

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SOUTH ATLANTIC STATE/FEDERAL FISHERIES MANAGEMENT BOARD

The Marriott Norfolk Waterside
Norfolk, Virginia
October 19, 2017

Approved February 7, 2018

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 2017** by consent (Page 1).
3. **Move to adopt Option 2: 36" fork length for recreational minimum size limit options, Option 2: 1 fish per person for recreational bag limit options, and Option 2: up to 6 fish per vessel for recreational vessel limit options, and Option 2: up to 6 fish per vessel for recreational vessel limit options** (Page 4). Motion by Robert Boyles; second by Michelle Duval. Motion carried (Page 6).
4. **Move to adopt option 2: soft harvest target for recreational season/allocation options** (Page 8). Motion by Robert Boyles; second by Spud Woodward. Motion carried (Page 8).
5. **Move to select Sub-option D under Option 2: 5 year/10 year average reference period** (Page 8). Motion by Michelle Duval; second by Joe Cimino. Motion carried (Page 9).
6. **Move to adopt Sub-option F under Option 2: 3 years landings monitoring timeframe** (Page 10). Motion by Michelle Duval; second by Robert Boyles. Motion carried (Page 10).
7. **Move to adopt Option 2: 33" commercial minimum size limit under section 4.2.1 and adopt a possession limit of no more than 2 fish per person, not to exceed 6 fish per vessel** (Page 12). Motion by Michelle Duval; second by Robert Boyles. Motion carried (Page 12).
8. **Move to adopt Option 3: a *de minimis* program for recreational fisheries only** (Page 14). Motion by Lynn Fegley; second by Spud Woodward. Motion carried (Page 14).
9. **Move to adopt Sub-option B: the ability to match an adjacent non-*de minimis* state and Sub-option D: recreational minimum size of 29"** (Page 17). Motion by Lynn Fegley; second by Roy Miller. Motion carried (Page 18).
10. **Move to recommend to the Commission the approval of the Cobia Interstate Fishery Management Plan as amended today** (Page 19). Motion by Robert Boyles; second by Michelle Duval. Motion carried (Page 20).
11. **Move to initiate an addendum that would allow Maryland to re-open its pre-existing commercial black drum fishery under a 28 inch minimum size and a 10 fish daily vessel limit** (Page 23). Motion by Lynn Fegley; second by Malcolm Rhodes . Motion carried (Page 23).
12. **Move to accept the 2017 FMP Reviews and State Compliance Reports for black drum, red drum, and spotted seatrout and approve *de minimis* requests for New Jersey and Delaware for both red drum and spotted seatrout** (Page 27). Motion by Malcolm Rhodes; second by Chris Batsavage. Motion carried (Page 27).
13. **Motion to adjourn by Consent** (Page 28).

ATTENDANCE

BOARD MEMBERS

Heather Corbett, NJ, proxy for L. Herrigthy (AA)	David Bush, NC, proxy for Rep. Steinburg (LA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Michelle Duval, NC, proxy for B. Davis (AA)
Roy Miller, DE (GA)	Robert Boyles, SC (AA)
John Clark, DE, proxy for David Saveikas (AA)	Malcolm Rhodes, SC (GA)
Craig Pugh, DE, proxy for Rep. William Carson (LA)	Patrick Geer, GA, proxy for Rep. Nimmer (LA)
Rachel Dean, MD (GA)	Spud Woodward, GA (AA)
Ed O'Brien, MD, proxy for D. Stein (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Lynn Fegley, MD, proxy for D. Blazer (AA)	Wilson Laney, USFWS
Joe Cimino, VA, proxy for J. Bull (AA)	John Carmichael, SAFMC

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

Ex-Officio Members

Staff

Toni Kerns
Robert Beal

Mike Schmidtke
Louis Daniel

Guests

Jack McGovern, NMFS

The South Atlantic State/Federal Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Hampton Roads Ballroom V of the Marriott Waterside Hotel, Norfolk, Virginia, October 19, 2017, and was called to order at 12:38 o'clock p.m. by Chairman Jim Estes.

CALL TO ORDER

CHAIRMAN JIM ESTES: Good afternoon. I would like to call the South Atlantic State/Federal Fisheries Management Board meeting to order. My name is Jim Estes. I am the Administrative Proxy from Florida; and I will be guiding us through the meeting today.

APPROVAL OF AGENDA

CHAIRMAN ESTES: The first part of our agenda is the approval of the agenda.

I have one minor change right before we start talking about cobia. Mr. Laney wants to make an introduction. We'll do that. Are there any other suggestions to change of the agenda? Oh excuse me; Mike is also going to talk about the cobia stock ID workshop after we finish cobia. Are there any other changes? Yes, Mr. Bush.

MR. DAVID E. BUSH, JR.: Just a quick question. I didn't see it on here and I wasn't sure if it was planned for today. We do have some folks from out of town. I wondered if there would be any opportunity for public comment.

CHAIRMAN ESTES: I've already talked to them and told them that we didn't think that we should take public comment on the cobia issue right now.

MR. BUSH: Thank you.

CHAIRMAN ESTES: Are there any suggested changes to the agenda; any objections to approval of the agenda? Seeing none; the agenda is approved by consent.

APPROVAL OF PROCEEDINGS

You all have proceedings from our August 2017 meeting. Are there any suggested changes to those proceedings; any objection to approving those proceedings?

Seeing none; those proceedings are approved. Okay now I guess it's going to be up to Dr. Daniel. Excuse me; any public comment on items not on the agenda? Seeing none; I guess we'll turn it over to Dr. Daniel to talk about cobia.

INTRODUCTION OF GRADUATE STUDENTS

CHAIRMAN ESTES: Hang on just a minute. Let Wilson do his introduction first.

DR. WILSON LANEY: I am pleased to introduce to the Board, we have two graduate students with us today, and I understand, Dan Crear from the Virginia Institute of Marine Sciences. Dan wave your hand there; and then also a student of Dr. Jeff Buckel at N.C. State, Riley Gallagher is with us, Mr. Chairman, and your pleasure, did you want them to just say a sentence of two about what it is they are going to be doing?

CHAIRMAN ESTES: I think that we would be interested in that thank you.

MR. DAN CREAR: Hi, so my name is Dan Crear and I am a PhD student at VIMS; working under Kevin Weng. One of the pieces of my dissertation is looking at the effects of climate change on cobia distribution. To do this briefly, I'm looking at tagging cobia; and also doing some physiology experiments on them to try to come up with a suitable habitat model. Then use climate models then to try to predict or forecast where cobia may be in the future under our changing climate.

MR. RILEY GALLAGHER: Hi there, my name is Riley Gallagher; first year Masters at N.C. State working under Jeff Buckel. Similar idea here, trying to get as many tags out as possible to do survival stock structure; and look at genetics of cobia, also get sort of a movement component

into the project with a postdoc and myself the Master student under this CRFL fund.

DR. LANEY: Thank you, Mr. Chairman for your indulgence; and we're glad to have you two gentlemen with us, and I hope you'll make some good network connections while you're here.

COBIA FMP FOR FINAL APPROVAL

CHAIRMAN ESTES: Thank you, Wilson. Let's dig right into the cobia management plan, Dr. Daniel.

DR. LOUIS B. DANIEL, III: Hello South Atlantic Board. I am here today to go over the public comments that we received on the cobia FMP, and to determine moving forward and the various options that you will be considering. That's where we are in the document development timeline. Board considers the final action on the draft fishery management plan.

REVIEW OPTIONS AND PUBLIC COMMENT SUMMARY

DR. DANIEL: Again, as Toni indicated in the previous meeting, if the Board does approve this the Commission will approve it at their November meeting, special meeting to deal with menhaden management. You probably don't need it, but here's a quick background summary of the issues associated with cobia. There is a federal ACL of 620,000 pounds for the recreational fishery; 50,000 for the commercials.

Landings have been exceeding the ACL. Most landings are from Georgia to Virginia in the recreational fishery; and in the commercial fishery the majority of the landings are coming from North Carolina. It is somewhat of a bycatch fishery; although that is starting to change somewhat, in that folks are directing on these fish.

DR. DANIEL: Getting right into the public comment summary, during the public comment period we received 44 written comments; and the majority (41 of those comments), were really not specifically related to any of the

management options in the FMP. The first thing I'm going to do is go through those comments that were not specific to any specific options in the plan; but just provide the general opinion that we received from the various public comments and public meetings that were held.

In essence, the majority in the public comments indicated that they would like to see a delay in any ASMFC involvement until after an updated stock assessment is completed. Thirteen of those comments also supported the use of any new Virginia mandatory reporting data from their recreational fishery. That was the overwhelming opinion. There were also concerns with the quality of the MRIP data and its use in management. That was pretty ubiquitous up and down the coast, and concerns with the current southern boundary of the Atlantic migratory group cobia at the Georgia/Florida line and its impacts on allocations. Those were consistent themes and consistent issues with the public comments that we received. At the public meetings there was a slight variability in the public meeting summaries from Virginia, North Carolina and those from Georgia and South Carolina.

The major theme at the Virginia and the North Carolina hearings was to delay any action until a new stock assessment is completed; or until full management authority is granted to the ASMFC. Essentially, no complementary plan, no working with the councils, waiting to do any kind of plan activity until the ASMFC has full management authority.

All regions in the public meetings expressed concerns over the stock boundaries and the quality and reliability of the MRIP data. The South Carolina and Georgia meetings were more concerned with the EEZ closures; the impacts of the federal closures and on closing the EEZ, and the disproportionate impact that has on the southern states as opposed to North Carolina to some degree, and Virginia to a larger degree.

REVIEW COMMITTEE REPORTS

DR. DANIEL: AP Comments, I attempted to put together a conference call after the public comment period was closed to get the APs preferred options. I really didn't get any response. I had one member respond to me; and so the meeting was not held. I did receive pretty extensive public comments from one member who attended; I think from South Carolina, who supported Option 2 and provided specific comments on the size limits, bag limits, and vessel limits options. But then he also indicated an interest in a spawning season closure of some length in early summer.

He also related concerns about methyl mercury in cobia and public awareness of these levels, and concerns again with the quality of the MRIP data. The only other AP member I heard from just told me he wanted to be on record as supporting the allocation option that best advantaged North Carolina. That was the AP summary. I will stop there, Mr. Chairman, for any questions on the public comment summary thus far; and if there is any concern about moving forward.

CHAIRMAN ESTES: Yes sir, Robert.

MR. ROBERT H. BOYLES, JR.: Maybe not a question for Dr. Daniel as much as it might be for John Carmichael or Dr. McGovern. I note a particular comment, and I think it's the House Appropriations language regarding the cobia stock assessment, and was curious if someone could comment on the timing of the next stock assessment.

DR. DANIEL: From our understanding Mr. Boyles, Mike is going to go over the schedule for the Stock ID Workshop once we're completed with the FMP. Then once that's completed the stock assessment is expected to move forward sometime in '19 or '20. I don't know the exact data at this point. John may be able to give us an exact date.

MR. JOHN CARMICHAEL: Yes thank you. That's right the Stock ID Workshop will be held this spring. We're looking at a data workshop for this project sometime in late November, 2018. We will go to the South Atlantic SSC with schedule and terms of reference at their April, 2018 meeting. It is schedule to be completed and to the council, the assessment in late 2019. I think we would hope to have it to the SSC for their October, 2019 meeting. Then in that case it would go to the Council in December of 2019. This is of course very much contingent upon the stock ID process playing out as scheduled and as planned, and being able to develop a stock ID recommendation through that workshop and the subsequent peer review.

CHAIRMAN ESTES: Yes, are there any other questions? Robert.

MR. BOYLES: Follow up if I could, maybe a question for Joe. Joe, I know that we've been working; geneticists on our staff have been working with anglers to the north in North Carolina and Virginia specifically. Any sense of where we are with respect to data collection, sample collection?

MR. JOE CIMINO: Yes, we've been very successful with sample collection. I couldn't say and I wouldn't want to speak for VIMS that all samples will be processed. But they are well aware of the date. We've given two different preliminary dates; and they'll make as much available as possible.

CHAIRMAN ESTES: Okay, any questions of Louis on the public comment? Yes, Ma'am.

DR. MICHELLE DUVAL: Not so much a question for Louis, Mr. Chairman, but I did just want to try to address some of the concerns that stakeholders brought forward; in terms of timing and ASMFC involvement in a plan and not having any ASMFC involvement unless and until complete authority could be transferred over to ASMFC. I understand that and hear that and appreciate that; and I appreciate also that folks would really prefer that we be able to simply

exist under the management that we've had for 25 years of two fish at 33 inches.

You know unfortunately the law constrains us to do otherwise; and that's why we've elected to move forward with this fishery management plan. In terms of the timing, it is really difficult to line up the timing of things such that we know that when management body takes over a species another one immediately disengages from the process. I think we're trying to get those things lined up as quickly as possible.

CHAIRMAN ESTES: We heard from Louis that a lot of the public comment had to do with that issue. We have some folks here today that wanted to address that issue. I would like to see some reaffirmation of the Board that you want to continue going through developing the FMP today. Can I get that from somebody? Is there anybody that opposes going through and continuing with what we started today? Seeing none; I guess we go forward.

CONSIDER FINAL APPROVAL OF COBIA FMP

DR. DANIEL: Here we go. I've tried to put this in as logical an order as I possibly can; so if it's not it is all my fault. What I've got up here, these are the complementary measures on the left, the recreational fishery that the Council currently employs through Framework 4. On the right hand side are the three primary action items 4.1.1, .2, and .3 that address those exact same complementary measures. Just keep that in mind as we go through the next couple of slides.

I keep messing her up next to me. She's going to shoot me. All right, so the first issue is in Section 4.1.1 Recreational Size Limit. Option 1 was status quo, no coastwide size limit. Option 2 was the coastwide size limit of 36 inches fork length. Please understand that in all these discussions and deliberations, it is expected that states would be able to select a total length equivalent to the fork length requirement. In terms of public comment on this one issue, we had 26 written comments from the Virginia Saltwater Sportfishing Association that supported Option

1, which was no size limit until there is a plan; and one AP member that supported Option 2. Now if I can go through the next three then we might have a way to do a combined motions or however you want to handle it. But this I thought was probably a pretty good way to do it. The next one is the bag limits, 4.1.2, which Option 1 was no coastwide bag limit.

Option 2 was a coastwide bag limit of 1 fish. Those were the alternatives you selected to move forward to public comment, 26 public comments again VSSA supported Option 1, no bag limit, and one AP member supported Option 2. Then the recreational vessel limit options 4.1.3, status quo no limit and Option 2 was up to 6 fish per vessel.

Again, VSSA supported Option 1, no limit and one AP member supported a maximum vessel limit of 3 fish per vessel. Those are the three options. Those are the three issues that would serve to either complement or not the South Atlantic's recreational management measures of bag, size and vessels limits, under Sections 4.1, 2, and 3. Robert.

MR. BOYLES: If you're ready for a motion I would make one.

DR. DANIEL: I'm ready.

MR. BOYLES: I would make a motion that we adopt Option 2 for recreational size limit options, Option 2 for recreational bag limit options, and Option 2 for recreational vessel limit options. If I can get a second I would explain my motion.

CHAIRMAN ESTES: Michelle, second. Yes sir, Robert.

MR. BOYLES: I certainly appreciate constituents interest in holding off until we get either the stock assessment sorted out or updated, or just until some other time. But clearly given the historical overages we've seen in this fishery, I think it's just not responsible for us as managers to delay action. With respect to those

constituents who would like to see us delay action, I just don't think in good conscience we can walk away from this.

CHAIRMAN ESTES: Discussion on the motion, are there any other discussions? Yes sir, Mr. Bush.

MR. BUSH: There is obviously a lot that goes into this, but understanding some of the conversation at the South Atlantic meeting that we had recently as well, there was significant discussion as to the impacts of complementary measures or anything taking place before they actually figure out what's being managed and where it's being managed at. I know that quite a few states expressed interest in holding off until we actually get some of this figured out; because they have no idea how it's going to impact them.

CHAIRMAN ESTES: Any other questions or discussion about the motion on the table? Adam.

MR. NOWALSKY: This plan is going to have very little impact on New Jersey's fishermen. But I would be remiss if I once again did not offer our experiences with recreational concerns; and the items in this plan. Specifically I hear the concern about, we would be remiss if we didn't respond to these harvest overages that are occurring. MRIP was never intended to be accurately depicting landings on an annual basis, much less a pulse fishery like this as I understand it. The Board can move forward as they see fit; but I just don't think we can go ahead. The public has certainly weighed in. We've had a lot of discussion about it. I just don't think we could leave here. I can't leave here knowing that we're acting on these massive overages that the resource needs for its conservation with all the questions about the catch data. I think it's important to have that on the record; and I think it at least responds to the concerns we've heard from the public, as Dr. Daniel has outlined here.

CHAIRMAN ESTES: Michelle.

DR. DUVAL: Thanks for those comments, Adam. You know we have debated this at the South

Atlantic Council. We have written multiple letters in frustration. We've asked for recalculation of the 2015 and 2016 MRIP estimates of cobia. We unfortunately did not receive a very satisfactory response to that request.

We've asked for the MRIP program to address exactly the concerns that you've raised. We've discussed the fact that MRIP was never designed for pulse fisheries like cobia; it wasn't designed for most of our rarely intercepted recreational species. In the South Atlantic we are struggling with the same thing.

I think from our perspective, ASMFC management offers some ability to be a bit more flexible; particularly if we can move to ASMFC being the sole management entity for this species. I think you've heard that there have been a number of efforts underway; particularly in Virginia, with regard to alternative forms of reporting. The South Atlantic Council is undertaking a couple of different pilot projects with regard to alternate methods of reporting that we hope to be able to expand to cobia.

I think if you have questions you can ask John Carmichael about that. I recognize all of those concerns. I think for the future management of this species, this body offers the most flexibility and the greatest ability to be able to respond to those stakeholder concerns; and I absolutely share the frustrations about the inability of the program that we have to use under the federal system for tracking harvest of these species.

CHAIRMAN ESTES: Rachel.

MS. RACHEL DEAN: I was just wondering, for clarification purposes and because I know we have so much stakeholder involvement in this. Can we specify Option 2 in this motion; so that we can kind of operate with a little bit more clarity for somebody who may be following along?

CHAIRMAN ESTES: Good idea, thank you; while we're getting that Joe.

MR. CIMINO: I think this is a little more to your very first question than it is to the motion. It certainly gets to what Adam and Michelle were speaking to. I'll borrow a page from Robert's book and bring in a Ben Franklin reference. There is a famous story that as he sat through the Continental Congress Conventions he claimed he had been staring at the wood carving of the sun on the horizon; and he wasn't sure if it was a rising sun or a setting sun.

At the end of that he concluded it was a rising sun. I stood on this deck here and looked across at Nauticus and the 76th Annual Meeting logo of a cobia on top of Virginia with a striped bass below. I thought you know that's pretty appropriate. It seems like cobia is rising here. To Adam's thought that this is just about MRIP estimates; it really isn't. Going back to the last stock assessment we knew that there was a great deal of growing effort in this fishery; especially here in the Mid-Atlantic. I don't see any other way around it than addressing some of the things that we're trying to address right now. I think that needs to happen now.

To one of Adam's other points, he asked earlier in the week what species only has one amendment. Later on it will be a discussion on speckled trout where that's relevant; because speckled trout's been around with an FMP since the early '80s or mid '80s and no amendments. But here I don't see cobia being that type of management. I think within just a year or two we'll be talking about Amendment 1 to this cobia FMP, once we're dealing with this new stock assessment. I think it's time to move forward. This motion will have my support.

CHAIRMAN ESTES: Rachel, is that clearer to you? Is there any more discussion about the motion? Seeing no hands; is there any opposition to the motion? Motion passes unanimously.

DR. DANIEL: Moving on to the Recreational Season Allocation Options. This one is going to be fine. I hope that some of the issues in here address some of Adam's concerns; and if they do

great, if they don't and you still have questions I'm happy to try to answer those. What we set up here is a flow chart; thanks to Mike and Kirby, looking at the three options for the recreational season allocation.

One option, and I hope I get my vernacular correct here; but Option 1 is a hard quota with shares of the recreational harvest limits with various options for the state-by-state allocation. Option 2 are soft targets of the coastwide recreational harvest limit; and Option 3 is the coastwide bag and size limits that currently exist in the federal FMP that has no distinction amongst the various states, so it's managed from Georgia to New York.

Likewise there is a sub-option which you requested that I think may address some of the concerns on at least the annual variability in the MRIP data; and that is where you can select a two or three-year average under Option 2, to try to smooth out some of those difficulties that we see in the MRIP data.

I'll go through first Option 1; again is a state-defined seasons harvest control measures. There is a state-by-state hard recreational quota share of the coastwide harvest limit. Those shares are divided among non de minimis states only; and we'll get into a discussion of de minimis later; and overharvest is paid back in the following year, and underharvest does not carry over.

Option 2: Option 2 is state defined seasons and harvest control measures as well. But in this circumstance state-by-state soft recreational harvest targets are based on the coastwide RHL. Again, the limits are divided among non de minimis states. But the average annual landings evaluated against state allocated quotas are over a multiyear period.

Overharvest is paid back in the following multiyear period, which basically means that you've got to make a decision here on a 3, the 5, the 10, or the 5 and 10-year average reference period. Then you make a decision whether or

not the overages are averaged over a two or three-year period. This option does allow for you to relax measures if you have an underharvest; persistent underharvest. We look at these various options. The distribution is essentially the same; it's just the manner in which it's handled with an overage or an underage is different between Option 1 and Option 2, so a very clear distinction between a hard quota in Option 1, and a soft target in Option 2. The historical landings reference period here in this table basically goes through and provides you the three-year average landings, in weight, for the 3 year, 5 year, 10 year and 5 and 10-year averages.

It goes through and it provides you and shows you what those reference period landings would be; and the percentage allocated to each state. If we just use the far right D column example for the 5 and 10-year average; Georgia would receive a 58,000 pound allocation, which is around 9.5 percent of the coastwide recreational allowance.

South Carolina is close to 75,000 pounds; around 12 percent, North Carolina 236,000 pounds, about 38, 39 percent, and Virginia 244,000 pounds or around 30 percent of the coastwide ACL. Then again you're selecting in Option 2 here you're looking at whether you're monitoring those various components for two years or three years.

If you exceed it in the average over three years, you exceed your ACL; then you've got to come up with a plan to try to reduce your harvest. In Option 3, which there was very little if any support for Option 3, I don't think there was any support for Option 3. We'll get to the public comment here in just a second. The coastwide season and daily vessel limits are exactly the same as what's currently allowed in the South Atlantic.

It doesn't distinguish between the states; and once the quota is projected to be met, the federal government can either reduce the vessel limit or close the fishery in the EEZ. Our

understanding for the folks; especially for the folks in South Carolina and Georgia is that there will be an effort to further reduce the bag limit, before actually closing the season in the EEZ, and try to use the closure in the EEZ as a last resort.

But that's Option 3, which is essentially status quo; the current Framework 4 options. Option 3, this is just the options that are actually contained out of the South Atlantic Council's Framework 4; which basically indicates what the coastwide season would be under Option 3 with the various vessel limits.

These are the specific comments that we received from the public at the various hearings and in letter form on the various options. There was one person that supported Option 1, which is the hard TAC. There was one person that supported Option 3, which was the current status quo South Atlantic action, and there were 28 folks that supported Option 2.

The reference period, there was one in favor of A, one in favor of B, 5 in favor of C, and 2 in favor of D; so the dominant one C is 10-year average. Four people selected the two-year average and one person recommended the three-year average for the timeframe. That is the option for recreational seasonal allocations; and I will stop there for questions and see if you have any, and if not get your debate.

CHAIRMAN ESTES: Let's try it this way. Let's go backwards a little bit. I think the first thing that we need to do is pick Option 1, 2, or 3; so that's a hard quota, a soft quota, or leave it like it is. I think it would be easier to go through this by doing that. Are there questions about that or discussions or a motion about that? Robert.

MR. BOYLES: I make a motion to select Option 2.

CHAIRMAN ESTES: I have a second from Spud; discussion. You all get along so well. Do you need to think about it for a second? Lynn.

MS. LYNN FEGLEY: We were just going to request again if we could clarify what Option 2 is in the motion itself; that would be very helpful, thank you.

CHAIRMAN ESTES: Yes, good idea, right. We're working on that right now. While we're working on that does anybody have another Ben Franklin story?

MR. CIMINO: We've met our quota.

CHAIRMAN ESTES: Spud.

MR. A.G. SPUD WOODWARD: I have one. I'm sure everybody knows this. But you know Ben Franklin was an advocate of the wild turkey being the national bird and not the bald eagle; because he considered the bald eagle to be a scavenger, and the wild turkey to be a worthy icon of our country.

CHAIRMAN ESTES: Thank you, Mr. Woodward. Okay is that clarity good, Lynn? **Okay I'll ask again, any discussion on this option? Is there any opposition to this option? Seeing none; Option 2 passes.** Okay let's go to the sub-options.

DR. DANIEL: If we go back to the Table 4.1.4 back two slides. This is the decision that you would make as to whether or not you select Option A, 3 years, B, 5 years, C, 10 years or D the 5 and 10-year average. That 5 and 10-year average was an option that was developed by the special Board committee helping to address some of the options that were being developed; so that came from them.

CHAIRMAN ESTES: Dr. Duval.

DR. DUVAL: I just want to note that none of North Carolina's stakeholders actually specifically commented on this option. They were commenting more on Option 2 specifically; and so I just wanted it noted for the record that they didn't actually provide input on this particular option, in terms of a reference period of years.

Clearly each one of these has differential impacts on each one of the four states. **I think from where we stand, we believe that Option D actually provides the fairest means of splitting this up; and so Mr. Chairman, I would make a motion to select Option D under Option 2.**

CHAIRMAN ESTES: Do we have a second for that? Joe. We'll get it up on the board and then we'll discuss it. Okay, discussion about this motion. Yes, Ma'am.

DR. DUVAL: Clearly there is a lot of interannual variability in this fishery; and I think when you look at the way each one of these different options shakes out. You know each one of them would, as I said, disproportionately have more impact on one state versus another. It seems like taking this option, which takes into account both a recent timeframe and a more historic timeframe; it gives the greatest ability to encompass that variability in the fishery. In the years that were used for this were just through 2015; so prior to any regulatory constraints, prior to the early season closure that occurred in 2016.

CHAIRMAN ESTES: Do we have any comments in opposition to this motion? Mr. Woodward.

MR. WOODWARD: Well, not so much in opposition. But I think it would be remiss of me to vote for something that doesn't give Georgia the largest opportunity for a share of the cobia resource. I mean I don't have to remind everybody we lost this calendar year to it. My fishermen generally are supportive of whatever gives us the largest opportunity; which gives us the greatest flexibility for matching season length and so forth and so on. That would be my reason for not supporting this.

CHAIRMAN ESTES: Okay, any discussion or comments in favor of the motion? Is there any other discussion or comments in opposition to the motion? I will do my job here and read the motion this time: **Move to select Sub-option D under Option 2; 5 year, 10-year average**

reference period, motion by Dr. Duval, second by Mr. Cimino. Can I see a raise of hands for all those that support this motion; those in opposition? The motion passes, 5 to 2. Abstentions, excuse me, 3, no null votes.

DR. DANIEL: The last decision item on this Recreational Seasonal Allocation Option is to discuss the landings monitoring timeframe. This was an action item that was included by the Board at your last meeting; to provide some flexibility so the management measures weren't being taken on a single point-year estimate of landings from MRIP, and that you would either use an average of the last two years or three years to determine whether or not you're over your state-specific allocation. Your public comment, four supported the two-year option and one voted support for the three-year option.

CHAIRMAN ESTES: Questions, comments or motions. Dr. Duval.

DR. DUVAL: Yes again, given the inter-annual variability in this fishery, it seems like the three-year sub-option would be the most appropriate; in terms of being able to account for that inter-annual variability. I mean I'm certainly happy to make a motion to that regard. But I would also like to hear what other folks have to say around the table.

CHAIRMAN ESTES: Other comments. Joe.

MR. CIMINIO: I know this was a big discussion at South Atlantic Council, because they have to deal with some of this stuff in accountability measures; and not just with this fishery. At times very high and possibly anomalous estimates can also haunt you for an extra year, when you have that three-year average. This is a tough choice. But I just wanted to point that out.

MS. FEGLEY: I was just going to concur that if you have a very high and anomalous spike, you would be better off trying to work that out over three years than two years.

CHAIRMAN ESTES: John.

MR. CARMICHAEL: We certainly discussed that a lot at the Council, especially with the plans that have perhaps payback or something; based on those three-year averages. One of the things we're looking at now is going to a geometric mean; because it's less penalizing over time of that individual high spike.

But I think in the case of this, with the way this is set up, you may have the ability to say if you pull that trigger well then you're going to figure out how you're going to respond to that. You may decide that if you're successful in responding to that maybe you don't count that single high year in your future evaluations. It seems like the Commission has a little bit more flexibility in dealing with that. I'm kind of optimistic it won't be as much of a challenge as it has been with the Council.

CHAIRMAN ESTES: Spud.

MR. WOODWARD: I can certainly support three years too. Just sort of building on what John is saying, I mean it's been a long time since I took a college statistics course; but I vaguely remember something called iterative outlier rejection, which is basically common sense in statistics. Hopefully if we see really anomalous things come out of the MRIP catch estimates that we will have the ability to address those for what they are; and not be very legalistic and penalize states for something that we know do not comport with reality.

CHAIRMAN ESTES: Okay, what is the will of the Board here? Michelle.

DR. DUVAL: Let's move this along. I make a motion to adopt Sub-Option F, 3 years under Option 2.

CHAIRMAN ESTES: I have a second from Robert. **Okay is there any further discussion needed for this issue? Seeing none; I'll read it into the record: Move to adopt Sub-option F, under Option 2; 3 years landing monitoring timeframe, motion by Dr. Duval seconded by**

Mr. Boyles. Is there any opposition to this motion? Seeing none; motion passes unanimously.

DR. DANIEL: Similar to the recreational options that we discussed at first, this is a similar slide that shows the current measures under South Atlantic Council Framework 4 for the commercial fishery. We're dealing just with the commercial fishery now. The proposed areas and options under the FMP with the ASMFC; which are Sections 4.2.1 minimum size limit, and 4.2.2.

Specifically Option 4.2.1 the commercial size limits was status quo, no coastwide size limit, and Option 2 a minimum size of 33 inches fork length or total length equivalent. Again, public comment 26 written comments, again from the Virginia Saltwater Sportfishing Association supported Option 1, no coastwide limits.

Two comments, one at each of the South Carolina and Georgia hearings supported Option 2. Moving on to commercial possession limits; where this has been a confusing issue: Option 1, status quo, no coastwide limit, Option 2, state-specific possession limits of no more than 2 fish per license holder, not to exceed 6 fish per vessel.

In terms of public comment, 26 written comments again from the VSSA supported no option. Two support comments, one at each of the South Carolina and Georgia hearings supported Option 2, and one comment at the South Carolina hearing recommended consideration of a per person or vessel limit. They also suggested the potential for having a commercial fishing permit for cobia. Those complementary measures, similar to what we discussed under the recreational, are contained on this slide. The two options are 4.2.1 and 4.2.2 to address commercial size and possession limits.

CHAIRMAN ESTES: Michelle, please.

DR. DUVAL: This was something that I apologize, I was remiss and I should have brought this up

earlier. To be perfectly honest it kind of slipped by me. But complementary would not be 2 fish per license holder, it would be 2 fish per person; in terms of being complementary with what the Council's regulations are.

Just to remind everybody, the regulations, the federal regulations in the South Atlantic for 25 years have been 2 fish per person at 33 inches. When the Council took action through Framework Amendment 4; which became effective I believe September 5 of this year, the only modification to that was to implement a 6-fish vessel limit.

It is still 2 fish per person at 33 inches, 6 per vessel. There is no per license holder requirement; and I believe that this type of inconsistency would actually cause significant regulatory discard. For instance, if I'm a commercial fisherman, you know many commercial fishermen in North Carolina their crew don't have a commercial license. It might be one commercial fisherman fishing with one or two crew members who don't themselves have licenses.

If I'm out in the EEZ, and I have myself and two crew members on my boat and we catch six fish. As soon as we would go into state waters in a 2 fish per license holder situation, we would be forced to dump over 4 fish. My recommendation and I hope we can do this, because it's less restrictive than what went out to public comment, is to simply change per license holder to per person.

CHAIRMAN ESTES: I believe that we can do it, because it is less restrictive. Lynn.

MS. FEGLEY: I was just going to concur, and again this affects our state minimally, but it is also true when you do this kind of thing where you have a licensee requirement like this, depending on your state's rule. You can cause a lot of unintended consequences with the moving around of licenses; which can interfere with some of your accountability on harvest reporting. It's worth keeping those unintended

consequences in mind. I would support the recommendation to change 2 per person.

CHAIRMAN ESTES: Robert, I saw your hand earlier.

MR. BOYLES: Yes, Sir just wanted to remind the Board that in South Carolina cobia are a game fish, so the possession limit from the commercial sector is zero.

DR. DANIEL: I just would feel like I would be remiss if I didn't just bring up the one point that was raised as a concern in this regard; and that was the fact that the commercial 50,000 pound limit has been very close to being exceeded, if not exceeded, and that the impacts of folks that are not necessarily bona fide commercial fishermen that have a license. That could increase the commercial harvest. Just so that everybody is aware of that potential. I'm not exactly sure where the commercial landings are at this point with the NMFS tally, but they may be close and it may be over. I just raise that as a point for your consideration.

CHAIRMAN ESTES: Dr. Duval.

DR. DUVAL: Just to answer Dr. Daniel's question. The commercial cobia fishery was closed on September 5, I believe. Dr. McGovern can probably speak better to this; but the Southeast Fisheries Science Center attempted to incorporate state waters only harvest into the landings projections this year. There are landings that are reported via federal dealers, and then there are also landings that are reported via state only dealers.

It's my understanding that the Science Center was using those verified landings that have been reported through a similar timeframe last year, and included that in its projections of cobia harvest thus far. According to the Science Center, the last communication that I had received was that we were actually at 102 percent or 104 percent of the commercial coastwide ACL.

Then the other thing I just wanted to address very quickly was that there has never been a federal commercial permit for cobia. The states in the South Atlantic were not interested in pursuing a federal commercial permit; just given the very restrictive nature of the possession limit, and really the intent that that had been managed as a bycatch fishery.

CHAIRMAN ESTES: Okay, so I think that the way to, Jack.

DR. JACK MCGOVERN: What Dr. Duval stated is correct. You do have a situation where there are dealers with permits, and then there are dealers that do not have permits. The dealers have to report that have federal permits weekly, whereas the dealers that do not have federal permits, they have a longer timeframe to report.

Then I think Virginia they get the reports from the fishermen. It takes a long time to get that information. That's why the Science Center did the projection like that. I believe a couple years ago we went over the commercial ACL; because the dealers that did not have federal permits weren't taken into account during the season and those landings didn't come in until late.

CHAIRMAN ESTES: How does the Board want to handle this? Michelle.

DR. DUVAL: I might look to staff a little bit for some assistance with this; but it was going to be my intent to make a motion to adopt Option 2 under Section 4.2.1 Size Limit Options, and then also to adopt Option 2 under Section 4.2.2 with the modification of 2 cobia per person, rather than per license holder. I don't know if staff can help sort of perfect that.

CHAIRMAN ESTES: Okay let us have just a second. Michelle, is that your intent?

DR. DUVAL: Yes, Sir it is, thank you.

CHAIRMAN ESTES: Do we have a second? Robert. Is there any discussion about this motion? Move to adopt Option 2, 33 inch

commercial minimum size limit under Section 4.2.1; and adopt a possession limit of no more than 2 fish per person, not to exceed 6 fish per vessel. Motion by Dr. Duval and seconded by Mr. Boyles, yes, Robert.

MR. BOYLES: Question for clarification, I'm sorry, I may be too late.

CHAIRMAN ESTES: No, you go ahead.

MR. BOYLES: Just for the record, the distinction between 33 inch minimum size on commercial and a 36 inch minimum size on recreational. I presume the 36 inch minimum size is designed to constrain the catch; and recognizing that the commercial ACL has until this year never been exceeded. Just for the purposes of the record, am I reading that correctly?

CHAIRMAN ESTES: Yes, I believe so. Yes, Michelle.

DR. DUVAL: The 36 minimum size limit that the Council put forward that was one measure to try to constrain harvest. Obviously there is a tipping point there, and then a 33 inch minimum size limit is also related to, this was primarily bycatch in the king mackerel fall gillnet fishery. A larger minimum size limit would induce additional discard.

CHAIRMAN ESTES: Yes, Sir, Dr. Rhodes.

DR. MALCOLM RHODES: Along that line at our meetings, I had similar concerns to the size discrepancies, and we had been at a 33 inch and talked with some of our fisheries biologists; and going to a 36 inch. I mean this is just for information for the Board; it's not affecting our decision. But going to a 36 inch fish, I was worried would unfairly disadvantage females.

But the biologist said that the 33 to 36, I think it was about 25 percent of the fish that they had caught at 33 inches were female; and it only went up to about 35. It was still less than the majority of fish at 36 inch were female. We should have no effect on the sex ratio by basically targeting the breeders.

CHAIRMAN ESTES: Anymore discussion? Is there any opposition to this motion? Seeing none; the motion passes.

DR. DANIEL: De minimis. All right here we go. The de minimis program that typically exempts states with minimal fisheries for a species from biological requirements, for cobia if we grant de minimis there would be no biological monitoring requirements in the FMP, and would allow states with minimal or episodic historical landings to keep a small number of cobia.

What were taken out to public comment were three options. One, to have no de minimis program, Option 2 would be a total de minimis program for the commercial and the recreational fishery, and Option 3 would be just the recreational fishery would be managed by de minimis. The harvest limit was reduced by 1 percent to allow for de minimis landings; so that has been taken account for in the quota.

Here is your flow chart; Option 1, no de minimis. If you select Option 2, there are sub-options that were offered by the Board at the last meeting, to have a minimum size limit of 33 inches in the commercial fishery and 36 in the recreational. That would be consistent with what you just did for Georgia to Virginia. Then there is Sub-option D, which would require all harvest, commercial and recreational be 36 inches. That would be inconsistent with what we just did for Georgia to Virginia. Other options are under Option 2 would be a Sub-option A that would allow any of the states, and there have been a lot of questions about this, to choose to match adjacent states regulations.

Essentially what that means is that because all the potential de minimis states are north of Virginia, it would essentially mean that any de minimis state north of Virginia would implement the Virginia restrictions; because there would be no more adjacent states north of Virginia, unless somebody has a specific plan and enters into the FMP.

In Option 3, for recreational only, again the states can choose to match the adjacent states recreational program or a series of sub-options here which would have a minimum size of 36 inches recreational, which is consistent with what we just did, or drop it down to 29 inches for the recreational fishery; which at the last meeting that was the estimated length at L-50, 50 percent maturity was around 28 point something. We rounded it up to 29 inches.

There would be a 1 fish per vessel trip limit at the minimum size for Sub-option C and D; so 1 fish per trip in a de minimis state. Questions have been asked, well how is the commercial fishery managed under Option 3? It's managed exactly the same way as it's managed from Georgia to Virginia.

Any commercial landings would be held to, based on what you just did, 2 fish per person, up to 6 to the vessel, a fish 33 inches total length. That would be the same from Georgia to New York, and with those landing estimates captured by the landings data, and the fishery would close once a projected 50,000 pounds is met. That would be the way that the commercial fishery would be managed under Option 3.

Going through the options again; Option 2, include the de minimis program the state's total landings for 2. There was a lot of discussion about this at the last meeting, so I want to make sure everybody is clear here that the state's total commercial and recreational landings for two of the previous three years must be less than 1 percent of the coastwide total landings for the same time period.

Again, this was to try to accommodate some of the ups and downs in the MRIP data; and the regulations would be to potentially match regulations of an adjacent non de minimis state or just simply have a 1 fish per vessel limit, with a minimum size limit of your choice. Continuing with the Option 2, a de minimis state may not match management measures of an adjacent non de minimis state.

One fish per vessel per trip limit, with a minimum size, and a de minimis state may match management measures of an adjacent or the nearest non de minimis state, or have a 1 fish per person, per vessel, per trip limit with minimum size limit. Is that clear as 40-weight? Okay. What we've got is the various options, the various size limit options.

If you want to be consistent with what you just did in the non de minimis states it is 36 inches recreational, 33 inches commercial. You have an option to go to 36 across the board in non de minimis states, and those are the options for Option 2. You go to Option 3, which is just recreational. You've got an additional option there that allows you to drop the size limit even further down to 29 inches. Recreational and commercial, Option 1 to Option 2, recreational only Option 3; with the various size limit options. Perhaps, Mr. Chairman, the way that you handled the allocation option seemed to work well. If you want to select 1, 2, or 3, and then kind of go into the specifics of each one; that may be an appropriate way forward.

CHAIRMAN ESTES: Okay let's do that. Let's go to, yes Lynn first.

MS. FEGLEY: I was prepared to offer a motion if you're ready.

CHAIRMAN ESTES: We can try.

MS. FEGLEY: Moving it along. I was going to move to adopt Option 3, a de minimis program for the recreational fisheries only.

PUBLIC COMMENT SUMMARY

CHAIRMAN ESTES: Before we go too far. We're going to talk about the public comment here.

DR. DANIEL: My bad. De minimis, one comment from the Georgia hearing supported the de minimis program, didn't care which one. One written comment and several attendees of the Virginia and Hatteras, North Carolina hearings

expressed concerns with growth and management of the fishery in Maryland.

The Law Enforcement Committee recommended consistency among the de minimis state regulations, so they're just not all over the board, because there are so many various options in there that we came up with at the last meeting that it could get confusing. That summarizes the public comment for de minimis; very little comment on de minimis.

CHAIRMAN ESTES: Spud.

MR. WOODWARD: I just wanted to offer a second to the motion, because I think it needs one.

CHAIRMAN ESTES: Thank you, seconded by Mr. Woodward. Lynn could you restate, okay I think we're getting it. Which sub-option did you move?

MS. FEGLEY: I would have to see the sub-options.

CHAIRMAN ESTES: Let's do it this way, let's make it simple. Let's do Option 3 first and then we can talk about sub-options. Okay is there any discussion about Option 3, about the motion? Seeing none; move to adopt Option 3, a de minimis program for recreational fisheries only. Motion by Ms. Fegley, seconded by Mr. Woodward, is there any opposition to the motion? Seeing none; the motion passes unanimously. Louis, if you could pull up the sub-options again, please?

DR. DANIEL: Yes, Sir. Okay so under Option 3, you've selected Option 3, so now you have to make a choice between Sub-option A or B. A is a de minimis state may not match recreational management measures of an adjacent non de minimis state. That means one fish per vessel per trip recreational limit, or you may match recreational management measures of an adjacent or non de minimis state. Essentially it's a one fish limit, and then if you select that then

you've got to select what the size limit would be; the options are 36 or 29 inches.

CHAIRMAN ESTES: Adam.

MR. NOWALSKY: If I understand these two options correctly, Option B is the same as Option A plus the ability to match? Okay, I'm seeing nods of the head. But one of the major differences here would be that if a state de minimis north of Virginia chooses to match, we would have to match size, bag, and season. However, if we don't match either by choosing not to, or through Sub-option A here, we only have to adhere to the 1 fish bag limit, the minimum size option from C or D, with no seasonal restriction.

CHAIRMAN ESTES: That's correct.

MR. NOWALSKY: I'm not sure that tells me what to do, but at least I feel better I understand what my options are.

DR. DANIEL: Well that was a better summary than I could have given of that recommendation. Yes, you're correct. If you want to be constrained by a season, then you select the option where you just complement adjacent states. If you want to not have to worry about a season, which for those of you that may not see them very frequently, and not know when you might see them, you don't have a season and you allow a year round fishery; in case somebody runs into one. Those are the two choices that you have to make.

CHAIRMAN ESTES: Okay, Lynn.

MS. FEGLEY: Yes Adam that was really well summarized. I think that the issue here for our state is because we are so closely adjoined with Virginia. I certainly have the people to my right and my left who can speak to this much more eloquently. But it is my understanding that marketing a charterboat trip for a single fish is difficult at best.

From our perspective, given the fact that the Board has now elected to go down the road of the soft target, and so the states will have some flexibility in how they manage their fisheries. It would not be particularly advantageous for the state of Maryland to be locked into a single fish trip limit; even recognizing that we wouldn't have a seasonal constraint.

I think it would be more advantageous for us to have the ability to mimic what Virginia does; because if I'm a customer, and I know I can go to Virginia and get on a charterboat and get three fish, but I can only go to Maryland and get one. I may choose to divert my money to Virginia. From a business perspective, and also from an enforcement perspective, where we are in step, I think it would be helpful. That was the rationale for that if that helps.

CHAIRMAN ESTES: Joe.

MR. CIMINO: I have some concerns with the smaller minimum size; but I understand when you're talking about a small percentage of the landings, maybe that's not too impactful on the stock. My concern would be we all know that MRIP estimates can quickly take someone out of de minimis status. What exactly procedurally happens when we realize, probably sometime around this meeting that a state no longer qualifies for de minimis status in that following year. Are they expected to get regulations in order, to be at the proper minimum size, and could they possibly do that in that timeframe?

CHAIRMAN ESTES: Let me restate, let me make sure I've got it right, Joe. State X is found, let's say it's an MRIP issue or it's a real issue. They are above the 1 percent so they are not de minimis. We find out sometime in October, if that's the case. Then they have to submit an implementation plan like the rest of the states do. Then they would have to change their rules within the state in a short time period. Is that what the issue is?

MR. CIMINO: That's my concern, yes.

DR. DANIEL: Well that could certainly happen. I mean that's the breaks of the game. I mean if you get a two of the three years, you go over de minimis and you are no longer de minimis, then you've got a mess; because then what you're going to have to do is you're going to have to figure out how to take all that quota off of the state, the non de minimis state. You're going to have to allocate some non de minimis state quota to another state; so you've got an amendment on the books, I think. That's the nuclear scenario that we're all hoping doesn't occur. But that's certainly possible.

CHAIRMAN ESTES: Spud.

MR. WOODWARD: Louis just basically described what I was going to say. I mean it would force us into amending the plan to redistribute whatever that quantity of fish is. You know if we were operating under an exclusive Commission management, we wouldn't necessarily have an ACL, but we would have something. Then we would have to redistribute it, which is what you said. Forcing us to reevaluate, and then you've got to defend whether the validity of the estimates from MRIP that caused you to go out of de minimis.

DR. DANIEL: Yes, I think it is going to be difficult; because clearly you've seen the landings that can occur in New Jersey, based on one fish reported. Really, it's going to be one of the beauties of a Commission plan is that you do have the flexibility to look at that and say, well that's just obviously an accounting problem that we're going to wait and see what happens.

I mean you've done that in the past. But yes, if all of a sudden Maryland is consistently catching 50, 60, 70,000 pounds of cobia; which is in line with the current allocations for Georgia and South Carolina, clearly you're going to have to come up with some way to allocate fish to Maryland, if they're no longer de minimis, out of the existing pot.

The question then becomes if we're a complementary plan we use the federal ACL. If

we're in a sole ASMFC proprietorship, then we've got to come up with some way to develop some type of ACL on our own; or with the help of the Science Center come up with another plan.

CHAIRMAN ESTES: Adam.

MR. NOWALSKY: The question of what we would do this time of the year, if I understand this correctly, qualifying for de minimis the state's recreational landings for two of the previous three years. We wouldn't be taking some; again if I understand this correctly, action at this time of the year, when the action would take place would be when we do the FMP review this time next year. We would have, because of the fact that this is an evaluation over three years. I think when one of these states north of Virginia that we plan to use de minimis, if they go over de minimis in one year, we don't have to take action. But we would start thinking about what we're going to do in that case.

If they go over it in two years, then at that point we would still have until the end of the following year when that FMP review takes place, when we would make a decision on whether we allow that state to be de minimis or not. We would have to have some plan in place by then; if I understand Option 3 correctly.

I'm not saying it's a great road to go down. I'm just saying I don't think it leaves us in an emergency situation as soon as Wave 4 data comes out. I think we've got a year plus to figure out how to accommodate it and we would have had warning the previous year. That is my interpretation, and again I'm seeing heads nod.

CHAIRMAN ESTES: That makes sense.

MR. CARMICHAEL: Yes I was going to make a similar point. Because of that two out of three, you have the chance to have that one year; and Adam summed that up nicely. If you're over that one year, you kind of know you've got a problem developing; and theoretically that will be addressed in the plan review. If you see that during that year that your numbers are still

running high, well then, you have plenty of warning I think; that you may be coming off de minimis in time to figure out what to do about it.

DR. DANIEL: In the spirit of the original charge to provide the Commission the maximum flexibility, Option B gives you a choice, Option A doesn't. If you want de minimis, you don't have to decide today. If you select Option B, you can decide when you submit your request or declaration of de minimis, whether you want to match an adjacent state or not. Under A, you would be required to simply match an existing state's regulations.

CHAIRMAN ESTES: Dr. Duval.

DR. DUVAL: Under A, you would be required to simply go with 1 fish per vessel, and then select a size limit.

DR. DANIEL: The reverse, right.

CHAIRMAN ESTES: Lynn.

MS. FEGLEY: I'm just going to clarify one more time. Under A, a state may not match, so under A, we would have 1 fish per vessel per day.

DR. DANIEL: B gives you the choice.

CHAIRMAN ESTES: Roy.

MR. ROY W. MILLER: I need to clarify, make sure I understand what season would apply under these two options A and/or B. Can you help me out?

DR. DANIEL: Under A, there would be no season, 365 you've got 1 fish per vessel period. If you go with Option B, and elect to mirror Virginia's regulations, you might get an extra fish to the vessel, but you're also going to have to constrain your harvest to whatever season Virginia selects. The way it is right now and Joe can correct me if I'm wrong. I believe their season starts June 1, and then it goes into like September. You would be required to match that season, if that's what you selected.

CHAIRMAN ESTES: Roy.

MR. MILLER: As a follow up, what if the selection was B, and we chose the "or" section that says have 1 fish per vessel per trip. Does the season limit apply to the "or" segment?

DR. DANIEL: No.

CHAIRMAN ESTES: Rachel.

MS. DEAN: I wanted to clarify it, because I think when we were talking about the season, it also applies to the size. We would match the size.

DR. DANIEL: Everything on the recreational side.

CHAIRMAN ESTES: Lynn.

MS. FEGLEY: I was going to make a motion, and before I do just state again that I think what we're seeing here is that Option B offers a state the most flexibility; because they can either go with a non de minimis state, in terms of size, season and bag limit, or they can revert to the 1 fish per vessel per day with no seasonal constraints. **Given that I would like to make a motion to adopt Sub-option B, the ability to match a non de minimis state.**

CHAIRMAN ESTES: Second, Roy. Mr. Clark.

MR. JOHN CLARK: I was just wondering if we could amend the motion to include the minimum size, Sub-option D, the minimum size is 29 inches for the recreational fishery for the de minimis option.

CHAIRMAN ESTES: Is that okay? Roy, are you good with that too?

MR. MILLER: Yes.

MR. CARMICHAEL: Shouldn't that clarify an adjacent, isn't that an adjacent non de minimis state?

CHAIRMAN ESTES: Yes.

DR. DANIEL: One point of clarification, and I stand to be corrected here. But the 29 would only apply if you select the 1 fish option, so you can't select the other state's option and then add a 29 inch.

CHAIRMAN ESTES: Adam.

MR. NOWALSKY: Based on previous actions, I would believe that if a state chose to implement a higher minimum size limit, because that's more conservative, they would have the ability to do so. But they could go no lower than 29 inches.

CHAIRMAN ESTES: That would be my understanding, right.

DR. DANIEL: Yes.

CHAIRMAN ESTES: Michelle.

DR. DUVAL: To Adam's point, you know I've had a little bit of conversation with Lynn about this. But I just wanted to put on the record that understanding that there if a state chooses to go with a 1 fish per vessel, and a 29 inch minimum size limit. You know that might be something that I would want to see revisited; if it was selected for multiple years, because although I recognize that there are small fish up in the head of the bay. You know we also have small fish in Pamlico Sound as well. I would ask that those states consider in the future phasing in a higher minimum size limit to match the rest.

CHAIRMAN ESTES: Anymore discussion about this? Joe.

MR. CIMINO: I appreciate how much discussion I generated with my rather incomplete thought last time around. Specifically what I was getting at was my concern that basically a fishery evolves around this smaller size limit that may eventually pull somebody out of de minimis status. Then it will take a certain amount of time for us to find that; and then a certain amount of time for action to be taken.

I think perhaps most comments we've received in Virginia this year regarding cobia was to do something about what's happening in Maryland. I don't really know that this gets us there in the near future; because my guess is that by the time MRIP catches up and three-year averages catch up. We're talking quite a few years before they have a similar minimum size to Virginia. I certainly have a concern with that last part of the motion.

CHAIRMAN ESTES: Adam.

MR. NOWALSKY: I just wanted to put on the record that in New Jersey we have no other per vessel recreational regulations. I'm not sure what our ability is in state to regulate on a per vessel basis; not saying we can't. Just we have no other regulation that looks like that so I'm not sure what we would need to do to accomplish that.

CHAIRMAN ESTES: More discussion. Let me read the motion. **Move to adopt Sub-option B, the ability to match an adjacent non de minimis state, and Sub-option D, recreational minimum size of 29 inches; motion by Ms. Fegley, second by Mr. Miller. Can I see a show of hands for those that support this motion; those that oppose, abstentions, null votes? Motion passes 5 to 1 to 3. Okay, good job, Louis.**

DR. DANIEL: Just a little bit longer here. I would just say that for those areas that are encountering those small fish, the importance of those fish for the genetic analysis and collecting samples especially in Pamlico Sound, and especially in the upper Bay. You know if we can encounter those fish and can get samples from them, either from the recreational fishery or from our own state samplers; that's awesome.

That takes us through the action items for the FMP. I misspelled compliance. Key dates: so you agreed and in the FMP it indicates that states will submit their implementation plan for Technical Committee review and Board approval by January 1, of 2018, and that April 1, 2018 would be the implementation date for the

approved plans by the states; recognizing that there are some with legislative issues, I'm sure.

Then after discussion with the Plan Development Team, the compliance reports are due, not until July 1. Finally, back when we first started this, and because the Plan Development Team and the Technical Committee were essentially the same folks, we worked with that group. But now we need to go ahead and constitute what will be the longstanding Technical Committee.

At present those folks whose names were submitted was Ryan Jiorle from Virginia, Steve Poland from North Carolina, Mike Denson from South Carolina, and Chris Kalinowsky, representing the state of Georgia. That is your current Technical Committee roster. If there are other folks that anybody outside of those states would like to see on the Technical Committee, you can get with me or Mike Schmidtke, sorry you e-mail Toni and let us know. I think that covers my part, Mr. Chairman, unless there are questions for me.

CHAIRMAN ESTES: Thank you, I think we just need to approve the plan as amended; if somebody would have a motion to do that. Robert.

MR. BOYLES: I would move that the South Atlantic Board approve the plan as discussed this afternoon.

CHAIRMAN ESTES: Second. Michelle. Adam.

PUBLIC COMMENT

MR. NOWALSKY: I know we had your comments earlier about public comment; but knowing that a number of people did travel, perhaps there might be the ability for the audience to get one person up, make a brief statement and have a show of hands of people that might support it; if you might allow that Mr. Chairman.

CHAIRMAN ESTES: Yes we're behind, but yes that is certainly, I appreciate you fellows coming.

Whoever your spokesperson might be, I'll give you two minutes.

MR. BILL GORHAM: I'm Bill Gorham with Bowed Up Lures; from the Outer Banks of North Carolina. Over the past three years I've had the honor to represent stakeholders up and down North Carolina, a lot in Virginia, but not all in Virginia, and a few in Maryland. I am on the Sub Panel AP for Cobia. It's a Cobia AP within the South Atlantic and Citizen Science AP. Thank you for the opportunity to speak. I would like to say, and put on the record, our major concern in North Carolina and Virginia is that a lot of this is based upon the notion that we were going to full management; the Atlantic States will take over full management. Unfortunately you have the east coast of Florida and the Gulf already voicing their opposition to it. For the two largest stakeholder states, you know we run a real risk of losing a great deal of access, whether it be next year or in three years, and given the overwhelming conflicting science on the management parameters and allocation.

Lastly, I would like to state about the MRIP numbers. The fourth wave did just come in and we are below those amounts. I think it kind of makes the argument of extremely outrageously high catch totals being justification and all, when this year we actually went less restrictive than last year and we're under those catch totals. Again, thank you.

CHAIRMAN ESTES: Thank you, Sir. Robert.

MR. BOYLES: Just a question per say Mr. Gorham's comment. Do we actually have the preliminary numbers for Wave 4 for cobia? Could somebody share those with me?

CHAIRMAN ESTES: Does this influence your acceptance of the – okay. Michelle.

DR. DUVAL: Just to address Robert's question. For North Carolina the MRIP totals, we only have harvest in Waves 3 and Wave 4; but that would be 7,356 fish, which is below the soft target by just about 2,000 fish that was selected. That

equates to MRIPs estimate of pounds is 261,516 pounds; which is above the poundage estimate. But I would also note the average weights were extremely high, 35 pounds per fish. I think that is one of the discrepancies that stakeholders have taken issue with as well.

CHAIRMAN ESTES: Mike is looking up the numbers right now.

MS. TONI KERNS: Robert, do you want pounds or numbers of fish?

MR. BOYLES: Pounds, please.

MS. KERNS: Can you read that?

MR. NOWALSKY: Do we want to include the Gulf States here or only the Atlantic states?

MS. KERNS: I can get rid of the Gulf.

MR. CIMINO: Mr. Chair.

CHAIRMAN ESTES: Yes, Sir, do you have it?

MR. CIMINO: Just some quick math from yesterday when we were looking at this. I believe for Georgia through New York, the estimate for this year is about 534,000 pounds. We're standing at about 85,500 pounds under the ACL. We haven't had a Wave 5 estimate in recent years above 30,000 pounds, so good sign.

CHAIRMAN ESTES: Are you good, Robert?

MR. BOYLES: Yes, Sir, thank you.

CHAIRMAN ESTES: Okay let's call the question then.

DR. RHODES: But for the record, Georgia and South Carolina had zero landings, which helps.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Mr. Chairman, I think you'll need to reread the motion in. We made a change about forwarding it to the Commission.

CHAIRMAN ESTES: Okay, the motion is: Move to recommend to the Commission the approval of the cobia fishery management plan as amended today; motion by Mr. Boyles, seconded by Dr. Duval. Is there any opposition to the motion? Do we need to do a roll call then, I guess is the question. Yes.

MR. NOWALSKY: Like we did on the last motion, New Jersey will be abstaining here; just because of our lack of knowledge right now on our ability to implement.

CHAIRMAN ESTES: Okay, motion passes with one abstention; thank you. I would like to thank Mike and Dr. Daniel and their team for all the hard work on this. We've also learned today that Dr. Daniel is pretty good at making little graphics; so we'll have to use him in the future for those things.

DR. DANIEL: Yes, I will say that you can't appreciate what goes into these plans until you've done one.

STOCK ID WORKSHOP

CHAIRMAN ESTES: Okay next agenda item, we're a little bit behind here. Stock ID Workshop, Mike is going to talk about that real briefly.

MR. MIKE SCHMIDTKE: Louis already pointed out the TC membership as it stands right now; and again we'll be looking for any states that do not have a TC member currently. Please speak with Toni about getting an appointee onto the TC. The SEDAR 58 stock assessment process for cobia is in the planning process right now; and right now specifically we are planning the Stock ID Workshop that has involvement from ASMFC, the South Atlantic Council, as well as the Gulf Council.

At the end of this month there will be an e-mail going out from SEDAR requesting appointments for the Stock ID Workshop. SEDAR is willing to fund a certain number of appointments that are put up by the Commission. I just wanted to have

that announcement out there, so everybody can be aware. An e-mail will be going out. I'll be asking for appointments from the Commission.

Along with that there will be details, as far as internal deadlines that we'll need to meet to get to a final appointment date of December 8. That's when I have to have appointments sent over to the folks at SEDAR. Please be thinking of people that you potentially want to appoint that are experts in Stock ID. There will be a suggested participant list sent out with that e-mail; as well as additional details.

CHAIRMAN ESTES: Are there any questions? Okay seeing none; we'll move on. Lynn, I think you're up to talk about black drum, if you would please?

REVIEW MARYLAND PROPOSAL FOR BLACK DRUM COMMERCIAL HARVEST

MS. FEGLEY: Well, as you all are probably aware, the state of Maryland submitted a proposal to the Black Drum Technical Committee to reopen what is a preexisting and historic black drum fishery in our state. We're proposing to do this in a limited way. I want to just say for the record, before I go through this brief presentation that our intention here is to initiate an addendum to change the plan; so that we can do this.

If that is approved, and the addendum goes through, then it will provide the state of Maryland with the authority and the ability to pursue this; although what might actually occur is something maybe a little bit less in scale than what we're proposing, although what we're proposing is fairly small.

Just as a background, our drum fishery occurs in the early part of the summer. It has been closed for many years; and in the late '90s we implemented a tagging study to gain some biological information about this animal. When we did that we prohibited the harvest of black drum; but in exchange what we did was we bought the fish back from the watermen so that

they couldn't harvest them, but they would contact us.

We would tag them and we would release them. That study ended in 1999, but we never changed the regulation to reopen that fishery. When the ASMFC took on black drum, and adopted the interstate plan; that plan froze all of the states where they were, with the idea that new fisheries would not emerge.

The state of Maryland essentially wound up with a commercial moratorium; the only one of the states with that situation. We have had periodic requests from the commercial fisheries to reopen black drum harvest; but it's a very small fishery. It was a low priority, and then as I said, when the FMP was adopted we were frozen in that moratorium status.

A little bit of the regulatory history in Maryland. Prior to 1994, we had no regulations on this animal. In 1994, a 30,000 pound commercial cap in Chesapeake Bay, with a 1 fish per person per day recreational limit was adopted. In 1998, the commercial fishery was closed except for those scientific studies that I mentioned.

We also put in place a 1,500 pound cap for the Atlantic Ocean; and then there was the addition of a 6 fish vessel limit for recreational fishermen. Then there we were in 1999; the buy-back program ended. The tagging study ended, and the Chesapeake Bay commercial fishery remained closed. Our proposal now is to reopen this fishery at a more restricted level of harvest; the idea is to restrict it to 10 fish per vessel per day, with a 28 inch minimum total length size limit.

Just to justify the vessel limit. The tagging study, which was short in duration, it went from 1995 to 1997. We had a mean weight of just shy of 47 pounds. At this level, 10 fish would be approximately a 500 pound vessel limit; which is approximately equivalent to what is in place in North Carolina and Florida.

But it is worth noting that our longer time series, hang on a second, right and also the mean length, our longer time series shows that we have somewhat smaller fish over that longer time period the fish are smaller; so that if you account for that inter-annual variability, 10 fish in most years will likely be less than 500 pounds. In terms of the size limit we selected, we're proposing a minimum size of 28 inches. This is the length of 100 percent maturity to prevent increasing mortality on sub-adult black drum. The pound net study that we've done over that long period of time, the 25 years from 1993 to 2016, shows that at a 28 inch minimum size, we would have approximately a 37 percent release rate from the pound net. That level was quite a bit lower in that short term tagging study; but we are hopeful, we believe that this more conservative length limit than our neighboring jurisdictions will provide a buffer of protection.

Just in terms of historic landings. From 1973 to 1997, again when we were essentially unregulated, our landings ranged from 0 in just one year all the way up to 41.5 thousand pound; with an average of approximately 11.5 thousand pounds. There is extremely high inter-annual variability, and again the fishery was mostly unregulated, and with this 10 fish per vessel per day and the size limit, we would expect lower landings going forward, if this were to be approved.

Just a little bit about the estimated impact of this proposal coastwide. The stock status, it's not overfished and overfishing is not occurring. There is a target of 2.12 million pounds, and a threshold harvest level of 4.12 million pounds. In 2015, the coastwide landings were 1.49 million pounds; that's under the target.

If you think back to the slide I just showed, assuming Maryland's mean and maximum landings as the range of landings added, we would estimate that the 2015 landings would have been between 1.5 and 1.3 million pounds. The point being that the magnitude of the Maryland fishery would not add substantially to

the total, and at least in 2015, certainly would not have pushed us close to that target.

CHAIRMAN ESTES: First, if we can, we'll take questions about this issue and then Mike is going to give a review, the TC looked at this. Then we can have a discussion and see if we want to take action. John.

MR. CLARK: Lynn is this going to be restricted to pound nets, this fishery, or will you allow any gear to be targeting black drum?

MS. FEGLEY: It would be predominantly a bycatch fishery in the pound net fishery. These fish would not be susceptible to gillnets that are used during these time of year. The mesh sizes just don't align.

CHAIRMAN ESTES: Yes, follow up.

MR. CLARK: But is there anything restricting a gill netter from getting 10, 12 inch mesh and putting it out there at that time?

MS. FEGLEY: I don't believe so. I think with a 10-fish daily limit, I don't think it would be worth gearing up. I would need to check, but I'm not sure that our regulations allow mesh size that large at that time of year.

CHAIRMAN ESTES: Chris.

MR. CHRIS BATSAVAGE: Two questions. One, did Maryland I guess look at any of the MRIP average length or average weight estimates in recent years; just to get a sense of has the size distribution of black drum changed in recent times? Assuming the recreational fishery is catching what's available to the upper portion of the Bay. The second question is has the pound net fishing effort in recent years decreased; compared to when there was a commercial black drum fishery in the Bay?

MS. FEGLEY: I would defer the MRIP size distribution question to the TC. I am not aware that we looked at that. Pound net effort, I would suspect, although I don't have numbers, has

decreased since those early '90s. There are not that many of those guys left around in Maryland.

TECHNICAL COMMITTEE REVIEW OF MARYLAND PROPOSAL

CHAIRMAN ESTES: Other questions. I don't think we have the information about the size distribution, Chris. Other questions, okay, Mike if you want to go through TC Review.

MR. SCHMIDTKE: The TC met at the end of September via webinar to discuss the Maryland proposal. There were several components of the proposal that were discussed. I don't have the information at hand to answer Chris's question; but it may be covered in that call summary that was in supplemental materials, so that may be a quick reference there.

Some of the topics that were addressed on this call were potential harvest levels; the gears of the participants that would be in this fishery, market impacts, and biological monitoring for this fishery. Ultimately the Black Drum TC recommended that the Maryland proposal to reopen their commercial black drum fishery in the Chesapeake Bay be approved, as reopening of this historic fishery would not likely lead to overfishing of the stock.

The TC did further recommend that biological monitoring of black drum caught in this fishery be conducted to collect information like size or age. This would be helpful information, especially with right now a scheduled stock assessment for, I believe, 2020. Within the FMP for black drum there is no biological monitoring requirement.

But I know biological monitoring is conducted by several states, and after talking to the Maryland TC rep, the pound nets, which would be the predominant gear in this fishery, are already monitored for other species. He said that it wouldn't be too much of an issue to also look at the black drum that is caught in those nets as well.

CHAIRMAN ESTES: Questions for Mike, discussion of this issue. Yes, Joe.

MR. CIMINO: I support this. I had the opportunity to be part of the Plan Development Team for this FMP, and also on the Stock Assessment Subcommittee. You know when we looked at the harvest for this species; I think one of the things we realized is this is a fish where effort has shifted.

You know traditionally for the lower portion of the Chesapeake Bay, this was one of our most important fisheries. As Delaware Bay started to see increases in their fishery, and concern for the stock, what we really realized was that it really has shifted away from the lower Bay. I think that this stock can handle this small amount of effort; and I think it's going towards a place where part of this fishery is really occurring.

I have support for that. I was surprised that it would be an FMP amendment or addendum, however this goes. It gave me a chance to look at the FMP again. I was also surprised to see credit given to some ghost writer. I think maybe the Board can consider a technical addendum to put Mr. Cimino as one of the PDT members and not Mr. Cimono, just a thought.

CHAIRMAN ESTES: Toni, it is my understanding that this would require an addendum; is that correct?

MS. KERNS: Yes it would.

CHAIRMAN ESTES: Okay, what is the will of the Board? Is there somebody who would like to put forward a motion? Yes, Ma'am.

MS. FEGLEY: Thank you, Mr. Chairman, and thank you to the Board for your time in listening to this. I would make a motion to initiate an addendum that would allow Maryland to reopen its preexisting commercial black drum fishery under a 28 inch minimum size, and a 10 fish daily vessel limit.

CHAIRMAN ESTES: Seconded by Malcolm Rhodes. Is there any discussion of the motion? **Okay, move to initiate an addendum that would allow Maryland to reopen its preexisting commercial black drum fishery, under a 28 inch minimum size limit and a 10 fish daily vessel limit. Motion by Ms. Fegley, seconded by Dr. Rhodes, is there any opposition to the motion? Motion passes unanimously.** Toni.

MS. KERNS: I just wanted to ask Lynn about timing. I was under the impression that this was wanted for this year's fishery. What would be the timing that you would want this to be approved by to impact your fishery?

MS. FEGLEY: I think if we could get it through as expeditiously as we could. I think my initial thought was it was something that we could look at in February; just in terms of our process. Once an addendum is approved by the Board, if it is, then the process would be that Maryland would go forward and start our public process to change those regulations. If we can start it this winter that would be great; but obviously staff workload is an issue. To be short, February would be ideal; but if it takes longer than that then that's okay too.

MS. KERNS: You said approval in February; approval for public comment or approval of the full document?

MS. FEGLEY: I guess it would be approval for public comment in February; and then approval of the addendum in the spring.

MS. KERNS: That we can do. I think your proposal covers most of our work.

PROGRESS REPORT ON POTENTIAL ADJUSTMENTS TO ATLANTIC CROAKER AND SPOT TRAFFIC LIGHT ANALYSIS

CHAIRMAN ESTES: Having dispensed with that the next agenda item is Jeff is going to talk to us about Croaker and Spot Traffic Light Analysis.

MR. JEFF KIPP: I just have a really brief update for the Board here. The Croaker Technical Committee and Spot PRT have continued working on potential changes to the Traffic Light Analysis. We met on a call a couple weeks ago, webinar, and plan to continue work on that and have recommendations for the Board at the winter meeting. If there are any questions about that I can take those now.

CONSIDER 2017 FMP REVIEWS AND STATE COMPLIANCE REPORTS

CHAIRMAN ESTES: Questions, okay seeing none; we'll move right along. Our next agenda item is FMP reviews for black drum, red drum, and spotted sea trout. Mike, you're doing that I believe.

BLACK DRUM

MR. SCHMIDTKE: We'll go through all three of the species. I have a pre-prepared statement for all three of the species that we can address after we're done with all three FMP reviews. But first we'll look at black drum. The graph that you see up on the screen shows black drum harvest within the management unit from New Jersey to Florida.

What we see is that there was a slight decrease in total harvest. There was a slight increase in the recreational, but a decrease in commercial harvest. I apologize, because I am not able to follow my notes right now. Moving on to the recreational; looking specifically at the recreational fishery. There are a high percentage of releases in this fishery.

It has continued to have an upward trend since the 1980s; with overall harvest remaining approximately the same, with some variability. Here we see the results of the 2015 black drum stock assessment; where we can see that the biomass is above the threshold. The overfishing limit is 4.12 million pounds; and we have not exceeded that in the recent time period.

The black drum FMP was instituted in 2015. In 2016 all states were required to increase the

minimum size limit to at least 14 inches; and these are the management measures that were in place in 2016. As you can see, all states were within compliance with the FMP. No states requested de minimis status through the annual reporting process.

Therefore, the PRT recommends that the Board approve the 2017 black drum FMP review and state compliance reports. There are an assortment of other research and monitoring recommendations found within the FMP review. If anybody has any black drum comments or questions, I will attempt to answer those. I may have to grab a copy of the FMP review to do so.

CHAIRMAN ESTES: Questions. No questions.

RED DRUM

MR. SCHMIDTKE: Moving on, the next species is red drum. Total red drum landings from New Jersey through the east coast of Florida in 2016 are estimated at 2.2 million pounds. This is a roughly 620,000 pound increase from 2015, and is above the previous 10-year average of 2 million pounds.

The commercial and recreational fisheries harvested 4 percent and 96 percent of the total respectively. Coastwide commercial landings have ranged from approximately 55,000 to 440,000 pounds annually over the last 50 years. In 2016, coastwide commercial harvest decreased from 81,000 pounds in 2015 to 79,000 pounds, with 98 percent of that coming from North Carolina.

In 2016, 80 percent of the total landings came from the South Atlantic region, where the fishery is exclusively recreational, and 20 percent from the Mid-Atlantic region. Very few commercial landings of red drum have been recorded in states north of Maryland in recent years. Historically the major commercial harvesters have been North Carolina and Florida; however commercial harvest has been prohibited in Florida under state regulations since 1988. South Carolina also banned commercial harvest

or sale of native-caught red drum beginning in 1987, and in 2013, Georgia designated red drum a game fish; eliminating commercial harvest and sale there as well.

Recreational harvest of red drum peaked in 1984, at 1.05 million fish or 2.6 million pounds. Since 1988, the number has fluctuated without trend between 250,000 and 760,000 fish. In 2016, recreational harvest increased from 426,000 fish in 2015 to 566,000 fish in 2016. The 2016 harvest is higher than the 10-year average for recreational harvest in numbers and pounds.

Florida anglers landed the largest share of the coastwide recreational harvest in numbers; followed by Georgia and South Carolina. Anglers release far more red drum than they keep. The percent of the catch released has been over 80 percent for the last decade. Recreational releases show an increasing trend over the course of the time series.

But it has plateaued over the last 15 years or so, outside of a spike in 2012, 2.6 million fish were released in 2016, composing 82 percent of the recreational catch. This represents an increase in the number of releases; but a decrease in the proportion released from 2015. It's estimated that 8 percent of released fish die as a result of being caught; resulting in an estimated 207,000 dead discarded fish in 2016.

Recreational removals from the fishery are thus estimated to be 773,000 fish in 2016. A stock assessment was completed within the last year. At present only an overfishing status can be determined for red drum. The 2017 assessment indicated that abundance of young fish from both the northern and southern stocks have remained fairly stable since 1991; and static spawning potential ratio has been above the overfishing threshold since 1995.

Therefore, neither stock is likely experiencing overfishing at this time; although the SAS and PRT both note a great amount of uncertainty in static SPR for the southern stock in particular. Here is a reminder of the management history

for red drum. In 1984 the FMP was established; with implementation of recommended management measures in 1988.

Amendments 1 and 2 defined and redefined optimal yield; in terms of spawning stock biomass per recruit, as well as SSPR respectively. Amendment 2, which is the current amendment, also established the 27 inch maximum size limit. Finally, in 2013, Addendum I revised the habitat section of Amendment 2, to include red drum spawning habitat and life stage information; as well as identify habitats of concern.

These are the management measures that were in place for 2016; which are also found in Table 1 of the FMP review document. All states that harvest red drum did so with a maximum size limit of 27 inches or less; which is in compliance with Amendment 2. Under Amendment 2, a state may be granted de minimis status; if the board determines that action by a state with respect to a particular management measure, which was implemented subsequent to Amendment 2 through an addendum, would not contribute significantly to the overall management program.

This criterion does not define any time period, percent, or fishery specifically; but the PRT over the last few years has evaluated states contributions to the fishery, by comparing each state's 2-year average of combined commercial and recreational landings to that of the management unit. They do so with a threshold typically of 1 percent of the management unit. New Jersey and Delaware have both applied for, and under this criteria, qualify for de minimis status. The PRT would recommend that all states have implemented requirements of Amendment 2, and that the Board approve state compliance reports and de minimis status for New Jersey and Delaware. I'll take any questions on red drum.

CHAIRMAN ESTES: Questions or comments on red drum. Okay seeing none; proceed please.

SPOTTED SEA TROUT

MR. SCHMIDTKE: Okay, one more species, and that would be spotted sea trout. The graph you see represents spotted sea trout harvest within the management unit from Maryland through Florida. As you can see, recreational harvest increased from 2015 through 2016. In addition, commercial harvest increased from 2015 through 2016; with North Carolina landing the majority of commercial harvest.

Recreational harvest has been relatively stable throughout the time series; with a 1.3 million fish average; 2016 harvest recreationally was 1.1 million fish, at approximately 1.9 million pounds. North Carolina and Florida have the greatest recreational harvest in numbers; with about 34 percent and 30 percent respectively. Releases have increased since the 1980s, but have been fluctuating without trends since the mid-2000s.

There were 85 percent of recreationally caught fish released in 2016; which is down from a time series high of 91 percent in 2015, but above the previous 10-year average of 82 percent. Due to disproportionate numbers of releases versus harvest, trends in recreational catch largely followed those of releases; which have been increasing since the 1980s, to an annual fluctuating but stable level for the past 10 years , 7.3 million fish were caught in 2016, which is a 29 percent increase from 2015.

No coastwide stock assessment has been conducted for spotted sea trout; due to their life history and migration or lack thereof, migration patterns, in addition to data availability that would cross many jurisdictional lines. In 2014, Virginia and North Carolina collectively conducted a stock assessment; and a new stock assessment is currently underway in the state of Florida that is expected to be finished at the end of this year.

In Table 1 of your FMP review, you can see the management measures that were in place in 2016. All states complied with the 12 inch minimum length from the FMP. De minimis

status is determined from a 3-year average of combined commercial and recreational landings; as long as landings are beneath 1 percent of the coastwide total of commercial and recreational.

Requests for de minimis status were received from New Jersey and Delaware; and both states qualify under this criterion. The PRT has found that and recommends that the Board find all states in compliance with the FMP; as well they would recommend that the Board approve state compliance and de minimis requests from New Jersey and Delaware. With that any questions about the spotted sea trout FMP review, I believe that the spotted sea trout management question is something that would be addressed later in the meeting.

CHAIRMAN ESTES: Questions. Malcolm.

DR. RHODES: Not a question, but if you would like, I would like to move that we accept the FMP review and state compliance reports for black drum, red drum, and spotted sea trout; as well as approving de minimis requests for New Jersey and Delaware for red drum and spotted sea trout.

CHAIRMAN ESTES: Second by Mr. Batsavage. Dr. Rhodes, you have an amazing memory.

DR. RHODES: I thought you were going to call on me if I didn't do it anyway; whether I was paying attention or not.

CHAIRMAN ESTES: Okay, move to accept the 2017 FMP reviews and state compliance reports for black drum, red drum, spotted sea trout; and approve de minimis requests for New Jersey and Delaware for both red drum and spotted sea trout. Motion by Dr. Rhodes, second by Mr. Batsavage, is there any discussion on this? Is there any opposition to the motion? Seeing none; the motion passes unanimously.

DISCUSS REMOVAL OF SPOTTED SEA TROUT FROM COMMISSION MANAGEMENT

CHAIRMAN ESTES: Okay, I guess we're going to go back to spotted sea trout. Dr. Duval, I think you were going to lead this discussion, is that correct?

DR. DUVAL: I just wanted to raise again an issue that came up, I believe, in November of 2015. The Board had considered a motion to consider I guess retiring the spotted sea trout fishery management plan. We then postponed that motion; in order to allow states to sort of get their regulatory houses in order, so to speak, and North Carolina was one of those states.

We have since reinstated regulatory authority for spotted sea trout; effective May 1 of this year. I know there had been some other states around the table that had expressed interest in exploring this further, and I know that staff reached out to the states sitting around the table to determine if they did have the authority to regulate spotted sea trout in their waters if the ASMFC fishery management plan were to be retired.

I understand that Delaware does not have the ability to regulate spotted sea trout without that authority. We're obviously sensitive to this, and don't want to move forward with removal of a species from under ASMFC management, if it's going to disadvantage another state, in terms of their ability to regulate this fishery.

A couple of the things that we considered in North Carolina, and just wanted to throw out for thinking about and chewing on, for a future South Atlantic board meeting, and very sensitive to Mr. Woodward's note that we've been able to manage seven species within our allotted timeframe, so I'm going to be really quick here.

I think one of the issues for us has been establishment of restrictions, or management measures that are more restrictive than federal. While ASMFC is not a federal body, the same type of restriction applies to ASMFC management measures. In North Carolina there is statutory language that does disallow us from implementing measures that are more

restrictive than the minimum measures that are required under another fishery management plan.

In looking at the FMP review for spotted sea trout, I think the majority of states actually have minimum size limits that are higher than the required 12 inches. I think maybe Delaware and New Jersey are the only two that don't have a 14 inch minimum size limit. One of the things that we thought about was perhaps if the Board might be willing to entertain a future addendum that could raise that minimum size limit; perhaps phase in a higher minimum size limit of 14 inches, similar to what we did with black drum, to allow other states to perhaps raise their minimum size limits, to perhaps consider maybe a maximum bag limit.

In deference to the fact that particularly Delaware does not have the authority to manage this species without the ASMFC plan. Those were some of the things that we were thinking about. I think it would certainly provide North Carolina a little bit more cover and flexibility if the ASMFC plan stays in place.

CHAIRMAN ESTES: Questions or discussion. Seeing none; what is the will of the Board; do we just leave this silent? Yes, Ma'am.

DR. DUVAL: Not that I want to keep talking, but perhaps this is something that we could discuss with staff and see about having as a future agenda item. I mean clearly we don't have enough time here to discuss it; but I think maybe if Delaware and perhaps New Jersey can take that back home and maybe chew on those two suggestions, and see if down the road we might be interested in doing something like that. I see Toni with her hand raised.

MS. KERNS: It's the will of the Board of how we would or would not make changes to the plan; but I will note that if we do consider making changes to this plan for this year, and need to do public hearings up and down the coast. Our budget is a little tight for next year, so just to note that it might be for action in next year's

action plan if we can't combine it with something else.

CHAIRMAN ESTES: John.

MR. CLARK: I'll be brief. As far as Delaware is concerned, if we are so minor a player in this whole thing. We have a 12 inch size limit in place. If the plan went away, the regulation would stay in place. It's just that we couldn't change it once the plan was no longer in affect. But again, I think we had 7 pounds landed from our MRIP last year, so we're not going to be hurting anything.

CHAIRMAN ESTES: Okay, what do you want to do? Do you want to slow roll this and put it on the action plan next year? I see some heads nodding. Okay, is anybody opposed to that? Toni, all right I think that does it with that issue.

ADJOURNMENT

CHAIRMAN ESTES: I think that brings us to the end of our agenda; if I remember right. I was young when I started this. Is there any other business before the Board? Seeing none; the Board is adjourned.

(Whereupon the meeting adjourned at 2:56 o'clock p.m. on October 19, 2017)