Atlantic States Marine Fisheries Commission

ISFMP Policy Board

May 3, 2018
8:00 - 10:00 a.m.
Arlington, Virginia

Draft Agenda

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

1. Welcome/Call to Order *(J. Gilmore)* — 8:00 a.m.

2. Board Consent *(J. Gilmore)* — 8:00 a.m.
   - Approval of Agenda
   - Approval of Proceedings from February 2018

3. Public Comment — 8:05 a.m.

4. Update from Executive Committee (*J. Gilmore*) — 8:15 a.m.

5. Review and Consider Commonwealth of Massachusetts, Rhode Island, Connecticut and New York Appeal of Addendum XXX to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (*T. Kerns*) **Final Action** — 8:25 a.m.

6. Committee Reports — 9:15 a.m.
   - Artificial Reef (*L. Havel*)
   - Law Enforcement (*M. Robson*)

7. Marine Recreational Information Program Update on the Transition to the Fishing Effort Survey and the Calibration Process (*K. Denit*) — 9:30 a.m.

8. Noncompliance Findings, If Necessary **Final Action** — 9:45 a.m.

9. Other Business — 9:55 a.m.

10. Adjourn — 10:00 a.m.

The meeting will be held at the Westin Crystal City, 1800 S. Eads Street, Arlington, Virginia; 703.486.1111

MEETING OVERVIEW

ISFMP Policy Board Meeting
Thursday May 3, 2018
8:00-10:00 a.m.
Arlington, Virginia

Chair: Jim Gilmore (NY) Assumed Chairmanship: 10/17	Vice Chair: Pat Keliher (ME)	Previous Board Meeting: February 8, 2018
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 2018

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. Executive Committee Report (8:15-8:25 a.m.)

Background

- The Executive Committee will meet on May 2 , 2018

Presentations

- J. Gilmore will provide an update of the committee's work

Board action for consideration at this meeting

- none

5. Review and Consider Commonwealth of Massachusetts, Rhode Island, Connecticut, and New York Appeal of Addendum XXX to the Atlantic Menhaden Fishery Management Plan (8:25-9:15 a.m.) Final Action

Background

- Addendum XXX to the Summer Flounder, Scup and Black Sea Bass FMP was approved in February 2018 (**briefing materials**). The Addendum established a management process for the 2018 recreational black seas bass fishery.
- The four states are appealing the approval of the addendum (**briefing materials**).

- Following the Appeal Process (**briefing materials**), Commission leadership reviewed the appeal and determined the appeal should be considered by the ISFMP Policy Board under criterion 2 and 3 (**briefing materials**).

Presentations

- T. Kerns will present a background on the development of the management program as well as a summary of the justification provided in the record for the management board's action. The ISFMP Director will also present the potential impacts of the appeal on other affected states
- The four states will present their rationale for appealing the decision under criterion 2 and 3 and provide a suggested solution.

Board discussion for consideration at this meeting

- Consider the Appeal of Addendum XXX to the Summer Flounder, Scup and Black Sea Bass FMP

6. Committee Reports (9:15-9:30 a.m.) Final Action

Background

- The Artificial Reef Committee met on February 28- March 1, 2018 with the Gulf States Marine Fisheries Commission's Artificial Reef Committee. The Committee is creating a document compiling the state artificial reef monitoring protocols.
- The Law Enforcement Committee will be meeting on May 1, 2018.

Presentations

- L. Havel will present an overview of the Artificial Reef Committee's activities
- M. Robson will present an overview of the Law Enforcement Committee's activities

Board action for consideration at this meeting

- None

7. Marine Recreational Information Program Update on the Transition to the Fishing Effort Survey and the Calibration Process (*K. Denit*) (9:30-9:45 a.m.)

Background

- In 2015, MRIP launched a new method for estimating the number of trips taken by recreational fishermen. The new survey method moves away from household telephone surveys, which are becoming less effective as fewer homes use landline phones. In addition, the new survey uses license and registration information provided by anglers through the National Saltwater Angler Registry.
- Development of a calibration model (2016-2017): Consistent differences between new design and legacy design estimates will be evaluated to determine possible sources of bias in the legacy design that can explain those differences.
- Re-estimation of historical catches (2017): Once a calibration model has been approved, the model will be used to generate a corrected time series of recreational catch statistics

Presentations

- K. Denit will present progress of the MRIP Transition Process

Board action for consideration at this meeting

- None

8. Review Non-Compliance Findings, if Necessary Action

9. Other Business

10. Adjourn

DRAFT PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ISFMP POLICY BOARD

The Westin Crystal City
Arlington, Virginia
February 8, 2018

These minutes are draft and subject to approval by the ISFMP Policy Board
The Board will review the minutes during its next meeting

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TABLE OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).

2. **Approval of Proceedings of October 2018** by Consent (Page 2).

3. **Move to approve the Climate Change White Paper: Management, policy, and science strategies for adapting fisheries management to changes in species abundance and distribution resulting from climate change and to distribute this policy to Sections and Boards for consideration** (Page 8). Motion by Doug Grout; second by Jason McNamee. Motion carried (Page 10).

4. **Motion to adopt the Climate Change Gaps and Recommendation Report and the SAV Policy Report put forward by the Habitat Committee** (Page 11). Motion by Doug Grout; second by Jeff Brust. Motion carried (Page 11).

5. **Move that the Board establishes a working subcommittee to develop direction and policy as it pertains to the protection of right whales in relation to Commission activities** (Page 24). Motion by Pat Keliher; second by Dave Borden. Motion carried (Page 25).

6. **Move to approve; the 2019 shad stock assessment and peer review terms of reference** (Page 28). Motion by Michelle Duval; second by Andy Shiels. Motion carried (Page 28).

7. **Move to convene a Lobster Electronic Subcommittee, with representatives from the Lobster Board, state and federal agencies, ACCSP, and ASMFC staff. The objectives of this subcommittee are to 1. Evaluate the needs for an electronic harvester reporting form based on stipulations in the lobster and Jonah crab FMPs, and individual state requirements. 2. Evaluate various electronic reporting platforms and their ability to be housed with SAFIS, as well as state specific databases. 3. Recommend simple and logical solutions to improve the ease of electronic harvester reporting. This includes evaluating the best way to report spatial location, considering the new requirements to report LCMA and 10 minute squares, and the ability of states to use state-specific sub-areas in state waters. 4. Outline a timeline for development of electronic harvester reporting in the lobster/Jonah crab fisheries** (Page 34). Motion by Pat Keliher; second by Dave Borden. Motion carried (Page 34).

8. **Move to task the Law Enforcement Committee with investigating the enforceability of ropeless fishing in the lobster fishery on behalf of the Lobster Board (Page 34).** Motion by Pat Keliher; second by Dave Borden. Motion carried (Page 35).

9. **Motion to Adjourn** by consent (Page 35).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)
Steve Train, ME (GA)
Sen. Brian Langley, ME (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Doug Grout, NH (AA)
Ritchie White, NH (GA)
Raymond Kane, MA (GA)
David Pierce, MA (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Jason McNamee, RI (AA)
David Borden, RI (GA)
Mark Alexander, CT (AA)
James Gilmore, NY (AA)
Emerson Hasbrouck , NY (GA)
John McMurray, NY, proxy for Sen. Boyle (LA)
Jeff Brust, NJ, proxy for L. Herrighty (AA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Andy Shiels, PA, proxy for J. Arway (AA)
Loren Lustig, PA (GA)
Roy Miller, DE (GA)
John Clark, DE, proxy for D. Saveikis (AA)
Craig Pugh, DE, proxy for Rep. Carson (LA)
David Blazer, MD (AA)
Rachel Dean, MD (GA)
Ed O'Brien, MD, proxy for Del. Stein (LA)
John Bull, VA (AA)
Kyle Schick, VA, proxy for Sen. Stuart (LA)
Steve Murphey, NC (AA)
Michele Duval, NC, Administrative proxy
Doug Brady, NC (GA)
David Bush, NC, proxy for Rep. Steinburg (LA)
Ross Self, SC, proxy for Sen. Cromer (LA)
Robert Boyles, SC (AA)
Spud Woodward, GA (AA)
Doug Haymans, GA (GA)
Pat Geer, GA, proxy for Rep. Nimmer (LA)
Jim Estes, FL, proxy for J. McCawley (AA)
Martin Gary, PRFC
Sherry White, USFWS
Kelly Denit, NMFS

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

Staff

Bob Beal
Toni Kerns
Laura Leach
Jessica Kuesel
Lisa Havel

Guests

Mike Asaro, NMFS
Rachel Baker, NOAA
Chris Batsavage, CCA
Heather Corbett, NJ DFW
Kiley Dancy, MAFMC
Emily Gilbert, NOAA
Brian Hooker, BOEM
Arnold Leo, E. Hampton, NY
Tom Lilly, Friends of Naticoke River
Dan McKiernan, MA DMF
Brandon Muffley, MAFMC
Michael Pentony, NMFS
Gary Redding, DC
Jack Travelstead, CCA

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, February 8, 2018, and was called to order at 10:15 o'clock a.m. by Chairman James J. Gilmore.

CALL TO ORDER

CHAIRMAN JAMES J. GILMORE: Welcome to the ISFMP Policy Board. We've got quite a few things on the agenda today; so let's jump into it, but before we begin just some personal notes. Due to logistics at the annual meeting, I never got to thank everybody for electing me Chairman; so I would like to just take this opportunity for that and the honor of leading the Commission.

I would also like to thank Doug Grout. Doug did a great job in the two years that he was Chairman; and he was a great mentor to me. I thought I was ready a couple years ago when I was Vice-Chairman; but really Doug brought me along, so thanks again, Doug and a great job you did. Also thank you for electing Pat Keliher as Vice-Chairman.

I think I couldn't be happier; and I think myself, Pat, and Bob and all the senior staff of the ASMFC is going to make a great team in facing some of the challenges as we move forward, which we do have some challenges. I think we have some unprecedented times at the Commission's 76 year history.

I think that more than ever, as Robert Boyles has said, we really need to hang together if we're going to face these challenges effectively. Just a simple ask, and I think I haven't done this in a while, and maybe some people have never done it. But you really need to go back and just take a step back and look at the Compact.

Look at the rules and regulations, and look at the ISFMP Charter, and again take a fresh look at that. Because we really need to cooperate; if we're going to be successful, and I think the words in those documents really define who we are and who we should be, and how we should operate. With that I think if we do that and we stick to our principles, I think we'll all succeed as we go forward. Thanks for listening to my gravelly voice and we'll move on.

Well, a couple more things, and I'm going to do this now instead of at the end. We have a couple of departures in the family; first off Mark Alexander, this is his last meeting. Mark is going off to the retirement world; from what I understand. Although every time we say this, the next meeting they seem to be back, Spud.

But in any event, we wish you the best Mark in your retirement. Secondly, and near and dear to my heart, Dr. Duval is actually going to be moving on. She is going to be relocating to the wonderful Commonwealth of Pennsylvania; so she'll be living in southeast Pennsylvania, and will be taking a bit of a hiatus from all of this I guess, figuring out what to do. When she comes to her senses and decides to come back to us; I hope she will do that and we'll welcome you back. But in the interim Michelle, best of luck to you and all the terrific things you've done for the Commission and the South Atlantic Council. We sorely are going to miss you; both you and Mark, so best of luck in the future. (Applause)

APPROVAL OF AGENDA

CHAIRMAN GILMORE: Okay our next item of business is to go over the agenda. We obviously have some changes. We have taken out Item Number 5; in terms of the Virginia appeal on Amendment 3 to the Atlantic menhaden fishery management plan, so that will not be discussed today. Are there other changes or additions to the agenda? Dan. I'm clairvoyant.

MR. DANIEL McKIERNAN: Yes, I would like to talk briefly about an aquaculture and interstate shellfish seed issue.

CHAIRMAN GILMORE: Okay Dan, we'll add that to other business. Pat.

MR. KELIHER: Yes Mr. Chairman, under other business we need to discuss a tasking motion related to electronic reporting within the lobster fishery; and also to approve the tasking of the Law Enforcement Committee as it deals with the enforceability of ropeless fishing.

CHAIRMAN GILMORE: Okay, we'll add that to other business. Are there any other changes to the agenda? Okay seeing none; we'll adopt those by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN GILMORE: The next item is the approval of the proceedings from the October, 2017 meeting. They should be in your briefing materials. Are there any changes to those proceedings? Seeing none; we will adopt those by consent.

PUBLIC COMMENT

CHAIRMAN GILMORE: Before every meeting we have public comment. I believe we have one individual signed up that wants to make a public comment. However, I caution you we do not have the menhaden issue on the agenda any longer. We're going to limit this. We're not going to have any discussion because of the public comment we had had, but we're allowing one comment. If you're interested in making public comment, please raise your hand. Sir, please identify yourself and your organization; and please limit your comments to three minutes, thank you.

MR. TOM LILLY: Yes, Tom Lilly. I'm with the Friends of the Nanticoke River. We're a small group of folks interested in menhaden near Salisbury, Maryland. I would like to speak to you. By the way thank you, Mr. Chairman and all the members of this Committee. It is indeed an honor to be given this opportunity. Thank you very much.

But the topic I would like to brief you on, so to speak this morning, is how can we protect the schools of spawning menhaden in the Atlantic Ocean? First a couple words about our beautiful Chesapeake Bay. I know you all live on or near the water; you're concerned about it. But let's remember, the Chesapeake Bay is pretty amazing.

It has 40 major rivers that come into the Bay. You're near one right now, the Potomac. We have the Susquehanna, the Manokin, and the South River. Down south we have the York, The Rappahannock, we have these wonderful rivers. Remember, for each one of these rivers there are probably 500 creeks and small bodies of water that flow into them. Then let's not forget all the little bays, the wonderful little bays that we have scattered all around the Chesapeake. Now, while we're thinking about that let's think about the two or three million baby rockfish that are out in these wonderful bodies of water right now.

I'm talking about the small rockfish; the one and two year old rockfish. You know the waters are starting to warm up a little bit right now. These fish are getting active. I don't need to tell you. What are they all thinking about? They're thinking about getting something to eat. They're thinking about eating. They're thinking about finding the little worms, the little baby crabs and the things they need to survive.

The most important thing they need to survive on is the juvenile; the little menhaden are there that God put there to feed them. What we know from the last 20 years is that the supply of those little menhaden that those fish need to survive is dwindling, and has reached terrible rock bottom levels. We know that from all kinds of research.

We know that from guys like me that go out and fish. Don't forget that as that water warms up a little more those fish are becoming more active. They want to put on weight; and they're all searching and competing for food. Sadly, the

small baby menhaden aren't there. Now, why aren't they there? Okay that is controversial.

But one thing's for sure that the reduction industry is catching about 8,000 schools of adult menhaden out in the Atlantic Ocean. Thousands of those schools are being caught before they can spawn. Remember, those schools of menhaden, some of them weigh 25 tons. It's about the size of a tractor trailer load of fish. We don't think about that very often.

But those fish, one of those schools probably has the potential to produce a billion eggs underline again, a billion eggs. If we can protect 100 of those schools, and that's what I'm talking about. We can protect a hundred billion; we can create the opportunity for another hundred billion eggs to come into the Bay.

Okay, now a way to move forward and a way to move forward right now on this, yes. Do we need to do it? Yes, and I have three ways that we can move forward. Number one, this is important. Can we ask Cook Industries, and I guess your representatives are here this morning, to give us the information from the Captain's logs that have the information in the past about where these schools are caught, particularly what time of year they are caught.

Is there a concentration; and what is their condition as to spawning? More importantly, can we ask Cook Industries, and I hope you will answer this Cook Industries if you're here. In the future going forward, can you have your Captains record the GPS locations of the schools, their condition as to spawning?

When you take these fish in to be checked in Reedville, by the Beaufort Lab, the Beaufort NOAA Lab, can this Commission, and I hope you will do this, ask the people down at the lab, Ray Mroch for example. Can they take samples of the spawning condition of these fish; like goes on up in the herring industry in New England? What you've done in the herring industry in New England to protect the spawning fish is a great example for what can be done here. Now, those are the first two points. We need to get the records. Our scientists, many, many research papers as you know have been done on the movement of the spawn and the currents. Oceanographers have worked on this for years.

But they need the information Cook Industries, as to the locations and conditions of that spawn. That would help them tremendously. Okay as I mentioned, we know that system of closures is working up in New England. I'm asking you Commission, let's do that here and then let's not do it years from now. Let's start thinking about doing it now.

Now is when the Bay needs those fish desperately. Now, if you will agree. By the way, isn't this a win, win; win situation for you commercial people, for you recreational people, for you environmental people. Getting more juvenile fish into the Bay is a win situation for everyone. We should be together on this.

There is no reason to fight each other on this; this is something that would help everyone, and we can do it now. We can do it this summer. How do we get started? Staff, I'm asking you. Set a meeting within the next 30 days or 60 days rather on the stakeholders involved. Get them together. Let's sit down at the table; and let's explore the possibilities here. There are a lot of opportunities here to do a lot of good. That's it, thank you so much for listening to me. It's an honor, really. Thank you.

UPDATE FROM THE EXECUTIVE COMMITTEE

CHAIRMAN GILMORE: Thank you, Mr. Lilly. Are there any other comments on topics not on the agenda before we move on? Seeing none; we will move on to our next item, which is Update of the Executive Committee from yesterday. Mr. Lilly, could you please switch that microphone off? Thank you. I get to do the honor.

For the Executive Committee yesterday we had several topics. The first was we reviewed some updates on ACCSP; which Mike Cahall had done. In your briefing package it gets into the details of Mike's update. But essentially, he went over different issues; particularly funding, data collection, data dissemination, APAIS, and particularly with the data dissemination and collection some electronic advances that we'll be doing in the not-too-distant future. If you have more interest in that again, the details of that are in the briefing document.

Number two is we reviewed the leadership nominating and election process. The last election that we had gone through there were some questions raised about two particular issues; how we were executing the nominating process, and then who actually was eligible to be considered to be Chairman and Vice-Chair of the Commission. There is a document that identifies essentially that whole process. One thing it was unclear as to who was being contacted, and was everyone being contacted.

In terms of the eligibility, up until probably the last election it was generally that only the Commissioners would be eligible to serve as Chair or Vice-Chair. I think the only other addition was permanent proxy. There was generally a limit to maybe some of the people that could sit on the Board that could Chair the Commission. I think there was recognition that there was some great talent around the room that serves as permanent proxies or ongoing proxies. After some discussion during the meeting, a motion was put forward and essentially took both issues on under one motion. The first issue was on the nominating process. We went with the second option, which essentially boils down to the Nominating Committee will contact the Administrative Commissioners of each state, who then in turn contact their legislative and governor appointee Commissioners to make sure everyone is considered, in terms of who would be eligible to be Chair or Vice-Chair of the Commission.

The second issue on eligibility, it was agreed that we would actually add on a little bit; and we went with the second option with that ongoing proxies will now be eligible, but only with the approval of the appointing Commissioner. If we have ongoing proxies now, when we get into the future they will be eligible to be considered for Chair or Vice-Chair of the Commission.

That again was approved by the Executive Committee yesterday. I'll pause here; because I know Ritchie had a comment whatever about. Generally that is under the purview of the Executive Committee, but there is a little bit of feedback as to any feeling on that. Ritchie.

MR. G. RITCHIE WHITE: I was able to attend the meeting. I take exception with the contact going to the Administrative Commissioner. I think each of the three Commissioners are independent and are of equal importance. I think the contact ought to go directly to each Commissioner; and not through the Administrative Commissioner.

Each Commissioner then gets to give their input separately and not a state input; even though the state will vote in the end. It doesn't mean that each Commissioner might have different ideas about who may want to serve or who they believe would be good choices. I also think that the issue was discussed about legislative Commissioner, and then the legislative proxy, and how the legislative Commissioner very often is busy and may not see an e-mail come in, may not recognize it.

Therefore, the legislative proxy might not be told from a legislative Commissioner about this process. I think that when there is contact by e-mail that it ought to go to both at the same time; so that we know that the proxy that is active here is getting contacted, and it doesn't go by the wayside in the legislative Commissioners in their e-mail box. That is my thoughts, and I hope that all Commissioners can participate in this process equally.

CHAIRMAN GILMORE: I've got Doug next. Dennis.

MR. DENNIS ABBOTT: Having made the motion, either I made the wrong motion or you're not quoting the results of the vote. But on Issue 1 and during our discussion, we talked about compiling a list to talk to each appropriate Commissioner; whether it's an ongoing proxy, the legislators, or whatever.

We were strongly in favor of that so that we wouldn't be subordinate to the Administrative Commissioners in voicing our opinion of our interest in being Chair, Vice-Chair or talking about whom we wanted or who we thought might be a good next Vice-Chair. That is my recollection of what I said.

CHAIRMAN GILMORE: I just conferred with Pat. Yes, if you'll recall we had a rather tag team approach yesterday, so I stand corrected. What you said, Dennis is accurate. Just to remind everybody. This now is going to go before the Commission's attorney for review, and I think we're going to probably talk about it at the May meeting to finalize it once we come back. I guess it's a proposal at this point that's been recommended by the Executive Committee.

Again, I think we'll have further discussion on this after we get that review back. The next item was indirect cost rates. As Laura has been telling us; and everybody knows, the indirect cost rates have been going through the ceiling. I know back in my state it's really affecting a lot of the grants we have, and how things are being done.

At this point in time I think, and Laura and Bob have made this pretty clear. We're trying to strike a balance where to keep those as low as possible; to keep most of the money going towards the projects instead of the indirect cost. But there is a balance that needs to be made between that and accounting and audits and things.

Laura and Bob have committed to staying on top of that and keeping us informed as those rates change. The theme still is to keep them as low as possible; but we will adjust them as time is required under legal requirements. The next item was the appeals process. There was some concern. Well, it's funny when people talk to me about becoming Chairman they said, oh never worry about the appeals, they never happen.

Now we seem to be having them on a regular basis. We had been tweaking the appeals process somewhat; and we seem to be using it a lot more now. We've taken another look at it. There was some discussion around the criteria. There are essentially five criteria that an appeal can go forward on.

Specifically during the discussion yesterday, Criteria Item 3 and 4 there were some concerns about maybe vagaries under it, maybe misinterpretations of it, and even possibly under 5. Considering the fact that we're anticipating maybe more appeals in the not-too-distant future, we really needed to tighten those up.

Jay McNamee and Jeff Brust volunteered to expand and clarify on these two points as an initial take. Of course Item 3 in particular is on data; and the information we use in terms of these things. They're going to take a first crack at this; come up with maybe some suggested changes to it, and then we're going to bring it back in the May meeting and we'll have another discussion about if we're going to amend the Appeals Process for better clarification, and maybe better use as we move forward.

The last item on the agenda was conservation equivalency. There was some discussion about some of the requirements that are being under conservation equivalency, and are they actually being applied. Particularly, the Plan Review Team essentially after conservation equivalency

is implemented, is there reviews being done after the fact a year later.

It came up yesterday I guess at striped bass is that if we do these things, are we truly looking at them? The response was kind of a mixed review; sometimes, sometimes not. We really need to look at that a little bit and maybe tighten that up. Once again the overworked Jay McNamee is going to be looking at essentially that particular issue; and maybe some more. Really the one issue was we have to add in sufficient time to review for the PRT to review some of these. If the conservation equivalency truly is working, and that the information that they need to make those decisions, this actually takes a little time to go through.

That's another effort that Jay will look into; and then we'll be bringing that back at the May, 2018 meeting. That was pretty much the end of the meeting; and I'll actually leave it up to Pat, since he took over for me since my voice didn't last very long, so did I miss anything? Are there any comments or questions on that before we move on? Okay, seeing none; Roy, go ahead.

MR. ROY W. MILLER: I hesitate to stop forward progress; but I thought I had a good understanding of where we were with regarding the nomination process. But frankly, the two questions and then the response to the questions have confused me a little. Could you clarify that once again; who the Nominating Team will contact to solicit names for officers?

CHAIRMAN GILMORE: Laura, do we have the motion from yesterday; because that would be the best way just to read the motion the way that it was approved. I don't feel so bad, Roy. Now you're confused too, because I was for a minute or so.

MS. LAURA LEACH: What I got was move that we adopt Number 2 on Issue 1; and adopt Number 2 on Issue 2.

CHAIRMAN GILMORE: Pat's got it first, and then I'll come back to you, Robert.

MR. PATRICK C. KELIHER: Issue 1, what is the appropriate approach to contact Commissioners for nominations, and the motion that was supported was Item 2 under Issue 1. A member of a nominating committee will contact the Administrative Commissioner from each state and request they communicate with the state's legislative and governor's appointees.

Then to clarify to the point that Dennis Abbott brought up; staff will compile a list to ensure that the Administrative Commissioner has that full list of who he needs to contact. Under Issue 2, who should be eligible to serve as an officer? Under Issue 2, Item 2 was chosen. Commissioners and ongoing proxies are eligible to serve as officers. However, the appointing Commissioner must agree to the eligibility of a proxy. Clear as mud now?

CHAIRMAN GILMORE: Are you good, Roy?

MR. MILLER: Thank you.

CHAIRMAN GILMORE: Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman I'm sorry, I missed the conversation. I think I heard the operative point. I think there are some questions that I have regarding some of the legal questions. Did I understand we are going to request legal counsel review of this; and if so, will we revisit this in Executive Committee in May?

REVIEW AND CONSIDER THE CLIMATE CHANGE WORKSHOP WHITE PAPER

CHAIRMAN GILMORE: Correct on both points, Robert; anyone else on this topic? Okay, moving on the ptomaine twins up here are going to tag team; Toni is going to go off the Review and Consider the Climate Change Workshop White Paper**,** so Toni, take it away.

MS. TONI KERNS: At the annual meeting I went through the Draft Climate Working Group white paper in full detail; so I'm going to briefly run through it again today. What we had said at the end of the discussion was that folks would sit on the white paper; bring forward any concerns or comments they had to staff, and then we would vote on approval of the white paper here today.

I only received one set of comments from NOAA Fisheries; which we've incorporated into the document, which was included on your briefing materials. Just as a refresher. The Climate Change Working Group was tasked to develop a science policy and management strategy to assist with adapting changes in species abundance and distribution, resulting from climate change impacts.

This white paper was pulled together to provide options to assist Boards and Sections in the management of species that are being impacted by climate change; with the focus on stocks with low biomass and allocation issues. This is by no means a marching order for any Board or Section; it's just there to be used as guidance if they would like to do so.

We should note that none of the options that were analyzed to clarify the pros and cons of them, and that the options that are included in here are not all consistent with federal law or the fisheries management goals identified in the charter in some cases. The list is just a starting point for managers as they begin their discussions on these issues.

The document contains a stepwise approach in looking at how to address these climate change issues. The stepwise approach allows for change in the process throughout time, as we see changes in either species allocations or in the environment. It considers information for stocks at persistent low biomasses.

It asks questions about what are the appropriate level of harvest; how the resources should be committed to continuing monitoring and managing of the species, looking at status quo of how to address monitoring and management, evidence of a change in productivity to adjust reference points to reflect that change.

If there is evidence that the stock has low to no productivity, is recovery to sustainable levels highly unlikely? For management and monitoring to cease, harvest does not need to continue because it becomes economically feasible. These are some of the options that you can choose from. The document goes to list a series of science requirements that you should have when thinking about these stocks at persistent low biomasses.

It also has a section contained on management for stocks with changing distributions. It has options that look at different types of state-by-state allocations. It has options that look at maintaining state-by-state allocations; but revisiting those allocations based on certain triggers, and there are a series of triggers that are listed. Then lastly it has options for management for moving away from state-by-state allocations. In addition the document has a suggestion to recommend a term of reference for stock assessments for climate impacts on the stock. If there are no impacts then it shouldn't be included in the terms of reference for those stock assessments. Then lastly it recommends a coastwide database to summarize the types of climate related data that is out there. It's not storage of all that data; but just to provide a list for us to have at our fingertips. Are there any questions? I'll try not to repeat what I did last time.

CHAIRMAN GILMORE: Wow, you stumped them, Toni, very good. Doug.

MR. DOUGLAS E. GROUT: Not a question, because I was pretty intimately involved with this. But just Mr. Chairman, do we need a motion to adopt this as a policy that would be sent off to the Sections and Boards for consideration?

CHAIRMAN GILMORE: Yes we do, Mr. Grout. Would you like to offer one?

MR. GROUT: Sure. **I would move that the Atlantic States Marine Fisheries Commission or the Policy Board, adopt the management policy and science strategies for adapting fisheries management to changes in species, and abundance in distribution resulting from climate change as a policy, and to send it off and distribute it to the Board and Sections for consideration in their management.**

If I might add one thing, I noticed Toni that you made a little introduction that some of these may not be compliant with federal laws or the Compact. Do you think that might be something that we should put in the introduction to that as a modification?

MS. KERNS: It is.

MR. GROUT: Thank you.

CHAIRMAN GILMORE: Okay Doug, I think we have the motion up there. Is that correct?

MR. GROUT: Sure, and if I could also say and to distribute this policy to the Boards and Sections for consideration.

CHAIRMAN GILMORE: Okay, do we have a second to that motion; Jason McNamee, discussion on the motion, Dr. Pierce?

DR. DAVID PIERCE: I do support the motion. However, I did want to point out one thing that probably is obvious to everyone. But this is an important element of the position taken by the group that put this document together, referencing Page 3, where under management options for stocks at persistent low biomass on Number 3.

When we have some evidence that a stock has a low to no productivity and recovery to sustainable levels is highly unlikely. Then every Board is going to be faced with a rather difficult choice. We either say, according to this document a permanent moratorium in harvest occurs, until it becomes economically, how does it read? A permanent moratorium is put in place, or harvest continues until it becomes economically unfeasible. Tough choices, and a tremendous demand or an obligation is put on those who provide us with the science, who provide us with answers, who have to provide us the answers or try to give answers to the five questions under science requirements.

I just wanted to point out that when we determine that a particular stock has that low to no productivity; and we have to make a choice then between a permanent moratorium, or to let them go until it becomes economically unfeasible. We have to have some answers to those five questions. It's a tremendous demand on those who provide us with the science. I hope that we'll be able to get some answers to those questions.

I'm not optimistic; but nevertheless, it's a very frank description of what's going to be required for us to make that distinction between a moratorium or just let it run until it becomes economically feasible. Thanks to the group that put this together. They did a good job; and they're very frank in terms of the choices we're going to have to make based on good science, which I hope we'll have as we address some of these stocks, maybe one being southern New England winter flounder.

CHAIRMAN GILMORE: Good points, Dave. I think between winter flounder, as you mentioned, and weakfish, it does become frustrating that you see you're out of compliance, because you've maintained a very modest fishery to collect data. But then it's very difficult to get the data, because you can't find the fish. It's a very good point. Adam.

MR. ADAM NOWALSKY: I appreciated the opportunity to be part of the group; and glad to see that the body as a whole is prepared to utilize it. I would just offer that at the end of

the introduction the last sentence says; the lists are thus intended to provide a starting point for managers as they discuss the management options.

It would be my request that when this be distributed to Boards and Sections that that be highlighted, and it be made clear that these are not mandates given to those Boards and Sections, it's meant to be hey, we've already done the legwork for you for some ideas that you could pursue in this. Just so we don't wind up with questions about why aren't you following that document that was sent to us?

CHAIRMAN GILMORE: Good point. I think we can add that in. Ritchie White.

MR. WHITE: To David's comments. We're very close to being there with northern shrimp. We're in our fifth year of moratorium; and clearly wrestling with how many more years. You don't have reasonable recruitment, and with fishermen saying gee, let us have a chance at what's left. I think we're going to be making a decision using this at some point in the next few years.

CHAIRMAN GILMORE: Jeff Brust.

MR. JEFF BRUST: Just to Adam's and Dr. Pierce's points. I'm wondering if we leave the term distribute this policy. Are we constraining ourselves to just the options that are in this document; or are we using this as a guidance document with potential options for where we want to go, but not necessarily the entire menu? If not, should we perhaps change that to; to this guidance document?

CHAIRMAN GILMORE: Well, Jeff I think that was the intent all along. This is a guidance document; and I hope to God we never stifle ourselves, where if we can come up with some creative solutions to any fishery that we would tie ourselves to a policy that we couldn't get out of. Again, I think it was originally envisioned as a guidance document. That's what it is. I would be reluctant to change the title at this point; unless anybody disagrees. I think it stands for that as it is. Go ahead, Jeff.

MR. BRUST: I'm just wondering, does the language in the motion itself constrict us; and to distribute this policy to Boards and Sections.

CHAIRMAN GILMORE: Doug, do you want to consider changing that to guidance instead of policy?

MR. GROUT: If it makes people more comfortable. Again, I can see a policy can be a guidance document at the same time. I don't think it's something we have to – well and the title is Policy and Science Strategies, so that is where I was coming from. Clearly these were guidance documents.

If you come up with something that we haven't thought of, great, and I think we should even modify this document if there is a new idea about how to handle things, I think that would be great. That's my thought, talking the same. But if it makes the Board more comfortable with it saying guidance document, I'm willing to change it.

CHAIRMAN GILMORE: Well at this point I think it's on the record now that you've pretty much identified it as what it is. Why don't we leave it alone; so we don't start changing some of the wording in the document? I think it's pretty clear it is a guidance document; and trust me, back in my state when you say the word policy, lawyers all get involved. I can understand the sensitivity. But I think it's pretty clear on the record what we have right now; any other comments on this? Dave.

MR. GROUT: I can support this as a guidance document. I think it's well done. But I would just note that I think as we try to implement these provisions, we're going to have to continually tweak these and add and delete to the group. Given the discussion we've had over the past few days about weakfish and some of

these other stocks, and southern New England lobster.

Where we already have a strategy in place to downsize, right size the industry to the available size of the resource, we're going to have to just kind of customize our responses; based on a lot of the biological facts and industry economics. I think these should be guidance and flexible is the point.

CHAIRMAN GILMORE: Yes understood, Dave, I agree; other comments. Okay, well let's maybe do this simply. Is there any objection to the motion? Okay great, seeing none we will adopt the guidance/policy/whatever we're going to call it, as a unanimous consent.

HABITAT COMMITTEE REPORT

Okay we're going to move on to our next item; which is a Habitat Committee report and Lisa Havel is going to lead us in on that discussion. Lisa, whenever you're ready.

MS. LISA HAVEL: I'm going to be presenting on two different documents that the Habitat Committee has produced; since we last saw you back at the annual meeting. Hopefully you all will approve them today.

REVIEW AND CONSIDER CLIMATE CHANGE GAPS AND RECOMMENDATIONS REPORT

DR. HAVEL: The first one is our Climate Change Recommendations Report, Task 4.6.2 of the 2017 ASMFC Action Plan.

It says to identify gaps in state coastal regulatory planning regarding climate change impacts; and make recommendations to increase resiliency. That is what this report is doing. It builds off of the 2016 summary of state initiatives that address climate change that we presented last year to you. State initiatives were grouped into eight different categories.

Since I have a little more time today I'm going to read through this quickly. The first one is established working groups or legislation to reduce carbon output. The second is establish working groups or legislation to respond to climate change threats. The third is produced reports on climate change.

Number four is assesses and monitors the effects of climate change. Five is has mechanisms for collaboration among agencies and other organizations. Six is addresses climate change and planning documents. Seven is has responded to climate change on the ground; and eight is includes climate change in outreach efforts.

Each state has implemented between one and eight of these initiatives; and four states have implemented all eight of them. At a minimum, all states addressed climate change in their state wildlife action plans. We notice that there are opportunities for more on-the-ground response depending on the state; also more opportunities for working groups or legislation to reduce carbon outputs, as well as to respond to climate change threats, and more opportunities for collaboration and outreach.

The report includes lists of recommendations; and these fall under three different categories, energy production and use, science and monitoring, and increasing resiliency. The report also includes additional literature and links to climate change initiatives along the coast; including a lot of information from NOAA and the Department of the Interior.

There is also a summary of the initiatives taken by each state.

REVIEW AND CONSIDER SUBMERGED AQUATIC VEGETATION (SAV) POLICY REPORT

DR. HAVEL: The second document that we produced was an update to the Submerged Aquatic Vegetation SAV Policy; 2017 was the 20th anniversary of the Habitat Committee's

Submerged Aquatic Vegetation Policy. In 2017 the Habitat Hotline theme was SAV.

The Habitat Committee also reviewed and updated the 1997 Policy Document. The Habitat Committee reevaluated the policies recommendations and importance; and determined that the policy is still relevant, arguably more important now than ever. They left the goals largely unchanged from the 1997 version; with the primary goal being to preserve, conserve, and restore SAV where possible, in order to achieve a net gain and distribution and abundance, and prevent further losses. There were six key components to achieving the goal of this policy; and these components did not change from the previous version. They are the assessment of historical, current, and potential distribution and abundance of SAV, protection of existing SAV, SAV restoration and enhancement, public education and involvement, research, and implementation. The policy was updated based on emerging issues and new information.

Emerging issues include aquaculture and climate change; which has changed a lot over the last 20 years. New information includes more up-to-date information on what's going on in the Chesapeake Bay; the goal of restoring 75,000 acres by 2025. There is more up-to-date information in the background information section, the policies, and also the recommended actions.

The policy also includes a summary of initiatives taken by state and federal partners; as well as SAV contacts for each state. I also wanted to add that the Artificial Reef Committee is meeting jointly with the Gulf States Marine Commission at the end of this month; so I'm happy to take any issues that you may have to that committee when I go as well, if there is anything you want to discuss about that. With that I'll take any questions on either of these two documents.

CHAIRMAN GILMORE: Great report. Questions for Lisa on either one of these reports, I guess the clickers wore everybody out this morning. We're going to need a motion to adopt both of these, the pleasure of the Board if someone would like to offer a motion. Mr. Grout.

MR. GROUT: I would, hold on a minute, move to adopt the Climate Change Gaps and Recommendation Report; and the revised Submerged Aquatic Vegetation Policy Report put forward by the Habitat Committee.

CHAIRMAN GILMORE: Do we have a second to the motion? Jeff Brust. Is there any discussion on the motion? Is there any objection to the motion; I'm sorry, David, did you have a comment?

DR. PIERCE: No, only that with regard to the Submerged Aquatic Vegetation Policy I'm glad to see that we're updating it. Certainly in my state there is high priority on regaining some areas; eel grass notably, you know planting eel grass, trying to regain that which has been lost over the years.

We've had some modest success regarding that; plus we're also very much engaged in some ongoing efforts to identify and protect eel grass beds, especially from the variety of different fishing gears. This updated Submerged Aquatic Vegetation Policy is quite consistent with what we're doing in state; and I can use this updated policy as a way to further our ongoing efforts, and to defend our ongoing efforts.

CHAIRMAN GILMORE: That's a good point; same thing in New York, we have a lot of aquaculture interests now. This is really helping steering those locations away from aquatic vegetation. **Are there any other comments? Seeing none; is there any objection to the motion? Seeing none; we will adopt that by unanimous consent.** Our next item is actually lunch break; but we're going to keep working

until we get to 12:00 o'clock, and we'll stop at that point.

NORTH ATLANTIC RIGHT WHALE FIVE-YEAR REVIEW AND REINITIATION OF ESA ACT SECTION 7, THE FISHERY BIOLOGICAL OPINION

CHAIRMAN GILMORE: Our next item is the North Atlantic Right Whale Five Year Review and Reinitiation of Endangered Species Act Section 7, the Fishery Biological Opinion; and Mike Asaro is going to come up and lead that discussion.

MS. KERNS: We had Mike come to the Policy Board instead of just the Lobster Board; while this is definitely a significant issue for the Lobster Board, this reinitiation will affect other species as well. It is something that the Full Commission will want to be aware of and fully abreast of the tasks that are ongoing for this.

CHAIRMAN GILMORE: I'll take this opportunity for one quick announcement. I found a really beautiful pair of sunglasses in the elevator; so if you dropped them come up and claim them. But you'll have to identify the interesting band on the back, which I'm not going to read. If not, we'll raffle them off at the end of the meeting.

MR. MICHAEL J. ASARO: Thank you all for the opportunity to be here today to speak to you on right whales. My name is Mike Asaro; I run the Marine Mammal and Sea Turtle program for the Fishery Service Regional Office. I would like to hit a few topics this afternoon, or this morning. One is to talk about the **Right Whale 5-Year Review**; it's a document that we issue under the Endangered Species Act.

There will be three components to that; one is a summary of recent right whale biology, and I'll also touch on some management actions that are underway, and some that are planned for the future too. At the same time I'll talk about the fisheries consultations under Section 7 of the ESA. Then lastly I'll talk about the Atlantic Large Whale Take Reduction Team activities planned for this year; under the authority of the Marine Mammal Protection Act.

But first just a little bit of background. A 5-year review is required under the ESA. It's something we do as a follow on from the Right Whale Recovery Plan. Essentially there are a few different parts to it. One, it's meant to look back at the last five years of endangered species research; in this case right whales.

At the same time it's supposed to summarize the biology of what we've learned about the species in the past five years; and also summarized the past five years management activities, and then lastly look ahead for the next five years, and plan management priorities in the coming 5-year period.

The biological findings of the 2017 5-year review that we finalized last fall was – and I'll get into these topics in more detail – it's a low rate of reproduction for right whales, prolonged calving intervals, declining population abundance, the continued mortality from both ship strikes and entanglements, and pretty significantly some changes in prey availability, and with that increased transboundary movement and risk. Of course the review confirms the species status as endangered.

Here is the major biological finding I would say over the past five years of right whales. This is a new method for modeling abundance of right whales. The top chart, if you can see it, it's basically the modeled estimate of right whale abundance over time. You can see there are two lines there; and the two plots diverge pretty greatly in recent years. You should know for many years right whales showed such high site fidelity in places where we would expect to see them each year; that we could essentially fly aircraft over where right whales aggregate, and using photography and our ability to identify every individual right whale, basically get a photograph census of the entire population.

Because right whales came to the same areas each year, it made the process relatively easy. That is unique for large whales in this country. Right whales are the only species for which that was the case. You can see starting in 2010 however; that changed pretty significantly. It's a theme with right whales; just overarching theme of change since 2010.

A lot about what we thought we knew about right whales in terms of where we would expect them to be, and how we would expect them to behave has changed significantly since 2010 in particular. You can see the lower plot that drops off pretty precipitously; that would be the abundance if we had continued the old method, basically, relying on photographs to take a census of the population.

What that was telling us during that time is that right whales; well it could have been two things. It was either right whale weren't returning to the areas where we would expect to see them; making the census method no longer applicable, or there were fewer right whales, one or the other.

Richard Pace, he's the large whale statistician out of the Northeast Fisheries Science Center; developed this methodology to assess right whale abundance statistically, no longer relying on the minimum count methodology. What he was able to conclude that in fact the changes we've been observing are attributable to both a distribution change and also a population decline.

You can see that's the upper plot in that top figure. The study also concluded that the probability of a decline in right whale population since 2010 is 99.99 percent; so we're very certain that there is a decline happening, but in the middle of it and complicating that signal, is also this changing distribution.

The lower figure I'll just point out; this has been the case for many years of the right whales, but it's worth repeating that the right whale population as a whole is about 40 percent female. This is pretty significant. We know right whale females are much more susceptible to human interactions and mortalities from entanglements in particular, but also ship strikes; given their increased movement down to the calving grounds off of the southeast U.S.

Over time this population has had fewer and fewer percentage female; now about 40 percent. Of those females in the population, about 100 of them are reproductively capable. This is a plot showing per capita human interactions from the NOAA Fisheries stock assessment reports that are published each year.

You can see a general trend of decreasing ship-strike mortalities; particularly in response to the ship-speed rule that was put in place in 2010. We saw as predicted in the development of that rule, slowing vessel speed has had a pretty significant reduction in ship-strike mortalities over the past decade. Over the same period there has been a pretty significant increase in entanglement mortality as well; up over 1 percent of the population dying of entanglement each year, at this point. I'll mention that the numbers here are observations. There is no systematic observer program for right whale mortalities. Everything is really opportunistic; with no sampling methodology or observer program or things like that.

It's basically what we can see; which we're fairly certain is a conservative estimate. Over time as well and here is a figure taken from a paper by Amy Knowlton at the New England Aquarium; you can see the number of entanglements over time has increased, particularly in the past 20 years in general.

The severity of entanglements has also increased, and that correlates pretty highly with the type of entanglement configuration; that is the more complex entanglement configurations

that right whales are dealing with, the more likely they are to result in serious injury and mortality. At the same time here's just a visual depiction of how the scar coding works with right whales; to get a sense of whether an entanglement would be considered miner, moderate or severe.

At this point about 85 percent of the right whale population has entanglement scars; in any number of these categories. This scarification assessment methodology has been updated over time for many decades. What we've seen is basically just a steady increase in the percentage of the population that has entanglement scars.

The old number was 83 percent; now with the most recent update as of last fall is now 85 percent. You can see in that bottom photo the severe entanglement. In that category that's an entanglement that is likely to kill the whale. Also over time, particularly since 2010 as well, we've seen a pretty significant decrease in right whale calf production.

The trend is moving downwards, and down to five calves observed last winter. The last I checked as of a couple days ago there have been zero calves down off the southeast U.S. this year; and we're more than half way through the calving season. There have been a couple of right whales that have traveled down to the calving grounds; but as of yet no calves seen.

Related to that as the number of calves that we're observing is going down steadily each year, and that is the red trend line you can focus on over time going downward. The number of right whale females that we would expect to be able to reproduce; given the number of years generally between calving events, it should be about three years.

But the interval is getting longer; up to seven years at this point. What we have now is a population, as I mentioned, about 100 reproductively capable females. Nearly 80 of them at this point, we would expect them to be calving at any given winter, but they're not. That number is increasing over time too; the blue trend line upward.

There is also a pretty standardized health assessment methodology; looking at a number of factors, again based on photography of right whales, assessing blubber thickness, blowhole condition, presence of orange sciaenids, a host of other different factors that you can use to access the health of right whales and give a health score. This research is done at our New England Aquarium. What we've seen over time over the past 30 years has been a general worsening of health conditions for all right whales in particular. But what we've noticed that if you break it out demographically, females seem to have the lowest health scores; and reproductively active females seem to have the worst of all. Some recent research has attempted to get a better understanding of what the impacts of a chronic, long term sublethal entanglement is on right whales.

These are entanglements that don't necessarily kill a whale immediately; because we know that is rarely the case. Because right whales are so strong, they are rarely ever anchored in place like say a minke whale could be. Generally right whales become entangled and drag gear away for weeks, months, or years at a time. A focus of research in the past five years has been looking at what the sublethal effects of that entanglement could be; particularly the energetic cost of the drag on right whale of gear.

This is a pretty significant paper that looked into that; which was published in 2016. The conclusion was that the energetic cost of entanglement for right whales is basically the equivalent of a female's energetic expenditure to undergo reproduction from calving down in the southeast, traveling down to the calving grounds, and then a full year of lactation and travel back up to the waters off of New England,

so a much more energetically costly factor than we had ever considered before.

Here is a photo showing just visually how that health assessment methodology has done for right whales. This is the same whale in both photos; and the sightings are exactly a year apart, about. You can see the whale on the bottom is entangled. There is a line coming out of its mouth. You can see the pretty obvious deterioration in health over the year that this whale was entangled; the presence of orange sciaenids, a concavity behind its blowhole, evident of a significant loss of blubber, scarring, rake marks, et cetera; a pretty significant decline in body condition.

Piecing all these things together, where the research has emerged most recently is looking at the correlation between declining health scores and the disproportionately affected reproductive females, and the correlation between those two factors and what we're seeing now is a pretty significant reduction in right whale calving over time.

It is an important thing about that back in the context of this figure; because what we know about right whales is, look at the period before 2010. That's pretty significant growth. There doesn't appear to be a significant increase in fishery interactions that would necessarily warrant the population to turn at such a significant inflection point there in 2010 downward.

Right whales are extremely resilient; and have been subject to ship strikes and entanglements for decades. Yet as you can see here, it showed pretty good growth over time. In the period since 2010, the reason for the decline largely is because of this lack of calving. Right whales just haven't been replacing themselves at the rates seen in previous years; and that's pretty much what we can attribute this decline to.

I will add. The study period in this analysis here was 2010 to 2015; which took the number of right whales from 480 down to 453. The methodology was updated in 2016; using the same model and the number went down to 451. Then the model will be rerun this October with 2017 data. But based on what we were able to observe in 2017, which I'll run through here. We can count on that number going down even further. Last year there were 17 dead observed right whales; 12 of those were up in Canada in the Gulf of St. Lawrence over the summer, while their snow crab season was going on in the Gulf.

Of those 12 whales up in Canada, 7 necropsies were performed. Two died of entanglement and four died of blunt force trauma, and one was unknown. There were also five dead whales off of Massachusetts and around the Cape and the Islands as well, floating. One was inside Cape Cod Bay; that was a ship strike on a one-year old.

The other four were severely decomposed, floating. One was 100 miles east of Cape Cod on Georges Bank. The other three were down floating by the Islands. These were severely decomposed animals. Not much is known about how they died or where they died. The cause of death on two of those is pending; with some evidence of entanglement.

But it's not necessarily conclusive, because as I said, a lot of them have entanglement scars so it's unlikely that that necessarily killed them. One was blunt force trauma; as I said in Cape Cod Bay, and then two are unknown. There are also nine live entanglements observed in both U.S. and Canada last year.

It was five up on the Gulf of St. Lawrence, and then four in U.S. waters as well. Then you may know, just a couple weeks ago there was a dead right whale entangled seen off of Virginia Beach. A necropsy was performed on that animal. The cause of death was the chronic entanglement.

We were able to retrieve the gear from that animal; and it was shipped up to our gear storage warehouse in Narragansett, Rhode Island, where our gear team is starting to take measurements and analyze the gear. There doesn't seem to be any necessarily obvious clues on where, when, and how the entanglement occurred; but our team is giving it a look now, to see if there are any leads we can follow to try to get a better sense on where that whale was entangled.

Some of the long term recommendations of the 5-year review, I'll just go through this quickly. It's getting a better understanding on the energetic stressors on right whales; including sublethal entanglement, but also on the changes in environmental conditions and prey availability in around right whale habitat.

There is also some research showing a pretty significant distribution of copepods, which are right whales primary prey, in and around the Gulf of Maine and in the Gulf of St. Lawrence as well. Given right whale size and the species they forage on, when they're not reproducing they're spending pretty much their entire time foraging.

Right whale behavior and where and when we see right whales is predicated largely on where copepods are too. Trying to get a better understanding on where copepod distribution may be taking right whales; and if in that movement they're either spending more energy foraging than they had before, of if that change in movement is taking them into areas of higher entanglement in ship strike risk as well. Looking at how we can best allocate resources and efforts to get a long term cross-regional plan for monitoring right whale population trends and habitat use. Using the array of shipboard, aerial and passive acoustic survey tools that we have currently deployed and being used throughout right whale range, to get a better idea of where these animals are, and possibly to the point where we could even predict where they are based on certain environmental conditions.

That follows along too with prioritizing funding for the variety of surveys; so we can understand where and when right whales are in as near real time as we can get it. Then pretty significantly, analyzing effectiveness of the regulations we put in place under the Marine Mammal Protection Act over the past two decades, and also the Ship Speed Rule over the past ten years.

To see what role those regulations have played in right whale recovery and how effective they've been at each iteration of those rules; which I'll go into in a little more detail here. Then again, related to the Section 7 process, which I'll talk about is analyzing the effects of commercial fisheries on right whales as well.

Some things currently underway, we are engaged with our counterparts in Canada, both Transport Canada and Fisheries and Oceans Canada, as part of a Bilateral Right Whale Working Group. The Canadians have been pretty open and sincere; especially their Minster of Fisheries and Oceans Minister LeBlanc, about their willingness to implement both shipping and fishing measures in prep for their upcoming season here this spring to prevent a repeat of the mortalities that happened last year.

We have a new in the Regional Office a Right Whale Recovery Coordinator that is Diane Beauregard; some of you may know her. Her job is going to be to get a better understanding of some of those larger risks and energetic stressors of right whales; including the potential effects of climate change on right whale prey, and how that's changing distribution.

She'll be forming a new Right Whale Recovery Team. We'll be looking at some outside expertise in areas related to climate and oceanography; to get a better sense of how we can incorporate those factors into our management, and understanding what role environmental variables pose in all this. Then lastly is reinitiating our fisheries biological

opinions under the ESA; which I'll talk a little bit about here.

Briefly, Section 7 of the Endangered Species Act, for those of you who don't know it requires federal agencies to ensure that the actions that they authorize, fund, or do don't jeopardize the existence of endangered species under the ESA, or destroy or adversely modify species critical habitat. Just in general sense, here is a little decision tree on how the consultation process goes for our purposes here. We're just following that lower path.

It's important to note that in the case of the commercial fisheries, the FMPs that we analyze looking at right whales. It's kind of unusual in that the Fisheries Service is both the action agency and the consulting agency. With the action agency to the extent that we issue the FMPs, and with the consulting agency to the extent that we are charged under the ESA to make sure that the FMPs don't jeopardize endangered species. At the end of the day this does result in a formal consultation; which it has in many iterations over the years, and that's what we're reinitiating now, a formal consultation. We announce just part of this 5-year review; we're reinitiating consultation on a number of FMPs. You can see them all listed here; it includes American lobster, and the last biological opinion and consultation done on the lobster FMP was in 2014. The so called batched fisheries, all those fisheries rolled into one consultation you can see there, and then also the Atlantic deep sea red crab as well.

The last time we underwent this process to produce these biological opinion, the conclusion was that these FMPs were not likely to jeopardize the continued existence of right whales, or any other ESA listed species. Just to give you a sense of what a biological opinion is; and this is the process that we're just starting underway now.

It's basically just a detailed explanation of what the action is; in this case the fisheries, status of the species, in our case focusing on right whales as well. Then the environmental baseline, meant to capture the climate change issues, the changes in right whale distribution, potential risks right whales are now facing in Canada that weren't considered before.

Then the specific effects of the proposed action, basically layering on what potential effects each of these individual fisheries might be layered on top of that environmental baseline, to look at the cumulative effects. In putting it altogether making the jeopardy conclusion, so you know, where will fisheries after this consultation is completed and the analysis is done, do we have evidence that these fisheries will jeopardize the existence of right whales or other endangered species?

Then in Step 9 they can include things like reasonable and prudent measures for cases where it's not a jeopardy finding; and those can be recommended tweaks or acquired tweaks to a action meant to minimize some of the effects of endangered species, or in the case of a jeopardy conclusion it's reasonable and prudent alternatives, so alternatives to eliminate jeopardy.

If the conclusion is that the action is jeopardizing the endangered species, a reasonable and prudent alternative would be measures that can be put in place to eliminate jeopardy. In that instance we have a few things that we have to consider. One is it needs to be implemented in a manner consistent with the intended purpose of the action.

If the intended purpose of the action is a fishery management plan, a reasonable and prudent alternative can't be, no fishing, because then we've changed. It's no longer in the manner consistent with what the action is proposing. It must be consistent with the scope of our agencies legal authority under ESA or MMPA.

Then it must also be economically and technologically feasible. This is one of the rare

instances where the ESA directs us to consider economics too, in this case. Any reasonable and prudent alternative must be both economically and technologically feasible. I'll just give you a brief update on what the TRT is up to; but first just a little refresher. I know there are a lot of TRT members here.

Bear with me as I go through a little bit of history; just to make sure people get an understanding of some of the work that's been done here over the years. The Atlantic Large Whale Take Reduction Team, it's our oldest and largest TRT in the country. It was established in 1996 after the MMPA was amended in 1994, creating this entire process, and the purpose is to develop a plan to reduce takes for not just right whales, but also hump back whales and fin whales, and to a lesser extent minke whales in trap pot and gillnet gear, all fixed gear fisheries in U.S. waters on the east coast.

The goal is to reduce the serious injury mortality to below the potential biological removal level. The PBR is a calculated value considering the species population size; whether it's endangered, a number of other factors, and gives you a number, the number of animals that can be removed from the population without jeopardizing its sustainability.

For reference, for right whales over the 20 year period the PBR has been basically 0 or 1, or around there, so very, very low. You just get a sense of the team membership, as I said it's a large team, because it affects so many different fisheries and geographic locations along the east coast, 61 members.

Over time, I won't walk through the timeline step by step, but I will just say the initial Take Reduction Plan established things like weak link requirements 20 years ago. There was some gear marking and closures initially too. Then the first major rulemaking after that was the 2007 Sinking Ground Line Rule, and then most recently the 2014 Trawling-Up Rule, meant to cut down on the number of vertical lines in the water.

Again, just to show you graphically the geographic scope of the regulations contained in this plan. These are for trap pot gear; it basically covers all of the U.S. EEZ on the east coast, and again all the managed areas for gillnets as well, so the scope of the regulations are very large. What has the Take Reduction Team accomplished?

In 2007 with the Sinking Groundline Rule that went into effect in '09, that rule basically amounted to removing 27,000 miles of floating groundline from the water column, by laying it down on the bottom. Then in 2015, as part of the trawling up strategy, the number of end lines was cut down by a little over 2700 miles.

Also part of the Take Reduction Plan we have a number of closures along the coast; in total area of about 32,000 square miles for both trap pot and gillnets, up off of New England and down off of the calving grounds in the southeast. You can see geographically where those closures are; on the top left the Massachusetts Restricted Area trap pot closure, smaller gillnet closure in Cape Cod Bay, the Great Salt Channel closure for both trap pot gear and gillnet, and then closures off of southeast U.S. calving grounds.

We also have universal requirements as part of the Take Reduction Plan; like weak links and a gear marking scheme requiring different colors painted or taped, or anyway attached to vertical lines based on gear type and geographic location fished, because as I said right whales are hardly ever anchored in place.

When we do recover entangling gear, either through disentanglement at sea or if a dead whale washes ashore. The gear marking is intended to give us a better sense of where, when and how the gear was deployed. Coming up in 2018, the Take Reduction Team has done a lot over two decades; in some pretty

significant rule makings. Given what we're seeing with right whales most recently, the Take Reduction Team is coming together this month and for the next six months in two subgroups; smaller working groups of the team that are meant to do some fact finding on some of the ideas that we've been hearing most recently on potential mitigation measures, should they be needed at some point in the future.

The two measures are reduced-breaking-strength rope, so called weak rope for vertical lines and then we've also included a closer look at gear marking in there as well. Just on the earmarking, I'll say that we require three marks each a foot in length at the bottom third, middle third, and top third of an endline for fixed gear fisheries.

With that strategy, still about 60 percent of the rope that we recover is unmarked. We've asked the subgroup to look at alternatives to our current gear marking strategy; that may result in a higher percentage of marked gear being recovered in the future. Then the second subgroup will look at ropeless fishing.

It's something we've been hearing more and more about over time; most recently especially the Woods Hole Oceanographic Institution hosted a ropeless fishing workshop last week, where a number of prototypes were on display. We've asked a subgroup to look at this issue; to get a better sense of what do we mean when we say ropeless? What technologies exist, and where might the technology be headed in the future?

More on ropeless fishing in a minute, but just first on the 1700 pound breaking strength rope. This comes from some research by Amy Knowlton at the New England Aquarium, looking at the breaking strength of gear recovered from entanglements. Basically what she observed is rope that breaks at 1700 pounds or less is hardly ever, if ever, recovered from entangling gear.

More severe entanglements occur as rope strength gets higher; thereby reducing the ability of a large whale, right whale in this case, but also any large whale, to break free once becoming entangled. This is the idea that's been put forward. You know we have a lot of questions about both of these technologies.

We're asking the Take Reduction Team to ask some focused questions and get answers; before we can bring it back to the full Take Reduction Team for discussion. Just to get a sense of what some possible technologies on ropeless fishing are that we've been hearing; either bottom-stored rope or pop-up buoys, things like that. Variable buoyancy traps are an idea that we've heard, and also ship-based retrieval systems are also something we've heard.

Again, the ropeless options that we've seen are largely in prototype phase. When we think about ropeless, it's important not to be thinking about ropeless tomorrow, it's what might the future hold for the development of these ropeless technologies. These TRT subgroups are going to be focused on feasibility.

Technological feasibility, does the technology exist, or in the case of ropeless do we have any certainty on whether it will develop over time and what might that development look like? Functional feasibility, will it work? For weak rope, we have a lot of concerns about the functional feasibility that we would like the fishing industry, the fishermen and industry representatives on the Take Reduction Team and the subgroups to help us answer these questions. It's likely that there are areas where 1700 pound rope just will not work; for a variety of reasons. Safety is an important one there too.

It's getting a better sense of, are there areas where it might be a good idea to use this? Are there areas where it just would be just a bad idea? Answering all those questions, and then of course economic feasibility too, is it cost

effective? For in the case of weak rope, you know what manufacturers produce 1700 pound breaking strength rope?

Is it available? What are the costs; getting all this information for the Take Reduction Team? It's important to emphasize that. You know we aren't in rule making. These aren't decision-making subgroups. The Take Reduction Team throughout its 20 year history has spent a lot of time researching gear modifications and new technology.

This is nothing new. We know these ideas have been put on the table; and we're hearing about them, and we know we'll hear more about them. The plan here is to get the Take Reduction Team members asking really focused feasibility questions, to do some fact finding to present results to the full Take Reduction Team later this year. Are there any questions?

CHAIRMAN GILMORE: We've got time for a few, Doug Grout.

MR. GROUT: That was very informative. One of the things, when I first brought to our Law Enforcement the concept of ropeless, they almost had a heart attack, because of the concern they had on how that would affect their ability to enforce, not only the whale protection measures, but also other fisheries management. Where in this feasibility – you have technical, functional and economic feasibility considerations – would those kinds of questions be addressed?

MR. ASARO: Absolutely. I should add a major part of the subgroup work will be looking at not only enforceability, but also gear conflicts too. That is just a natural question we need to get answers to as well. We'll have OLE representation working as part of the subgroups too. These are issues that the subgroups will have to work on too; and get answers to, if there are answers.

CHAIRMAN GILMORE: Ritchie White.

MR. WHITE: I think another important piece that the states of Rhode Island through New Hampshire are presently talking about is enforcement. At the present time there is no platform to enforce, to haul lobster gear or crab gear out in federal waters; especially Area 3 getting some enforcement from state vessels in the near offshore Area 1.

I think this need to be a priority; because you have existing regulations in place that we don't even know if they're being used, because there is no enforcement and no checking. I think that needs to be a high priority and it's going to take a large vessel and a bunch of money. I think there can be workings with the state and the Service; you know to try to accomplish this.

MR. ASARO: You are absolutely right. We have a full Take Reduction Team meeting planned for this fall. Between now and then we have our Productive Resources Law Enforcement liaison working with his contacts, to pull together a working group to get right at the issue that you bring up. Hopefully we can have some work done on that; and some finding to share with the Take Reduction Team, and hopefully a plan forward when we meet later this year.

CHAIRMAN GILMORE: Mr. Vice-Chairman.

MR. KELIHER: That was a great presentation, Mike. You did answer part of my concern when you said the OLE will be interacting with the subgroups. Do we discuss that at our meeting at GARFO, this larger group, because I think because of the way the subgroups are broken out and the TRT works? I think it's really important that other law enforcement components and agencies are part of that process.

They are more familiar with the issues of hauling gear; and what the gear is. Quickly to your slides, Mike you did a per capita mortality slide; and it showed what looked like substantial increases in entanglement. It looked like a broad-brush approach. Is that

Area 1, Area 3 lobster only, or is this including Canada? We know a lot of the mortalities associated with the Canadian Fishery were included. Is that also included in that slide?

MR. ASARO: Yes, my apologies. I should have clarified. These are the mortalities reported for the entire species throughout its range in both U.S. and Canadian waters; as reported by our stock assessment reports. Yes, U.S. mortalities, Canadian mortalities, all mortalities throughout its range are reported there.

MR. KELIHER: Just one last question. Obviously 2017 was a bad year for right whales; but you also had unusual mortality events with other species, including minkes, a lot of strandings in both Maine and Massachusetts, and some mortality associated with that. Is there any link here between the species? We're focused right now on right whales because of the uncertainty with rulemaking, obviously. But is there a broader environmental factor out there that is really a part of this; besides the manmade issues?

MR. ASARO: Yes. We currently have three unusual mortality events declared for right whales, humpback whales, and minke whales most recently. I will say the UME Investigative Teams haven't gotten together yet to look through all the data to see if there might be an underlying cause.

I will just say from my look at things; both right whales and humpback whales, a majority of the mortalities were from human causes. Then with minke whales were a little bit different, where we're seeing more pathological causes of death there with minkes that we haven't seen with humpbacks or right whales.

CHAIRMAN GILMORE: The bad microphones keep following you, Pat. Dr. Pierce.

DR. PIERCE: Thank you for your presentation. It was very comprehensive; much appreciated. You did note at the beginning of the presentation that work is being done to evaluate environmental conditions and prey availability that might have some impact on the health, effects on reproductive success. You noted that the calf count is way off. Is there any information that would provide some insight as to what proportion of the deficits of calves can be attributed to entanglements, or to other causes such as reduction in forage?

I mean forage is incredibly important; as we all know. They go where the copepods are; Cape Cod Bay, notably. If their distribution is changing because of a lack of copepods, or copepods are elsewhere. That can have a huge impact from the health of the females, and on their ability to calve on the reproductive success. What can you share with us regarding that particular issue?

MR. ASARO: You're right that is exactly what the Section 7 process will analyze; from the baseline and looking at layering on the potential effect to the fisheries. You're right. Clearly right whales are moving now than they were before, and there is an energetic cost to that movement. The question becomes, are they finding a food source suitable enough for them to replace the energy stores lost during increased movement, if that maybe the case? We know right whales are capital breeders. We know reproduction occurs when females are fit.

If they're not fit for a variety of reasons, either human caused or environmental conditions, then reproduction won't occur. We're in that situation now. But you know exactly as you bring up, it's trying to piece together how the story unfolds; in terms of what changes in distribution might mean for right whales, both in terms of their food source and hypothetically if right whales are moving more into areas like the Gulf of St. Lawrence, where we didn't necessarily see them or expect them in the past.

Is that movement, well A is there an energetic cost to that movement? Are they finding a food

source once they get there that is suitable to replenish the energy lost? Then on the other side is have they now moved into an area that is a higher risk of either ship strike or entanglement? All these questions are part of the consultation process.

DR. PIERCE: Very good. I hope you actually have the data necessary to evaluate again the food source and effects on the productivity of this important species. I'll mention that with regard to ship strikes. Obviously in my state we're quite concerned about that. We know that the federal government has the speed limit on vessels over 65 feet.

We're in the midst now, my agency. We're in the midst of implementing some speed limits on vessels under 65 feet; just to provide some additional measure for protection, slow these vessels down when right whales are present in our waters. High priority issue and I am glad to see that all these initiatives are underway.

CHAIRMAN GILMORE: Actually Mike, I'll jump in here because I have a question. The data indicated that I guess with that 10 knot speed restriction on those larger vessels the ship strikes have dropped significantly. Is that consistent across the U.S.? Secondly, is there more that should be done on that aspect of it; even though it has come down?

MR. ASARO: Yes that's a really important question. We know in some areas, a lot of projection went before the rule was developed, looking at areas of high risk and what the projected risk reduction would be in areas where the risk was the highest, like on the shipping lane going into Boston. It was projected that the speed limit would reduce ship strike risk by up to 90 percent; and we're pretty confident that happened. If you look in the Mid-Atlantic, ports throughout the Mid-Atlantic, the speed restrictions are a lot smaller, kind of radiused outward off of ports.

Our thinking at the time was that right whales were using the Mid-Atlantic as a migratory route between the feeding grounds up north and calving grounds in the south. What we've learned most recently is that there are essentially the entire east coast is right whale habitat nearly year round, including the Mid-Atlantic.

I haven't looked into specifics on whether the rule, if there is data warranting the rule could be amended or the speed restrictions could be revised. But as it stands now, the data in the resulting decade after that rule show it's been highly effective; and an even shorter term experiment I'll add too is when the mortalities up in the Gulf of St. Lawrence occurred last summer, the Canadian government and Transport Canada drew a big box and instituted the 10 knot speed restriction up there and the sip strikes mortality stopped then pretty much instantly.

CHAIRMAN GILMORE: Andy.

MR. ANDY SHIELS: Just very briefly. With a population estimate of 450 individuals, at what level of decline would a jeopardy decision be likely?

MR. ASARO: That's difficult to answer. I mean the process that is underway now in the early stages, as I said we'll get to that point. It's hard to know. I mean just a bigger picture going back to the trajectory of right whale population growth. You know we were at lower numbers than this; and we've had periods of decline before. It's analyzing specifically what do the numbers mean today?

What does this decline since 2010 potentially mean for the recovery of the species? It's difficult to answer. I mean that's what the consultation process is meant to give us an idea of. But just in a larger context of right whale history, we were at fewer than 300 right whales and recovered, under many of the same threats too. It's a difficult question to answer without a

deeper dive into watching that consultation process unfold.

CHAIRMAN GILMORE: Eric.

MR. ERIC REID: I just have a question about noise. We're not increasing our fishing effort, at least that's what you indicated. I don't know about ship traffic. But it seems to me we've increased our noise; especially off of southern New England with seismic testing. Whales hear at a pretty low frequency.

Seismic testing is at a pretty low frequency. I mean to me, excess noise can prevent you from doing a lot of things in life. But if you can't hear, especially a ship coming at you, you know you're more susceptible for ship strikes, or maybe you're moving where you used to go because you want a nice, quiet place. But that is something I really think needs to be looked at; is the amount of noise humans are making off the coast, and what that effect is on these populations, because my position is that increased noise is substantial. It's just something for you to think about.

MR. ASARO: I'll just add. You know a lot of work has been done looking at the potential effect of ocean noise on right whales; both on their behavior in particular, but also on their level of stress hormones. You know right whales in general, because they spend so much of their time near shore with a lot of shipping around them.

A lot of human activities nearby and noisy waters have pretty high levels of stress hormones pretty much all the time. What we haven't seen is a clear behavioral response based on noise; or what the implications of the high levels of stress hormones have on right whales. But we know they're there.

A pretty significant research study was going on in 2001; looking at the presence of stress hormones in right whale fecal material. It was occurring before and after September 11, 2001. If you recall, shipping activity stopped after September 11th, and just fortuitously this study was going on. What it showed was a pretty significant drop in stress hormones nearly instantaneously in right whale fecal matter.

CHAIRMAN GILMORE: Dave Borden.

MR. DAVID V. BORDEN: Two quick points; first off Mike, excellent presentation. I was particularly pleased to hear that you and the new Regional Administrator are moving forward with this suggestion to form a subgroup to address the enforcement concerns. I think that's a key part. It's not the only part. I think everybody understand that.

But if we can't solve that problem in the near term, I think it's going to erode our ability to modify any of the other measures. Then the second point I would make is this whole process is going to have a profound impact on all of the fisheries, all of the fisheries with vertical lines between the Canadian border and Florida; a number of which this Commission obviously regulates, in conjunction with our partners in NOAA.

I think the Commission leadership needs to talk about ways that the Commission can actually interact in the process. A number of us are already members of the NOAA team that's working on the issue. But we're going to need a slightly broader discussion at some point.

CHAIRMAN GILMORE: Good point Dave and we'll be talking about that after Mr. Abbott speaks.

MR. ABBOTT: Getting close to lunch. Has there been any consideration or look into the United States Navy using active sonar's along the east coast, and their effect on whales?

MR. ASARO: The answer is yes. I don't know specifics, so things like Navy activities undergo the same Section 7 process that we're undergoing on the fisheries. The Section 7

consultations for those activities are done out of our Headquarters Office. I'm not an expert on those; but the same process that I described to you looking at the effects of the fisheries, goes into looking at Navy activities too as part of the consultation. You know looking at the environmental baseline, specific effects of the action walking through that same process.

CHAIRMAN GILMORE: Okay, following up on Dave's points, sorry, Doug.

MR. DOUGLAS HAYMANS: Just one quick question. Are you seeing the reproduction issues with the other species of whales, or is just more specific to the right whale?

MR. ASARO: That is a difficult one to answer. For right whales, because they give birth off of the coast of Florida, really far inshore in clear, calm waters. It gives us the ability to see every single calf that's born; and that's unique to that species. There aren't other comparable species; where we can see essentially every new entrant into the population. It's a really unique situation for right whales.

CHAIRMAN GILMORE: Okay Toni, do you want to talk a little bit about where we go from here in coordination?

MS. KERNS: Following up on what David said. Megan Ware is on the Take Reduction Team for the Commission. She's sitting on both of the subgroups, and then will sit on the full TRT team meetings as well. Typically when Commission staff sits on the TRT, we are there just to present information and facts.

That is typically because all the states don't necessarily agree on a position for issues to be brought forward to the TRT from the Commission itself. A question to the Board as we move forward and this may not be something that can be solved today. But as we move forward on this, if the Board is wanting Megan to advocate certain issues, then we'll be needing direction to do that.

We'll need to figure out a way to give her that direction if we want to move forward. We could either pull together a subgroup of interested Commissioners for making recommendations to Megan, or making recommendations to bring them back to the Policy Board, so that Megan can then bring those forward.

The hard part there will be that at times I don't think that a Policy Board meeting will quite align with meetings that Megan will be going to. Sometimes she may need some direction outside of our quarterly meeting process. It's just something to think about, and sort of my question to you all is how should we move forward?

CHAIRMAN GILMORE: Pat.

MR. KELIHER: Thanks for that Toni. I think we do need a subgroup to work on this. Dave Borden and I and others, and Ritchie and particularly we've talked a lot about the enforcement components. There is going to be a tasking motion later for the Law Enforcement Committee, in regards to enforceability of ropeless fishing. There is as Toni said earlier, we're here as a Policy Board because this covers many of our species that are managed here at the Commission**. I am going to make a motion now to address this by moving that we establish a working subcommittee to develop direction and policy as it pertains to the protection of right whales, in relationship to the Commission activities.**

CHAIRMAN GILMORE: Let's get that up there. Do we have a second to that motion? Dave Borden. Do you have any suggestions on who would Chair this?

MR. KELIHER: Dave Borden. From a practical standpoint I think what we probably ought to do is just suggest to have Toni just send an e-mail out seeing if we can get volunteers, and make a determination from there. I would love to see Dave do it. I would be happy to Chair it if

needed. But the Committee can determine that when it's established.

CHAIRMAN GILMORE: Dave.

MR. BORDEN: This is such a big issue, Mr. Chairman, we may need two Chairs.

CHAIRMAN GILMORE: Yes that always works well. Okay, any discussion on the motion? Seeing none; any objection to the motion? Oh, Michelle, sorry.

DR. MICHELLE DUVAL: Far be it for me to stand between people and their food. But, just a cautionary note that there are already state representatives on the Take Reduction Team, so this kind of gets back to what Toni brought forward that not all the states are going to agree. It seems like I know there is a lot of concern right now with regard to the lobster fishery.

Certainly the Lobster Board is going to have a lot of discussion about this. You know we've had I think our own concerns in the South Atlantic with regard to right whales and fishery interactions; and spent about three years at the South Atlantic Council trying to address that in a mutually acceptable manner. I just want to make sure that the working group is sensitive to the fact that there is already state representation on those TRTs.

CHAIRMAN GILMORE: Good point, Michelle; any other comments? Okay, any objection to the motion? All right seeing none; we will adopt that by unanimous consent. I think it is good; Toni can send out an e-mail and solicit some membership. Toni.

MS. KERNS: There are two calls that are coming up quite quickly. Megan and I can sit down and maybe talk with David and Ritchie and Pat to start; to see if we think we need to get some immediate feedback to her for those two calls, and if so I might ask for your volunteerism very quickly. Then I think we can break for lunch.

CHAIRMAN GILMORE: I think we're at the point now; unless anybody objects that we'll break for lunch. Out in the lobby, so please let the Commissioners and proxies go first; because they have to eat quick and come back. We've got a few more things to get done. The food is out in the lobby and have at it.

(Whereupon a recess was taken.)

REVIEW AND CONSIDER APPROVAL OF THE 2019 SHAD STOCK ASSESSMENT AND PEER REVIEW TERMS OF REFERENCE

CHAIRMAN GILMORE: Okay, our next item on the agenda is Review and Consider Approval of the 2019 Shad Stock Assessment and Peer Review Terms of Reference. Jeff Kipp is going to go through a presentation on this. Jeff.

MR. JEFF KIPP: The Shad and River Herring Board obviously are not meeting during this meeting; and we have our first in-person workshop for the shad benchmark assessment process scheduled for early March. I'm here on behalf of the Shad and River Herring Stock Assessment Subcommittee, and Technical Committee to present the terms of reference for the assessment.

The terms of reference for the stock assessment process, these will generally look familiar to everyone who has seen TORs before. I'll go through these rather quickly. The first is; define and justify stock structure. Characterize age and repeat spawner data by stock; and identify utility of data source, provide descriptions of methods, any changes to methods and associated peer review literature.

Describe validation experiments of available and available samples. Where possible explore reader consistency, potential bias in agreement statistics. Where possible explore use of correction factors; when consistency in method or reader was not maintained. Characterized precision and accuracy of other fishery dependent and fishery independent data used

in the assessment; including nontraditional data.

Characterization should include the following; but is not limited to provide descriptions of each data source. Describe calculation and potential standardization of abundance indices. Discuss trends and associated estimates of uncertainty. Justify inclusion or elimination of available data sources. Estimate bycatch where and when possible, summarize data availability and trends by stock.

If possible develop models used to estimate population parameters and biological reference points; and analyze model performance. Recommend stock status as related to reference points; if available. Evaluate other potential scientific issues. Compare trends in population parameters and reference points with current and proposed modeling approaches.

If outcomes differ, discuss potential causes of observed discrepancies. Compare reference points derived in this assessment with what is known about the general life history of the exploited stock. Explain any inconsistencies. Explore climate change impacts on the species. Explore predation impacts on the species.

Discuss all known anthropogenic sources of morality and productivity by stock. If a minority report has been filed, explain majority reasoning against adopting approach suggested in that report. The minority report should explain reasoning against adopting approach suggested by the majority. Develop detailed short and long term prioritized lists of recommendations for future research; data collection, and assessment methodology.

Highlight improvements to be made by initiation of next benchmark stock assessment. Note research recommendations from the previous assessment that have not been addressed; and those that have been partially or fully addressed. Recommend timing of next benchmark assessment and any updates if necessary; relative to biology and current management of the species. I'll now go over the terms of reference for the Peer Review Panel during the peer review of the assessment. These are generally similar to the terms of reference for the assessment; only they're to evaluate what the Committees have done through the assessment.

Evaluate choice of stock structure. Evaluate the thoroughness of data collection; and the presentation and treatment of fishery dependent and fishery independent data in the assessment, including the following but not limited to. Presentation of data source variance, justification for inclusion or elimination of available data sources, consideration of data strengths and weaknesses, calculation or standardization of abundance indices, estimation of bycatch.

Evaluate the methods and models used to estimate population parameters and biological reference points, including but not limited to; evaluate the choice and justification of the preferred models. Was the most appropriate model chosen; given available data and life history of the species?

If multiple models were considered evaluate the analyst's explanation of any differences in results. Evaluate model parameterization and specification. Evaluate the diagnostic analyses performed, including but not limited to sensitivity analyses to determine model stability and potential consequences of major model assumptions.

Evaluate the methods used to characterize uncertainty in estimated parameters. Ensure that the implications of uncertainty and technical conclusions are clearly stated. If a minority report has been filed, review minority opinion and any associated analyses. If possible make recommendation on current or future use of alternative assessment approach presented in minority report.

Recommend best estimates of stock biomass abundance and exploitation from the assessment; by stock for use in management if possible, or specify alternative estimation methods. Evaluate the choice of reference points in the methods used to determine or estimate them. Recommend stock status determination from the assessment, or if appropriate specify alternative measures for management advice.

Review the research data collection and assessment methodology recommendations provided by the TC; and make any additional recommendations warranted. Clearly prioritize the activities needed to inform and maintain the current assessment; and provide recommendations to improve the reliability of future assessments.

Recommend timing of the next benchmark assessment and updates if necessary; relative to the life history and current management of the species. Prepare Peer Review Panel terms of reference and advisory report summarizing the Panel's evaluation of the stock assessment, and addressing each Peer Review term of reference.

Develop a list of tasks to be completed following the workshop. Complete and submit the report within four weeks of workshop conclusion. This is an abbreviated version of the stock assessment schedule; with all the in-person meetings here. Obviously today we are presenting the terms of reference. We have a data workshop scheduled for March 5 through the 8th. We'll have a methods workshop in October, an assessment workshop tentatively scheduled for February of 2019, and then the Peer Review workshop we anticipate in August of 2019, with the results of that assessment and peer review presented during the annual meeting in 2019. If there are any questions on the terms of reference or the schedule for the assessment, I can take those now.

CHAIRMAN GILMORE: Thanks Jeff, good report; questions. Jason.

MR. JASON McNAMEE: Yes, Jeff. Just one question, there is a reference point term of reference. It's my understanding that the shad is kind of this amalgamation of a bunch of kind of sub-stocks, and you do your best to assess them. But I'm guessing some will be data limited approaches. Do you think that that reference point term of reference is too restrictive? I'm thinking that you might not be able to develop a reference point in some of these instances; but maybe will be able to offer a recommendation on catch advice, rather than a reference point.

MR. KIPP: Sure yes. I think we tried to include, if possible, to try and capture that. We think that there may be some stocks pining on what our stock structure determination is; where we may be able to develop certain reference points. Whereas, there may be other stocks that are much more data limited; where we may only be able to provide advice on trends, and that type of information. Similar to what was seen for a lot of the river herring stocks in the last river herring assessment update. We try to keep it vague; so it doesn't hold us to providing reference points for each individual stock.

CHAIRMAN GILMORE: Are there other questions for Jeff? Michelle.

DR. DUVAL: Just one quick one. Jeff, can you remind me what the terminal year of data is for the assessment?

MR. KIPP: Yes, the terminal year will be 2017.

CHAIRMAN GILMORE: Are there any other questions for Jeff? **Okay this is an action item; so we're going to need a motion to accept, go ahead, Michelle.**

DR. DUVAL: So moved, Mr. Chairman.

CHAIRMAN GILMORE: Okay, it's going to be an imaginary motion for a while; until we get someone to type it, and Andy you're seconding

that imaginary motion, great. Okay, move to approve the 2019 shad stock assessment and peer review terms of reference. It's a motion by Dr. Duval and seconded by Mr. Shiels.

Is there any discussion on the motion? Is there any objection to the motion? Seeing none; we'll adopt that unanimously. Thanks Jeff.

BUREAU OF OCEAN ENERGY MANAGEMENT UPDATE REGARDING RENEWABLE LEASE STATUS AND FUTURE LEASING

CHAIRMAN GILMORE: Okay, we're ready to move on to the Bureau of Ocean Energy Management Update Regarding Renewable Lease Status and Future Leasing; and we have Brian Hooker, who is going to do a presentation on that. Welcome Brian and whenever you're ready have at it.

MR. BRIAN HOOKER: Good afternoon. Thanks for this opportunity to give the Policy Board an update on the status of renewable energy leasing; and our environmental studies on the Atlantic. This is part of our general strategy; to try to keep Commissioners informed about what the status is of projects, and where we are with some of our environmental studies as we've promised to do in our ocean plans, the Mid-Atlantic ocean plan and the northeast ocean plan. What I'm going to do is just kind of leave this map up here for a little bit.

Where we are is that we've had 7 competitive lease sales, 13 leases actually issued, and then we have 1 lease auction anticipated for early 2018; and there is a proposed sale and there is some development for that. That is for; I don't know if you can see, oh you won't be able to see my cursor. But that's for the two areas in Massachusetts wind energy area that weren't leased in the previous auction.

Moving down the coast, in the Gulf of Maine some of you may be aware that there was an application received for a right-of-way through the Gulf of Maine for a cable installation. That was to bring Canadian hydropower to the state of Massachusetts. That project wasn't selected by the state of Massachusetts in the latest round of solicitations. However, the developers still indicated that they want us to still proceed with that what we call a competitive interest, determination of competitive interest in that Gulf of Maine right-of-way.

They still might see a Federal Register notice asking for notice and comment on that right-of-way through the Gulf of Maine. Moving further south into the first of, I guess the eastern most lease area in the Massachusetts wind energy area; that is Vineyard Wind. Right now their surveys are ongoing.

They are about to ramp up some surveys this spring. They did submit a construction operations plan in December; which is undergoing review. This is our kind of first construction and operations plan since the Cape Wind project, which you may have noticed in the news there. We're processing a relinquishment request for that particular lease.

Anyway, so there should be a notice of intent to prepare an EIS this spring; so that's the next step in that process, once we determine that construction operations plan is complete. It will be of a notice of intent to prepare the EIS to kick off the EIS process for that construction operations plan. Moving west, Bay State Wind still has surveys ongoing.

They've had their site assessment plan approved; which was for two meteorological buoys, and we're anticipating a construction operations plan from them in late 2018. Continuing west is the South Fork Wind Farm. Again, surveys are ongoing. This is the Deepwater Wind project. The site assessment plan for that one was approved in October, 2017, and we do anticipate a construction operations plan in 2018 for that project as well.

As I mentioned earlier the Massachusetts un-leased areas, areas still that are west of

Nantucket Shoals there; there is a proposed sale notice currently under development. Continuing westward, we have the Empire Wind lease area that the lease holder is Stat Oil. Early planning is still underway. There is a SAP Survey Plan that was submitted in November; that's still under review. They hope this spring to begin doing some surveys in the Empire Wind lease area. Also, in New York Bight as I've briefed the Mid-Atlantic and the New England Council recently. We're in the process of developing a call for information for additional sites in the New York Bight. This is a map that was shared with the New York Task Force. It was actually, New York Task Force involved adjoining states as well.

This is still under development. It's not clear if this is the actual areas that will be in the call for information; but what we're doing is wanting to solicit more information on how these areas are used, and what may be compatibility issues for the purposes of leasing for offshore wind energy development.

Again, that call for information will likely be this spring. Continuing to move further south and through the New Jersey wind energy area, the northern site there is owned by a leaser U.S. Wind. We're still anticipating a site assessment plan for the deployment of potentially just meteorological buoys in 2018.

The Orsted Energy, the ocean wind site below south of that they have completed their SAP surveys, and their deployment of their meteorological buoys is currently undergoing final review. We also anticipate that we might receive a construction operations plan from them in late 2020. Continuing down into the Delaware lease area, the Skipjack Wind Farm has a SAP term ending in December 2019, and we anticipate a COP later in 2018.

They were one of the finalists for the Maryland offshore renewable energy tax credit; and then further down into the quote of Maryland Wind Energy Area that was U.S. Wind. That SAP is also nearly complete. They are hoping to actually build a meteorological tower. That is one of the few sites where, I think actually the only site that they're proposing to build an actual meteorological tower. We expect to wrap that up this year.

Continuing down is the Coastal Virginia Offshore Wind Project. It was formerly known as VOWTAP; that is the Virginia Department of Mines, Minerals and Energy, along with Dominion, and the ORSTED have kind of revived that research assessment plan. That is for two turbines offshore Virginia.

That RAP is actually already approved; we're just undergoing a review of any changes that they've made. Primarily they proposed changing the foundation type for those two turbines; and we anticipate undergoing that final review, and then they anticipate construction in 2020 for those two turbines.

The Virginia Commercial Lease Area, the larger lease area adjoining the study site. We anticipate buoy deployment there, not until 2020. Then continuing further south, off of North Carolina, the Kitty Hawk lease site. That was awarded to Avangrid Renewable, on October 10, 2017, with an effective date of November 1, 2017; and so they're just getting their act together, as far as determining their timeline and when they want to pursue activities, like site assessment plan activities in that area.

BOEM most recently regarding that area, most recently had a task force meeting on December 7, in Virginia Beach, where both the CEVOW project and the Avangrid Renewable site were discussed. As just another BOEM program note. As you're probably aware of in the news, the oil and gas side of BOEM is in the process of developing a draft proposed program for 2019 through 2024. They have been holding several meetings up and down all over the country in state capitals.

Lastly, the Atlantic G&G Seismic Survey permits. There are five permits that are being processed for incidental harassment authorizations; and those IHAs are likely looking to be approved probably early this spring. Moving on to some of our studies, I just want to highlight some of the studies that we're doing. We are continuing to do some work around with our ventless trap survey around Cox's Ledge.

We just finally posted a benthic habitat mapping study that we did for all the wind energy areas. That was done with the Northeast Fisheries Science Center out of Sandy Hook. Again that's on our completed environmental studies page; and that report is now available as of just a couple weeks ago.

We're continuing a lot of work on fish telemetry between New York, Delaware, and Maryland and Virginia. Those reports should be available in the coming year. We're also anticipating the release of the final report on electromagnetic fields on lobster, skates, and crabs that was done in Long Island Sound by the University of Rhode Island.

Then lastly, we have funded and we are starting to get some preliminary results in on some of our study that's done with Woods Hole Oceanographic and Northeast Fisheries Science Center; looking at the sound of the construction noise generated at the Block Island Wind Farm in state waters, and how that affects black sea bass and longfin squid.

Again, these are in tank studies right now, but hopefully we'll be able to do some more empirical work offshore in the future. With that I'll open it up to any questions you might have; and hopefully touched upon all the questions you might have.

CHAIRMAN GILMORE: Thanks Brian, great report; questions for Brian? Jason.

MR. McNAMEE: Thanks for the report. One question I have is with regard to rules about fishing. I'm wondering if within these areas, would there be fixed gear fishing allowances, mobile gear allowances, or are those sorts of things going to be determined by the companies that end up picking up the lease.

MR. HOOKER: No, each company is required to do a navigational risk assessment that the Coast Guard will evaluate. But at this time though there has been no indication by the Coast Guard or BOEM or anyone that there would be any prohibition on fishing activity of any kind, once the wind farm becomes operational.

In the case of Block Island Wind Farm, there were zones during construction, when there is active vessel movement around the construction area that prohibited some other vessel movement in that area. But we looked at Block Island Wind Farm as like the example of how work and fishing is completely allowed within and around those turbines.

CHAIRMAN GILMORE: Are there other questions for Brian? John Clark.

MR. CLARK: Thank you for the presentation, Brian. How much time does each lease holder have to develop these sites, before they either have to renew or the lease is terminated?

MR. HOOKER: Generally they have a five-year site-assessment lease term. They can ask for an extension of that five-year lease term prior to when you're supposed to submit a construction and operations plan. You have to be showing due diligence; and work on the leasehold. There are steps in place to ensure that we issue leases and they just don't sit there idly; that there is some activity occurring with those leases.

CHAIRMAN GILMORE: Are there any other questions for Brian? Jason.

MR. McNAMEE: Brian, you had mentioned there are during the construction phase and they're building the turbines, there is a need to

close the area so that the work can get done. Is there any thought to, so I'm thinking about the Block Island example again. In the ramp up to construction they identified impacted fishermen in the lease area.

They developed a, I'll call it a compensation program, for lack of knowing what the actual term was. Is there any guidance or plan from the federal government to have that be a requirement; as these areas are being built, to develop some sort of mitigation is the word, mitigation plan for these areas for displaced fishermen?

MR. HOOKER: Sure, we have guidance on how to comply with information requirements on the socioeconomic status of fisheries in the area; and how your activities may be impacting those entities. That generally won't occur until the EIS process, if there is a significant impact in how they intend to mitigate it.

That will be part of that NEPA process. There is no specific requirement per say for the compensation of lost fishing opportunity from construction. However, that is one thing that we'll be looking closely at with the review of these construction operations plans and in the EIS process. I will stress we do have guidance.

I mentioned we have that guidance document that really stresses the importance of developing a fisheries communication plan, and to ensure that that communication is happening and that the information provided in the construction operations plan is reflective of, they know what their potential impacts are to fishermen in that area. That is what the objective of those guidelines are; so that nothing is a surprise when it comes down later that they may be impacting some fisheries operations in a negative fashion.

CHAIRMAN GILMORE: Eric Reid.

MR. REID: Mr. Hooker, how are you? Can you tell us what the Coast Guard has to say about all this? There are real concerns about the effect of wind turbines on radar, and of course vessel movement and the safety of that. Can you tell us what kind of advice you've gotten from the Coast Guard, and what your response to that advice might be?

MR. HOOKER: We get advice from Coast Guard throughout the process; whether it's on the initial siting of the areas that we want to lease. They do red, yellow, green maps of like where they think heavy concentration of vessel traffic and how offshore wind may or may not be compatible with that level of use.

But as I mentioned earlier, when we get down to the individual project level, their role really comes in that navigational risk assessment aspect. That is prepared as part of the construction operations plan, and that's reviewed by the Coast Guard directly. Through that process they can provide advice and feedback to the developer.

As a matter of fact they have a navigational circular. They have their own guidance document on how to prepare that and how they intend to use the information in that document. Some of that can happen more directly between the developer and the Coast Guard as well.

MR. REID: It's the Coastguard. You know there are a lot of issues beyond navigation; including things like Homeland Security. Is that advice from the Coast Guard binding, or is it just advice that doesn't necessarily have to be followed? When you look at what's going on south of the Vineyard; then maybe you can remind me how many turbines are potentially capable of going in that area, just the sheer transiting capabilities of, not necessarily recreational guys or small commercial boats.

They may not be affected so much, but the larger boats that go through that area to get offshore are going to be substantially affected, depending on what that looks like. That's my

question. Are the Coast Guard's advice binding, and how many turbines can go into those areas south of the Vineyard?

MR. HOOKER: As I said, they make recommendations as far as some of the early planning process. Those are nonbinding recommendations. But I think when we get into individual project specifics as part of that navigational risk assessment. I think that is binding on the developers; as far as like what their determinations is regarding that navigational risk assessment, whether it's acceptable, and the measures they have in place are adequate to ensure the navigational safety of the area.

Regarding the number of turbines that that area could support, I don't have a number on what the total could be. As you know the markets are driven by what the individual states have set, and the renewable energy targets, and how much they plan on purchasing. It's ultimately dependent upon the states renewable energy goals.

MR. REID: Thanks for that. I'm sorry, I get three bites, because that's against Mr. Abbott's directions, but anyway, yes he's not here. I've heard the response about market and all that Mr. Hooker, we both know that. But the question is, given the spacing between those turbines, how many can go into those areas and how far apart do they physically have to be? It's not very far.

There is a zone around those turbines that has to be considered. That is my question. How many can you put in there given the spacing between those turbines? It's a big number; it's not like seven. I've asked that question before, and everybody is afraid to answer me. But maybe the next time I see you, which will probably be pretty soon, maybe next week. I would like somebody to tell me that number.

MR. HOOKER: Thanks, I'll see if I can put something together for you.

CHAIRMAN GILMORE: Dave Borden.

MR. BORDEN: This just follows up on the point that Eric raised. You know this came up at the Mass Lobstermen's Association meeting; where they had some of the wind companies come in and give very good presentations on what was going to happen in that southern area, south of the Vineyard and south of Nantucket.

What I kind of struggle with is the same issue that Eric is trying to get at. I want to know what the aggregate number of towers is that's going to take place in all of the build out areas, not one specific area. I've talked to some people; I talk about the potential for 10,000 or 15,000 wind towers out there. I think one of the things that this body, along with the Councils has to deal with is aggregate impacts. We need to know that number.

CHAIRMAN GILMORE: It's a good point, Dave and I think it's technically covered under NEPA. There is a cumulative impact section of that. Unfortunately, I think the practice over the years is that you just look at projects that are currently proposed; you don't look at potential for the next 30 years. I think that's something that maybe needs to be addressed as we move forward; anyway, Andy.

MR. SHIEL: I just want to point out something. We're dealing with natural gas in Pennsylvania; and first we had the pads and the drilling sites, and we permit those and we oversee them. But what we're dealing with now are the pipelines that connect all those drilling sites; and there is a lot more impact with the pipelines, because of what they cross and where they go then there is with the drilling sites.

I would assume the same thing would be true. You have to connect all of these wind power generators with cables. They're probably going to be interconnected. In terms of your impact on ocean bottom, it's going to be more than just where they're physically sited; it's going to be the root that the cables take how many

cables if there are 10,000 or 15,000. I would say similar to what Eric asked. In a future presentation if there is any way to kind of scale that for us that would be appreciated.

NON-COMPLIANCE FINDINGS/ OTHER BUSINESS

CHAIRMAN GILMORE: Okay I think we've had some good discussion on this. Thanks, Brian, for your update. I'm sure we'll be talking with you, and keeping my office busy. Anyway, thanks for coming down. That brings us down to **other business. We don't have any noncompliance findings.** Can you actually read that Toni? I can't read your writing.

MS. KERNS: He has to read my writing. Dan, you wanted to bring up the shellfish seed initiative shipment activity.

MR. McKIERNAN: Yes thank you Toni, I'll be brief. Back in October or early November, David Pierce wrote a letter to Bob Beal; looking for the Atlantic states to get involved with some oversight of shellfish seed issues. Quickly the statement of the problem is we want to get ahead of what we are seeing as unauthorized aquaculture operations receiving seed; usually sent to hobby farmers.

As this aquaculture industry matures, we're getting pressure, and we see the need to sort of professionalize the industry, and to make sure that people who are not authorized aquaculturists aren't receiving seed. What I hope will happen in the future. I understand Louis Daniel is reconvening a shellfish transport committee as part of an aquaculture initiative. Maybe you can clarify that. But what we would like to do is ask the states to work together to hold their instate hatcheries accountable.

If that hatchery is going to ship seed to an out-of-state farmer that farmer would have to have permission from the state to receive it. Because if a hatchery in another state sends seed to a Massachusetts unauthorized farmer, I don't have a permit to sanction at the hatchery side, and I don't have a permit to sanction on the receiver's side. We would be looking for the states to work together to establish some kind of standards.

MS. KERNS: Louis is currently working on the aquaculture RFP, and when he finishes that up, which I think closes in about another month or two, then we would reinvigorate the Interstate Shellfish Committee, which has not gotten together in many, many, many years. What I can do is send David's letter out; because I'm not sure if that went to the full Policy Board or not. Then ask for membership for that Shellfish Committee, and then we'll get that Shellfish Committee working on that task that was in the letter from David.

MR. McKIERNAN: Thank you.

CHAIRMAN GILMORE: Next one is Pat wanted to raise an issue on the Electronic Data Working Group. Pat.

MR. KELIHER: Yesterday at the Lobster Management Board, a motion was passed that would institute 100 percent harvester reporting within a 5-year period, with a strong emphasis on electronic reporting. At the time it was thought that it would be tasked between the Technical Committee and the Commercial ACCSP Working Group. That is not necessarily the right committee.

In discussing with staff and a few members of the Lobster Management Board, I crafted a motion, and I think if you could get it up on the screen. **Mr. Chairman, I would move to convene a Lobster Electronic Reporting Subcommittee; with representatives from the Lobster Board, the state and federal agencies, ACCSP, and ASMFC staff.**

The objectives for the subcommittee are to (1) Evaluate the need for an electronic harvester reporting form, based on stipulations in the lobster and Jonah crab FMPs, and individual

state requirements. Evaluate various electronic reporting platforms and their ability to be housed within SAFIS, as well as state-specific data bases. Recommend simple and logistical solutions to improve the ease of electronic harvester reporting. This includes evaluating the best ways to report spatial locations; considering the new requirements to report LCMAs and 10-minute squares, and the ability for states to use state-specific subareas in state waters, and outline a timeline for the development of electronic harvester reporting in the lobster and Jonah crab fisheries. If I get a second, I will give further justification if needed.

CHAIRMAN GILMORE: Seconding the motion, Dave Borden. Go ahead, Pat.

MR. KELIHER: The purpose of the subcommittee is obviously to guide development and implementation of electronic reporting in the fishery. Obviously it again is prompted by the finalization of Addendum XXVI and 100 percent harvester reporting. In the end I want to make sure that we have a very good, user friendly product for the industry.

If we're moving into the state of Maine with 100 percent reporting; we're talking about adding a lot of harvesters and a lot of data points, considering the amount of trips that are going to be made. I want to make sure we do this once; and when we do it, we do it right.

CHAIRMAN GILMORE: Discussion from the Board. David Pierce.

DR. PIERCE: I wasn't here at the Lobster Board discussions; so I really can't comment on that outcome. But I'll just ask a simple question which is, this is a long motion. Pat has given a lot of thought to this. I just want to make sure that it's completely consistent with what the Lobster Board did yesterday, and that there is not some accidental deviation from the conclusion of the Lobster Board through the vote that it took yesterday.

CHAIRMAN GILMORE: Let me go to the Chairman of the Lobster Board and see if you think it's correct.

MR. STEPHEN TRAIN: As long as I'm not accused of accidently agreeing. I believe it fits the tone of what was discussed to the motion made. I just don't think we gave an exact tool and how to get it done.

CHAIRMAN GILMORE: Dave Borden.

MR. BORDEN: I note that the length of this motion was modeled after one of the more illustrious members of the New England Council, Dr. Pierce. He has his own name for motions; they call it a Pierce motion, if it extends past 5,000 words. I totally support the motion; but I would hope that the staff would have the flexibility to scale this Committee down so it doesn't become a monster, unless somebody disagrees with that. Make it as small as you can; but keep it effective.

CHAIRMAN GILMORE: I think we can handle that Dave. Good point; other comments? **Okay is there any objection to the motion? Seeing none; we will adopt that unanimously**. We have one more business point, which is a tasking to the Law Enforcement Committee. Pat.

MR. KELIHER: Yes, I think the Lobster Management Board yesterday. **The motion was approved to task the LEC, Law Enforcement Committee, to look into the ability to enforce the concepts surrounding ropeless fishing.** That motion needs now approval by the Policy Board.

CHAIRMAN GILMORE: We have a motion up. Motion by Mr. Keliher; do we have a second, Dave Borden. **Is there any discussion on the motion? Is there any objection to the motion? Seeing none; we will adopt that unanimously**.

ADJOURNMENT

CHAIRMAN GILMORE:Is there any other business to come before the ISFMP Policy Board? Seeing none; we will stand adjourned.

(Whereupon the meeting adjourned at 12:45 o'clock p.m. on February 8, 2018)

March 16, 2018

James J. Gilmore, Jr., Chair
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201

Re: Northern Region Appeal of Black Sea Bass Addendum XXX (recreational management in 2018)

Dear Mr. Gilmore,

The states of Massachusetts, Rhode Island, Connecticut, and New York ("Northern Region") hereby appeal the February 8, 2018 decision of the Summer Flounder, Scup, and Black Sea Bass Management Board ("Management Board") in Section 3.1.2.3 of Addendum XXX, the timeframe for specifying regional allocation of the black sea bass recreational harvest limit ("RHL") in 2018.

Background

Under sections 3.1.2.1 and 3.1.2.2 of the draft addendum, the Management Board unanimously selected regional allocation of the RHL between three regions (MA–NY, NJ, and DE–NC) based on historical exploitable biomass (for the primary split between MA–NY and NJ–NC) and historical recreational harvest (for the secondary split between NJ and DE–NC). Then, under section 3.1.2.3, in a highly divisive action, the Management Board hybridized the 2006–2015 and 2011–2015 timeframe options for calculating regional average exploitable biomass and historical recreational harvest by averaging the regional allocations resulting from the two timeframes.

The vote on the timeframe decision was split north/south, with the four jurisdictions of MA–NY voting against the hybrid approach and the six jurisdictions of NJ–NC voting in its favor. The Northern Region unanimously supported the 2011–2015 timeframe option. MA–NY also voted against the addendum's final approval resulting in another four-vote to six-vote outcome.

Addendum XXX's regional allocations and the implications for 2018 management measures, incorporating updated harvest data that have become available subsequent to the Management Board's decision, are shown in Table 1.

Justification for Appeal

<u>Decision not consistent with FMP (appeal criterion #1)</u>

The primary objective of Addendum XXX is to address inequities in recreational black sea bass management that resulted from the ad hoc regional management approach in the preceding six years.[1] Part of that inequity is that the states of DE–NC were frequently held status quo, while the states of MA–NJ took repeated harvest reductions. These northern cuts even incorporated needed reductions from the south in some years. As a consequence, in 2017, the states of DE–NC had a size limit 2.5" lower and a possession limit 5 to 12 fish greater than the states of MA–NY, plus a season longer than all but one state in the Northern Region.

[1] Addendum XXX statement of the problem: "This approach [ad hoc regional management], while allowing the states flexibility in setting their measures, created discrepancies in conservation measures that were not tied to any original plan baseline or goal (e.g., state allocations). Inequities resulted in how much of a harvest reduction states were addressing through their measures, with no accountability for the effectiveness of regulations. Most visibly, the ad hoc approach did not provide uniformity in measures nor in evaluating harvest reductions."

Contrary to the primary objective to reduce disproportionate impacts on states, the management approach for 2018, approved by the Board via Addendum XXX, exacerbates the inequities by allowing large harvest liberalizations for both the Southern Region (DE–NC) and the NJ Region, while imposing a large harvest reduction for the Northern Region (Table 1). We strongly disagree with—and hereby contest—the final addendum's language that the timeframe-averaging approach "creates a more equitable allocation scheme" than the 2011–2015 timeframe approach.

Table 2 provides the regional allocations and implications for 2018 management measures, incorporating updated harvest data that have become available subsequent to the Management Board's decision, that would have resulted from the selection of the 2011–2015 timeframe (under the exploitable biomass/harvest-based allocation approach). NJ and the Southern Region would still be afforded the opportunity to liberalize in 2018 relative to 2017, albeit at more modest rates. For NJ[2], the harvest increase would be +30.63% instead of +46.71%, and for the Southern Region, +6.83% instead of +21.83%. The Northern Region would still face a reduction in 2018 relative to 2017, but at a rate roughly half of that required under Addendum XXX's allocation (-5.45% vs. -11.71%). These results identify the 2011–2015 timeframe as the more appropriate approach to establish more equitable recreational black sea bass measures for 2018, consistent with the primary objective of the addendum.

The appellant states remain committed to the tenet of cooperation that is central to the ASMFC's stewardship of our shared fishery resources. We (and NJ) exhibited this during the six years of ad hoc regional management when we frequently accepted regional harvest reductions that subsidized the management measures allowed for the southern region. The appellant states again demonstrated our willingness to compromise as we worked through sections 3.1.2.1 and 3.1.2.2 of the draft addendum. We recognized that the two-region (MA–NJ & DE–NC) harvest-based allocation option would have provided the most liberal measures possible for MA–NY (regardless of the timeframe selected), a fact that was not overlooked by many of our stakeholders who supported it; yet we looked past this option because of the major impact it would have had on NJ. We also looked past the three-region harvest-based allocation option to support the three-region exploitable biomass-based allocation option, despite the larger percent allocation afforded by the former, because we supported the progressive management approach afforded by the latter. We had hoped that our southern partners would have seen fit to act in this same spirit of compromise by supporting the 2011–2015 timeframe approach.

The equity issue, as set forth in Addendum XXX, has both an inter- and intra-regional component. We have already spoken to the inconsistency of the Board's decision with regard to inter-regional equity. We also note that the larger reduction imposed on the Northern Region makes it exceedingly more difficult for MA–NY to select regulations that achieve intra-regional equity (more on this under appeal criterion #5). Actions such as intra-regional adjustments can be better accommodated when regional harvest reductions, if necessary, are held to modest levels.

<u>Decision not consistent with FMP (appeal criterion #1)</u>

By affording NJ and the Southern Region the opportunity to liberalize, significantly, in 2018, and by requiring the Northern Region to reduce, significantly, in 2018, Addendum XXX is also inconsistent with nearly all objectives of the Fishery Management Plan (FMP).[3]

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[2] The calculation for NJ assumes the Management Board will approve the state's proposal to smooth its large 2017 wave 3 harvest estimate. Otherwise, the effect on NJ of the 2011–2015 timeframe would be a -12.89% reduction instead of a -2.17% reduction.

[3] Amendment 12 Objectives:

- Reduce fishing mortality in the summer flounder, scup, and black sea bass fishery to assume that overfishing does not occur.
- Reduce fishing mortality on immature summer flounder, scup, and black sea bass to increase spawning stock biomass.

The 2016 Benchmark Stock Assessment, which provides estimates of fishing mortality (and other metrics) on a regional basis (MA–NY, NJ–NC), indicates that overfishing is occurring in the southern sub-unit (retro adjusted F of 0.39 in 2015, compared to F_{MSY} proxy of 0.36). A large harvest increase for the southern sub-unit is inconsistent with the FMP objective to assure that overfishing does not occur.

Meanwhile, the northern sub-unit is fishing well below the F_{MSY} proxy (northern retro adjusted F of 0.14). Another harvest reduction for the north is inconsistent with the FMP objective to improve yield from the fishery. The more restrictive measures in the north are effectively subsidizing the more liberal measures in the south. Additionally, too much of the north's fishing mortality rate is resulting from discard mortality due to the misalignment between plentiful stock status and draconian regulations.

Another large harvest reduction for the Northern Region will also force state waters regulations for MA–NY that are even further away from being compatible with federal waters regulations, another FMP objective. While the majority of recreational black sea bass landings in MA–NY are caught in state waters, for some of the northern states in some years, harvest from federal waters is high, ranging up to 50 percent of total landings. It's been seven years since recreational anglers and for-hire operators in MA–NY have been subject to uniform state and federal regulations, which would promote uniform and effective enforcement of regulations, another FMP objective. Of note, the process for selecting the federal waters measures this year deferred to the Addendum XXX process for determining the Southern Region's regulations first, meaning that the federal waters measures can be aligned with the state waters regulations for DE–NC regardless of the specific allocation that Addendum XXX sets for the region.

Lastly, the larger the harvest cut required of the Northern Region the greater the need for MA–NY to implement increasingly complex regulations to try to meet the needs of various stakeholder groups as best as possible. In prior years, this has included sector-specific possession limits, season-specific possession limits, and in-season closures, none of which promote uniform and effective enforcement of regulations, or meet the additional FMP objective to minimize regulations.

<u>Insufficient/inaccurate/incorrect application of technical information (appeal criterion #3)</u>

At the time of the Management Board's decisions on Addendum XXX, only waves 1–5 MRIP harvest estimates were available for 2017, necessitating the incorporation of a wave 6 projection to evaluate the potential management effect of the various allocation alternatives in 2018. Since then, additional 2017 harvest information has become available that dramatically alters the management implications, rendering the information that was available to the Management Board insufficient for decision-making.

Now available are preliminary full-year 2017 harvest estimates from MRIP, as well as a revised 2017 harvest estimate for NJ based on the state's proposal to smooth its large wave 3 MRIP harvest estimate. Replacing the wave 6 projections with the wave 6 harvest estimates has the following effect on the full-year harvest estimates: Northern Region +1.9% (from 2,496,841 to 2,544,638 pounds), NJ -19.9% (from 1,413,999 to 1,131,943 pounds), and Southern Region -2.0% (from 257,943 to 252,783 pounds). NJ's full-year harvest estimate is reduced another -33.3% under its proposed, smoothed harvest estimate of 754,768 pounds.

- Improve yield from these fisheries.
- Promote compatible management regulations between state and federal jurisdictions.
- Promote uniform and effective enforcement of regulations.
- Minimize regulations to achieve the management objectives stated above.

Tables 3 and 4 provide the projected management implications of the 2011–2015 timeframe option and the timeframe-averaging approach that were before the Management Board at the February 8 meeting. We highlight the highly variable implications for NJ as confirmation that the Management Board had insufficient information to determine the appropriate timeframe. The projected outcome of the 2011–2015 timeframe included a -30.27% harvest reduction for NJ (Table 3), which the Board's averaging approach reduced to a projected -21.69% harvest reduction (Table 4). Based on NJ's revised 2017 harvest estimate, the state stands to liberalize +46.71% under the timeframe averaging approach (Table 1), but still a very generous +30.63% under the 2011–2015 timeframe (Table 2).

Less dramatic but still notable are the effects on the Northern and Southern Regions. The Management Board knowingly adopted an option with a projected -10.02% reduction for the beleaguered Northern Region (Table 4), which grows to a -11.71% reduction using the updated information (Table 1), but could be reduced to a -5.45% reduction under the updated 2011–2015 timeframe (Table 2). Meanwhile, the updated 2011–2015 timeframe option would still provide a +6.83% increase to the Southern Region (Table 2), larger than the projected +4.69% increase considered by the Management Board (Table 3).

Insufficient/inaccurate/incorrect application of technical information (appeal criterion #3)

The southern states' argument for the need to include 2006–2010 in the timeframe for determining allocation was predominantly based on the influence of the 2011 year class on the north's black sea bass population (and not the south's) and the expectation for a strong 2015 year class in the southern sub-unit. The contention that the Northern Region's current availability of black sea bass is a year-class effect ignores the best available science.

The results of the peer-review accepted 2016 Benchmark Stock Assessment depict an increasing trend in northern sub-unit biomass beginning well before 2011 (Figure 1). Since the mid-1990s, northern region exploitable biomass has been on a steady positive trajectory from below 1,000 metric tons (mt) to over 15,000 mt in 2015 (22,340 mt after retrospective adjustment). Meanwhile, the southern sub-unit's biomass has fluctuated around 4,000 mt, increasing to about 5,000 mt in 2015 (3,336 mt after retrospective adjustment). By 2015, 87% of the exploitable biomass[4] is estimated to be in the states from NY north, nearly matching the 84% of the coastwide recreational harvest (in pounds) attributed to MA–NY that year. Yet, under Addendum XXX, the recreational allocation provided to the Northern Region is just 61.35%. (On a separate but related issue, the commercial quotas allocated to the states from NY north total just 33% of the coastwide quota, despite the species' aforementioned current distribution.)

Increased black sea bass abundance and availability in the north is consistent with a growing resource and expanded age structure, and with the growing body of scientific research supporting a northward shift in the species' distribution caused by climate change (i.e., increasing water temperature).[5] Sixteen years ago, Amendment 13 to the FMP identified "a shift in abundance of black sea bass to the north" as a potential factor affecting the shift in landings to the north. We are not aware of any research that suggests this poleward shift—reflected by the science and highlighted by the FMP—will diminish or change direction in the near or distant future.

[4] After adjustments for retrospective bias.

[5] e.g., 1) Hare JA, Morrison WE, Nelson MW, Stachura MM, Teeters EJ, Griffis RB, et al. (2016). A Vulnerability Assessment of Fish and Invertebrates to Climate Change on the Northeast U.S. Continental Shelf. PLoS ONE 11(2): e0146756. doi:10.1371/journal.pone.0146756. 2) Bell, R. J., Richardson, D. E., Hare, J. A., Lynch, P. D., and Fratantoni, P. S. Disentangling the effects of climate, abundance, and size on the distribution of marine fish: an example based on four stocks from the Northeast US shelf. – ICES Journal of Marine Science, doi: 10.1093/icesjms/fsu217.

Given the unidirectional shift in distribution, it stands to reason that application of the most recent years' data in an allocation decision is the most appropriate approach—particularly when it can be done without imposing disproportionate impacts throughout the range (in this case, NJ and DE–NC still having liberalizations). Addendum XXX must be viewed in the context of an evolving management system aimed at addressing the northward shift in the black sea bass resource by adjusting the recreational targets and commercial allocations accordingly. Viewed in this way, the Management Board's decision falls short and is out-of-synch with the direction of the Commission's management program.

The southern states have pointed to indications of a 2015 year class that is strong in their region as justification for a higher allocation to the south. State survey data from the Northern Region indicate that the 2015 year class is also exceptionally strong in the north (Figures 2–4). Interestingly, this trend was not evident in the NJ and VA surveys, according to the Northeast Fisheries Science Center's July 2017 data update on black sea bass. Consider also that the 2016 Benchmark Stock Assessment estimates that the south sub-unit's peak recruitment event occurred with the 1999 cohort. This led to the area's highest exploitable biomass estimates the following two years at a level (roughly 7,000 mt) that the north subunit achieved prior to the 2011 cohort's influence.

In addition, when the Mid-Atlantic Council's Scientific & Statistical Committee last provided its catch advice to the Council and Management Board, there was great uncertainty regarding the status and strength of the 2015 year class. That source of uncertainty is a key factor affecting the lower recreational (and commercial) ACLs in 2018 relative to 2017. If in fact the 2015 year class is as strong as it now appears to be, there may be no biological basis for imposing any reductions in the recreational fishery in any areas in 2018.

Management actions resulting in unforeseen circumstances/impacts (appeal criterion #5)

The Northern Region states have convened to determine the management measures within our region needed to meet the -11.7% reduction in harvest for the region imposed by Addendum XXX. The addendum requires adoption of a set of regional measures that would achieve the regional allocation; from those measures, the states can flex their state-specific measures, within bounds, to establish conservationally equivalent state regulatory programs.

From the onset, it was recognized that the unduly small allocation afforded the Northern Region would have a major, negative impact on the states' efforts to meet the requirements of the addendum. This is borne out by the extremely onerous regulatory standard that has emerged from our efforts: a 4-fish bag limit, 15" minimum size, and 119-day season, running from mid-June to mid-October. It was also understood that this regulatory standard approach would prove highly challenging in our efforts to evenly distribute the Northern Region's required reduction. Indeed, it appears that one state, Connecticut, will be forced to incur a -28% reduction in harvest in 2018 in order to enable the Northern Region to achieve the -11.7% regional reduction and uphold the regulatory standard requirements set forth by Addendum XXX. CT views this as an unforeseen and disproportionate impact. The required reduction and associated impact for CT would be lessened considerably if the 2011–2015 timeframe were implemented.

Corrective Action

Because of the uneven impacts to the regions linked to the timeframe options, and because there are more southern states than northern states on the Management Board, the Northern Region states hereby request reconsideration of the timeframe decision by the ISFMP Policy Board. Such review—by a Board whose membership includes unaffected jurisdictions—is necessary to assess a fair and equitable outcome for all states within the management unit. Based on the ample justification for adopting the 2011–2015 timeframe for regional allocation of the RHL (using the combined

exploitable biomass/harvest approach), as outlined herein, the Northern Region states urge the Policy Board to grant this appeal and to call upon the Management Board to adjust Addendum XXX accordingly. Future utility of the resource-distribution-based approach set forth in the addendum will require the use of the most current data to update the allocation formula in response to new stock assessment results. Inclusion (and averaging) of additional historical years is counter to this progressive management approach.

In addition, the Northern Region requests a Policy Board directive to the Management Board to initiate an addendum or amendment to manage the black sea bass resource by its two areal sub-units. The best available science (the 2016 Benchmark Stock Assessment) supports a sound, science-based management framework (i.e., regional management based on regional reference points) that may not otherwise be advanced given the voting membership of the Management Board. We are concerned that the Management Board's decision on Addendum XXX's timeframe option is synoptic of a larger management issue that needs to be put on a path towards resolution.

We are unaware of other options to gain relief at the Management Board level and commit to complying with the findings of the Policy Board, subject to our right to take further action beyond the ASMFC to seek relief.

Sincerely yours,

Massachusetts Commissioners

Dr. David E. Pierce | Raymond W. Kane | Representative Sarah K. Peake

Rhode Island Commissioners

Jason McNamee | David V.D. Borden | Senator V. Susan Sosnowski

Connecticut Commissioners

Mark Alexander | Dr. Lance L. Stewart | Senator Craig A. Miner

New York Commissioners

James J. Gilmore, Jr. | Emerson C. Hasbrouck, Jr. | Senator Philip M. Boyle

Cc: Robert Beal, Toni Kerns (ASMFC)

Table 1. Addendum XXX Outcome, Using Updated 2017 Harvest Data

Region	Regional Allocation %	2018 RHL	2018 Regional Allocation (lbs)	Preliminary 2017 Harvest (lbs)*	% Change from 2017 Harvest to 2018 Allocation
North: MA-NY	61.35%	3.66 million pounds	2,246,562	2,544,638	-11.71%
South: NJ	30.24%		1,107,352	754,768	+46.71%
South: DE-NC	8.41%		307,964	252,783	+21.83%

***** Preliminary full-year 2017 harvest as estimated by MRIP waves 1–6, with NJ's wave 3 harvest estimate smoothed as proposed by the state. Without smoothing, NJ's preliminary 2017 harvest estimate is 1,131,943 pounds, resulting in a -2.17% reduction in 2018.

Table 2. 2011–2015 Timeframe Outcome, Using Updated 2017 Harvest Data

Region	Regional Allocation %	2018 RHL	2018 Regional Allocation (lbs)	Preliminary 2017 Harvest (lbs)*	% Change from 2017 Harvest to 2018 Allocation
North: MA-NY	65.79%	3.66 million pounds	2,405,854	2,544,638	-5.45%
South: NJ	26.85%		985,979	754,768	+30.63%
South: DE-NC	7.36%		270,045	252,783	+6.83%

***** Preliminary full-year 2017 harvest as estimated by MRIP waves 1–6, with NJ's wave 3 harvest estimate smoothed as proposed by the state. Without smoothing, NJ's preliminary 2017 harvest estimate is 1,131,943 pounds, resulting in a -12.89% reduction in 2018.

Table 3. Projected Outcome of the 2011–2015 Timeframe in Draft Addendum XXX

Region	Regional Allocation %	2018 RHL	2018 Regional Allocation (lbs)	Projected 2017 Harvest (lbs)*	% Change from 2017 Harvest to 2018 Allocation
North: MA-NY	65.7%	3.66 million pounds	2,405,854	2,496,841	-3.64%
South: NJ	26.9%		985,979	1,413,999	-30.27%
South: DE-NC	7.4%		270,045	257,943	+4.69%

* Projected 2017 harvest estimates based on MRIP waves 1-5 plus a wave 6 projection, and no smoothing of NJ's wave 3 harvest estimate.

Table 4. Projected Outcome of the Timeframe Averaging Approach When Adopted by the Management Board

Region	Regional Allocation %	2018 RHL	2018 Regional Allocation (lbs)	Projected 2017 Harvest (lbs)*	% Change from 2017 Harvest to 2018 Allocation
North: MA-NY	61.35%	3.66 million pounds	2,246,562	2,496,841	-10.02%
South: NJ	30.24%		1,107,352	1,413,999	-21.69%
South: DE-NC	8.41%		307,964	257,943	+19.39%

* Projected 2017 harvest estimates based on MRIP waves 1-5 plus a wave 6 projection, and no smoothing of NJ's wave 3 harvest estimate.

Figure 1. Comparison of North sub-unit (left) and South sub-unit (right) exploitable biomass estimated by the 2016 Benchmark Stock Assessment. Note the difference in y-axis scale and the increasing trend in the north preceding the 2011 year class.

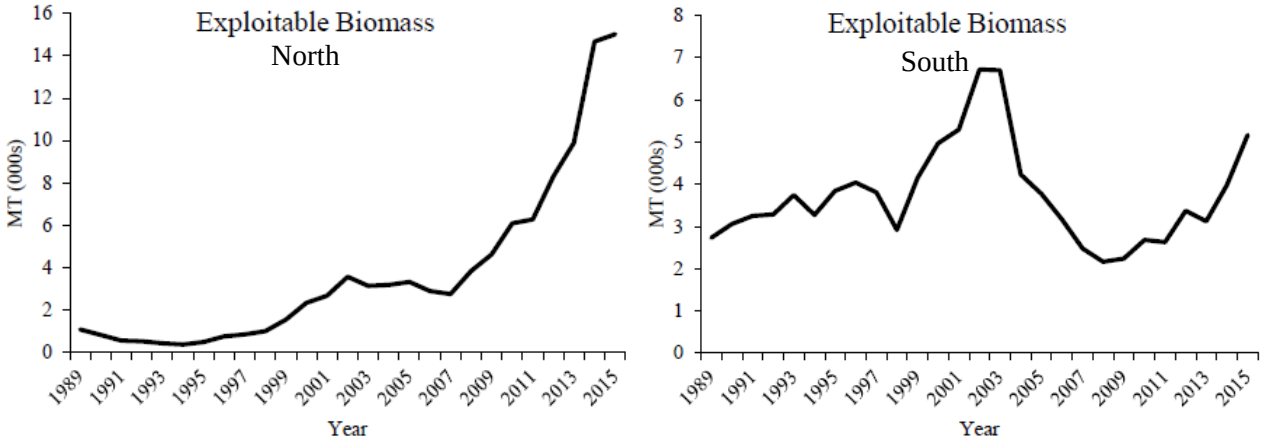


Figure 2. Massachusetts spring trawl survey stratified mean number per tow at age-1, indicating a strong 2015 year class recruiting to the population as age-1 in 2016.

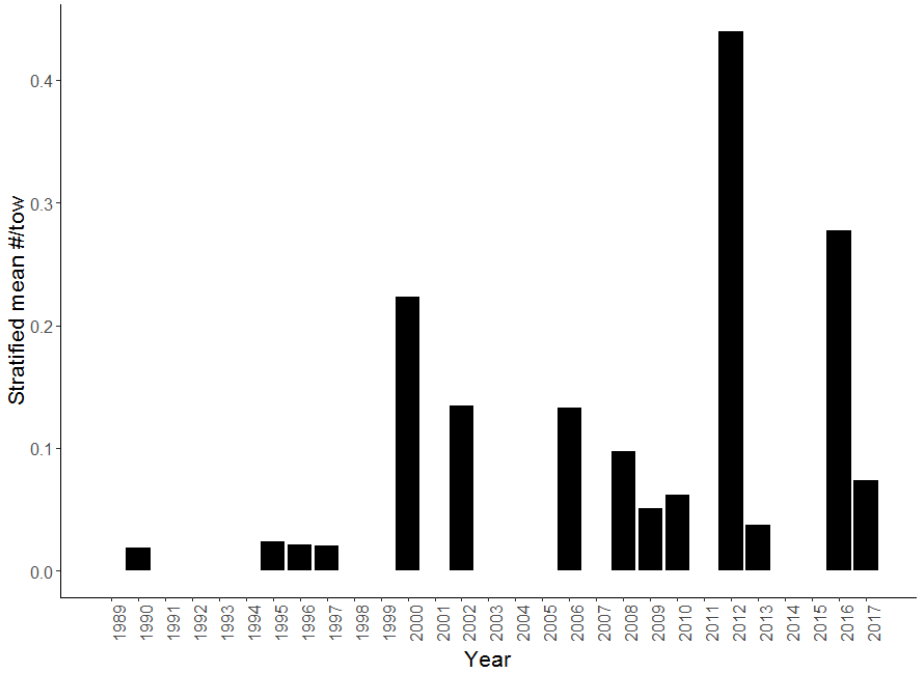


Figure 3. Rhode Island spring trawl survey mean number per tow at age-1, indicating a strong 2015 year class recruiting to the populations as age-1 in 2016.

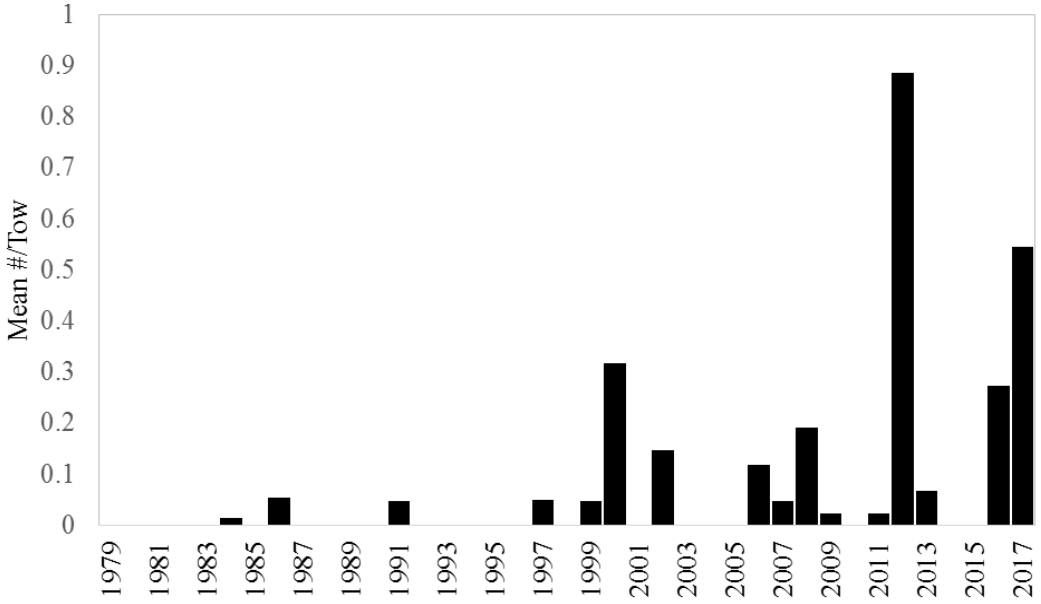
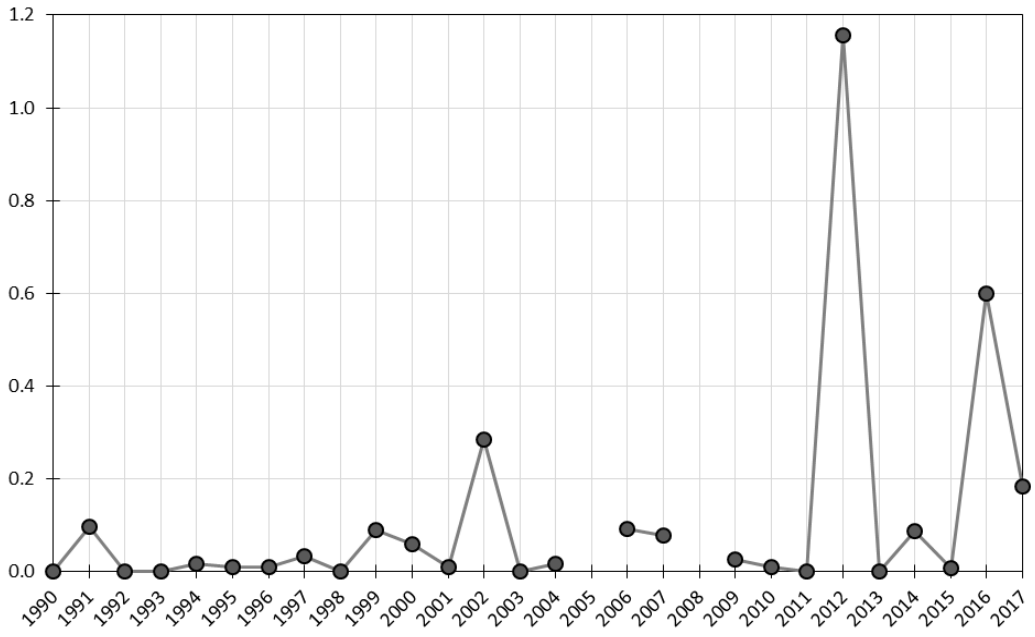


Figure 4. New York small mesh trawl survey mean number per tow at age-1, indicating a strong 2015 year class recruiting to the population as age-1 in 2016.



Atlantic States Marine Fisheries Commission

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James J. Gilmore, Jr. (NY), Chair *Patrick Keliher (ME), Vice-Chair* *Robert E. Beal, Executive Director*

Vision: Sustainably Managing Atlantic Coastal Fisheries

April 3, 2018

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Dear Dr. Pierce, Mr. McNamee, Mr. Aarrestad and Mr. Gilmore:

This letter responds to the March 16, 2018 appeal by the Commonwealth of Massachusetts and the States of Rhode Island, Connecticut and New York (Northern Region) regarding of the Atlantic States Marine Fisheries Commission's (Commission) approval of Addendum XXX (Addendum) to the Summer Flounder, Scup and Black Sea Bass Interstate Fishery Management Plan (FMP). On March 23, 2018, in accordance with the appeals process, a conference call of the Commission's Vice-Chair Pat Keliher, past Chair Doug Grout and Robert Boyles, proxy for Chairman Gilmore, as he is appellant (Leadership), and staff was convened to review the Northern Region appeal. The purpose of the review was to assess the issues the Northern Region raises in its appeal and to determine whether those issues are of the type and substantiality that warrants review by the Interstate Fisheries Management Program (ISFMP) Policy Board.

During the call, it was determined the appeal did meet the qualifying guidelines and, thus, could be forwarded to the ISFMP Policy Board for consideration under appeal criterion one (decision not consistent with FMP) and parts of criterion three (incorrect application of technical data). However, Leadership did not find the appeal met the qualifying guidelines for criterion five (unforeseen circumstances/impacts).

A. Claims Under Criterion One: Decision Not Consistent with FMP

The appeal referenced criterion one, "Decision not consistent with the FMP." Under this criterion, the appeal argues two points: (1) the allocation method fails to meet the primary goal of the addendum to reduce disproportionate impacts on the states and (2) the significant

reduction required is inconsistent with nearly all objectives of the FMP. See letter from Northern Region Commissioners to ASMFC Chair James J. Gilmore, pp. 2-3 (March 16, 2018).

Leadership concluded the states presented sufficient evidence in their claim to allow for the Policy Board to further consider the Northern Regions claim under criterion one.

B. Claims Under Criterion Three: Insufficient/Inaccurate/Incorrect Application of Technical Information

The appeal cited criterion three, "Insufficient/Inaccurate/Incorrect Application of Technical Information." Under this criterion, the appeal states wave 6 data was not available when the Summer Flounder, Scup and Black Sea Bass Management Board (Board) approved the addendum. Further, since approval of the addendum, additional 2017 harvest information became available that dramatically altered the management implications. The appeal also claims the Board's contention that the Northern Region's current availability of black sea bass is a year-class effect ignores the best availability science, which is an insufficient application of the technical information. See letter from Northern Region Commissioners to ASMFC Chair James J. Gilmore, pp. 3-5 (March 16, 2018).

Routinely, the Board has made management decisions on available wave data, setting specifications based on projected wave 6 data. 2017 was not an anomaly in the management process. Leadership found the exclusion of wave 6 data alone does not meet the appeal criterion for insufficient/inaccurate/incorrect data. However, the significant change in New Jersey's harvest estimate from 1.4 million pounds to 754,768 pounds due to the smoothing of data does meet the criterion. Specifically, in making its decision, the Board considered one data point (New Jersey's preliminary harvest estimate) without any indication or discussion about how that data point might change after smoothing. Based on this, Leadership concludes there are grounds for an appeal because the data presented on New Jersey's harvest estimate was insufficient.

Leadership concludes the Northern Region presented sufficient evidence in the appeal to allow for the Policy Board to further consider the claim that the Board ignored the best available science. The appeal presents that the southern states argued the high availability of black sea bass in the north is predominately based on a single year class (2011), which the claim contests is not based on the best available science under criterion 3. Leadership recognizes as black sea bass distributions shift management strategies become more complex. Shifts in the distribution and productivity of stock will likely cause ecological and economic disruptions. As environmental conditions change, the Board may need to revisit, as necessary, the underlying conservation goals and objectives of the FMP.

C. Claims Under Criterion Five: Unforeseen Circumstances/Impacts.

The appeal letter cites criterion five, "Unforeseen circumstance/impacts." The appeal claims Connecticut will be forced to take a much greater reduction than the other states within the region. The appeal presents this as an unforeseen and disproportionate impact.

The draft addendum presented a wide range of management options, including example measures, for consideration by the Board. Examples presented in the document had similar changes in magnitude as the Northern Region's current regulatory standard, in addition to options that would have required a larger reduction for Connecticut. These options were likely not ones the state would have voted in favor of, but by inclusion in the draft there was opportunity for the state to consider the impact it would have in comparison to the 2017 regulations based on the example measures provided by staff at the Board meeting. While Leadership agrees Connecticut's reduction is larger than the other states, Leadership does not find this unforeseen.

In light of these findings, Leadership finds there are grounds for the appeal to be considered by the ISFMP Policy Board under two of the three criteria advanced in the Northern Region's letter, specifically criteria one and three. Leadership concludes it is appropriate to provide the Northern Region an opportunity to present its appeal on this issue to the ISFMP Policy Board on May 3, 2018. During that meeting, the ISFMP Director will present background on the Addendum and the Board's justification for its actions. Following this presentation, the Commissioners from the Northern Region will be provided 20 minutes to present their rationale for the appeal and their suggested resolution of the issue. The ISFMP Policy Board will then be provided an opportunity to discuss the issue, consider the corrective action requested by the states, and decide what issues, if any, should be remanded back to the Summer Flounder, Scup and Black Sea Bass Board for corrective action. No public comment will be taken in connection with the appeal.

Thank you for the continued partnership and commitment to the Commission process and actions.

Sincerely,

Patrick Keliher

cc: Raymond Kane, Rep. Sarah Peake, David Borden, Sen. Susan Sosnowski, Dr. Lance Stewart, Sen. Craig Miner, Emerson Hasbrouck, Jr., Sen. Philip Boyle Interstate Fisheries Management Program Policy Board

L18-017

Atlantic States Marine Fisheries Commission

ADDENDUM XXX TO THE SUMMER FLOUNDER, SCUP, BLACK SEA BASS FISHERY MANAGEMENT PLAN

Black Sea Bass Recreational Management in 2018

Approved February 8, 2018

Vision: **Sustainably Managing Atlantic Coastal Fisheries**

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1.0 Introduction

Addendum XXX establishes management of the recreational black sea bass fishery for the 2018 fishing year and beyond. 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.

Black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles off shore), and through the Mid-Atlantic Fishery Management Council (Council) and NOAA Fisheries in federal waters (3-200 miles off shore). This Draft Addendum is proposed under the adaptive management/ framework procedures of Amendment 12 and Framework 2 that are a part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP).

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on May 10, 2017:

> *Move to initiate an addendum for 2018 recreational black sea bass management with options as recommended by the Working Group and Plan Development Team. Options for regional allocations shall include approaches with uniform regulations (e.g., number of days) and other alternatives to the current North/South regional delineation (MA-NJ/DE-NC) such as those applied for summer flounder, i.e., one-state regions.*

2.0 Overview

2.1 Statement of Problem

The Commission's Interstate Fishery Management Program Charter establishes fairness and equity as guiding principles for the conservation and management programs set forth in the Commission's FMPs. In recent years, challenges in the black sea bass recreational fishery have centered on providing equitable access to the resource in the face of uncertain population size, structure, and distribution. In the absence of an accepted peer reviewed stock assessment, the Board and Council had set coastwide catch limits at conservative levels to ensure sustainability of the resource. Coastwide catch limits set from 2010-2016 were largely based on a constant catch approach used to maintain or increase the size of the population based on historical catch data. For 2016, a Management Strategy Evaluation was considered and approved by the Board and Council to increase both the recreational and commercial catch limits. In recent years, fishery-independent and dependent information and the 2016 benchmark stock assessment have indicated a much higher abundance of the resource than previously assumed. This presented challenges in both restricting recreational harvest to the coastwide recreational harvest limit (RHL) as well as crafting recreational measures that ensured equitable access to the resource along the coast.

Starting in 2011, the Board approved addenda that allowed states to craft individual measures to reduce harvest to the annual coastwide RHL while maintaining state flexibility. After a single year of management by state shares, the Board adopted what became officially known as the ad-hoc regional management approach, whereby the northern region states of Massachusetts

through New Jersey would individually craft state measures aimed to reduce harvest by the same *percent*, while the southern region states of Delaware through North Carolina set their regulations consistent with the measures set for federal waters.

This approach, while allowing the states flexibility in setting their measures, created discrepancies in conservation measures that were not tied to any original management plan baseline or goal (e.g., state allocations). Inequities resulted in how much of a harvest reduction states were addressing through their measures, with no accountability for the effectiveness of regulations. Most visibly, the ad-hoc approach did not provide uniformity in measures nor in evaluating harvest reductions.

2.2 Background

The black sea bass recreational fishery is managed on a "target quota" basis. Fifty-one percent of the total allowable landings are allocated to the recreational sector as the coastwide RHL. Regulations are established each year that are projected to restrict harvest to the RHL; however, due to the timing of when recreational harvest estimates are available, the recreational fishery is not subject to a "quota" closure (like the commercial fishery). The Marine Recreational Information Program (MRIP) is the primary source of recreational catch and effort data used to manage the fishery.

From 1996 to 2010, uniform coastwide size, season, and bag limits were used by the Commission and Council to constrain the recreational fishery to the annual RHL. Over time, the states grew concerned that the coastwide regulations disproportionately impacted states within the management unit; therefore, the Board approved a series of addenda which allowed for state-by-state flexibility, first through state shares in 2011 and then through the ad-hoc regional management approach for 2012–2017. The northern region states have been subject to harvest reductions in all years except 2012 (liberalization) and 2017 (status quo), while the southern region states have been largely status quo. Approximately 96% of the coastwide harvest comes from the northern region states; therefore, the Board has differentially applied the required reductions between the two regions. The states' regulations for 2017 are provided in Table 1.

Table 1. State by State Black Sea Bass Recreational Measures for 2017.

State	Minimum Size (inches)	Possession Limit	Open Season	Total Days Open
Maine	13	10 fish	May 19 - September 21; October 18 - December 31	201
New Hampshire	13	10 fish	January 1 - December 31	365
Massachusetts	15	5 fish	May 20 - August 29	102
Rhode Island	15	3 fish	May 25 - August 31	191
		7 fish	September 1 - September 21; October 22 - December 31	
Connecticut (Private & Shore)	15	5 fish	May 1-December 31	245
CT Authorized Party/Charter Monitoring Program Vessels		8 fish		
New York	15	3 fish	June 27- August 31	188
		8 fish	September 1- October 31	
		10 fish	November 1 - December 31	
New Jersey	12.5	10 fish	May 26 - June 18	157
		2 fish	July 1 - August 31	
		15 fish	October 22 - December 31	
Delaware, Maryland, Virginia, and North Carolina, North of Cape Hatteras (N of 35° 15'N)	12.5	15 fish	May 15 - September 21; October 22 - December 31	201

Note: cells are shared to help with table readability and do not indicate regional alignment.

2.3 Description of the Fishery

Black sea bass are a popular recreational fish in the Mid-Atlantic and Southern New England regions. Most recreational harvest occurs in the states of Massachusetts through New Jersey (Table 2 & 3, Figure 1). In 2016, these five states account for 94% of all black sea bass harvest in the management unit (Maine through Cape Hatteras, North Carolina).

Since 2008, the majority of harvest has occurred in state waters (Table 4). In 2016, 67% of recreational harvest of black sea bass (by weight) occurred in state waters. In general, the majority of harvest from New York north is from state waters, while the majority of harvest from New Jersey south is from federal waters. Also since 2008, harvest by private anglers has surpassed harvest by anglers fishing on charter or party boats (Figure 2). In 2016, an all-time

high of 84% of harvest is attributed to the private mode, including shore-based and private/rental boat harvest.

For much of the last decade, coastwide harvest has exceeded the RHL (Table 5). In 2016, an estimated 5.19 million pounds of black sea bass were harvested, exceeding the 2016 RHL by 2.37 million pounds. RHLs through 2016 approved by the Board and Council were largely based upon a conservative constant catch approach developed by the Council's Scientific and Statistical Committee in the absence of an accepted peer-reviewed stock assessment. Constraining harvest in these years of increasing stock biomass through highly restrictive measures led to repeated exceedances of the RHL and increasingly restrictive measures in the northern region.

As of December 22, 2017, preliminary harvest data for 2017 were only available through October. These data estimate a recreational harvest of 3.7 million pounds for Maine through North Carolina during January–October 2017. This represents a 13% decrease from the same time period in 2016. The proportions of annual harvest per two-month wave in 2016 were used to project an annual harvest estimate for 2017 of 4.17 million pounds, 2.8% below the 2017 RHL of 4.29 million pounds, and 13.9% above the 2018 RHL of 3.66 million pounds. This harvest projection is highly uncertain given the interannual variability in harvest estimates.

Table 2. State-by-state recreational harvest of black sea bass (in numbers of fish), 2006–2016. Harvest data are restricted to the management unit. Source: MRIP, 2017.

State	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
ME						0	0				
NH					0		3,195	12,283	0	0	0
MA	105,162	149,434	246,136	430,748	702,138	194,752	519,910	291,678	457,099	342,554	392,239
RI	41,021	44,024	52,303	35,972	160,427	50,203	102,548	74,727	214,463	233,631	254,704
CT	3,470	23,574	59,751	465	15,682	8,378	110,858	109,807	397,033	330,628	435,624
NY	268,526	409,697	259,511	566,483	543,243	274,473	321,516	353,036	469,150	876,630	1,032,604
NJ	530,727	724,591	579,617	583,373	687,451	148,487	734,928	345,337	468,402	310,298	294,312
DE	113,696	93,147	22,621	37,345	21,028	42,961	40,141	36,557	23,879	22,899	24,168
MD	120,803	38,669	26,429	33,082	36,018	47,445	33,080	29,677	68,469	57,631	79,951
VA	83,292	36,152	38,045	114,805	29,718	18,964	4,076	21,295	18,802	38,763	28,913
NC	18,829	8,517	9,353	3,307	10,850	30,975	3,664	8,002	696	1,920	864

Table 3. State-by-state recreational harvest of black sea bass (in pounds), 2006–2016. Harvest data are restricted to the management unit. Source: MRIP, 2017.

State	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
ME						0	0				
NH					0		4,587	19,228	0	0	0
MA	156,682	169,853	380,126	621,596	1,052,441	318,384	1,052,050	660,797	1,087,848	718,101	891,441
RI	57,913	65,091	84,536	50,657	246,229	85,903	226,131	144,723	370,530	444,337	564,370
CT	3,686	37,016	90,120	1,025	24,138	13,759	261,163	262,391	586,113	495,675	914,014
NY	476,391	558,204	521,073	878,045	975,622	399,030	545,222	734,729	847,181	1,531,492	2,211,292
NJ	685,525	1,076,468	830,821	768,731	780,116	181,699	993,614	515,176	631,457	428,318	398,482
DE	143,159	137,202	27,389	45,496	29,429	46,233	49,967	44,365	30,962	26,892	31,939
MD	135,906	49,046	33,550	40,553	41,506	51,730	42,175	39,170	87,086	78,052	103,995
VA	112,323	60,093	51,421	145,183	24,702	26,748	2,599	33,660	24,433	63,695	70,188
NC	28,352	21,863	11,489	7,043	16,265	47,310	7,153	9,992	1,180	3,878	1,249

Table 4. Percentage of recreational harvest (by weight) attributed to state waters, 2006–2016; the remaining harvest is attributed to federal waters. Note: North Carolina is omitted because location-specific harvest data for only north of Cape Hatteras are not readily available. Source: MRIP, 2017.

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2006-2016 average
ME	-	-	-	-	-	-	-	-	-	-	-	-
NH	-	-	-	-	-	-	100%	100%	-	-	-	100%
MA	96%	100%	98%	100%	100%	96%	100%	95%	88%	100%	94%	97%
RI	77%	97%	91%	99%	82%	95%	92%	69%	79%	75%	83%	82%
CT	100%	100%	100%	100%	100%	100%	100%	93%	93%	97%	95%	96%
NY	73%	48%	91%	86%	93%	94%	100%	63%	81%	73%	49%	72%
NJ	17%	14%	31%	54%	43%	33%	48%	57%	9%	19%	36%	33%
DE	18%	14%	10%	11%	47%	15%	8%	6%	3%	5%	8%	14%
MD	0%	0%	6%	0%	0%	3%	2%	0%	0%	21%	51%	11%
VA	6%	59%	61%	13%	54%	5%	19%	20%	83%	4%	9%	23%
Total	39%	35%	65%	73%	80%	75%	80%	71%	70%	72%	67%	68%

Table 5. Black sea bass recreational harvest relative to the RHL, 2006–2016. Note: Harvest data are restricted to the management unit. Source: MRIP, 2017.

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Coastwide Harvest (mil. lb)	1.78	2.18	2.03	2.56	3.19	1.17	3.19	2.46	3.66	3.79	5.19
Coastwide RHL (mil. lb)	3.99	2.47	2.11	1.14	1.83	1.78	1.32	2.26	2.26	2.33	2.82
Percent of RHL harvested	45%	88%	96%	**225%**	**174%**	66%	**242%**	**109%**	**162%**	**163%**	**184%**

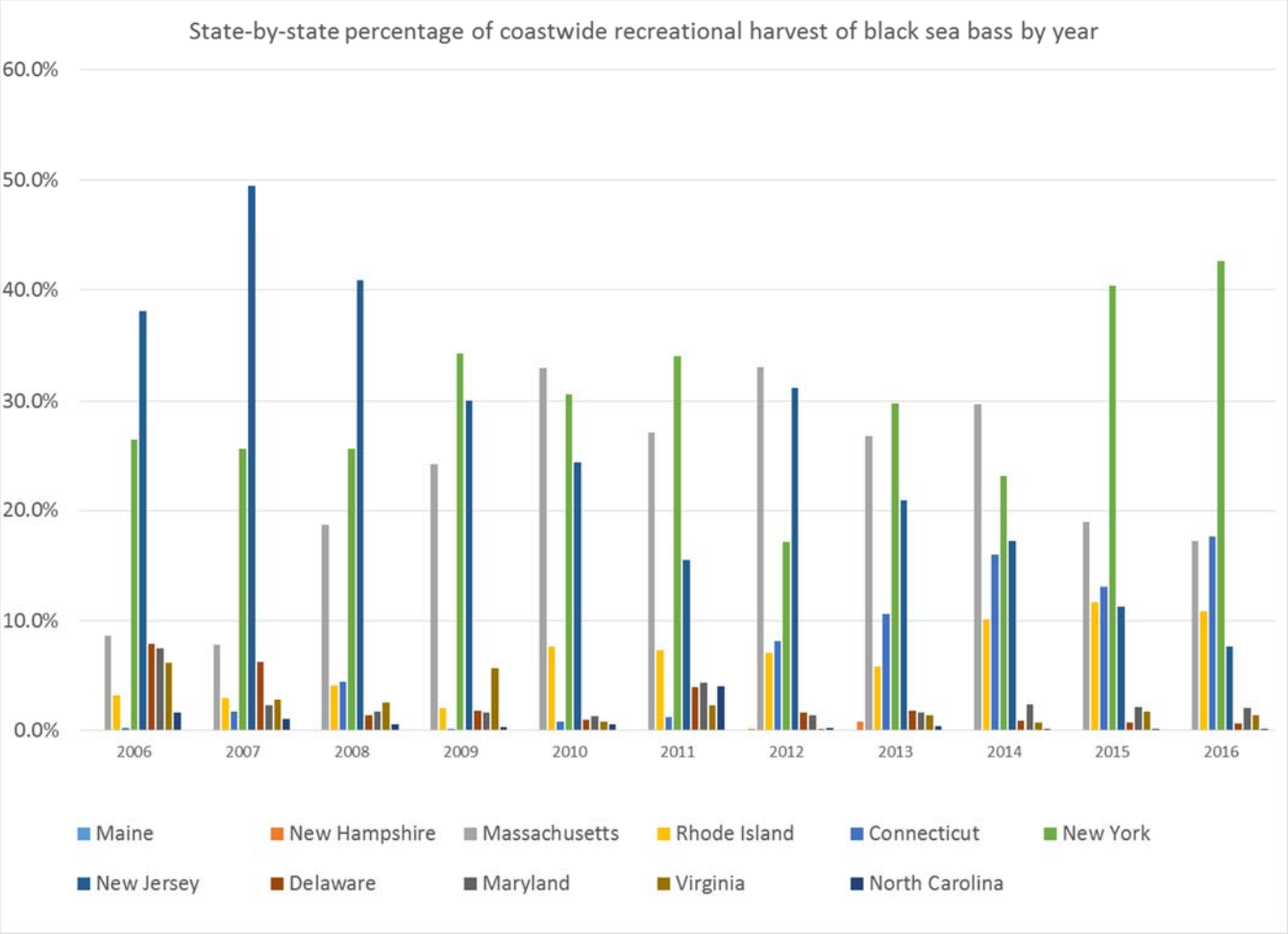

Figure 1. State-by-state contribution (as a percentage) to total recreational harvest of black sea bass (in weight) in the management unit, 2006–2016. Source: MRIP, 2017.

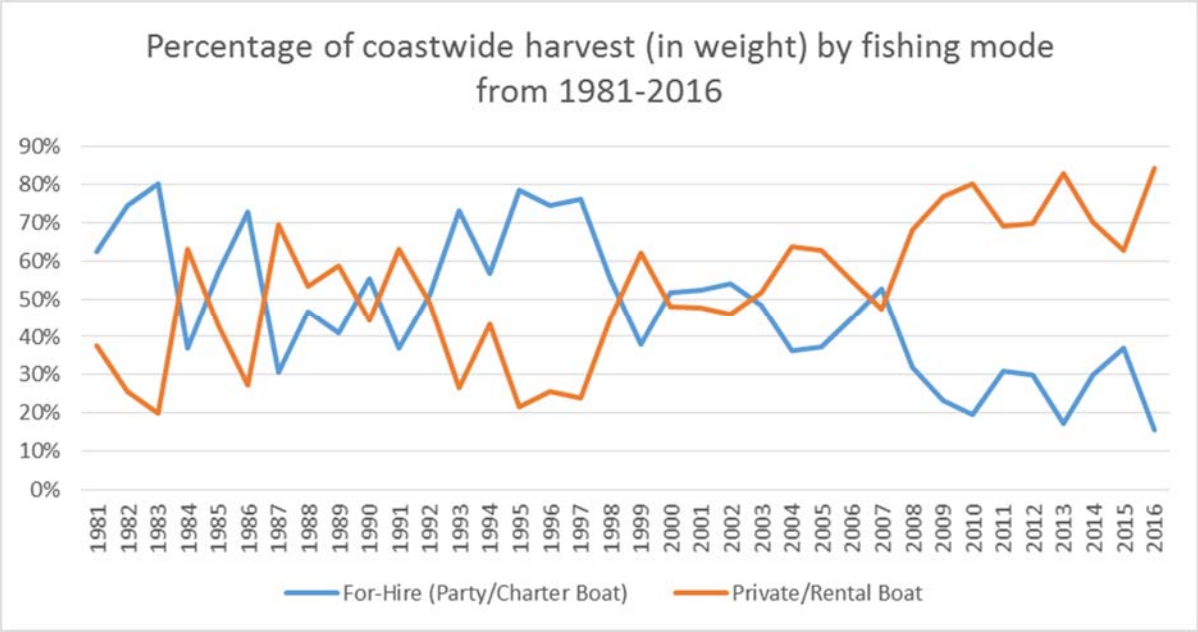

Figure 2. Percentage of coastwide harvest (in weight) by fishing mode from 1981-2016. Private/Rental Boat includes shore mode. Source: MRIP, 2017.

2.4 Status of the Stock

The most recent stock status information comes from the 2016 benchmark stock assessment, which was peer-reviewed and approved for management use in December 2016 (SARC 62). The assessment indicated that the black sea bass stock north of Cape Hatteras, North Carolina was not overfished and overfishing was not occurring in 2015, the terminal year of data used in the assessment.

For modeling purposes, the stock was partitioned into two sub-units approximately at Hudson Canyon to account for spatial differences in abundance and size at age. The sub-units are not considered to be separate stocks. Although the stock was assessed by sub-unit, the combined results were used to develop reference points, determine stock status, and recommend fishery specifications.

Spawning stock biomass (SSB), which includes both mature male and female biomass, averaged around 6 million pounds during the late 1980s and early 1990s and then steadily increased from 1997 to 2002 when it reached 18.7 million pounds. Since 2007, SSB has steadily and dramatically increased, reaching its highest level in 2015 (48.89 million pounds). SSB in the terminal year (2015) is considered underestimated, and was adjusted up for comparison to the reference points (Figure 3). The (similarly adjusted) fishing mortality rate (F) in 2015 was 0.27, below the fishing mortality threshold reference point (F_{MSY} PROXY= F40%) of 0.36. Fishing mortality has been below the F_{MSY} PROXY for the last five years. Model estimated recruitment has been relatively constant throughout the time series except for large peaks from the 1999 and 2011 year classes. Average recruitment of age 1 black sea bass from 1989–2015 was estimated at 24.3 million fish with the 1999 year class estimated at 37.3 million fish and the

2011 year class estimated at 68.9 million fish. The 2011 year class is dominant in the northern area (north of Hudson Canyon) and less so in the southern area (south of Hudson Canyon).

Based on the stock assessment, the Board and Council set the 2017 RHL at 4.29 million pounds, an increase of over 52% from the 2016 RHL. Biomass is projected to decline in 2018 as the strong 2011 year class exits the fishery. Consequently, the Board and Council set the 2018 RHL at 3.66 million pounds, an approximate 15% reduction from the 2017 RHL.

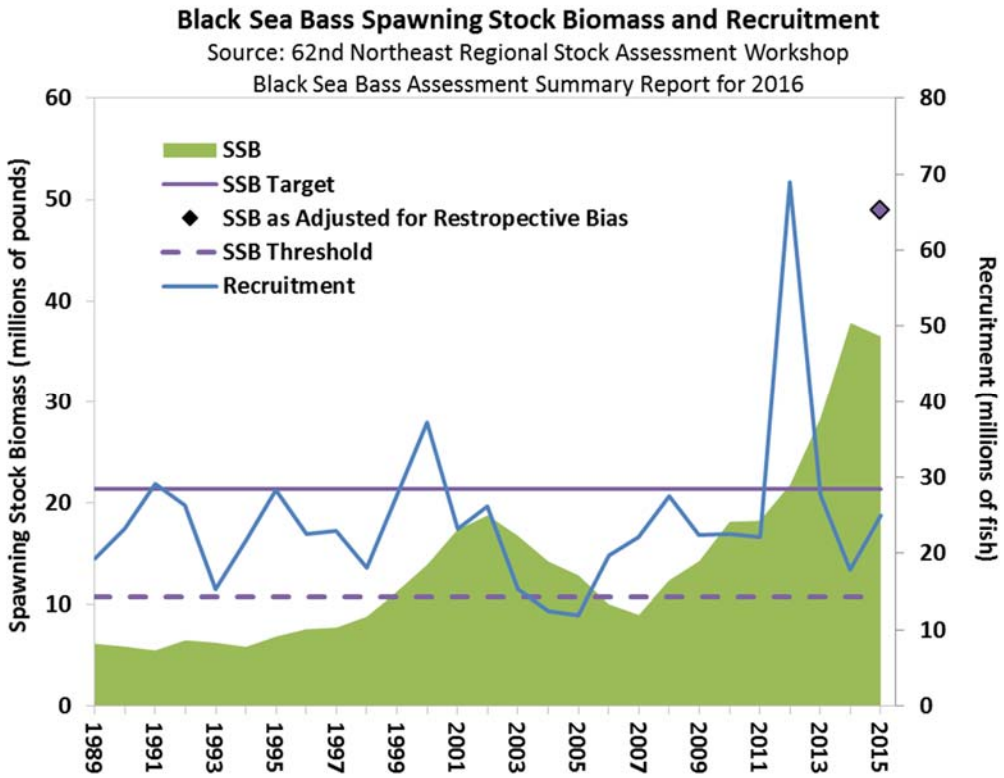

Figure 3. Black Sea Bass SSB and recruitment at age 1 by calendar year.

3.0 Management Program

The management program is only specific to Massachusetts through North Carolina north of Cape Hatteras and does not specify management for the states of Maine and New Hampshire. To date, no recreational black sea bass harvest has been attributed to Maine, and only two years of modest harvest (2012 and 2013) have been attributed to New Hampshire. Neither state is expected to harvest a significant proportion of the RHL in 2018. Both states will maintain their status quo measures in 2018, and monitor their harvests, if any. If either state harvests a significant amount in 2018 or thereafter, the Board will consider their inclusion in the management program.

In October 2017, the Council and Board approved a motion to allow a February 2018 recreational black sea bass fishery for interested states in federal waters. Anglers are limited to

15 fish per day at a minimum size of 12.5". States opting into this February 2018 fishery have declared their participation and specified how they will reduce harvest later in the year to account for their projected Wave 1 harvest.

In February, the Board recommended NOAA Fisheries implement the following measures in federal waters: 15 fish possession limit, 12.5-inch minimum size and season from May 15 – December 31. These recommended measures assume the Commission process will develop measures to constrain harvest to the 2018 RHL. A backstop measure of 14 inches, 5 fish possession limit and a season from May 15 – September 15 would go into effect should the Commission not implement measures to constrain harvest to the 2018 RHL.

3.1 Regional Allocation of Annual RHL

For 2018, a combination of exploitable biomass and historical harvest would determine allocation of the RHL to specified regions (Section 3.1.1). The states in each region would be collectively responsible for developing measures that constrain harvest to their allocation, and account for any state participation in the February 2018 fishery. Regional proposals will be submitted for the Board's consideration and approval following the 2018 ASMFC Winter Meeting. For 2018, measures will be specified by adjusting to the coastwide RHL based on 2017 MRIP harvest estimates; for 2019, the FMP could allow for evaluation and specification based on achieving the coastwide recreational annual catch limit (ACL) (Section 3.3).

3.1.1 Allocation of the RHL

Regional allocation based on exploitable biomass and historical harvest

For the recreational fishery, the management unit will be split into three regions. The northern region would include the states of Massachusetts through New York; New Jersey would constitute a stand-alone region; and the southern region would include the states of Delaware through North Carolina north of Cape Hatteras.

The annual RHL will be allocated initially between the northern and southern regions, with the southern region including New Jersey, based on a time-series average of *exploitable biomass* produced from the 2016 benchmark stock assessment. The estimates of exploitable biomass are derived from the assessment's recreational catch per angler (CPA) effort data, divided by the catchability coefficient (q), for each region. Then, New Jersey's portion of the southern region's *historical harvest* will be applied to the southern region allocation to establish New Jersey's allocation of the coastwide RHL, with the balance constituting the southern region's (DE-NC) allocation of the coastwide RHL.

This provides an alternative to sole reliance on recreational harvest estimates to determine allocations. In recent years, there have been changes to how harvest estimates have been calculated. Additionally, harvest is in part a product of the regulations that have been in place. This approach seeks to address changes in both the resource's distribution and abundance, and the avidity of the recreational angling community targeting black sea bass. A strictly biomass-based allocation approach for New Jersey is not currently possible with the available scientific

information. This hybrid approach (using exploitable biomass and also historical harvest for the states of NJ-NC) recognizes that New Jersey waters essentially straddle the biomass partition at Hudson Canyon, and assumes that New Jersey's harvest levels over time bear some relation to the exploitable biomass available to New Jersey anglers.

3.1.2 Regional Alignment

The following specifies the alignment for regional allocation in 2018.

3 Regions: Massachusetts through New York (northern region); New Jersey as a state-specific region (New Jersey Region); and Delaware through North Carolina north of Cape Hatteras (southern region).

3.1.3 Timeframe for specifying regional allocation

Data from one of the following timeframe options were proposed to be used to set the allocations relative to the 2018 RHL. The option was intended to specify the timeframe for calculating regional average CPA or regional average harvest. The following timeframes were determined to encompass harvest information from two recent time periods to reflect current harvest trends. 2016 was excluded from the timeframe options due to uncertainty in 2016 MRIP harvest estimates, and 2015 being the terminal year of the stock assessment.

A) 2006-2015 (10 years)

B) 2011-2015 (5 years)

Due to disagreement among the states on which timeframe option to select, the Board adopted an averaging approach to the allocations resulting from the above timeframes. This approach creates a more equitable allocation scheme while maintaining the intent to base allocation on a combination of exploitable biomass and historical harvest. The approved regional allocations are provided in Table 6, and the allocations associated with each timeframe option presented in the draft addendum for public comment are provided in Tables A1 and A2 in Appendix I.

Table 6. Regional Allocations of the 2018 RHL. 2017 harvest projected using data through wave 5. Source: MRIP 2017.

Region	Regional Allocation %	2018 RHL	2018 Regional Allocation (lbs)	Projected 2017 Harvest (lbs)	% Change from 2017 Harvest to 2018 Allocation
North: MA-NY	61.35%	3.66 million pounds	2,246,562	2,496,841	-10.02%
South: NJ	30.24%		1,107,352	1,413,999	-21.69%
South: DE-NC	8.41%		307,964	257,943	19.39%

*3.1.4 Management measures within a region**

Regulatory standard with conservation equivalency allowed: A uniform set of regulations would be developed for a region (a regulatory standard). States within the region could then submit proposals to implement alternative measures deemed conservationally-equivalent to the regulatory standard, although management measures may not exceed a difference of more than 1" in size limit and 3 fish in possession limit from the regulatory standard.

*As noted above, some states may have different measures in February than the rest of the year depending on their participation in the February 2018 recreational black sea bass fishery.

3.3 Specification and evaluation of measures

The Board approved the following, in concept, with delayed implementation pending further refinement by the Board and Council.

Adjusting management measures to the ACL

Given uncertainty in MRIP harvest estimates, this approach constitutes a change from the status quo method of annually evaluating recreational fishery performance based only on harvest against the RHL. It allows for a performance evaluation process that better incorporates biological information and efforts to reduce discard mortality into the metrics used for evaluation and management response by evaluating fishery performance against the ACL. This approach integrates information from the 2016 assessment into the management process, enhances the angling experience of the recreational community, improves the reporting of recreational information, and achieves meaningful reductions in discard mortality to better inform management responses to changes in the condition of the resource.

Initially, recreational measures will be specified based on the most current year's projected *harvest* and fishery performance to manage *harvest* in the subsequent year to the regional allocation of the *RHL* (i.e., projected 2017 harvest used to achieve 2018 RHL). Starting at a date to be determined by the Board, measures will be specified based on the most current year's projected *catch* (including harvest and discards) and fishery performance to manage *catch* in the subsequent year to the regional allocation of the *ACL* (e.g.., 2018 projected catch used to achieve 2019 ACL).

For 2018

The states will collectively develop regional proposals for their 2018 management measures, and submit them for Technical Committee review following the Winter Meeting. The Board will then consider approval of the regional proposals. If states within a region are unable to reach consensus on regional proposals, the measures for the region will be specified by the Board, based on guidance from the Technical Committee. States will implement 2018 regional management measures by March 31, 2018.

For a date to be determined by the Board

The states within a region will collectively develop management measures to achieve their regional allocation of the RHL prior to the beginning of the recreational fishing season. The Board may specify provisions of the regional management measures, such as how much they may change (i.e., size limit, possession limit, season length) from year-to-year in order to achieve the regional harvest allocation.

Fishery performance will be evaluated relative to the ACL. If the coastwide ACL is not exceeded in the previous year, states may demonstrate that maintaining current or similar management measures will constrain total catch to the ACL for the following year. This analysis must be prepared before the Joint ASMFC/MAFMC meeting annually scheduled in December to set recreational specifications for the upcoming year.

If the coastwide ACL has been exceeded in the previous year, it will then be evaluated against a 3-year moving average of the ACL. If the ACL overage exceeds the 3-year moving average of the ACL, the states within a region will develop proposals to reduce their recreational management measures (bag, size, and seasonal limits) for the following year, based on available catch data. These adjustments would take into account the performance of the measure and conditions that precipitated the overage.

In addition, states will develop proposals to implement improved data collection and compliance, and reduced discard mortality, for both private anglers and state-permitted for-hire vessels[1] recreationally targeting black sea bass. State proposals will demonstrate that by the 2020 fishing season, significant improvements would be achieved in the following five parameters:

1) Biological sampling (length and weight)
2) Reduction in refusal rates of dockside MRIP intercepts/interviews
3) Discard composition information (i.e., reason discarded, length)
4) Reduction in discarding relative to 2010-2015
5) Improved compliance with management measures

The Board will also annually review progress made by the states regarding achievement of the five parameters addressed by the state proposals to improve data and reduce discards.

[1] Effective March 12, 2018 as federally permitted for-hire vessels are required to submit electronic Vessel Trip Reports (VTRs) electronically and within 48 hours of ending a fishing trip (reporting all trips and all fish). VTRs from federally permitted vessels are required to report all fish kept or discarded (not just fish the vessel is permitted for) and for all fishing-related trips the vessel conducts. http://www.mafmc.org/newsfeed/2017/mid-atlantic-for-hire-vessel-permitting-and-reporting-electronic-only-submission-requirement-starts-march-12-2018

3.4 Timeframe for Addendum provisions

2 years (2018-2019): All of the options selected in Section 3.1 would constitute the management program for 2018. The Board could take action, through a Board vote, to extend the management program as specified in the addendum for one year, expiring at the end of 2019. After 2019, measures would revert back to the FMP status quo of coastwide measures.

4.0 Compliance

The measures contained in Section 3.0 of Addendum XXX are effective March 31, 2018.

Appendix I. Original Allocation Tables

Regional allocation based on exploitable biomass and historical harvest

Table A1: Regional Allocation based on Exploitable Biomass and Historical Harvest for 2006-2015 (this table was updated in February 2018 based on updated data)

Region	Time series average (2006-2015) CPA by Region	Catchability coefficient (q) scaler (For entire time series)	Regional Allocation % under time series 2006-2015		2018 RHL	Regional Allocation under time series 2006-2015 (lbs)		Projected 2017 Harvest (lbs)	% Change from 2017 harvest to 2018 Allocation	Potential Management		
										Min. Size Limit	Bag Limit (# fish)	Season (# of days)
North: MA-NY	1.09 fish per trip	0.0000528	57%		3.66 million pounds	2,087,270		2,496,841	-16.40%	15"	5	102
South: NJ	1.87 fish per trip	0.0001197	43%	78%*		1,574,608	1,228,194	1,413,999	-13.14%	12.5"	w3: 10 w4: 2 w5-6: 15	140
South: DE-NC				22%*			346,414	257,943	34.30%	12.5"	15	238

*Proportion of southern region allocation based on historical harvest

Table A2: Regional Allocation based on Exploitable Biomass and Historical Harvest for 2011-2015 (this table was updated in February 2018 based on updated data)

Region	Time series average (2011-2015) CPA by Region	Catchability coefficient (q) scaler (For entire time series)	Regional Allocation % under time series 2011-2015		2018 RHL	Regional Allocation under time series 2011-2015 (lbs)		Projected 2017 Harvest (lbs)	% Change from 2017 harvest to 2018 Allocation	Potential Management		
										Min. Size Limit	Bag Limit	Season (# of days)
North: MA-NY	1.51 fish per trip	0.0000528	65.7%		3.66 million pounds	2,405,854		2,496,841	-3.64%	15"	5	119
South: NJ	1.78 fish per trip	0.0001197	34.3%	78.5%*		1,256,024	985,979	1,413,999	-30.27%	w3-5: 12.5" w6: 13"	w3: 10 w4: 2 w5-6: 10	127
South: DE-NC				21.5%*			270,045	257,943	4.69%	12.5"	15	206

*Proportion of southern region allocation based on historical harvest

CHARLES E. SCHUMER
NEW YORK

DEMOCRATIC LEADER

United States Senate
WASHINGTON, DC 20510

April 11, 2018

Mr. Wilbur Ross
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Ross:

I write to express my strong support for the Northern Region's appeal of the Atlantic States Marine Fisheries Commission's (ASMFC) regional allocation of the black sea bass recreational harvest limit (RHL) for 2018. The current black sea bass recreational fishery regulatory regime is unfair, based on poor science, arbitrary and inequitable for the recreational anglers on Long Island and in the state of New York. Therefore, I strongly urge that, based on additional data and estimates that have recently been made available, you approve no harvest reductions to the black sea bass recreational fishery in the Northern Region. This action is grounded in more precise data, can be sustained by the state of the fishery (Black Sea Bass stocks are 240% above the biomass target), will protect New York anglers and keep the management of the fishery consistent with the goals of the Fisheries Management Plan (FMP) agreed upon by the Mid Atlantic Fisheries Management Council (MAFMC) and the ASMFC.

In an April 3rd letter, the ASMFC agreed with the Commissioners from Massachusetts, Rhode Island, Connecticut, and New York's March 16th appeal to the ASMFC Chair that there was reason to reconsider the large harvest reduction for the Northern Region as established in 'Addendum XXX' for recreational black sea bass management. Specifically, while the primary objective of Addendum XXX is to address inequities in recreational black sea bass management, the management approach approved by the ASMFC allows large harvest liberalizations for the Southern Region and the New Jersey Region, while requiring a reduction of approximately 12% from 2017 in the Northern Region. Currently Black Sea Bass stocks are 240% above the biomass target, yet New York anglers have seen decreases in their allotted take for six of the past seven years.

The ASMFC also agreed that since Addendum XXX was passed, additional data had become available that significantly changed past harvest estimates, which served as grounds for reviewing the regional allocations since "…the data presented on New Jersey's harvest estimate was insufficient." Specifically, Marine Recreational Information Program's (MRIP) wave 6 (harvest from November to December) data is now available, as is a revised full-year harvest estimate for New Jersey based on the state's proposal to "smooth" its large wave 3 harvest estimate, which changes New Jersey's initial harvest estimate from 1.4 million pounds to 754,768 pounds. Simply put, with such a significant change in the harvest estimates, it is clear that the data that the ASMFC initially relied upon to make its decision was insufficient and

inadequate, and thus the decision to reduce harvest limits for New York and the rest of the Northern Region should be revisited.

The fishery's stock continues to grow, however the number of fish each New York angler is allowed to take has decreased. In the past, fisherman have been asked to make sacrifices to rebuild stocks; and now that stocks are plentiful, New York anglers are still being asked to make sacrifices based off of insufficient data and decisions that are inconsistent with the FMP. Again, I urge you to swiftly and favorably rule on the pending Northern Region's appeal and approve no reductions to the black sea bass recreational fishery in New York's region due to insufficient data, and the detrimental impact its mismanagement will cause Long Island and New York anglers. Should you have any questions, please do not hesitate to contact my staff.

Sincerely,

Charles E. Schumer
United States Senator

CC
James J. Gilmore, Chair, ASMFC
Mike Luisi, Chair, MAFMC