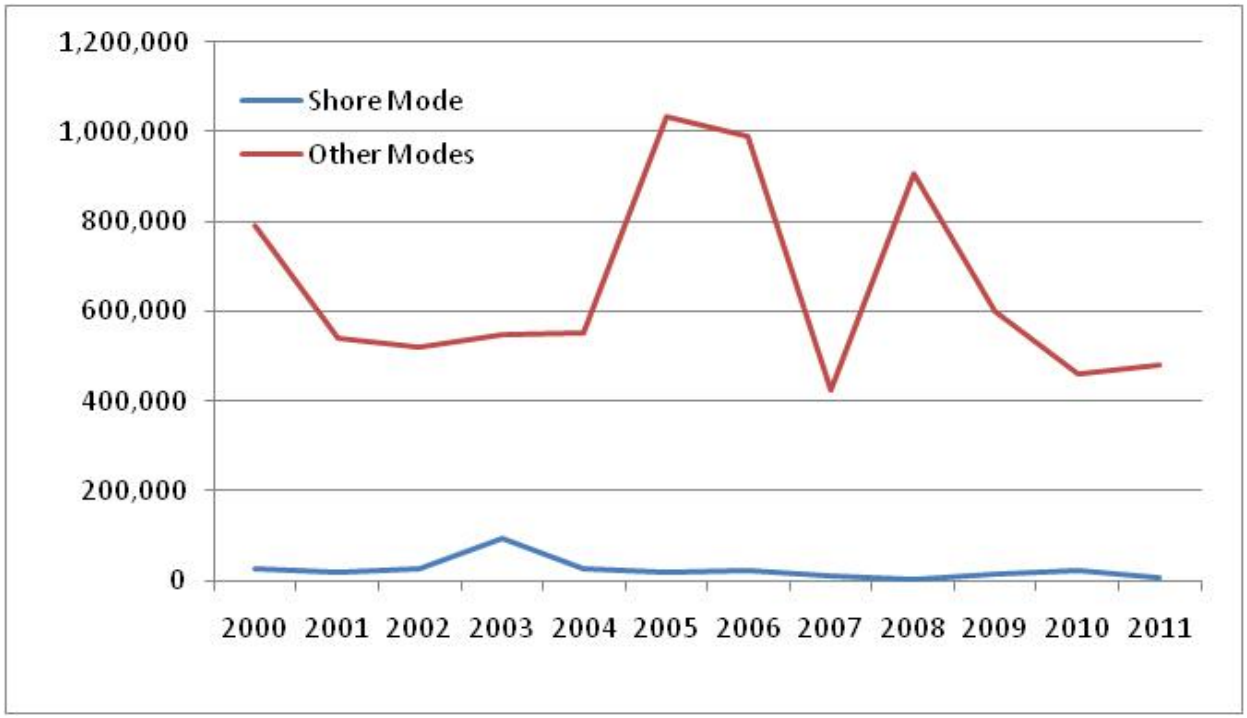
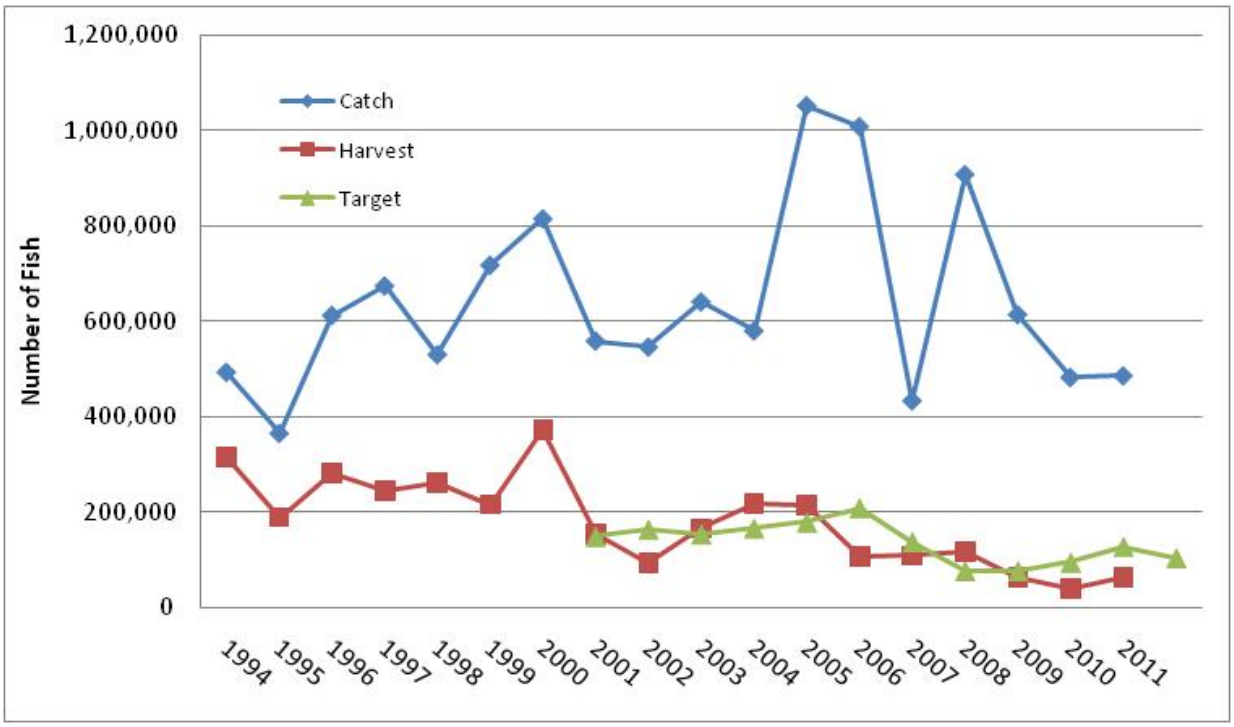


Figure 4. 1981 – 2010 MRFSS Estimates for Connecticut Summer Flounder Catch, Harvest and Target.



New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
Bureau of Marine Resources
205 North Belle Mead Road, Suite 1, East Setauket, New York 11733
Phone: (631) 444-0430 • **Fax:** (631) 444-0434
Website: www.dec.ny.gov

Joe Martens
Commissioner

TO: Toni Kerns, Senior FMP Coordinator
Atlantic States Marine Fisheries Commission

FROM: John Maniscalco
New York State Department of Environmental Conservation

DATE: January 18,2012

SUBJECT: **New York's Proposed Management Plan for the 2012 Summer Flounder Recreational Fishery**

Summary

In 2011, marine recreational anglers landed an estimated 288,101 summer flounder in New York. New York's harvest limit for 2012 is 492,000 fish, which allows New York to liberalize its harvest by 71%. This memo lists six alternatives for managing New York's recreational summer flounder fishery in 2012. It also includes a description of the methodology used to calculate projected harvests associated with each of these measures, and a review of harvest limits, landings and regulatory measures used by New York to manage its fishery since 2001. New York has already consulted with the public during a January 17th, 2012 Marine Resource Advisory Council (MRAC) meeting and pending Commission approval, hopes to implement Option 6 of Table 1 (below) as its 2012 recreational summer flounder regulations. These include a 4 fish bag limit, a 19.5 inch minimum size, and an open season from May 1 thru September 30. These regulations represent a 51% liberalization via a 1 fish increase in the bag limit and a 1 inch decrease in the minimum size.

Proposed Measures

New York's current regulations include a 20.5" minimum size limit, a 3 fish bag limit and an open season from May 1 – Sept 30. Following the conservation equivalency guidelines established by the ASMFC Technical Committee in your memo dated January 6, 2012, New York is considering the following alternative management measures:

Table 1.

Option	Season	Size (Inches)	Bag	%LIB
(2011 Regs.) 0	Tues 5/1 - Sun 9/30	20.5	3	0.0%
1	Tues 5/1 - Sun 9/30	19.5	3	37.0%
2	Sat 5/12 - Sun 9/16	19	3	54.0%
3	Mon 5/14 - Sun 9/23	19	3	52.2%
4	Fri 5/11 - Mon 9/3	19	3	52.8%
5	Tues 5/15 - Sun 9/30	19	3	52.0%
6	Tues 5/1 - Sun 9/30	19.5	4	50.7%

The reduction tables available were not suited to liberalizing harvest in NY for 2012. Instead, percent liberalization of each option was calculated using the fish availability at size relative to 20.5" from a length frequency distribution created using New York's 2011 MRFSS Type 3 and Type 9 records (n=2,093) and 2011 MRFSS catch estimates by wave. Any contraction in season was calculated using the average daily catch from 2011 (MRFSS estimates) during the appropriate wave. Fish availability estimates were further compared with the length frequency distributions of fluke sampled during the NYSDEC's own head-boat sampling efforts in 2011, the NEAMAP Trawl Survey (Spring 2011 NY tows only) and the 2011 NJ Trawl Survey (Table 2). Estimates of fish availability generated from NY MRFSS data were lower (less conservative) than the NYSDEC sampling but very similar if not more conservative higher than both trawl surveys.

Table 2.

FLUKE LENGTH	MRFSS NY	NYSDEC SAMPLING	NY NEAMAP SPRING TRAWL	NJ TRAWL
19"	76%	104%	60%	61%
19.5"	37%	67%	33%	41%
20"	17%	20%	20%	24%
NO. LENGTH SAMPLES	2,093	901	802	1,286

An increase in the bag limit of 1 fish was also difficult to calculate from the data available. A conservative multiplier of 1.1 was applied to the projected harvest for option 6 to account for the bag increase. This equates to a liberalization value of 13.7% for adding 1 additional fish at 19.5 inches.

Past Performance Review

The Atlantic States Marine Fisheries Commission's conservation equivalency memo of January 6, 2012 includes a requirement that each state '…develop evaluations of their states past management history, fishery performance relative to those measures and an evaluation of which measures work for that state…' Under conservation equivalency, New York is allocated a harvest limit equal to about 17% of the total coastal harvest limit, by number. Since 2001, New York's harvest limit has ranged from 361,000 in 2008 to 845,000 fish in 2005. Landings have ranged from a low of 251,356 in 2010 to a high of 1.5 million fish in 2003. During the 11 years under the conservation equivalency approach, New York has exceeded its harvest limit six times (Table 3). Overages range from 20% to 112%, and average 52% of the allowable harvest limit. In total, New York anglers have harvested an estimated 1.7 million fish in excess of the harvest limit allocated to New York since 2001 (Table 3).

In 2009, New York implemented a 21 inch size limit, a highly restrictive bag limit, and a substantial mid- season closure during waves 3 and 4, the height of the recreational fishing season. Landings for 2009 were 30% below New York's allowable harvest limit, the lowest summer flounder harvest ever recorded in New York. In 2010 the recreational harvest limit was

increased to 449,000 fish, and while bag and size limit remained at 2 fish and 21 inches, the season was expanded to include the entire season from May 15th through September 6th. This resulted in 37 days being added to the 2010 fishing season during periods when landings are generally high. In spite of the much longer season, New York anglers only harvested an estimated 251,355 fish, a number representing a much lower harvest rate than in 2009 and only 56% of the allowable catch for 2010. The weather during the 2010 fishing season in New York was generally favorable. A number of variables may account for the lack of harvest, including but not limited to fish distribution; the relatively weak 2005, 2006, and 2007 year classes; economic conditions; the implementation of New York's saltwater fishing license; and cooperation with MRIP interviewers. This pattern of NY summer flounder recreational under-harvest continued in 2011, where despite considerable liberalization of regulations (primarily season expansion to a more traditional May 1 thru September 30 season) NY only harvested 47% of its target.

The number of directed trips for summer flounder has decreased steadily since 2007, with 1,227,611 trips in 2010 being the lowest in 10 years. There has been a slight increase in directed trips for fluke in 2011 at 1,359,834 trips (this does not include trips taken in Wave 5, perhaps as much as another 100,000). The large minimum size limits that have been in place from 2008 through 2011 (≥ 20.5") have probably resulted in angler dissatisfaction and lack of participation. In addition, a poor economy, rising fuel costs, and bad weather may have contributed to low harvest in some recent years and/or waves.

The regulatory option favored for 2012 by NY's MRAC included a long season, a 19.5" size limit and a 4 fish bag. It is very similar to regulations that were in place in 2007 when NY recreational anglers harvested 710,000 fish and 165% of New York's allocation. However, the same comparison could be made between 2008 and 2011 where similar regulations resulted in very different harvests. Fish availability, angler participation and weather may all play a role in how well proposed regulations moderate harvest. A lower minimum size limit of 19.5 inches will bring NY more in line with the regulations present in neighboring states. The options proposed by this memo are all conservative in that they liberalize to an extent significantly less than the maximum allowed.

Table 3.

YEAR	SIZE LIMIT	BAG	SEASON	LANDINGS	QUOTA	% LAND	TRIPS
2001	17	7	5/2 - 10/31	699,625	701,000	100%	1,679,995
2002	17	7	5/2 - 10/31	696,343	775,000	90%	1,709,728
2003	17	7	ALL YEAR	1,539,115	726,000	212%	2,299,234
2004	17.5	3	5/15 - 9/6	937,016	783,000	120%	1,464,380
2005	17.5	5	4/29 - 10/31	1,147,019	845,000	136%	2,468,330
2006	18	4	5/6 - 9/12	801,938	650,000	123%	2,033,449
2007	19.5	4	4/24 - 9/17	710,514	430,000	165%	2,055,355
2008	20.5	4	5/15 - 9/1	565,456	361,000	157%	1,848,302
2009	21	2	5/15 - 6/15 and 7/3 - 8/17	264,508	365,000	72%	1,434,739
2010	21	2	5/15 - 9/6	251,356	449,000	56%	1,227,611
2011	20.5	3	5/1 - 9/30	288,101	609,000	47%	1,359,834

NEW JERSEY DIVISION OF
Fish and Wildlife
P.O. Box 400
Trenton, NJ 08625-0400
David Chanda, Director

Memorandum

TO: Toni Kerns, Senior FMP Coordinator for Management
Atlantic States Marine Fisheries Commission

FROM: Tom Baum, Principal Biologist
New Jersey Bureau of Marine Fisheries

DATE: January 19, 2012

SUBJECT: NJ Summer Flounder Recreational Fishery Management Proposal for 2012

Attached are New Jersey's (NJ) options to manage its 2012 summer flounder recreational fishery. Each option contains a combination of a size limit, bag limit and season that satisfies the requirements of conservation equivalency as established by the Atlantic States Marine Fisheries Commission (ASMFC). Spreadsheets that include the formulas used to calculate the percent liberalization for various sample options have been provided to the ASMFC's Summer Flounder Technical Committee.

Background:

At their December 2011 joint meeting, the ASMFC and the Mid-Atlantic Fisheries Management Council (MAFMC) adopted conservation equivalent measures versus coastwide regulations for managing the 2012 recreational summer flounder fishery. Most states were significantly under their 2011 recreational target. New Jersey is allocated a recreational target of 1,090,407 fish for 2012.

Action:

According to Table 1 of Toni Kerns' (ASMFC) conservation equivalency memo of January 6, 2012, New Jersey is able to liberalize its current summer flounder recreational regulations by 38%. This is the difference of NJ's 2011 summer flounder harvest estimate of 787,234 fish and its 2012 summer flounder recreational target of 1,090,407 fish. Current management measures may be adjusted in order to realize (but not exceed) the increased target in the following ways: 1) by reducing the size limit; 2) by increasing the bag limit; 3) by increasing the season; and 4) a combination of numbers 1 – 3.

Performance Evaluation of Management Measures:

Table 1 lists NJ's summer flounder recreational management measures by year since 2000. It includes the annual harvest and respective targets and appropriate year to year reductions (if necessary). The first year (2001) that all states developed regulations under conservation equivalency, NJ was required to reduce its 2000 summer flounder recreational harvest by 34%. The size limit was increased to 16-inches and the season reduced by 45 days. This action decreased the harvest 32% relative to the 2000 harvest, yet there was still a 33% overage relative to the 2001 target. In 2002 the size limit was increased to 16.5-inches. The 2002 harvest estimate for NJ was 52% less than the previous year. The size limit remained 16.5-inches through 2006 with an 8-fish bag limit. During the 5-years the size limit was at 16.5-inches, the target was exceeded three times, by an average of less than 10%. During the next two years, the target dramatically declined, necessitating severe reductions. A 40% reduction was required for 2007, in which the size limit was raised to 17-inches and the open season reduced by 49 days. Although the 2007 harvest estimate was 15% lower than the 2006 harvest estimate, the 2007 target was exceeded by nearly 40%. With this overage and the record low target for 2008, the size limit was raised one inch to 18-inches for 2008. The 2008 harvest estimate was 36% lower than the 2007 harvest estimate, but the 2008 target was still exceeded by 6%. The bag limit was reduced from 8-fish to 6-fish in 2009 to account for the 4% required reduction. The 2009 harvest estimate was 19% greater than the 2008 harvest estimate, and exceeded the 2009 target by 25%. The 2010 target increased relative to the 2009 target, therefore, NJ was required to take a 2% reduction, which it did by reducing the season 4-days. The 2010 and 2011 recreational summer flounder harvest estimates for NJ are the lowest harvest estimates during management by conservation equivalency.

The significant 2007 and 2009 overages are due to the low targets for those years. It is difficult to state a case for any one management measure being solely effective. Size limit increases appeared to reduce harvest significantly for 2002 and 2008. The bag limit adjustment from 8-fish to 6-fish for 2009 appeared to have no effect, but such a small reduction was required that the 2009 overage is more likely due to fish availability. The strong 2004 year class may have contributed significantly to the annual harvest since 2006. The size limit increases may have inadvertently targeted that year class from 2006 through 2009.

There were two years, 2001 and 2007 where the season was reduced significantly, 45-days and 49-days respectively. Those two season reductions were associated with a half inch size limit increase. The result was a decrease of 32% and 15% respectively of the harvest estimates from the previous years. Shortening the season has proven to be effective for constraining harvest for NJ's summer flounder recreational fishery. Conversely, the season was increased by 34 days in 2003, where the harvest estimate increased 80% from the previous year. In 2011, NJ increased the season by 41 days. As a result, the 2011 harvest estimate increased by 33% from 2010, although, the 2011 regulations were developed to achieve a 77% increase in harvest.

During the eleven years of managing summer flounder under conservation equivalency, NJ exceeded the annual target seven of those years by an average of 19%. Overall, the sum of the landings for eleven years during conservation equivalency did not exceed the sum of the targets for those years.

Method:

Harvest liberalizations associated with various size and bag limits were calculated using NJ's size and bag limit reduction table developed provided by MAFMC staff. The 2007 table was utilized for determining percent liberalization. The liberalization is calculated as the difference between the numbers associated with the proposed regulations and the 2011 regulations. The negative values in Table 2 represent percent liberalization. The cells that are blacked out in Table 2 indicate there was insufficient data available to derive a value.

In order to determine the percent liberalization associated with changes in season length, a daily harvest rate was calculated based on NJ harvest estimates (A+B1 fish) from the National Marine Fisheries Service's (NMFS) recreational fishing survey. Averages of the most recent three years of data (2009 through 2011) were used. As per Toni Kerns' memo (January 6, 2012) "If a state can liberalize their measures, evaluations should be done using the average landings per day of the wave with the highest landings within the waves to be opened". Wave 4 (July and August) has always been the wave of highest harvest in NJ. Using the daily harvest rate for wave 4 of 0.113 (Table 3), is more conservative, since options include opening days in waves 3 and 5. The daily harvest rate for wave 4 is almost twice that of the daily harvest rate of wave 3 (0.0069) and significantly greater than the wave 5 daily harvest rate (0.001).

Total reductions were adjusted to account for the fact that cumulative changes associated with size/bag limits and seasonal closures are not additive using the total reduction/liberalization formula of: (X+Y) - (X*Y).
X = The percent reduction associated with seasonal closure(s).
Y = The percent reductions associated with size/possession limit.

Proposed Management Strategies for 2012:

Sample options that might be considered for NJ's 2012 summer flounder recreational fishery are listed in Tables 4 and 5b. Option A represents the 2011 regulations or status quo. Options B through G were developed using the bag/size limit table (Table 2) and the daily harvest rates from Table 3. The options shown in Table 5b were developed using data from NJ's Volunteer Angler Survey (VAS) to calculate size and bag limits and season length. This methodology was presented to the Technical Committee by Mr. Jeffrey Brust (NJDFW) at its November 17, 2010 meeting in Baltimore, Md. The Committee was also provided the MS_WORD file *"NJ VAS analysis method.doc"*, which provides a detailed description of the survey and methodology used to develop those options. The NJ VAS analysis methodology was approved by the Technical Committee at its January 2011 meeting and the 2011 options that were developed using the NJ VAS data were approved by the Management Board at its February 2011 meeting. Table 5a shows the number of days available for harvest by wave. There are two sections: the first uses the wave 5 catch rate to determine the number of days available for harvest during wave 5; while the second section uses the average catch rates of waves 3 and 4 to determine the number of days available for harvest during wave 5. Using only the wave 5 catch rate is more liberal than using the average of waves 3 and 4 catch rates. Examining Table 5b, the option of an 18" size limit, 8-fish bag limit and a season of May 22 through September 30, shows that staying at status quo is actually a reduction (season is nine days shorter). Jeff proposes to use a catch rate that would not show a reduction in this case. Although not presented, other dual size/bag limit options with a 1-fish bag and 17.5-inch minimum size / x-fish bag and 18-inch minimum size will be developed using the methodology that is accepted by the Technical Committee.

Please keep in mind that the options in this proposal reflect possibilities. NJ's Marine Fisheries Council Summer Flounder Committee and its advisors will meet in March to recommend to the Council the option(s) for 2012. The Council will meet in April to select an option. The option they select may or may not be one of the examples provided, but it will have been developed using the methodology(ies) that are accepted by the Technical Committee and approved by the Management Board.

The Technical Committee recommends precautionary measures be used when developing management options. While crafting the sample options listed in Table 4 and 5b, the following concerns were considered:

- Percent Standard Error (PSE) for NJ's 2011 harvest estimates is 9%.
- 2010 and 2011 recreational summer flounder harvest estimates may be underestimated.
- The 38% allowed liberalization represents the difference of the 2012 target in relation to the 2011 harvest estimate.
- The 2011 regulations were developed to achieve the 2011 target.
- The 2012 target is 18% less than the 2011 target.
- Constraining the season has been effective for reducing harvest, the converse is also true; i.e.: in 2003 NJ increased season by 34-days and the harvest increased 80%.
- Bag/size limit table from 2007 was utilized for calculating percent liberalizations.
- Year class strength of 2008 and 2009
- Target fishing effort declined significantly in 2011

Notes:

- NJ's 2011 summer flounder recreational regulations:
  18" size limit; 8-fish bag limit; open season from May 7 to September 25.
- NJ's 2011 recreational summer flounder target = 1,335,000 fish
- NJ's 2011 preliminary recreational summer flounder harvest estimate = 787,234 fish
- NJ's 2012 recreational summer flounder target = 1,090,407 fish

Table 1. Performance of New Jersey's Summer Flounder Recreational Regulations

Year	Needed Reduction	Size Limit (inches)	Bag Limit	Open Season	# days open	Numbers of Fish		
						Landings	Target	%O/U
2000		15.5	8	May 6 - Oct 20	168			
2001	34%	16	8	May 12 - Sept 11	123	2,070,234	1,555,000	33%
2002	17%	16.5	8	May 18 - Sept 24	130	988,878	1,719,000	-42%
2003	-63%	16.5	8	May 3 - Oct 13	164	1,784,356	1,612,000	11%
2004	3%	16.5	8	May 8 - Oct 11	157	1,887,193	1,736,000	9%
2005	1%	16.5	8	May 7 - Oct 10	157	1,395,626	1,873,000	-25%
2006	-3%	16.5	8	May 6 - Oct 9	157	1,560,505	1,443,000	8%
2007	39%	17	8	May 26 - Sept 10	108	1,327,567	954,000	39%
2008	40%	18	8	May 24 - Sept 7	107	851,447	801,433	6%
2009	5%	18	6	May 23 - Sept 4	105	1,012,806	809,000	25%
2010	2%	18	6	May 29 - Sept 6	101	593,677	997,000	-40%
2011	-125%	18	8	May 7 – Sept 25	142	787,234	1,335,000	-41%
2012	-38%						1,090,407	

Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division (January 7, 2011).

Indicates measure(s) used to achieve reduction.

- NJ's 2011 recreational summer flounder target = 1,335,000 fish
- NJ's 2011 preliminary recreational summer flounder harvest estimate = 787,234 fish
- NJ's 2012 recreational summer flounder target = 1,090,407 fish
- NJ's 2011 summer flounder recreational regulations:
  18" size limit; 8-fish bag limit; open season from May 7 to September 25

Table 2. Percent Reductions various size and bag limits on 2007 summer flounder recreational landings in the state of New Jersey.

bag	17"	17.5"	18"
1	-9%	10%	28%
2	-49%	-17%	8%
3	-65%	-27%	1%
4	-70%	-29%	0%
5	-71%		
6			
7			
8			

Negative values represent amount of liberalization.

Table 3. Daily Harvest Rate by Wave for NJ: 2009 – 2011 (average)

	Wave 3	Wave 4	Wave 5	Total
# Days Open	127	186	35	348
Harvest (#'s of fish)	695,808	1,671,337	26,572	2,393,717
Daily Harvest (#'s of fish)	5,479	8,986	759	6,878
Daily Harvest Rate	0.0069	**0.0113**	0.0010	0.0086

Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division (1/12/2012).

Table 4. Sample Options for New Jersey's 2012 Summer Flounder Recreational Fishery

Sample Option	Size Limit (inches)	Bag Limit	Open Season	# days open	Liberalization
A*	18	8	May 7 – Sept 25	142	0%
B	18	8	April 28 – Oct 14	170	32%
C	18	8	April 7 – Sept 23	170	32%
D	18	8	May 5 – Oct 21	170	32%
E	17.5	4	May 5 – Sept 23	142	29%
F	17.5	4	April 29 – Sept 23	148	38%
G	17.5	4	May 5 – Sept 29	148	38%

* Option A = 2011 regulations

Denotes change from 2011 regulations.

Table 5a. Number of days available for harvest by minimum size and bag limit using NJ VAS data.

Size Limit (inches)	Bag Limit	Wave 5 catch rate used for analysis			Bag Limit	Waves 3 & 4 average catch rate used for analysis		
		Wave 3	Wave 4	Wave 5		Wave 3	Wave 4	Wave 5
18	**4**	46	62	203	**4**	46	62	35
	5	43	62	188	**5**	43	62	33
	6	42	62	179	**6**	42	62	32
	8	40	62	171	**8**	40	62	30
17.5	**4**	16	62	35	**4**	16	62	12
	5	12	62	27	**5**	12	62	9
	6	10	62	22	**6**	10	62	8
	8	8	62	17	**8**	8	62	6
17 / 18	**1 / 3**	14	62	21	**1 / 3**	14	62	10
	1 / 4	12	62	17	**1 / 4**	12	62	9
	1 / 5	11	62	16	**1 / 5**	11	62	8
	1 / 7	10	62	14	**1 / 7**	10	62	8

Table 5b. Options for NJ's 2012 Summer Flounder Recreational Fishery using NJ VAS data.

Size Limit (inches)	Bag Limit	Open Season Wave 5 catch data used for analysis	# days open		Open Season Waves 3 & 4 average catch rate used for analysis	# days open
18	4	May 16 – Dec 31	229		May 16 – Oct 5	142
	5	May 19 – Dec 31	226		May 19 – Oct 3	138
	6	May 20 – Dec 31	225		May 20 – Oct 2	135
	8	May 22 – Dec 31	223		May 22 – Sept 30	133
17.5	4	June 15 – Oct 5	113		June 15 – Sept 12	90
	5	June 19 – Sept 27	101		June 19 – Sept 9	84
	6	June 21 – Sept 22	94		June 21 – Sept 8	80
	8	June 23 – Sept 17	87		June 23 – Sept 6	76
17 / 18	1 / 3	June 17 – Sept 21	97		June 17 – Sept 10	87
	1 / 4	June 19 – Sept 17	92		June 19 – Sept 9	83
	1 / 5	June 20 – Sept 16	89		June 20 – Sept 8	81
	1 / 7	June 21 – Sept 14	87		June 21 – Sept 8	80

All options assume coastwide average weight of 3.14 lbs/fish

MEMORANDUM

TO: Summer flounder, black sea bass, scup Technical Committee, ASMFC

FROM: Richard Wong

DATE: January 18, 2012

SUBJECT: State of Delaware proposal for summer flounder recreational harvest reduction

Executive Summary

Delaware's 2011 harvest estimate of 94,745 was 11.5% under its target of 107,000 fish, continuing a long string of quota underages in 8 of the past 10 years. The 2012 harvest quota for the State of Delaware is 87,536 fish, representing a 7.6% difference from the 2011 harvest.

The State of Delaware requests to keep status quo management measures for 2012 in light of the minor reduction needed. Delaware represents 3% of the coastwide harvest limit and is the only state with a reduction in 2012. Its 2011 harvest would need to be reduced by 7,209 fish, which is about ¼ of one percent of the 2012 coastwide harvest limit (0.26%). We've observed an unprecedented three consecutive years of growing coastwide underages (12%, 42%, 53%) (J. Coakley MAFMC). These 7,209 fish are inconsequential relative to the coastwide harvest limit and these large underages. The coastwide underage was more than 1,636,000 fish in 2011. We expect that given the fact that all states will be liberalizing in 2012, we'll again be well under the coastwide harvest limit due to our conservative approaches for liberalization. The reduction is also minor compared to the 23% imprecision of the harvest estimate in 2011. Annual PSE averages 14%, about twice the required reduction.

Maintaining the same recreational measures from year to year is very helpful with non-compliance rates and is preferred by our anglers. The process required to change regulations is lengthy in Delaware, so any new measures cannot be implemented until mid May. This is confusing to our anglers and creates non-compliance issues.

Given Delaware's minor reduction (~7,000 fish) relative to its PSE, its negligible share of the CW quota, large recurring coastwide underages, and continued coastwide liberalizations, we feel that status quo measures in Delaware will pose no threat to the coastwide harvest limit or to stock status in 2012. This request for status quo measures is only brought forward due to these special circumstances in 2012.

Table 1. 2012 proposed options.

Options	Size	Creel	Season	Reduction
Option 1 *Status quo*	18.0	4	Jan 1 – Oct 23 (69 day closure)	0%
Option 2	18.0	4	Jan 1 – Sep 6 (116 day closure)	7.6%
Option 3	18.0	3	Jan 1 – Oct 7 (85 day closure)	7.6%
Option 4	18.0	2	No closure	10.7%
Option 5	18.5	4	No closure	8.5%

Review of Quota Performance for the State of Delaware

Table 2. Recreational fishery regulations and quota performance for the State of Delaware 2001-2011. Quota management through conservation equivalency for the State of Delaware has resulted in quota underages in 8 of 11 years by 5% on average and 8% cumulatively

	Size Limit	Bag Limit	Season	Landings	PSE	Target	%O/U
2001	17.5	4	Year-round	145,786	10.9	125,000	16.6%
2002	17.5	4	5/16 -12/31	106,837	9.7	138,000	-22.6%
2003	17.5	4	Year-round	105,743	10.9	129,000	-18.0%
2004	17.5	4	Year-round	123,714	12.7	139,000	-11.0%
2005	17.5	4	Year-round	90,657	13	150,000	-39.6%
2006	17.0	4	Year-round	110,223	13.5	116,000	-5.0%
2007	18.0	4	Year-round	117,735	12.5	76,608	53.7%
2008	19.5	4	Year-round	32,953	25.3	64,338	-48.8%
2009	18.5	4	Year-round	92,039	11.9	65,000	41.6%
2010	18.5	4	1/1 – 10/12	72,102	14.9	80,000	-9.9%
2011	18.0	4	1/1 - 10/23	94,745	23.1	107,000	-11.5%
			Cumulative	1,092,534	14.4(ave)	1,189,946	-8.2%

Methodology

Seasonal reductions were calculated using 2011 harvest wave data. The 2011 wave 5 data show a daily harvest rate of 152 fish/day. For Option 2, a further 47 day closure in wave 5 was required to reduce harvest by 7,209 fish. For Option 3, a further 16 day closure was needed in wave 5. Size and bag reductions were calculated using the 2011 reduction table supplied by MAFMC. Wave 6 data from 2007-2009 were used to calculate harvest per day rates for liberalized seasons in Options 4 and 5. This period most closely reflected current size, bag, and season conditions since size limits were raised to 18.0" in 2007. Also, wave 6 was closed from 2010 on.

HARVEST (TYPE A + B1)	***WAVE***					
Year	**2**	**3**	**4**	**5**	**6**	**Total**
2007	3576	48705	55767	9430	257	117735
2008	1651	11597	17695	2010	0	32953
2009	2406	34918	43991	9833	891	92039
2010	0	24506	42921	4675	0	72102
2011	379	52166	34143	8057		94745
Grand Total	**8012**	**171892**	**194517**	**34005**	**1148**	**409574**

2011 Reduction Table (J. Coakley MAFMC)

bag	***18***	***18.5***	***19***	***20***	***20.5***
1	0.3166	0.3504	0.5152	0.6354	0.6759
2	0.1184	0.1836	0.4232	0.5841	0.6249
3	0.0510	0.1323	0.3915	0.5684	0.6092
4	0.0000	0.0970	0.3758	0.5527	0.5935

Combined season and size/bag regulation changes were calculated using the instructions from the conservation equivalency memo (T. Kerns ASMFC).

Total Reduction/Liberalization = (x+y)-(x*y)

Increases are entered as negatives and decreases as positives.

X = The percent reduction associated with seasonal closure(s).

Y = The percent reductions associated with size/possession limit.

MARYLAND DEPARTMENT OF NATURAL RESOURCES

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

Draft: Proposal for 2012 Recreational Summer Flounder Management Options in Maryland

By: Steve Doctor
Coastal Fisheries Program
MDNR Fisheries Service

Background:

The 2012 coastal recreational harvest limit is 8.76 million pounds. The coastal recreational summer flounder quota is converted from pounds to numbers of fish based on the mean coastal recreational weight of summer flounder landings projected for 2012. Based on this conversion and Maryland's historical landings in the recreational summer flounder fishery (2.9%), Maryland will have a recreational target of 82,000 fish in 2012. Based on guidance from the Atlantic States Marine Fisheries Commission, the state of Maryland could potentially increase the harvest in its recreational fishery by 156%, the difference between Maryland's 2011 estimated summer flounder recreational harvest of 38,000 fish (MRFSS) and the 2012 harvest target of 82,000 fish.

Required Action:

Conservation equivalent measures were adopted by the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fisheries Management Council (MAFMC) in lieu of a coastwide option in 2012. Therefore, Maryland is required to develop a state-specific management plan which includes management measures (i.e. possession limits, size limits, and seasons) to achieve the recreational harvest target of 82,000 summer flounder.

Performance evaluation

Fishery performance is affected by management measures, stock strength, weather, and angler behavior. The performance of Maryland's fishery, comparing the MRFSS estimated harvest to the harvest target, and corresponding management measures is laid out below in Table 1.

Table 1. Effect of Size, creel, and harvest on performance in Maryland's summer flounder fishery.

	ASMFC	MRFSS			
Year	**Target fish**	**Caught fish**	**% over or under target**	**Regulations**	**Closed season**
2002	130,000	68,891	-47%	8 @ 17"	8 days
2003	122,000	40,240	-67%	8 @ 17"	None
2004	131,000	65,949	-49%	3 @ 16"	None
2005	141,000	85,194	-39%	Coast 4 @ 15.5", Bay 2 @15"	None
2006	109,000	58,414	-46%	Coast 4 @ 15.5", Bay 2 @ 15"	None
2007	72,000	139,795	94%	Coast 4 @ 15.5", Bay 2 @ 15"	None
2008	62,000	89,159	43%	Coast 3 @ 17.5", Bay 1 @ 16.5"	None*
2009	61,000	87,000	42%	Coast 3 @ 18.0", Bay 1 @ 16.5"	Open 4/15 through 9/13
2010	75,000	38,332	-49%	3 @19" Statewide	Open 4/18 through 11/22

2011	101,000	38,000	165%	3 @ 18" Statewide	Open 4/16 through 11/30

*2008 closed by emergency regulation 10/24/08

The relationship between size, creel and closed season and harvest seems to be affected most by minimum size. Between 2003 and 2004, and 2004 and 2005, a decrease in minimum size resulted in an increased harvest. Between 2007 and 2008, and 2008 and 2009, and 2009 and 2010 an increase in minimum size resulted in a decrease in harvest. Creel does not seem to have consistent effects, and season has not varied enough to evaluate the effect. Review of performance of the Maryland fishery since 2002 indicates that the minimum size limit has the greatest effect on summer flounder harvest in Maryland.

In 2011 a decrease in minimum size did not yield any greater harvest because of four possible factors: 1)Attention to intercept fidelity by MRFSS samplers seems to have affected MRFSS harvest estimates. 2) The institution of a recreational fishing license on the Atlantic coast of Maryland may have had the effect of reducing angler participation, although effort was down coastwide. 3) The dissolution of a coastal-bay size limit split may have also affected catch estimates, as the higher catch estimates of the time series were always accompanied by the size limit split. 4) A larger commercial quota may have allowed for greater removals of adult summer flounder from the stock possible decreasing availability of harvestable fish for the recreational fishery.

Year Class Strength and Directed Trips

Year class effects can influence the expected impacts of management measures in terms of fish availability. The 2009 assessment indicated that the 2007 year class recruitment was below average, in the range of 28 million fish. The 2011 NOAA/NMFS assessment update estimates that the 2008 year class is about average around 43 million fish. The 2009 year class is estimated to be about 60 million fish. Maryland CBFI indices were above average for 2007, 2008, and 2009. Overall it appears, according to the coastal recruitment indices, that an average number of fish will be available to anglers in 2012.

Changes in angler behavior may result in compromising the assumptions associated with the anticipated results of a set of regulations. Directed summer flounder trips have declined slightly from the period from 2003 to 2008, as evidenced by the MRFSSS survey in 2009 and 2010 - the most recent years for which data are available.

Method:

Possession and Size Limits

A recreational percent reduction table based on possession and size limits from the MRFSS landings data in Maryland in 2010 was not available. Reduction tables use only type A landed fish and therefore would not capture discards which are needed for liberalizations. Therefore, other sources were explored for relevant data.

Fish length samples were taken on offshore commercial trawlers working in the vicinity of the Ocean City between June and November of 2010 and 2011. A total of 295 summer flounder were measured for total length on these excursions in 2010 and 155 summer flounder were measured for total length on these excursions in 2011. All summer flounder captured including small fish were measured and included in this data set.

Since 2002 Maryland has coordinated a volunteer angler survey. Participating anglers are asked to supply information on their fishing effort and measure the first twenty fish they capture. These data are supplied to MDDNR on data sheets and online. The data were put into a length frequency histogram and percentage reductions at different sizes were calculated from this length frequency as well.

Table 2. Effect of 2011 MD Summer Flounder percent increase in harvest at each size limit based on different data source.

	17 inch size limit	17.5 inch limit
Data Source	Percent increase in harvest	Percent increase in harvest
Offshore MD trawler survey 2011 (N=155)	46%	13%
Offshore MD trawler 2010 (N=295)	46%	20%
2002-2011 MD VAS (N=50,984)	81%	45%
2009-2011 MD VAS (N=10,464)	91%	43%
2011 MD VAS (N=3,067)	67%	39%

A range of values for liberalization were developed from these data sources. The most conservative estimate (2009-2011 MD VAS) is used for liberalizations in the analysis that follows. These are also data from the most recent three year time period, a convention that has been used by the technical committee in other analyses.

Seasonal Adjustments

Percent reductions based on seasonal closures were examined using the 2008 data as presented by the MAMFC tables. By agreement of the Technical Committee all days through the Wave are treated equally for increasing a season

Table 3. Comparison of seasonal percent increases calculated for various openings using per diem analysis. 2011 season was open April 17 through November 30. *

Additional open season	Percent reduction or gain
Open January 1 to April 17	15%
Open 17 days in April	2%
Open November 30 through December 31	4%
Open January 1 to December 31	19%

*Catch rate of Wave 2 was used as it is the highest catch rate of any Waves being opened. Daily Wave 2 rate was .001449%. Paul Caruso's spread sheet was used for this analysis and is based on the 2008 landings pattern. 2008 was the most recent year that Maryland had no closed season.

Proposed Management Strategies for 2011

The following are Maryland's Proposed 2011 Recreational Summer Flounder management options, based on the equation:

Total Liberalization = $(x+y)+(x*y)$

X = The percent reduction associated with seasonal closure(s).

Y = The percent reductions associated with size/possession limit.

Option 1. Total increase in harvest 19%. Open year round, 3 fish @ 18 inches

Increase the season from April 17 to November 30 to open year round at 18 inches.

Option 2 Total increase in harvest 91%. Open April 17 to November 30, 3 fish@ 17 inches

Decrease the size limit to 17.0” and leave the season at April 17 to November 30.

Option 3. Total increase in harvest :
(.19+.91) + (0.19x.91) = 127%. Open year round, 3 fish @ 17 inches

Decrease the size limit to 17.0” and open the season year round.

Option 4. Total increase in harvest: 0%. Open season April 17 to November 30, 3 fish @ 18 inches

Status quo

All options fall well below the 156% increase allowed this year. Some shorter increase in season may also be considered or a decrease in size limit to 17.5 inches may also be considered. Both of these options would result in liberalization less than demonstrated in the examples above.

COMMONWEALTH of VIRGINIA

Marine Resources Commission
2600 Washington Avenue
Third Floor
Newport News, Virginia 23607

Douglas W. Domenech
Secretary of Natural Resources

Steven G. Bowman
Commissioner

January 18, 2012

Memorandum:

TO: ASMFC Summer Flounder, Scup and Black Sea Bass Technical Committee

FROM: Robert O'Reilly and Allison Watts
Virginia Marine Resources Commission

SUBJECT: Virginia's proposed management plan for the 2012 recreational summer flounder fishery

Please find our proposal for establishing management measures for the 2012 Virginia recreational summer flounder fishery. The following 4 options are offered for consideration and approval by the ASMFC technical committee:

OPTIONS

The VMRC proposes the following management options for its 2012 recreational summer flounder fishery:

A) 17 ½ inches minimum size limit, 5 fish, no closed season

B) 17 inches minimum size limit, 5 fish, no closed season

C) 17 inches minimum size limit, 4 fish, no closed season

D) 16 ½ inches minimum size limit, 4 fish, no closed season

BACKGROUND:

The 2011 Virginia recreational landings of summer flounder were estimated at 268,684 fish. In 2011, the Virginia recreational summer flounder fishery was managed by a 17 ½-inch minimum size limit and 4-fish possession limit on a statewide basis with no closed season. The 2011

unadjusted target for Virginia landings of summer flounder was 570,000 fish, and Virginia's estimated 2011 landings were below the target by 53% (Table 1).

This is the fourth consecutive year that Virginia has been under target by at least 30%. Most notably, the VMRC employed new data sources in 2011 to better project an expected landings increase attendant to the lowering of its 2010 minimum size limit (18 ½ inches) to 17 ½ inches in 2011. For its 2011 proposal to the ASMFC, the VMRC utilized a dated (2006) bag-size reduction table, a Virginia volunteer angler survey, as well as a Maryland voluntary angler survey, as in past years. The inclusion of length-frequency data from two fishery-independent surveys conducted by VIMS (ChesMMAP and NEAMAP) provided the VMRC with five separate data sources. In turn, the NEAMAP and ChesMMAP length data provided eight data treatments, when combinations of the surveys were used (e.g. MD-VA NEAMAP or ChesMMAP-NEAMAP), so there were 13 data treatments available. All 13 data treatments overestimated the 2011 landings, and the range of overestimation was from 338,136 fish (ChesMMAP) to 544,854 fish (Maryland Volunteer Angler Survey). A pattern has developed in the overestimation of projected Virginia landings by the volunteer angler surveys, and that overestimation may be more pronounced when the minimum size limit is lowered by one inch, as compared to lowering the minimum size limit by one-half inch. Additional details are provided in the past performance section.

Given the 2012 target landings of 466,000 summer flounder, Virginia can implement a plan for 2012 that would potentially allow for a 73% increase from 2011 landings (Table 1). Table 1 provides perhaps surprising results from the 2009 through 2011 Virginia recreational summer flounder fisheries, in that the landings are very similar, despite three different minimum size limits during those three years. Precision (as PSE) of the estimates ranged from 11% (2010) to 14.6% (2011). The fishing season was open year-round all three years, and in all three years, WAVES 3 and 4 were associated with the majority of landings that were evenly distributed between those two WAVES (Table 2). Reduced effort the last three years (Table 3) may be overriding any differences in availability of summer flounder expected with changes in minimum size limits. Last year, the extent of explained reciprocal variation in directed fishing trips vs. landings (A+B1 fish), for 2001-10, was 83% (coefficient of determination). For this proposal, we determined there was a significant relationship between general (all species) fishing trips and landings (numbers of fish), where R^2=0.6 (Table 3). The lowest number of directed summer flounder trips in Virginia, from 2001 – 2010, was 633,739 trips in 2010. The general fishing trips were the lowest since 2001, in 2011, and represented a 25% decrease from the 2001-11 average number of trips. There is every indication, given the sluggish economy and fuel costs, that effort will remain low in 2012.

METHODS:

The VMRC utilized the data sets described in Attachment I to justify lowering the minimum size limit from 17 ½ inches (2011) to 17 inches or 16 ½ inches in 2012. All data sources are the same as in our 2011 plan, except that the Virginia Volunteer Angler Survey (VA VAS) data were strictly from the VIMS-VMRC volunteer tagging program and did not include online data entries of lengths, as in 2011. The VMRC also utilized the MD VAS data, as these data have been used

several times in the past. A discussion on the past use and outcomes from using these three data sets is provided below, under the 'Past Performance' section.

Data sources also included a bag-size reduction data table from the 2006 Virginia recreational summer flounder fishery (provided by Jessica Coakley). Since these tables are designed as 'savings' or reduction tables, landings increases, from minimum size limit reductions, are calculated as (1-savings for the reduced minimum size limit/1-savings for the higher minimum size limit) -1.

VMRC also provides landings increase estimates associated with fishery-independent length data supplied from ChesMMAP and NEAMPA cruises Chris Bonzek of VIMS. Chris Bonzek provided several different variations of ChesMMAP (Chesapeake Bay Multispecies Monitoring and Assessment Program) and NEAMAP (Northeast Area Monitoring and Assessment Program) length collections, both on a recent year (2011) and multi-year (2007-11) basis, so that the VMRC could attempt to corroborate resulting projected landings increases from these two trawl survey programs with the volunteer surveys and the dated (2006) bag-size table. Cruise dates associated with both of these fishery-independent surveys are shown in Attachment I. Length-frequency distributions of summer flounder from the ChesMMAP and NEAMAP data combinations are provided in Attachment II.

Effort (fishing trips) may well remain low in 2012, as compared to years prior to 2008. While low effort impacts landings in Virginia (see below), expected fish availability remains an important factor to consider when liberalizing regulations. In 2012, summer flounder ages 2 through 4 (year classes 2010, 2009 and 2008) will mostly available for harvest at the proposed minimum size limits. Of these year classes, the 2009 year class seems the most abundant according to the recent stock assessment update (Terceiro 2011), but this recruitment is a model output. Year class strength, as indexed by the VIMS Trawl Survey collection of young of year summer flounder was used to determine recent inter-annual changes in the two through four year old summer flounder (e.g. in 2012 the 2010 – 2008 young of year indices). There has benn no validation between these indices and landings, so this method was included the last two years as a guidance measure. Recruitment results from the VIMS juvenile trawl survey are not model-based, so each VIMS recruitment index is an actual snapshot of that year class strength as detected by the survey. One difficulty in this approach is that the catch has varied, from 3.4 million summer flounder in 2009 to 2.2 million fish in 2011, so differential rates of mortality may confound making inter-annual comparisons about the relative strengths of age-2 through age-4 year classes.

RESULTS:

Table 4 provides results of landings increases, by percentage and corresponding values, based on lowering the 2011 minimum size limit from 17 ½ inches to 17 inches or 16 ½ inches. In most cases, the projected landings are based solely on proportional differences between the number of lengths associated with a lower minimum size limit in 2012 than the 2011 minimum size limit (17 ½ inches). Estimation of a landings increase based on the 2006 size-bag table (Table 5), is described above.

The VA VAS data set (volunteer tagging survey) projects 388,332 summer flounder would be landed at 17 inches (83% of the 2012 target, which is the highest projection at 17 inches) and 553,111 summer flounder at 16 ½ inches (119% of the target, the 2nd highest projection at 16 ½ inches). This data set included 2,301 summer flounder lengths, and of these, 92% of lengths were provided by a single charter boat captain (and his customers) operating on the seaside of the Eastern Shore. A total of 2,113 lengths were collected from the seaside, and just 188 from the Chesapeake Bay (Table 6). Of the Bay lengths, 94 were from private mode and 94 from shore mode (and no charter boat collections). From the seaside, all lengths provided were from the charter boat moat except for a single private mode length. Without a more balanced coverage of geography and mode of fishing, this data set can only be considered partly representative of the Virginia fishery. The Chesapeake Bay fishery is the main component of Wave 4 landings, and this data set does not accurately capture that. In the future, more private mode lengths will be needed from the seaside, and more shore- and private-based lengths will be needed from the Bay. Outreach efforts need to be stepped up to ensure participation. Additionally, VMRC will enlist more participants who can provide fish lengths to the online reporting system that was utilized in the 2011 plan, so that it can be utilized again in the future.

The MD VAS data set consists of 3,067 summer flounder lengths, and projects 363,868 total landings at 17 inches (78% of the target), and 438,569 landings at 16 ½ inches (94% of target). The MD data set is the third highest projection of landings at both proposed minimum sizes. As stated in last year's plan, this data set may not be well-suited as a predictor for Virginia landings but may be combined with the Virginia volunteer survey, in the future, once the VA VAS is more representative of the Virginia fishery. The data set consists of mostly coastal lengths, which may not adequately characterize the length distribution of Virginia's fishery (which again consists of a strong Chesapeake Bay component in Wave 4). This is the second year that this data set has projected very high landings (last year, the MD data set projected the highest landings of all the data sources used).

Both the VA VAS and MD VAS forecast higher landings in 2012 than any other data treatment except NEAMAP Virginia-only for 2011, but that data set consists of very few lengths at size (23 at 16 ½ inches to only 11 lengths at 17 ½ inches). The Maryland volunteer angler survey has projected landings that were 13% (2005) to 102% (2011) greater than actual landings. Both the Virginia and Maryland angler surveys projected much higher percentage increase in landings when the minimum size limit was lowered one inch (2011), as compared to a one-half inch change (2010, 2009).

The MRFSS bag-size table utilized is from 2006, when Virginia had a 16 ½ inch minimum size limit. The population is much different than in 2006. The original bag-size table provided from was converted from a 'savings' basis to a landings increase basis (as described above), and used to estimate 2012 landings (312,324 fish at 17 inches, and 361,293 fish at 16 ½ inches). Of the thirteen different treatments used in Table 4, this dated bag-size table projects the third lowest 2012 landings, for both proposed minimum sizes.

The remaining treatments are combinations of the data from the two VIMS fishery-independent trawl surveys. As described in Attachment I, ChesMMAP surveys the Chesapeake Bay (Virginia and Maryland) and NEAMAP surveys Virginia's offshore and near-coastal areas. The

treatments of 2011 data alone all rank higher (higher projected landings) than the 2007-2011 averages of these same sources. NEAMAP (VA only) 2011 data project the highest landings of Table 4 (366, 387 fish or 79% of the 2012 target at 17 inches, and 561,794 fish or 121% of the target at 16 ½ inches). ChesMMAP (VA only) 2007-2011 averaged data project the lowest of all treatments in Table 4 (309,037 fish at 17 inches, and 351,071 fish at 16 ½ inches). While NEAMAP data and ChesMMAP data alone may not be representative of Virginia's two-component fishery (seaside and Bay), these combined data sources may better reflect potential 2012 landings. Additionally, the 2011 data alone may not best represent the fish available in 2012, as multiple year classes will be available for harvest, and bigger fish may be captured by NEAMAP than by ChesMMAP. For these reasons, the ChesMMAP-NEAMAP 2007-2011 data sources are the best estimates for 2012 landings (and whether VA only or VA-MD combined data are used, both project within 1% of each other).

If an option with a 5-fish possession limit is chosen in 2012, the increase in landings can be inflated by approximately 7%. In 2008 when a 5-fish bag limit was in effect, the fifth fish made up 6.9% of the harvest (though a 19 inch minimum size limit was also in effect). Data provided on MRFSS Table A fish from WAVES 1-4 in 2011 indicate the percent of successful anglers landing 5 fish (out of 12 summer flounder) per trip was 0.86%, or 4 times out of 462. The percent of landing 4 fish during this period was 16.3%, or 76 times out of 462. One would expect that this sharp decline indicates the degree of difficulty in landing over 4 summer flounder, but from this same data, the incidences of landing 6 fish was 4.9% (or 23 out of 462). The highest percent of summer flounder caught was 2 fish (64.4% or 300 times).

Table 7 provides the summer flounder year class strengths estimated from the VIMS juvenile trawl surveys. For each fishery year, the expected major contributing year classes (fish aged 2 through 4) to the fishery are shown. The three-year average displays the average of the main contributing year classes (fish aged 2 through 4), for fishing years 2012 to 2003. From a qualitative perspective, a weaker composite age grouping (ages 2-4) will be available to the Virginia fishery, yet it is unknown to what extent the juveniles contribute to the Virginia fishery.

PAST PERFORMANCE

Tables 1 and 2 provide a summary of the performance of the Virginia recreational fishery. Table 1 shows that Virginia exceeded its target four of 12 years, since 1999. The two greatest overages occurred in 2001 and 2006, and, in both cases, regulations in those two years were nearly status quo to the preceding year. Since 2002 there has been one substantial overage (40% in 2006), and this seems related to year class availability, as the regulations in 2006 were identical to 2005 regulations. In 2005 the landings were 584 thousand fish, as compared to 862 thousand fish in 2006.

Until 2009 it seems that changes in minimum size limits, to compensate for changes in year x+1 targets and year x landings were responsible for the outcome of landings in year x+1, as effort (trips) seemed to vary without direct impacts on landings. However, even a one-half incremental change in landings could not account for the inter-annual variability in landings from 2003 through 2006, as these one-half inch changes in the minimum size limit mostly produced shortfalls of the target that ranged from 21% to 34% during that period, with one overage (2006).

In 2007, a 2-inch increase in the minimum size limit was needed to offset the 40% overage of the target in 2006 and 34% decrease in the 2007 target. In addition, a short summer season closure (6 days) was employed in an attempt to avoid a second consecutive overage. This was the first season closure of note (the winter closures of 2002-04 only provided a small amount of savings and only because the Weibull distribution was used. In 2008 the target was reduced again, from 407 thousand fish to 342 thousand fish. Since there was an 18% overage of the 2008 target, the VMRC increased the minimum size limit to 19 inches and extended the season closure to 10 summer days. It seems the high size limit was sufficient to curb landings, and there was a 33% shortfall of the 2008 target. Despite the 33% shortfall in 2008, the VMRC maintained the 19-inch minimum size limit in 2009, as the target was almost the same as in 2008, but the VMRC did remove the closed summer days, and landings were nearly the same as in 2008.

By 2010 there was a 23% increase in the target, but the Commission's standing advisory group (Ad Hoc Committee formed inw2006) and VMRC staff were aware that a similar target and an 18 ½-inch minimum size limit provided 479,000 fish to the 2007 landings, so all involved thought an 18 ½-inch minimum size limit (compared to 19 inches in 2009), 4-fish possession limit (instead of 5 fish, as in 2007), with no closed season would achieve the target. The 2010 landings were 36% under target. For 2011 all involved in the management measures at VMRC supported a 17 ½-inch minimum size limit, a continuation of the 4-fish possession limit and lack of any closed season, on the basis of the previous year's shortfall of the target and because the 2010 target increased, over 2009, by 34%. The 2010 landings were 53% below target.

For the 2011 fishery it was noted in last year's plan that directed and general effort (fishing trips) declined in recent years and have remained low based on the sluggish economy and costs associated with fishing. Below is information on directed and general (all species) fishing trips in Virginia through 2010. The 2011 data were not available from NMFS but the 2011 general trips are less than in 2010, and it is expected the directed trips declined in 2011.

Year	Number of directed summer flounder trips	Number of general (all species) trips	Summer flounder landings
2001	1,320,884	4,128,242	1,338,134
2002	991,670	3,253,846	772,265
2003	728,418	3,113,184	451,348
2004	938,032	3,594,308	583,664
2005	843,612	3,841,219	584,478
2006	1,036,977	3,899,642	862,309
2007	918,543	3,723,442	479,211
2008	777,274	3,425,308	228,898
2009	856,074	2,984,056	231,991
2010	633,739	2,609,804	273,110

Since the landings in Virginia have been very similar the last 4 years, regardless of the minimum size limit, some of that stasis in landings can be attributed to low effort. In the past two fishing seasons general trips have been 2.3 and 2.2 million (see table 3), as compared to 3 – 3.7 million trips in years before 2009. There is no expectation that fishing trips will increase in 2012, according to those in the fishing industry. This is a compelling reason why any potential landings in 2012 at any minimum size limit proposed by VMRC in 2012 cannot be compared the

same minimum size limit regime in the past (2004 through 2006), as effort (directed or general) is much lower and expected to remain at that low level in 2012.

Another indication that effort is having an impact owes to the catch data. Whereas the 2002-11 catch averages 3,185,495 fish, the 2001 and 2011 catch was 2.74 and 2.18 million fish. During the past two years the proportion of discards (B2s) of the catch declined to an average of 88%, from an average of 92% for 2008-09. These statistics don't match what would have been expected from high discards of the 2009 year class, and since there was partial recruitment of the 2009 year class to the landings, under a 17 ½-inch minimum size limit in 2011, that impact does not emerge from Virginia's 2011 landings and may be indicative of the impact of effort on this fishery the last few years.

Liberalization of regulations was accomplished in 2004, 2005, 2010 and 2011. There was a very limited data source for the 2004 liberalization that involved decreasing the minimum size limit, from 17 to 16 ½ inches, with the potential to increase landings in 2004 by 64.2% (see Table 1). The bag-size table from the 2001 Virginia fishery was the data source and, although dated, indicated that 2005 landings would fall well below the target. Using that data and the fact that such a large potential increase in landings was allowed, our 2004 proposal was approved by the ASMFC. The 2004 realized landings were 21% under that year's target. For the 2005 liberalization, the minimum size limit was decreased, from 17 to 16 ½ inches, and the available data sources included the same 2001 fishery bag-size table, as well as the MD VAS data. For 2005, the 2004 MD VAS predicted landings of 766,000 fish, and the 2001 bag-size table projected landings of 775,000 fish. Realized 2005 landings of 584,478 fish were 27% under target. For the 2010 Virginia fishery, a VA VAS data set (limited sample size), an expansion of B2 lengths from the for-hire sector, a dated (2007) size-bag table and the 2009 MD VAS Survey data set were used to project 2010 landings from 2009 landings at lower minimum size limits for 2010. The 2011 liberalization of regulations was based on some new (fishery-independent data). In each year that regulations were liberalized, realized landings were well below target, from 20 to near 30% lower, and the MD VAS over-projected each time.

Table 4 provides the basis for assessing the impacts from changes in the minimum size limit in 2012. These methods are virtually identical to those used in the 2011 plan (see text above), and as noted in this proposal, all 2001 fishery projections, using these same methods in 2011, overestimated the landings. Especially, it seems the volunteer angler surveys show a directional pattern in overestimating future landings, as has been the case with the Maryland volunteer survey, first used in 20065, and the Virginia volunteer survey first used in 2009. The independent surveys (ChesMMAP and NEAMAP), alone, do not adequastely match the fishery, but collectively these survey show more promise for projecting changes in landings, from changes in minimum size limits. The 5-year time series of these data sets are needed to provide adequate sample sizes, but it may also be necessary in the future to partition these data sets according to WAVE, as WAVE 3 is mostly a Seaside of Eastern Shore fishery, with WAVE 4 associated with the Chesapeake fishery. Unfortunately, there does not seem to be many samples of lengths from NMFS, for the ocean areas, so NEAMAP length frequency data cannot be shown to represent the seaside areas, at this time. The ChesMMAP samples are from mainstem areas, and tributary-based fisheries may or may not be adequately represented in the ChesMMAP data.

SUMMARY

The 2011 Virginia recreational landings of summer flounder were estimated as 268,684 fish. The fishery was managed by a 17 ½-inch minimum size limit and 4-fish possession limit on a statewide basis, with no closed season. The 2011 unadjusted target for Virginia landings of summer flounder was 570,000 fish, and Virginia's estimated 2011 landings were below the target by 53%. There is a statistically significant relationship between trips (directed or general) and landings in Virginia. It is apparent that in recent years, the low levels of effort (fishing trips) has been an important determinant of landings of summer flounder.

This is the fourth consecutive year that Virginia has been under target by at least 30%. The 2011 target landings are 466,000 summer flounder, and Virginia can implement a fishery management plan for 2012 that would potentially allow for a 73 % increase from 2011 landings. The ASMFC summer flounder management board and technical committee are aware of the difficulties associated with liberalization of management measures for this species, as there are few methodologies or sources of data to guide liberalization, in comparison to data available from MRFSS to enact reduction plans.

The VMRC projected potential 2012 landings, by using five different data sources (VA VAS, MD VAS, a 2006 MRFSS bag-size table, ChesMMAP and NEAMAP). An additional eight treatments of the ChesMMAP and NEAMAP data sources, where treatments included multi-year length data from one of these surveys or a combination of these survey data, were also included. In all there are 13 projections of 2012 landings.

The VMRC proposes the following four management options for its 2012 recreational summer flounder fishery:

A) 17 ½ inches minimum size limit, 5 fish, no closed season

B) 17 inches minimum size limit, 5 fish, no closed season

C) 17 inches minimum size limit, 4 fish, no closed season

D) 16 ½ inches minimum size limit, 4 fish, no closed season

LITERATURE CITED

Terceiro, Mark. 2011. Stock assessment of summer flounder for 2011. U.S. Department of Commerce, Northeast Fisheries Science Center Reference Document 11-20; 141 p.

North Carolina Department of Environment and Natural Resources
Beverly Eaves Perdue, Governor
Dee Freeman, Secretary
Division of Marine Fisheries
Dr. Louis B. Daniel, III, Director

To: ASMFC Summer Flounder, Scup and Black Sea Bass Technical Committee

From: Chris Batsavage

Date: January 10, 2012

Subject: Summer Flounder Recreational Management Measures

The ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board (Board) and the Mid-Atlantic Fisheries Management Council (Council) met in December 2011 and voted for conservation equivalency measures rather than implement a coastwide management program for the recreational summer flounder fishery. The projected harvest for 2011 in North Carolina is 65,321 fish, which is 65.8% below the 2011 allocation of 191,000 fish. The 2012 allocation of summer flounder for North Carolina is 156,286 fish, which allows for liberalization in harvest of up to 139.0%. This memo outlines North Carolina's management strategy for the 2012 recreational summer flounder fishery based on the process approved by the Board and the Council.

Regulatory and Harvest History

The minimum size limit for recreationally caught flounder in much of the inland waters was 13 inches from 1998 to September 2002 (Table 1). The size limit in these waters increased to 14 inches in October 2002 and that minimum size limit remained through 2007. The minimum size limit for much of the inland waters (where summer flounder are most commonly found) was 15.5 inches in 2008 and 15 inches in 2009 and 2010. The minimum size limit for recreationally caught flounder in the ocean waters fluctuated between 15 inches and 15.5 inches from June 1998 through 2003 and decreased to 14 inches from 2004 to 2006. The minimum size limit for much of the ocean waters (where summer flounder are most commonly found) was 15.5 inches in 2008 and 15 inches in 2009 and 2010. The minimum size limit was 15 inches in both inland and ocean waters in 2011. The bag limit was 8 fish in the ocean from June 1998 through 2010 and in inland waters from April 2005 through 2010; inland waters had no bag limit for recreationally caught flounder before then. The bag limit was reduced to 6 fish for inland and ocean waters in 2011. Since 1998 the only season closures occurred in 2001 and 2002 for ocean waters only.

The total harvest of summer flounder exceeded 320,000 fish from 1998 to 2001 with the exception of 1999 (236,791 fish) (Table 1). From 2002 to 2007, the recreational harvest ranged from 87,852 fish in 2003 to 189,458 fish in 2002. The recreational summer flounder harvest estimate of 53,090 fish in 2008 was the lowest harvest estimate since 1998; it increased slightly to 58,092 fish in 2009 and was 92,337 fish in 2010. The 2011 harvest estimate through wave 5 (62,116 fish) is projected to be 65,321 fish for the entire year. Much of the recreational harvest is from inland waters for most years with the majority of the harvest from the inlets along the northern portion of the North Carolina coast by the private/rental boat mode.

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The recreational target ranged from 223,000 fish in 2001 to 269,000 fish in 2005 before decreasing to 115,000 fish in 2008; the target in 2011 was 191,000 fish. Since conservation equivalency began, the target for North Carolina was exceeded only twice: in 2001 by 47% and in 2007 by 36%. The harvest was below the target for the other years and ranged from 23% below the target in 2002 to 62% below the target in 2003. The projected harvest of 65,321 fish in 2011 is 65.8% below the target.

The minimum size limit in inland waters was the management measure that had the most profound effect on recreational harvest. The total harvest decreased substantially after the minimum size limit increased to 14 inches in inland waters and decreased even more when the size limit increased to 15.5 inches for much of the inland waters in 2008. This was expected since the vast majority of the annual summer flounder harvest occurred in inland waters for most years. Minimum size limits are also an effective management tool in North Carolina because summer flounder larger than 18 inches are not common so minimum size limits have been successful at precluding a large portion of the fish from being harvested. In contrast, the size distribution of summer flounder has expanded greatly in some states, which has limited the effectiveness of minimum size limits as a management.

Weather conditions also affect the recreational harvest of summer flounder in the State. Much of the summer flounder fishing in North Carolina takes place in the inlets, surf and ocean fishing piers along the northern and central coasts, and flounder fishing in these areas is very dependent on water and weather conditions. Recreational harvest in 1999 was likely impacted by hurricanes Dennis and Floyd in August and September and recreational harvest in 2003 was impacted by low salinities in the estuaries from above normal rainfall, unusually cold water temperatures in the ocean during the summer from offshore upwelling, and Hurricane Isabel in September. Hurricane Irene probably impacted harvest to some degree in 2011. In contrast, favorable weather and water conditions in 2004 and 2007 likely contributed to the relatively higher harvest estimates.

Proposed Management Strategy for 2012

North Carolina proposes continuing last year's management measures of a 15-inch minimum size limit, 6 fish bag limit, and no closed season statewide in 2012.

Justification for Management Strategy

The management measures in 2011 were designed to reduce the recreational harvest of southern flounder through the North Carolina Southern Flounder Fishery Management Plan. Recreational flounder regulations are not species specific, so any management measures that allow for an increase in summer flounder harvest could result in an increase in southern flounder harvest.

Table 1. Regulations and landings of recreationally harvested summer flounder in North Carolina from 1998 to 2011 by area.

	Inland Waters			Ocean Waters									
Year	Size Limit	Bag Limit	Closed Season	Size Limit	Bag Limit	Closed Season	Inland Landings	Percent Inland	Ocean Landings	Percent Ocean	Total Landings	Target	% Over/Under
1998	13"	----	----	14.5" (1/1-6/6)/ 15" (6/7-12/31)	10 (1/1-6/6)/ 8 (6/7-12/31)	----	314,030	80.3	77,106	19.7	391,136		
1999	13"	----	----	15"	8	----	158,095	66.8	78,696	33.2	236,791		
2000	13"	----	----	15"	8	----	258,554	69.0	116,202	31.0	374,756		
2001	13"	----	----	15.5"	8	5/1-5/14	249,563	76.3	77,686	23.7	327,249	223,000	46.7
2002	13" (1/1-9/30)/ 14" (10/1-12/31)	----	----	15.5"	8	4/3-7/4	168,082	88.7	21,376	11.3	189,458	246,000	-23.0
2003	14"	----	----	15"	8	----	36,839	41.9	51,013	58.1	87,852	231,000	-62.0
2004	14"	----	----	14"	8	----	64,433	37.3	108,302	62.7	172,735	249,000	-30.6
2005	14"	8 (4/1-12/31)	----	14"	8	----	75,899	58.9	53,027	41.1	128,926	269,000	-52.1
2006	14"	8	----	14"	8	----	92,707	60.7	59,956	39.3	152,663	207,000	-26.2
2007	14"	8	----	14.5"	8	----	140,741	76.3	43,735	23.7	184,476	136,000	35.6
2008	14"/15"*	8	----	14"/15"*	8	----	31,220	58.8	21,870	41.2	53,090	115,000	-53.8
2009	14"/15"*	8	----	14"/15"*	8	----	40,577	69.8	17,515	30.2	58,092	116,000	-49.9
2010	14"/15"*	8	----	14"/15"*	8	----	63,212	68.5	29,125	31.5	92,337	143,000	-35.4
2011[#]	15"	6	----	15"	6	----	43,079	69.4	19,037	30.6	62,116	191,000	-67.5

* 14" minimum size limit in western portions of Albemarle and Pamlico sounds and its tributaries, and ocean and estuarine waters south of Brown's Inlet to the SC border; 15.5" (2008) & 15" (2009 & 2010) minimum size limit in eastern estuarine and ocean waters north of Brown's Inlet to the VA border.

[#] Landings through Wave 5 only

Atlantic States Marine Fisheries Commission

DRAFT ADDENDUM XXII TO THE SUMMER FLOUNDER, SCUP AND BLACK SEA BASS FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT

Black Sea Bass Recreational Management in 2012

This draft document was developed for Management Board review and discussion. This document is not intended to solicit public comment as part of the Commission/State formal public input process. However, comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. Also, if approved, a public comment period will be established to solicit input on the issues contained in the document.

ASMFC Vision Statement:
Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

January 2012

At the December 2011 Joint Mid-Atlantic Fishery Management Council (Council) and Atlantic States Marine Fisheries Commission (Commission) Summer Flounder, Scup, and Black Sea Bass Management Board (Board) meeting, the Board and Council approved the following motion: Move to initiate an addendum to evaluate implementation of state-by-state or regional measures that would achieve the coastwide harvest limit of 1.32 million pounds.

The addendum proposes to allow state-by-state or regional management measures for the 2012 black sea bass fishery. This draft addendum presents background on the Commission's management of summer flounder, scup, and black sea bass; the addendum process and timeline; and a statement of the problem. This document also provides options of management for public consideration and comment.

Specifically, the Commission is seeking comment on issues under section 4.0 Management measures.

The public is encouraged to submit comments on the issues contained in this document. The final date comments will be accepted is 5 PM (EST) on February 5, 2012. Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

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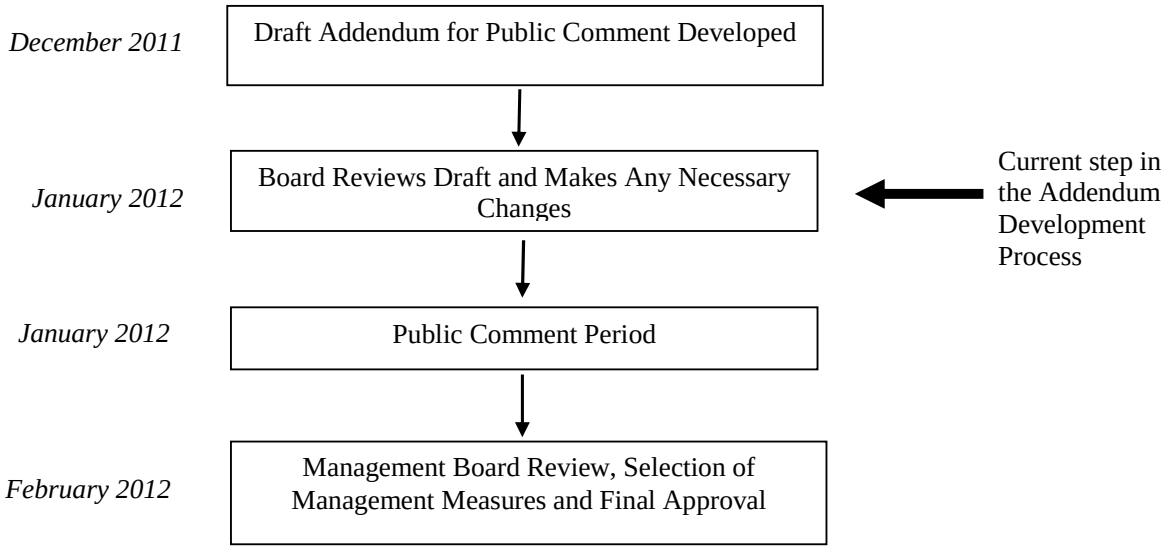

At the Joint Mid-Atlantic Fishery Management Council (Council) and Atlantic States Marine Fisheries Commission (Commission) Summer Flounder, Scup, and Black Sea Bass Management Board (Board) meeting held in December 2011, the Board and Council approved the following motion: Move to initiate an addendum to evaluate implementation of state-by-state or regional measures that would achieve the coastwide harvest limit of 1.32 million pounds.

1.0 Introduction

The Draft Addendum is initiated under the adaptive management/framework procedures of Amendment 12 and Framework 2 that are a part of the Fishery Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass. The adaptive management program allows for changes to recreational fishery measures. This Draft Addendum applies only to the black sea bass section of the FMP. The black sea bass fishery is managed cooperatively by the states through the Commission for state waters, and the federal government through the Council and the National Marine Fisheries Service for federal waters. The management unit for black sea bass remains unchanged in this addendum. Specifically, the management unit for black sea bass in US waters is the western Atlantic Ocean from Cape Hatteras, North Carolina northward to the US-Canadian border.

2.0 Statement of the Problem

The black sea bass recreational fishery is managed on a "target quota" basis. Fifty-one percent of the total allowable landings are allocated as a recreational harvest target and forty-nine percent is allocated to the commercial sector. From 1996 to 2010, a uniform coastwide size limit, season, and bag limit has been set by the Commission and Council to constrain the recreational fishery to the annual harvest limit. During the last 15 years, the harvest target was exceeded 5 times, most recently in 2009 and 2010 when the harvest target was the lowest in the time series (Table 1). In 2009, the target was exceeded by 1.18 million pounds and by an estimated 1.15 million pounds in 2010. In 2011, the projected harvest is estimated at 0.99 million pounds, 0.8 million pounds under the harvest target.

The management plan for black sea bass does not provide an opportunity to craft recreational measures by regions or state, it only allows for a coastwide measure. Due to the wide geographic range of this species, the application of coastwide minimum size, possession limit, and season restrictions may not affect every area involved in the fishery the same way. Additionally, black sea bass migrations may result in differences in availability to the recreational fishery in each state. States were concerned that the coastwide regulations disproportionately impacted states within the management unit; therefore, they approved Addendum XXI which allowed for state-by-state measures in 2011 for state waters only. This Addendum was for the 2011 fishing year only. The Board continues to have the same concerns for the 2012 fishing season. Therefore, the Board initiated Draft Addendum XXII to provide the necessary management flexibility to mitigate potential disproportionate impacts on states that can result from coastwide measures for 2012. Draft Addendum XXII proposes a program wherein the Board divides the recreational black sea bass coastwide allocations into state-by-state management for 2012 only.

Note: The Board has also initiated a second addendum that will fully explore state-by-state measures, similar to the scup and summer flounder fisheries, including allocation of state shares. This addendum will be considered later in 2012.

3.0 Fishery Description

Black sea bass are generally considered structure oriented, preferring live-bottom and reef habitats. Within the stock area, distribution changes on a seasonal basis and the extent of the seasonal change varies by location. In the northern end of the range (Massachusetts to New York), sea bass move offshore crossing the continental shelf, then south along the edge of the shelf (Moser and Shepherd, 2009). By late winter, northern fish may travel as far south as Virginia, however most return to the northern inshore areas by May. Sea bass along the Mid-Atlantic (New Jersey to Maryland) head offshore to the shelf edge during late autumn, traveling in a southeasterly direction. They also return inshore in spring to the general area from which they originated (Moser and Shepherd, 2009). Black sea bass in the southern end of the stock (Virginia and North Carolina) move offshore in late autumn/early winter. Because they are close to the continental shelf, they transit a relatively short distance, due east, to reach over-wintering areas (Moser and Shepherd, 2009). Fisheries also change seasonally with changes in distribution; recreational fisheries generally occur during the period that sea bass are inshore. However, in recent years party/charter vessels, primarily from New Jersey and New York, participate in an offshore winter sea bass fishery during January and February.

An examination of the previous 6 years of recreational harvest data shows that the states of New Jersey, Delaware, Maryland, and Virginia have seen a decline in harvest (Figures 1-2) (there was with a slight increase in 2011 harvest in Delaware), Massachusetts and New York have seen an increase in harvest and then a decline in 2011 (Figures 1 and 2), and Connecticut, Rhode Island and North Carolina have remained fairly stable (Figures 1 and 2).

An examination of state-specific MRFSS harvest estimates by 'Area Harvested' (State v. EEZ waters) indicate that the majority of the black sea bass fishery occurs in state waters in Massachusetts, Rhode Island, Connecticut, and New York. For the states of Delaware to North Carolina the majority of fishery operates in the waters of the EEZ. The states of Virginia, New Jersey and Delaware in recent years have trended significantly closer to 50% of the harvest in state waters and 50% of the harvest in the EEZ.

Stock Status

The most recent benchmark assessment on black sea bass was peer-reviewed and accepted in December 2008 by the DPSWG Peer Review Panel. Documentation associated with this assessment and previous stock assessments, such as reports on stock status, including annual assessment and reference point update reports, Stock Assessment Workshop (SAW) reports, and Stock Assessment Review Committee (SARC) panelist reports, are available online at the NEFSC website: http://www.nefsc.noaa.gov/saw/.

Based on the June 2011 update, the stock is not overfished and overfishing is not occurring, relative to the biological reference points. Fishing mortality in 2010 is F = 0.41, an increase from F=0.32 in 2009. This point estimate of F in 2010 is very close to the fishing mortality threshold of F=0.42. Estimates for 2010 total biomass remain above the biomass maximum sustainable yield. Spawning stock biomass (SSB) in 2010 is 30.7 million pounds, which is 111% of the target SSB_{MSY}. Recruitment estimated by the model was relatively constant through the time series with the exception of the 1999 and 2001 year classes. These cohorts appeared to be the driving force behind the increase in biomass and SSB. The estimated average recruitment (age one) in 2010 (2009 cohort) was 26.8 million fish.

4.0 Proposed Management Program

The measures proposed in this addendum are only effective in state waters for one year only. Absent any subsequent action by the Board coastwide measures will implemented in 2013. This addendum is not intended to implement state allocations and is not intended to set a precedent for state allocations.

The federal FMP does not allow for conservation equivalency and would require an amendment to the plan to make the necessary changes consistent with those proposed in this document; therefore, a single coastwide measure would be set in federal waters. Federal permit holders will have to follow regulations set by the National Marine Fisheries Service regardless of where they are fishing.

States would implement individual recreational black sea bass management programs that utilize minimum size limits, maximum possession limits, and seasonal closures that are designed to achieve a specific harvest reduction/liberalization that, when combined with the other states in the management unit, achieve the required coastwide reduction/liberalization for 2012 only.

Reduction tables, provided to the Technical Committee, would be used to determine which suite of possession limits, size limits, and closed seasons would constrain recreational landings to the recreational harvest limit for the state or region. Tables would be adjusted for each state to account for past effectiveness of the regulations. Each would propose a combination of size limit, possession limit, and closed season that would constrain landings to the appropriate level. These proposals would then be reviewed by the Technical Committee and approved by the Board. States cannot implement measures by mode or area unless the PSE of the mode or area for that state or region is less than 15%.

Note: The MRFSS data used to set state-specific conservation equivalent measures produces more variable results when used on a state-by-state basis. As the coverage area increases, the variability of the data decreases; therefore, adopting regional or coastwide approaches will give more precision to the data.

Option 1: Continuation of 2011 Measures with a Modification of North Carolina's Measures

Under this option, states would implement state-by-state measures that were in place for the 2011 recreational fishing season with the exception of North Carolina. North Carolina would implement the same measures as Delaware, Maryland, PRFC, and Virginia for consistency of regulations with the southern states (previously North Carolina's season was July 1-September 25 and November 1-December 31, all other measures were the same). State regulations as proposed under this option for 2012 would be as follows:

State	Minimum Size	Possession Limit	Open Season
Massachusetts	14"	10 fish	May 22 to October 11
Rhode Island	13"	12 fish	July 11to December 31
Connecticut	13"	25 fish	July 1 to October 11 and November 1 to December 31
New York	13"	10 fish	June 13 to October 1 and November 1 to December 31

New Jersey	12.5”	25 fish	May 28 to September 11 and November 1 to December 31
Delaware	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Maryland	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
PRFC	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Virginia	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
North Carolina (North of Cape Hatterass 35° 15’N Latitude)	12.5”	25 fish	May 22 to October 11 and November 1 to December 31

Option 2. State-by-State Measures with Liberalization for the Northern Region
Under this option, the states of Massachusetts through New Jersey would be allowed to liberalize their regulations (see table below) based on the individual state performance from 2011. The states of Delaware through Virginia would have the same regulations as the 2011 season (see measures below). North Carolina would implement the same measures as Delaware, Maryland, PRFC, and Virginia for consistency of regulations with the southern states.

If this option is adopted the states of Massachusetts through New Jersey would have to develop state proposals as identified above. A time frame to submit and approve proposals would be established by the Board upon final approval of the addendum.

State	**% liberalization**	**% Reduction**
MA	24%	
RI	7%	
CT		33%
NY	60%	
NJ	85%	

State	**Size limit**	**Possession limit**	**Open season**
Delaware	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Maryland	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
PRFC	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Virginia	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
North Carolina (North of Cape Hatterass 35° 15’N Latitude)	12.5”	25 fish	May 22 to October 11 and November 1 to December 31

Option 3. Regional Liberalization with State-by-State Measures
Under this option, the states of Massachusetts through New Jersey would be allowed to liberalize their regulations (see table below) based on the average performance from 2011. The states of Delaware through Virginia would have the same regulations as the 2011 season (see measures below). North Carolina would implement the same measures as Delaware, Maryland, PRFC, and Virginia for consistency of regulations with the southern states.

If this option is adopted, the states of Massachusetts through New Jersey would have to develop state proposals as identified above. A time frame to submit and approve proposals would be established by the Board upon final approval of the addendum.

State %	liberalization
MA	45%
RI	45%
CT	45%
NY	45%
NJ	45%

State	Size limit	Possession limit	Open season
Delaware	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Maryland	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
PRFC	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
Virginia	12.5”	25 fish	May 22 to October 11 and November 1 to December 31
North Carolina (North of Cape Hatterass 35° 15’N Latitude)	12.5”	25 fish	May 22 to October 11 and November 1 to December 31

5.0 Tables

Table 1. Recreational Black Sea Bass Specifications and Harvest from 1996-2010

Year	1996	1997	1998	1999	2000	2001	2002	2003
Harvest Limit (mlbs)	--	--	3.15	3.15	3.15	3.15	3.43	3.43
Harvest (mlbs)	4.0	4.3	1.2	1.7	4.0	3.4	4.3	3.3
Size (inches)	9	9	10	10	10	11	11.5	12
Bag^	--	--	--	--	--	25	25	25
Open Season	All year	All year	1/1-7/30 and 8/16-12/31	All year	All year	1/1-2/28 and 5/10-12/31	All year	1/1-9/1 and 9/16-11/30

Year	2004	2005	2006	2007	2008	2009	2010	2011
Harvest Limit (mlbs)	4.01	4.13	3.99	2.47	2.11	1.14	1.83	1.78
Harvest (mlbs)	1.67	1.89	1.99	2.25	1.56	2.32	2.98**	0.99
Size (inches)	12	12	12	12	12	12.5	12.5	See table 2
Bag^	25	25	25	25	25	25	25	See table 2
Open Season	1/1-9/7 and 9/22-11/30	All year	All year	All year	All year	All year*	5/22-10/11 and 11/1-12/31	See table 2

^ The state of Massachusetts has a more conservative bag limit of 20 fish.

** 2011 Harvest is a preliminary estimate of harvest from waves 1-6.

* In 2009 Federal waters were closed on October 5, 2009.

Table 2. 2011 recreational management measures for black sea bass by state.

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	14	10 fish	May 22 to October 11
Rhode Island	13	12 fish	July 11- December 31
Connecticut	13	25 fish	July 1 to October 11 and November 1 to December 31
New York	13	10 fish	June 13 to October 1 and November 1 to December 31
New Jersey	12.5	25 fish	May 28 to September 11 and November 1 to December 31
Delaware	12.5	25 fish	May 22 to October 11 and November 1 to December 31
Maryland	12.5	25 fish	May 22 to October 11 and November 1 to December 31
PRFC	12.5	25 fish	May 22 to October 11 and November 1 to December 31
Virginia	12.5	25 fish	May 22 to October 11 and November 1 to December 31
North Carolina (North of Cape Hatterass 35° 15'N Latitude)	12.5	25 fish	July 1 to September 25 and November 1 to December 31

6.0. Figures

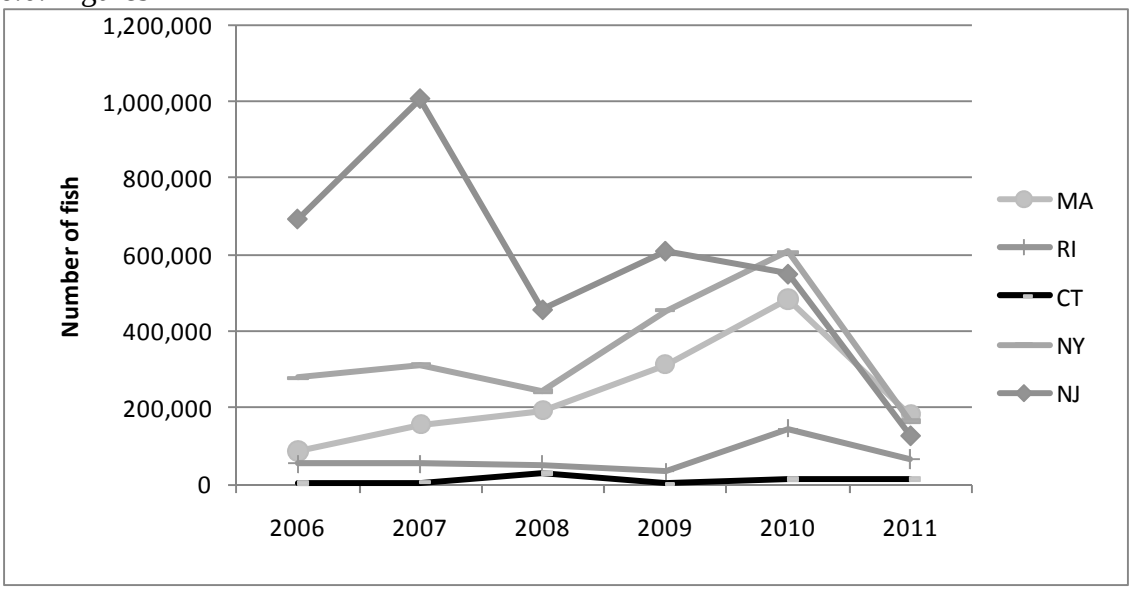

Figure 1. Recreational harvest estimates by state (MA-NJ) from 2006 to 2011. 2011 estimates are preliminary (wave 6 estimates are projected using prior year data).

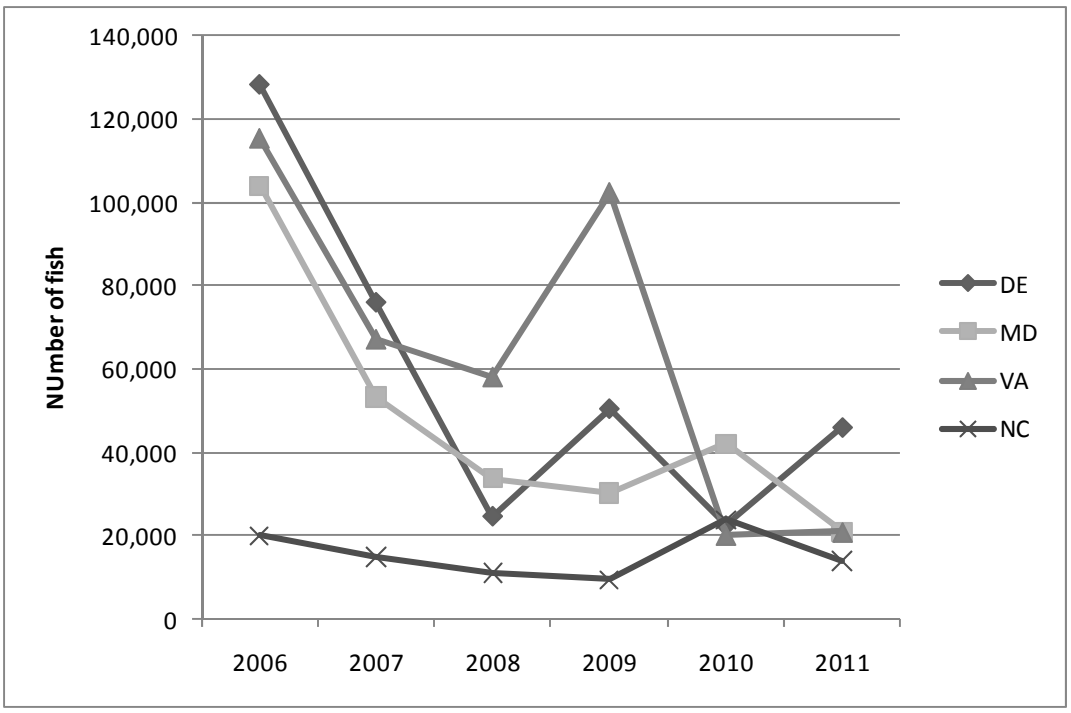

Figure 2. Recreational harvest estimates by state (DE-NC) from 2006 to 2011. 2011 estimates are preliminary (wave 6 estimates are projected using prior year data).

7.0 References

1. Shepherd GR, and J.Nieland. 2010. Black sea bass 2010 stock assessment update. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 10-13; 25 p. Available from: National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543-1026, or online at http://www.nefsc.noaa.gov/nefsc/publications/
2. Moser, J. and G.R. Shepherd. 2009. Seasonal Distribution and Movement of Black Sea Bass (*Centropristis striata*) in the Northwest Atlantic as Determined from a Mark-Recapture Experiment. *Journal of Northwest Fisheries Science. 40:17-28.*
3. Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division.

Atlantic States Marine Fisheries Commission

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MEMORANDUM

January 13, 2012

TO: Atlantic Menhaden Management Board; Shad and River herring Management Board; Summer flounder, Scup, Black sea bass Management Board; Weakfish Management Board

FROM: Melissa Paine, CESS Coordinator

SUBJECT: Recommendation for CESS Representatives to Plan Development Teams and Technical Committees

The Committee on Economics and Social Sciences (CESS) has recommended the following individuals be appointed as the economist or social scientist representative to the Plan Development Teams and Technical Committees for the following species.

Atlantic menhaden	Dr. Peter Schuhmann	Economist
Shad and River herring	Dr. Winnie Ryan	Social scientist
Summer flounder, Scup, Black sea bass	Dr. José L. Montañez	Economist
Weakfish	Mr. Manoj Shivlani	Social scientist

Dr. Peter Schuhmann is a Professor in the Department of Economics and Finance, at the University of North Carolina, Wilmington. His research interests are in fisheries policy analysis, recreation demand, discrete choice models for non-market valuation of environmental amenities and natural resources, welfare analysis of local and regional environmental issues, bioeconomic modeling, and natural resource damage assessment.

Dr. Winnie Ryan received her PhD from the Virginia Institute of Marine Science, College of William and Mary. Her research focuses on social impact assessment in fisheries and closed area management.

Dr. José L. Montañez is an economist on staff at the Mid-Atlantic Fishery Management Council and is the assistant coordinator for Summer flounder, Scup and Black sea bass.

Mr. Manoj Shivlani is the Program Manager at the Center for Independent Experts. He is pursuing his PhD on the impacts of non-fishery factors on the persistence of commercial fishing communities in the Florida Keys.

Curriculum vitae can be made available if desired.

M12-08