

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

**Webinar**  
**January 25, 2022**

**Approved March 24, 2022**

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## INDEX OF MOTIONS

1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 4, 2021** by Consent (Page 1).
3. **Move to rescind the December 2021 black sea bass recreational management motion and move to adopt conservation equivalency for 2022 black sea bass recreational management, with a reduction in harvest specified to achieve the coastwide 2022 RHL. A 28 percent reduction will be required unless additional analyses conducted by the Technical Committee examining the MRIP data, including an outlier analysis and incorporation of the updated 2021 data as presented today, result in a modified percentage. Non-preferred coastwide measures are: 14-inch minimum size, 5 fish possession limit, and open season of May 15-September 21. Precautionary default measures are: 16-inch minimum size, 3 fish possession limit, and open season of June 24-December 31. If the percent reduction is changed the precautionary default and coastwide measures will be adjusted to be consistent with the required adjustment** (Page 12). Motion by Shanna Madsen; second by Nichola Meserve. Motion carried (Page 16).
4. **Move to adjourn** by consent (Page 19).

## ATTENDANCE

### Board Members

Cheri Patterson, NH (AA)	Tom Fote, NJ (GA)
Ritchie White, NH (GA)	John Clark, DE (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
Nichola Meserve, MA, proxy for D. McKiernan (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Raymond Kane, MA (GA)	Mike Luisi, MD, Administrative proxy
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Russell Dize, MD (GA)
Jason McNamee, RI (AA)	David Sikorski, MD, proxy for Del. Stein (LA)
David Borden, RI (GA)	Pat Geer, VA, Administrative proxy
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Bryan Plulmlee, VA (GA)
Justin Davis, CT (AA)	Shanna Madsen, VA, proxy for Sen. Mason (LA)
Bill Hyatt, CT (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
John Maniscalco, NY, proxy for J. Gilmore (AA)	Jerry Mannen, NC (GA)
Emerson Hasbrouck, NY (GA)	Marty Gary, PRFC
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Mike Pentony, NMFS
Joe Cimino, NJ (AA)	Mike Millard, USFWS

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

### Ex-Officio Members

Jason Snellbaker, Law Enforcement Representative	Alexa Galvan, Technical Committee Chair
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### Staff

Bob Beal	James Boyle	Savannah Lewis
Toni Kerns	Lisa Havel	Kirby Rootes-Murdy
Laura Leach	Chris Jacobs	Sarah Murphy
Lisa Carty	Jeff Kipp	Mike Rinaldi
Maya Drzewicki	Heather Konell	Caitlin Starks
Tina Berger	Dustin Colson Leaning	Anna-Mai Svajdlenka
Kristen Anstead	Adam Lee	Deke Tompkins

### Guests

Karen Abrams, NOAA	Alan Bianchi, NC DENR	Carson Coutre, MAFMC
John Almeida, NOAA	Kurt Blanchard, RI DEM	Greg Cudnik
Max Appelman, NOAA	Francis Blount	Jessica Daher, NJ DEP
Jeff Amorello	Jeff Brust, NJ DEP	Laura Deighan, NOAA
Max Appelman, NOAA	Tony Butch	Jason Didden, MAFMC
Pat Augustine, Coram, NY	Peter Clarke, NJ DEP	Greg DiDomenico
Jason Avila, Avila Global	Todd Collins	Anthony DiLernia
Julia Beaty, MAFMC	Heather Corbett, NJ DEP	Steve Doctor, MD DNR
Rick Bellavance	Nichole Lengyel Costa, RI DEM	Michelle Duval, MAFMC

**Guests (continued)**

G. Warren Elliott, PA (LA)  
Skip Feller  
Marianne Ferguson, NOAA  
Cynthia Ferrio, NOAA  
Jim Gilmore, NY (AA)  
Edward Gladue  
Brendon Harrison, NJ DEP  
Jay Hermsen, NOAA  
Helen Takade-Heumacher, EDF  
Jesse Hornstein, NYS DEC  
Jeff Kaelin, Lund's Fisheries  
Emily Keiley, NMFS  
Moira Kelley, NOAA  
Adam Kenyon, VMRC  
Rob LaFrance, Quinnipiac Univ  
Chip Lynch, NOAA  
Dan McKiernan, MA (AA)  
Conor McManus, RI DEM  
Steve Meyers  
Chris Moore, MAFMC  
Brandon Muffley, MAFMC  
Allison Murphy, NOAA  
Brian Neilan, NJ DFW

Steven Ellis, NOAA  
Anthony Friedrich, SGA  
Tom Fuda  
John Gans, TRCP  
Adam Nowalsky, Pt Republic, NJ  
Bill Pappas, Virginia Beach, VA  
Michael Pirri  
Michael Plaia  
Nicholas Popoff  
Will Poston, SGA  
Jill Ramsey, VMRC  
Kathy Rawls, NC (AA)  
James Riley  
Paul Risi, City Univ. of NY  
Tyler Rowe  
Mary Sabo, NOAA  
Tara Scott, NOAA  
Bill Shillingford  
Philip Simon  
Somers Smott, VMRC  
Rachel Sysak, NYS DEC  
Mark Terceiro, NOAA  
Scott Thomas

Lynn Fegley, MD DNR  
Lorena de la Garza, NC DENR  
Matt Gates, CT DEEP  
Lewis Gillingham, VMRC  
Wes Townsend, Dogsboro, DE  
Corinne Truesdale, RI DEM  
Richard Vaughan  
Douglas Vaughan  
S. Curatolo-Wagemann, Cornell  
Mike Waine, ASA  
Craig Weedon, MD DNR  
John Whiteside  
Kate Wilke, TNC  
Logan Williams  
Charles Witek  
Steven Witthuhn  
Greg Wojcik, CT DEEP  
Spud Woodward, GA (GA)  
Chris Wright, NOAA  
Harvey Yenkinson  
Gerry Zagorski  
Erik Zlokovitz, MD DNR  
Renee Zobel, NH FGD

The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission, convened via webinar; Tuesday, January 25, 2022, and was called to order at 2:45 p.m. by Chair Justin Davis.

### **CALL TO ORDER**

CHAIR JUSTIN DAVIS: Good afternoon, everybody. I'm going to call to order this meeting of the Summer Flounder, Scup, and Black Sea Bass Management Board. My name is Justin Davis; I'm the Administrative Commissioner from Connecticut, and I'm currently serving as Board Chair.

### **APPROVAL OF AGENDA**

CHAIR DAVIS: First up on our agenda this afternoon is Approval of the Agenda. Do we have any suggested additions to the agenda? Toni, I'll ask if you could track the hands.

MS. TONI KERNS: No hands, I was just giving it one second, no hands are raised.

CHAIR DAVIS: Great, we'll consider the agenda approved by consent.

### **APPROVAL OF PROCEEDINGS**

CHAIR DAVIS: And moving on, the Proceedings from this Board's August, 2021 meeting were provided in the meeting materials. Are there any additions or corrections to the proceedings from August, 2021?

MS. KERNS: No hands are raised.

CHAIR DAVIS: Great, we'll consider the proceedings from August, 2021 approved by consent.

### **PUBLIC COMMENT**

CHAIR DAVIS: Next up on the agenda is Public Comment. Is there any member of the public in virtual attendance who would like to make a comment on an item that is not on the agenda this afternoon? If you're on the phone and can't raise your hand on the webinar, just go ahead and speak

out, and we'll get your name down for public comment.

MS. KERNS: I don't see any hands raised.

### **REVIEW TECHNICAL COMMITTEE RECOMMENDATIONS ON METHODOLOGY FOR ADJUSTING 2022 SUMMER FLOUNDER AND BLACK SEA BASS RECREATIONAL MEASURES**

CHAIR DAVIS: Okay, moving right along here, great. Okay next up we're going to have a presentation pertaining to 2022 Recreational Specifications. As a review of recent history, at the joint meeting of this Board and the Mid-Atlantic Council last month, the two bodies received information suggesting that a harvest liberalization was possible for summer flounder in 2022, and that conversely a comparison of the 2022 RHL and projected 2021 harvest suggested a harvest reduction was necessary for black sea bass.

After deliberating, the two bodies passed like motions, choosing to pursue conservation equivalency for those two species, rather than implement a consistent set of coastwide measures, and to adopt measures that would achieve a 16.5 percent liberalization for summer flounder, and a 28 percent harvest reduction for black sea bass. By virtue of taking that action, the Board and Council initiated the Addendum XXXII process. Addendum XXXII was passed in 2018, and lays out a process by which states and regions will ultimately arrive at measures to achieve reductions or liberalizations. The step we're at in the process now is that the Technical Committee has been working on developing a methodology that states and regions can use to set measures.

Today we're going to hear a presentation on that methodology, and we'll be asking the Board to approve that. We're also going to receive some information about Technical Committee analyses that suggest we could possibly reconsider the percent reduction necessary for black sea bass. With that, I'll go ahead and hand it over to Dustin.

MR. DUSTIN COLSON LEANING: Thank you, Mr. Chair for the overview. I'll maybe make my recap of

the background information a little bit shorter, but maybe some of you out there are visual learners, so perhaps having it up on the screen on a slide will be helpful. Here is an overview of the presentation.

Like I said, I'll be giving a background of the pertinent information. I'll cover a quick timeline according to the Addendum XXXII process that the Chair mentioned. Then I'll cover the TC recommendations on the methodology for adjusting 2022 recreational measures for summer flounder, and then following that I'll give an update on TC progress on developing the standardized reduction tables for black sea bass.

Then Jeff Brust will be helping me by presenting on the Thompson Tau outlier analysis that the TC has been conducting on MRIP harvest data for black sea bass. Then there are a number of issues here for Board consideration, namely approving the methodologies for developing proposals, and then discussing the outlier analysis, and the various consequences of which approach is taken, and how it relates to the Council as well.

As Justin said, back in December at the joint meeting, the Board and Council adopted CE, or conservation equivalency for 2022 summer flounder and black sea bass recreational management. For summer flounder, 2018 through 2021, 2021 data was projected. Those four years of data were used to compare to the 2022 recreational harvest limit, which demonstrated that there was an ability to liberalize by 33 percent, to meet but not exceed the RHL.

The Board did take a more conservative approach jointly with the Council. They agreed that there were data uncertainties, and there were some concerns about the stock status, and the fact that it wasn't yet at the target. They went with a more conservative approach at 60.5 percent liberalization.

Then for black sea bass, also using 2018 through 2021 harvest data compared to the 2022 RHL. This indicated that a 28 percent reduction in regional measures was needed to meet but not exceed the

RHL. Separately, I'll mention it here, I don't have many slides prepared on scup. The focus today will be black sea bass and summer flounder.

But the Board and the Council did jointly approve a one-inch increase in the scup recreational minimum size for 2022, and this is expected to achieve a 33 percent reduction in harvest. Here is a timeline. Like I said, I just covered what happened in December, and then following that meeting in January, the TC met twice to recommend guidelines for the states to use in developing their regional proposals. Then throughout this time and into February, states will be going through their own public comment process, involving stakeholders, and collaborating within the regions to develop the regional proposals for measures.

Then here we are today, the January Commission meeting, where the Board will hopefully approve a methodology for the states to use in developing the regional proposals. Then a tentative deadline of February 21, has been set for regions to submit their proposals. Then late February, the TC would meet again to review those proposals, look at the technical merit of the proposals, and ensure that the liberalizations or the reductions are expected to be achieved within each region.

Then in early March, staff would help set up a summer flounder, scup, and black sea bass board only meeting. This would likely be via webinar, where the Board would review the proposals, the TC recommendations, and they would hopefully establish a final set of measures for 2022. Then following on this, Commission staff sends a letter to the Regional Administrator, certifying that the Board approved measures in combination, will achieve but not exceed the RHL.

As Justin alluded to, we're very much following the Addendum XXXII process. This pertains to both summer flounder and black sea bass. I'll start with summer flounder. The Addendum outlines that there are six regions, Massachusetts, Rhode Island, Connecticut through New York, New Jersey, Delaware through Virginia, and North Carolina, and that Rec measures within all states within a region

should consist of the same size limits, bag limits and seasons.

This is unique to summer flounder. Then also, measures should be adjusted unidirectionally, so if there is a liberalization it should be equivalent across regions in one direction, and if there is a reduction vice versa. In addition to states within a region being consistent with their measures, the Addendum also suggests that states should aim for minimal discrepancy in measures between bordering states.

This kind of gets at the enforcement issue, and hoping to reduce confusion on state lines. In addition to those criteria that have been outlined within the Addendum itself, the TC did meet to make additional recommendations when putting forward a memo that was supplied for supplemental materials.

The TC said that states and regions should consider adjustments to bag, minimum or maximum size, as is now allowed, season as well as gear modifications. The TC specified that liberalization should be calculated in pounds, and that recreational data should be pooled across 2018 through 2021. But 2021 data should be included only if available, or if it makes sense for the particular analysis, considering that we're still waiting on Wave 6 data.

Measures may be split by mode, but it is very important here that the pooling method still be applied, especially if you split recreational harvest estimates down to the state, wave and mode level. You might be dealing with PSEs that are quite high, so the pooling approach hopefully will mitigate some of that. The TC also specified that noncompliant harvest data should still be assumed to occur under the new regulations. For example, if someone has landed something way above the bag limit, and it showed up in an intercept, that level of noncompliance that has already been identified in previous years, should be assumed to be carrying forward in the future year, 2022.

The TC also recommends calculating liberalization sequentially, by measure change, to result in the cumulative expected liberalization. If that is not part of the proposal's analysis, and liberalizations are actually calculated independently, the following interaction equation should be used. Whereby the total liberalization equals X plus Y, so a change in measure X, and change in measure Y, plus the product of those percent changes.

Said differently, a lower minimum size increases harvest by 20 percent, and a higher bag increases harvest by 15 percent. We would expect the final increase in harvest to be 38 percent. Please note that the memo that was provided for supplemental materials had a typo in this numerical example for the interaction equation.

The memo has since been updated to reflect that the combination of a 20 and a 15 percent liberalization would result in a cumulative 38 percent increase in harvest, and the TC has been provided with this updated correction. Now, moving on to Addendum XXXII as it applies to black sea bass. There are three regions for black sea bass, Massachusetts through New York being the northern region.

Then we have New Jersey, and then the southern region, Delaware through North Carolina. Addendum XXXII specifies that the TC is tasked with providing a recommendation on how the coastwide harvest is distributed among the regions, based on factors including resource distribution and expected availability, angler effort, prior year fishery performance, among other considerations.

The Board then considers the recommendation and determines how the reduction is distributed. Also outlined in the Addendum, states are to develop measures in a manner that ensures each state takes an equitable reduction. The Board should reduce interregional differences between measures when possible, taking into account regional differences in availability.

In terms of the regional distribution of the reduction. The TC recommends restrictions to



recreational regulations for black sea bass be applied equally across those regions. Then within regions, as already outlined in the Addendum, reductions should be considered equally. It was pretty much determined that each state should do their fair share and equal part, at least that is the TC's recommendation. The TC also recommends standardizing the reduction analysis to support coordination between the states within regions.

This hopefully will just expedite the process, and make it a little bit easier. In response to the TC's own recommendation, they have begun collaborating. A subset of the TC is in the process of developing tables to standardize the methodology for calculating reduction. The final tables will apply the following criteria. Many of these criteria have already kind of been applied to summer flounder, but the reductions should be calculated in pounds. The analysis uses recreational data from 2018 through 2020, 2021 at this point is potentially being used to inform the length frequency distribution. Then like with the case for summer flounder, the black sea bass reduction tables would assume noncompliance would remain in changes to new regulations. Then all the reductions in these black sea bass reduction tables are calculated sequentially. In effect this would preclude the need for the interaction equation that I presented on earlier.

Each state will have its own standardized reduction table within an Excel document. This table would be shared and distributed amongst TC members, and the table calculates a daily harvest rate, the percent of harvest that occurs within each half-inch bin by wave, and the percent of harvest that occurs under each bag limit by wave.

In this way, TC members will be able to adjust bag, size, and season by wave, to determine the total projected reduction. This methodology has been used before, for summer flounder, and it's a lot of work up front to develop these tables. But on the back end, in terms of adjusting measures, seeing how they interact with each other within regions, it really simplifies the process for being able to put

forward the proposals, and see cumulatively what the reductions will look like.

As I mentioned earlier, the TC did look into black sea bass data a little bit more through their reduction table analysis, and just generally looking at MRIP harvest data. Jeff Brust will be giving a presentation on that work, and I would like to say a big thanks to him as well, for working with Peter Clark on this. It's definitely been a lot of work in a short amount of time. I think we owe all of our thanks, and take it away, Jeff. I'm happy to click through the slides. Just let me know when I should switch to the new one.

MR. JEFFREY BRUST: Good afternoon, everyone. Just for those who don't know me, my name is Jeff Brust with New Jersey Marine Fisheries Administration. Yes, so I'm not currently a member of the Technical Committee, but staff asked me to come help with this analysis, so that the TC members could focus on the work that they had in front of them.

A little bit of background. You've heard this a couple of times already today. Back in December the Board and Council had a joint motion to reduce recreational black sea bass harvest by 28 percent, to achieve the 2022 recreational harvest limit. As Dustin just pointed out, the TC was working to develop standardized methods to evaluate the recreational management options.

While they were doing that, two things happened. One, we received updated 2021 harvest projections from MRIP. As the TC was looking at the data they noticed, no surprise, that there were some harvest estimates that seemed a little bit out of the ordinary, or out of context with some of the other estimates from the same state, year, wave and mode. Both of these things that cropped up during their analysis could have an effect on the magnitude of the required harvest reduction that we need to take. The first one is easy. We had new harvest projections.

During the December meeting the staff memo only had data through Waves 1 through 4 in 2021, so we

made projections about what Wave 5 and Wave 6 would look like. Since the December meeting we have received Wave 5 preliminary estimates, and with that we can include those. We get rid of the Wave 5 projection and replace it with the actual data, and now we only have to re-estimate Wave 6 using Waves 1 through 5. You can see in the plot at the bottom, the blue bars are what was presented at the December meeting, and the orange bars are with the updated MRIP harvest estimates. I do want to point out, you can see in the table on the right. You'll remember that the staff memo suggested that there was a 28 percent reduction needed. But staff calculated that reduction two different ways. One said it was a 27 percent reduction, one said it was a 28 percent reduction.

For this I'm showing you the 27, because the way that that was calculated is consistent with the way that we're looking at the data for the analysis we're looking at. Bottom line is the reduction, the new harvest estimates for 2021 have come down a little bit. It's looking like we won't need the full 28 percent reduction, 24.4 might be a bit low because of the methodology that was used. But you can see that it has come down from the previous estimate. The next thing that we noticed, and we've all seen plots like this before, you know it's MRIP data, it's variable.

There is uncertainty instituted in the results through sample size, angler behavior, stock biomass, things like that. But these are just some examples of the anomalous data that we saw. The two top figures or what look like anomalously low harvest estimates. We were looking at the data by state, year, wave and mode.

The top two, one is Massachusetts and one is New Jersey. You can see that those two lowest values are very different from the other years. Then the bottom two figures are what look like anomalously high estimates of harvest for those cells. Just looking at the data you can't tell, are these real, are they true outliers, or are they just expected variability.

Some of the things that we were considering when looking at them, for black sea bass it's unusual that we have four years in a row where the regulations remained relatively unchanged. That works in our favor. But because we have regulations that were similar, we would expect the harvest to be very similar as well.

Some things, as I mentioned before, some things that might affect the estimates would be stock abundance or availability, angler behavior. We did have a pandemic, so that might affect how folks are fishing, which might affect the harvest estimates. In my mind what's most likely here, particularly since the outliers are happening at the cell level. You know stock abundance might change, but it probably wouldn't just change for two months in Virginia in the charterboat fishery.

It's more likely to be seen across multiple waves, multiple modes. The same with angler behavior. I would expect to see changes to harvest because of changed angler behavior across wider times and spaces. In my mind the most likely culprit here is small sample size, leading to anomalous values in the harvest assessment. Again, just looking at the data. We can't confirm that it's an outlier, so what we wanted to do was use a standardized method, something quantitative, something statistical, to help us identify those outliers.

Folks who have been on the Board for a few years will remember that back in 2018 we did a similar analysis for New York and New Jersey party and charterboat estimates. There were a couple of anomalous values that the Technical Committee used a method called the modified Thompsons Tau analysis to identify those, and they smoothed them using a method called winsorization. Just very briefly on the Thompsons Tau analysis. It is a statistical method; it's based on the student's t-distribution. One benefit is it identifies both high and low outlier values, and it has some flexibility that you can set what probability of detection you want to look for, for an outlier.

Maybe you want to chop off the top and bottom 5 percent of 10 percent, or maybe just 1 percent on

each end. You do have some flexibility in what you define as an outlier. The Thompson's Tau is helpful, because it helps us identify outliers, but that's all it does. It just identifies the outliers. Then there is the question of what do you do with these outliers?

Depending on the analysis you might just decide to keep them. Hey, it's good to know we have outliers. But in this instance, we wanted to try and smooth them, to help get better estimates of what our harvest would be. In some cases, you might remove the outlier entirely. We couldn't do that here. We know there was harvest. We can't just disregard entirely an estimate of harvest for a certain cell.

The Technical Committee has been looking into ways to, once we've identified these outliers, replace them with something that seems more realistic, in terms of what we've seen in the other years, given those same regulations. Again though, there are lots of different options on how to do this. What we're looking for is an objective method, a repeatable method, and something that can be applied to all of the different cells equitably, so an objective method to determine how to replace those values.

We've looked at, I don't know, I've probably looked at three dozen different ways of how to replace those values. I will say that we're narrowing in on it. But we do not have a final answer on what we think that the best method should be. This is still very much a work in progress. A couple of things that need to happen is we need more eyes on the analysis, to make sure I've done everything correctly.

We need to come up with the standards for how we're going to replace them, and even what probability level we want to use to identify those values. Real quick, jumping into more specifics of how we did this analysis. We used MRIP data from 2018 through 2021. Again, Wave 6 of 2021 was projected information.

We did the analysis at the state, year, wave and mode level. This is consistent with how it was done

in 2017, and also the one benefit of doing it this way is once we identify those outliers and we replace them with what we think is a more reasonable estimate. Those new values can be used in the state analyses to develop management options.

It's not just hey, we've identified outliers, we're changing the harvest numbers, and then we're going to use the original raw data to do our analyses. No, we're taking these new results and plugging them into the analyses, so that they're carrying forward into what our regulations should be.

If you think back to the normal distribution curve that I showed that had the orange tails. We've looked at outliers at the 80, 90, and 95 percent probability, so if we're at the 80 percent probability we truncated the 10 percent on either end of that distribution. At the 90th percentile we truncated 5 percent off each side, and at the 95th it was 2.5 percent on each side. We've looked at three different probabilities for identifying outliers. For replacement, I think I've got 6 or 8 different methods that we were looking at.

Probability distributions that include or exclude the outlier value. If we're looking to replace it, do we, for example, use a median value that includes that outlier, or do we just use a median value that does not include that outlier, just the three values that we think are realistic? Then we also looked at a method that uses the next closest value.

If you have a high value, we don't believe that one, we use the next highest value. We did that with scaling or without scaling, so that next highest value as it is, or maybe that next highest value plus 50 percent, because we don't want to cheat it down too far, but we know it's not as high as what the estimate is actually saying it is.

Again, we've looked at probably 24 different ways of doing this. Real quick some preliminary results. These tables show how many outliers were observed. The top table is by year, the middle table is how many outliers by wave, and the bottom is

how many by mode. You can see thankfully, most of the values that we see are good, they are not outliers.

What you see is actually, there are in most cases more outliers that were on the low end, than on the high end. For here it looks like 2021 had the most outliers. By wave, Wave 3 had the most. Several had more than a dozen though, and by mode it's pretty even across all of them. They are all in the, well, party, charter and private all had 15 or so outliers.

Again, mostly on the low end. More on the low end than on the high end. Go back to that first slide that I showed, where we visually ID'd what we thought might be outliers. These are the same four graphs with some of the replacement values that we're considering. The blue lines are the original values, the orange line is the highest replacement value from the analysis that we've done so far.

The gray bar is the lowest replacement value for each of these plots. You can see that when you have a high outlier, the highest estimate doesn't change it too much. The low end does change it a lot. For the low outliers, the lowest value doesn't change it very much from the original. The high value changes it much closer to what the other three years are looking like.

This top graph, it's showing the range of estimates. The blue bar is the original harvest estimate. The other colored bars are a handful of the different options that we're looking at. What I wanted to point out here actually, is that for 2018 you can see that most of the replacement values are higher, so more than likely our 2018 estimate of harvest is going to increase from what MRIP is telling us it is.

For 2020, most of the values are lower than what the MRIP estimate is telling us, and then overall, the average harvest across all four years tends to come down from about 8.8 million pounds, 8 million pounds, am I looking at that right? Yes, the original value was close to 8.9, almost 9 million pounds. The replacement values range anywhere from 8.8 million down to about 8.59. Somewhere in that

range is probably where the average harvest is going to end up. Then the bottom graph there just shows the range of reductions that we might need, depending on the final harvest estimate. Once we've replaced all the outliers, we are probably looking at a harvest reduction required somewhere between about 17.5, 18 percent maybe and up to 24.6.

The 24.6 is the reduction that we would need if we didn't replace any. Remember the 2021 harvest estimates have been updated, and that table alone showed that we only need about a 24.5, 25 percent reduction. All the other points to the right of that one value are looking at different ways of replacing the outliers. It ranges from about 23.5 down to about 17 or 18 percent, something like that. I believe that's it, I'm happy to take any questions.

MR. COLSON LEANING: Yes, thanks, Jeff for the presentation. Before we get into questions, I kind of just wanted to outline a few items that are ready for Board consideration. I know we've given a lot of information here, but I hoped this might help frame the discussion. First, I presented on the criteria that the TC has recommended for use in the development of regional proposals for black sea bass and summer flounder recreational measures.

The Board could approve those criteria today, either through a consensus or through a motion, if consensus is not reached. Then second, Jeff has presented on the TC's ongoing analysis of black sea bass MRIP estimates. In light of this analysis, the Board could vote to rescind the December 2021 black sea bass recreational management motion.

This would allow the TC to further discuss the Thompson Tau outlier analysis, and make a recommendation for how the outlier values are replaced, which in turn would result in a recommendation for a new reduction percentage target for black sea bass. If the Board did go this route, I have just outlined in red here some additional steps that would kind of enter into that timeline.

The Board, again, has the option to rescind the December motion. The Board has the option to task the TC with reviewing this analysis, and recommending a new percentage reduction for black sea bass. If that is the route the Board takes, then the Council would have to consider rescinding the December motion at their February 8 Council meeting, because this is a joint FMP.

Then if all of that continues as outlined, the Board would then consider the TC analysis, and approve a new reduction percentage target for black sea bass. This could be resolved via e-mail vote, a webinar meeting, or the Board could just defer to whatever the TC recommends. Yes, with that I'll turn it over to you, Mr. Chair, for directing any questions about what's been presented. Then hopefully we can get into a comprehensive discussion.

CHAIR DAVIS: Great, thanks very much, Dustin, and thank you, Dustin and Jeff for those presentations, and thanks to Commission staff and all the members of the Technical Committee who have been working really hard over the last month since the last meeting on all of this analysis. I certainly appreciate all the hard work there. At this time, I'll open it up to the Board for any questions about either of the presentations that were just made, or about the information Dustin presented on potential path forward from this point. Toni, do we have any hands?

MS. KERNS: I will give you a queue. I have Shanna Madsen, Jason McNamee, and Nichola Meserve.

CHAIR DAVIS: Okay, go ahead, Shanna.

MS. SHANNA MADSEN: Thank you, Jeff, for this presentation. I think it was really comprehensive and it answered a lot of questions that I had as I was watching the TC deliberations. I did have a quick question regarding the last, if we can go back to the last slide you showed before this one.

MR. COLSON LEANING: You mean the timeline slide?

MS. MADSEN: No, one before that. Sorry, Dustin, the one with the graphs, Number 22.

MR. COLSON LEANING: Okay yes, here we go.

MS. MADSEN: Perfect, thank you. Jeff, the question I had was, so it sounds like the TC needs some time to deliberate on setting the probability level of detection, as well as the replacement analysis. My question was regarding these points along this reduction required chart. Are those a range based on the probability level of detection? Are they based on what replacement method you might end up using? I'm just wondering what the different variables are here that are going into generating these levels of reduction.

MR. BRUST: That is a good question, Shanna, thank you. There is really no rhyme or reason to this figure, other than I sorted them high to low. You can see, I think what's maybe important, and I should have pointed it out before, is that this looks at all three probability levels, so the 0.8, the 0.9, and 0.95.

You can see that a lot of the different values are falling out right around the 21, 21.5 percent range. There is a lot of overlap, there is a lot of consistency in the results, depending on even though we're looking at different methodologies. But no, this doesn't necessarily show all the ones on the left are to 0.95, and all the ones on the right are the 0.8. I can't say that equivocally, I just sorted it high to low.

MS. MADSEN: Great, thanks, Jeff. That helps me kind of figure out where the consistency might be there. I appreciate it.

CHAIR DAVIS: Okay, next up I have Jason McNamee.

DR. JASON McNAMEE: Thanks, Jeff, really great work. It brings me back, and it's great to hear your voice. It's funny, Shanna asked the question that I was going to ask, but I still am confused, so hoping you can help me out. Staying on this slide. My question is, do each of these dots represent kind of

a different. I understand what's changing, with regard to the chosen probabilities. But are there different methods incorporated in there as well, so does each dot represent a unique method, along with a choice of probability? Is that what these are?

MR. BRUST: Yes, Jay, good question. As I said before, this covers all three probabilities of identification for the outliers. Then yes, so each dot would then be a different replacement method applied to each of those three identification probabilities. Just to give you an idea, some of the options that we looked at, we're replacing it with the 95th percentile of all four values for that cell, or just the 95th percentile of the three "acceptable" values from that cell.

Another one would be replacing them with the median, or replacing it with the median scaled up or down, depending if it's a high or low value. Yes, each dot is a combination of an identification probability and a replacement method. The only one that is not is the one all the way to the left. Like I said, it incorporates only the revised harvest estimate from 2021.

DR. McNAMEE: Go you, got you, thank you so much, Jeff, that was perfect. I appreciate it.

CHAIR DAVIS: Okay, next up, Nichola Meserve.

MS. NICHOLA MESERVE: Thank you, Mr. Chair and Dustin and Jeff for your presentations and the Technical Committee digging into this evaluation with a short turnaround. Could we just go to the timeline slide, for a quick question, I think? I wanted to get confirmation that we expect that the TC will be recommending that new percent reduction by the time of the Council meeting on February 8, is that correct? Is that the expectation?

MR. COLSON LEANING: Yes, good question, Nichola. I've been polling the TC to see when they would be able to meet. It's looking like early next week would be the TC's preferred date. Assuming that we could get this settled in one meeting, I would expect that we would have a new TC

recommendation prior to the Council meeting on February 8.

MS. MESERVE: Okay, thank you.

MS. KERNS: Nichola, I just wanted to, I think this timeline is a little off in the sense that we need to have a recommendation prior to the Council meeting. I think if the Board does rescind the motion, then we would need to have a discussion about how to get that new recommended value.

MS. MESERVE: Formally adopted.

MS. KERNS: Yes, exactly.

MS. MESERVE: I had a second question, Mr. Chair, if you don't mind, regarding the standard methodology for state proposals. I noticed that the Technical Committee didn't make a specific recommendation about PSEs associated with the data that's going to be used, although, Dustin, you did bring it up in your presentation. Absent of the TC setting some standard, I was going to ask at least that the state proposals be required to present PSEs associated with the data, particularly when it's broken down at a mode level, for example. Is that part of the format, Dustin?

MR. COLSON LEANING: Yes, I'm just double-checking the memo itself, because in my mind I had thought that was included. But you know what, it may not have gotten into the final version. But I think that's definitely worth including. Yes. There is some discussion about pooling data and high PSE values, but we certainly can amend the memo that was sent out through supplemental materials, and in the requirements for regions submitting the proposals, we can say that it is a requirement to include the PSE values.

MS. MESERVE: Yes, thank you. I think that would be informative for the Board when they eventually review the proposals.

CHAIR DAVIS: Okay, next up in the queue I have Emerson Hasbrouck.

MR. EMERSON C. HASBROUCK: Thank you, Dustin and Jeff, for your presentations. I have two questions for Jeff. Jeff, in your presentation you said that there are probably 6 to 8 different methods that determine what the best replacement value is going to be for these outliers. I'm wondering, how is it going to be determined what the best replacement value is? That's my first question.

MR. BRUST: That's a good question, Emerson, thank you. I can't tell you what the TC discussions are going to revolve around, but you know certain things like maybe PSEs or sample size. There might be some that we've, even though it's identified as an outlier, maybe we don't want to replace it. For example, we have three years with a 0 and then a positive year. Maybe we don't want to replace that one.

They're going to have to fine-tune this analysis, and consider the different caveats of the different assumptions that I made during this analysis. Perhaps a median is too much of a change, and we want to replace it with some other percentile from the observed distribution. If I had an answer, if I knew the best way to do it, I think this analysis would be done. But it certainly needs the whole committee's eyes and brains working on this one.

MR. HASBROUCK: Okay, thank you, so that's going to be fleshed out in the next TC meeting, and I guess by consensus of the TC. My second question was, there are probably similar outliers for fluke and scup, and I'm wondering if those species were also looked at for outliers like this.

MR. BRUST: I'll take a shot at that, and then I'll pass it over to staff, see if they want to add to this. This is something that I spoke to Toni about. For the sake of time, we focused on black sea bass, because well, we needed to start somewhere, and also because fluke is a liberalization this year. For one thing, it seems like when we do this outlier analysis, the overall trend is that the harvest estimates come down. Since fluke is already currently under the RHL, and we're looking at a liberalization.

It seemed like it was less necessary to reduce that harvest. As far as scup, I'm not too familiar with that. Toni was mentioning that perhaps someone will look at it, but it was not something that I was asked to do. That is my initial response, I don't know, kick it over to Dustin or Toni, to see if they have any additional thoughts.

MR. COLSON LEANING: Yes, Jeff, I think that was a good response. Perhaps even further to support your statements about summer flounder, the Board had the ability to go with a 33 percent liberalization, but ended up taking a more conservative approach, and went with a 16.5 percent liberalization.

It's unlikely that an outlier analysis would result in something that would ultimately change the Board's decision, considering that that more conservative approach has already been taken. Then for scup, it was kind of a timing thing at this point, why we were only able to do it for black sea bass. It can definitely be done for scup, and if it's at the Board's discretion or if they would like to task the TC with developing a similar outlier analysis for scup. That can probably be done prior to the Council's February 8th meeting.

CHAIR DAVIS: Okay, are you good, Emerson?

MR. HASBROUCK: Yes, I am, thank you.

CHAIR DAVIS: Okay, next up I have John Maniscalco.

MR. JOHN MANISCALCO: First, I would like to thank Jeff Brust and Pete Clark and any other state or Commission staff that worked on this. I think it's great. During my tenure we started looking at Thompson Tau, but we never kind of looked at all the estimates holistically, and addressed both highs and lows. This is a really great step forward. I was wondering how easy it would be to replicate for all the species, and it looks like you mostly answered that question. I would certainly support this being done for scup, if the TC isn't already overtasked.

CHAIR DAVIS: Next up I have Chris Batsavage.

MR. CHRIS BATSAVAGE: Thank you, Jeff, for the presentation. I thought I heard you say that you accounted for the anomalously high estimates and the low estimates, and it seemed like the higher estimates had more of an influence, regarding what the adjusted harvest amount would be. The graphics up on the screen right now, the top left, shows a range of possibilities.

Is that kind of showing where there would be a higher influence by just the high estimates versus the low? Because I was thinking about when this was done several years ago. We had just adjusted the high ones and didn't look at the low ones. I'm just trying to make sure I'm understanding the range of options here, considering the fact that the anomalously high estimates seem to have more of an influence than those low estimates.

MR. BRUST: Thanks, Chris, good question. Yes, in the couple weeks that I've been looking at this. It does appear that even though there were more low outliers identified, the impact from the high estimates outweighed those. Dustin, if you can go up, I think just one slide. I don't know if folks can zoom in and see this.

But just as an example. The top right, the New Jersey private rental Wave 5. In 2019 the original estimate is 25,000. It is getting bumped up anywhere to about 30,000 to 150,000. It's bumping up like 125,000 pounds, which is a lot. But if you look at the lower right, you know that high estimate in 2021 is going from 500,000 down to as low as about 50,000, so that one high outlier is moving a lot more than several low outliers would collectively. That is not always the case. You can see that in 2018 the overall movement was a higher estimate of harvest. The blue line all the way to the left is the original, and pretty much all of the replacement values are higher than that. In some cases, you do get higher estimates of harvest, but in general it looks like the overall pattern is that for a given cell, that the magnitude is decreased.

CHAIR DAVIS: Follow up, Chris, or are you good?

MR. BATSAVAGE: I'm good, thanks.

CHAIR DAVIS: At this time, I don't have any more hands for questions. Sorry, go ahead, Toni.

MS. KERNS: Roy Miller just raised his hand.

CHAIR DAVIS: Okay, Roy Miller, go ahead.

MR. ROY W. MILLER: The obvious question from this is, when do we apply this methodology to deal with outliers and anomalous results? Do we only do it when we have to take a harvest reduction? Do we do it when we are allowed to take a harvest liberalization? What is the triggering level that precipitates this type of analysis? I'm just wondering, going forward, for future results, if there can be some guidance that comes out of this process.

MS. KERNS: Mr. Chairman, if I could try to help out with that answer.

CHAIR DAVIS: Please do, Toni.

MS. KERNS: Roy, what I would say is that the work that we're trying to do through the Harvest Control Rule Addendum that utilizes some of the model approaches for setting recreational measures would greatly help out with this. We find ourselves using additional sources of information and data for setting recreational measures, where this wouldn't even need to be a consideration any more.

As you know for black sea bass for the last four years we've had status quo measures, and kept them in place. There really hasn't been much thought to the MRIP data and analyses such as this. We've done the same for summer flounder and scup. Really the last time we changed summer flounder measures; we did use this type of analysis approach back in 2017. It is my hope that through this Harvest Control Rule Addendum that we're working on, we won't need to take this into consideration any more, and we'll have a new approach.

MR. MILLER: Thank you, that would eliminate this dilemma of when to apply it.



CHAIR DAVIS: Do we have anymore hands at this point for questions?

MS. KERNS: I do not have any additional hands.

CHAIR DAVIS: Okay, so in the interest of time, we've got about a half hour left in our agenda allotted time today. I think I'm going to ask the Board to move to potentially taking action on the one piece of business before us today, that I think is definitely going to require a motion. That is, as Dustin discussed, the potential need to rescind the motion that was adopted at the December joint Board and Council meeting.

Adopt a new motion that would allow, essentially the Board to operationalize this analysis that's been done, and that is continuing to be worked on by the Technical Committee, that could potentially adjust the overall percent reduction that is required for sea bass. At this point, I'll turn to the Board and ask if there is any Board member who might be willing to make a motion concerning that action item, and that could help sort of focus the discussion going forward.

MS. KERNS: You have Shanna Madsen with her hand up.

CHAIR DAVIS: Okay, Shanna, go ahead.

MS. MADSEN: I am willing to make a motion to that point. I believe staff might have a motion, but if not, I'm willing to just go ahead with it. Yes, there you are. **We've got move to rescind the December 2021 black sea bass recreational management motion and move to adopt conservation equivalency for 2022 black sea bass recreational management, with a reduction in harvest specified to achieve the coastwide RHL in 2022.**

**A 28 percent reduction will be required unless additional analyses conducted by the Technical Committee examining the MRIP data, including the outlier analysis and incorporation of the updated 2021 data as presented today, result in a modified percentage. Non-preferred coastwide measures are as follows.**

**The 14-inch minimum size, 5 fish possession limit, and open season of May 15-September 21. Precautionary default measures are: 16-inch minimum size, 3 fish possession limit, and open season of June 24-December 31. If the percent reduction is changed the precautionary default and coastwide measures will be adjusted to be consistent with the required adjustment.**

CHAIR DAVIS: Thank you, so we have a motion on the board from Shanna Madsen, do I have a second?

MS. KERNS: We have Nichola Meserve.

CHAIR DAVIS: Okay, motion seconded by Nichola Meserve. Any discussion on the motion?

MS. KERNS: We have Joe Cimino with his hand up, and I don't know if you wanted to go to the maker of the motion first or not, if she has any comments.

CHAIR DAVIS: Thank you, Toni. Shanna, I'll turn to you to ask first if you want to provide any rationale for the motion.

MS. MADSEN: Sure, thank you, Mr. Chair and thank you, Toni. Yes, I would be happy to provide rationale. I think I've been following the TC work really closely. I appreciate all the work that Jeff's been doing for the TC, to get this analysis ready for this meeting today. I think the analysis that's been done, combined with those updated 2021 harvest projections and the apparent anomalies that we saw in some of those harvest estimates.

These have really led me to want to make this motion today, and to support seeing what the TC can do with these methods that they're proposing. I think that I take good comfort in the fact that this has been done previously, and it's consistent with what the Board has approved for the 2018 year, dealing with the New York and New Jersey party charter. I look forward to seeing what the TC comes back with in February.

CHAIR DAVIS: Nichola Meserve, I'll turn to you to ask, as the seconder of the motion, if you would like to provide some additional rationale.

MS. MESERVE: I think Shanna covered it very well. I would just add that I would be interested to see a similar exercise for scup and fluke, potentially. You know I think we're looking at a potential closure of federal waters for scup, based on the reduction that we chose at the last meeting. It's a potential that this appropriate digging into the MRIP data could potentially reduce that burden as well.

CHAIR DAVIS: At this time, I'll turn to Joe Cimino, if you still have your hand up.

MR. JOE CIMINO: Yes, I think something that Jeff showed was that even just using the same prediction methods, that the new MRIP estimates would change that percentage a little bit. That alone is enough reason for me. This is tough, like Jeff and Jay and John, I was part of the TC that used to try and do these predictions, and it's tough just using point estimates from other years, and it's something that impacts people's lives. I really support this as a tool moving forward, to help us with future projections and staying within the RHL.

CHAIR DAVIS: Next up, I have Chris Batsavage.

MR. BATSAVAGE: Yes, I support the motion for the reasons given. Also, depending on where the Harvest Control Rule ends up, maybe this type of exercise won't be needed as much. But it's a good tool to have. I think ideally, if low sample size seemed to be one of the issues resulting in these outliers, that if we could get more MRIP intercepts at the state, Wave, and mode level to kind of reduce the need for these types of analyses to deal with outliers, would be the best situation. But actually, I think what's being proposed here is appropriate for black sea bass.

CHAIR DAVIS: Next, I have Jason McNamee.

DR. McNAMEE: Just adding my voice to the mix here in support for the motion, and also to support what Nichola offered. You know I think there are

potential flags in scup as well, you know outlier looking data points, that sort of thing. I think this would be valuable for scup as well. I don't feel as compelled to do it for summer flounder, for the reasons Dustin offered before. It's not that we shouldn't be following a systematic approach, it's more about kind of efficiency, and sort of operating in the fisheries that needed it, and kind of circling back. To Joe Cimino's point, I agree, kind of investigating. This is one approach. I think there are others that could be investigated as well. Once we get kind of out of the heat of the moment, you know this is a good approach.

It's tractable, folks can understand it. Once we get away from that kind of investigating, these approaches in a more comprehensive manner, without a view of the species or anything like that, I think would be another thing worth investing in. Thanks for the time, Mr. Chair.

CHAIR DAVIS: Toni, do we have any more hands in the queue?

MS. KERNS: Mike Luisi.

CHAIR DAVIS: Okay, Mike Luisi, go ahead.

MR. MICHAEL LUISI: I'll speak in support of this motion. I think it's a good way forward. I would recommend in the future, if we can keep this in mind when we meet jointly with the Council in December, that we may want to think about a similar type of motion that doesn't bind us to a certain percent reduction, so that this type of analysis can be conducted without having to go back and go through the motions, or jump through the hoops, to rescind and provide a new motion for consideration. Just something to keep in mind.

I do have a question about scup; if there is an interest in doing that analysis for scup in the process that has been laid out. The Council is going to need to take these motions, or this motion and any other motion made, under consideration in two weeks. Will there need to be a similar motion for scup, so that the Council would have an opportunity

to address the previous motions from December at the February meeting?

CHAIR DAVIS: Good question, and I think I'm going to defer to Toni here, and her opinion on whether or not we might need to take up a similar motion here for scup, to allow some sort of follow-on action that deviates from the motion we adopted in December.

MS. KERNS: Mike, with scup it's a little different, because we don't have the conservation equivalency process, like we do with summer flounder and black sea bass. I feel like we're in a situation that we've not been in before, where the required reduction was higher than what the Board and Council put in place for measures. We already did not bound ourselves to the reduction that came out of the analysis of last year's harvest, or the average of the last couple year's harvest to the 2022 RHL.

On the Commission side, I think we have the flexibility to make these changes and look at the analysis of the Thompson Tau, and perhaps provide a letter to NOAA if it comes out with something different, or for the Board to discuss, hey, if you do the analysis the required reduction, let's say it's like 40 percent.

The measures that you guys have in place right now is 38 percent. Then does the Board want to take action to find those other 2 percent, or is there information that we can provide to NOAA for their consideration of the federal water measures, that would get us on the same page? I don't know if NOAA would need both bodies to change the motions or not, since the motions were not something that was favorable from NOAA Fisheries at the joint meeting. I guess I would have that question to Mike Pentony is if both bodies would have to change that motion or not.

MR. MICHAEL PENTONY: Me, Mr. Chairman?

CHAIR DAVIS: Sure, go ahead, Mike, thanks.

MR. PENTONY: I think that's an open question right now. The motion adopted, as Toni was just describing, the motion that just was adopted in December calls for a 10-inch total minimum length per scup, to achieve a 33 percent reduction in harvest. I think if there was an outlier analysis done that showed something less than 33 percent production was necessary, then yes, I think you would, just like the Board and potentially the Council are doing here for black sea bass.

You would need new motions by both bodies to address what level of production is desired or required, and what measure. Is it not a 10-inch minimum size, is it something else? But if it falls somewhere between 33 and we would argue, is already required, based on the data. Then there is no change to the motion necessary, because you're still in the same place, if that makes sense.

MR. LUISI: Yes, Mr. Chairman, if I could just follow up with that.

CHAIR DAVIS: Yes, go ahead, Mike.

MR. LUISI: It makes sense. I just, in thinking about the next couple weeks in our preparation for finalizing these recommendations. I want to be sure today that we don't miss a step, because of timing and because of the Council's work with the Board on this. I just don't want to miss a step along the way, and then be stuck.

That is kind of where my mind is. I certainly support this, and it sounds like from what Mike just said, that we might need to take up a motion on scup, so we're not so specific about the percent reduction. If an analysis is different from that, then we have the ability to modify that. I'm still a little confused as to what we might do. But I don't want to deflect from the motion before us, so Mr. Chairman, I'm happy to take this motion up and then try to get some more clarity on the scup issue, if that's more clear at this time.

CHAIR DAVIS: Yes, thanks, Mike, and I think that is what I am going to advise at this point is for the Board to deal with the motion we have in front of

us here, without getting too sidetracked at this point on the scup issue. But we could take that back up after we dispense with this motion. Toni, do we have any other hands up?

MS. KERNS: No additional Board members, but you do have one member of the public.

CHAIR DAVIS: Okay, I'll recognize that member of the public at this time.

MS. KERNS: It's Bill Pappas.

CHAIR DAVIS: Okay, Bill, go ahead.

MR. WILLIAM PAPPAS: Hi guys, thank you everybody for putting in your hard work and relooking at this sea bass. I also support this motion to rescind, the December thing. As a charter captain in Virginia Beach, I would like to tell you what you guys have directly, how you directly affected our livelihoods, and it's been only a few short sentences.

You know I work with the NOAA, and I do the Charter Input Seminar, the two-hour webinar at night. I've been doing that for a little while now, and we are also wondering, and the consensus is, just say for example we got it wrong, and there is a healthy fishery, and there are twice as many fish out there, and you haven't considered chips technology.

The amount of people fishing because of COVID, and the extra amount of fish that can be found, if there might be more fish pushing your numbers that you have at setting the cap a little higher than they should be, and making you feel like there is a reduction in a healthy fishery. Do you guys want the best numbers? You're not going to use your small sample sizes; you're going to talk to the VTRs and the Charter captains. You're going to use their numbers.

They are out there five to seven days a week. They have their numbers available, and instead we put a reduction in December, which scared our VMRC into shutting down the only thing we have to fish

for, for four months in Virginia, sea bass in February. They won't even offer or try it out, because they've already had their meeting, and they determined by your 28 percent that they're not going for a February at all.

My mate just had a baby. My family is on the line. I made \$9,000.00 in February, which is more than enough to space out three or four months. You've got it wrong here. You know, there is recreational reform on the way. Everybody's admitted there is not enough time on this. At the last second with no time, we reduced, we're scared, we shut down and there is no turning around now. We don't have a VMRC that is willing to stand for us, and that's all we've got left.

We appreciate you guys rescinding this motion. We actually are looking forward to a change, if there is recreational reform that's being spoken about, and we need to get the best numbers to make our decisions, because you guys are loving the numbers. But you've got to have the right ones to make the decisions that really effect the livelihoods of people at the other end of the stick. Thank you for your time.

CHAIR DAVIS: Thank you very much for that perspective. Appreciate the comment. Toni, unless we have more hands at this point, I think what I would like to do is provide a 60 second caucus, one minute for the Board, and then we'll come back and take a vote on this motion.

MS. KERNS: Justin, just as a reminder to the Board before they caucus, that because this is making a change to a final action, this requires a two-thirds majority vote to pass.

CHAIR DAVIS: Right, thanks for that reminder, Toni. Okay, at this point we'll have a one-minute caucus, and then we'll come back and vote. Okay, does any Board member need more time to caucus? If you do, please raise your hands.

MS. KERNS: I have one hand up.

CHAIR DAVIS: Okay, why don't we provide an additional minute? Okay, unless any Board member feels like they need additional time, I'm going to go ahead and call the question here. Toni, do we need to read the motion into the record again?

MS. KERNS: The motion did not change, so no need to read it into the record again.

CHAIR DAVIS: Okay, good news there. At this point I'll ask everyone in favor of the motion to please raise your hand.

MS. KERNS: I'm just going to give the hands a moment to settle. I have Maryland, Massachusetts, Virginia, North Carolina, Rhode Island, New York, Delaware, New Hampshire, New Jersey, Connecticut, and Potomac River Fisheries Commission. I will put the hands down for everyone.

MR. COLSON LEANING: I counted 11 in favor.

CHAIR DAVIS: Okay. Anyone opposed to the motion, same sign.

MS. KERNS: I have no hands raised.

CHAIR DAVIS: Any null votes, please raise your hands.

MS. KERNS: I have no hands raised.

CHAIR DAVIS: Any abstentions?

MS. KERNS: I have NOAA Fisheries.

**CHAIR DAVIS: Okay, by my count the motion passes 11 to 0 with one noted abstention from NOAA National Marine Fisheries Service.** Okay, moving on. It occurs to me that before we potentially consider any motion around scup, and rescinding the motion from December relative to that species.

There have been several comments on the record today from Board members, supporting the idea of the Technical Committee working on a Thompson's

Tau analysis for scup. I think it is safe to say at this point, and here I'm asking Dustin and Toni and perhaps, Jeff. Is it safe to assume at this point that the Technical Committee will be undertaking that analysis?

MS. KERNS: Yes, it is safe to say they will be taking that and starting it up.

CHAIR DAVIS: Okay, great. Given that, at this point I think we have to consider whether we might want to consider a motion to rescind the December 2021 motion around scup. Toni, at this point, I guess I would turn it to the Board, and ask if anyone has any comments on that potential action, or potentially a motion.

MS. KERNS: I have John Maniscalco with his hand up.

CHAIR DAVIS: Okay, John Maniscalco, go ahead.

MR. MANISCALCO: I guess I'm still a little confused why we actually have to. I still want to see analysis for scup. I think the federal expectation was a 56 percent reduction, so far, the Board and Council agreed to a 1-inch increase in minimum size, which is approximately a 33 percent reduction. If the states move forward with a 1-inch increase in minimum size, and we have the scup analysis done.

Doesn't that just support? Assuming that the change in the required reduction identified decreases, doesn't that just further support the 1-inch minimum size increase, and gives NOAA the ability to not take additional action in federal waters? I don't actually know why we have to do another motion, and why we need to rescind the previous action, if we still intend to go forward with a 1-inch minimum size increase. I'll just leave that as my question.

CHAIR DAVIS: Toni, do you have any perspective on that?

MS. KERNS: I think so. If I'm understanding what Mike Pentony just said to the Board, is the only reason why you would need a motion to rescind is if

we got an analysis that showed us, we needed less than 33 percent reduction. I mean I can't speak for what the analysis is going to show, but I would think. I'm not sure we would get that low. Mike Pentony has his hand up, so I'll let him correct me if I'm wrong.

CHAIR DAVIS: Okay, Mike Pentony, go ahead.

MR. PENTONY: No, I think that's right. If the motion, as was just described, the motion is for a 1-inch increase in the minimum size. At what point would the Council and the Board decide that that 1-inch increase in the minimum size is no longer warranted? Probably not a 32 percent reduction needed or 31 percent.

You know, it's where does that line fall that maybe instead of a 1-inch increase in minimum size you go for half inch or something, or no increase in minimum size. I think the likelihood of this analysis going from a 56 percent reduction necessary, down to something so low that you would rethink that 1-inch minimum size increase, the likelihood of that is probably pretty small.

I think what is more likely is that the 56 becomes something, you know less than that, which a letter to us informing the Agency of the results of that analysis to what the new reduction might be, would inform as Toni just said, would inform the action that we decide we need to take in federal waters, but would be unlikely to affect the action that the states were taking under the Board's plan. I hope that helps.

CHAIR DAVIS: Thank you, Mike, that is helpful, and from my perspective, just I'm not seeing a need for a motion here to rescind the scup motion from December. I think what's evident is that there is value in doing a Thompson's Tau analysis for scup, because it might provide us new perspective on what level of conservation we're achieving, with the measure we approved in December, the 1-inch minimum length increase.

It's very unlikely that the Thompson Tau analysis is going to sort of provide such drastic new

information that we would decide that that 1-inch minimum length increase is essentially more of a reduction than is necessary. I'll still open it up here to the Board, if anyone is interested in making a motion, please raise your hand. But at least from my perspective, I'm convinced based on the input we just got that that motion is not necessary.

MS. KERNS: I have no hands.

CHAIR DAVIS: Okay, so moving on from that. I think one outstanding piece of business here is that we need to approve the Technical Committee's suggested methodology for determining state and regional measures for summer flounder and black sea bass. I think we could potentially do that by consent. I'm not sure a motion is needed.

That methodology was described in a memo provided in the meeting materials, and also at the beginning of Dustin's presentation. At this point I'll just open it up to the Board. If there are any questions about the methodology, if there are any lingering concerns or uncertainties around that, please raise your hand.

MS. KERNS: I have no hands raised.

CHAIR DAVIS: Okay, I think at this point then I would ask if we can have Board consent to approve the methodologies suggested by the Technical Committee, if there is anyone who objects to that, please raise your hand at this time.

MS. KERNS: I have no hands raised.

**CHAIR DAVIS: Okay, so we'll consider the TC's methodology approved by consent.** I think moving on, one last item, Toni, might be to outline sort of next steps here for the Board to consider, based on the actions taken today, sort of what might need to happen in the coming weeks before the next Council meeting, in the second week of February, and what remaining decision points we might have here about what path to take.

MS. KERNS: Thanks, Justin. By rescinding the motion and the fact that the TC has not completed

their analysis for black sea bass, and what they would recommend as a final required percent reduction. We need to determine how the Board wants to approve that final percent reduction.

We do need to do that before the Council meeting next Thursday, and so there is what I see, I guess three possible paths. One, the Board can defer that sort of decision, or say that, you know whatever the Technical Committee recommends is what the Board would use, and for the states to use for their proposals for their 2022 measures, so just leaving it to the TC recommendations. The second path forward is we can provide a report via e-mail to the Board, and then the Board could vote on that final percent reduction via an e-mail vote, or we can attempt to set up a conference call between now and the Council meeting, to finalize that measure.

I recognize that the New England Fishery Management Council is next week, so that could be a little bit tricky. We would have to be pretty flexible on schedules for that. It sounds like the TC is going to meet at the beginning of next week, so maybe the Board could meet at the end of next week, if we needed to have a call to do that. But those are three paths forward.

CHAIR DAVIS: Just to clarify. You mentioned next Thursday. That would be the 3rd of February, is that a deadline by which we need to have made a decision on the target percent reduction?

MS. KERNS: I didn't mean next Thursday. The Council meeting is on Thursday.

MR. COLSON LEANING: Toni, it's Tuesday, February 8.

MS. KERNS: The Council meeting is Tuesday, February 8, sorry about that. I got my meetings mixed up.

CHAIR DAVIS: It seems to me the decision point here is whether the Board wants to leave it in the hands of the Technical Committee to make a recommendation on the most appropriate target percent reduction, and then leave that as the

default, and states and regions will engineer their proposals towards that percent reduction, or if the Board wants to take some positive action between now and the Council meeting to approve the percent reduction suggested by the Technical Committee. At this point I'll open it up to the Board, and ask if any Board members have perspectives on this question of sort of which path to take here.

MS. KERNS: I'm waiting for hands. I have Nichola Meserve.

CHAIR DAVIS: Okay, Nichola Meserve, go ahead.

MS. MESERVE: I was going to suggest that we take the e-mail vote option. We saw a pretty thorough presentation today of the approach that the Technical Committee is taking, but there was still a number of unresolved questions. Going through the e-mail approach for a vote would require that to be written out for the record.

I think that would be wise moving forward to do that, rather than just, as much as the confidence I have in the Technical Committee, no I would like to kind of see the final outcome, you know in writing, and have an opportunity to disapprove it that way for the record.

CHAIR DAVIS: Thanks for that perspective, Nichola. Do we have any other hands?

MS. KERNS: No additional hands at this time. Uh, here we go, Shanna Madsen.

CHAIR DAVIS: Okay, Shanna, go ahead.

MS. MADSEN: I just wanted to say that I agree with Nichola, I think that's a good way forward. I think what Jeff showed us today showed us that even depending on the combinations that were selected for the various, you know the replacement values and the level of detection. We mostly fell out around the same level of percentage. But I do think that an e-mail vote would be nice, so that we can see what the methodology is that's selected, and

just have all of that on the record. Just definitely in agreeance with Nichola.

CHAIR DAVIS: Okay, thanks, Shanna.

MS. KERNS: I don't have any additional hands, Justin.

CHAIR DAVIS: Okay, we have a suggestion from Nichola Meserve, sort of seconded by Shanna Madsen, to go the e-mail vote route. I'll just say, to me that does seem like a pretty reasonable approach. You know it won't be sort of just putting it all in the Technical Committee's hands.

It will require some level of positive action by the Board, but we'll avoid the potential difficulties of trying to have to schedule something like a Board call, to get everybody together. It seems like a pretty reasonable path forward for me. I think I'll ask at this time if anybody on the Board has any objection to taking that path forward.

MS. KERNS: I see no hands raised in objection.

CHAIR DAVIS: All right, so seeing no hands raised, we'll move forward with that pathway, an e-mail vote to approve the final percent reduction, and consider that approved by consent. Okay, I think under this Agenda Item Number 4, I think we've wrapped up all the business we have to take care of. Am I correct there, Toni?

MS. KERNS: You are correct.

#### **ADJOURNMENT**

CHAIR DAVIS: All right, then I'll ask if there is any Other Business to come before this Board today.

MS. KERNS: No additional hands.

CHAIR DAVIS: Given that, this Board stands adjourned, thank you everybody.

(Whereupon the meeting adjourned at 4:15 p.m. on  
Tuesday, January 25, 2022)