

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

Crowne Plaza - Old Town
Alexandria, Virginia
February 4, 2014

Approved August 6, 2014

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2. **Approval of proceedings of October 2014 by consent** (Page 1).
3. **Move to adopt Adaptive Regional Management Option 3A under Addendum XXV Summer Flounder for the 2014 fishery for one year** (Page 7). Main motion as substituted on Page 25 carried on Page 26. Motion by James Gilmore; second by Roy Miller.
4. **Move to substitute Option 1, Conservation Equivalency, and Option 2 for Option 3A under Addendum XXV for Summer Flounder** (Page 10). Motion by Tom Fote; second by Rick Bellavance. Motion defeated (Page 23).
5. **Move to call the question** (for substitute motion) (Page 23). Motion by Bill Adler; second by Jim Gilmore. Motion carried (Page 23).
6. **Move to amend the motion to make Rhode Island its own region, so the Northern Region would consist of Connecticut, New York and New Jersey** (Page 23). Motion by David Simpson; second by Rick Bellavance. Motion defeated (Page 24).
7. **Move to substitute Adaptive Regional Management Option 3B for Option 3A** (Page 25). Motion by Bob Ballou; second by John Bullard. Motion carried (Page 26).
8. **Move to adopt Adaptive Regional Management Option 3B under Addendum XXV Summer Flounder for the 2014 fishery for one year** (Page 26). Main motion as substituted.
9. **Move to adopt Option 2 Ad Hoc Regional Measures under Black Sea Bass Section of Addendum XXV** (Page 27). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 27).
10. **Move to accept Option 2, one-year extension, on the timeline for black sea bass** (Page 27). Motion by Bill Adler; second by Rick Bellavance. Motion carried (Page 27).
11. **Move to approve Addendum XXV as amended today** (Page 28). Motion by Pat Augustine; second by Roy Miller.
12. **Motion to adjourn by consent** (Page 29).

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati (AA)
Bill Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
Robert Ballou, RI (AA)
David Borden, RI, proxy for B. McElroy (GA)
Rick Bellavance, RI, proxy for Sen.Sosnowski (LA)
David Simpson, CT (AA)
Lance Stewart, CT (GA)
James Gilmore, NY (AA)
Pat Augustine, NY (GA)
Tom Baum, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Roy Miller, DE (GA)

John Clark, DE, proxy for D. Saveikis (AA)
Bernie Pankowski, DE, proxy for Sen.Venables (LA)
Mike Luisi, MD, proxy for T. O'Connell (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Kyle Schick, VA, proxy for Sen. Stuart
Rob O'Reilly, VA, proxy for J. Bull (AA)
Louis Daniel, NC (AA)
Bill Cole, NC (GA)
Martin Gary, PRFC
Michael Millard, USFWS
Michael Petony, NMFS
John Bullard, NOAA

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

Ex-Officio Members

John Maniscalco, Technical Committee Chair

Staff

Robert Beal
Toni Kerns

Kirby Rootes-Murdy
Marin Hawk

Guests

Anold Leo, E. Hampton Baymens Assn.
Jeff Deem, Lorton, VA
Beth Synowiec, Virginia Beach, VA

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, February 4, 2014, and was called to order at 1:15 o'clock p.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: The meeting will be in order. We have three hours for our discussion and decisions on Draft Addendum XXV dealing with summer flounder and black sea bass recreational measures for 2014 and perhaps for 2015 as well. Our objective is to take final action influenced by public comments that we received in a number of public hearings.

Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia; I believe those were the states in which public hearings on this addendum were held. All those comments have been provided to the board. Staff has provided summaries; they're all on the disks that you received and certainly on the website. I assume that everyone has had an opportunity to read those comments and the summary.

By the way, compliments to our staff regarding the coverage of our proposed management measures described in Fisheries Focus; a lot of space devoted in Fisheries Focus to recreational fishery issues specific to fluke. However, there is a serious omission. I note on the back page of Fisheries Focus where there is a Christmas tree of fish, but there is no fluke on the tree. There is no winter flounder on the tree, and there are no dogfish on the tree. I suggest the next time you do this you include them as part of the trunk; just a suggestion.

Our additional business to cover today would be approval of states' scup recreational proposals, if there any, and then to elect a vice-chair for the board. Of course, we also need to remember that this addendum obviously has generated a lot of interest relative to summer flounder, but it is focused on black sea bass as well. We will take summer flounder first and then get into black sea

bass followed up later on by our dealing with scup.

APPROVAL OF AGENDA

CHAIRMAN PIERCE: Now, unless someone objects or has another issue to raise under other business, we will consider the draft agenda adopted by consent. I see no objection and no additions so it is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN PIERCE: You have the proceedings for October 2013. Are there corrections to the minutes? There being no corrections, the minutes stand as distributed.

PUBLIC COMMENT

CHAIRMAN PIERCE: At this time we will invite public comment on any issue pertaining to summer flounder, scup and black sea bass issues that are not on today's agenda. All right, I see no one raising hands. I am reminded that two people did sign our public comment sign-in slip, so I will therefore turn to Beth Synowiec. You have indicated that you would like to speak on an issue that is not on today's agenda. That is the key; not on today's agenda.

There will be opportunity to speak on motions that will be made. When motions are made, I will eventually turn to the audience and ask you if you have any comments on those motions. The next individual is Jeff Deem, the same thing. Opportunities again will be available for those to comment on motions when they are made.

DRAFT ADDENDUM XXV FOR FINAL APPROVAL

CHAIRMAN PIERCE: Now, Draft Addendum XXV will now be reviewed by Kirby with Toni adding to that review, if need be. I have asked them to highlight a very important part of the addendum so we will all debate the addendum with the same understanding, and that highlight is found on Page 10 in bold text under Option 3, the adaptive regional management strategy.

This is a key component of the addendum regarding consequences to any region if that region's 2014 regional harvest is exceeded but the total 2014 recreational harvest is not exceeded; and then, conversely, consequences for 2015 if the 2014 total harvest is exceeded. I want that to be highlighted by staff just to make sure we're all with the same understanding; because if I recall correctly at our last meeting when we discussed this draft addendum and when we decided to bring it to public hearing, there was still some uncertainty about consequences.

We need to address those head on and not get all wrapped up in confusion about what they might be. It is spelled out in the document but they need to be even better defined, I suggest. After they finish the review and after they have fielded questions, we will review the public comments. I'm assuming that this board will not have many questions regarding the addendum because we should all be very clear by now what we have proposed.

Then after that review, I will ask if anyone is prepared to make a motion specific to summer flounder, and that motion should be on the board's choice of Option 1, status quo, selecting either the coast-wide measures or the state-by-state conservation equivalency approach with consideration of Option 2, utilization of the additional recreational harvest limit.

If you recall in the addendum, Option 2 can be used in conjunction with conservation equivalency. Then the other choice is the notable one, which is adaptive regional management with two alternatives, either 3A or 3B. Then we will need a motion after that about the timeframe for the measures that are in the addendum, of course. We will need a motion for fluke and then later on for black sea bass. Kirby, would you please provide your review of the draft addendum.

REVIEW OF DRAFT ADDENDUM XXV

MR. KIRBY ROOTES-MURDY: I will first go through the addendum very briefly and then the public comment that was provided. Again, the

purpose of this addendum is to address the recreational management of summer flounder and black sea bass in 2014 and possibly beyond. This addendum proposes alternative approaches for management to try to address some of the challenges in providing anglers across the management unit with an equitable resource.

The background on this addendum; it was initiated at the October 2013 Annual Meeting. At the December Joint ASMFC and Mid-Atlantic Council Meeting, it was approved for public comment. The public comment period started approximately December 20th and concluded on January 24th at 5:00 p.m.

I am now going to go through the options that were proposed in the addendum and also note that the board must make a vote for final action on the draft addendum today. Under the proposed management program for summer flounder, there were three options that are being considered that Dr. Pierce just mentioned; the first being status quo. Either coastwide or conservation equivalency has been done in the past. This is state-by-state measures.

The addendum offers the opportunity to go with Option 2, which is utilization of the additional recreational harvest limit. Option 3 is adaptive regional management which provides mandatory regions in which the states can join. For those neighboring states, there are two options that are being considered within that one.

The first is Option 3A. As you can see, the state of Massachusetts is by itself; Rhode Island through New Jersey; then Delaware through Virginia; and North Carolina by itself. The second one is with the regions of Massachusetts and Rhode Island; then Connecticut through New Jersey; then Delaware through Virginia; and North Carolina by itself.

The other proposed management program is for black sea bass. There are two options for consideration in the addendum. The first is Option 1, which is the FMP, the fishery management plan status quo, which if for a coast-wide measure of 13 inches, five-fish

possession limit and a season from June 1st through September 30th.

The second option is a continuation of the ad hoc regional approach, which forms two regions; one from Massachusetts through New Jersey; and the second, the southern region, from Delaware through North Carolina. For those states in the southern region, they would set their measures consistent with that of the federal measures, which proposed would be 12-1/2 inch minimum size limit, 15-fish possession limit and a season from May 19th through September 18th; and October 18th through December 31st.

In both of these options, the measures have to meet the reduction needed to keep landings at and not exceeding the 2014 recreational harvest limit. Dr. Pierce also mentioned before that for both management programs being considered for summer flounder and for black sea bass, there is the timeframe element.

Each of them have the same – the first option is for the addendum, if approved, would choose an option that would go for the year of 2014 and then expire. The other option would be to have the measure adopted for 2014 with the possibility of board action extending it through 2015, at which point it would expire. I'm going to go through the public comment summary now. I have it in two parts, but I will go through it –

DISCUSSION OF DRAFT ADDENDUM XXV

CHAIRMAN PIERCE: Hold on a second. Before you go into the public comment, as I said in my introductory remarks, there is a need for us to clearly understand that bold-faced text on Page 10 regarding consequences of exceeding the regional targets or the overall target. Toni, could I turn to you and ask you to provide us with those details?

MS. TONI KERNS: On Page 10 there is the bold text that talks about under the adaptive regional approach, states are not giving up their 1998-based allocation portion of the RHL. That is saying that if we do this adaptive regional

approach for one or two years and then go back to state by state or we do voluntary regions or we do something else, your landings that occur during this adaptive regional approach do not impact your allocations that were derived by Addendum VIII based on 1998.

It says that if we use adaptive regional and we move forward into regional management again in the next year, that if we do not exceed the coast-wide harvest, you have no penalties for exceeding your regional predicted harvest except for the fact that we may have to alter your next year's regulations slightly to make sure that we do not exceed the next year's RHL. The goal here is to allow to have some flexibility for states to craft measures that would not bound them to those allocations. Is that helpful, David, or do you need a little bit more clarity.

CHAIRMAN PIERCE: A little more clarity. If a region exceeds its projected 2014 regional harvest but the total 2014 harvest is not exceeded, then no region would be required to adjust its measures in 2015; is that what you're saying.

MS. KERNS: As long as the 2015 quota was the exact same, then we could leave it at that.

CHAIRMAN PIERCE: That's the key point; if the overall recreational harvest target is the same in 2015, then there is no need for a specific region to adjust measures if indeed a region or regions go over their 2014 harvest. The key is the total recreational harvest limit. All right, so that's the important point. Now, if indeed we do go over the projected 2014 harvest for the whole coast, what would be the consequence in 2015?

MS. KERNS: There are two ways to look at it. One is if in 2015 we decided to use the adaptive regional approach again and we exceeded the coast-wide harvest target, we would have to adjust measures. The board has said around the table that it would be their intention to likely adjust the region that had the landings that were the most different than what we predicted their landings to be, but that is not to say that we wouldn't adjust also from other areas.

The board has said that they recognized that there are some regions that are sharing a lot of additional fish that they haven't been utilizing, and those states could potentially start to see fish again; and so they recognized that and would see how everybody performed and come back and adjust regional measures based on that.

They don't want to punish any state for sharing fish and then not give them back later on. If we went back to state-by-state measures and did not do the adaptive regional approach in 2015 and we exceeded the coast-wide quota in 2014, we would just go back to the same methodology that we've used in years past where the board would decide whether or not we wanted to do state by state or coastwide or voluntary regions.

I'm going to go out on a limb and guess that we use state by state. Then we would look at what each individual state landed in 2014, compare that to their 2015 target which is based on 1998, and they would adjust the measures that they had in place in 2014 accordingly so that they would meet that target that they have for 2015.

CHAIRMAN PIERCE: All right, thank you, Toni. Toni has now provided a very good description of consequences or lack of consequences regarding the region approach, Alternative Number 3. Now that we've gone through the review of the addendum, are there any specific questions relative to the addendum before we get into the public comments? Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, the question relates to the projected quota for 2015 that was presented to this body at the joint meeting between the Mid-Atlantic and ourselves. I believe the projected quota for 2015 was going to –

CHAIRMAN PIERCE: 2014?

MR. AUGUSTINE: – increase over 2014. No, no, you brought up the point, Mr. Chairman, that assuming that we went over in 2014; and then we went along the line that the region that was over would have to adjust that; but when we set the preliminary quota, we set one for 2014 and it

was a projected quota for 2015. I remember that was an increase.

Now, I don't recall the significance – it might have been a million pounds – but it would seem to me that should be on the record, too, and may come in play later on. In line with that same issue, I understand we all received a letter about the possibility that there may be some relief in the case that we went over that quota by Senator Schumer.

That is the letter that we passed out, but it is in our briefing book, and I would suggest that we might want to review that, too, along with everything else. That is the only point I would like to make, Mr. Chairman. So, along with your thinking, if we go over in 2014, we really should also consider what that cushion was – the projected possible quota for 2015.

CHAIRMAN PIERCE: Thank you, Pat; that's a good point. Kirby just informed me that this year, 2014, it is 7.01 and in 2015 the projected is 7.16; so there is an increase; not a marked increase, but there is one. Are there any further questions? Rob.

MR. ROB O'REILLY: Mr. Chairman, as I was listening to Toni and looking forward, which is difficult to do a little bit, but nonetheless if there is a situation where the RHL is not exceeded in 2014 but there is a reshuffling of the landings in regions that is quite a bit different than what is proposed by either of the options, it is going to be very challenging if this were to go a second year.

I think that has been one of the problems from the beginning; not the very beginning, but at least when it was introduced that this could go into two years, that you could see, for example, Virginia is slated to land 187,000 summer flounder in 2014, which is merely the 2013 landings moved forward.

There is plenty of precedent that if Virginia were to land 400,000 fish and other states were also to go beyond or below their expectations, you would have a reshuffling and it would be quite challenging for anyone to figure out what to do

about 2015. I have other comments but not specific to this point right now.

CHAIRMAN PIERCE: Okay, thank you. Again, questions or no further comments; the comments should be reserved for motions that will be made. Yes, Tom.

MR. THOMAS FOTE: To follow up on what Rob just said, I sat here last –

CHAIRMAN PIERCE: Tom, this is a question, right?

MR. FOTE: Yes, a question. I sat here last year and basically said there was no way that New Jersey was going to go over in 2014; and you gave us 11 extra days to do that. Well, I've looked at the trip figures and everything else, and I'm still trying to figure out how we went over. To look at the probability of basically staying in the parameters when we have do it with MRIP, it seems very difficult to do.

I'm not going to talk about them now, I'll talk about them a little later, the numbers that we look from this year when we're down a million and a half trips in New Jersey. We're down 42 percent in the saltwater registry. We're down 30 something percent in party and charterboats that we have registered in New Jersey; and we still went over quota with less trips, less people fishing, because the CPU all of a sudden went from usually about 2.6 to 5, back and forth, and now we're a 0.96 catch per unit of effort.

I says, wait a minute, did we catch twice as many fish or four times as many fish as we have done in previous years. So, that is always in the background on how do we deal with that issue; because it can be Virginia one year, it could be Maryland the year, it could be Delaware the following year. When you're shooting craps and looking at MRFSS, and now they want to call it MRIP, this is what you wind up with, so it is very difficult to project out what we're doing in 2015.

CHAIRMAN PIERCE: Okay, I turn to Bob and I ask you and I plead, Bob, a question.

MR. ROBERT BALLOU: You will get it. I have a question regarding one of the provisions under Option 3, which is one sentence at the bottom of Page 10, which reads, "States within each region would be required to implement the same bag and size limits." My question is there is no equivocation there; so my understanding is that if Option 3 were to be adopted – and so this is a question and I'm seeking clarification as to whether this is in fact the case; no state within a region would be able to, say, implement a differential size limit for their for-hire industry or a differential size limit for their shore-based fishery. In other words, all states in each region would have to have the exact same regulations without any differences whatsoever? I am asking that question. Thank you.

MS. KERNS: A state could have a different size limit for their shore as long as they all do it. All the states have to have the same measures for their size and bag.

CHAIRMAN PIERCE: So the answer is yes. Are there further questions regarding the addendum itself? All right, I see no further interest in asking questions. We'll go on to the summary of the comment; so, Kirby, if you will.

PUBLIC COMMENT SUMMARY

MR. ROOTES-MURDY: I'll go through the public comments first in terms of the public hearings and then the written comments that were received. Public hearings were held from the states of Virginia through Massachusetts during January 2014. Approximately 205 people attended these hearings across the eight states; and they ranged in attendance from approximately 61 attendees in Rhode Island to two attendees in Delaware.

Commissioners for all the states that had public hearings had someone in attendance as well. Regarding the written submitted comments, a total of 225 comments were received. It is important to note that about 13 groups and organizations provided comments; and of the 225, approximately 148 of them were form letters. I have a breakdown on how those stated

preference on Page 2 of the written comment summary.

I also want to point out that for the state of Rhode Island I had listed that there were eight public comments – spoken comments that were provided was approximately 30 and the total number of those voting – and I will explain this a little bit further on – for a specific option was captured in the spreadsheet that I have, and everyone was handed out a copy of that.

With regards to the public hearing summary, support was split between the eight states for Option 1, status quo, and Option 3, adaptive regional management. Those states for public hearings were audience members who voiced support for Option 1 was Virginia, New Jersey, Rhode Island and Massachusetts. Those in favor of Option 3 were the states of Maryland, Delaware, New York and Connecticut.

The total numbers from public hearings favoring support for Option 1 were approximately 140 compared to those for support for Option 3, which were approximately 65. As I said, that is where those numbers are reflected of the attendance at the public hearings based on those states. Also noted in the public comment overview, 107 of those attendees who were in favor of Option 1 also were in favor of Option 2 in conjunction utilization of additional RHL.

This count also indicates or includes those who indicated support for Option 2 if Option 3 was not adopted. Reasons cited in support of Option 2 for summer flounder included concerns over being locked into mandatory regions; concerns over reduced flexibility in setting measures at the state level; concerns over the accuracy of the MRIP harvest estimates; potential loss of harvest in regional management; preference for continued management of current state allocations; and concern of how the regional management was devised.

For those supporting Option 3, reasons that were cited included preference for same regions between neighboring states within a region; potential improvements in the estimation of recreational harvest through aggregating data at the regional level; concern over the state

allocations for 2014 based on preliminary 2013 harvest data; and the need for more equitable access to the resource through adaptive management plans.

Regarding black sea bass, a majority of attendees across all the states indicated support for Option 2, continuation of the ad hoc regional approach. Reasons cited in support of this were preference over the bag limit in this option; concern over the economic viability if Option 1 was approved; the need to continue regional management; and the need to be able to extend seasons into the fall.

With regards to the written comments received, more than half of the individual comments that were submitted were in favor of Option 1, status quo, conservation equivalency. Nearly all of the 130 were in favor of Option 1 in conjunction with Option 2, the utilization of additional RHL. Many comments received were in favor of Option 1 and also noted opposition to Option 3, adaptive regional management.

Reasons that were cited in the individual comments that were given – written comments are very similar to those that were brought in the public hearings – a preference for current state-by-state management; satisfaction of the current state targets; again concern over estimates of MRIP harvest; concerns over changing the current state allocations; and concerns over possible punitive measures that might happen if the RHL is exceeded using a different option.

For those that were listed in favor of Option 3, the reasons cited were inequities that anglers in the state of New York experienced relative to the other states; the need to address outdated allocations; that the measure itself would bring the fishery's management plan into compliance with federal mandates; and concern over the accuracy of the recreational catch data.

With regards to written comments on the black sea bass options, more than half of the individual comments received were in favor of Option 2, which is continuation of ad hoc regional approaches. The reasons cited were satisfaction over the current management program; a

preference for this over a coast-wide measure; and concern over the economic viability of the industry if a coast-wide measure was adopted.

Again, in terms of a breakdown of how these numbers played out with regards to the public hearings and written comments received, I have provided everyone with a spreadsheet of this. Please note that in trying to account for confounding numbers, they won't add up, per se, because in some instances I received public comment for summer flounder options and not for black sea bass or I might have received them for both options; so that is why there might be a discrepancy. The note in there also highlights how Option 2 was counted given possible board action. If there any other questions, I can take those now.

CHAIRMAN PIERCE: I would be remiss if I didn't highlight a couple of especially notable sets of written comments. That would be the letter sent to the commission by New York Senator Schumer and the other one sent to us by New Jersey's Representative Pallone and Senator Menendez.

Obviously, there has been congressional interest in this particular issue that has generated so much interest as noted from attendance at the public hearings and, of course, the written comments that were provided. Those are the comments; that is the summary of what was said at the public hearings and what was written to us.

I suspect there is no need for a question; but if there is something that needs to be asked, certainly I will entertain a question. All right, in that case it is now time for final approval on – well, not final approval. It is now time for us to deal with the draft addendum.

CONSIDER FINAL APPROVAL OF DRAFT ADDENDUM XXV

As I indicated in my introductory remarks, I would appreciate a motion that the board can consider. Jim.

MR. JAMES GILMORE: Mr. Chairman, I would like to provide a motion. **I move to adopt Adaptive Regional Management Option 3A under Addendum XXV for the 2014 recreational summer flounder fishery for one year.**

CHAIRMAN PIERCE: I'm going to wait until it gets up on the screen and then I will ask for a second. All right, there is the motion; is there a second to the motion? The motion has been seconded by Roy Miller. We have a motion and I will read it for the benefit of the board so it belongs to us.

The motion is to adopt Adaptive Regional Management Option 3A under Addendum XXV Summer Flounder for the 2014 fishery for one year. Motion by Mr. Gilmore and seconded by Mr. Miller. Is there discussion on the motion? Jim, if you will.

MR. GILMORE: Mr. Chairman, with a little indulgence, there have been a lot of questions raised over this addendum, so I'd just like to take a couple of minutes to go over some of those points and your lead to try to clarify some of those questions that have been raised and also just summarize where New York has been on all of this so everybody understands New York's point also.

I've worked much of the last six years with you guys; and I'm very proud to be able to work with you. I think one of the things we get at is each one of the states has a signature fishery very important to them. You take lobster in the New England states; you've got menhaden down in Virginia; you've got even eels coming up in Maine. I think we, New York, myself have tried to support that over the time.

Summer flounder is New York's biggest fishery. It is our most important fishery and we really need to do something to get back at that fishery because of the inequity that we feel in New York. We really think it is – and the data suggests that it is our most important fishery; and I just can't quantify the economic impact that we've suffered over the last decade because of not having full access to this fishery.

Just to be clear, at the December 11th meeting we were starting off with – we think we need to get a new baseline. The '98 data is so old and so out of date that – and the only way that anyone thinks to get at that is maybe to do coast-wide measures. That is what we were pushing for, but again we recognize that would really disadvantage the southern states as you go from Delaware south.

We thought that would be unfair, so then we're not doing the right thing in terms of being fair to the rest of the states. We came up with and we put a lot of effort into adaptive regional management because we think that is the next step that we have to go to. More than ever before – and I know this has been another thing, and I've been learning a lot this week, is that the fishery – there is a lot more fish off of New York.

There are several papers we have, Richard et al; Nye et al; Pinsky et al – and, by the way, I have copies of those papers here because I've learned the last few days some people haven't even seen these papers yet, so I'll have a couple of copies I'll give to Joe. It clearly shows that the fish have changed. There are more fish to the north.

Whether that is range expansion or the population has shifted north, we can argue that scientifically, but the fact of the matter is we just have a lot more fish off of New York that are available to New York fishermen; but because of these '98 allocations, we keep exceeding our quota and we keep getting into, well, New York is not managing their fishery right.

We are; the fish are all off of our shore. It is just pretty simple when you have something based on estimates, they're going to catch a lot of fish if they're there. Again, coast-wide management would get us new numbers, but we don't really want to go there. State by state has been horribly unfair to New York; so again the compromise is we think we should go with regional management. We've been trying to fix this, myself in six years and my predecessor before that, and we haven't really made much progress.

The comments I have gotten is when the fishery is rebuilt we will fix it. Well, the fishery is rebuilt; and here we are a couple of years later and we're still into the same argument about using this '98 information. We need to update the management. Mr. Chairman, you made the point already this issue is becoming significant on even a national level.

Senator Begich held hearings. He is the Chairman of the Commerce Committee from Alaska and held hearings last spring on the summer flounder fishery. That is how important this is becoming particularly for New York. In fact, I don't want to throw you under the bus, Tom, but Tom Fote testified at that hearing and said back when we did this state-by-state allocation, New York got essentially disadvantaged and that we were not treated fairly.

Last year we got to a glimmer of hope. We started fish sharing; and I can't tell you how much we appreciate the effort by the board to try and do that. Unfortunately, we have looked at the numbers; that is not going to work this year, because the one problem we still haven't resolved is the issue of the same water body and having fishermen fishing next to other with difference size limits. We can make the math work, but on the water fishermen don't understand that.

They don't understand why you can keep an 18-inch fish but I have to throw the ones back because my size limit is bigger or smaller. We need to get past fish sharing because it doesn't fix that problem there. There is just not enough fish. Some have indicated this is moving way too fast. My only answer to that is we've been doing this for six years.

There have been suggestions about voluntary regions. We've been trying that. We've asked New Jersey every year for the last six years and they're just not interested because of the implications of that. I even put a motion up in 2008 at the joint meeting. I was ruled out of order. The voluntary regions is just a myth; it is never to get us out of this box.

We really need to get along to I guess fixing this, whatever. The last point I really want to make – and I think Kirby did a good job of doing the public hearings, but there seems to be a pretty good understanding that we need to change something and that regional management is worth a try.

The last point I'll make is very simply this – and it is a plea to all of the members of the board – it is like we can sit here and discuss data and concerns and overages and possibilities and try to cook the data, which is extremely imperfect; but it is fisheries management. Most of you know what that means. I mean, that is why we're here.

If it was that simple, we probably could have set some limits and come back every five or ten years and then have to change them; but fisheries management is dynamic and it always will be. We have to be adaptive. It is not going to be predictable anytime in the near future. This really comes down to simply two choices the way I see it.

The first choice is to go with something in terms of regional management, try this for one year. It is not perfect, but it is in our control. We can sit and if this works, great, and we can tweak it as we go forward. If we have some exceedances or whatever, we still control that. I think that is a minor point. I think that's less of a risk. The bigger risk is if we don't take a significant step today and move this forward, which is regional management, then my fear and the risk is that we'll have political and legal forces that will take this over and we'll be sitting around this table listening to what people that don't know much about fisheries management are telling us to do in terms of this management.

It is my plea to you all and I hope you will consider this seriously; because if we go with regional management, I think we are still going to be discussing this and fixing this. The wisdom in this room and the experience and all the information that all of you have collectively, we're going to manage this fishery. The concern of going and letting someone outside of this

room managing this fishery concerns me deeply, and I hope it does you. I implore you to vote for regional management. Thank you, Mr. Chairman.

CHAIRMAN PIERCE: Who would care to speak against the motion? Tom.

MR. FOTE: Let me clarify one point. I did not say that New York got disadvantaged in '98. What I said was when you increased – the anglers went from 400 to 600,000 that you historically had for the whole 20 years – this is my congressional testimony – what I said is that all of a sudden in 2001 you showed up with 700,000 anglers and we increased our anglers to 1.3 million, so I understood that.

Then two years later, because we threw out 2002 because we had changed the contractors and we didn't even use the data and nobody told us about it, the commission, and that is why we all went over in 2003; so we used 2003. In 2003 New Jersey went down by about 2 or 300,000 anglers and New York went up by another 200,000 anglers. They went up to 900,000.

What I said then, and I still believe it now, is that New York was under-recording its anglers for all these years; and because they underestimated the number of anglers, they underestimated the catch and that we should basically – NMFS should basically allow for those 300,000 anglers and actually award an extra part of the quota because they underestimated the stocks.

That is what I said and that is what I still say, that you should adjust the quota for that. That was not done. Because NMFS never wants to adjust quotas for anything, so we still wind up being New York is unfairly treated because they got better science and picked up anglers they didn't have before. That is a real problem.

Regionalization works when people cooperate. Regionalization is not reallocation. You can address this as many ways that you want; but when you start looking at how we're doing this regionalization, it is very strange. The regionalization as it is proposed leaves states out

that have minor fisheries and creates its own region.

Delaware winds up with its own region in one of these proposals; Massachusetts with its own region. If any state deserves to have its own region, it would be New York and New Jersey by itself, not together because we have different fisheries. I listened to say we should have the same regulations.

Well, New York never wanted the same regulations on the striped bass because all we did was follow ASMFC guidelines and it would make it a lot more easier for our fishermen in our states, but they don't do that. They never wanted the same regulations on tautog, because in tautog we take into consideration our divers and we shut a large portion of our fishery down to accommodate those divers in the summertime and basically have to do that.

New York didn't want to do that either, so basically they don't really worry about their dive population as far as the tautog fishery is going down. If it was strictly a regionalization plan that would basically not have any effect on New Jersey, nobody would be here, but it is a reallocation of fish no matter how you dress it, and it is very difficult.

If you were going to all the states and we looked at reallocation, again Jim brought up the fact that we said that when we get a recovered fishery, we would basically spread the wealth when the fishery recovered. The problem is there has been nothing to spread. We've had a recovered fishery for the last four or five years and we haven't seen a giant increase in quota.

We had imagined back then that our quota would be 40 million pounds at this point in time and it is not there. That has nothing to do with the fishermen or basically the anglers because they have been doing their share. And even though we have the biggest spawning stock biomass than we ever had, four times of what we started when we basically started putting the rules in, we haven't seen a giant increase in quota.

As a matter of fact, we have less quota now than we did some of the years when we have the fishery recovery. So that has been the problem. We see a recovered fishery – the same way with black sea bass; we see a recovered fishery and we haven't been allowed – and the fishery is no longer overfished, overfishing is not taking place and it is fully recovered; we should see the benefits of those fisheries. We have not seen those benefits. We have not been allowed to harvest fish.

Why would New York and New Jersey go over this year? Well, it is really strange and that is when I'm going to go into some of these numbers and talk about it. If I look in New Jersey, our number of trips dropped from 5,020,042 to 3.5 million, so that is a drop of over one and a half million trips. New Jersey's saltwater registry was down by 42 percent in 2013 from '12.

Our charterboat and partyboat registration was also down by 34 percent. If you look at all that, even our fluke trips were down by almost 600,000, so that means New Jersey should have caught less fish, and I would presume that New York would do the same thing because we both had Sandy problems and yet that doesn't happen because the catch per unit of effort – because the way NMFS calculates it, all of a sudden we went to the highest catch per unit of effort that we've ever had on record.

We've always been somewhere between 2.5 and 5; that means for each trip you take, you catch a half a fish or a quarter of a fish. All of a sudden in 2013 we jumped; we caught a fish on every trip so we caught four times the number of fish in 2013. That is enough of a question.

The fact that when the wave was that we did a giant increase was the same wave that a lot of the marinas didn't open in our state so somehow the intercepts had to be not a totally random sample but a biased sample out of the marinas that were open; that was part of the problem again and we suffer the consequences.

If we talk about important trips, if you look at the percentage of trips according to MRFSS

figures, that New Jersey makes for summer flounder, they estimate our trips at 36 percent, 35 percent, 39 percent and 36.9 percent of all our trips are made for summer flounder; it is one of the most important fisheries in New Jersey, also. It is one of the largest fisheries in New Jersey.

If the fish had moved off New York, there would be no problem with New Jersey catching less fish because we should have been under that, but just the opposite happened. We went over again in New Jersey. If the regionalization would actually do something regionally or up and down the coast, it would be something to look at, but not the way it is being proposed under this addendum. For that reason, **I'm going to ask for a substitute amendment to basically support going for Option 1 and Option 2 in the Summer Flounder Plan.**

CHAIRMAN PIERCE: So the motion to substitute has been made; let's get it on the board and then I'll ask for a second after I see it. **The motion to substitute is Option 1 and Option 2 as a replacement for Number 3A under Addendum XXV for Summer Flounder.** Tom, can I ask for a clarification? Under Option 1, you're being specific regarding the regional or the conservation equivalency because there are two there?

MR. FOTE: Conservation equivalency.

CHAIRMAN PIERCE: Okay, so a clarification, then; the Option 1, Conservation Equivalency, and Option 2 in lieu for Option 3A under Addendum XXV for Summer Flounder. Motion by Tom Fote and seconded by Rick Bellavance. All right, we have a motion to substitute. Tom, you made the motion; you have, of course, spoken to it already at length, and those were good comments. Do you have anything additional to offer?

MR. FOTE: You know, Jim stated a fact that there might be legislative – well, if we go to this regionalization and it proves not to be regionalization but reallocation, you could wind up with our congressional district doing the same thing and also maybe lawsuits on the other side. I don't want to go into that mess, and I

think it is a bad argument to use; but that is the way to use. If it is not seen as a fair and equitable reallocation or redistribution of what we're doing, then it will just be re-happening for New Jersey.

CHAIRMAN PIERCE: All right, we have a motion to substitute and it has been seconded. Pat.

MR. AUGUSTINE: The arguments are really interesting; it is amazing. We're trying to talk about fair and equitable and what does that mean? I'm going to use a simple little example, very simple. Today I decided I was going to bake cookies and you have about 50 dozen back there. So, to the talk about fair and equitable, if we took those five boxes of cookies and put them in the center of the room – and that is Long Island Sound, and that is the waterway between Connecticut, New York and New Jersey; or New Jersey and South Shore, common waters – and I said, okay, every one of you go in and take four or five cookies.

You get your four or five cookies and you go and sit down. That is fair and equitable. As Jim stated, we put this together in 1998. If you're honest with yourself, you know what happened in 1998. It was the best we could do with what we had. It is wrong now; it is not working; it is not fair equitable. Jim is absolutely right; every state around this table has a vested interest in some specie of fish.

And because you're anglers are saying we want more because they're ours; they're not a common resource, they're ours, we're not going to share them. I don't get it; I don't get it. So why are you here; to defend what you think is right in the process of fair and equitable, to try a new approach as opposed to going down the road of having some congressional action – and, believe me, when one senator had the ability to make a statement several years ago that sooner or later the Super Bowl was going to be in New York, it was there without a team from New York, don't tell me it can't happen.

What happened in the New England Council? Half our group around the table is the New

England Council. Who had been running their fisheries for years? Sure as hell it hasn't been the council members. It has been decisions by some federal court. Why? John Bullard, who sat up here and said at the last meeting, the last joint meeting, the solution is around this table.

It is not in the public; it is around this table. You have the right and the authority to make the decision based on the information you have. If not now to fix and change this process, when? It is really standing up for what is right; what is your conviction? We've had the authority and allowance to state our facts as we see them on the table.

Whenever I've been wrong, I've admitted. I've made motions, seconded motions, and voted against them because more information came to the table. We have enough information around this table to make the right decision as opposed to having our special interest group back home driving the process as we did with menhaden.

What did we have; 100,000 letters that were stamped or sent out by some organization who said our members support such and such; and after I called them and found out those people didn't even know the letter had been sent with their name on it, I'm not sure how many letters that came in represented people in the same case.

A letter with a signature on it, an e-mail with a signature on it isn't the same as having a real signature on it and stating the fact based on the facts that you know. We know the facts here; and when are we going to own up to the facts? The facts are the system has not worked. Mr. Gilmore was right on target; six years we've tried. The Mid-Atlantic Council, I was there for nine years we tried to change quota and it died on the vine.

Why? We haven't got the conviction to make the hard decision. It is not a matter of going back home saying, "Hey, I voted against it because you told me to." It is a matter of taking the data we have today and going forward. Last year was the first time we had an inkling as to

how switching quotas around could balance out and everybody gets a little better shot.

The fish are there; the fish have moved; they've expanded. As Jim said, it doesn't matter whether it is an expansion or moved; it doesn't matter. Striped bass is the same case; it doesn't matter. If Fish and Wildlife has done a survey for how many months now and found out they couldn't find any quantity of striped bass 30 miles offshore along North Carolina, why would we consider doing anything other than what we're doing?

Why should we allow hook and release to satisfy a group of fishermen who want to go out there and catch and release fish? If they're not there; they're not there. In this case the fish are here; the fish have moved. We're going to have the same situation with black sea bass. The point I'm trying to make here is that it appears that we have got data to make the right decision. If we don't try this regional management now, which appears to give us some flexibility, we'll have a common size, common bag, and common waters and try it for one year as Mr. Gilmore has pointed out.

If it doesn't work, Toni has eloquently stated how that could be addressed. What is the risk; so quite frankly I think we ought to have the wherewithal to take a hard look at this, defeat this motion and go back to the original motion. Thank you for your tolerance to allow me to pontificate, Mr. Chairman.

MR. O'REILLY: Mr. Chairman, I am going to speak in favor of the substitute motion. I have lots of information that I will not get too bogged down in. The data that Jim Gilmore mentioned, we have all been circulating that. I think I would like to say from the start that this has been an experience of sharing information and ideas through the ad hoc committee that was organized by ASMFC. I think that was a very good event.

However, I am left with the idea that several things happened during that process that were a little bit unseen at least by me when we started out that took some turns. One of them certainly

does involve data if you look at the regions; and I'll just focus on the southern region in the option, which would be Delaware, Maryland and Virginia.

It wouldn't be hard to think that a Delaware fisherman would be very happy to be in a region with Maryland and Virginia at 16 inches, but then you have to realize Delaware hasn't had a 16-inch size limit. As a matter of fact, 2006 is the last time the size limit was 17. That could pose some challenges.

The other challenge is in Virginia the landings for 2013 are the lowest since 1998 at 187,428 fish when most of the years previous are in the 250's, 260's, 300,000 fish; and you go up from there back when targets were higher as well. I think one thing around all this that we don't talk about enough is the science behind this.

We talked a little bit about the 7.01 million pound RHL going up to 7.15, but we haven't talked about the 39 percent decrease since 2011. No matter what we try and do – and I sense that our fishermen see this because they're intimately involved with the process – we're always chasing that decline on overall RHL; and that is what has been occurring.

The target gets smaller for the states or the quotas, and the next thing you know you're raising your size limits. Fortunately, the last five years or so that hasn't happened. One thing I did want to comment on is that both of the measures under Option 3 push the RHL about as far as it can go. I think one is 97.5 percent for one and the other is about 96.5 or 95.6 percent.

Over the years, ever since the regional administrator warned the states that if there were continued overages of the RHL there would be coast-wide management, you saw a pretty big response in the states.

For the most part there was very much reluctance to even come close to the full liberalization potential by any state that went forward; and that has been the pattern so far. That brings me to Virginia and Virginia's fishermen. They have lived through this like

other states have. The six fishermen who were present at our public hearing, with the ASMFC holding it, weren't just casual drop-by fishermen. They are all deeply involved in VMRC management efforts.

As a matter of fact, I know most states have advisory committees, but we have an advisory committee to advise the advisors ever since 2007. Five of these six gentlemen have been participating in that committee so they know all the issues up and down. When not a single one of them had anything to say about the merits of the regional approach, I'm certainly left with the same ideas.

Some of my ideas go beyond theirs in terms of the data; but the important thing is those are the ones who have to go year in and year out and worry with the ups and downs that occurred with conservation equivalency. Yet they thought it was still a better approach with Option 2 to be able to give some fish as in last year than to go regional management.

I know that this started out as sort of let's get a new baseline. I do understand that. At some point maybe that has to be done. At some point we have to talk about data. We have to talk about precision of data and see how MRIP, which is evolving – MRIP is changing – we see how that lends itself to summer flounder.

Summer flounder; I found out in 1999 – and I relayed this to Beth Synowiec a little while ago – I was told to go manage a meeting of summer flounder fishermen and that it would really be no big deal. What we were doing in 1999 was changing the minimum size limit from 15.5 to 16 inches, fairly innocuous, and establishing a seven-day closed summer season.

I thought, well, that is pretty tame, seven days. There were about 60 people in attendance; and I have never, since that moment, forgotten how important summer flounder is to Virginia, especially the recreational as well as the commercial. Thank you, Mr. Chairman.

MR. MICHAEL LUISI: Wow, I thought that the December joint board meeting with the

council was a tough one. This is just as tough. I guess I'm not going to take a position quite yet. I'd still like to hear from a few other hands that have come up on points that they'd like to make; but I kind of want to get into this fair and equitable issue.

Just for the record, the fishermen in Maryland have been advocating in support of regional management for years in this fishery. We have found that over the last few years we have been able to liberalize at times and we are in a position now with our states that flank Maryland, that we're pretty close to one another as far as what our rules are.

We're already somewhat in a region. We had this discussion. Kirby came down and talked about the different options that are presented to us at this point. It was very difficult last year when we were faced with this fish-sharing concept because we had to justify giving away what is rightfully ours based on that allocation and not continue to liberalize our fishery to maximize the harvest that we can have in Maryland; and we chose to do so.

It was a difficult thing to justify, but rightly so I think we made some significant strides last year in that effort. I guess my comment is turning more into a question of I don't understand yet – and maybe there is some information that staff could provide – if Option 1 and Option 2 are selected, those states who have underachieved their harvest targets in 2013, if we were to share those fish, is there any information about what that actually means as far as allowing New York, New Jersey, Connecticut and Rhode Island to find again perhaps another year's worth of balance?

I felt like last year the effort there helped the states come closer together; and it is difficult for me sitting here right now to consider what really is fair. Option 3, the adaptive regional approach, it is just equal. It is everybody is equal. Well, we're not all equal and we have all been in positions where our regulations are going to be different from states nearest us; but there is something there that I really would like to see some information or if anyone has done any type

of calculations to explain to me what would New York – would they be able to be more flexible in their rules? How would New Jersey react given that there are fish available on the table? I'll leave it at that, Mr. Chairman, and see if there is any further information to help me make this decision. Thanks.

CHAIRMAN PIERCE: Okay, regarding your request, I can turn to staff or I can also turn to – I failed to acknowledge him at the beginning and I apologize for that. This is John Maniscalco. John is the Chair of the Technical Committee. John is also from New York. He has that interesting hat to wear. I would turn to staff or to John to see if they can provide any insights in the answer to the question you have just posed; a challenging one.

MR. JOHN MANISCALCO: Currently there are about 479,000 fish if all other states were to remain at status quo that states such as Connecticut through New York and New Jersey could use to balance regulations. I think it is kind of difficult for me to speak to what is possible without knowing what other states would actually consider as reasonable.

Have I talked to New Jersey and Connecticut, my counterparts there, regarding how does 18 inches sound, how does 18.5 inches sound, what possession limit – yes, we've had those conversations but I don't know if I could – you know, without having a little more confirmation from the states about what they think is reasonable; for me to talk about what actual options are possible, it is difficult. I mean, 18 inches, 4 fish, a season somewhere in the realm of 130 days for those three states, that is possible; but would all those states consider 18 inches and 4 fish and 130 days, I can't speak to that. There is also the potential for other states to liberalize and not allow for full fish sharing.

MS. KERNS: And just a reminder to the board, under Option 2 it is the board's decision how to allocate those additional fish that are available on the table.

CHAIRMAN PIERCE: Okay, thank you, Toni. That is the attempt by staff or the technical

committee to provide answers to your question. I think that is about as far as we can take it. Let's see, we have had someone speak in favor of the substitute and then there was an undecided. Who cares to speak against the substitute? John Bullard.

MR. JOHN BULLARD: John Bullard, Regional Administrator of the Greater Atlantic Regional Fisheries Organization. You may not have heard that term before. We were renamed in the new budget so familiarize yourself with that, Greater Atlantic Regional Fisheries Organization; or GARFO, for short. If you hear GARFO in the future, as the chairman knows and people from my hometown, GARFO is Portuguese for fork; so John Bullard, Regional Administrator for GARFO.

At any rate, I would like to speak in opposition to the substitute. I will make some points that I have made in the past and that Jim made in introducing the original motion. As we learned in St. Simons, fisheries move for various reasons, whether it is temperature change or probably in the case of summer flounder, stock abundance. This is a success story.

It seems to me because fisheries move and this doesn't seem to be debatable here, the status quo of managing based on data from 1998 ought to be unacceptable to us. I really thought at St. Simons we had agreed that we needed to do something different. I think if we had, as Jim said, felt that we weren't going to go in the direction of regional management that the option of coast-wide measures would have been more seriously considered so that we could have at least reset a baseline and dealt with the issue of where is the stock centered.

As I mentioned there, the importance of this is that summer flounder isn't, of course, the only stock that is on the move. They're all on the move so how we deal with this difficult issue, as Mike said, this is hard work, this is difficult. How we wrestle summer flounder to the ground is going to make it easier for us when we deal with all the other stocks that are on the move; so it is a learning experience for all of us.

It would be nice if we could say that there are win-win propositions, but there probably aren't win-win propositions. There are probably win-lose propositions; and so it is tough. I said at a joint meeting of the Mid and ASMFC lots of people have gotten their – have turned their attention to this issue.

I have gotten sued or threatened with a lawsuit from the governor of New York. Maybe if we change our name, he won't find us. I hadn't thought about that benefit. But, you know, we get sued all the time so that isn't a motivation to do anything. There is the option of writing fishery management plans on the floor of the United States Senate. That is a great idea; isn't it?

As I have said before, these are driven by the frustrations born of the inability to solve problems where they should be solved, which is right here and at the Mid or right here and New England, wherever; but fishery management should be done by the Atlantic States and by the Mid. That is where it should be done; here.

It is when we fail to do it here that other people think they can do a better job. We know they can't do a better job. It needs to be done here so we should do it. I don't think the way to do it is with coast-wide measures for the reasons that Jim said, but that was the option to kind of reset decades-old data.

Basing state-wide measures on decades-old data, I would think we should find that an unacceptable way to manage fisheries; for summer flounder or anything else. My good friend, Tom Fote – where is he? Oh, right there next to me – said, "Well, John, you should abstain because this is an allocation issue."

Well, it has allocation implications, but it really isn't an allocation issue. It is an issue of how do you manage stocks when you're dealing with stocks that are on the move. This is an attempt that the technical team and this body have spent an awful lot of time thinking about how do we do this. It is a different way of doing it; and as Mike said it is tough. It is really tough to figure out how to do it.

I think intelligently this is put forth as let us try this for one year. The penalties for a region going over have been explained as not severe. That is an understatement, I think. It is an experiment. Let's do this; let's try this for one year; let's see how regions work for one year. I think this is an important experiment to see how regional management works for a year.

I know, Rob and others, that when you look at this, there are some states that look at this and say, "Hey, we don't come out as well as we do under the old system." I do get that, but I think we have to find a different way as all stocks start moving to find out how we do things. I think the old way doesn't work; and so I think this is the way to do it. I think it is better than the old way. If we in the next year find a way that is better than this, then, fine, let's keep improving it; but this is an advancement and I think we need to go forward with it. Thank you, Mr. Chairman.

CHAIRMAN PIERCE: In favor of the substitute; Bob.

MR. BALLOU: Mr. Chairman, I strongly support the substitute motion as the most appropriate and reasonable way to proceed in 2014 as we continue our efforts to try to address this very serious issue, this major problem in an appropriate way. I don't think we are there yet. When I think about what we're really here to do, we're undertaking fisheries management; and boiled down, I think fisheries management is about setting your goal, examining management options in the context of that goal, and adopting the option that best achieves the goal.

Simply put, I really think that is what fisheries management is all about. I think that is what this commission does, and I think we have always done it quite well. The question is begged what is our goal? I think it is fairness and equity. I think that would be – if you look back over the history of fluke management, that is what pops out.

But, what does that mean? Have we defined what we mean by fairness and equity? I submit

to you that we have not; and it says it right in the addendum. It says fairness and equity is something ambiguous, we really can't put our fingers on it, but it relates to something like this. I think this board should try and get this right.

I think the board should do that by first coming to terms with what that goal is, developing an objective way to characterize what we mean by a fair and equitable management program with regard to the recreational fluke fishery. I think we can do that; and I think that would be a huge advancement and it would get at many of the comments that have been offered here today.

I don't think we should experiment. I think we should get it right; and I think in getting it right – and I heard Mr. Augustine and I appreciated his cookie analogy, but I think fairness and equity is an issue that really involves two principal things. First of all – and this has been mentioned a lot – it involves minimizing and perhaps even eliminating differences in regulations for fishermen fishing in the same body of water. That metric is pretty straightforward.

That is a pretty easy one to assess. We just look at what we're doing now and we see if there are any differences; and if so we say, well, that's not fair. But what we're proposing now – I mean if you carry that to the enth degree, you're back into a single coast-wide measure. That is arguably the fairest and equitable way to handle differences in regulations up and down the coast. You just set one regulation; everybody lives under the same one. That was tried back in the nineties. It wasn't deemed fair and equitable, so we came up with state-by-state conservation equivalency.

Now we're talking about regional management; and where are we drawing the lines; between Rhode Island and Massachusetts. What sense does that make? Why don't we come up – I think regional management could be a very viable option, but I think regional management should be based on good science, good data.

I can envision a region west of Montauk Point; I can vision another one in Long Island Sound; I

can envision another one from Montauk down to Barnegat Bay; and I could go on. Those regions sort of make a little sense. What we have in front of us right now makes no sense to me. This is winging it; and this commission, this board I don't would be well served by winging an approach for 2014 and just let's see what happens.

I think we should take a very – I think we should circle back to where we were. There was a working group that was hard at work on this issue. We were looking at – and let me move now to the second area of what I would consider to be the metric that we want to develop for fairness and equity; and that is a management program configured to reflect the current distribution of the resource both in terms of abundance and size composition relative to fishing effort, which ranges and is variable as you move up and down the coast.

We've got things like retention rates; and, of course, the distribution of the resource, the angling experience, the productivity. Jim Gilmore spoke well on that issue; the productivity of the angling experience. This was what we were looking to do over the summer into the fall as we were moving forward through this working group process.

I think it was a very valuable process. I think we were making headway and then we lurched off course. We just dropped it. If you look at the addendum, at the very last page, sort of thrown in there is that performance-based approach matrix table. That was actually a move in the right direction. Getting at Mr. Bullard's point, we were making some headway.

We were starting to look at this issue objectively and we were trying to come up with some metrics that we could use to develop some management options; and we stopped. We veered off course; and I would submit to you that this regional approach that is before us now is not the right way to go. It is an experiment; it could backfire.

It takes state-by-state conservation equivalency and just sort of says never mind even though

some states like Rhode Island have done quite well under that program and have managed very conservatively and have stayed within our target. What kind of message does that send back to our fishermen that we have been trying to do the right thing, we have been achieving the right thing, and now you're just going to take that autonomy away and we're going to just go with this approach.

I really think for all of those reasons that I would strongly suggest two things. One is that we adopt the substitute motion, utilizing fish sharing as a way to move forward in the cooperative way that we always have to try to work with those states that need the assistance year; and at the same time in a revived and strenuous way we take up the task of trying to get this problem addressed and resolved, as well we should, in a way that makes sense; in a way that we can be proud of and that we can measure. This will be my last point; how do you measure success; how are we going to look back and say did we do the right thing if we haven't quantified our goal. If we haven't set up the metrics that say this where we want to be, how are we going to know if we ever got there? Thank you.

CHAIRMAN PIERCE: Against the substitute. Louis.

DR. LOUIS DANIEL: Maybe not so much against the substitute, but just some observations. We've all come to this board and asked for specific things that benefit our state. North Carolina has been the recipient of many motions that have benefited us; and I can probably name one for each and every state around the table since I started in this. Some of them have been pretty hard core and some of them have been pretty simple.

We're going to be dealing with two or three of those this week for Delaware, Florida and for others. I just can't help but recognize the importance of this fishery to New York. Speaking mainly as the chairman here, but this is an issue that we need to resolve. Continuing to kick the can down the road is not going to get us where we need to be, not with our constituents

and not with our elected representatives. I think what we're doing is kicking the can down the road.

What I heard from Jim was that Options 1 and 2 would not help him out, but yet that seems to be the direction that we're headed, so he is not going to be helped out in this circumstance. Can we live – and this is a question for the board and then I have a question for the technical committee, and then I'll shut up.

Can we live with this experiment for one year and see how it works? We've got a stale timeframe, 1998. That was a long time ago. There is really no way that we can back up with all the conservation equivalencies and the changes that come back and reexamine some kind of allocation scheme now that would make any sense to anybody.

We've kind of dug our own hole here in that circumstance so we're going to have to come up with something pretty brilliant and we haven't done it yet. I just ask what is the harm, really? Other than maybe some border wars, what is the harm in trying to work this – try this thing out one year and try to make it work.

I say all that like a bad lawyer because I don't know the answer to my questions that I'm getting ready to ask. But, sitting around and listening to all the different states talking – and first off the main point, and this I think goes back to what John said, was we're interested – and the South Atlantic manages some of these fish, too, John – is what is in the best interest of the resource?

That is what we're all here for specifically. I think the \$64,000 question at least from my perspective is to the technical committee; and which option, 1 and 2 or 3, gives us the best chance of staying below our harvest strategy? Is there one or the other option here that has a higher likelihood of us exceeding our recreational RHL? I don't know the answer to that question.

CHAIRMAN PIERCE: Well, I'm not going to turn to John because that's a question for the

whole technical committee and not just for John, but I appreciate the inquiry. I'm going to go shortly to the audience because the audience has been patient; but before I do that I'll take a few more comments from the board, then go to the audience and then come back to the board if there is any additional comment to make before we vote on the substitute. David Simpson.

MR. DAVID SIMPSON: I think the key here to managing the recreational fishery is stability in our harvest. I think one of the key elements to that clearly, just based on the size of their fisheries, is New York and New Jersey. I think we can greatly enhance the stability of this fishery if we adopt an 18-inch minimum size in those two states and in federal waters.

I think one of our problems is there is no conservation in federal waters. If you look at the size composition of fish out there and the opportunity to hedge on what your minimum size is going back home, you will see that there is an issue. Just objectively looking at New Jersey, it just happens to be their – you know, they hold 39 percent of the quota. Their overage this year of about 20 percent follows an overage of about 6 percent last year.

Generally they have been doing well, but that 20 percent number really concerns me; and let's put it in perspective. When New Jersey goes over 20 percent, that is the equivalent of Connecticut, Maryland and Delaware's entire allocation; so it is big. That small difference is critically important. Certainly, Connecticut can live with an 18-inch minimum size.

I have some information that I'll share through the technical committee about our 2013 harvest and how the harvest estimate of 270,000 fish, four times our quota, is implausible. I have calculated it a few different ways at about one in a thousand chance that it could occur. In terms of managing the 2014 fishery, I don't think the problem is as big as it might appear.

I will point out that whichever way we go; if we go conservation equivalency or if we go Option 3, regional management, New Jersey is in the same place within a thousand fish. It is roughly

945,000 fish would be the expected harvest. In addition, New York, I think they're most keenly sensitive to what their immediate neighbors are doing for conservation measures.

Certainly, we have been at 18 before; we could live with that; that is reasonable. I think the other states could as well and especially if the feds step up and put something in federal waters. I think it is just a major loophole to have the ability to be on the water all day long and know that you have nothing to worry about in terms of law enforcement as long as you're in this case in federal waters.

You can cut up any fish you want and turn it into bait. You can fillet all your fish and hide those things away securely, put all your fishing gear away before you go back to the boat launch, break out your inner tube, and you don't even look like you were fishing, and nobody is going to check you. The idea that you could be exposed all day long fishing; that enhances law enforcement.

I think it is a gross oversight in this plan. I understand that the reason for it was not to impinge on states with smaller size limits; but let's face it, that will add stability. If a guy is willing to travel three, four, five or six miles offshore, it is not to catch 16-inch fish and it is not to fish at low catch rates. It is to fish on bigger fish at higher catch rates.

I don't see it being a conservation burden to anyone on the coast. Whichever way we go, I think – you know, I know and I understand Rhode Island's feelings about regional management. I don't think it is necessary that they be in a region. I think for 2014 if Connecticut, New York and New Jersey adopted something that looks like Option 3, 18 inches, four or five fish, a season that covers 135 days or so, which would be the middle of May to the middle of September, given the proximity of our fisheries, I think that is a pretty reasonable place to go.

I will say that we need our paltry little 16-inch size for shore anglers so that they have some hope of taking home a fish whichever way we

go. That is just simply something that we need to have because of the agency's environmental equity concerns. I mean that is the direction I think we need to go. We can craft something where the numbers will work.

Getting New Jersey – I know it is a tough one, but if they go to 18 inches and the federal government moves an 18-inch size in federal waters, I think we will stay within our harvest limit and there will be a great sense of equity on the coast. The states down in the lower Mid-Atlantic get around 16 inches, I think it is a very reasonable thing to do, and it keeps people fishing in that same water body, fishing under more common rules. I think it is something that would work for us. Whether we do it under 2A on a promise to follow through on this or a modification of 3A where we drop out Rhode Island, it doesn't particularly matter to me, but that is the sense of where I think we need to go this year.

CHAIRMAN PIERCE: Thank you. There have been many well-stated and very well thought out detailed positions on this substitute motion and on the main motion, for that matter. Before I continue with the board – and we have to bring this to a close fairly soon – I'm going to turn to the audience and ask if anyone has any comments to make on the motion to substitute or for that matter on the main motion, because obviously they're quite linked. It is either one position or another. Adam.

MR. ADAM NOWALSKY: Adam Nowalsky. I've been working very hard with the working group here. While the state of New Jersey works out how to appoint a legislative commissioner to this commission, I've had the pleasure of sitting in the back and being able to take everything in and not even have the urge to raise my hand in the air and be patient. I appreciate that very much.

We've heard a lot of information here today, and we have heard a lot of statements, some of which can clearly be backed up with fact, a lot of which have certainly been based on emotion that I can be very sensitive to; but there are a couple of facts that we know for sure. We've

heard a lot about the idea of, well, let's try something, let's try and experiment, but let's talk about a couple of things that we know.

One, the fish-sharing idea has worked towards a more equitable division of the resource. Fish sharing last year brought New York down in size in a year when they were faced with a significant reduction in their fishery otherwise. Pursuing fish sharing again in 2014 will likely have the same benefit to New York.

In consecutive years when the state would have been faced with significant reductions to their fishery, the fish-sharing approach that this commission has worked very hard as a new approach, we have not stayed in the same place year after year. We have sought new resolutions and that fish-sharing mechanism has brought relief to New York and will again this year.

The numbers are there that will allow New York to come down in size, will allow Connecticut to stay at the 18 inches they have acknowledged will work, will allow Delaware to come down to the same size to essentially put themselves in a voluntary region, if you will, with Maryland and Virginia, and allow New Jersey to mitigate its overage. These are facts.

We know it is a fact that if you take a fishery that supposedly the shift of the resource has gone to New York, as we've heard here today, and reduce them in size by a full inch, that is a significant risk to the resource and to landings and may affect how we have to respond in future years. That is a fact.

We know that by going to regions we are going to create a tremendous divide in size for states with shared bodies of water. The divide between Rhode Island and Massachusetts and the divide between New Jersey and Delaware will be among the highest we've ever seen at two inches. That will be a forced divide.

The purpose of this addendum was to bring those states closer together and not push them further apart. That will be the impact of going with regional-based management. Another fact is that essentially by following through with the

fish-sharing mechanism we're basically looking forward towards a reallocation.

We're looking towards taking fish from those areas where they are not as needed and providing those states that do need those fish the opportunity to use them. Continuing with that approach allows us the opportunity to look back in a couple of years and say this worked. To go ahead and walk out of here today and say, well, we started that idea even though it provided tangible benefits in Year One, we're now going to throw it out and try something completely new.

I think that would be a tremendous disservice to everyone here as commissioners, to the general public that provided overwhelming support for conservation equivalency with fish sharing versus regional management and to all other anglers that didn't have the opportunity to speak. I look forward to your support here today for continuing with conservation equivalency, with the fish sharing that has provided tangible benefits and avoid the decision of the huge risk and changing into a totally different direction for 2014 with mandatory regions. Thank you.

CHAIRMAN PIERCE: Does anyone else in the audience care to speak? Yes, sir.

MR. JEFF DEEM: Jeff Deem, Virginia recreational fisherman. I'm on a number of Virginia committees and serving on the Mid-Atlantic Council for Virginia. The proposed limit that you have for Virginia in the first plan is 187,428 fish. That is our lowest on record. Now, whether it is because MRIP has changed or the weather has changed or whatever it is, that is no place that we want to be locked into. It is not fair to lock us into that.

These are low because we have been conservative with our regulations. We have been under our target for quite a few years now; rarely going over. All of the fishermen who have been in our fishery for decades were told when we started this process that if you went along with it, when the fishery recovered you will be able to recover. Well, we're there now.

We need the time for these people to recover. You can't set a new baseline after you've decimated our fishery. That is absurd! We can be measured as what the potential is for Virginia. The small town that I fish in is Wachapreague on the Eastern Shore. When I started in the seventies, there were 28 charterboats in the main marina.

Now there are three and they work part time. That is the level that our fishery has gotten to because everybody went along, everybody played according to the rules, and now it is time for us to stand up to our promise to let these people recover and come back; the few that left, quite frankly. Most have gone through their lifesavings and gone out of business. The hotels are in trouble. The charterboats, as I said, are gone.

The tackle shops are suffering and have been suffering for years waiting for us to come through on our promise as fisheries managers to make things right. It really doesn't matter – some say it doesn't matter if the fish have expanded or move. We know from the CHESMAP surveys that we still have flounder. We know from the Science and Statistical Committee that we still have flounder. It has expanded.

I'm happy for New York; I'm happy for New Jersey. I'm glad they have got plenty of fish to fish on, but we have to rebuild our fishery first. That was the promise that was made. If things improved elsewhere, then we're entitled to the improvement as well. I will leave it at that. A commitment was made and we need to back it up.

CHAIRMAN PIERCE: Okay, thank you; back to the board. I will take a few more comments on the motion to substitute, and then I suggest that we vote on the motion to substitute. We have almost gone two hours into our meeting and we have one hour left. I'm letting a lot of discussion occur on this motion for obvious reasons. This is very contentious and legislative interest in this. It makes sense to have a good discussion pro and con on the ASMFC record. I will come back to you, Jim.

MR. GILMORE: I'm going to speak in opposition to the motion; and very simply because it will not work. Last year was a good step and it was a big help. As Adam and others have said, it was getting in the right direction; but one of the things that happened last year was that we very clearly had very different size and bag limits among the states that were enjoying this fish sharing.

Quite frankly, that is a lot of the reason why this got ratcheted up because we still didn't have similar limits. We've run the numbers on this, the ones that John talked about; and to get back to everybody having a comfortable size limit, a comfortable bag limit and a full season, there is just not enough fish there.

From experience last year, it was just two states. It was us and New Jersey, and there was a lot of wrangling to get to where we got to, but we managed to pull it out with some concessions, but there was enough fish last year. There aren't this year and that is a simple fact. What we're going to end up if we go into fish sharing is we're going to have disparate numbers.

Most of what Adam says that are facts are wrong. I'm sorry, Adam, but they are just incorrect most of what you characterized. There is not enough in fish sharing this year as much as we appreciate the offer. To get to Bob Ballou's point is that fair and equitable is pretty simple – and I tried to state this earlier; we want equal access to the fishery like every other state and we want to have similar limits.

I mean that is the thing that the fishermen understand; and that is really what we need to get back to is simply that. Lastly, the concerns of overages; again, Toni has gone through it. There is stuff built into the addendum. I understand all your points, Rob, but there is a couple of new things here; first off, the letter from Senator Schumer that came out yesterday. In addition to maybe having the concern about political influence, we have an offer to help out in case we do get into a problem with too many numbers; and I think that is pretty important. I'd rather work with them to help us to get this

fishery right again than to, you know, get into like an adversarial role; so there is an offer there that is very important from a pretty influential person.

Lastly, we have a new regional administrator. I was around for the last one and I know what you were talking about, but I think our new regional administrator is doing a great job and I think he is really trying to fix this thing and us out and move this along. My last comment is that I don't think we're winging it at all, Bob. I think we're putting the best minds to do this and to get this moving as quickly as we can, which has, again, taken us years. Thank you.

MR. TOM BAUM: Mr. Chair, just three or four points I would like to make and I will be brief. I believe that the summer flounder management does need to be fixed mostly through an amendment process. I can remember in the past ten years at least twice and maybe three times the technical committee was tasked with looking into reallocation based on coast-line survey area, coast-wide population by state, fishing effort, and nothing happened back then.

I would look forward to an amendment process. The fish-sharing process, the utilization of unused recreational harvest limit, I believe is less risky than the regional management that is proposed in Option 3. I know the technical committee will work out scenarios that will mitigate the reductions that New Jersey, New York and Connecticut need to take. I still see a need to reduce at least for New Jersey; I see that as a possibility.

The next point I would like to make is the performance of New Jersey's summer flounder recreational management; we may have always had in the past 13 years a smaller size limit than New York, but we've also had a much reduced season. Our average season length in the past 13 years has been 133 days. That is 25 less days than the New York season.

Our fishermen have made a sacrifice. They have sacrificed their season, which took out some fisheries; namely, a shore-based fishery and also a fall fishery offshore. Guys are fishing black

sea bass and striped bass and pulling up doormats. Fair and equitable; you know, I've love to see that get defined. I'm not going to define here. That is like trying to define discard and bycatch. It is not going to happen in one meeting. Maybe it will and that would be great.

This time of year I always think of a – I believe it was at a technical committee meeting, Rob O'Reilly – and, Rob, I'm sorry if I don't quote you exactly; but he would say the technical committee is liberal at being conservative and conservative at being liberal, depending on whether we had to reduce or if we were able to liberalize management measures. Thank you.

CHAIRMAN PIERCE: All right, I would like to call the question, but I won't do that unless there is an objection and someone has something new to offer up. I suspect that everyone knows how they're going to vote on the substitute. It is three o'clock. Okay, I see two hands up. I'm not going to call the question because there are some objections. If there is something new to offer up, Rob.

MR. O'REILLY: Certainly not an objection; it is just that I don't know how we talk about 1998 as if it is a relic, as if it is way back in the past. I think everyone around the table can look back 15 years – now 16 with 2014 – and remember what that is like. 1998 compared to some of the other management plans is not all that exceptional. What is exceptional about 1998 and those who developed the plan is that it was right before the 43 percent reduction, which is still in place. That 43 percent reduction which took place in 1999 is still with us and has been with us and haunting us ever since through the rebuilding and to the rebuilt in 2011.

So 1998 is a time when regulations hadn't become so mixed up throughout the coastal area that it has that special place. It is unchanged from what it was. Every year after we have done changes. Now, whether the MRIP version of 1998 is something that we need to see; that would certainly be worthwhile if there are other years that need to be added.

I agree with the amendment situation that it may have allowed our fishermen to have more time. The other thing I can say about the experiment, because I've heard it called an experiment, is, is this the same management board that was unwilling to try slot limit management just about five or six years ago when fishermen from many states, because we had gone over the RHL so many years in a row, they wanted to have some smaller fish and maybe a trophy fish or a larger fish, and that just was looked at as a very bad experiment. I'm not saying that this is in the same ilk.

I'm saying this has some problems from the start. The way it ended up you take one year and assume that it is going to perpetuate itself. There was no averaging done of a couple of years, a high and low year. Why is that? Not because it was anything else but a very brief process; you know, August until now; that is not a lot of time, and we had to rely on the best we could.

I do think that status quo, conservation equivalency, and fish sharing is the best for right now. I don't think it closes the door on finding the right baseline, but I think there is a lot to be done. I've done five or six things on my own to show what it could be like. I've looked at the states on when they had 18 inches, what they did with their harvest before. We could, as I said earlier, be reshuffling here; and there are no solid guarantees that once that reshuffling of landings is done, that we'll be able to put it back where it was. Thank you.

CHAIRMAN PIERCE: Without objection; I'm going to call the question. I see an objection. Does anyone care to make a motion to call the question? **Bill Adler has made a motion to call the question.** All right, all those in favor of calling the question please signify by raising your hand. Calling the question; we're not voting on the motion; just calling the question so we can vote on the motion. All right, all those opposed. **All right, the question has been called.** We are now going to vote on the substitute.

MS. KERNS: Did you vote on the question?

CHAIRMAN PIERCE: Yes. Was there a second? Yes, there was a second; Jim Gilmore seconded the question. All right, we're going to vote on the motion to substitute, which is Option 1, Conservation Equivalency, and Option 2 for Option 3A under Addendum XXV for Summer Flounder. That is the motion to substitute.

All those in favor of the motion to substitute please signify by raising your hand, 4 in favor; all those opposed, 7 opposed. **The motion to substitute fails.** We are back on the main motion. The main motion is move to adopt Adaptive Regional Management Option 3A under Addendum XXV Summer Flounder for the 2014 fishery for one year. Any further debate on the motion? David Borden.

MR. DAVID V.D. BORDEN: **Mr. Chairman, I would like to make a motion to substitute; and the only change in the original motion is to substitute 3B.**

CHAIRMAN PIERCE: All right, we have a motion to substitute and that is to exchange 3B for 3A. Do I have a second to the motion to substitute? Do I have a second to the motion to substitute? I see none; therefore, there is no substitution. All right, we're back on the main motion. I have already read it. Is there any further comment on the main motion? We have debated this extensively already, so I hope there is something new on this motion. David Simpson.

MR. SIMPSON: **I would move to amend the motion to make Rhode Island its own region, and so the Northern Region would consist of Connecticut, New York and New Jersey.** I assume the details of what management measures we adopt would be up to the discretion of the region; is that correct?

CHAIRMAN PIERCE: Yes, it would be. All right, so you're recommending that we consider an alternative that was not brought to public hearing; that is having Rhode Island as a separate region. I assume we can still do that, Toni.

MS. KERNS: Since we have the range of state by state all the way to these regions, I think that it can fall within the scope of the document unless there is a board member that objects.

CHAIRMAN PIERCE: All right, we have a motion to substitute having Rhode Island as its own region and Massachusetts as its own region, which is sort of a bizarre situation, each state as a region. Okay, I will entertain that. There is the motion to substitute and that is to have Rhode Island as a separate region, leaving Connecticut, New York and New Jersey as the region shown in the examples with Rhode Island excluded. That is the motion to substitute. Rick Bellavance has seconded the motion.

MR. RICK BELLAVANCE: I tried that in December; I'll try it again.

CHAIRMAN PIERCE: All right, so discussion on the motion to actually amend and not a substitute; motion to amend to change – let's make sure that language reflects a motion to amend and not to substitute. We're only changing – I'm sorry, it is a motion to substitute. All right, it is a motion to amend. All right, discussion on the motion. John.

MR. BULLARD: I'm speaking against this motion. I wish I had been faster on the motion that I think David Borden raised because I've already spoken in favor of regional management. The reason I'm speaking against this one is because it is introducing something that hasn't been out to public hearing.

The reason I wish I was faster on the draw with David's motion that failed for lack of a second is that I interpret his motion as the state of Rhode Island expressing a preference for which region it wanted to be part of; and that it was saying that it wanted to be part of a region with Massachusetts as opposed to being part of a region with Connecticut, New York and New Jersey. It would seem to me if it is saying that it preferred to be part of a region with Massachusetts, that might be something we'd want to honor. I think that this motion here is saying it is not a region at all. I would think we'd want to vote that one down; but if there

was an amendment to go to Region 2, we might want to reconsider Rhode Island's preference on that.

MR. BORDEN: Mr. Chairman, with all due respect, I'd like to suggest that we take five-minute break or less to allow some caucusing. I think we can work through some of these difficulties if we just have a little bit of time to talk.

CHAIRMAN PIERCE: No, I don't care to take a break. On the motion; Roy.

MR. ROY MILLER: Mr. Chairman, my perception of the motion that Mr. Borden offered was – if you'll excuse me for making this observation; it was a rather fast call that there was no second. I think perhaps if you had waited a second or two longer, maybe there would have been a second. Considering that, I would like to offer a substitute motion and that is –

CHAIRMAN PIERCE: No substitute motion; we have a motion to amend. I am not going to substitute for an amendment to the motion so please hold that thought. We have a motion to amend to make Rhode Island its own region. If those individuals would like to pick another option such as 3B, they can certainly vote this down and another motion can be made and hope for a second.

We have a motion to amend to make Rhode Island its own region, so the Northern Region will consist of Connecticut, New York and New Jersey. That is the motion. It is now 3:12. All those in favor of this motion to amend please signify by raising your hand –

MR. WILLIAM A. ADLER: Can we caucus for a second?

CHAIRMAN PIERCE: That's right; caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: I don't have to entertain all hands that are raised. I'm trying to move us through this addendum, and we're running shy on time. This is a relatively simple motion to

amend. We're caucusing. All right, I assume everyone has had a chance to discuss your position as individual states. All those in favor of the motion please signify by raising your hand, two in favor; all those opposed. ***Okay, the motion to amend fails.*** We're back on the main motion. Tom.

MR. FOTE: It was interesting to see that we were going to divide another region to try and make it only New York and New Jersey that we're going to be putting into a region and Connecticut. We almost succeeded in doing that and probably we will do that eventually. I just want to answer some questions that I heard.

Back in '98 when we basically did this, we did this to allow the southern states to basically catch fish because we had pushed the coast-wide size limit to basically eliminate their fisheries. They never recovered from increasing the size limit. Because of a few problems in Virginia one year going so far over their quota, they have been so conservative over the years, that they have allowed them to stay at a high size limit, but a reallocation of fish.

If we look at the movement of fish, it basically took the fish out of the southern hands and put them up in northern hands because the bigger fish have a tendency to migrate north. If Virginia or Maryland wanted to go to a 14-inch fish or a 15-inch fish or a 16, they would not be under quota; they would be over quota. It is not the migration of fish.

Now, to use this motion as an excuse because of fish movement now between New York and New Jersey, there is none. We fish out of the same area so there has been no fish movement there. That would be true if we were talking about north and south and fish movement going there, but there is not a degree of that movement.

Also to listen to Dave Simpson talk about New Jersey's fishery and how we can catch 18-inch fish, well, if we could catch 18-inch fish in Cape May, which is what Delaware was being in and now we're going to be two inches size limit, you're putting New Jersey in the same situation that New York has been in.

We're going to wind up with fishermen in the southern end of our state that are not being allowed to catch fish because they're going to be sized out of it. When they proposed regions, I says if you want to talk about regions, let's talk regions where regions are fisheries and where they have the same size and particularly the same fishery. That would have been the solution.

I suggested we should look at Captree, which is the middle of Long Island, and go to Barnegat Light because they have similar fisheries; similar fisheries, Barnegat Light down to about Maryland. That has a similar fishery and size fisheries. This is not a similar fishery. Long Island Sound – and I lived in Long Island and I know New York fisheries.

I'm a Brooklyn boy and moved out to Long Island and lived out there for ten years. Long Island Sound gets bigger fish and back then it got bigger fish; where on the coast and in the bays and estuaries along New Jersey Coast, when you're fishing Barnegat Bay, Cape May by the Mullica River, they're small fish.

The effect here what you're doing by voting in support of this motion is your reallocating fish from New Jersey to New York and New Jersey. Don't call it regionalization. At least be honest about what you're saying is calling it reallocation of fish. It doesn't affect any of you so it is easy because New Jersey wound up with the lion's share because we historically had the lion's share just to come up to New Jersey's fish.

Well, if you think you have problems with Senator Schumer, you're going to have problems with my senators and when we get back to my state with my attorney general when he looks at how you basically treated an unfair reallocation of fish under the premises of regionalization; and that is a serious offense. That is the first time I have seen this.

It would be like me coming in here on menhaden and basically saying that now that we have coastwide and winding up with all these bait

fisheries, we need to reallocate Virginia's menhaden fishery; and instead of you having 85 percent of the fishery, you should need to get about 30 percent and we need to reallocate that menhaden up and down the coast. Well, you'd be ready to sue in a minute over that, and this is where this is coming out to. It is purely a fish grab so honestly call it what it is. Thank you.

CHAIRMAN PIERCE: Okay, I remind the board that the motion to substitute failed; and I don't want to have us go around the bush again and repeat comments that we made earlier on the motion to substitute. The main motion is before you. Is there further discussion on this motion?

MR. BALLOU: Yes; I'd like to move to substitute. I believe the last attempt did not get a second so I would like to try it again; and that would be to move to adopt Adaptive Regional Management Option 3B.

MR. BULLARD: Second.

CHAIRMAN PIERCE: All right, we have a motion to substitute with a quick second, so it would be Option 3B. We're substituting 3B for 3A and 3B – the only difference between 3B and 3A, if I read this correctly, notwithstanding all the numbers in the table that are shown to us as an example, would be that Massachusetts and Rhode Island are included in the same region with a shared regional harvest. All right, discussion on the motion to substitute. Yes.

MR. BALLOU: Mr. Chairman, I will just say this as a commonsense effort to try to make the best of an unpleasant situation. I think clearly Rhode Island and Massachusetts are more closely aligned geographically and otherwise. Although clearly I'm not in favor of regional management as an approach, I think this is the lesser of the evils. Thank you.

CHAIRMAN PIERCE: All right, further discussion on this motion? All right, caucus, please.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, caucusing is over. All those in favor of this motion to substitute please signify by raising your hand, 8 in favor; opposed, 1 in opposition. ***All right, the motion to substitute carries and now we're on this as the main motion.*** Were there any abstentions; any null votes. There were two abstentions. How about null votes? None; all right. Thank you for clarifying the record.

Now we're back on the motion. It was a motion to substitute, which is an amendment, so all those in favor of the motion to adopt Adaptive Regional Management Option 3B for Option 3A, all those in favor please signify by raising your hand. That was a motion to substitute and now we're on the main motion which basically we're voting on the same thing again.

All those in favor please signify by raising your hand, 9 in favor; all those opposed, 3 opposed. Just a clarification; Rhode Island votes has voted against the motion that it had put forward? Okay, I just wanted to clarify that. It is going to make for interesting bedfellows. All right, we have acted on this particular part of the addendum. Abstentions, 1 abstention; any null votes, no null votes. ***The motion did carry.*** Now we're onto the other part of the addendum that relates to timeline.

MR. BAUM: Point of clarification.

CHAIRMAN PIERCE: Point of order; yes.

MR. BAUM: I'd just like some clarification. The tables in the addendum are examples as far as the measures go, the size, season and bag? The clarification I would like is the season length, the final season length that I imagine that the technical committee will come up with; is it the same season as far as the dates go?

CHAIRMAN PIERCE: I'll turn to Toni. My assumption is that – well, the addendum I believe said these were just examples and the technical committee is going to have to address this now, especially with updated information for 2013. Toni; have I stated that correctly?

MS. KERNS: Yes. The season length; we have conferred with NOAA and all states will have to have the same season length. You may start your season on different days, but your season length has to be the same. In terms of what your regulations need to be, you would need to get together with the states in your region to discuss what you would want your regulations to be with your technical committee members and then bring those forward. We need those by February 17th, which is I think Presidents' Day; so I mean February 18th they would have to be turned into the commission for review by the technical committee as a whole.

CHAIRMAN PIERCE: Clarification, Toni; why is it that the season itself is not subject to discussion and debate by the board?

MS. KERNS: One of the reasons why we can do regions is because there is a framework that we did a couple of years ago with the Mid-Atlantic Council. In that it says that all the regions' measures have to be the same, all measures; and so therefore we are interpreting that by the states having the same number of days within the region, that is the same measure regardless of the start and end date are different.

We're trying to provide the states a little bit of flexibility there to start their fishing seasons a little bit differently within the region. The number of days is open to discussion with the technical committee members and the states based on what we would project that harvest to be. There are not a set number of days as in the tables because those tables are examples of what the regulations could look like.

CHAIRMAN PIERCE: All right, is that clear to board members? Then I would suggest to the staff that a memo be prepared for board members that would detail what you just said so we all have the same understanding as we move forward to work out the measures that need to be considered for this year with technical committee review of those options.

All right, we need a motion that would follow on the heels of the one that was just made. This relates to the timeline. We did that already,

okay. That was included in the motion. Now we go on to black sea bass unless there is something else to be said about summer flounder recreational limits for 2014. Rick.

MR. BELLAVANCE: Mr. Chairman, not necessarily on summer flounder in general but more a board issue. I understand that we need to have a new vice-chair for this committee.

CHAIRMAN PIERCE: We'll get to that later on. All right, David Simpson, summer flounder?

MR. SIMPSON: Yes; I will just reiterate that this particular configuration makes it all the more important that NOAA do something to manage their fishery in federal waters. Having no management in federal waters just stands out like a sore thumb and puts an incredible amount of pressure on state waters fishermen to subsidize that fishery. Under this scenario, it is just unpalatable.

CHAIRMAN PIERCE: All right, thank you, David. Bill Adler.

MR. ADLER: Are we ready for black sea bass?

CHAIRMAN PIERCE: Yes, we are.

MR. ADLER: Could I make a motion to adopt Option 2, utilization of additional RHL, under the Black Sea Bass Section of the addendum.

CHAIRMAN PIERCE: Hold on one second. You're referencing Option 2 on Page 14, which are the ad hoc regional measures; is that your motion, Bill?

MR. ADLER: It was Page 9 of the addendum, I think, Option 2 under black sea bass.

CHAIRMAN PIERCE: I think we're looking at different documents, Bill. The black sea bass measures are described on Page 14 of the addendum, I believe, and there are two choices. There is status quo or Option 2, the ad hoc regional measures, which –

MR. ADLER: Okay, that is correct, Option 2, ad hoc regional measures.

CHAIRMAN PIERCE: All right, we have a motion made by Bill Adler for Option 2 Ad Hoc Regional Measures for black sea bass. Do I have a second to that; Pat. All right, discussion on the motion? I see none. I will go to the audience; any discussion from the audience; any comments on the motion? I see none; back to the board.

All right, with no further interest in commenting on the motion; all those in favor of the motion please signify by raising your hand, ten in favor; those opposed, no opposition; abstentions and null votes. All right, one abstention from the Service. *The motion carries.* Timeline for black sea bass; all right, do I have a motion on the timeline for black sea bass. Option 1 is status quo; Option 2 is the one-year extension. Bill Adler.

MR. ADLER: I'll make a motion to accept Option 2 on the time line.

CHARMAN PIERCE: All right, the motion is Option 2, one-year extension; is there a second to the motion; Rick, so the motion has been seconded. Any discussion on this motion? I see none. All those in favor of the motion please indicate by raising your hand, nine in favor; those opposed; any abstentions. We have two abstentions. I believe there were two abstentions on the previous vote as well. *The motion carried.*

All right, that brings us to the end of the addendum; am I correct? Now we're back on the addendum, and I believe this is the final action so we would need a motion to approve Addendum XXV. It would be a roll call vote, I believe, approve Addendum XXV as amended. **Pat Augustine has made –**

MR. AUGUSTINE: Thank you, Mr. Chairman, your words.

CHAIRMAN PIERCE: – the motion; is there a second. Okay, Roy Miller has seconded the

motion. All right, this is a final action/final approval by the board on the addendum; therefore, we need a roll call vote, I believe, Toni. I will read the motion. **The motion is to approve Addendum XXV as amended today; motion by Mr. Augustine and seconded by Mr. Miller.** I guess we do need to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: All right, I assume we're ready to vote. Okay, I will turn to Kirby and ask Kirby to call off the names.

MR. ROOTES-MURDY: Massachusetts.

MASSACHUSETTS: Yes.

MR. ROOTES-MURDY: Rhode Island.

RHODE ISLAND: Yes.

MR. ROOTES-MURDY: Connecticut.

CONNECTICUT: Yes.

MR. ROOTES-MURDY: New York.

NEW YORK: Yes.

MR. ROOTES-MURDY: New Jersey.

NEW JERSEY: No.

MR. ROOTES-MURDY: Delaware.

DELAWARE: Yes.

MR. ROOTES-MURDY: Maryland.

MARYLAND: Yes.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Abstain.

MR. ROOTES-MURDY: Virginia.

VIRGINIA: No.

MR. ROOTES-MURDY: North Carolina.

NORTH CAROLINA: Yes.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

MR. ROOTES-MURDY: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MR. ROOTES-MURDY: *The motion carries.*

CHAIRMAN PIERCE: All right, we have seven in favor, two against and one abstention; therefore, the motion carries. Addendum XXV is approved and we embark on our grand experiment. Toni has something to add regarding the addendum.

MS. KERNS: Just the timeframe for the black sea bass proposals; the northern states will need to put forth proposals for a 7 percent reduction in your current state regulations. The ad hoc region does say that you guys can either have the same or I think it is a like as possible. I forget how it is worded.

The technical committee has a methodology that they have put together to do evaluations of measures; so we need to turn those around as quickly as possible, again to try to meet our deadline to tell the National Marine Fisheries Service what the states measures are so that they can get measures into the final rule to put in their Federal Register.

If we can try to have those conversations at the same time that we're having our summer flounder ones and get those in by February 18th as well, we would greatly appreciate that. Since you guys are all together here this week, maybe we can have some conversations and then I can communicate with technical committee members for you all to get those numbers worked up.

CHAIRMAN PIERCE: With that said, Toni, we're still waiting for a wave to come in I understand from talking with John, so how certain are we that the states are going to be looking at a 7 percent reduction; will it be more than that?

MS. KERNS: We are not waiting for that wave to come in. Those final estimates don't usually come out until April. Typically we do not wait for that. Last year, because the quota got changed, that is the reason why we actually had full numbers, so we won't wait for the Wave 6 estimates. We will use the projections like we have in years past.

CONSIDER APPROVAL OF STATE SCUP RECREATIONAL PROPOSALS

CHAIRMAN PIERCE: All right, thank you very much. It makes it simpler, I guess. All right, the next item on the agenda is consider approval of state scup recreational proposals. My understand is we have not received any proposals for changes from 2013. However, I do see a hand. David.

MR. SIMPSON: I don't anticipate that we're going to make any change, but I do want to just for the record state that Connecticut last year maintained more restrictive measures. We just stayed with 10.5 inches for private boats; 11 inches for partyboats; 20 fish during the summer instead of 30 or 40, whatever you guys are at.

We're concerned that we're overestimating stock size and that this is going to come home to roost and I think we're also trying to provide some stability in regulations. We talk about that a lot when we don't want to go down; but I'm still talking about it when there is a chance to liberalize; so just remember that in a year or two.

CHAIRMAN PIERCE: So at this time there are no proposals for scup recreational changes for 2014. That is not to say proposals may not be offered up down the road; but obviously if additional proposals are offered up, it gets us closer to the season, the beginning of the recreational season, and we all know what sorts

of problems that creates. At this time there is nothing before us to consider.

ELECTION OF VICE-CHAIR

All right, with that agenda item completed, we go to Number 6, which is elect the vice-chair. Do I have any nominations for vice-chair? Rick.

MR. BELLAVANCE: I would like to nominate Mike Luisi as vice-chair.

CHAIRMAN PIERCE: Mike Luisi as vice-chair. He has not jumped up and said no way/no how. He is!

MR. LUISI: It is good when they ask you about it about an hour before the board meets, so that is a good plan moving forward.

CHAIRMAN PIERCE: Okay, thank you. Are there any other nominations for vice-chair? I see none; therefore, Mike, congratulations, you are the new vice-chair.

ADJOURNMENT

Is there further business to come before this meeting? I see none; this meeting is adjourned.

(Whereupon, the meeting was adjourned at 3:40 o'clock p.m., February 4, 2014.)