

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

World Golf Village Renaissance
St. Augustine, Florida
November 2, 2015

Approved February 2, 2016

**Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board Meeting
November 2015**

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INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of October 2014 by consent** (Page 1).
3. (Main Motion) **Move to initiate an addendum to extend ad hoc regional management for black sea bass recreational fisheries in 2016** (Page 6). Motion by Mr. Simpson; second by Mr. Augustine. Motion amended.
4. (Motion to Amend) **Move to amend to include 2017** (Page 8). Motion by Mr. Augustine; second by Mr. Adler.
5. (Main Motion as Amended) **Move to initiate an addendum to extend ad hoc regional management for black sea bass recreational fisheries in 2016 and 2017**. Motion carried (Page 8).
6. (Main Motion) **Move to extend provision of Addendum XXVI for 2016 (summer flounder regional management)** (Page 9). Motion by Mr. Adler; second by Mr. Borden.
7. (Motion to Substitute) **Move to substitute to initiate a draft addendum to establish 2016 regional recreational summer flounder management options, including a regional option for Delaware Bay. Options for consideration in the addendum will only be for Delaware Bay and all other regions will remain as currently constructed, including all other waters of New Jersey implementing the same management measures as New York and Connecticut** (Page 10). Motion by Mr. Baum; second by Mr. O'Reilly. Motion defeated (Page 14).
8. (Main Motion) **Move to initiate an addendum to address the discrepancies in measures within Delaware Bay** (Page 16). Motion by Mr. Nowalsky; second by Mr. Simpson. Motion carried (Page 16).
9. **Move to approve the 2016 black sea bass terms of reference** (Page 19). Motion by Dr. Daniel; second by Mr. Hasbrouck. Motion carried (Page 19).
10. **Move to accept a 2.71 million pound commercial quota and 2.88 million pound recreational harvest limit for 2016 and 2017** (Page 20). Motion by Mr. Luisi; second by Mr. O'Reilly. Motion carried (Page 21).
11. **Move to postpone a decision on this issue until the winter meeting and ask states to work with NOAA Fisheries to resolve the differences** (Page 22). Motion by Mr. Borden; second by Mr. Hasbrouck. Motion carried (Page 23).
12. **Move to approve *de minimis* status for Delaware for summer flounder and scup** (Page 25). Motion by Mr. Augustine; second by Mr. O'Reilly. Motion carried (Page 25).
13. **Move to approve all of the FMP Reviews for summer flounder, scup and black sea bass** (Page 25). Motion by Mr. Adler; second by Mr. Simpson. Motion carried (Page 25).
14. **Motion to adjourn by consent** (Page 26).

ATTENDANCE

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Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
Doug Grout, NH (AA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)
Bill Adler, MA (GA)
David Pierce, MA (AA)
Bob Ballou, RI, proxy for J. Coit (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
David Borden, RI (GA)
David Simpson, CT (AA)
Lance Stewart, CT (GA)
Rep. Craig Miner, CT (LA)
James Gilmore, NY (AA)
Steve Heins, NY, Administrative proxy
Emerson Hasbrouck, NY (GA)
Pat Augustine, NY, proxy for Sen. Boyle (LA)

Tom Baum, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Roy Miller, DE (GA)
John Clark, DE, proxy for D. Saveikis (AA)
David Blazer, MD (AA)
David Sikorski, MD, proxy for B. Goldsborough (GA)
Ed O'Brien, MD, proxy for Del. Stein (LA)
Rob O'Reilly, VA, proxy for J. Bull (AA)
Louis Daniel, NC (AA)
Doug Brady, NC (GA)
Rep. Bob Steinburg, NC (LL)
Martin Gary, PRFC
Michael Pentony, NMFS

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

Ex-Officio Members

Staff

Robert Beal
Toni Kerns

Kirby Rootes-Murdy
Mike Waive

Guests

Derek Orner, NOAA
Charles Lynch, NOAA
John Bullard, NMFS
Kelly Denit, NMFS
Peter Burns, GARFO/NMFS
Allison Murphy, NOAA
Chris Wright, NMFS
Terry Morgan, ACCSP
Fran Karp, ACCSP
Chris Moore, MAFMC
Rick Robins, MAFMC

Nicola Meserve, MA DMF
George Peterson, MA F&G
Mike Luisi, MD DNR
Dave Goshon, MD DNR
Brandon Muffley, NJ DFW
Rick Bellavance, Providence, RI
Arnold Leo, Town of E. Hampton, NY
Katie Wilke, The Nature Conservancy
Kellie Ralston, Am. Sportfishing Assn.

Jason McNamee, RI DEM
Russ Allen, NJ DFW

The Summer Flounder, Scup and Black Sea Bass
Management Board of the Atlantic States
Marine Fisheries Commission convened in the
St. Augustine Ballroom of the World Golf Village

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Renaissance, St. Augustine, Florida, November 2, 2015, and was called to order at 1:45 o'clock p.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: I call the Summer Flounder, Scup and Black Sea Bass Management Board Meeting to order. We're scheduled for two hours. I suspect we can accomplish our business during that time.

APPROVAL OF AGENDA

CHAIRMAN PIERCE: You should have the draft agenda plus the meeting overview prepared by Kirby. Kirby did a great job as usual putting together the meeting overview, walking us through in a very organized way the business we need to accomplish today.

CHAIRMAN PIERCE: There will be opportunity for a lot of input on those issues. Are there any suggested changes to the agenda? If not, we will approve it by consent. All right, consider the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN PIERCE: The proceedings from our February 2015 meeting, I assume most of you have had a chance to look those over. Any comment on those proceedings? With no objection, we'll consider those proceedings approved by the board. Okay, they are approved.

PUBLIC COMMENT

CHAIRMAN PIERCE:As always, we welcome any public comment on issues related to scup, sea bass and fluke that are not on the agenda. Does anyone from the public care to comment?

**REVIEW OF THE MARINE RECREATIONAL
INFORMATION PROGRAM
WAVE 4 HARVEST ESTIMATES**

CHAIRMAN PIERCE: I see no one caring to comment so we will go on to number four, which is review of the Marine Recreational Information Program Wave 4 harvest estimates for summer flounder, scup and black sea bass. Kirby will let us know where we are right now with those three stocks and also where we might end up at the end of this year.

MR. KIRBY ROOTES-MURDY: I'm going to first walk through how the harvest estimates through Wave 4 currently compare to last year at this time. That is how we're going off of evaluating what kind of projection the harvest to be. It will queue up the next part, which is evaluating how you guys would like to manage summer flounder and black sea bass in 2016.

The memo included in the meeting materials is in the back and it outlines both in table form and some additional information on how harvests played out relative to last year. Starting off with summer flounder through Wave 4 in pounds, currently the coast-wide harvest is 4,200,003 fish. That puts us at approximately 56 percent of the recreational harvest limit of 7.38 million pounds.

This is about 40 percent below where we had projected the harvest to be based on the status quo regional alignment and regional management measures for the states. One thing to keep in mind is that in 2014 the RHL was 7.01. It was bumped up to 7.38 in 2015 because of the RSA not being deducted. Based on the board's and council's action in August, the recreational harvest limit in 2016 will be 5.42 million pounds.

As I mentioned in terms of the management measures for summer flounder in 2015, the regional alignment and the state management measures within those regions are the same as what they were in 2014. One thing to note is that in terms of management measures for states that are open through the end of year, Rhode Island, Delaware through Virginia and

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North Carolina all are open until the end of the year.

In terms of the regional performance, a number of states have come in underneath where they were at this point last year. Specifically Massachusetts, Connecticut through New Jersey are much lower in how they've harvested through Wave 4 relative to what they were projected to harvest; whereas, Rhode Island and Delaware through Virginia are much closer. North Carolina has exceeded what we had at least projected them to harvest through Wave 4.

Next is black sea bass. In the middle it outlines what the state-by-state harvest has been as well as the ad hoc regional performance. Relative to last year there is approximately a 1.4 percent increase in the total landings, from 2.45 million pounds to 2.48 million pounds. That puts the coast-wide landings over the recreational harvest limit for this year by about 7 percent.

We're already at 107 percent of the recreational harvest limit for 2015. Similar to summer flounder, the recreational harvest limit was increased in 2015 from 2014 from 2.26 million pounds to 2.33 million pounds. Under the potential revised recreational harvest limit for 2016 that the board will be looking at later today, the recreational harvest limit would be 2.82 million pounds in 2016.

In terms of regional performance, the northern region states in pounds have actually not increased significantly. While there was about a 100,000 pound increase, it amounts to a little less than 1 percent. For the southern region there is a significant increase by about 24 percent; but relatively speaking, the southern region harvest is significantly less than the northern region.

For scup in 2015 through Wave 4, currently harvest is below where we were at this point in 2014 at 2.9 million pounds, which is about a 13 percent decrease relative to last year. Based on

the new benchmark stock assessment that was conducted this year, the approved recreational harvest limit for 2016 is 6.09 million pounds, so there will be about an 800,000 pound decrease between this year's recreational harvest limit and next year's. That's it for the three species in terms of their harvest through Wave 4. If you have any questions, please let me know.

CHAIRMAN PIERCE: Before I ask for questions, I'll acknowledge that Chris Moore from the Mid-Atlantic Council, Executive Director; and Rick Robins, who is the current Chair, long-standing chair of the Mid-Atlantic Council, are present; so any issues that are raised regarding the Mid-Atlantic Council, obviously they're here and they address those for us if staff is unable to do so, although I suspect staff can do so. Questions regarding the presentation just provided? Bob.

MR. ROBERT BALLOU: Kirby, I thought I heard you say over by about 7 percent, but then I see 1.4 percent in the table. I must be missing something or misunderstood what you said.

MR. ROOTES-MURDY: What the table shows is the harvest relative to the previous year's harvest and not compared directly to the recreational harvest limit for black sea bass. Relative to last year, last year we were at 102 percent of the recreational harvest limit at this point. With a slight bump up in the pounds, it actually is 7 percent of the RHL this year; so that might be why it isn't matching up quite the same.

MR. DAVID V.D. BORDEN: Kirby or somebody from the Virginia delegation; I'm just kind of interested – the black sea bass, there is a thousand percent increase in the landings in that state. Do we have an idea of what caused that? Was it just availability or was it more of a targeting effort? If we could we get some insight on that, I think it would be useful.

MR. ROOTES-MURDY: I can offer some information on at least the MRIP information

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we have and then Rob may be able to add some more context. These numbers don't include a proportion of standard error attached to them. For Virginia's black sea bass harvest through Wave 4, the PSE is about 96, so that is significantly high. As they note on the website, for anything over a PSE of 50, to understand that there is significant error around that estimate.

CHAIRMAN PIERCE: Rob, do you have anything to add?

MR. ROB O'REILLY: Yes, I actually had a question, but I'll chip in there that I would say is the same about the PSE; but also until the last four or five years, there was a lot of variability in Virginia and much higher estimates some years, and it did bounce around a bit. We'll have to wait and see how it looks as a final estimate.

If I may ask my question, Mr. Chairman; my question is, Kirby, 56 percent on summer flounder of what we did last year at this time; but to put it in perspective of what we're facing with the lower 2016 RHL – I realize that the numbers of fish haven't been set yet or anything like that for 2016; but roughly it is probably closer to an 80 percent or so, somewhere around there if we had the same RHL that we're going to have in 2016.

While it may give some relief to think about what is going on right now, I think we have to consider what is going to happen in 2016. The next time we meet we'll have more information and it will become apparent that Wave 5 is going to be pretty important.

My understanding is that it is not an exuberant wave in certain states, so it may come out that we don't go into 2016 with the regional management in a problematic fashion. At least that's the optimistic way to look at it. The question was, of course, if you have an idea of how we stand next to 5.42 million pounds given

what you know about the data so far on what that would be.

MR. ROOTES-MURDY: I do have a slide on this, but I don't want to put it up quite yet just because the technical committee is going through it this year and trying to reevaluate how they go about taking that information from MRIP and then determining the best way to both project landings out and also to account for in instances where reductions need to be made.

There is a couple of ways that the technical committee is looking at it. In terms of where the harvest through Wave 4 is currently relative to next year's recreational harvest limits, it puts us at about 86 percent, I believe. If you were to assume that management measures stayed constant, that harvest stayed constant, then that might hold up; but it is unclear if that will be the case.

CHAIRMAN PIERCE: Any other questions on the wave data for these three stocks? Tom.

MR. THOMAS FOTE: Could you put the scup figures up? According to MRIP, which is the bible, we have caught zero scup in 2014 and we caught 3,210. I have no reference to say where we are from where we're supposed to be; so what were we supposed to catch in New Jersey this year?

MR. ROOTES-MURDY: This is straight across offering what the harvest was through Wave 4 in 2014 compared to 2015. Because there hasn't been any concerns for scup in recent years over exceeding the recreational harvest limit, the technical committee and staff haven't evaluated scup on a state-by-state basis relative to the recreational harvest limit.

MR. FOTE: Could you tell me what the PSE was for 2014 on the zero scup landings?

MR. ROOTES-MURDY: I don't think I have that data in front of me right now, unfortunately, but I can look it up and get back to you.

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CHAIRMAN PIERCE: Further questions? Thank you, Kirby, for that update.

**MANAGEMENT APPROACHES FOR THE 2016
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RECREATIONAL FISHERIES**

Now we go on to Agenda Item Number 5, which is consider management approaches for the 2016 summer flounder and black sea bass recreational fisheries. This will require some action. As noted by Kirby in the meeting overview, Addendum XXV for the FMP allowed for the use of ad hoc management approaches for black sea bass for the recreational fishery in 2014 and 2015.

He has noted for our benefit that the addendum expires at the end of this year. Therefore, if there is a desire on the part of the board to go in that direction again, we're going to need a motion to do so. If we do not decide to go in that direction, then we'll have coast-wide management measures in place for the recreational fishery for black sea bass in 2016. With that said, let's start with black sea bass. Does anyone care to address this issue? All right, I'm a little bit ahead of myself. Kirby does have a brief presentation that addresses the specific black sea bass issue.

MR. ROOTES-MURDY: As Dr. Pierce mentioned, Addendum XXV had both summer flounder and black sea bass regional management options. The board approved the ad hoc approach for 2014, and it had the provision of extending it an additional year to 2015. The board chose to do so at the joint council and commission meeting in December of last year.

As Dr. Pierce noted, a new addendum is needed if the board wishes to continue ad hoc regional management in the black sea bass fishery for 2016. If not, as the FMP dictates, there will be a return to coast-wide management measures for 2016. The board would need to initiate an

addendum to extend the ad hoc regional approach into 2016.

CHAIRMAN PIERCE: Kirby and I have summarized where we stand right now. Does any board member care to make a motion? Adam.

MR. ADAM NOWALSKY: Mr. Chairman, before a motion, I have a question about where we are. Under the last couple of years, we've proceeded under this ad hoc mechanism, which has resulted in differing measures amongst many of the states; but there has been in place a federal waters' measure that the southern states, Delaware and southward, have basically mirrored. If we were to not move forward with the ad hoc management measures, what is the process going to be for evaluation of a coast-wide measure for 2016 when we compare what our RHL is going to be for 2016 relative to what we harvest reportedly this year. What's that process; how will we evaluate what the federal measure will be?

MR. ROOTES-MURDY: The commission and council staff annually meet around this time and into early November with the technical committee to work through what the council has to put forward as their coast-wide set of management measures. Then there is a series of kind of fallback measures that are put forward.

Precautionary default is one that is used if a reduction is needed and the states are not able to put together a set of measures that seem to constrain harvest to the recreational harvest limit or will achieve the reduction if needed. Council staff will work with the commission staff and the technical committee to determine what a set of coast-wide measures would be needed to constrain harvest to the 2016 recreational harvest limit.

One thing I wanted to note is that – and I might look to Toni to provide some more clarity on this; but there is the possibility through an

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emergency action to extend the provisions of an addendum for a certain amount of time, I believe about six months, so I might ask Toni to provide more clarity on it.

MS. TONI KERNS: It is a provision in the ISFMP Charter that allows us to extend an FMP for six months; and then if you are currently working on a document that would replace that action, then you can extend it for an additional six months. It is not really an emergency action. It is just an extension of an FMP or management document.

What it would allow us to do is hold over for a year as long as we initiate a document that would work on a new action for the coming year. I think later on the council is probably going to let the board know that they've shifted their priorities on the amendment that they're working on to black sea bass; so it could align up a little bit depending on what type of management actions get put into that document. It will still be somewhere for 2017.

I don't think that we'll have an amendment completed by the time that rolls around, but it would allow the board to think about the actions that they want to include in that addendum a little bit more thoroughly and longer than if we were to do something for the 2016 fishing year because that would have to be moved along quite quickly.

MR. NOWALSKY: Just to follow up, a challenge historically that I'm familiar with is calculating expected harvest when you have a size limit that has been significantly more restrictive. In the case of black sea bass for the states north of New Jersey, you're talking about a size limit up to an inch and a half greater.

You're talking about a bag limit that is half of what the southern states are fishing under and what a coast-wide measure would be. I would expect that analysis would be difficult at best and maybe that's even being kind to it.

I understand that we're coming up to the time that work would be put forth for review at the December meeting. I'm just looking for some direction here about how that evaluation is going to take place and whether that evaluation can even take place in the timeframe that we have leading up to the December meeting.

CHAIRMAN PIERCE: Adam, if I could ask the question you just asked; is that relative to whether you feel that we should proceed with ad hoc regional management for 2016 or go with coastwide? Are you waiting for some analysis; is that your question?

MR. NOWALSKY: I wish I could directly answer that question. I'll just say that we're going to – I think there is going to be a limited debate in short order about the black sea bass quota for 2016. We're going to have a harvest for 2015 that will be closer to our limit next year than what we would have had if that increase was not voted on by the council and hopefully will take place here as well.

I think that at least we're in a position to have discussion about coast-wide measures for 2016. If we didn't have that increase, I don't even think we'd be entertaining that discussion. I think the coast-wide measure for most states would be too draconian; but I think that at least gets us close enough to have the discussion to have the evaluations done.

Again, just knowing the difficulty with calculating perhaps an inch and a half difference between a measure that states have had and what they may have moving forward, I just know the challenges with that. I'm just looking for some indication are we in a position to even have meaningful discussion about a coast-wide measure given the disparity that exists between some states right now and what that measure could potentially be with size and bag limit.

MR. ROOTES-MURDY: Well, as I mentioned before, the technical committee is scheduled to meet in November in Providence to go through

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this. As noted, we have had a technical committee meeting about a week ago to, as I said, start fresh and reexamine how we've been looking at the recreational harvest data, both the ability to break that data out into more area-specific and mode-specific parcels.

That's something that the technical committee is trying to better evaluate. For sea bass, it is obviously posed a much more difficult challenge in trying to account for how changes in the abundance has affected the ability to do reductions differently than, say, for summer flounder. It is definitely on the technical committee's agenda to address.

CHAIRMAN PIERCE: All right, board members, it would seem wise for us to make a decision regarding how we want to proceed in 2016 as soon as possible. The plan for this meeting is to make that decision so the question of the board is are you prepared to do that today, to make that decision today. If indeed you are, would it mean that you want an addendum to continue the ad hoc management approaches or just let the addendum expire and we go back to the coastwide for 2016? I look to the board for some guidance. David Simpson.

MR. DAVID SIMPSON: I think it makes sense to keep the option of regional management on the table and initiate an addendum to consider that. That process will take enough time that we'll have some insight from the technical committee's work and we can make a decision at the end of the addendum process whether to stay with regional management or go to coastwide. **I would move to initiate the addendum to extend ad hoc regional management for sea bass recreational fisheries in 2016.**

CHAIRMAN PIERCE: A motion has been made by David Simpson; second by Pat Augustine. I will read the motion. The motion is to initiate an addendum to extend ad hoc regional management for black sea bass recreational fisheries in 2016. Motion by Mr. Simpson;

seconded by Mr. Augustine. Discussion on the motion? Toni.

MS. KERNS: I just want to point out that this is the fifth year in a year we have done this ad hoc regional management and almost every time, except for when the board has only done it for one year – we will not have any new amendment in 2017. It would force us to go out for another round of public hearings and another management document.

If you make this date final in 2016, we could have no sunset provision, so that would mean that it would just expire when we did a new management action. If the board is considering new management action in sync with the council, then that would be coming relatively quickly. You could have provisions to extend it through board action instead of having to do another addendum or end it right away. It does require us to keep going through this cycle, which is a lot of staff time as well as a lot of money.

CHAIRMAN PIERCE: All right, Toni has offered up some words of caution regarding the duration and also the amount of money involved. Nevertheless, I'll let you address the motion again, David.

MR. SIMPSON: With that understanding, I'd modify the motion to say in 2016 and 2017; and again we'll have the benefit of – is 2017 enough time? How much time do you need, Toni?

MS. KERNS: I guess the question is, is there a reason to have an end date knowing that it is until some further management action is initiated by the board; and that can be through an addendum, an amendment, either way. I guess the question is, is regional management not working for the states in a way that a sunset provision is necessary?

CHAIRMAN PIERCE: David, what is your pleasure?

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MR. SIMPSON: I appreciate that, but I'd also like to think that – you know, we've backed into management before. You know, for next year we'll do this, when was that, shortly after 1998 with summer flounder and for the next 20 years you can't extract yourself from what you did out of convenience for one year.

I think I would say for 2016 and 2017 and hope in the next two years we can think about formalizing a strategy for managing the recreational black sea bass fishery. I want to stay away from the term "allocate" because I think what we've learned is by the time you figure out how to do that fairly, the situation has changed and you need to adjust it.

I would like to think we would get to that day that we would develop something that was more responsive to shifts in distribution of fish. When New Hampshire has half the black sea bass on the coast, I'm sure they want to be able to have an opportunity to fish some of it. I would extend this to 2017/

CHAIRMAN PIERCE: All right, does the seconder agree with the modification to the motion?

MR. PATRICK AUGUSTINE: Yes, Mr. Chairman, I agree.

CHAIRMAN PIERCE: All right, and I'll assume if no one around the table objects, we will have it as 2016 and '17. Are you objecting to that, Tom?

MR. FOTE: When we did this ad hoc management back about four or five years ago – and we did it I think in Montauk, if I remember right – basically New Jersey strongly objected to where our placement was in this region. We said we would probably wind up reallocating New Jersey's fish to other states if we were looking to do it state by state.

What has progressed over the years is just what has happened. The New England Fishery has grown and the catch according to MRIP, which is always questionable, has basically shrunk.

Basically, it has had a disastrous effect on the industry in New Jersey and I don't see it going any better.

We were supposed to be grouped with the south; and if we would have stayed in the south, we wouldn't have seen this redistribution that we've seen now. The fishery has grown up in Massachusetts and Connecticut and Rhode Island and basically has affected the growth of the fishery in New Jersey.

We've gone in the opposite direction; because in order to stay at the size limit which would have been the same in the southern region and not the northern region, we now have restricted seasons that are very difficult for New Jersey. I mean, a long period of time we had no summer flounder you could fish on and no fluke and no sea bass that you could fish on. We voted against this when it was done. We've never felt comfortable with it and I still have problems with it.

CHAIRMAN PIERCE: All right, I did read the motion into the record; therefore, if we're going to make it 2017, it would have to be a motion to amend to make it 2016 and '17. Does anyone care to make that motion to amend or we leave it as it is, 2016? Pat.

MR. AUGUSTINE: Mr. Chairman, I move to amend the motion to include "and 2017"; all the other language to be the same.

CHAIRMAN PIERCE: So the motion to amend is to include 2017: Is there a second to the motion to amend? Okay, Bill Adler has seconded the motion to amend. Any discussion on the motion to amend to make it two years? All those in favor of the motion to amend, please signify by raising your hand unless you want to caucus first. All right, a minute to caucus.

(Whereupon, a caucus was held.)

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CHAIRMAN PIERCE: I'm going to assume we are now prepared to vote on the motion to amend. All those in favor please signify by raising your hand; those opposed please raise your hand; any null votes. **The motion to amend is unanimous; twelve in favor, no opposition, no null votes. All right, now on the main motion. Once again, to initiate an addendum to extend ad hoc regional management for black sea bass recreational fisheries in 2016 and 2017.** Discussion on the motion?

MR. NOWALSKY: In the past that addendum has included a status quo, which isn't really status quo anymore – the original addendum included a status quo option for coast-wide discussion. Is that going to be an option in this addendum with the motion worded as it is or is this basically only – what other option – I would assume it would be because I don't know what other option we would have if we didn't vote in favor of that; but I think it would just behoove us to be clear that we have that as an option still.

MR. ROOTES-MURDY: Just to clarify, Adam, you're looking for an option in the addendum to have status quo management measures relative to 2015?

MR. NOWALSKY: No; clarity that not pursuing ad hoc measures would result in coast-wide management and having that clarity in the addendum; that is what I think I'm looking for.

CHAIRMAN PIERCE: That would be one of the possible outcomes; because if we don't approve a new addendum establishing the ad hoc regional measures, we go back to coastwide. Further discussion on this motion? Michael.

MR. MICHAEL PENTONY: Mr. Chairman, I just wanted to ask a question because I'm a little confused about including 2017. The way I'm understanding that is not really relevant exactly to this motion but what would happen in December.

If the board were to adopt in December ad hoc regional management for 2016, would that lock the board into ad hoc regional management for 2017 as well? The reason I asked the question is remember you're getting a new black sea bass assessment about a year from now. I'm wondering whether the board will have the recourse following that assessment to modify its recreational management approach for 2017.

CHAIRMAN PIERCE: I can turn to staff on this; but I suspect that the board can make whatever changes are necessary to prepare for 2017. If conditions merit it, we can revisit the issue. Any further comment on the motion? Is there a need for a caucus? All right, there is no need for a caucus. All those in favor of this motion please signify by raising your hand; any opposition; any null votes. **The motion passes thirteen to zero to zero.**

**MANAGEMENT APPROACHES FOR 2016
SUMMER FLOUNDER RECREATIONAL FISHERIES**

CHAIRMAN PIERCE: The next item on our agenda would be summer flounder management for 2016. I will turn to Kirby for his presentation.

MR. ROOTES-MURDY: It is a similar situation to what we were facing with black sea bass a year ago. In October of 2014 the board initiated Draft Addendum XXVI to develop alternative regional management approaches for summer flounder in 2015.

Addendum XXVI was approved in February, extending status quo regional management from 2014 into 2015, with the ability to extend it an additional year, up through 2016. The board can extend the 2015 regional management alignment that was in the addendum into 2016 without an addendum. An addendum is needed if different regional management alignments are preferred in 2016 and beyond.

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CHAIRMAN PIERCE: All right, that is simply stated. Questions of Kirby? No action is required on this for 2016 unless, as Kirby has indicated, we are dissatisfied with the current management strategy or with state-by-state conservation equivalency. If both of those approaches are found, then we need not take any action for 2016. Bill Adler.

MR. WILLIAM A. ADLER: Well, didn't the wording just say it may extend another year without an addendum, but does the board have to say, yes, do it? Do we have to at least go ahead and say, yes, we want to extend it?

MR. ROOTES-MURDY: Yes, that was at least the way it proceeded last year with black sea bass and that decision to extend it was made at the December joint meeting.

MR. ADLER: So, in other words, there should be probably a motion that says, yes, extend it because we can? Is that in order?

CHAIRMAN PIERCE: For the sake of clarity, I suppose it would be in order; so do you care to make that motion, Bill?

MR. ADLER: Yes, I'll make a motion that we extend as the previous addendum says that we can extend it for the year 2016. Is that what you want?

CHAIRMAN PIERCE: This is the motion we suspect you have made, Bill. Is it as you intended?

MR. ADLER: Yes.

CHAIRMAN PIERCE: A motion has been made by Bill Adler; David Borden has seconded the motion. I will read it into the record. The motion is move to extend the provision of Addendum XXVI for 2016; summer flounder regional management. Motion by Mr. Adler; seconded by Mr. Borden. Is there any discussion on the motion? Tom.

MR. TOM BAUM: I would like some discussion in the supplemental materials, the Delaware Bay White Paper that Brandon Muffley had presented. If there is no discussion on that, I have a motion to substitute. Is that in order right now, to substitute?

CHAIRMAN PIERCE: Before you make a motion to substitute, you referenced a document that we have as background material to prepare us for this meeting. It would be helpful, before you make the motion, if you could for the benefit of all here explain exactly what you have offered up as a suggestion in that document.

MR. BAUM: Certainly. With the approval of regional management for summer flounder recreational fisheries, it solved the problem that existed in Sandy Hook and Raritan Bay with New York and New Jersey. It solved that problem and created another problem down south in Delaware Bay. It created a problem of not only size limit discrepancies of a two-size limit difference between New York and Delaware in the same water body but also as far as season length goes from 120-day season in New Jersey to a year-round season.

We're looking to continue regional management except having options available through an addendum process that addressed the size discrepancy in Delaware Bay. July 23rd of this year the New Jersey staff and commissioners met with Delaware staff and commissioners to talk about this. We had a good discussion and came up with some options or alternatives for today possibly.

Through basically the New Jersey Division staff legwork, they basically demonstrated that the New Jersey Fishery in Delaware Bay is basically the same as the Delaware Fishery in Delaware Bay as far as the landings go, the size frequency goes and the catch-per-unit effort. In that respect, I'll either field any questions or if Brandon would like to come up, I would ask you

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to give him the opportunity to continue this justification.

CHAIRMAN PIERCE: With that said, Tom, I suspect it would be appropriate for you to make a motion, if you care to make it now.

MR. BAUM: Yes, I do; thank you. I move to substitute to continue regional management measures in 2016 as currently constructed while initiating a draft addendum to establish new Delaware Bay regional management options for the 2016 recreational summer flounder season. Options for consideration in the addendum will only be –

CHAIRMAN PIERCE: Can you just slow it up a little bit, Tom? If you could just read it again, Tom, from where it ends.

MR. BAUM: After my last sentence, “Options for consideration in the addendum will only be for Delaware Bay and all other regions will remain as currently constructed, including all other waters of New Jersey implementing the same management measures as New York and Connecticut.”

CHAIRMAN PIERCE: All right, please look at that motion that is on the screen and tell us if it is the motion you’ve just made.

MR. BAUM: Yes, it is.

CHAIRMAN PIERCE: All right, we have a motion by Tom; is there a second to the motion? Rob O’Reilly has seconded the motion. I will now read the motion to substitute. Before I do, Toni looks a little angst. Go ahead, Toni.

MS. KERNS: It is just the way the motion is worded, where you say that we would continue regional management while initiating a draft addendum; the proposal that New Jersey is giving is different than what the regional management is. It is either you’re going to do a draft addendum to replace the makeup of the regional management or you’re doing regional

management as we did it last year. I think that if you’re proposing a draft addendum, having that first bit of the sentence doesn’t quite work.

CHAIRMAN PIERCE: With that said, I’m going to have to rule it out of order unless you can refine that language to address Toni’s concern.

MR. BAUM: I will refine that language, then.
Move to substitute to initiate a draft addendum to establish summer flounder regional management for 2016 that includes addressing new Delaware Bay regional management options for the 2016 regional summer flounder season.

CHAIRMAN PIERCE: I’m hesitating a bit until staff has a chance to discuss this. Okay, with the board’s forbearance, if you would bear with us for a bit. I know this is an issue of great concern to tautog so we’ll be careful with this. Do you think we’re there, Toni? All right, Toni has reworked this a bit so we don’t have to end up with a conflict between addendum and some other action. Is this revised wording, Tom, satisfactory to you?

MR. BAUM: Yes, it is.

CHAIRMAN PIERCE: Okay, Rob, is it satisfactory to you?

MR. O’REILLY: Mostly; is the seconder allowed to add a comment?

CHAIRMAN PIERCE: No. Okay, now we have a motion on the board. I will read this motion: Move to substitute to initiate a draft addendum to establish 2016 regional recreational summer flounder management options, including a regional option for Delaware Bay. Options for consideration in the addendum will only be for Delaware Bay and all other regions will remain as currently constructed, including all other waters of New Jersey implementing the same management measures as New York and Connecticut. Motion by Mr. Baum and seconded by Mr. O’Reilly. Comments on the motion? Michael.

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MR. MICHAEL LUISI: I guess it is a comment and a question. Given the order that we are considering and substituting for extending the provisions of Addendum XXVI; my concern is that – well, I guess one of the questions would be through the development of this new draft addendum would we essentially be extending all provisions in Addendum XXVI with the exception of these options that would be included, which would be Delaware Bay only?

I don't want to get to the point – I support this proposal and think that it is in the best – it follows along the lines of the objectives of the regional approach that we've worked for years to accomplish. I just have a concern that by initiating this draft we're not being clear that while it states in there that all other options will remain the same is, is that the same; it is just to the extension of the provisions of Addendum XXVI? That's my question.

MR. ROOTES-MURDY: Straightforward no. As staff explained to New Jersey that in creating Delaware Bay specific measures, so that you're having part of the state of New Jersey with measures that are similar to Delaware but the rest of the state is not, under conservation equivalency; at least regional management that we have it defined, for a state to be consistent with the other states in their measures; that state, if it has different measures in different parts of the state has to then become its own region.

New Jersey would become its own region under at least one of the proposals that was put forward. The other would create two state-specific regions in this area. One would be Delaware would be its own region and New Jersey would be its own region. In that way this is not carrying forward the status quo for the rest of the regional alignment.

CHAIRMAN PIERCE: In addition, this does initiate an addendum as opposed to the original motion, which would be to just let it continue as

is without our having to initiate another item. This is a significant action on the part of the board relative workload, expense, all of that, notwithstanding the merits on the motion itself. Kirby has provided his perspective relative to your question, Michael. Rob O'Reilly.

MR. O'REILLY: I think the last time around, last year we had some similar proposals. A few came in late and I think Option 5 was what we looked at last year. New Jersey really did not get a discussion. I think that probably after looking at the information that was presented to us and we had time to look at it; that it is not only worth discussion but now we can sort of see the dilemma.

I just hope that as we go forward with this that New Jersey and Delaware have chosen the four options that really are the crux of what could go forward. That's a question I have about this overall, too. On the four options; is that going to be pretty much it or is that something to be decided once we come back and go through this again.

MR. ADLER: Something simple is getting complicated. It is not that I'm against anything here; but also on if you're coming back in February with an addendum that then has to go out to public hearing and you're adding all types of things; is this going to actually be able to be done for 2016?

MR. ROOTES-MURDY: I was just conferring with Dr. Pierce. In terms of the time table, in order for the addendum to get approved similar to last year and for enough time for the states to implement the management measures, you would need to have the addendum initiated at this meeting so that the draft addendum could be brought to the joint meeting in December and then go out for public comment. That way you would have public comment through the winter and then that could be presented for final action at the February meeting. Delaying the addendum would likely jeopardize the

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ability on staff's end to be able to get it done in time for the 2016 season.

MR. ROY MILLER: Tom summarized correctly that Delaware met with New Jersey to discuss this suite of management options that you see in our briefing materials, under the supplemental materials. While agreeing to meet with New Jersey and agreeing in principle upon the desirability of consistent regulations for shared jurisdictions like Delaware Bay, it was pretty clear from that meeting and pretty clear to me that we agreed that Option 4 among Brandon's options was the one least objectionable to the state of Delaware.

The other three options, I'm afraid that the way the substitute motion is worded; I'm afraid the other three options are precluded. I wasn't sure that was the intent of the maker of the motion. Specifically it says, "Options for consideration in the addendum will only be for Delaware Bay and all other regions will remain as currently constructed."

If you look at the other three options, it sort of precludes them by saying it will be only for Delaware Bay and all the other options will remain as constructed. If it is the maker of the motion's intent that it sort of locks us into the number four option, then we would have no objection. That is why I wanted to see what his intent was in this regard.

CHAIRMAN PIERCE: Perhaps the best way to proceed, in light of the nature of the discussion around the table, is to vote this motion up or down. If it is voted down, then someone could make another motion that would be specific to the interest expressed by you, Roy, and have been expressed in the document. I'll take a few more questions on the motion. Louis.

DR. LOUIS B. DANIEL, III: I was going to bring up an issue that I think is important for consideration when looking at this addendum and trying to do some area jurisdiction models. We've been talking in the past about the size

limits for summer flounder. What we're finding in North Carolina and in the southern states is that the vast majority of our harvest has been female fish; and many of those fish are not having the opportunity to spawn.

As we continue to ratchet up size limits, which I know we're not talking about here, but this needs to be on the record for consideration and maybe not in this addendum but as we move forward. We need to start lowering these size limits down so that we start harvesting more male fish. Right now this quota is being taken up by all female fish.

If we look at some of our other species, it is going to be very difficult for us to maintain and not have these huge swings in quota reductions that we're facing right now for next year if we don't start looking at some of the biology of the fish. I would like for the technical committee at least to be looking at the implications of having some kind of a slot limit or lowering the size limit that would allow for that harvest of more males.

I'm tempted to try to add it here, but I know it probably wouldn't go anywhere. I do feel like it is an important issue for the record. We're getting ready to do it in southern flounder in North Carolina. We think we're going to look into doing something like in North Carolina; and that's going to cause a huge disparity in our size limits there. We've seen with the increasing size limits even at 15 inches in North Carolina our harvest has basically gone to nothing. Something needs to happen with the size limits as we move forward with summer flounder.

CHAIRMAN PIERCE: I'll take one other comment on the motion. Tom, to the motion.

MR. FOTE: Dave, I think the wording needs to be adjusted a little bit on this motion. What I would like to do, and we've done this many times before, is to take a three- or four-minute break and Delaware and New Jersey sit down and get the language straight for the motion

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and see if we can get this motion done so we don't have to go through the whole thing again. If we just could take a couple-minute break to sit down and figure this out.

CHAIRMAN PIERCE: I'm not sure you're going to be able to figure it out in two to three minutes. As a consequence, I'm not going to take a break. Michael.

MR. LUISI: I'm still stuck on what happens in the event that this draft addendum goes out as intended for Delaware Bay issues and then ultimately there aren't fish available to resolve the issue or the options that are for consideration aren't acceptable and we end up with some status quo. Essentially the addendum dies; what happens then because in that case we have not extended the provisions of Addendum XXVI for 2016?

From my understanding we would default back to conservation equivalency since the Addendum XXVI will be behind us and we would not have extended it. I would have much preferred and support wholeheartedly this substitute motion had we extended the provisions of Addendum XXVI as our backstop for what happens in the event that this current draft addendum would in some way die. It is just my thoughts on how I would have felt more comfortable in moving forward.

CHAIRMAN PIERCE: If I may, Michael, are you suggesting that we vote the substitute down; that we approve the main motion and that someone make another motion that would be specific to the point you just raised?

MR. LUISI: I haven't caucused yet, but that's what I think we should do, at least put the backstop there for regional management in 2016 as it was in 2015 in the event that this draft doesn't gather all the steam that it needs to be supported fully by this board in February.

CHAIRMAN PIERCE: I think Mike has offered up a way forward. I agree with it, so my suggestion

to the board is we vote on this motion to substitute and then follow the approach that has been suggested by Mike. Is there opposition to that suggestion? Okay, David Simpson.

MR. SIMPSON: I understand the logic and I think we all want to try to get to the same place and trying to figure out how to get there; but if we extend Addendum XXVI, the way I understand it; that precludes the discussion of doing something with Delaware Bay. When I read the substitute motion, it is clear to me the intent is to leave everything in regional management as is for another year with the exception of a consideration of Delaware Bay and doing something nuanced there. I was comfortable with the substitute motion and I'm concerned that if we do it as Mike has suggested that we close the door on a Delaware Bay resolution. Maybe Toni has another perspective.

MS. KERNS: I guess the hard part is that if you have the Delaware Bay Region in there; then you have to change your management measures within your regions because you've got to take those fish from somewhere to put the fish into the Delaware Bay. You're not keeping status quo in your regions anymore because you're changing your management measures within your regions.

That's the difficult part in there where everyone keeps saying we'll stay status quo our other regions. Well, you can't stay status quo in your other regions because you've got to get your fish to be able to harvest smaller size limits and the longer time period in the Delaware Bay from what New Jersey was originally harvesting under the other regulations for the whole of New Jersey. Yes, you can say we're going to do regional management until we make a change – if you make your change to your regions, but it is not status quo.

CHAIRMAN PIERCE: Well, as it stands we have a substitute motion on the board and we have

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discussed that substitute motion. It is time to vote on that substitute. Is there a need for a caucus? There is no need for a caucus. **All right, all those in favor of the motion to substitute please raise your hand; those opposed; any null votes; any abstentions. The motion substitute fails on a vote of five to six. Back on the main motion.** David Borden.

MR. BORDEN: Mr. Chairman, not having a dog in the fight, would we get the same position that I think the intent of all parties is if we took the main motion and at the end of it, right after "regional management", just add "with the exception of Delaware Bay"? Then that would set the stage for a subsequent motion.

MR. ROOTES-MURDY: Something that I think I should try to clarify; the regional alignment in Addendum XXVI is what this would be extending. The regional alignment is Connecticut through New Jersey having the same management measures; Delaware down through Virginia having the same management measures. To make changes to the Delaware Bay states' management measures, even if they are area-specific, then alters what the regional alignment is; so it is not the ability to extend that status quo. You're creating new regional alignments.

CHAIRMAN PIERCE: That's the key point, it creates new regional alignments. I can't explain exactly what those alignments would be. That would unfold I guess as further work was done on the approach. That's the motion on the board; further discussion on the motion? Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, a very lively discussion and I think it is an important discussion. I'm glad that we did what we did on that. It seems to me that if we're going to create a new region, we've got to create a new addendum to address that separately by itself, deal with it as an issue. It would seem to me that the state that's interested in doing that might want to go forward, with your approval,

Mr. Chairman, and put that on the table and then let the board take action based on that; but this is the right approach at this point in time.

CHAIRMAN PIERCE: Any other comments on the motion? I knew that New Jersey would have more comments. Tom.

MR. BAUM: I'm just trying to get a handle on this as far as what staff has explained to us. If the main motion passes, as I'm interpreting it there is no chance to address Delaware Bay; is that correct for this year?

MR. ROOTES-MURDY: As indicated before, to have Delaware Bay specific or even new regions in the Delaware Bay area, you'd need a new addendum. In passing this motion, that would pretty much void the need for a new addendum.

MR. BAUM: My comment is then we've failed the intent of Addendum XXVI to address regional management as far as solving the issues of disparity amongst regions and water bodies.

CHAIRMAN PIERCE: I'm trying to think this through and I'm trying to be sensitive to timelines and staff concerns. If this motion was to pass, we're just extending the provisions into 2016. Does the board still have an opportunity at its next meeting to act on anything that might be offered up by New Jersey as a refinement to what has been discussed so far and would be consistent with some of the concerns expressed by Delaware? That's my question to staff. Toni.

MS. KERNS: If it is the interest of the board to see something in basically an addendum format, we could work with New Jersey and bring it forward at the joint meeting and the board could decide whether or not that is something that they would want to consider as option and then decide if they want to take it out for public comment. It is something that we

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need to have basically in a very tight format so that we could turn it around immediately.

CHAIRMAN PIERCE: Well, my suggestion is for us to go in that direction. I think everyone around this table is sensitive to New Jersey's concerns and, of course, Delaware's concerns as well. With that said, I'll go to Michael.

MR. LUISI: Mr. Chairman, I just want to be clear that prior to the vote that we just took on the substitute, I thought it was pretty clear that we would consider this extension. In my mind the extension is nothing more than the continuation of something that's already in place. A new addendum could be created – and this is just my opinion – it could be initiated a minute from now that would override the current addendum that we're working under, which is XXVI.

I assume that this proposal from New Jersey, working with Delaware, is just that; it is an addendum that takes the place – it would be Addendum XXVII. It would take the place of XXVI. In that addendum all of the same concepts and everything about the regional approach that we've already put forth in Addendum XXVI could be in there with the exception of some options for Delaware Bay.

I did state that I was supportive of the proposal. I think the actions between New Jersey and Delaware; it is what the intention of this regional approach is; and therefore I would hope that we could figure out some method to get to that point in time for when this board meets in February to have some final product to consider.

MR. BORDEN: Just a question, Mr. Chairman. The two states have a right to put together a proposal and submit it under conservation equivalency to do exactly what they're talking about?

CHAIRMAN PIERCE: I don't believe they do. Obviously, they have opportunities to

collectively construct an option or options they feel are acceptable to themselves and then offer it up at our next meeting, for example, offer it up at our next meeting as a regional approach – for an addendum for a different regional approach for 2016. All right, time is passing and we have more on our agenda; so I'm going to take a few more questions and then we have to decide what to do. Rob.

MR. O'REILLY: I just think we've backed ourselves into a pretty tight corner here. We've had two years of regional management and now we're looking at a motion to extend the provision of Addendum XXVI. I say, well, what does that really mean? Does that literally mean everything stays the same?

I heard Toni talking about shifting fish once you bring in Delaware Bay options; but we could be shifting fish even with this. I think the way out of here is what was mentioned earlier; that this motion can pass but it doesn't preclude another motion bringing in the Delaware Bay options.

If the public gets confused by that, well, it is because I think all of us were confused in the way we went about this, perhaps, but we can't help that. Some of this is being done as we talk. It is kind of a tough situation; and it really shouldn't be that the Delaware Bay options or those four motions don't get reviewed pretty carefully with a chance to have one of them pass.

CHAIRMAN PIERCE: All right, I'm going to call the question with no objection. **All those in favor of the motion please signify by raising your hand; those in opposition; any abstentions. All right, the motion to extend the provision of Addendum XXVI for 2016 summer flounder regional management passes on a vote of nine in favor and 2 opposed.** Any further action on this issue?

MR. NOWALSKY: Mr. Chairman, I appreciate the debate that has been had around the table today. The issue of the Delaware Bay

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discrepancy was something that was brought forth early on in the addendum process with options that were brought forth. People had seen them before; this was nothing new.

The original addendum for regional management spoke about addressing these regional discrepancies. I appreciate Delaware coming forward to work with New Jersey and the spirit of the commission this summer to work to find a solution. New Jersey then worked with board leadership and staff to prepare them, include the white paper in the supplemental materials, have a motion drawn up.

I think it is all clear that we know the goal that we're working towards; and there has certainly been discussion about that today. With all of that groundwork here and talking about a way out of here that addresses that, **I now move to initiate an addendum to address the discrepancy in regulations that exist in Delaware Bay.** I'm going to leave it very simple. We've had a lot of discussion in the past about smidges and concepts. I think that the discussion in the record clearly shows where we're going with this. I'll stop talking there. I'll wait for a second for that; and if I need to further discuss the motion, I will. Thank you, Mr. Chairman.

CHAIRMAN PIERCE: All right, a motion has been made. I'll wait to ensure that this is your wording, Adam.

MR. NOWALSKY: Yes; again, in the spirit, I'm just going to keep it very simple. I think the record that we've set forth in the last half hour clearly states the direction that we're going.

CHAIRMAN PIERCE: Is there a second to the motion? David Simpson has seconded the motion; so move to initiate an addendum to address the discrepancies in measures within Delaware Bay. Motion by Mr. Nowalsky; seconded by Mr. Simpson. Discussion on the motion? Is there a need to caucus? I see no

need to caucus. All those in favor of the motion please signify by raising your hand; all opposed; any null votes; any abstentions. **The motion carries unanimously.**

I assume, therefore, that there will be further discussion between New Jersey and Delaware especially regarding the document that has already been worked on so that staff and then this board will be able to benefit from whatever you decide is agreeable to both states. That's my assumption. Rob, question.

MR. O'REILLY: I'd like to make a comment since you bypassed my waved hand earlier, but that's okay. On black sea bass and summer flounder I know that people work hard, all of us try and work hard, but I do want to recognize the gentlemen who are here today from the Mid-Atlantic Council in a different light.

I think most of you know it could have been much more extensive and intensive had we had, say, a 49 percent reduction in summer flounder and at the same time a 21 percent increase in black sea bass. Those things don't just happen. They take a lot of effort and I think – I'm not privy to all the ins and outs, but I know that a lot of work was done to get us into that situation and so I think the partnership is something we ought to really be appreciative of with the Mid-Atlantic Council.

CHAIRMAN PIERCE: Yes, I'll echo that, Rob. Thank you for making that point. The Mid-Atlantic Council leadership has done quite a bit for the benefit of all concerned. Certainly, what they initiated working with their SSC and also with the National Marine Fisheries Service has been much appreciated to minimize some of the impact that we otherwise would have experienced with summer flounder and, of course, with black sea bass.

**CONSIDER APPROVAL OF THE
2016 BLACK SEA BASS BENCHMARK STOCK
ASSESSMENT TERMS OF REFERENCE**

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We're about to address the black sea bass issue. Next on the agenda is number six; this is review and consider approval of the 2016 black sea bass benchmark stock assessment terms of reference. This is an action item and I turn to Kirby for a summary of where we stand with that.

MR. ROOTES-KIRBY: These are the draft terms of reference for the 2016 benchmark stock assessment for black sea bass. The stock assessment is scheduled to be done in the end of 2016, approximately November/December. For the board's consideration today is approving these terms of reference.

They will then go to the NRCC where they will be officially approved for use in the assessment. I will walk through the terms of reference now. The first term of reference is to evaluate the distribution, movement and potential for spatial structure of the stock; the ability of existing data to support alternative spatial structure and their consequences for the stock assessment.

The second term of reference is to estimate catch from all sources, including landings and discards; characterize the uncertainty in these sources of data; evaluate available information on discard mortality and, if appropriate, update mortality rates applied to discard components of the catch; describe the spatial and temporal distribution of the fishing effort.

Term of Reference Three is to present the survey data being used in the assessment, the indices of abundance, the recruitment, state surveys, age/length data; and to investigate the utility of fishery-dependent indices as measures of relative abundance; characterize the uncertainty and any bias in these sources of data.

Term of Reference Four is to consider the consequences of environmental factors on the estimates of abundance or relative indices derived from the survey. Term of Reference Five is to investigate implications of

hermaphroditic life history on the stock assessment model; and if possible to incorporate parameters to account for hermaphroditism.

Term of Reference Six is to estimate annual fishing mortality, recruitment and stock biomass, both total and spawning stock, using measures that are appropriate to the assessment model for the time series, which is integrating results from Terms of Reference four and five; and estimate their uncertainty. Include historical retrospective analysis and past projection performance evaluation to allow a comparison with more recent assessment results.

Term of Reference Seven is to estimate biological reference points. Those are your biological reference points B_{msy} , $B_{threshold}$, F_{msy} , and MSY , including defining biological reference points for spatially explicit areas, if appropriate, and provide estimates of their uncertainty. If analytical model-based estimates are unavailable, consider recommending alternative measurable proxies for the biological reference points. Comment on the appropriateness of existing biological reference points and the new updated redefined or alternative biological reference points.

Term of Reference Eight is to evaluate the stock status with respect to the new model or new models corresponding to spatial units developed for the peer review.

Term of Reference Nine is three parts. It is to develop approaches and apply them to conduct stock projections. The first is to provide numerical annual projections, three to five years, and the statistical distribution, probability density function of the overfishing level that fully incorporates observation, process and model uncertainty. As I note here about the appendix, this document was included in the briefing materials so the

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appendix with your briefing materials that are with the Draft TORs.

Each projection should estimate and report annual probabilities of exceeding threshold biological reference points for F, and probabilities of falling below threshold biological reference points for biomass. Use a sensitivity analysis approach in which a range of assumptions about the most important uncertainties in the assessment are considered, the terminal year abundance, variability in recruitment, definition of biological reference points for black sea bass.

The second part for Term of Reference Nine is to comment on which projections seem most realistic, consider major uncertainties in the assessment as well as the sensitivity of the projections to various assumptions. The third part is to describe the stocks vulnerability to becoming overfished and how it would affect the choice of the acceptable biological catch.

The last TOR, TOR 10, is to review and evaluate and report on the status of the SARC Working Group research recommendations listed in the recent SARC-Reviewed Assessments and review panel reports and to identify any new research recommendations. If you have any questions, let me know.

CHAIRMAN PIERCE: That's a very comprehensive and detailed list of terms of reference. If I was the black sea bass stock assessment scientist, I would be shaking in my boots. It is a tall order but a lot of necessary initiatives and investigations as part of these terms of reference. In the interest of time, I would hope that there won't be too much discussion or questions on these terms of reference. We have a little less than half an hour for the rest of our business. If anything is pressing, please raise your hand. Louis.

DR. DANIEL: A question for Kirby, I guess. The work I think that Gary Shepherd was doing with all the tagging databases and the information

that has been leaking out on that about south of Hatteras and north Hatteras mixing; is that in the terms of reference somewhere and will that be a discussion point for the assessment?

MR. ROOTES-MURDY: Yes, it will definitely be a point of discussion for the assessment. As it is indicated on the first TOR, there are multiple models that are going to be evaluated; and so his tagging data is being looked at both in terms of how it can be fed into a number of different models and also how to be treated separately.

DR. DANIEL: Just a real quick follow-up; so the issue of stock mixing, though, will be addressed as well; I mean not just for F estimates; but some of the reports are indicating that we're getting recaptures from north of Hatteras fish south of Hatteras to a fair degree. If that's the case, that is going to put a few monkey wrenches into our assessment results.

MR. ROOTES-MURDY: Yes, it is definitely something that will be looked at by the assessment. The management unit, as you know, having the divide at Cape Hatteras results in the need to evaluate landings both north and south; and so the tagging data will be important for both evaluating that and in terms of biomass estimates for the northern stock or the previously understood northern stock.

CHAIRMAN PIERCE: **Okay, I would appreciate a motion to approve the 2016 black sea bass stock assessment terms of reference. Louis has made that motion. Emerson has seconded the motion. The motion is to approve the 2016 black sea bass stock assessment terms of reference.** Motion made by Louis and seconded by Emerson. Discussion on the motion? I see none.

All those in favor please signify by raising your hand; is there any opposition? **I suspect there are null votes or abstentions so it is unanimous.**

RECONSIDER THE 2016-2017 BLACK SEA BASS

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QUOTAS

On to Number 7, reconsider the 2016-2017 black sea bass quotas. This is final action; and when we get to it, when the motion is made, there will have to be a roll call vote. With that said, I'll turn to Kirby who will give us an overview as to what exactly has happened.

MR. ROOTES-MURDY: This kind of has two parts to it. There is the revised black sea bass commercial quota and recreational harvest limit for 2016. The other element is the commercial landings from 2014 that need to be evaluated for overages relative to the quota that can then be applied to the 2016 revised quota; but I'll go through this very quickly.

In August the board and council met and decided to approve the recreational harvest limit and quotas for 2016 and 2017 for black sea bass. In September the SSC met and conducted a peer review of a data-limited approach presented by Jason McNamee of the technical committee; that they then evaluated and came up with a new acceptable biological catch for 2016 and 2017.

At the council's October meeting they approved that new ABC and subsequently new commercial quotas and recreational harvest limits for 2016 and 2017. Those numbers are a 2.71 million pound commercial quota and a 2.88 million pound recreational harvest limit.

I have up there also what the initial quota state by state would be for 2016 based off of that revised coast-wide quota; but note that this does not account for any overages from 2014. The board can consider the revised 2016 commercial quota and recreational harvest limits for black sea bass at this point. If you have any questions, let me know.

CHAIRMAN PIERCE: Questions for Kirby? By the way, thanks to all of the staff that were involved in putting together the analysis and the logic for dealing with data-poor stocks.

Jason McNamee from Rhode Island was involved in that and had a very lead role. I think Steve Cadrin was involved in that and I lose track of the other individuals who were involved.

Anyways, thanks to them for all their work on this and thanks to the Mid-Atlantic Council for embracing and the SSC as well. **All right, I'm looking for a motion to approve the revised black sea bass commercial quota and recreational harvest limit for 2016 and 2017. Motion made by Mike Luisi. Is there a second to the motion; Rob O'Reilly.**

Discussion on the motion? This is a little controversial, I know. No discussion on the motion. Is there a need for a caucus? I see none. All those in favor of the motion please signify by raising your hand –

MS. KERNS: Dr. Pierce, it is a roll call vote; so if there is no objection, then it will be good; and it needs to be two-thirds majority as well. If no one objects, then we don't need to do the full roll call.

CHAIRMAN PIERCE: I said it was roll call and I forgot what I said. All right, with that indicated, is there any objection to the motion? There is an objection to the motion. The National Marine Fisheries Service objects – go ahead, Michael.

MR. PENTONY: We would abstain on the motion so consider that as you will.

CHAIRMAN PIERCE: **With that abstention logically offered by the National Marine Fisheries Service, there is no opposition to the motion. Therefore, the motion passes.** We have approved the revised black sea bass commercial quota and recreational harvest limit for 2016 and '17. Okay, Kirby, has something important to add.

MR. ROOTES-MURDY: As I mentioned before, the second part to the revised 2016 quota is

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trying to account for the overages in previous years. I was going to quickly run through the current situation for the board to offer guidance to the staff. The quota is administered on a coast-wide level. The commission administers the state-by-state quota; and in 2014 the coast-wide quota was 2.17 million pounds.

Towards the end of 2014 we came close to – or it was projected that we were coming to come close to the quota earlier than expected; and there was a move to possibly closed federal waters. NOAA decided not to given the timing and administrative process. At this point the staff has evaluated the coast-wide overages from 2014 to be applied to 2016.

The reason why it isn't applied to the next year – it wasn't applied in 2015 is because of the timing. We don't get landings finalized from the states until the middle of the year; and at that point it is usually too late to adjust the current year's quotas. ASMFC staff and NOAA staff have identified discrepancies between the state-reported landings and those landings that come out of the SAFIS federal dealer reports.

The difference between those totals is less than a 1 percent overage, which is approximately 171 pounds, and about a 4.68 percent overage of the 2014 quota, which is approximately 100,000 pounds. I have up here the landings by the SAFIS database that indicates what those state overages would be relative to their quota.

Again, the quota is on a state-by-state level administered by the commission. It is not recognized by NOAA. The second is what the landings are that are being reported by the states. When it comes to evaluating the two, the differences have amounted to a bit more than 100,000 pounds, about 129,000 pounds. This is again summing across as absolute numbers what the difference is between the two reporting methods.

When it comes to assessing an overage on a state-by-state level when we know that there has been a coast-wide overage, Addendum XX,

which was done in 2009, outlines how that reconciliation process happens. The basic way forward is you go off of the proportion of what the state is allocated and then apply that proportion to their overage and then determine how much they need to reduce in the subsequent year.

For next steps from the board, staff is seeking guidance on how to move forward in the specification process for 2016; specifically what data should be used for determining final 2014 landings. I will note that it has been an ongoing process that the commission and NOAA staff have been working on. We've been getting closer to what we think is a more correct number; but in the absence of the total agreement yet, we wanted to get more guidance from the board on how to move forward. If you have any questions, please let me know.

CHAIRMAN PIERCE: All right, Kirby has laid out the question; the question being what percent reduction do we take? Do we use the ASMFC database or the NOAA Fisheries outcome regarding the landings? Michael.

MR. LUISI: I don't want to offer a suggestion yet. I just wanted to make a point here that I believe that there are some major data concerns that need to be addressed before action is taken on a state regarding what is showing up in these different databases. Specifically, if I look up there and I look at my state and see that we've got a 55,000 pound difference in quota and catch, well, in Maryland we have 12 permit holders who divide the catch up and fish under an ITQ.

Now, I know these guys can often push the limit of their ITQ, and I think they have a 50-pound tolerance on that quota limit. The thought that we have exceeded the catch by 55,000 pounds is not believable. There has to be something in there. I just learned an hour ago, after questioning staff, that within the ASMFC landings' database we are finding duplicative

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records, which would suggest that just within the database itself there are some issues that need to be fixed before we move forward.

I wanted to get that on the record and to let everybody know that when I look at some of those numbers and I look at all the – 55 is flashing on the screen right there, 55,000; it is not that we're managing in a way to allow for something like that to take place. I think it is not reflecting the true landings of the states. I would hope that we spend the time to resolve those issues before action is taken on a particular state. Thanks.

CHAIRMAN PIERCE: Are you suggesting that we postpone action on this particular question subject to further review and reconciliation of the database; is that what you're suggesting, Michael?

MR. LUISI: Well, what I heard was that ASMFC staff are still working with the states to resolve some of these discrepancies and these concerns that are – that is what I'm hearing; that we're still – and I know my staff are still working on trying to resolve the issues at the ASMFC landings' level.

If I had to suggest anything, I would suggest that we use the ASMFC landings' information rather than the NOAA landings' information for I think more – we might have a little easier time working through that database. At this point, it would be very difficult to have a recommendation that there is going to be some action taken on states based on data that I know are wrong.

MS. KERNS: I think, Mike, what we're seeking – I think Kirby has identified and sent e-mails to technical committee members and to states already saying you have a different landing value than what NOAA Fisheries has in their books. We have directed the states to work with NOAA Fisheries in order to resolve that number.

The commission cannot resolve that number with GARFO for you. We can provide you any information and support in that sense; but that final resolution needs to be with GARFO. If there are states that cannot come to resolution with GARFO, we are seeking guidance from you as to what number we should be using; but acknowledging, as Kirby said in the memo, that if we use a number that is different than what GARFO has, in 2016 we will have two different sets of total quota numbers.

Some states will have a different quota than what the federal fishermen will be fishing on because the states' numbers for the most part are lower than what GARFO has listed; so we won't take as much of an overage out of certain states' quotas, and so therefore the total quota will be less. We do not take any quota out of a state that did not have an overage. Only states that had overages would we take away quota from. If we use a number that's different, then there will be a discrepancy between state and federal permit holders.

CHAIRMAN PIERCE: All right, with that said, is there a motion? No one is prepared to make a motion. Louis.

DR. DANIEL: I just want to make sure it is on the record, too, from North Carolina because we're not quite as brightly flashing as Maryland, but we are brightly flashing; and let you know that North Carolina's discrepancy from black sea bass is from duplicative records from NMFS. Dealers with south of Cape Hatteras permits and north of Hatteras permits are often duplicated by NMFS and GARFO; whereas, ASMFC is more accurate, in our opinion, from our analysis. That's coming from North Carolina and we have probably a significant issue with our south of Hatteras issue that we have not been able to resolve.

MR. BORDEN: Mr. Chairman, I'll move to postpone a decision on this issue until the winter meeting and ask the states to work

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with National Marine Fisheries Service and reconcile these the differences.

CHAIRMAN PIERCE: All right, a motion has been made. All right, David, is that your motion?

MR. BORDEN: Yes.

CHAIRMAN PIERCE: All right, a motion by David Borden; is there a second to the motion; Emerson. It is to move to postpone the decision on this issue until the winter meeting and ask states to work with NOAA Fisheries to resolve the differences. Motion by Mr. Borden; seconded by Mr. Hasbrouck. Discussion on the motion? Rob O'Reilly.

MR. O'REILLY: Well, if anyone is going to wait that long, and that's okay, we found out that it was a pretty quick process. The NOAA data were actually the correct data. It took about two days to figure that out; so I imagine the others can figure out fairly quickly; but if they want to wait until the winter meeting, that is probably okay for some states.

Virginia is not over, there are other states that aren't over, so there won't be an impact, but I think the important question is what do we do for the future and how do we resolve this? We had a lot of situations with other species with I heard the double-counting. This time, from what I understand from my staff, ACCSP had some missing data. I mean, really, it is the future we need to think about; and if we can get some advice on that from the technical committee or others; that would be great.

DR. DANIEL: I'm wondering about this "ask states to work with NOAA Fisheries"; that has not been very satisfactory. I mean, ASMFC numbers are right; and that has been confirmed at least from my staff for our landings. Maybe if NOAA would work with ASMFC to explain why they can't do that instead of putting the onus on the ones that are right; that would be a better motion.

CHAIRMAN PIERCE: Okay, point well made. Toni.

MS. KERNS: Louis, I understand your issue; but when we pulled the ACCSP data, which is what we would pull sometimes, some of that data is not the same as what GARFO has and what the state has. The state really is the authority here in what your final landings are. What the commission has is what you have given us. We don't know the ins and outs of your data like your data folks do.

If we can help you guys communicate with NOAA, we are happy to do that and to facilitate that discussion; but the state is the one that knows their data the best. Any state that has any discrepancy, even if it is five pounds, we highly encourage you to work with GARFO on those five pounds so that we know what number we need to be using. Almost every single state has a discrepancy from what is there; but because we are so close to the commercial quota, every single pound will make a difference here.

CHAIRMAN PIERCE: Unless there is fierce opposition to this motion, I'm going to call the question. Is there a need for a caucus? All in favor of the motion please signify by raising your hand; any opposition; any abstentions. **All right, the motion is adopted on a vote of eleven to one.** All right, on to the next item of business – it is now 3:40 so we have five minutes left.

**UPDATE ON MID-ATLANTIC FISHERY
MANAGEMENT COUNCIL PRIORITIES**

Four o'clock is the time for the starting of the next board meeting. Let's see if we can make some quick progress on the remaining two business items. The next is discuss management priorities for scup and black sea bass amendments. There is some background information provided in the document that has been prepared by Kirby. We are supposed to

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have an by Dr. Moore; is that true? Chris. By the Chair; okay.

MR. RICK ROBINS: Good afternoon, Mr. Chairman; Rick Robins, Chair of the Mid-Atlantic Council. I appreciate the opportunity to be with you this afternoon. I would like to echo your compliments about Jason McNamee's fine work and all the work that went into the black sea bass reconsideration. That was not a small project we're undertaking.

It has been a long time in coming. This has been an extremely constrained fishery; so this is critical relief that reflects a lot of very fine technical work that went into this and was done in a collaborative way. The peer review process that ultimately ensued was also I think very collaborative and constructive; so I appreciate all the work that went into that.

By the same token, I don't want anybody to think on the council side that we're resting on this. This remains a very constrained fishery. This is a million pound increase, which is badly needed, but we remain very concerned about the need to continue to explore the overall performance of that fishery. I think the proposed benchmark assessment would give us the opportunity to do that.

In terms of that, we're already considering what sort of adaptive management approaches we might consider ultimately for quota-setting in the event that doesn't put us in the position that we need to be in down the road. We did have a discussion about our priorities at the October council meeting in executive session; and there was a discussion about black sea bass.

The issue that came up there was the fact that there is the potential the way the accounting requirements are within the FMP; that if the commercial quota is exceeded or it is expected to be exceeded in a given year, the agency might step in and close the fishery prematurely. That sets up significant geographic problems for

the states in which the fishery hasn't yet been fully prosecuted.

There are some states like the state of Virginia that has an ITQ System. Mike Luisi described the system in Maryland that functions similarly. Those fishermen may wait until late in the year to try to catch their quota; so if the fishery is closed prematurely, they're not going to be able to do that. That concern was brought forward in the executive committee discussion. A number of us thought that we should prioritize an amendment to address that concern.

Staff pointed out that we didn't have adequate resources to take on the summer flounder amendment, which is expected to be comprehensive and quite intensive in its nature, that we were working closely with the commission on, and also do the scup amendment and black sea bass. Some members felt that black sea bass at least preliminarily in that discussion in executive committee was an issue that was more pressing.

As you know, the scup issues are still out there; and that is the overall efficiency of the allocation between commercial and recreational and also the allocation seasonally among the various commercial quotas. That initial allocation between the two sectors is probably not efficient at lower quota levels; but we've been able in recent years at least to operate with adequate headroom I think for both sectors; but that remains a long-term concern.

It not that the concern has gone away; it is that the black sea bass issue was brought forward. I think what will be helpful at our December meeting is to put some time on the agenda, when we're jointly convened, so that we can talk about if we do in fact move forward with the initiation of a black sea bass amendment what items and focal points people would want to see in that; so that we can have some discussion between both the council and the board. That's still in draft form so we will have

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a second meeting on priorities at our December council meeting; and if we were to scope that, it wouldn't be until the first quarter of 2016. That's all I have on that, Mr. Chairman. I'd be glad to take any questions.

CHAIRMAN PIERCE: Thank you, Rick. No action is required by the board. A very good presentation has been given by Rick as to what is going on at the Mid-Atlantic Council level relative to priorities. Any questions for Rick? Tom Fote.

MR. FOTE: I don't have a question, but I figured I take this opportunity while I'm sitting here. It was my luck to be with Rick, Chris Moore, Garden State Seafood, and Nature Conservancy at a luncheon on Thursday. It was an usual award they received from the three groups working together.

They did an outstanding job working on deep-sea corals and they were recognized by Monmouth University for that interesting blend of bringing three groups usually arguing with each other and getting them to agree on a thing that is basically going to stand up and protect the deep-sea corals. They were also in good company.

Dr. Terry Garcia was there to receive the national award, a former NOAA employee, and Dr. Silvia Earle was there also. I was lucky; I had received one of those award in previous years; so it was my great honor to be there to see them receive that award and see them all standing together; a well-deserved award..

MR. O'REILLY: I just wanted to comment and thank Rick and also Chris Moore for the opportunity that we may have this amendment. It has been very important. What Rick didn't mention is also there is a market force. If states aren't held to the quota, you heard Toni Kerns explain there is accountability; but eventually in two years states will assume the surplus that they managed to harvest; but while that is going on, it is an impact on the market as well.

If you looked at the data today, you would see that it is not only IFQ or ITQ states that could suffer from a closure; it can be some other states as well. This will be important to work out and to really get down to the fundamentals of how we can have a little bit more equity in terms of this quota. I appreciate that effort going forward.

MR. ROOTES-MURDY: I just wanted to make clear as David Pierce pointed out before, there is not the need for a motion on this update from the council; but just given that the board is in agreement with the council in moving forward and prioritizing a black sea bass amendment ahead of the scup amendment. The reason why it is important to note is at the August meeting the council and commission were in agreement with starting a scoping process for scup. This would be shifting that; so long as the board is in agreement with doing that; that's fine.

CHAIRMAN PIERCE: So unless there is any objection, we'll proceed as the Mid-Atlantic Council has decided to move; and that is to work on the new black sea bass amendment, to give that the priority. I see no opposition to that.

**CONSIDER 2015 FMP REVIEWS AND
COMPLIANCE**

CHAIRMAN PIERCE: All right, the last item on the agenda is to consider the 2015 FMP Reviews and Compliance.

In the interest time, I'll simply say that the plan review team has examined all of the compliance reports provided by the different states and everyone is in compliance. There is no problem with that, fortunately. However, there is needed action to conclude board business today; and that is the request from Delaware for de minimis status for summer flounder and for scup. Do I have a motion to that effect? Pat.

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MR. AUGUSTINE: Mr. Chairman, I move that the board accept Delaware's request for *de minimis* status for summer flounder and scup.

CHAIRMAN PIERCE: Motion by Pat Augustine. Is there a second to that motion; Rob O'Reilly. We have a motion on the floor to approve Delaware's request for *de minimis* status for summer flounder and scup. Any discussion on the motion? Yes.

MR. MILLER: Just some clarification, Mr. Chairman, that *de minimis* for Delaware for summer flounder; that refers to commercial only?

CHAIRMAN PIERCE: I'll turn to staff on that. It doesn't indicate so I'll ask for clarification.

MR. ROOTES-MURDY: Yes; it is just for commercial.

CHAIRMAN PIERCE: Thank you for that clarification, Roy. Any need to caucus? I see no need to caucus. All those in favor of the motion please signify by raising your hand. **Okay, it is unanimous; so the motion has been approved.** The next item of business is other business. Toni.

MS. KERNS: We just need to actually approve the FMP reviews as well. You do all three together.

CHAIRMAN PIERCE: **For that, we need a motion then to approve all of the FMP Reviews for Scup, Sea Bass and for Fluke; a motion to that effect.** Bill Adler.

MR. ADLER: So moved.

CHAIRMAN PIERCE: Second would be David Simpson. **Discussion on the motion? I see none; all those in favor. Unanimous.**

OTHER BUSINESS

CHAIRMAN PIERCE: Other business. Kirby has some other business.

MR. ROOTES-MURDY: It was included under the meeting briefing materials. The council, at the end of the August joint meeting, passed a motion to have the commission look at landings' flexibility and try to address it through the commission process. This was asked to be added to the agenda as a discussion item. There is no action to be taken at this point on the item; but if the board wished to discuss it and provide any comments to the council, staff can work to do that at this point.

CHAIRMAN PIERCE: If there is any desire to comment on that, I would suggest it be done directly with council staff because we are out of time and we have other business to take on. In addition, there is plenty of opportunity to offer up perspective comments to the Mid-Atlantic Council as it moves forward with its scoping process on this and other related issues for summer flounder. With that said, we'll use that approach in dealing with this particular issue.

ADJOURNMENT

CHAIRMAN PIERCE: Any other business? I see none; a motion to adjourn. I assume all approve so our meeting is adjourned.

(Whereupon, the meeting was adjourned at
3:50 o'clock p.m., November 2, 2015.)