

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

The Westin Crystal City
Arlington, Virginia
May 3, 2018

Approved August 9, 2018

Proceedings of the South Atlantic State/Federal Fisheries Management Board Meeting
May 2018

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2. **Approval of Proceedings of February 2018** by Consent (Page 1).
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4. **Move to approve Addendum I to the Black Drum Interstate Fishery Management Plan as modified with an implementation date of April 1, 2019** (Page 4). Motion by Lynn Fegley; second by Jim Estes. Motion carried (Page 4).
5. **Move to initiate an addendum to the spot and croaker fishery management plans that incorporates the new traffic light analyses and management response to those analyses** (Page 10). Motion by Chris Batsavage; second by Marty Gary. Motion to postpone (Page 11).
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7. **Move to initiate an amendment to reflect the removal of Atlantic cobia from the joint South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council Coastal Migratory Pelagics Fishery Management Plan and establish recommendations for measures in federal waters** (Page 22). Motion by Doug Haymans; second by Malcolm Rhodes. Motion carried (Page 12).
8. **Motion to adjourn** by Consent (Page 25).

Proceedings of the South Atlantic State/Federal Fisheries Management Board Meeting
May 2018

ATTENDANCE

BOARD MEMBERS

Heather Corbett, NJ, proxy for L. Herrighty (AA)	Chris Batsavage, NC, proxy for S. Murphy (AA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Mel Bell, SC, proxy for R. Boyles (AA)
Roy Miller, DE (GA)	Malcolm Rhodes, SC (GA)
John Clark, DE, proxy for David Saveikas (AA)	Spud Woodward, GA (AA)
Craig Pugh, DE, proxy for Rep. William Carson (LA)	Doug Haymans, GA (GA)
Russell Dize, MD (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Ed O'Brien, MD, proxy for Del. Stein (LA)	Marty Gary, PRFC
Lynn Fegley, MD, proxy for D. Blazer (AA)	Wilson Laney, USFWS
Patrick Geer, VA, proxy for S. Bowman (AA)	Jack McGovern, NMFS
Michael Blandon, NC, proxy for Rep. Steinburg (LA)	Greg Waugh, SAFMC

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

Ex-Officio Members

Staff

Toni Kerns	Jeff Kipp
Robert Beal	Jessica Kuesel
Mike Schmidtke	Kristen Anstead

Guests

Pete Aarrestad, CT DEEP	Dan McKiernan, MA DMF
Jeff Brust, NJ DFW	Rob O'Reilly, VMRC
Joe Cimino, NJ DFW	Jack Travelstead, CCA
Jeff Deem, VMRC	
Matt Gates, CT DEEP	

The South Atlantic State/Federal Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Wednesday May 3, 2018, and was called to order at 11:45 o'clock a.m. by Chairman Pat Geer.

MS. TONI KERNS: I want to welcome everybody to the South Atlantic Board. Because Pat Geer has moved from the Georgia DNR over to the Virginia Marine Resources, we just wanted to reaffirm with the Board that it is okay for Pat to continue on as Chairman. Is there any objection to Pat continuing as Chairman of the South Atlantic State/Federal Management Board; although he's representing a new state? I see of no objection; which I'm very pleased to see, and he will continue on as your Board Chair.

CALL TO ORDER

CHAIRMAN PAT GEER: Thank you very much, Toni. Why does that not surprise me one bit that no one had any objections to me staying on? I want to welcome everybody to the South Atlantic Board. My name is Pat Geer. I am the new Deputy Chief at Virginia Marine Resources Commission.

APPROVAL OF AGENDA

CHAIRMAN GEER: The first order of business for today is the approval of the agenda. We have one item under Other Business that Chris Batsavage would like to deal with; and that's the Mackerel Issue in North Carolina. Are there any other additions or changes to the agenda? Hearing none we'll consider it approved by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN GEER: The approval of the proceedings from the February, 2018 meeting, is there any changes or modifications? Hearing none we'll consider it approved by consent.

PUBLIC COMMENT

CHAIRMAN GEER: Is there any public comment? I haven't had anybody come up. Mike is shaking his head no; so we'll move on.

ADDENDUM I TO THE BLACK DRUM FISHERIES MANAGEMENT PLAN FOR FINAL APPROVAL

CHAIRMAN GEER: The first item on the agenda is the Addendum I to the Black Drum Fisheries Management Plan for final approval. Mike is coming up to the table; so Mike, you have the floor.

DR. MICHAEL SCHMIDTKE: First of all we'll be going over the public comments for Draft Addendum I. I'll give before that some brief background; kind of how we got here. Then we'll move into the public comment; and I'll put up the management options for Board consideration. This process was started in October of 2017, with a proposal from Maryland to reopen their commercial fishery for black drum in the Chesapeake Bay.

At that point the Board initiated an Addendum; and we are now at the stage of final action for this draft Addendum. Public comment was held from February 7, through March 23, with one public hearing being held in the state of Maryland. Just a reminder of some of the background related to this draft Addendum. There was a historical commercial fishery in Chesapeake Bay for the state of Maryland that operated from 1973 through 1997; that operated, excuse me before the late 1990s with an average annual harvest in that time period of about 11,000 pounds. In the late 1990s a tagging study was conducted to collect scientific information. Within this study there was no commercial take; but commercial pound net fishermen were paid for fish that were tagged and released from their nets.

This program ended prior to the 2000 fishing season; but the commercial fishery was never reopened. When the Interstate Fishery Management Plan for black drum was approved in 2013, this plan prohibited the relaxation of any

commercial measures that were in place; and so the moratorium on commercial fishing in the Chesapeake Bay for the state of Maryland continued on in perpetuity.

Some of the background related to the stock status. The current reference points from the 2015 assessment, as well as the harvest, are shown on the screen. The stock status from that assessment was not overfished and overfishing not occurring. The harvest target that came out of that assessment was 2.12 million pounds with a threshold of 4.12 million pounds; and the 2016 total harvest was 1.53 million pounds.

If you will take a look at the bottom right hand figure, where you can see the harvest, the target has not been really approached for the last about seven years. This table shows current regulations up and down the coast; and really the main thing to highlight is that Maryland is the only state that has an area closure for commercial fishing of black drum.

REVIEW MANAGEMENT OPTIONS AND PUBLIC COMMENT SUMMARY

The two management options and it was a fairly simple Addendum. There were two options. We can either keep it the way it is right now with Option 1 or Option 2 reopen Maryland's commercial fishery; with a 10 fish daily vessel limit and a 28 inch minimum total length size limit. The Technical Committee reviewed Maryland's proposal prior to the development of the draft Addendum.

The TC was contacted, and they maintain their previous recommendation that approval of this draft Addendum would not likely lead to overfishing. They did additionally recommend that Maryland conduct biological monitoring of fish caught by this fishery; so that that data can be used in future stock assessments.

This is a recommendation not a requirement. There are no monitoring requirements in the black drum FMP. That is just something additional that the TC would like to see; should

this draft Addendum be approved. From their previous assessment, the predicted additional harvest is relatively small compared to the coastwide harvest; when thinking about what was brought in during a time period where there were no regulations on that fishery.

Adding on that additional harvest would not have caused the coastwide target or threshold to be approached over the last seven years. The written public comment, 14 written comments were received; the majority of these supporting Option 1 of status quo, with 1 comment supporting Option 2 to reopen the fishery in Chesapeake Bay. Much of the written comment focused on black drum being more valuable to the recreational fishery than the commercial; citing specifically poor me quality from large black drum. There were some concerns in these comments about the targeting of large black drum, with the potential for this to reduce the spawning productivity or the availability of large fish that are targeted for a catch and release fishery by the recreational fishermen.

There was also concern about disruption overall of recreational fishing activities; due to the location of pound nets and the potential for reduced availability of fish overall. This concern was specifically related to the fact that black drum are a recreational alternative to striped bass within that area; for a portion of the fishing year.

The one comment that supported Option 2 did additionally suggest that the gear be limited to only pound nets. As I said previously, one public hearing was held in Maryland. At this public hearing no comments were received. There were two Board members; one member of Maryland staff, and one member of the public from CCA Maryland.

CCA Maryland wrote an organization letter that's included in the public comment materials; but they didn't offer any comments at the hearing itself.

REVIEW COMMITTEE REPORTS

DR. SCHMIDTKE: A conference call was solicited to discuss the Advisory Panel's preferred option. However, no members responded to actually schedule the call.

The AP Chair, Tom Powers, did provide a written response where he expressed some concern about increasing fishing effort without any cap on the number of entrants or the quota for a species like black drum that has slow growth after reaching maturity. With that I will take any questions.

CONSIDER FINAL APPROVAL OF ADDENDUM I

CHAIRMAN GEER: Are there any questions for Mike? I see Lynn.

MS. LYNN FEGLEY: I don't have a question. But when you're ready, I would address some of the concerns that were expressed.

CHAIRMAN GEER: Okay, are there any questions at all before I go back to Lynn? Seeing none; Lynn.

MS. FEGLEY: I wanted to provide a little bit of comment about the lack of comment on this from the commercial sector. I've had several questions about that. One thing I want to stress is that this is something I think in this case, these commercial fishermen made substantive comment to us as a state.

They arrived at our state Commission meetings and provided comment on this. Those are on the record with the state; and I think at that point they felt like they had added their input. There is one comment that is from a representative of the commercial industry. Then the other thing I wanted to say was there are two concerns in there; one is limiting the gear to only pound nets.

Our gillnet fisheries for striped bass close at the end of February; and gillnets that are deployed in the Chesapeake Bay during the time when black drum are encountered. The mesh size is too small. They would not capture black drum.

This really would be a pound net fishery. The second was to the Advisor who expressed concern about increasing effort with no limit on entrance. This is a limited entry fishery in Chesapeake Bay; and the number of pound netters is fairly limited, so this is not an unlimited effort situation. I hope that clarifies a little bit the public comment. We try hard to work with our commercial fishermen. This means a lot to them; and they certainly did step up to comment to us as a state.

CHAIRMAN GEER: Okay and I have John Clark.

MR. JOHN CLARK: Lynn, could you just follow up. I was just a little confused about that comment that somebody made about the pound nets. It was almost implying that the pound nets be moved for – well they said the pound nets would be in the way of recreational fishing – was one of the comments that was made right; was to that end. I mean these things are usually not moved are they?

MS. FEGLEY: No. Pound nets are absolutely stationary; to the point where the sites where the pound nets are set are registered with the state. They are not even remotely a mobile gear. If you were to have that situation, the recreational vessel would have to travel to where the pound net is; and that is where the conflict would occur.

CHAIRMAN GEER: On the microphone, John. Lynn, I have a quick question. How long is this season? How long do you think the season would be?

MS. FEGLEY: I'm going to ask Mr. Dize to address that. I think the fish arrive in the spring, April, May, so May and June. It's a spring fishery in Maryland.

CHAIRMAN GEER: Just a couple of months, okay.

MS. FEGLEY: Yes, I believe so.

CHAIRMAN GEER: Are there any other questions or comments? I've got one from Gregg Waugh.

MR. GREGG WAUGH: Lynn, what about the issue of monitoring? Would your state be doing some monitoring of that harvest; should it occur?

MS. FEGLEY: You know we do monitor pound nets currently as part of other species. I believe, and I would go back and confirm with staff on this. But I believe we are there; we're sampling pound nets. We can provide some information. Now the level of that information if we're talking about things like otoliths and aging, I'm not so sure we can tackle that but we can return to the Board with information on exactly what kinds of data we would gain through our current pound net monitoring.

CHAIRMAN GEER: Okay, I have Roy Miller.

MR. ROY W. MILLER: If I may ask a question of Lynn. Lynn, are these primarily spawning adult fish that would be subject to this harvest; since it's in May and June, or are they are variety of size ranges?

MS. FEGLEY: I'm not sure I would know the answer to that. The minimum size limit is 20 inches, which is specifically set beyond the age of first spawn, so that there is some ability for the fish to have reproduced before they are caught. As a reminder, when we had a fishery before, this size limit was not in place. The intent here was to look at when these fish are I believe 28 inches represents 100 percent maturity. That is why the size limit was selected.

CHAIRMAN GEER: Are there any other questions for Lynn, or any other comments? This is a final action; so we're going to need a motion from somebody if we want to move forward with this. Lynn.

MS. FEGLEY: I would move to approve Option 2: to reopen Maryland's commercial fishery for black drum in the Chesapeake Bay with a daily vessel limit of up to 10 fish and a 28 inch minimum total length size limit.

CHAIRMAN GEER: I have a second from Doug Haymans. Is there any further discussion on this? Mike.

DR. SCHMIDTKE: Just one note. Lynn did contact me about an implementation date for this; should it be approved for April 1, 2019.

CHAIRMAN GEER: Thank you, Mike, I forgot to mention that. Is there no other discussion, since this is a final action? Toni.

MS. KERNS: This motion is not final action. Once you approve; the Addendum itself is final action.

CHAIRMAN GEER: **I am sorry. Is there any objection to this motion? Hearing none; the motion carries unanimously.** Now the Addendum, correct, now we have to do final action on the Addendum; which is part of this. We need another motion for that.

MS. KERNS: In addition we would want an implementation date. Implementation dates can be effective immediately or at time certain. I would look to the State of Maryland for that.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: I would move to approve Addendum I to the Fishery Management Plan for Black Drum, with an implantation date of April 1, 2019.

CHAIRMAN GEER: Second by Jim Estes. Any comment or discussion, okay do you have it up there? I'll read the motion. Move to approve Addendum I to the Black Drum Interstate Fishery Management Plan as modified with the implementation date of April 1, 2019. Motion by Ms. Fegley; and seconded by Mr. Estes. Since it is a final action, I would like to see a show of hands in favor of this motion. **Okay, any objections, any abstentions, any null votes? The motion carries 12-0-0 without any objection.** All right moving on, let's move on to the next item on the agenda, it's lunch? No, I think we're going to keep moving on. We're going to move through and we'll have lunch.

Does anybody have any objections to keep moving on; because lunch probably isn't even ready yet? Okay, we'll keep moving on then.

I thought maybe you were hungry, Mike, so that's why I stopped and asked.

**CONSIDER MANAGEMENT ACTION BASED ON
TECHNICAL COMMITTEE AND
PLAN REVIEW TEAM RECOMMENDED
UPDATES TO THE ANNUAL TRAFFIC LIGHT
ANALYSES FOR ATLANTIC CROAKER AND SPOT**

CHAIRMAN GEER: All right the next item on the agenda is Item Number 5, which is to look at the Technical Committee's Recommendations for the Traffic Light Analysis for Atlantic Croaker and Spot. At the last meeting we had a presentation by Chris McDonough; who is the TC Chair; and we basically put off making any decisions or approving any recommendations at that time. Right now Mike has the floor; and he'll give you a brief discussion on this.

DR. SCHMIDTKE: Since the Board discussed this topic; well was presented with this topic at the last Board meeting, my summary of Chris's presentation will be much briefer. But we do have Jeff Kipp and Kristen Anstead available to ask more technical questions; if the Board needs a reminder of some of the finer details that were discussed last time.

In 2017, both spot and croaker underwent benchmark assessments. Neither of these assessments was endorsed by the Peer Review Panel for management; due in part to conflicting signals from the abundance and harvest time series. Both species are monitored annually; using an annual traffic light approach. This was established in 2014.

I believe most members of this Board are familiar with the TLA approach; but it assigns color of red, yellow, or green, categorizing relative levels of indicators on the condition of the fish population using abundance metric, or the fishery using a harvest metric. Management action is triggered if both abundance and harvest are tripped for

two consecutive years, or three consecutive years currently for spot and croaker respectively.

The trigger would occur is that TLA shows a percentage of red that is greater than 30 percent; with moderate concern, with action resulting from moderate concern or if the percentage of red exceeds 60 percent, then that represents significant concern. The current TLAs have not triggered management action; despite declining trends in harvest to some of the lowest values on record.

Several of the abundance indices developed for the assessments that occurred in 2017 are not currently included in the TLA. With the discrepancy that occurred in the trends between harvest and abundance that led the Traffic Light Approach Subcommittee to begin reevaluating the available data for spot and croaker.

They redeveloped the indices; looking at them in terms of recruitment and adult indices, also reconsidering which indices should be included in the TLA. They considered inshore/offshore approaches, Mid-Atlantic versus South Atlantic approaches. There were really a suite of things that were presented during the February meeting; and those are outlined in the briefing materials in the TC memo. Here is a list of the recommendations that were made for the spot traffic light analysis; trying to summarize and run through these. There were two additional analyses that the Technical Committee recommended for inclusion in the spot TLA; those were CHESMAP and the Program 195 Survey from North Carolina Department of Marine Fisheries. The TC also recommended the use of age-length keys and length-composition information from each of the surveys; to estimate the number of adults.

There was some information where there was bleed in of juveniles into the numbers; so the TC made that recommendation. The TC also recommended the use of a regional approach; in which CHESMAP and the currently used NEFSC bottom trawl survey would characterize from Virginia north, and the Program 195 Survey as

well as SEAMAP would characterize south of the Virginia/North Carolina border.

Fourth, the TC recommended use of a recruitment index; as well as information from the Southeastern Shrimp Trawl Fishery as auxiliary information. These would not affect the management triggers themselves; but they would be provided on an annual basis for consideration, should any management action be taken.

Fifth, the TC recommended changing the reference time period for all surveys to be 2002 through 2012; and finally the TC recommended changing the triggering mechanism. Whereas right now the triggering mechanism for spot requires the last two years of the time series; for both abundance and harvest to trip, in order for management action to be triggered.

The TC recommended that any two of the three terminal years be used, using the same 30 percent and 60 percent thresholds; as far as moderate versus significant concern. How this plays out relating status quo to what the recommendation from the TC would be, so what we see on the screen right now is the current TLA updated through 2016.

What you see as harvest shows very high proportions of red; but abundance using the NMFS and the SEAMAP surveys has not tripped since 2007. However, in taking in all of the TCs recommendations using the regional TLA with the revised indices and the revised reference period, we see right here the South Atlantic region would not have tripped for abundance or harvest in recent years; but the Mid-Atlantic region would have tripped.

If all of these changes were to be adopted because the two terminal years for both abundance and harvest have exceeded that 30 percent proportion, if the two-out-of-three terminal year management trigger were adopted. That means that regardless of what is seen in 2017, there will be management action triggered.

For croaker, many of these recommendations are the same or very similar; so I'm just going to highlight the underlined portions of this list, rather than the Program 195 Survey to characterize the South Atlantic region for croaker. We would use the South Carolina DNR Trammel Net Survey. Croaker is considered to be adults at Age 2 plus rather than Age 1 plus for spot; but similarly the age length and length composition information would be used.

Then finally at the last recommendation, rather than two out of three of the terminal years being used for the triggering mechanism for croaker, due to differences in their life history, the TC recommended any three out of the four terminal years. Looking similarly at how differences would go into effect; should the Board adopt all of the TCs recommended changes. We see the current TLA through 2016 harvest has high proportions of red in the terminal years; but abundance does not have high proportions of red. If we went with the recommended approach, the South Atlantic region for the abundance index; that would not have triggered in recent years.

The harvest index would have triggered in recent years; but because we don't have both abundance and harvest triggering, management action wouldn't be initiated. However, looking at the Mid-Atlantic, we have a similar situation as was the case for spot; where in the last three years, 2015, '16, and '17 that 30 percent threshold of red is exceeded for both the adult abundance as well as the harvest metrics.

That being the case, regardless of what happens in 2017 when the TLA is updated, if the Board were to adopt all of the changes that are recommended by the TC, management action would be triggered for the Mid-Atlantic region for croaker as well. In summary, the TC recommended several changes to the annual TLAs.

Incorporating all of the recommendations would trigger moderate concern management action in 2018 for both species in the Mid-Atlantic; that

again, Mid-Atlantic being defined from Virginia north. Incorporation of all recommendations as far as process goes; this would require an addendum to the spot and croaker FMPs.

We would likely go about this as a joint addendum process; so we would hold public hearings, and as far as writing the document it would encompass both species at once, so it wouldn't be two separate. The previously discussed course of action that can be referenced in the minutes from the last meeting, would be for today for the Board to task the PDTs, the Croaker PDT would need to be repopulated; there currently is not a croaker PDT.

But the PDTs would need to be tasked to investigate potential management responses to the triggers in the Mid-Atlantic from the revised TLA. In August the Board would review the updated TLA through 2018; using both the current method as well as the revised method. There would be some feedback from the PDT on potential management responses to that updated information; at which point an addendum would be initiated.

October would be where the Board would review the draft addendum for public comment; and final approval after a public comment period would occur, potentially in February of 2019. Some of the feedback that would be needed for the PDTs to put this process into action would be how much or what type of a reduction is the Board looking for; as far as responding to that Mid-Atlantic trigger?

In talking to some Board members there has been some concern about the impacts of the shrimp trawl fishery; so there would be a question of, can anything be done? What is the will of the Board, the power of the Board to look at the effects or impact the effects of the shrimp trawl fishery versus the actual harvest? With that I will take any questions.

CHAIRMAN GEER: I'll open the floor for questions for Mike; any questions? Mike, I have

one. If the Mid-Atlantic is triggering, how will the trawl fishery in the southeast, meaning North Carolina through Georgia. How would that play into the Mid-Atlantic abundance?

DR. SCHMIDTKE: That's a good question and that's one that can be posed to the PDT and TC members. I don't know that I have an answer directly for that. That has just been a concern that has been expressed to me from others.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: I think I understood that the PDT and perhaps the TC is going to be looking for guidance from the Board on the magnitude of reduction. This is the heart of my question. Because this is a traffic light analysis, is the Technical Committee going to have any ability to tell us what the magnitude of reduction would need to be to get us down below those triggers?

I'm a little concerned that we're headed into a game of ping pong between the Board and the TC; because I honestly don't, I'm not entirely sure. I can't really put together in my head how you would calculate a magnitude; you know what the magnitude of action would need to be.

DR. SCHMIDTKE: I guess more of what I was looking for, and what I'm hoping to be able to provide to the PDT is that getting below the 30 percent threshold; is that what the Board would desire, or would the Board desire something further down, getting below a 15 percent red or any other magnitude. That is kind of what I'm going for; not as much specific numeric requirement, but what would be the end goal relative to the TLA that the Board would want to see spot or croaker end up at?

CHAIRMAN GEER: Lynn, follow up.

MS. FEGLEY: If we were to task the TC to look at management options, would they be able to give us magnitudes and magnitudes over timeframes? For example, in Year 1 you would have to do this much to get below that threshold level, or if you wanted to achieve it in Year 2, you

would have to proceed as follows. Could they give us that level of detail?

DR. SCHMIDTKE: I think they could certainly try. I think that is something that could be asked of them, and I would have to pose that to the people that would be running more of the numbers to get the full answer on that.

CHAIRMAN GEER: Toni.

MS. KERNS: I think it would be helpful for the TC and the PDT, if the Board could give them some parameters in which you want them to investigate. For example, hitting a target which ranges from 15 to 45 percent around the threshold, whatever numbers you want it to be around the threshold, and then a timeframe in which to achieve those, anywhere from one to five years or one to ten years. But otherwise that they will have endless combinations and if we can narrow down their focus it would be helpful for them.

Then the other thing is that if they are going to have to describe management tools. Are there nonstarter management tools that you don't even want to look at, or do you want them to look at all management tools? Are there outside-of-the-box-management tools that you're looking for, would be helpful?

CHAIRMAN GEER: Is there any follow up to that any comments, any ideas? Lynn, you have the floor.

MS. FEGLEY: This is very difficult. But I would say that just as a start to ideas, and we've discussed this with our stakeholders internally, particularly for spot. Because this is an animal that is very important to the charter industry in particular, I think that size limits would be something that would be difficult for us at the start; just because of the different sizes of animal. I guess I hesitate to say let's not examine size limits; but it's going to be a very tricky issue.

I would also say that perhaps because for spot in Maryland we have regulations in place on

croaker; and I think we may be one of the few that does. We have no regulations on spot. I guess anytime you go from an unregulated fishery to a regulated fishery, and given the less quantitative nature of the stoplight, I think it would be my inclination to step in. You know to phase in, go there more slowly than more quickly. I don't know if that is specific guidance. I'm just throwing that out there for discussion from the colleagues around the table.

CHAIRMAN GEER: Chris.

MR. CHRIS BATSAVAGE: I agree with Lynn. I think if we needed to look at narrowing down the potential management options, I think a minimum size limit for spot is one to eliminate right off the bat; just due to how the commercial and recreational fishery operates, and also based on the life history of the fish. This isn't a very long-lived fish.

I don't really have an opinion on whether or not that is appropriate for croaker. We could at least have that as an option. In terms of what to shoot for; that's always a tough question, especially since this isn't a quantified assessment. I think what Toni mentioned is kind of a range between X percent and Y percent.

I think is a good way to go; that will kind of I guess give a range of what sort of risk or comfort level the Board and the public has, as far as implementing measures to improve the stock over a certain period of time. I guess a question I have is when we trigger management, implement management measures based on the triggers, is there a minimum set period in which these measures need to be put in place, like three years, or is the Addendum silent on that?

CHAIRMAN GEER: I think that is how the Addendum is written; how it's set up and established, Toni or Mike.

DR. SCHMIDTKE: For spot the measures would need to be in place for at least two years; for croaker for three years and there would not be traffic light analyses conducted in the interim, because any results from those would be

impacted by the management. But there would be an evaluation; like we would still conduct FMP reviews. But there couldn't be additional management action triggered in the midst of that.

CHAIRMAN GEER: Toni.

MS. KERNS: In addition to that you're going to have to create a new addendum to adopt these new traffic light approaches. If you want to alter that you can specify how you want those numbers of years for the regulations to stay in place.

CHAIRMAN GEER: Roy.

MR. MILLER: Assuming that we modify the program to adopt the new traffic light analysis. I'm just thinking ahead. What can we do to influence the relative abundance of this species? In our area we've always assumed that a lot of the driving factors were environmental. I don't recall from the assessment whether there was any proof of a stock recruitment relationship on either of these species.

I don't think there was; you're shaking your head, Mr. Chair. Apparently my recollection is correct on that. I would just be curious. What are some potential management measures that we could undertake that would benefit these stocks; if the newly adopted traffic light analysis shows us that the triggers have in fact been tripped?

DR. SCHMIDTKE: As far as what approaches can be taken that is one thing that we're trying to have discussion on; and that may be something that is beyond me to provide. You know we've heard comments that the size limits would be difficult. I guess one point to emphasize in this is that if the revised TLA is adopted by the Board, it's not a question of if triggering is occurring, it is Mid-Atlantic will be triggered no matter what.

CHAIRMAN GEER: Jim Estes.

MR. JIM ESTES: I have a very basic question. One of the decisions that we need to make here is whether we're going to adopt these traffic light analyses with the new indices in it. For the folks in the Mid-Atlantic, I'm curious. If you hadn't seen this and you came to this meeting today, would the on-the-water observations that you made or your stakeholders have made show the same thing as the traffic light analysis? That is what I need to have comfort with first; before even going any further.

CHAIRMAN GEER: I have Roy Miller and then Marty.

MR. MILLER: I think I can supply part of that answer; at least certainly for what we see in the Delaware Bay region. I would say yes to Jim's question that recreational and commercially we've seen a considerable drop off in the abundance of croaker; to the point where they've been fairly scarce in the recreational catches, particularly those in excess of the 10-inch-minimum size limit that our state has. I'm sorry, the 8-inch size limit for croaker; John corrected me. But anyway, fishing has been fairly poor for croaker for several years now; and spot abundance has not been high either.

CHAIRMAN GEER: Marty.

MR. MARTY GARY: Jim, I would echo Roy's observations. We have a lot of discussions; both formally in our Finfish Advisory Committee setting, and also just on the fly with folks coming into the office. We have several rental boat fleets that serve individuals that like to go out; and this is their targeted species. We consistently get feedback that things have dropped off; and are not what they are for both species, so this is a very important issue for us.

CHAIRMAN GEER: Okay Lynn, did you want to comment for Maryland?

MS. FEGLEY: I would just echo that we have currently a 9-inch size limit in place for croaker. But we have heard concerns from our constituents about spot.

CHAIRMAN GEER: Well the first thing I think we would have to do is decide whether or not, as Jim said, are we going to accept these new recommendations from the CC using the regional approach? Toni.

MS. KERNS: You need to do an addendum to make a change; because the stoplight is done through an addendum, so we would have a new addendum to approve those.

CHAIRMAN GEER: We would have to initiate a new addendum. Lynn.

MS. FEGLEY: My understanding of the process was that today we would ask the TC to go back and look at some things; and then they would bring that back in August, and we would see what they have, and at that time simultaneously initiate that addendum to accept the new TLAs, if that's what's chosen, and to incorporate the options that the TC brings back.

To that end, I guess I would suggest because of the complications with size limits, especially with spot. I'm a little less comfortable with croaker, but that the TC would explore mechanisms using season adjustment, season length and timing for spot. Somebody can jump in here; to get within 5 percent of the threshold, just as a starting point for discussion.

CHAIRMAN GEER: Okay, any other recommendations? Chris.

MR. BATSAVAGE: It seems like unless there is any concerns over the technical merits of the new traffic light analyses, I don't see why we couldn't initiate an addendum today to incorporate those; and then for the August meeting the Technical Committee comes back with the potential management options for addressing the trigger being tripped in the Mid-Atlantic.

CHAIRMAN GEER: Sounds good. Toni.

MS. KERNS: If you're going to initiate we would take a motion to initiate that.

CHAIRMAN GEER: We would have to take a motion to initiate; so if you would like to do so.

MR. BATSAVAGE: Okay, I need some help crafting this. Move to initiate an addendum to the spot and croaker fishery management plans that incorporates the new traffic light analyses.

CHAIRMAN GEER: Is that a second to the motion? Martin Gary. Discussion, Adam.

MR. ADAM NOWALSKY: The last couple minutes we've talked about the TC giving us some advice about potential management options. Earlier in the presentation wasn't it recommended that a PDT would develop those management options, and that in fact we had to populate it, or is this something that the TC can do in lieu of doing so?

DR. SCHMIDTKE: Typically the PDT is the body that gives advice on management options. It would typically consist of TC members, but a PDT would be the group that would provide those, and would be developing a draft addendum.

CHAIRMAN GEER: Follow up.

MR. NOWALSKY: I guess what I'm just looking forward is we can initiate this today; but I think ultimately the action the Board takes on it. We would want to have some knowledge about what the implications are going to be, before we act on it. I just think in the process we need to make sure we have that timing in sync. We don't want to come to a meeting expecting to take final action, which I don't think this Board is going to take if we don't know the implications of it ahead of time.

CHAIRMAN GEER: Good point. Toni.

MS. KERNS: Just to be clear. I think Mike talked about this before. Our thought was that once the TC and the PDT come back, because in some cases spot has a PDT, it doesn't have a TC, and croaker has a TC so it's the opposite of that is

what it is. But we'll have folks from all arenas giving the Board some advice.

But for the management response and how quickly we can respond, how much time the measures need to be in place. Those can all be things that we bring back to the Board; either via the TC and the PDT. But in terms of the addendum itself, we were talking about including both the changeover to the new analyses, as well as how you respond to the management triggers that are contained in these new analyses in one document.

While we initiate this portion of the document today, how you respond may not come until August; so therefore you may not approve a document to go out for public comment until the annual meeting. Does that make sense; because we wouldn't want to go out for two addenda in a row?

We know that these triggers are still going to be tripped from this year to next year; because the data hasn't really changed much. Therefore, if we're going to go out for public comment saying the triggers are tripped; we would want to let the public know what it would look like, in terms of a management response to those triggers, to be as transparent and as informative as possible to the public.

CHAIRMAN GEER: Adam, is that satisfactory?

MR. NOWALSKY: I would interpret that as the record suggesting at this point that while the words specifically say that we're doing the addendum to incorporate the new TLAs; that the intent is actually to incorporate the TLAs and have a management response.

CHAIRMAN GEER: Do you want to modify your motion to include that? Adam, did you want to modify your motion to include that?

MR. NOWALSKY: It's not my motion so I'll pass on that.

CHAIRMAN GEER: I'm sorry. Chris, would you want to modify your motion to include that?

MR. BATSAVAGE: Yes, I think for full clarities sake that I would recommend doing that.

CHAIRMAN GEER: Marty, are you okay with that?

MR. GARY: I am, Mr. Chairman.

CHAIRMAN GEER: Lynn, do you have a question?

MS. FEGLEY: Yes, I do Mr. Chair, and part of me wants to go back to the slide in Mike's presentation that showed the timeline. I still would I think feel more comfortable initiating this. I agree that these new TLAs should be incorporated. But I would feel more comfortable initiating an addendum when we have all the pieces in place; because now we're all going to go home, and we're going to say yes we initiated an addendum.

But as Adam said, we don't know what the implications are. I think on this timeline in the presentation, today is the day we're providing guidance on how to calculate the implications. Then in August I think it says initiate addendum; which includes all the pieces. **With that and I'm going to get my parliamentary terms confused; but my intent is to move to table the motion until August, or postpone, whichever the motion is that lets us take it back up again in August.**

CHAIRMAN GEER: That would be an alternative motion? Move to postpone. Do we have a second to that? Adam Nowalsky. Okay any other discussion on this? **Is there any opposition to this? Hearing none; the motion is approved.** All right then where does that put us? Toni.

MS. KERNS: In this process, you mean? I think what we would do is the TC and PDT will come back with response to the management questions and the timeframe questions; and then you can bring up the initiation of the amendment at the next meeting. During that

timeframe, if there is anything that you want us to do in terms of the traffic light approach, to be thinking about that so that you can give that direction to staff at the August meeting as well.

CHAIRMAN GEER: Yes the staff is really looking for direction in the TC. I mean the last meeting I was getting it in both ears; wanting to make sure we get some guidance. They wanted some guidance on what the Board wanted done; whatever you think, if you have an idea or thought please bring it forward. Lynn, you had a comment?

MS. FEGLEY: I just wanted to repeat for the record that in terms of direction, I think what we would like to see is some analysis of the use of season closures, or season adjustments to bring us back down to within 5 percent of the thresholds, and maybe in one and two years.

CHAIRMAN GEER: Adam.

MR. NOWALSKY: I would also recommend discussion be had; and bring some information back to us if possible, about whether this is fishing mortality related. Can we do this through fishing mortality or is the belief we hear climate change, environmental factors. Are there other things going on that are impacting these TLAs and that it's not fishing mortality. Any information that can come back to inform us better I think would be helpful.

CHAIRMAN GEER: Good point. Roy.

MR. MILLER: I agree with Adam. I think to the suite of things to be considered, bag limits, creel limits and that type of thing. I wouldn't restrict it at this point in time to just looking at seasonal restrictions. Leave the door open for other considerations; in terms of management response.

CHAIRMAN GEER: All good ideas. Lynn.

MS. FEGLEY: I just wanted to concur with Roy that the examination of bag limits I think would be another important step.

CHAIRMAN GEER: Jim Estes.

MR. ESTES: I completely agree with what Adam's statement was; is this some mortality that is not being caused by fishing. I would like to get some idea about how realistic that is for staff to try to determine that.

DR. KRISTEN ANSTEAD: When we were tasked with looking at the TLA, we did specifically for croaker look at this, because croaker does have this beautiful cyclical pattern in the harvest that you may have all noticed. It was challenging to make it statistically a thing. But we would continue to try; particularly if it was something that the Board wanted us to pursue more.

There is more we could try, and there is more we could look at for sure. But it's hard to do; and I will remind also remind you we don't have a stock assessment that is approved for either of these, so we don't have a fishing mortality. All we have is the traffic light for management. Without a stock assessment it is more difficult.

CHAIRMAN GEER: Wilson Laney.

DR. WILSON LANEY: I'm sure Kristen and Jeff have probably seen these. I know that some work has been done; to Adam's point, looking at the relationship between croaker abundance cycles and environmental variables. I thought I had those papers right in front of me here; but I can't find them at the moment.

There is a body of work out there that I think speaks to that particular question; and there is also some work by Diamond et al that looked at the impact of shrimp bycatch on spot and croaker populations, or maybe just croaker populations. I think that the TC and PDT can look over that literature; and maybe provide some information back to the Board about how those factors enter into population abundance for at least one of those species, maybe not both.

DR. ANSTEAD: We have both of those papers; and we did reference them, but again it remains

a challenge how you tie that to the TLA, which doesn't really have a place for that.

CHAIRMAN GEER: Is there any other discussion on this topic? Hearing none; if you have any ideas, any thoughts, I mean we had some good ones today. But if there are any other ones please come forward, let Mike or I know or somebody on your TC let them know; I mean because the TC is looking for some guidance from us, so that they can concentrate their efforts as much as possible. Moving on, oh wait Wilson.

DR. LANEY: I did have one other question, Mr. Chairman. Based on the comments that were made by various and sundry Board members, is it the general sense of the Board though that they like the new measures; and that at some point they would be prepared to adopt those new measures? I mean from my perspective I have a conflict of interest here; because I'm on the TC or the PDT, one of the other.

It seems to me that those do improve the utility of the traffic light analysis for providing management advice. As we've all noted, the devil is in the details of what sort of management response you have to make to get it down. Those points have already been made. Is my perception correct? Again, based on Chris and Marty's motion, it seems to me there is support for adopting those at some point.

CHAIRMAN GEER: I see nodding of head. I think we're bringing more data, more indices into these TLAs, and I think that's a good thing. I thought the approach was well handled. It made a lot of sense, and I think most people around the table are in agreement that we are in support of these new methods and doing this.

I'm seeing some people looking at me. It's time for lunch; I'm hearing. We will break, everyone get lunch, and maybe we can come back in and maybe Mike can start. We'll take like 20 minutes and we'll come back in; bring your food in here and we'll try to start back up, and start dealing with cobia.

(Whereupon a recess was taken.)

**UPDATE ON THE SEDAR 58 COBIA
STOCK IDENTIFICATION WORKSHOP AND
BOARD TASKING OF THE COBIA
TECHNICAL COMMITTEE**

CHAIRMAN GEER: People are just joining us. I'm Pat Geer; I'm the Chairman of this Committee, and we're moving on to Item Number 6. Update the SEDAR 58 Cobia ID Workshop. Mike, you have the floor.

DR. SCHMIDTKE: By the time this is done you all will be tired of hearing my voice. Today I'll go over several aspects of cobia stock ID assessment, and then management actions that are being taken will need to be taken. First of all, talk about the SEDAR 58 Stock ID Workshop that was held in April in Charleston, South Carolina.

The final report deadline is later on this month with a Peer Review Workshop scheduled for June in Charleston, South Carolina. The big take away from this stock ID workshop is that the preliminary results indicate that there is a transition area between Brevard County, Florida and Brunswick, Georgia; with distinct biological stocks to the north and south.

A couple finer points within the stock ID report is that there was some substructure identified within the Atlantic stock; and there is improving tagging information from programs that are starting within the next year or so, and have been started within the past year. There should be some improvements looking into future assessments; as far as the tagging information that is available, but has certainly picked up from what it used to be.

But the large take away that comes from this is that the results do not disagree with the current management boundary; and so there will likely be a recommendation to maintain the current boundary of the Florida/Georgia border being the line between the Gulf and the Atlantic stocks. At the last meeting the South Atlantic Board

tasked the Cobia TC with the motion that's shown on the screen.

I just want to update on the progress with this. A call was held earlier this month for the Cobia TC. On that call the TC determined that they would need to have a follow up call with some staff from MRIP; to clarify some of the methods for the recreational landings estimation, specifically how certain expansions occur for instances like cobia, where there may be catches within a very protracted time period that may be smaller than a wave and how different sites are weighted within the whole estimation process.

Right now the TC is finalizing a letter that they intend to send over to some MRIP staff; to schedule this call. Within that letter they have some specific questions. They have a group of about four questions that they'll pose to the MRIP staff that will help them in their evaluation of different methods; by which to determine the harvest impact of management measures on cobia.

One thing that I just wanted to remind the Board of, and one reason why I'm bringing up this Board tasking right now, is just to give assurance that the TC is working on the task, but at the same time our TC has five members, all of which have been part of the stock ID workshop process.

They will all likely be part of the data contribution for the upcoming SEDAR assessment. They're playing a lot of different roles within the realm of cobia right now; and this Board tasking is one of many. That is one reason why there may not be as immediate results as there could be if there were not an ID workshop and an assessment going on all at the same time.

**REVIEW DRAFT TERMS OF REFERENCE AND
SCHEDULE FOR THE SEDAR 58 COBIA
STOCK ASSESSMENT**

DR. SCHMIDTKE: Moving on to the next stage of the SEDAR 58 process is the SEDAR 58 stock assessment. Draft Terms of Reference and a

draft schedule were included in your briefing materials. Some of the dates to highlight are a data workshop scheduled for November 27 through the 30, tentatively scheduled for those dates later on this year, then a review workshop in late July through early August of next year, with a final report submission date of September 6, 2019.

DR. SCHMIDTKE: As a partner in cobia management right now, the South Atlantic Board has the opportunity to provide edits to the Terms of Reference. The final approval is by the South Atlantic Council; but we can provide them with recommendations. If you have any, after reviewing the terms of reference and the schedule from the materials, if you have any edits that you think require discussion among the entire Board today, then we can have that discussion.

But if there are more edits that you think would be more easily incorporated without a greater group discussion, then you can feel free to just e-mail those to me. I'll accept those edits through 5:00 p.m. next Thursday. That will give me enough time to incorporate all of them, send kind of a final draft out to the Board before I submit the entire group of edits to the South Atlantic Council in time for their June meeting materials. Also associated with that assessment process, I'm working with SEDAR and Council staff to draft a list of suggested participants.

Actually about an hour ago we got our first draft of the suggested participants list. I'll have a call with them within the next couple of weeks; to basically talk about which agency is going to be appointing which individuals, and I'll be e-mailing the Board that appointment information in the coming weeks. Just stay tuned to your e-mail and you'll be hearing from me regarding that. At this point I can pause; in case there is any discussion that wants to be had about draft Terms of Reference.

CHAIRMAN GEER: Are there any discussion or questions about the TORs? Chris.

MR. BATSAVAGE: The only suggestion I have is for Number 7; which deals with future research areas such as sampling, fishery monitoring, and stock assessment, is maybe to include something about providing recommendations for methods to improve the precision and estimates of uncertainty in recreational landings. To get at the main challenge we have with cobia management and for the stock assessment too; just the very uncertain recreational harvest estimates that we deal with on a regular basis.

CHAIRMAN GEER: Good point, any other ones? If you have any, please get them to Chris and have your TC members as well, or your staff in general; just so they have anything they want to add or have any comments to this. Get them to Chris before the deadline; not to Chris, to Mike, I'm sorry. Moving on, okay we're going to get ready to talk.

This is probably the crux of our cobia discussion that we're going to have today.

**DISCUSS QUESTIONS FROM THE SOUTH
ATLANTIC FISHERY MANAGEMENT COUNCIL
REGARDING POSSIBLE TRANSFER OF THE
ATLANTIC MIGRATORY GROUP
COBIA FISHERY MANAGEMENT**

DR. SCHMIDTKE: We're going to be talking about the South Atlantic Council sent a letter to the Commission back in March, requesting how the Commission is going to manage in federal waters; and we're going to have a discussion about that today. Mike, you have a few slides on that?

DR. SCHMIDTKE: There have been a few letters that have been sent back and forth from different bodies interested in cobia. The first one is a letter from the South Atlantic Fishery Management Council that is in your briefing materials. There are several questions listed verbatim in regular text right there from that letter; with kind of an overarching point of how and when will ASMFC request NOAA Fisheries to

manage cobia in federal waters, in the absence of a council FMP.

That is kind of the big question. What measures would we request of NOAA Fisheries; and what would be kind of the timing of that process? In your supplemental materials there was also another letter from the Southeast Regional Office that details kind of some of the interaction that goes on between NOAA Fisheries and the Commission in the case of Amendment 31 being approved and management being transferred over to the Commission.

Right now the Cobia ISFMP supports complementary management; but does not have a mechanism in place for management of federal waters without the Coastal Migratory Pelagics FMP. Within that letter, SERO has requested that the ISFMP be amended to address cobia management in federal waters.

The Commission would develop measures through the ISFMP amendment; and request NOAA Fisheries to implement these measures in federal waters. There are a couple of suggestions within that letter; as far as the options for what can be put in place in federal waters. Would there be coastwide measures? Would there be a consistent federal season, or compliance with the landing states measures?

That is something that as staff we would look to the Board. It seems that we are going to have to have an amendment in order to accept sole management of cobia; so we would be looking to the Board as far as what they would want to include in such an amendment. Potential timeline for that amendment to take place, what you see on the screen is as aggressive a timeline as is possible.

There are a couple of places in there that I'll highlight. The beginning of this process would involve a motion today that would have this amendment initiated upon the approval of Amendment 31 to the Coastal Migratory Pelagics FMP. We would go through our amendment

process with final action potentially for May, 2019.

One thing within that timing that I would want to note is the public comment period on the Public Information Document between August meeting and October meeting of this year. With our processes, as far as how many days a document must be out in order for public hearings to occur. We would need to meet a very, very strict time schedule for public hearings within a relatively short timeframe.

Just be mindful of that if the Board would want to pursue this timing of the course of action. A reminder that the SEDAR 58 assessment is scheduled for completion in September of 2019, so rather than have two potential actions back to back with possible Board action in response to the assessment results. What can be done is the amendment can be written in a way that allows some transition from the current management regime; which if the Board were to choose in the amendment to just continue on initially, as far as the recreational side, the RHL or continue on with commercial measures that are very similar to what are in place with the current ISFMP. The amendment could be written such that a transition to some other management mechanism that there has been interest from the Board in past meetings; such as an F-based-management system or something where there is not an annual coastwide quota, something of that sort.

That could be done through an addendum process; if we were careful about how we write the amendment initially. There would be that addendum in response to any assessment results would potentially be annual meeting of next year or later. But this is kind of a possible timeline for that ASMFC amendment process.

Just recapping what we're looking for feedback from the Board on today is how will ASMFC, how will the Board request NOAA manage federal waters. What are the options that would be included in the amendment to the ISFMP? That would involve initiating that ISFMP today;

contingent upon approval of the CMP FMP by the South Atlantic Council.

Sorry, one more point for consideration is also what would be requested of NOAA Fisheries to implement in the interim time period. There is a time period (between June of this year and as soon as May of next year) when we would be going through our amendment process. But the South Atlantic Council will have already released cobia; so what are the temporary measures that the Board would desire to be in place in that interim? Those would be requested of NOAA Fisheries for implementation.

CHAIRMAN GEER: Gregg Waugh.

MR. WAUGH: From the South Atlantic Council's perspective, I would like to express our appreciation for your continued cooperation in working through this. I think we're going to have to get Mike a spot in our office in Charleston; he is spending so much time down there. But just to update you.

When we tried to approve this at our March meeting, there was a question about the stock ID; and some NOAA GC raised some legal deficiencies, in terms of what was going to happen in federal waters. The stock ID issue has been resolved; that is not changing. The Gulf Council has now adopted the preferred alternative of transferring management of the Atlantic group; so they're onboard with the same alternative.

Bob participated on a conference call there and heard some of those same concerns. The two Councils are on schedule to approve this amendment in June; the South Atlantic June 10 through the 15, and then the Gulf the following week. Our intention should the two Council's approve that is to get that document to the agency for review sometime in August; is sort of the target timing. The legal questions I just wanted to touch on them just briefly. There was a question about what would happen in federal waters.

What would be helpful for us to address that is to get an indication from you all that you are beginning an amendment; as Mike outlined, to the Interjurisdictional Cobia FMP. If we had that information for our June meeting that would be very helpful. The Regional Administrator in his letter has indicated that he's ready to concurrently implement the removal of regulations from our cobia FMP and then through ACFIMA to implement whatever regulations you all request. To the extent that you're comfortable at this meeting, giving some indication of whether you would like to see the current regulations continue in federal waters in the interim; that would certainly help calm some concerns of some of our members. Again, just thanks for addressing this quickly. I know you have a full agenda. We appreciate your continued help.

CHAIRMAN GEER: Lynn.

MS. FEGLEY: This is just a clarification for myself. The federal regulations we're speaking of are only in the interim, correct, while we're in that transition period? Once you're released and we're adopted that is no longer an issue or is it?

DR. SCHMIDTKE: There would need to be some recommendation from the Board to NOAA for regulations that would be put in place when the Council releases cobia; when Amendment 31 goes through. There would need to be some recommended measures there. Now if the Board wanted to keep those measures going into the future, then those would just be included in the amendment to the ISFMP; into the Commission's amendment.

But there would need to be something in place to recommend to NOAA Fisheries; because there is that time period where we don't have anything in writing in place, and the Council has then released their management authority.

CHAIRMAN GEER: Doug Haymans and then Chris Batsavage.

MR. DOUG HAYMANS: That would be an extension of state regulations into federal waters that the Commission would be approving basically; because multiple states have different regulations, correct?

DR. SCHMIDTKE: It could be that. That is one of the options that could be brought forth; or the Board could elect some other option that is in place, if they wanted to take say the coastwide measures and keep those into the federal waters, or something of that sort. That is what we're looking for some guidance on.

CHAIRMAN GEER: I have Chris then Gregg.

MR. BATSAVAGE: I guess to start off the discussion on potential interim measures. I would recommend coastwide commercial measures that are currently in place in both FMPs; and then for recreational measures I require anglers to comply with the state they plan to land their fish.

CHAIRMAN GEER: Okay I have Gregg.

MR. WAUGH: Chris covered the majority of what I was going to mention. I think in term of any season that would be covered by landing consistent with the state regulations in which you're landing as well.

CHAIRMAN GEER: Jack McGovern and then Mel Bell.

DR. JACK MCGOVERN: To Doug's point. There wouldn't be an extension of state regulations into federal waters necessarily. That would be one option like Mike said. But what has been recommended, and I think Mike stated this, by our attorneys, is that when Atlantic cobia is removed from the Coastal Migratory Pelagics FMP, at the same time in the same rule, regulations would be put into place through the authority of the Atlantic Coastal Act. That would be different from what you're saying, I think.

CHAIRMAN GEER: Okay Mel.

MR. MEL BELL: I have a slightly different take; in terms of the recreational regulations as they apply to the state in which landed. We have an issue in that South Carolina is perhaps a little more restrictive than our neighbors to the south and north; related to the recreational boat limit. We're one fish per person, but a three fish boat limit.

What this sets up if we go that route, and we know this occurs, is that we get folks fishing out of Savannah, Georgia up on our artificial reefs, returning to Savannah, Georgia. While they're mixed with our folks out there that are coming in and out of South Carolina ports. You could potentially set up a situation; which we would like to avoid, where folks coming from a state that is less restrictive can have six fish in the boat, because that's what their state allows.

Whereas my fishermen are held to three fish in the boat, and it's their federal waters, their artificial reef that they paid for and all. What I would prefer to see is a requirement that you adopt the most; if the waters you're in, if those waters are more restrictive then it's the waters you're fishing in. I realize from an enforcement standpoint that involves on the water intercept type enforcement.

But I could see this happening where the Betsy Ross Reef for instance, which is a real popular reef that is fished by our southern Beaufort County fishermen, as well as folks from Georgia. You could have people being held to a different standard out there on the water. Then of course depending on where your boat is registered, or where you're going with the fish. The where you're land them aspect, I would prefer it to be allow the state to actually extend its regulation out into federal waters, and enforce that in federal waters.

CHAIRMAN GEER: Toni.

MS. KERNS: Mel, we do like for example we sort of do this in summer flounder, although it will be a little bit different on how we promulgate the regulations; because it will be under ACFCMA.

But for federal waters you can't extend your state waters. If the reef is in federal waters then it is still the home state that you're going to; whatever is the more restrictive of the two measures.

If a Georgia vessel is fishing in federal waters, it can fish under the Georgia rules; and then it goes home to Georgia. If a South Carolina vessel is out there then it fishes under the South Carolina, goes home to that. I don't think we have the authority to extend your state waters into federal waters; and then put that on another state's fishermen, because there is no boundary line in which those state edges go out into federal waters. I do have a follow up question for Jack though. I thought in Roy's letter, one of the options was, it was either that we would ask NOAA to continue the current federal regulations in federal waters until such time we made a request to NOAA to make changes, or that we could extend the current state water recreational regulations into federal waters. Are both options available or is it just the first option in this sort of interim period?

DR. MCGOVERN: I'm looking at the letter here. I think the two options were one was where the Commission could just recommend that there be a federal season; and just say it's like from May to October or something, or that where it's landed the fishermen could just abide by the season where the fish are landed. But I think both options are available.

CHAIRMAN GEER: Doug Haymans and then Chris.

MR. HAYMANS: Yes, I'll start it with a point to Jack. Then I wanted to agree with Mel, and now it's all three. Which one do I want to tackle first? I guess Jack; my point in the question earlier about extending state regulations out in federal waters was because we have a different regulation than North Carolina does.

If we go with the Council's regulation in federal waters, I'm fine because I match the Council. But if we do away with Council regulation and we just are working off of state regulations, then

which one are we going to go by? That's why I think agreeing with Mel, we need to have the state regulations extending out in the federal waters.

The biggest question to me though that came from the Council meeting last time to the enforceability question was can our LE guys enforce a rule in South Carolina in the federal waters off of South Carolina? You know I'm looking at well everybody's got a JEA Agreement, they should be able to.

They shouldn't just have to enforce Georgia regulations, because they're a Georgia LE guy. They've all got these JEA agreements to allow them to enforce regulations in federal waters. I don't know that we've answered that question. But I think we need a firm answer to that one. Then to whoever's point over here about commercial being the same.

Well, I took the extra step of making commercial a little more restrictive in Georgia. I held the commercial guys to a 36 inch limit rather than the 33; I think is what we've got in federal. Now I'm in a bind with that one if we don't do the same thing with commercial that we do with recreational. That's a blot.

CHAIRMAN GEER: Chris and then Mel.

MR. BATSAVAGE: It wouldn't be a cobia meeting without getting very complicated. I appreciate the concerns that Doug and Mel have. What Mel highlighted as a potential issue I think happens all the time with summer flounder; where you have close Border States fishing common waters, and a person in State A can land a smaller fish than the person in State B, even though they're fishing right next to each other. I mean if we could extend state measures out to federal waters, I think it would solve a lot of that. I'm having a hard time figuring out how that would work; especially based on Toni's comments and how enforcement would handle it. The reason I made the suggestion that I did was to try to avoid a different set of measures in federal waters versus state waters.

That creates some issues for our enforcement officers; and it creates a lot of confusion for the anglers, as far as what they can and can't do in federal waters compared to coming back into North Carolina. That's where the suggestion of the anglers are held to whatever state they are planning to return to would take care of some of those issues.

Based on just what Doug and Mel said that sounds like it's a little more complicated to the south of us; based on some of the extra steps their states have taken for their commercial and recreational fisheries. I'm just kind of struggling to see a way out; as far as something that will satisfy everyone at this time.

CHAIRMAN GEER: Mel, I'm sorry.

MR. BELL: No that's okay. I followed what Toni was saying; but I think there are lines that are drawn out, which are extensions of the state lines out into federal waters, for purposes of whether you're having discussions about things going on with BOEM or other issues. There are legally defined lines; and they can relate to fisheries as well.

It's a matter of how can we, if the states are indeed going to be kind of responsible for managing a fishery in their waters and outside and in federal waters. We've got to be able to regulate that somehow. I know I'm not; I'll put Jim on the spot I guess. I know Florida deals with some issues down there related to boundaries with other folks and differing regulations and things; whether it's federal, state or Gulf Atlantic.

But they may have some experience down there. I know I've talked to Jessica about that before; about kind of how they do it down there. One of the tricks was the enforcement piece, where if our officers are offshore operating under our JEA, and they have the South Carolina regulations. That is what they would enforce.

I guess I would just go back and ask if there is any way possible we could research that legally or

whatever; to figure out how we can make this happen, because any place you're going to have these differences, this is what you're going to run into. Let me also say that our approach to management of cobia, particularly in our southern waters, which was the bulk of our fisheries; is driven by things that we did over decades with that fishery.

We are trying to rebuild that distinct population segment of fish; and those fish do not recognize the three mile limit. You know we know through acoustic tracking that they go back and forth; and so our ability to help that population rebuild depends on our ability to extend our management approach into federal waters.

CHAIRMAN GEER: Toni.

MS. KERNS: Two things; one, I did try to do a little investigation to answer Doug's question about whether or not a Georgia GNR vessel or officer could give a citation to a South Carolina boat. My understanding of how the JEA seems to be changing in the states, and I don't know about each, if it's different in every state or not.

But that it's been watered down a little bit in that the state officer makes a recommendation to NOAA to put an infraction in place for something that happened in federal waters. I am not 100 percent sure if they can make that recommendation for another state's vessel or not; and we will look into that to try to figure it out. The second part to my question, I guess to Gregg, would be if we can't resolve this question of enforcement and how you want to deal with extension into federal waters.

Would the South Atlantic Council and the Gulf State's Council be satisfied with Option A.? If that doesn't work then the second Option B, which I think would just be to leave in place the current recreational federal waters regulations; until such times we make a further recommendation to NOAA Fisheries, and that would be after we finalize the amendment process, if Amendment 31 were to pass.

MR. WAUGH: I don't think we have a strong preference either way. Obviously Mel and Doug have pointed out concerns at the state level. But in terms of addressing the federal issue and the NOAA GC concerns. As long as we have an indication that you all are moving forward with an amendment, and that you're in the process of figuring out exactly what you're going to ask. If it's those two alternatives, I think that works fine for the Council's finalizing their action.

CHAIRMAN GEER: Okay I had Wilson had his hand up, and then I have Adam.

DR. LANEY: Mel used the DPS word, and Chris used the word complex, and Mike used the word future. I want to challenge the Board to think about the future; should at some point in time we have enough genetic data to resolve whether or not there are sub stocks north of that Georgia/Florida line.

If it turns out that there are sub stocks, and I believe Mel that South Carolina, I thought had pretty much definitively shown that that Port Royal Sound population is distinct. Then you're going to have to factor that into management; and that will complicate the picture further. That is something again doesn't need to be addressed at this point in time, until the data are there.

We have graduate students at North Carolina State; Riley Gallagher and I know there is a grad student in Virginia who are out there catching cobia and taking tissue and sticking acoustic transmitters in them. Hopefully that picture will become clearer; but it could be, you know as early as two or three years from now, so I don't think it's premature to start thinking about what happens if hypothetically you wind up defining some stock substructure that you need to deal with.

CHAIRMAN GEER: I have Adam and then I have Bob.

MR. NOWASLSKY: My only desired contribution to the discussion of this species at this Board

level has been to encourage us to learn from the lessons in recreational management black sea bass, summer flounder. The scenario that Mel described a few moments ago of two boats fishing next to each other in federal waters, being held to very different regulations, is exactly what got people around the table for the Policy Board discussion today.

Any one of you can, from the southern states, can be the next Massachusetts representative to present an appeal when we get to that point. I think it can work; where the way the summer flounder plan is set up is there are a set of backstop measures in federal waters. But vessels are constrained to where they land.

The problem is enforcement cannot make a decision five or six miles off the beach where they're going to land. We have vessels with registrations in one state that either come or go from a port in a different state to take advantage of those regulations, or in some cases leave from one port return to another, so that they could take advantage of the regulations.

What we have learned, and the direction we're trying to go as a Board is to try to keep those regulations as close as possible in the separate states; if that is the route you wind up going. Having regulations or size limits are three, four inches separate from each other is going to be a problem. Bag limits double what they are, going to be a problem. But if you go that route, it can work; you just have to be committed to working together to keep those regulations as similar as possible.

CHAIRMAN GEER: Thank you, Adam, for that perspective. We appreciate that. I have Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I like Adam would like to keep appeals to a minimum; if at all possible. I just want to talk about urgency for a second. This Board has promised the South Atlantic Council's description of our intention in moving forward. Hopefully we can do that before their June meeting.

But as far as urgency goes about establishing the exact regulations that we're going to ask for, we may have a little bit more time, because even if both Council's approve Amendment 31 in June. That doesn't mean they are out of the game. You know that doesn't mean the federal regulations are dissolved at that point.

There has to be a, I think Jack, a nine month or so process to change that management; to remove the Atlantic stock from the federal plan, and migrate over to ASMFC plan under ACFCMA, et cetera. There is some time after the Council approves the plan that the current regulations are going to continue on until they don't.

There has to be a conscious decision to change those. If we need more time during that transition, I think we can work with the federal government to figure out the details. It's suggesting to do a little research if we need to. But if you look at the letter, Roy Crabtree's letter that is in supplemental material, they seem to be recognizing or he seems to be recognizing some of the concerns that are around the table. He is talking about size limit in the letter; but then he says "to accommodate a state's larger size limit, federal regulations could require recreational harvesters to comply with more restrictive state regulations, in any state where the fish are landed." They are acknowledging that you can implement through federal regulation a requirement to have recreational vessels be bound by the more restrictive measure from the state they're coming from. It doesn't always solve this boat fishing next to each other; but it does recognize that the federal regulations can require vessels to be bound by the more restrictive rule from their home state.

CHAIRMAN GEER: Any other comments? I see people getting their bags ready. Do we have to make a decision today on this?

EXECUTIVE DIRECTOR BEAL: I think the clearer signal we can send to the South Atlantic Council the better. I think Gregg is shaking his head back there. He may have some advice on that but I

think the more we can do today, would be better.

MR. WAUGH: Yes, I don't think you have to have all the details nailed down. But if we have an indication that yes you all intend to amend your plan; and yes you intend to craft some recommendations on what federal regulations you want continued in federal waters. I think that would be a big help to both councils; to finalize the amendment in June.

DR. SCHMIDTKE: One thing to keep in mind is that if the Board initiates an amendment today, within our amendment process we do have a Public Information Document that goes out, public comment period on it. That is where we would spell out different options. We would get public input on different options for managing. That's built into the amendment process. Initiating an amendment today doesn't mean that we have to know where the amendment ends up at the end.

CHAIRMAN GEER: Doug.

MR. HAYMANS: How much in the way of specifics do you need; with regard to that amendment or simply a motion to initiate an amendment, all that's required?

CHAIRMAN GEER: I think that's it.

DR. SCHMIDTKE: Yes I think that just initiating the amendment, and then certainly we would hope that Board members would communicate with their state TC members and members of the Plan Development Team as that amendment is constructed; so that the guidance can happen throughout that process.

CHAIRMAN GEER: Mr. Haymans.

MR. HAYMANS: Mr. Chairman, I would move that the Atlantic States Marine Fisheries, whatever this is, the Commission initiate an amendment for cobia. I knew somebody was going to be ahead of me. **Mr. Chairman, I would move to initiate an amendment to reflect the**

removal of Atlantic cobia from the joint South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council Coastal Migratory Pelagics Fishery Management Plan and to establish recommendations for measures in federal waters.

CHAIRMAN GEER: I see seconded by several people. I'll say Malcolm Rhodes. Doug, I must admit that was quite impressive on the fly; discussion, Mel Bell.

MR. BELL: We're onboard with moving forward with this. I just wanted to make sure I got on the record what our concerns are; because they are no small concerns for us. Also, my colleagues on the South Atlantic Council have heard this spiel before; but I would just say that we learned a valuable lesson about cobia in South Carolina, from having an extremely vibrant fishery, which involved heavy fishing on fish that were spawning on a predictable basis every year.

We fished and we fished and we fished on that; which ended up being through our genetics work, a distinct population segment. Then we watched it crash. It's a classic example I think of hyper stability, the illusion of plenty. But our fishermen because of that they're the ones that are insisting on this more conservative approach; this more restrictive approach.

Our fishermen are, because they know what we all contributed to, what they contributed to. That's why we may be a little bit more restrictive than our neighbors to the north and south. But we learned from that experience; and I would just as some others were pointing out, just as we look forward to the future here.

If you look at the fisheries that are involved off of our various states, I believe the peak pressure on these resources, the peak landings tend to occur during the peak time of spawning. It may be that we're all doing this to some degree. Now we were working in a system of fairly confined Sounds and Bays where we could put a tremendous amount of pressure on these fish.

If you scale up to the size of the Chesapeake Bay or pick a different body of water, it doesn't mean you can't do the same thing. I'm not saying that's what is going to happen, but I'm just providing from South Carolina's experience, a precautionary note as we move forward with cobia.

If you continually fish a stock of fish during their spawning time, while they're aggregated, you've just got to be careful. That's why we're insisting and our fishermen are insisting on this approach; because they are very repentant. They are trying to make amends. They are trying to rebuild the stock; because they like would like the fishery to return to some level inside our state waters. We've taken a much, for instance right now in our state waters in the southern cobia management zone there is no retention during the month of May.

The month of May was our peak landings period. We closed down our peak landings period; because we were that concerned, and the fishermen did it. We are a legislative state. The fishermen took it to the legislature. The legislature decided to do this; so it wasn't an act of our Board or an act of the Department. As I mentioned, I've said the same sort of thing in front of the Council; but I just wanted to get that on the record.

CHAIRMAN GEER: Thank you very much, Mel. Bob.

EXECUTIVE DIRECTOR BEAL: Just a quick question for the Board. Is everyone comfortable with us saying that in the interim between, you know after the Council has voted to remove cobia from their FMP, and the finalization of our amendment that we request that NOAA Fisheries maintain the current suite of federal regulations. Is everyone comfortable saying that in the interim?

That provides some backstop so the federal waters aren't a free-for-all. I think the federal government; I believe can either extend their timeline to remove the species from the federal

plan, which would maintain the current provisions in federal waters. Are folks comfortable saying that or do we want to ask for something different in this interim period?

CHAIRMAN GEER: Doug.

MR. HAYMANS: Georgia is comfortable.

CHAIRMAN GEER: Chris.

MR. BATSAVAGE: A question for Bob. Basically what's in place under the current federal cobia plan would stay in place until our amendment is finalized. Is that what you're asking?

EXECUTIVE DIRECTOR BEAL: Yes, with the understanding that ASMFC is going to move as briskly as possible to come up with their plan; and you know accommodate the concerns that Doug and Mel have raised.

CHAIRMAN GEER: Chris.

MR. BATSAVAGE: Does it address our immediate concerns? We're also taking care of some issues with this potential loophole in our existing rulemaking that may solve some of that in the meantime. But I think considering that we can't really come up with a reasonable solution in the interim, as far as what will satisfy our state versus what will satisfy the states of the south. I think that may be the only option to do right now.

CHAIRMAN GEER: Mel, do you want to chime in?

MR. BELL: Our approach was to basically maintain in waters outside the southern cobia management zone, was to maintain the current federal, what's in place federally. In fact we have a bill which is supposedly on the house floor today; to basically adopt the current federal regulations and codify them in state law; because we adopt the current federal regulations by reference now. But if at some point they went away, we would potentially have a gap. Yes, for the interim and then next

several years we're fine with holding what we've got; in terms of the federal regulations.

CHAIRMAN GEER: Do any of the Mid-Atlantic States want to chime in or comment on that? Hearing none; all right Bob, does that answer your question?

EXECUTIVE DIRECTOR BEAL: Yes, I think that's helpful and hopefully that helps the Council understand what ASMFC might do in the interim while we wrap up our plan.

CHAIRMAN GEER: All right so we have a motion on the floor, any more discussion on this motion? I'm sorry. All right let me read the motion. **Move to initiate an amendment to reflect the removal of Atlantic cobia from the joint South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council Coastal Migratory Pelagics Fishery Management Plan and establish recommendations for measures in federal waters.**

Motion by Mr. Haymans and second by Dr. Rhodes, is there any opposition to this motion, any abstentions, any null votes? Hearing none; the motion is approved. Okay, safe travels, Doug. Is there any other discussion on this topic? Okay, Mike thank you very much. You did a great job today doing all these things.

OTHER BUSINESS

CHAIRMAN GEER: We have Other Business. We have one item under business. Chris wanted to bring up something about mackerel in North Carolina. Chris, you have the floor.

MR. BATSAVAGE: I'll make this quick, because I don't want to get stuck in rush hour traffic any more than anyone else. As you recall, Addendum I to the Spanish Mackerel Fishery Management Plan for ASMFC allows for a seasonal exemption from the 12 inch minimum size limit for the pound net fishery from the months of July through September. This is

something that we've taken advantage of over the last, I think four or five years now.

Last year we came to the Board to ask if we could submit our information to do this again through an e-mail vote, and we would like to ask that again. We have just finalized the information for this exemption; just due to the timing of the landings data and the biological data that we need. It's kind of getting progressively tougher for us to get stuff out in advance of the May meeting. I am basically here to ask if the Board is okay with us submitting our proposal again for 2018, and have it approved via e-mail vote by the Board.

CHAIRMAN GEER: One question, do you know when you would be submitting that request?

MR. BATSAVAGE: I think we could submit that by next week.

CHAIRMAN GEER: Okay. Is there any objection to that? It's become pretty standard the last few years to do this. Hearing no objections; consider it approved.

ADJOURNMENT

CHAIRMAN GEER: Is there any other business before the Board? Hearing none; meeting is adjourned. Safe travels everybody.

(Whereupon the meeting adjourned at 2:00 o'clock p.m. on May 3, 2018)