

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

Webinar
August 4, 2021

Approved January 25, 2022

Proceedings of the Summer Flounder, Scup, and Black Sea Bass Management Board and
Mid-Atlantic Marine Fisheries Council Meeting Webinar
August 2021

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of February 2021** by Consent (Page 1).
3. **Main Motion**
Move to increase New York’s baseline allocation in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. New York’s baseline allocation for Black Sea Bass will be increased by 2%. This action maintains Connecticut’s baseline allocation of 3% and maintains the percentage of quota redistributed according to regional biomass. The remaining states’ baseline quotas will be adjusted consistent with the allocation tables provided during this meeting.
Board: Motion by Emerson Hasbrouck; second by Justin McNamee (Page 7).
Council: Motion by Tony DiLernia; second by Dan Farnham (Page 9).

Motion to Amend

Move to amend to change 2% to 1%

Board: Motion by Joe Cimino; second by Chris Batsavage (Page 16).
Motion carried (6 in favor, 5 opposed, 1 abstentions) (Pages 25).

Main Motion as Amended

Move to increase New York’s baseline allocation in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. New York’s baseline allocation for Black Sea Bass will be increased by 1%. This action maintains Connecticut’s baseline allocation of 3% and maintains the percentage of quota redistributed according to regional biomass. The remaining states’ baseline quotas will be adjusted consistent with the allocation tables provided during this meeting.

Motion to Amend

Move to amend the New York baseline black sea bass allocation be increased by 1.75%.

Board: Motion by Jim Gilmore; second by Justin McNamee (Page 26). Motion fails (4 in favor, 6 opposed, 1 abstention, 1 null) (Page 28).
Council: Motion by Paul Risi; second by Dan Farnham (Page 26). Motion fails (4 in favor, 14 opposed, 1 abstention) (Page 29).

Main Motion as Amended

Move to increase New York’s baseline allocation in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. New York’s baseline allocation for Black Sea Bass will be increased by 1%. This action maintains Connecticut’s baseline allocation of 3% and maintains the percentage of quota redistributed according to regional biomass. The remaining states’ baseline quotas will be adjusted consistent with the allocation tables provided during this meeting.
Board: Motion passes (11 in favor, 1 abstention) (Page 32).
Council: Motion passes (18 in favor, 1 opposed) (Page 32).

INDEX OF MOTIONS (continued)

4. **Move to rescind the main motion as adopted at the February 1, 2021 meeting** (Page 10).
Council Only: Motion by Tony DiLernia; second by Dan Farnham. Motion passed by consent (Page 12).
5. **Move to submit the Black Sea Bass Commercial State Allocation Amendment to NMFS with the preferred alternatives as approved at the December 16, 2020 and February 1, 2021 meetings as amended by the action today** (Page 35).
Council Only: Motion by Joe Cimino; second by Maureen Davidson. Motion carried based on unanimous consent with one abstention (by GARFO) (Page 36).
6. **Move to adjourn** by consent (Page 36).

ATTENDANCE

Board Members

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

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

Ex-Officio Members

Staff

Bob Beal	Maya Drzewicki	Kirby Rootes-Murdy
Toni Kerns	Lisa Havel	Sarah Murphy
Laura Leach	Chris Jacobs	Joe Myers
Lisa Carty	Jeff Kipp	Caitlin Starks
Tina Berger	Heather Konell	Deke Tompkins
Pat Campfield	Dustin Colson Leaning	Geoff White
Kristen Anstead	Savannah Lewis	

Guests

Karen Abrams, NOAA	Sarah Bland, NOAA	Morgan Corey, NOAA
Dustin Addis, FL FWC	Ellen Bolen, VMRC	Jessica Daher, NJ DEP
Fred Akers	Colleen Bouffard, CT DEP	Maureen Davidson, NYS DEC
Katie Almeida	K. Bradbury, Ofc. Sen. Whitehouse	Lorena de la Garza, NC DENR
Max Appelman, NOAA	Bonnie Brady	Peter deFur
Pat Augustine, Coram, NY	Jeff Brust, NJ DEP	Greg DiDomenico
Joe Ballenger, SC DNR	Mike Celestino, NJ DEP	Anthony DiLernia
Richard Balouskus, RI DEM	Peter Clark, NJ DEP	Russell Dize, MD (GA)
Julia Beaty, MAFMC	Richard Cody, NOAA	Steve Doctor, MD DNR
David Behringer, NC DENR	Heather Corbett, NJ DEP	Michelle Duval, MAFMC
Warren Elliott, PA (LA)	Lynn Fegley, MD DNR	James Fletcher, Wanchese Fish
Dan Farnham, MAFMC	Marianne Ferguson, NOAA	Tony Friedrich, SGA

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Guests (continued)

Alexa Galvan, VMRC	Matt Gates, CT DEEP	Lewis Gillingham, VMRC
Sonny Gwin	Steve Meyers	Somers Smott, VMRC
Jon Hare, NOAA	Sen. David Miramant, ME (LA)	Shelly Spedden, MAFMC
Hannah Hart, FL FWC	Chris Moore, MAFMC	Renee St. Amand, CT DEP
Dewey Hemilright	Allison Murphy, NOAA	David Stormer, DE DFW
Helen Takade-Heumacher, EDF	Brian Neilan, NJ DFW	Kevin Sullivan, NH FGD
Jesse Hornstein, NYS DEC	Kennedy Neill	Cyrus Teng, UMD
Peter Hughes	Gerry O'Neill, Cape Seafoods	Marek Topolski, MD DNR
Cynthia Jones, ODU	Mike Plaia	Wes Townsend, Dogsboro, DE
Jeff Kaelin, Lund's Fisheries	Will Poston, SGA	Douglas Vaughan
Emily Keiley, NMFS	Stephanie Rekemeyer, NYS DEC	S. Curatolo-Wagemann, Cornell
Pat Keliher, ME (AA)	Jill Ramsey, VMRC	Mike Waine, ASA
Adam Kenyon, VMRC	Kathy Rawls, NC (AA)	Megan Ware, ME DMR
Kris Kuhn, PA F&B	Paul Risi, City Univ. of NY	Craig Weedon, MD DNR
Rob LaFrance, Quinnipiac Univ	Jason Rock, NC DENR	Sara Winslow
Scott Lenox	Mary Sabo, NOAA	Rich Wong, DE DFW
Carl LoBue, TNC	Tom Schlichter	Spud Woodward, GA (GA)
Chip Lynch, NOAA	Tara Scott, NOAA	Chris Wright, NOAA
John Maniscalco, NYS DEC	Olivia Siegal, VMRC	Erik Zlokovitz, MD DNR
Dan McKiernan, MA (AA)	Jared Silva, MA DMF	Renee Zobel, NH FGD
Conor McManus, RI DEM	Art Smith	

The Summer Flounder, Scup, and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission, concurrent with the Mid-Atlantic Fishery Management Council, convened via webinar; Wednesday, August 4, 2021, and was called to order at 10:15 a.m. by Chair Adam Nowalsky.

CALL TO ORDER

CHAIR ADAM NOWALSKY: I would like to welcome everyone this morning to the ASMFC Summer Meeting. This is the Summer Flounder, Scup, and Black Sea Bass Management Board. We are meeting concurrently today with the Mid-Atlantic Fishery Management Council. I will get into what concurrent means versus joint shortly.

Let me first go ahead and go through the Board business of agenda proceedings and public comment.

APPROVAL OF AGENDA

CHAIR NOWALSKY: First order of business here is to approve the agenda as it was presented. Is there anyone that would like to present any changes to the agenda? Seeing no hands raised, and hearing nothing, the agenda will stand approved by consent.

APPROVAL OF PROCEEDINGS

CHAIR NOWALSKY: The next order of business is to approve the proceedings from the February, 2021 meeting. Is there anyone that would like to offer any changes regarding those proceedings as they appear in the meeting materials? Seeing no hands raised and not hearing anything else, those proceedings will stand approved.

PUBLIC COMMENT

CHAIR NOWALSKY: Our next order of business is to allow for any public comment on items that are not on today's agenda. Is there anyone from the public that would like to speak on a topic that is not on today's agenda, but related to the species?

CHAIR NOWALSKY: I'm not seeing any hands raised, and I'm not hearing anything, so we will move on to our next agenda item.

CONSIDER THE ISFMP POLICY BOARD DIRECTIVE FOR CHANGES TO ADDENDUM XXXIII ON COMMERCIAL BLACK SEA BASS ALLOCATION

CHAIR NOWALSKY: Let me first go through the sense of concurrent versus joint. There was in the very last two pages of the supplemental meeting materials for this meeting a two-page memo from Toni Kerns that outlined some changes that would be needed to the voting process for this meeting, which is the reason why we're calling it concurrent versus joint.

The reason why we need to make some changes to the voting process is because of Commission direction, with regards to the species board needing to respond to the Policy Board's directive to take action on this matter. Typically, when we do the joint meetings, both the Council and the Board need to make like motions on a topic, in order for either sides motion to be valid. But today we're going to need to allow for a Board motion to stand on its own, which again is the reason for calling this concurrent versus joint. That process is outlined in greater detail, again in the memo. I'll try to just briefly summarize it. What we will be doing today is we will shortly turn to staff for a presentation about the background and the appeal. We will then take questions on the presentation as it was provided. I will then turn to a Board for a motion, and specifically I will be turning to the state of New York for the opportunity to make the first motion on this topic.

When motions are brought forward, the Board will have the opportunity to make the first motion on a particular area. We will then turn to the Council for the opportunity to make a like motion on that or not. Whether or not the Council chooses to make a like motion, we'll be able to follow a Board motion through to completion.

That would include the ability to follow Robert's Rules, and go three levels deep on a motion, up to

two amendment substitutes to a main motion, and again at each stop along the way giving the Council the ability to make a like motion. It is my sense right now that there are probably three possible outcomes from today.

I say that as a Chair that recognizes that they have a plan, until the motions start flying. We'll see how things go. I think the first outcome is that the Board takes corrective action within the bounds of the Policy Board's directive. The Council takes a like action. Another possible outcome is that the Board takes the required corrective action, but the Council does not take like action.

In the event that that occurs, that puts us in a situation. I think that the Service will likely have a difficult time. I don't intend to speak for them, but from past experience, given the fact that we would then have divergent state waters and federal waters commercial black sea bass allocations and quotas, that would probably put the Service in a very difficult position to approve the Council's amendment as it was previously decided on.

The other possible scenario today is that the Board does not take the required corrective action, in which case the Policy Board would likely need to step in, and then make a decision about how to proceed moving forward at that point. That kind of lays out what the plan is for today, what the possible outcomes would likely look like.

I will first turn to Mike Luisi to see if you would like to add anything, as Chair of the Council, with regards to the process and plan for today. Then before we get started with the staff presentation, I'll just entertain any questions from the Board and Council with regards to what our plans are. Mike, do you have anything you would like to add?

MID-ATLANTIC CHAIR MICHAEL LUISI: Yes, thanks, Adam. No, I appreciate your, as expected you were very thorough in your explanation about the process. There have been some discussions going back and forth over e-mail regarding the Council's. John Almeida, who is our Council attorney had

some thoughts about process, and how we reconsider the motions that were made and passed. I wonder if John, if he's on the call, if he might want to speak to what may have to happen, as far as process goes. But Adam, no you did a great job outlining everything. You and I have spoken many times over the past week, and you know I'm looking forward to the discussion today. But I don't want to put John on the spot. I'm not even sure he's on the call. I'm looking for his name right now. But if John is there, maybe he can speak to what he thinks is the correct process for us regarding rescinding the previous motion made by the Council.

MR. JOHN ALMEIDA: Thank you, Mr. Chair. Yes, my thought was similar to at the June meeting when the Council voted to rescind the motion that sent the Amendment to NMFS, that there would be a similar motion to rescind prior to a vote on whether to take corrective action today, based on changes to the allocation formulas. Prior to a vote on, I guess prior to a motion on what a corrective action would be, that there would be a motion to rescind the main motion from the February meeting, because right now, as to this Amendment, that is still on the books.

We might want to vote to rescind that, in order to clear the decks for consideration of something different than was adopted at the February meeting. I understand that the Commission doesn't view that as necessary, given what the Policy Board did. Basically, the Policy Board rescinded the February vote of the Board, so the Commission doesn't view that is procedurally necessary at this point.

MID-ATLANTIC CHAIR LUISI: Today is going to be complicated enough. If the Council and the Board end up agreeing on terms, based on the remand by the Policy Board. Is that enough to make the corrective action? Do we need to go through the process of the rescind because the Council could rescind what happened during a previous meeting?

But the Council may also choose not to change what their decision was. Today is going to be complicated enough, I just don't know how

necessary it is to go through those hoops. But you are our attorney, so I'm looking for you for advice. Adam, I don't know how that would work within our scheduled plan on how this is all going to unfold.

I didn't mean to complicate things, but there have been some e-mails going around the last day, day and a half or so, I just read them this morning. Yes, John, I'm just looking for advice as to what we should do first, second, third, fourth and fifth, as we go through this process.

MR. ALMEIDA: Yes, and I appreciate that, Mike. This is kind of an unusual circumstance that we're in here. I think to the extent that the Council doesn't do anything, or the Council chooses not to change its earlier vote, then there wouldn't need to be a motion to rescind. I think it's only if the Council is entertaining the idea, the possibility of changing what it did earlier, that there ought to be a motion to rescind. Does that help?

CHAIR NOWALSKY: Yes, Mike, thanks for highlighting the fact that we've been working together on this. I didn't mean that initial part to sound like all this was Adam Nowalsky's idea. No, we've been working very closely with staff, with leadership, both the Council and the Commission, so this has been very much a collaborative effort.

I think the question that I have for you, John, is can the Council make motions without having a motion to rescind first? Then if we get to a point, you know could the Council motions look like, in the event that the Council rescinds, then we would propose this change. Could a motion look like that? Another possibility would be, could we start out with a motion to rescind, and then table that motion until all other actions were done, and then come back to that motion to rescind, as a way to wrap up, or from your perspective do we have to have a motion to rescind and passed, in order for the Council to make any motions on changes to the allocations this morning?

MR. ALMEIDA: I think your idea of tabling a motion to rescind until a time when it would be needed, might be the best approach.

CHAIR NOWALSKY: All right, so let's go ahead, and I think what we will do with that is again, we will do a staff presentation first, and then we'll entertain motions. Let me just turn to staff. We had sent out the voting policy detailing that the Board would make all first motions. Would staff prefer that the Board, should the Board, which I fully expect, make a motion to change New York's allocation.

Would we then need to look to the Council to first make that motion to rescind and table, or would you allow for the Council to make a motion to rescind first? I'm thinking we would want the Board motion on the table, and then the first thing that the Council would do after that would be a motion to rescind, followed by a tabling of that motion, followed by a like Council motion, is what I'm leaning towards, after hearing the guidance from General Counsel.

MID-ATLANTIC CHAIR LUISI: That sounds like a good plan to me, Adam. Thanks for outlining that. But I think that is the right steps, and I'm going to go back home to you and we'll get into the staff presentation. But yes, sorry for that hiccup on that one.

CHAIR NOWALSKY: Great, okay. Let me, before we turn to staff, are there any other questions from the Council or Board regarding the process of how we intend to proceed today? I'm not seeing any hands raised or hearing anything. We've got one, Joe Cimino. Go ahead, I had my hands order here reversed. Go ahead, Joe.

MR. JOE CIMINIO: This is, under my Council hat, and I apologize, but I'm sure I'm not the only one that is confused. How is this different than the June vote as a motion to rescind? Was that just because it was the submittal to NMFS, and so it's, as John said, still on the table? Is that correct? That is how this is different from what we did in June?

CHAIR NOWALSKY: I'll turn it to John Almeida to try to answer that, or Mike Pentony, I see you've got your hand up. I'll turn to somebody from the Service to go ahead and answer it.

MR. MICHEAL PENTONY: All right, I can. Hi everybody, I can try to take this, but John can correct me if I get something wrong. Yes, you know if everybody knows, through the Council process there is a series of motions that select the preferred alternatives, and then once we work through all of those, there is a motion to submit the Amendment, as adopted by the Council.

You know the way I look at this is the motion in June rescinded that final motion, the motion to adopt the Amendment and submit it to us for review. That allowed us to pause the review process on the Amendment, and provided the opportunity for the Council to engage with the Board today. But yes, to John Almeida's point, all the motions that the Council adopted, in terms of the preferred alternatives within the Amendment, are still on the books. That is why I think, you know John is looking, or John was suggesting and I agree, that a motion to rescind the Council's preferred alternative would then clear the decks to entertain a new motion to select a different preferred alternative.

CHAIR NOWALSKY: Great, thanks for that, Mike. John, do you have anything to add to that, or did Mike get us in the right direction?

MR. ALMEIDA: No, Mike summed it up pretty well, thank you.

CHAIR NOWALSKY: All right, great. Joe, the June motion rescinded the final action, and then what we would need to do today is to actually rescind the preferred alternatives. Does that clear it up for you, Joe?

MR. CIMINO: Crystal, thank you.

CHAIR NOWALSKY: Okay, any other questions? Any other questions from the Board or Council before we go ahead and turn to staff? Seeing none, I will also just add that it is my intention to entertain public comment on what we do today. It will be my intention to entertain public comment when we get to a main motion.

Before we take a final vote on a main motion we would go ahead and take public comment. Let me go ahead and turn to staff, thanks for that clarification and clearing some stuff up in how we're going to proceed. Go ahead and get going with the staff presentation.

MS. TONI KERNS: Thank you, Adam. Today I'm going to go over what has led us to the directive from the ISFMP Policy Board to the Summer Flounder, Scup, and Black Sea Bass Board for changes to Section 3.1.1 of Addendum XXXIII. Addendum XXXIII was approved in February of 2021 by both the Board and the Council.

Under this Addendum, the allocations that were changed included Connecticut's baseline allocation increasing from 1 to 3 percent of the coastwide quota, to address its disproportionately low allocation, compared to the increased availability of black sea bass in Long Island Sound. The allocation for all states would then be calculated by using 75 percent of the coastwide quota, according to these new baselines, and 25 percent to the regions, based on the most recent regional biomass distribution information from the stock assessment.

The three regions that are involved in the allocation distribution are Maine to New York, New Jersey as a standalone, and Delaware to North Carolina. The regional allocations are distributed amongst the states within the regions, in proportion to their baseline allocations, except for Maine and New Hampshire, and this is because the allocations would be based in part on the regional biomass distribution from the stock assessment, and they would be adjusted if a new assessment indicates a change in the regional biomass distribution.

In March of 2021, the state of New York appealed the allocation changes approved by the Board. The appeal argued that New York's baseline quota should increase similarly to that of Connecticut, as it too had experienced a significant disparity between allocation and the abundance/availability of the black sea bass in Long Island Sound, which is a shared waterbody of state waters for both New York and Connecticut. The Policy Board considered

this appeal in May of '21, and found that it was justified. The next few slides cover the rationale of why the Board found the appeal justified.

Adult black sea bass were rare in Long Island Sound in the base years, when the original allocations were set by Amendment XIII. Long Island Sound did not support fisheries in either state when the original commercial allocations were made. New York's 7 percent allocation was based upon black sea bass landings in its traditional ocean-based fisheries that operated in other state waters, as well as in federal waters.

Long Island Sound is a shared waterbody of both Connecticut and New York. We saw a large increase of black sea bass in Long Island Sound, starting in late 2010 and onward, as you can see from the Trawl Survey Index on the screen. There is a dramatic expansion into Long Island Sound during these years.

The commercial black sea bass landings in Long Island Sound have increased substantially, and now make up 50 percent of both Connecticut and New York's total annual commercial black sea bass harvest. You can see here, New York's harvest is the blue line, and Connecticut's harvest is the red line. You can see that increase since the mid-2000s.

New York's landings from Long Island Sound are much larger in magnitude than the landings from Connecticut, they are about four times greater. These substantial new landings from Long Island Sound strain the quota availability to New York's traditional ocean fisheries. This information that was provided to the Policy Board compelled the Policy Board to agree that New York's appeal was justified.

The Policy Board then provided a directive back to the Summer Flounder, Scup, and Black Sea Bass Board. The Policy Board Remanded Section 3.1.1. This is the section of the document that only addresses the baseline allocation back to the management board for corrective action, to address the impacts to New York's baseline allocation in a

manner that is comparable to the consideration that was given to Connecticut.

The Policy Board also specified that the management board's corrective action would not result in a decrease in Connecticut's baseline allocation to less than 3 percent, or decrease the percentage of quota allocated to the regional biomass distribution. The Board's charge today is to determine how much of New York's baseline quota should be increased, up to 2 percent.

This table here, which was included in materials that we distributed at the end of last week to both the Board and Council, no at the beginning of this week, I apologize, shows the current allocations under Addendum XXXIII. These allocations have been updated with the operational stock assessment from this year, so they are going to look a little bit different than what you saw in the Addendum XXXIII, as it was approved in February. This table is the maximum amount that could go to New York in its baseline, so 2 percent, as well this table is updated with the most recent stock assessment. Mr. Chairman, that is the end of my presentation, I can take questions. I do have other slides that show different percentages, if you would like to see them. I just figured for time I would just start with these two.

CHAIR NOWALSKY: Thank you very much for that presentation, Toni. Let me get a show of hands right now, of people that would like to ask questions about what Toni presented, with regards to the Policy Board decision and what we then have to do here today. I've only got one hand up, Dewey Hemilright, go ahead.

MR. DEWEY HEMILRIGHT: Thank you, Mr. Chairman. I was curious if there is any data that shows the gear type that is harvesting the quota, or harvesting in the Long Island Sound, like a breakdown from hook and line, trap, trawl, or whatever that may be, about how the harvest has changed or taken place over the last few years, given that the landings have changed in Long Island Sound. Thank you.

MS. KERNS: Adam, I would like to phone a friend, and ask John Maniscalco to answer that question, if it's okay with you.

CHAIR NOWALSKY: No, if staff has a way to get an answer, I will certainly endorse that. Go right ahead.

MR. JOHN MANISCALCO: Dewey, I wish I had an exact answer for you. Certainly, potting, trawl, and hook and line are all major players in Long Island Sound's black sea bass fishery, but I don't have a breakdown for you at the time.

CHAIR NOWALSKY: All right, sorry Dewey, we weren't able to get you the answer there with that one.

MR. HEMILRIGHT: Well, no problem. If you're looking at the changes that have taken place, I think it would also be a good idea just to show what gears are catching the fish. Thank you.

CHAIR NOWALSKY: Next up I've got Eric Reid.

MR. ERIC REID: This is most likely a question for the state of New York, if you don't mind. The basis for the appeal, the successful appeal, was based on the biomass in Long Island Sound, exclusively Long Island Sound. I would like to note that Senator Schumer, from New York, in his correspondence to the Board, also mentioned Long Island Sound exclusively. My question is, is it the intent of New York to use any additional allocation to support a fishery exclusively in Long Island Sound?

CHAIR NOWALSKY: I'll turn to see if there is anyone from New York that would like to try to answer that question.

MR. JAMES J. GILMORE: It's Jim Gilmore. Eric, I think that the simplest answer to that is that again, based upon the graph, and we essentially rely on Sound fishery overwhelmed the ocean fishery, and we really wouldn't have a way to segregate the two water bodies, based upon the way the fishery is managed. This would just be an increase for the overall quota for New York, not segregated by

water bodies, just simply because we can't manage it that way.

MR. REID: I appreciate your answer, Mr. Gilmore, but it is interesting to me that we have tautog that is managed in Long Island Sound between New York and Connecticut as well. Thank you for your answer.

CHAIR NOWALSKY: Thanks for your question, Eric. Do I have any other Board or Council questions, any questions here? If the public has a question on this, if they can try to work with a state Board or Council member, I would really like to try to keep questions here at the Board and Council level, if possible. All right, I'm not seeing any other hands, so with that and having had the presentation, I think we're ready to turn to look for getting a motion on the board here to start the debate and conversation here today. Emerson, you've got your hand up.

MR. EMERSON C. HASBROUCK: Yes, thank you, Mr. Chairman, I have a motion, and I think staff has a copy of that motion. **I move to increase New York's baseline allocation in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. New York's baseline allocation for black sea bass will be increased by 2 percent.**

This action maintains Connecticut's baseline allocation of 3 percent, and maintains the percentage of quota redistributed according to regional biomass. The remaining states' baseline quotas will be adjusted consistent with the allocation tables provided during this meeting.

CHAIR NOWALSKY: Thank you, Emerson, and to clarify, that motion is on behalf of the Board. Do we have a second for the motion? I've got a hand first came up from Jay McNamee. Jay, you are seconding the motion?

DR. JASON McNAMEE: Yes, Mr. Chair.

CHAIR NOWALSKY: All right, so at this point we have a motion made by Mr. Hasbrouck and seconded by Dr. McNamee. At this point what I'm

going to do is, I'm going to turn to New York for the opportunity to provide some rationale for their motion, beyond what we saw. Then after that rationale is presented, we will turn to the Council, to see if anyone from the Council would like to make a motion to rescind the preferred alternative from the previous motion, and go down the road that we talked about earlier, to see if we get to a like motion. I'll turn to New York here at this point. Emerson, would you like to go ahead and provide additional rationale?

MR. HASBROUCK: Yes, thank you, Mr. Chairman. I think Toni covered the background and justification pretty well in her presentation. However, I do have some additional comments and information. We developed Addendum XXXIII to address the issue of the increase in black sea bass biomass in the northern region.

The problem statement of Addendum XXXIII addresses this issue, and specifically highlights the fact that expansion of the black sea bass stock into areas with historically minimal fishing effort, and it's created significant disparity between state allocations and the current abundance in resource availability. The increase that New York received, due to the regional reallocation of Addendum XXXIII, is based on the fishery that existed during the baseline period, and accounts for increased biomass in the ocean fishery. It does not address a significant increase in biomass in Long Island Sound, an area with historically minimal fishing effort. The Board addressed this issue for Connecticut, by increasing its baseline allocation by 2 percent.

However, no such consideration was afforded to New York for the significant biomass and the related fishery in Long Island Sound. Then Mr. Chair, with your permission, I would like to hand it over to John Maniscalco of New York DEC, to provide some additional technical information.

CHAIR NOWALSKY: Yes, we'll look to John to try to keep it as concise as he can. Go ahead, John.

MR. MANISCALCO: Thank you for the opportunity to speak. I'll provide a little bit more information,

including some that addresses Eric Reid's question. But I will also remind the Board that tautog is not a quota managed species in New York State so those dynamics are a little different. I was wondering if Maya had any slides that New York had submitted earlier, that she could put on the presentation.

MS. KERNS: Maya, those are those backup slides I sent yesterday.

MR. MANISCALCO: As Toni noted, commercial black sea bass harvest from Long Island Sound has increased substantially, in both Connecticut and New York, and now makes up approximately 50 percent of each of those states' total annual commercial black sea bass harvest. As you can see here, New York state landings from Long Island Sound are actually much larger in magnitude than the landings from Connecticut, approximately four times that in recent years.

Given this level of New York state landings that are now coming from Long Island Sound, a 2 percent baseline allocation increase, matching what was received by Connecticut, is certainly justified. A New York state licensed, commercial, food fishermen can take and land black sea bass from any of our state waters.

These substantial new landings that are coming from Long Island Sound strain the quota available to all of New York states' fishermen, including the traditional ocean-based fishery, and those now fishing in Long Island Sound. In fact, under a 50-pound daily limit, New York was closed for four to six weeks straight in mid to late spring to early summer, of pre-COVID years like 2018 and 2019.

While all New York state fishermen are impacted by these low limits and closures, closures in late spring especially impact Long Island Sound fishermen, because the fish arrive later in the season there. New York is seeking an increase to its baseline allocation, to account for the expansion of black sea bass into Long Island Sound.

Our initial commercial fishery management goals are to maintain our limited winter fishery. In 2021

that's 500 pounds weekly, and that enable fishermen to fish during the warmer months, when inshore access is high, without closures at something approximating 70 pounds a day. A baseline quota increase sets the stage for relief for all fishery participants that have been impacted by the new Long Island Sound fishery, and also helps to ensure that Long Island Sound fishermen can fish when the resource is available to them. While 60 to 70 pounds is a modest amount, it represents a single full carton, commonly used in New York states consignment-based fishery.

That amount will maximize a fisherman's profit per pound, after accounting for packing and shipping cost. The nearshore nature of the black sea bass resource and fishery around New York, requires quota management that allows for daily limits by a large number of participants, and by necessity those daily limits have to be modest.

Regardless of our quota, black sea bass will be encountered by a variety of fixed and mobile gear fishing in Long Island Sound, other waters of the state and in federal waters. Sufficient quota, which includes a baseline increase, will allow the states fishermen to take advantage of a resource they now encounter almost everywhere, in new and old areas, and land those fish instead of discarding them.

I will leave you all with this last slide to view, showing the differences between current Addendum XXXIII allocation and potential allocations that do include an increase to New York's baseline after current biomass distributions have occurred. While I'm not minimizing the impacts to other states from these changes, the majority of these changes are less than 0.5 percent, which in recent proposed quotas equates to approximately 32,000 pounds. I just want to thank you all for the opportunity to speak this morning. Thank you.

CHAIR NOWALSKY: All right, thank you very much, John. I'm sure there is a number of people that want to speak, and move us in directions. Before we get to a traditional pro and con debate on

motions, now that we have a valid Board motion, the Board has had the opportunity to make that first motion, it's been made and seconded.

I would like to take a few minutes and turn to the Council, to see if the Council is prepared to make a like motion. That like motion, as we discussed earlier, would need to be preceded by a motion to rescind the preferred alternative from the last Council Amendment action, and it would likely, rather than having a lengthy debate, because whether or not that is rescinded is going to essentially be the same debate as to the magnitude of the change.

It would be my preference to have that debate during the motions that we would have regarding the percent change to New York potentially. Let me turn to the Council at this point, and see if a Council member would like to make a motion to rescind, and we might need to turn to staff to see what the scope of that is. If it's sufficient to say, the preferred alternative, and then staff could wordsmith that a bit, to make sure we're addressed accordingly. Maybe we've got a Council member that's going to hit this one out the park on the first pitch. Tony DiLernia.

MR. ANTHONY DILERNIA: On behalf of the Council, I would move that we rescind what was originally our preferred alternative, and the suggestion as to how the staff could wordsmith the rest of it, I'm very agreeable to. But my intent is to move to rescind, so that we can engage in another discussion regarding how New York's allocation may change. Thank you, Sir.

CHAIR NOWALSKY: All right, thank you very much, Tony. With regards to the draft motion that is on the board. I think what we have here was according to the earlier discussion, our June motion had done the rescission of the submittal, and now we're looking to rescind the selection of the preferred alternative. I'll turn to John or Mike Pentony again to provide some guidance before we get a second, as to whether what's up is appropriate, or whether they have some advice on how this should be

wordsmithed before we get a second. John, go ahead, please.

MR. ALMEIDA: I might suggest a motion to rescind the main motion as adopted at the February 1st meeting.

CHAIR NOWALSKY: All right, so Tony, John is suggesting a change to this. Move to rescind the main motion.

MR. DiLERNIA: I'll accept that, I'm favorable to that. It captures the intent of what we're trying to do here, so I'm amenable to any editing that may achieve what we're trying to accomplish. Thank you.

CHAIR NOWALSKY: John, would you suggest this as it's written is okay, or do you think we need to change this further?

MR. ALMEIDA: I would suggest removing the, from to submit to the end of the sentence.

CHAIR NOWALSKY: All right, so we'll just put a period after meeting, and remove the rest. Thanks for your help and guidance with this. All right, so we'll turn back to Tony. Based on the guidance we received here at this point, if you would go ahead and reread this motion, and then I'll look for a second.

MR. DiLERNIA: Okay, just as long as we understand it. This motion is intended to address the black sea bass allocation. **Move to rescind the main motion as adopted at the February 1, 2021 meeting.**

CHAIR NOWALSKY: Thank you, Tony, do I have a second from the Council for this motion? I have a second, I have Dan Farnham's hand up. Are you raising your hand to second the motion, Dan?

MR. DAN FARNHAM: Yes, I am, Mr. Chairman, thank you.

CHAIR NOWALSKY: All right, thank you very much. Again, keeping in line with our earlier conversation that this is for the intent of just getting us to the

point that the Council would have the ability to like motions, before we get into protracted debate here. Is there any interest in tabling this motion? Tony, you've still got your hand up. Tony's hand is down. We have this motion up. At this point, again, the Council can choose to debate it or table it here, as we discussed earlier. Chairman Luisi.

MID-ATLANTIC CHAIR LUISI: Can you explain to me the reason for the consideration for tabling? I mean maybe tabling isn't the right word, maybe postponing until another decision is made would be easier, so we don't have to have a motion to take it off the table. What is sort of the purpose then is to have a debate on the Board's motion, and then if the Council decides to move. Can you explain to me the purpose of the postponement or the tabling? I'm not quite clear on that.

CHAIR NOWALSKY: I think you were going down the right road, Mr. Chairman, in that right now we have a motion from the Board. We don't know if the Council wants to make a like motion. In order to make a like motion, the Council needs to basically back up. However, the Council doesn't know if they are ultimately going to want to rescind things or not, is my expectation, until they know what that change is going to be.

If we end up an hour from now, and decide that there is no change to New York, then the Council probably has no need to rescind things, depending on what the magnitude of that change may or may not be, then the Council would make that decision somewhere later this morning. That is the purpose to give time to go ahead and have the Council make a like motion for the Board.

Have that debate about how to change New York's base allocation, and then based on the outcome of those conversations and motions, the Council would then make a final determination, if they did want to ultimately rescind previous action, and go ahead and change that. Does that help you?

MID-ATLANTIC CHAIR LUISI: Yes, it does. I know it's just an added complication to the process.

CHAIR NOWALSKY: The alternative, I think at this point, is to have protracted debate about this, which I think is going to be difficult to do, not knowing what the magnitude of change is going to be. Again, I've got to go ahead and defer to the Council for what they ultimately want to proceed. I'm here to facilitate that discussion, but based on our earlier conversation this morning without forcing the Council to do something prematurely, we got the sense that that was the purpose of tabling this at this point. Mike Pentony.

MR. PENTONY: Maybe another way to look at this, and the way I guess I'm looking at it, is that voting down this motion by the Council would establish that the Council has no intention to change the main motion that was adopted in February, which was the allocations. Voting up this motion, then allows the Council to engage as I see it, with the Board on potential motions to change the allocations.

But it doesn't obligate the Council to adopt the same allocation that is currently on the table of the Board. But it basically frees the Council members up to engage in that discussion, and consider different allocations, and vote on those different allocations, should a Council motion be made. But it seems like until we vote this motion up, there really can't be any other Council motions that would follow the Board discussion. I guess I'm seeing this as the first step for the Council to engage with the Board on what the potential new allocations might be.

CHAIR NOWALSKY: All right, so thanks, Mike. That's a little bit different than what I heard from John Almeida earlier, that he was comfortable with tabling this until later. But again, I'll defer to your thoughts on what to do with this. Based on that, is the legal interpretation, again I'll have to turn to John Almeida.

You know earlier I thought I had heard that a tabling of this would allow the Council to make other motions. The Regional Administrator seems to have a slightly different take right now on it, so I think I need some definitive direction from the Council, as

to whether or not the Council can make other motions to work with the Board, whether or not we take action on this or tabling it. What does the Council need to do with this motion? John, you've got your hand up, help us out.

MR. ALMEIDA: My understanding from the earlier discussion was we were going to get up to the point of a motion, but not necessarily have a motion be voted on, and then this would be tabled until such a motion was ready to be voted on. I think that was my understanding, is that we would keep this ahead of a vote on a motion, so we could have discussion, questions, get up to the point of someone putting a motion on the board, and then this would take priority over such a motion.

CHAIR NOWALSKY: Okay, so what would you advocate for procedurally right now? Would you advocate for tabling or postponing this, until another motion is made, or do you feel the Council needs to vote this up or down now, with the expectation that should the Council vote this up, that doesn't tie the Council's hands to having to have to make a change to the main motion, that they could always fall back on the main motion from the February meeting.

MR. ALMEIDA: I mean I think it's cleaner if we vote the motion now. But I don't think you are precluded, as long as this motion gets voted on before the later motion. Does that make sense?

CHAIR NOWALSKY: All right. Let's go ahead and do this. Based on that guidance, let me see first a show of hands of people that would like to speak in favor of this motion. It would include both Board and Council while this is a Council only motion. We are meeting concurrently. If we got to a place that we had a Board only motion, without a like Council motion, I would invite Council members to speak.

I would give Board members the same opportunity at this point. I will ask for a show of hands of people that want to speak in opposition to this motion, and let's work through this issue here then first. First up, a show of hands of people that want to speak in favor of this motion. Chairman Luisi,

you still have your hand up. Were you on that list, or was that still up from before?

MID-ATLANTIC CHAIR LUISI: I'm sorry, Adam, I had my hand up from before. I would speak in favor of this. While I have the microphone, I might as well, we'll say that since the Board has to take action, I think that Council members need to be thinking about whether or not they want the allocations that we decided on back in February, to be included in the federal FMP. The Board is going to take action. There is going to be a change. If the Council wants to keep those allocations in the Federal FMP, we're going to have to have that discussion with the Board, if we could come to some compromise, as to the changes that we make, because as Mike Pentony mentioned, I think it was Mike that mentioned it earlier, or maybe it was you, Adam. It's going to be very difficult for the Service if we have different allocations in both federal and state waters.

By voting this down, we're essentially saying that the Council is not interested in considering new allocations, which means that they will likely not be part of the Federal FMP. By voting this up, it puts us in that partnership with the Commission, to try to find some solution. I'll stop there, but thanks for recognizing me, Adam. It was a mistake, but I wanted to get that on the record anyway, so thanks.

CHAIR NOWALSKY: With the concurrency of this, we need everyone's leadership and input here. I've got one hand up for speaking in favor, Tony DiLernia, and again to be clear, this motion will not require that the Council change things later on, but it gives them the opportunity to do so.

Let me see any hands that intend to speak in opposition to this motion before I go to Tony DiLernia in favor. Okay, I'm not seeing any hands of anyone to speak in opposition, so Tony, before I even go to you, let me do the following. **Let me ask the question to the Council, is there any opposition to this motion? Seeing no hands and hearing anything, this motion will pass by consent.**

If we can put this off to the side, let's bring back up the Board motion, and the next place where we are is to make a determination if the Council would like to make a like motion for what the Board motion was. I will again turn to the Council. Is there anyone from the Council that would like to make this motion for the Council? Tony DiLernia, I have your hand raised.

MR. DiLERNIA: So, moved, Mr. Chairman. Do you want me to read it in?

CHAIR NOWALSKY: No, I think it's already been read into the record, so we're good with that, thank you. We'll just have it recorded that you have made the motion. Do we have a second by the Council? Dan Farnham, your hand is up. Are you seconding the motion?

MR. FARNHAM: That's correct, Mr. Chairman, thank you.

CHAIR NOWALSKY: Okay, thank you very much, Dan. Okay, so at this point we have a valid motion from the Board, we now have a valid motion from the Council. What I am going to do is, I'm going to turn and ask for a show of hands that would like to speak in favor of these motions, from both the Board and the Council.

I would also then, after I do that, I will ask for a show of hands of people that want to speak against, and keep in mind that somewhere along that way a Board member would have the opportunity to make a substitute or amended motion, if they want to do something with this. Let me first start with a show of hands of Board and Council members that want to speak in favor of the motion. I've got John McMurray, I've got Nichola Meserve. Roy Miller, I have your hand up. Was your hand up to speak in favor of this motion, or was it for another matter?

MR. ROY W. MILLER: It was to ask a question about the meaning of the motion itself.

CHAIR NOWALSKY: Okay, let me go ahead and finish getting a show of hands here of people to speak in favor, and then I'll come back to you. John

McMurray, Nichola Meserve, Dan Farnham, Emerson Hasbrouck. Okay, you can put your hands down. Let me get a show of hands of people that intend to speak in opposition to the motion, and then I'll go to Roy for his question. Chairman Luisi, your hand was up to speak in opposition, or did you have a point you wanted to raise?

MID-ATLANTIC CHAIR LUISI: No, I wanted to address, I'll put my Board hat on and my Maryland hat on. I wanted to address this in opposition, thanks.

CHAIR NOWALSKY: In opposition, I've got Mike Luisi, Joe Cimino, and Shanna Madsen. All right, so we'll start with those lists. Roy, let me turn back to you for your question here about the motion, and then we'll get going with the pros and the cons here.

MR. MILLER: Thank you, Mr. Chair. Perhaps I'm the only one that needs this clarification, but I'll take a chance, expose my ignorance, in any event. Is it the requirement, because of the action taken by the Board, that the resulting allocation must be 2 percent, or if because of the reallocation due to biomass?

If New York gets to 9 percent that way, do we have to approve a 2 percent increase? It's unclear to me, whether we have to go with a full 2 percent, or do we just get New York a total of 9 percent one way or the other, either through allocation or a new baseline. Can somebody answer that for me so I understand it?

CHAIR NOWALSKY: Yes, Roy, I'll take a shot at it, and staff can correct me if I'm misinterpreting the Policy Board directive. The Policy Board directive is to increase New York's baseline allocation by up to 2 percent. That is the directive from the Policy Board by up to. This motion as it exists right now would increase New York's baseline allocation by the full 2 percent.

MR. MILLER: Okay, I think what I'm hearing, if I may, Mr. Chair.

CHAIR NOWALSKY: Go right ahead.

MR. MILLER: Up to 2 percent. In other words, we could make a selection for one of the lower percentages, as long as the net result is New York getting 9 percent or more, with both the allocation and the new baseline. Am I correct in that?

CHAIR NOWALSKY: No, I don't believe the New York getting 9 percent is entering into this equation. All that is needed to meet the Policy Board remand to the species board, is to increase New York's baseline allocation to something above 7 percent, but not to exceed 9 percent. My interpretation of the Policy Board directive is that we need to be somewhere in the above 7 percent, and not to exceed 9 percent for their baseline allocation, when we end today. Whatever anything else, in terms of regional biomass shifts, et cetera, wherever any of those other things ultimately leave New York, is a separate issue that I'm sure we'll discuss today, but doesn't specifically need to be part of this motion process.

MR. MILLER: I think I understand now. What you're saying is, we make the baseline decision first, and then worry about the reallocation.

CHAIR NOWALSKY: The reallocation will then occur, and we don't actually have to. Again, I'm sure we'll discuss it, but as a Board, we don't have to worry about it in order to meet the charge from the Policy Board.

MR. MILLER: All right, thank you, Mr. Chair.

CHAIR NOWALSKY: All right, I'm not seeing staff raise any hands, not hearing anybody tell me that I'm way off base here. With that we're going to start with our list. I will turn to John McMurray first for a pro, I'll then turn to Mike Luisi for a con. Go ahead, John McMurray.

MR. JOHN G. McMURRAY: I don't think I need to talk about what's become a well-documented influx of black sea bass in Long Island Sound. I think we all understand that at this point. One of the stated intents of Addendum XXIII was to address changes

in the distribution of the stock, specifically in Long Island Sound.

Of course, it did that, but only for Connecticut, and clearly Long Island Sound is a shared waterway, and clearly New York received no such allocation. Now, I get that some of you see this from a coastal perspective, and that we already have quota. We could just shift effort from our ocean fisheries to Long Island Sound. But it doesn't really work that way.

Commercial black sea bass harvest from Long Island Sound has increased exponentially in the last several years. If I understand correctly, now makes up around 50 percent of the state's total annual commercial black sea bass harvest. If I'm not mistaken, Long Island Sound landings are much larger than Connecticut's.

These substantial new landings strain the quotas available to the state's traditional ocean fisheries, and it has forced low trip limits and frequent closures across the board. I would ask the Board and the Council to look at this issue objectively and fairly, not in a sense that we've got ours, and who cares about New York.

But think about what a mostly small-scale commercial fisherman in Long Island Sound, those same people who lost lobster because of climate change are now seeing an influx of black sea bass, likely for the same reason, can and should be allowed to access them in the same way Connecticut fishermen are.

Think about the ocean fisheries that are also feeling some pain. Lastly, understand some of you are prone to simply look at this as another allocation dispute, but it isn't. These fish moved into the Sound, debatably because of changing ocean conditions caused by climate change. In my view it's 100 percent a climate change management issue. If we can't deal with this sort of thing, which is relatively simple, will likely have minimal impact, well I think we failed, and we will likely continue to fail at truly addressing climate change, as it relates to stock redistribution. We have the opportunity to

show the world here that we can effectively address such shifts in stocks without being forced to do so with legislation. Let's take advantage of that. That is all.

CHAIR NOWALSKY: Next up on my speaking list I had Mike Luisi.

MID-ATLANTIC CHAIR LUISI: I'm going to speak against the 2 percent increase. This isn't the first time that I've gone on the record to discuss this issue. It happened when we made the final decisions back in February. But I feel as if, you know to protect the resource that we have in our southern region, specifically in Maryland.

You know we found a really good compromise that I wasn't completely comfortable with, but we had our fishermen onboard to be able to, you know come to the agreement that we did, as we concluded this amendment, you know back earlier this year. The whole reason why Connecticut was considered for an increase to their baseline, was because they were such an extreme. Their quota was so extremely low at 1 percent, that they weren't even able to have a viable fishery.

All the graphs that we're looking at today, you know indicate that New York's Long Island Sound fishery is much larger than Connecticut's. Well, of course it is. New York has a 7 or 8 percent allocation to the fishery, while Connecticut had a 1 percent allocation, in which is why I think it was a no brainer to add to Connecticut's baseline allocation.

We also, in the southern region, and I'm sure that others on the call today will speak to this. You know we did address the problem statement in the Addendum, and we have shifted an enormous amount of fish from a region where we've seen no difference in our abundance. We shifted an enormous amount of fish to the Southern New England, New England area.

New York has already received the additional fish that is going to help them solidify their Long Island Sound and their ocean fishery. This to me is a request for, it's a fish grab, honestly, and they're in

a totally different situation with the allocation that their baseline starts at, as compared to Connecticut, and I just don't see the comparison.

I understand the Policy Board ultimately decided to remand this back to the Board, and I can probably agree to some additional baseline allocation, but 2 percent is far beyond what I can support. Thank you for the time, Mr. Chairman, and I find it complicated sometimes as I speak as Chair of the Council, but I'm speaking now as a seat on the Atlantic States Commission's Board as a Maryland stakeholder. That's where I am right now, so thanks, Mr. Chairman, I appreciate the time.

CHAIR NOWALSKY: Thanks, Mike, I can empathize. Every time I open my closet, I would like to get rid of some hats here, but like you they're all still hanging there, so thank you. Next up I have Nichola Meserve.

MS. NICHOLA MESERVE: I think most people around our virtual table may remember that I initially offered this proposed configuration of the options in the draft addendum that included the 2 percent increase for New York, and I continue to support that to address the expansion of the stock into Long Island Sound.

I say that as a state that stands to lose, you know a larger percentage of our quota than what has been decided already. I think that the 2 percent increase here is the most direct interpretation of the Policy Board's intent to take a corrective action here that is comparable to that given to Connecticut.

In addition, I think the arguments that have been made by New York, and in speaking with their staff about the percent of increase that is necessary to keep the fishery open at a low trip limit throughout the season, and avoid unnecessary discards of a healthy species, are very similar to the arguments that Connecticut made, in order to get its 2 percent increase.

I think Emerson Hasbrouck made some really good points that the 25 percent of the quota is being redistributed, really addresses the increase and the

change in the ocean fishery, and that 2 percent or something very close to it for New York, is the appropriate response for the expansion into Long Island Sound. Thank you.

CHAIR NOWALSKY: Thank you, Nichola. Joe Cimino.

MR. CIMINO: You know I think as Mike Luisi mentioned, I think this Board got this right on the first go round. I want to correct the record. The Addendum does not ask about addressing the distribution in Long Island Sound. The Addendum talks about possibly reallocating based on the output from the stock assessment, which doesn't have that kind of resolution.

The document mentions the word distribution 20 times. It mentions Long Island Sound once, and as Mike Luisi pointed out, it's to point out that Connecticut was the most extreme example of a state that had trouble with the expansion of this stock. You know a lot is going on. To hear some northern state's talk about this as a global warming issue, that might be true for range expansion.

Although looking at the most recent stock assessment, although the percentages of the southern distribution did increase a little bit, there has been a downward trend in the SSB in the northern region since 2014. You know this isn't a species where the southern end of its range is North Carolina.

This is a species that has a southern stock component south of Hatteras in the southern portion of this stock from the assessment remains steady, and is even increasing a little bit. I think we addressed the current distribution with a 75/25 percent split. We addressed the extreme example of Connecticut by adding some additional percentages to that baseline.

We were handed a very tight decision that really binds what we can do here by the Policy Board. Quite frankly in a fashion that reminds me of a movie called The Jerk, where Steve Martin is telling folks they won a prize, and they can get anything between the ash trays and the thimbles, anything in

a 3-inch area that includes the chiclets but not the erasers. We're in a chiclet but not the eraser situation, and when the time is appropriate, Mr. Chair, I would like to make a substitute motion on behalf of both the Board and the Council.

CHAIR NOWALSKY: Now Joe, if you have a substitute motion on behalf of the Board, I would entertain that at whatever time you're prepared to make that motion. Did you want to go ahead and do that now?

MR. CIMINO: Yes, Mr. Chair, and I think the current motion reads quite well, and gets to what the Policy Board has asked from us, and therefore I would simply change the increase from 2 percent to 1 percent.

CHAIR NOWALSKY: You're going to amend the motion by changing by 2 percent to by 1 percent.

MR. CIMINO: Good catch, yes, thank you.

CHAIR NOWALSKY: All right to staff, that will be a motion to amend. That motion will be on behalf of the Board, and again as per our procedures. We first need to get something up for the Board, so based on that, let me go ahead and look to the Board. Is there a Board member that would like to second this motion? Okay, I have a hand raised by Chris Batsavage. Chris, are you seconding this motion?

MR. CHRIS BATSAVAGE: Yes, Mr. Chair.

CHAIR NOWALSKY: Okay, thank you, Chris. All right, so we now have a motion. Again, this motion stands by the Board, but what I will do next is I will turn to the Council, to see if the Council would like to offer a like motion. To the Council, would someone like to make this motion on behalf of the Council? Please raise your hand. Joe, your hand it up, you're making the motion, correct?

MR. CIMINO: Correct.

CHAIR NOWALSKY: Okay, Joe Cimino for the Council. Is there a second from the Council? Chris

Batsavage has his hand up. Chris, are you seconding the motion for the Council?

MR. BATSAVAGE: Yes, Mr. Chair. Thanks.

CHAIR NOWALSKY: Okay, so we now have a motion to amend to change the 2 percent to 1 percent. I am going to continue with the list that I had. My assumption is that people that were speaking in favor of the original motion are probably now speaking in opposition to the amendment. I would entertain discussion on both of these motions as they are on the table.

When I get through Dan Farnham, when I get through Shanna Madsen, and Emerson Hasbrouck, I will then go ahead and look for additional people to speak or amend or substitute along the way, as I mentioned earlier. We'll go ahead and allow this to go three levels deep. Jim Gilmore, did you have your hand up as a point of order, or do you want to get on a list when I go ahead and ask for additional speakers?

MR. GILMORE: I wanted to be added to the list, Mr. Chair, thank you.

CHAIR NOWALSKY: Okay. All right, stand by, we'll go ahead and get those hands up. I'll be sure to add you here. All right, so next up I have Dan Farnham to speak. Go ahead, Dan.

MR. FARNHAM: Thank you, Mr. Chairman. I'll make it short here. I think that Mr. McMurray and Emerson have covered it rather well from the New York's point of view here. But I would like to touch upon one fact here. New York's allocation of 7 percent was based entirely upon its ocean-based fishery. Now, you know through the last few years here, 50 percent of the landings in New York are coming from a distinctly different fishery that has emerged in Long Island Sound, and there is nothing that we can do about that.

It's not like New York can just take that 50 percent in Long Island Sound and shut it down, and give it to the ocean-based fishermen that the allocation was based upon. The dilemma we have here is, so half

the landings now are coming from Long Island Sound. In essence, the ocean fishermen who qualified New York for the 7 percent of quota, are not getting an increase in black sea bass landings, they just do not.

What we're doing, we're seeing an increase in black sea bass interactions, but we're having an increase in discarding, like everybody is. But New York is seeing definitely a distinct increase over, I think I would say most other fisheries. I just would like to point that out, that the traditional fishermen are not seeing an increase in landings in black sea bass. Thank you.

CHAIR NOWALSKY: Next up I have Shanna Madsen.

MS. SHANNA MADSEN: I'm kind of coming at this from a different procedural perspective. In thinking through this issue, it was my understanding that all of the proposals to increase New York's baseline allocation needed to be within the range of options in the Draft Amendment. I've been spending a little bit more time in the Draft Amendment, thinking through ways to accomplish this.

To start in the Draft Amendment, it was proposed that New York receive an increase to their baseline allocation, only if the trigger approach was selected. Specifically, this option was Option E, and it stated that annually the coastwide quota, up to and including 3 million pounds would be distributed based on the initial allocations, and then surplus quota above the 3 million pounds would be used to increase Connecticut's allocation to 5 percent of the overall quota, and then to increase New York's allocation up to 9 percent of the overall quota.

Therefore, New York would only get a baseline increase from that surplus quota. None of the other states baseline quotas were to be decreased as a result of New York's increase. If the quota didn't reach the trigger, New York would not get a baseline increase, it would remain at 7 percent. My interpretation of that, the proposal before us today is something that was not distributed to the public, that New York would be specifically getting an increase in baseline quota, coming from other state

baseline quotas. That was never in the document. Now, I do recognize that at the February Policy Board meeting or the February Board meeting where we discussed the allocations. Several states did modify Option B during motions. However, I will also say that that was never thoroughly discussed at the meeting. I went back and looked through the minutes.

Accordingly, it was never thoroughly discussed what type of proposals would actually fall within the boundaries of the Draft Amendment to increase New York's baseline allocations during the Policy Board Remand. Now, while I acknowledge that Option B seems to be the basis of the proposal to modify the baseline allocations here today.

I would also like to point out that Option B in the draft acknowledged the unique position of Connecticut sitting at 1 percent, and actually states that New York's baseline allocation was not to change as a result. Looking at Page 10 of the Draft Amendment, we said specifically we were to hold New York and Delaware allocations constant.

New York has experienced a similar substantial increase in black sea bass abundance in state waters, therefore a reduction to the New York allocation is not proposed. When we gave our percentage allocation to Connecticut's baseline from our baseline, New York did not contribute there. At first because of the discrepancies that I read in the draft, I was going to make a motion to table these motions, to allow for further consideration by the PDT. Essentially, just to ensure that we're operating within the constraints of the Draft Amendment options.

But however, I was made aware that this could prolong the process in a way that this might go back to the Policy Board, thereby allowing them to make this decision for us. Since I don't want to move us in that direction, I will simply leave these thoughts as a support of reducing New York's baseline increase, as throughout the Draft Amendment we already acknowledged that New York's Long Island Sound increase, and already addressed it by not reducing their baseline to increase Connecticut's.

CHAIR NOWALSKY: Thank you very much for that Shanna, so let me just add a bit of additional context to Shanna's comments that Commission Policy is essentially silent on what comes next in an appeal process, if a species board does not comply with a Remand from the Policy Board.

Given, and again I'll turn to staff if there is something that I'm not conveying properly here. If we don't take corrective action here today, the Policy Board would likely get the next crack at telling us what to do, whether that would be going back out to the species board again, whether we have the opportunity to send it to somebody else for other ideas, like the PDT that Shanna touched on, or whether they might just make a decision themselves.

Do you have anything in your comments, Shanna, that you feel you need staff to respond to, with regards to the validity of what we're doing here today in being in bounds, or are you comfortable with the information you have in front of you at this point, and just wanted to get your thoughts on the record?

MS. MADSEN: I think from my perspective, Adam, I already understand what ASMFCs interpretation of what we're doing here today is. I guess I would want to clarify, are we specifically using Option B as the basis of the proposals to change baseline allocation today. I think some clarification there would be useful.

CHAIR NOWALSKY: All right, I'll turn to staff for their thoughts, with regards to the basis with the appeal and what the Policy Board did, if they can respond to that concern.

MS. KERNS: I'll start and then see if Bob has anything additional to add. When the PDT worked on this document, they looked at it as two parts. First is looking at the baseline allocations, and then making a change to the either regional adjustments or maybe it was triggers. You know, it depended on the option that was in the document.

But for today's purpose, we're just looking at the baseline allocations, we're not thinking about the options for how the quota was distributed after the baseline allocations were adjusted. I'll say that just for everybody's information. It would have been staff's advice that this change to New York's allocation would have been in bounds from what was considered for what went out for public comment.

That is because the concept of changing New York's baseline allocation was in the Addendum itself. Then the impacts to the other states, in terms of quota coming off the baseline was considered, because in the option, where Connecticut received additional quota, they could have received up to 4 percent.

The impacts to the other states were given in the Addendum document. This splits the 4 percent, 2 to Connecticut, and 2 to New York, so that would be in bounds. As I said before, we're just looking at the baseline adjustments here, we're not thinking about any of the rest of the option of the regions. The PDT had intentionally split that into two parts.

CHAIR NOWALSKY: All right, so thanks for that Toni, I appreciate you putting that on the record, and I think at this point I'll just leave it with that. While there may be people around the table who may not completely agree with that interpretation, that is the interpretation we have before us at this point to work with and really, the only other option at this point would be to not take action at the species board, which would put it back in the Policy Board's hands. Next up I have Emerson Hasbrouck, then I'll look for additional speakers. Emerson, you're up next.

MR. HASBROUCK: I had an opportunity earlier, and I provided my comments when I made the motion. What I would like to do, Mr. Chairman, with your permission, is yield my opportunity right now to Jim Gilmore. I know he's on the list, but he hasn't had an opportunity to speak in favor of the motion yet, so I would like to yield to him.

CHAIR NOWALSKY: Given that Mr. Gilmore is also from the state of New York, I'll go ahead and allow that. Jim, you're up.

MR. GILMORE: I've heard some of the conversation and I understand some of the things from the southern states and their arguments, but I would characterize it a little different than a fish grab. We're really trying to get into managing this fishery, and I won't go into anything, it was said very well by John McMurray and Nichola Meserve. There are a lot of changes that have occurred in Long Island Sound, including our very viable lobster fishery many years ago that is completely gone.

But now that has been replaced by other species, and this is getting to that point about climate change. We're going to be dealing with this on a regular basis. I understand that some prospectus might be that we're trying to grab more fish. We're just trying to manage a viable fishery in the Sound, and a very limited fishery.

Again, this has been an increase in a specific water body. We're having trouble and difficulty with the ocean fishery because of that increase. We really have two very large bodies of water where we have a significant amount of black sea bass. Understanding at least some of the opinions I've heard from the southern states, at this point at least to maybe move this along. I would like to offer another amendment to the motion, at your discretion, Mr. Chairman.

CHAIR NOWALSKY: My sense is that Robert's Rules would allow that. I think that if you're looking to change the 2 percent to 1 percent amendment, you would take something in the form of a substitute. I would just caution you that if you're looking to do something between 1 and 2 percent, that it might be better to allow this amendment to become the main motion.

Then once you know whether or not this amendment has passed, to make another motion, if you don't agree with the outcome of that, as opposed to going ahead and trying to change it at this point to something between 1 and 2 percent.

MR. GILMORE: Then I can defer to after the vote on this, and then I'll reserve the right to make an amendment at that point. Thank you, Mr. Chairman.

CHAIR NOWALSKY: Okay, if you're comfortable with that, I think that is probably the best way forward right now. I've got the original list of speakers have all had the opportunity to speak. I will go ahead and ask again for people that want to speak. At this point I'll be asking, do you want to speak in favor of the motion to amend, or in opposition to it.

I would ask that people that do want to put their hands up to speak in favor of against at this point do so if you have some new information that we haven't talked about so far, or something you feel is critically important to get on the record or not. Let me look for a show of hands that want to speak in favor of the motion to amend. Tom Fote, I've seen your hand up for a bit, did you want to speak in favor of the motion to amend?

MR. THOMAS P. FOTE: Yes, I do.

CHAIR NOWALSKY: Okay, Chris Batsavage, I have your hand up. Do you want to speak in favor of the motion to amend?

MR. BATSAVAGE: Yes, please.

CHAIR NOWALSKY: Okay, let me see a list of hands of people who would like to speak in opposition to the motion to amend. Okay Jim, I've got your hand up. I know we just heard from you, but I'll get you on the record here to further speak on that motion to amend, and I've got Tony DiLernia. We've got two in favor, two opposed. Let's go ahead and get through these comments, and then we'll see if we need to take further comment or not. Tom Fote.

MR. FOTE: I understand New York's problem, but I really understand that we all have the same problem. You know New York keeps saying that the range is changing. Well, they've said that on summer flounder, they've said that at a bunch of

other species. But New Jersey, I wanted to basically explain what is going on.

We have the same problem. We basically have more fish coming up. We have the same amount of pressure on those species. We basically force our people, we shorten the season so they don't have bycatches as great as they could have, because we're in the same situation. We also have Raritan Bay, we also have Delaware Bay, which is another situation going on.

We understand the problems going on. But to always come in and say, well we're being treated unfairly because of global warming. They're using global warming as an excuse for reallocation. That is why some of us have been really very cautious about using global warming as an excuse for basically reallocation, because it does turn into a fish grab.

New Jersey has been at the foot of New York doing this, whether with summer flounder, whether with striped bass, or whether there were a bunch of other things they have basically done over the years. They wonder why we feel the tension. We don't have the same tension with Delaware. But it seems like New York always is crying foul on us, and basically trying to grab quota.

CHAIR NOWALSKY: Jim Gilmore.

MR. GILMORE: Just a couple of additional brief comments, and again, our intent on this is really managing the fishery as it exists today, and move it forward. I think that is something that we all have to start doing more of. This is really not an intent to try to, again grab fish or do anything that we're trying to feather our nest.

We're trying to manage the fishery the best we can, based upon what is going on in 2021. The only two other points I will add is that again, as seen in the other graphs is that New York's landings are four times higher. Even with that 2 percent increase we're going to have a difficulty in managing this, because we have a much larger fishery.

That 2 percent increase helps us out tremendously, but doesn't get us to a whirlwind fishery that some people think we're going to have. One percent very clearly does not give us a viable fishery. We are going to continue to have closures, we will continue to have low trip limits, and essentially the fishing community in New York are going to have a very difficult time making a living. One percent just doesn't get us there.

CHAIR NOWALSKY: Chris Batsavage.

MR. BATSAVAGE: Yes, I support the 1 percent increase instead of 2 percent. I'm looking at it by how much states, especially in the southern region that fully utilize, or mostly fully utilize their black sea bass quota, are losing by going to 2 percent to New York versus 1 percent. I know it's still not a lot, but compared to like whole numbers, but still on a percentage basis it adds up when you look at a 600,000 pounds quota or whatever.

The 2 percent increase does, it's kind of a disproportionate reduction for states like Virginia, for instance, that largely utilize their quota. North Carolina hasn't utilized their quota in the last few years, just due to the nature of our fishery. But I think the 1 percent helps New York's cause, mitigates some of the additional loss of quota by states in the southern region, where black sea bass are still quite abundant, and they utilize most of their quota.

I kind of see this as a middle ground. With other allocation decisions that we've made for species, where the allocations have been in place for a long time. It's an iterative approach. We don't get to the full level of work that some people would like to see the first time around. That is how I envision this state commercial allocation action for black sea bass.

We're moving things forward from where they were 20 years ago, and we're committed to reviewing this allocation decision in five years. We'll see what the stock looks like, as far as distribution goes, and how the fisheries are operating in all the states, and make changes from

there. But I think this is a reasonable path forward, based on my comments and other comments made today.

CHAIR NOWALSKY: Tony DiLernia.

MR. DiLERNIA: Someone just spoke about how things were 20 years or so ago. Yes, 20 years or so ago, sitting at the Council, if someone needed some help folks were able to help someone out. They were able to negotiate. They were imagining themselves in the position the other person was in and saying, well how can I help them, how can I try to do this? That thinking seems to have disappeared. Well, let's face it, the folks that don't want to give up quota are the states that have more quota than New York.

I even heard that some states, whatever, are not even reaching their quota, yet they don't want to give them up, or they want to give up such a small percent that it really amounts to nothing. This has become a hooray for me, too bad for you type of situation, and I'm very disappointed with some of the folks sitting here. That's all I have to say, really. I'm disappointed. Is there a way? Can we return back to the way things were? Perhaps not, I don't know.

CHAIR NOWALSKY: At this point we've had quite a few speakers. We've covered a lot of different ground here. Are there any other Board or Council members that feel they need to raise a point to speak on something that hasn't been touched on during this debate between these two motions? Okay I've got Dan Farnham's hand up, is there anyone else that feels they need to raise an issue that we haven't touched on? All right, so I've got three hands. Dan, are you intending to speak in favor or in opposition to the motion to amend?

MR. FARNHAM: That would be in opposition, Mr. Chairman.

CHAIR NOWALSKY: Sonny Gwin, in favor or in opposition of the motion to amend? Sonny, it looks like you're unmuted in the Ap; I don't know if you're unmuted on your device.

MR. SONNY GWIN: Can you hear me now?

CHAIR NOWALSKY: Yes, there you go, you're good. Were you in favor or in opposition of the motion to amend?

MR. GWIN: I was in favor.

CHAIR NOWALSKY: Okay, and Joe Cimino, were you in favor or opposed to the motion to amend? You made the motion, I assume you're in favor still, to speak in favor of it.

MR. CIMINO: Yes, Mr. Chair, I never quite got a chance to give my rationale, but I obviously did speak to my thinking of this originally. But there is one other point that I would like to make.

CHAIR NOWALSKY: All right, so I'm going to go to Sonny, I'm going to go to Dan, I'm going to go to Joe. At that point I'm going to go out to the public, to talk about both of these motions. At that point we are then going to come back to the Board or Council, to see if there are any other topics that need to be discussed that weren't brought up.

We will then caucus, and we will then vote on the motion to amend. Based on that outcome, we'll decide whether to vote on the main motion, or whether we need to pursue other motions at that point. I've got Sonny Gwin, Dan Farnham, Joe Cimino, and then the public. Go ahead, Sonny.

MR. GWIN: Yes, I've been sitting here listening, and I keep hearing climate change, climate change, climate change. I just wish that we could go out there and let the fish know that there is climate change, and they are all shifting to the north, because it is so hard to sit here. I know the southern states are losing fish with these reallocation issues because of climate change.

But somebody needs to tell the fish, because we're seeing more black sea bass than we've ever seen down here. We will be catching our quotas up, and I feel for New York, I feel for them. But I think what we're doing is fair. The 1 percent is fair, with the

reallocation that we just did. It's going to put us in the same spot.

We're taking fish from down here on the southern end, where there is plenty of fish, and what we've historically caught until now, we're not going to be able to catch them, and we're going to be in the same boat. But like I said, I just wish somebody would let the fish know that there is climate change, and they are supposed to be all up north, and they're not. We're seeing a lot of sea bass. Thank you for the comment, Mr. Chair.

CHAIR NOWALSKY: Thank you very much, Sonny, and for the record, I'll be happy to join you in the same boat with you any day of the week, just go ahead and invite me. Thank you. Dan Farnham, you're up next.

MR. FARNHAM: In the beginning of our process earlier today, I think Eric Reid had a question for the New York contingency here. If New York did get an increase in quota, would they guarantee that the Long Island Sound fishermen would be able to catch it? The fact of the matter is that New York's Long Island Sound fishermen are catching that quota already.

No matter what we vote on here today, no matter what we debate today, the fact is that New York's Long Island Sound fishermen are catching 3.5 percent of the quota, like it or not. I understand everybody's point. Nobody wants to give up quota, I get that completely. I'm a commercial fisherman, I've been doing it for 40 something years. Nobody wants to give anything up. But what we really don't want to do is throw dead fish over the side either. Very good, thank you.

CHAIR NOWALSKY: Dan, I'll be happy to join you in your boat as well. I'll join anybody in anybody's boat, just go ahead and let me know when we're going. Joe Cimino, you're next.

MR. CIMINO: I kind of want to speak to the concept that 1 percent of the commercial quota would make a viable fishery for New York, knowing that we have a recreational/commercial reallocation hanging

over our heads, and every commercial fisherman paying attention knows that in the black sea bass world they stand to lose the most.

We're looking at a 10 percent, potential as much as greater than 10 percent shift away from the overall coastwise commercial quota to the recreational fishery, which would more than wipe out anything we're fighting over right this minute. Unless all of those that are opposed to this amendment are planning on voting for status quo there, I'm kind of not even sure what we're fighting over at this point.

CHAIR NOWALSKY: As I indicated, I will next go out to the public, and then I will come back to the Board. Let me see a show of hands from the public that would like to speak. To try to keep this balanced, let me first ask for hands that want to speak in favor of the motion to amend. Okay, I've got one hand up, Greg DiDomenico. Let me see a show of hands that want to speak in opposition to the motion to amend. I've got Bonnie Brady.

All right, Greg, we'll go ahead, and James you've got your hand up. Are you going to speak in opposition to the motion to amend, James Fletcher? Well, we'll come back to James, don't hear what he is. We had Bonnie, I saw your hand up before Greg, so I am going to go ahead and go to you first here. Go ahead, and please speak to both of these motions, or quite frankly anywhere within this range. Now would be the appropriate time for public comment on it.

MS. BONNIE BRADY: This is Bonnie Brady, Long Island Commercial Fishing Association. We're opposed to the motion to amend. I know that's not shocking. Obviously, you all have heard New York's points. I think Dewey asked a question about who was catching what fish in the Sound, and basically Dewey it's an explosion.

The black sea bass are everywhere, and they are in such numbers now that last year obviously was a wash because of COVID, but we were closed for six solid weeks the year before. You can't get away from them, frankly. This opposition to changing the motion is because basically, we want to be able to

keep and have a fishery, and not just instead contribute to discards, which obviously all of you from various states know. Commercially if we go exponentially over them, that may affect us, and not just perhaps New York in a pound for pound Bay pack. We would appreciate any consideration that you all have regarding this issue, and allow not just those that fish in the Sound, but those that fish in ocean waters not be negatively impacted as a result of this. Thank you.

CHAIR NOWALSKY: Thank you, Bonnie, Greg DiDomenico, and you can assume we can hear you, unless in ten seconds I tell you we can't hear you.

MR. GREG DiDOMENICO: Good morning, thank you for the opportunity to comment. I'll be as brief as possible. Greg DiDomenico, Lund's Fisheries, Cape May, New Jersey. Obviously, everybody realizes this is controversial, and I don't want to take a position today that creates an adversarial position with anybody, to be perfectly honest with you, on this topic.

I do want to go over a few things first, get it out of the way and say that we do support the amended motion to change the 2 percent to 1 percent. But I say that in the hopes of, or at least the anticipation of that this issue is not going to go away. My concern is that this will continue to be a topic at the Commission and the Council.

There has to be some meaningful long-term solutions. This is not the one. But allocation is not the only solution. Right now, it is the only topic for every problem that we have, and it's not. Until we do something else, or look outside of allocation issues to solve these problems, this is going to continue to be adversarial. My experience with this is a very simple one that some people will remember.

I believe it was Addendum V, it was about 10 to 12 years ago. The state of New Jersey gave up 55,000 pounds of fluke over a two-year period voluntarily, to states that didn't have fish. Now the bargain for those 55,000 pounds was that those who received additional fish through this voluntary transfer of

fluke, would take care of the issues in their own states that were contributing to these problems, such as discards and associated problems with low quotas.

That never happened. I don't know at this point whether or not there is a lasting solution, or a meaningful solution. But I do have to wonder about what are the management climate within these particular states. Have they controlled entrance? Have they controlled here? Have they controlled the people that continue to get these permits? I don't know.

I think that has to be made perfectly clear, and then lastly, I do want to remind everybody that we are at our all-time high for black sea bass, and all time high for fluke. I don't recall if black sea bass is 190 percent rebuilt or 200 percent rebuilt, or 150 percent rebuilt. But perhaps the issue with these allocations and low quotas in certain states lie in our continued, in some cases, perhaps in black sea bass, our continued conservative ABCs and OFLs, and all the rest that goes into the specifications process.

If there are so many fish, if there are so many black sea bass. Why are we just not adding to the quota to solve these problems? I know that's again, a larger question and a larger problem, and I don't want to have quotas that exceed the scientific advice. But if we don't start talking about the other issues associated with black sea bass and fluke, and only focus on allocation. This is exactly where we will wind up. We'll wind up arguing over small percentages, and not dealing with the main topics. Thank you.

CHAIR NOWALSKY: Thank you, Greg. Back to the Board and the Council. Is there anyone else that needs to speak on something that we haven't heard about, or need to get something on the record before we break to caucus? Shanna Madsen, go ahead.

MS. MADSEN: This is something kind of outside of this vote, but it's something that I believe that this Board should maybe consider taking to the Policy

Board. You know I've spent a lot of time in documents over these past few weeks, and I remember going back to reading our discussions during the Policy Board, where several states had large issue with the fact that the Policy Board continuously said that the discussion that was coming before them was not about allocation.

Then a couple of votes later, the Policy Board voted to tell this Board how to reallocate. I looked through the ASMFC Appeals Process Document, and I do know that the Policy Board is able to give guidance on how a management program should be modified. But respectfully, I believe that the Policy Board is not the proper body to give guidance on how to address allocation issues. This allows states that have not been part of this several-year process stand at a disadvantage to understanding the intricacies of the Draft Amendment.

They were asked to weigh in on how the Board should be reallocating, and in my mind that sets a pretty dangerous precedent for upcoming allocation decisions, and I do believe that this issue should be studied potentially by the Allocation Work Group that the Commission has brought together. I would kind of like to see maybe this Board push that forward to the Policy Board, and onto the Allocation Work Group. Thank you, Mr. Chair.

CHAIR NOWALSKY: Appreciate those comments, let's work through these motions here first, and then we can see if the species board wants to do anything here specific today. If not, I certainly think you can bring your comments to the Policy Board, either yourself, and if you're not actually a member of the Policy Board for your state, have your state Administrative Commissioner directly bring that.

But let's get back to these motions. Thank you for this comment. With that we're going to take, we'll try for three minutes here for a caucus. What I would ask states to do while they are caucusing, is to consider this Amendment. Consider the main motion, and also consider the possibility of anything that might occur for something in between these, depending on whether or not this becomes the

main motion, and if there are any other subsequent motions. Go to caucus for three minutes, and then we'll come back. Thank you.

Okay, thanks to staff provided timer here. We are returning from caucus, and we are going to turn to the Board for the vote. The vote will be conducted in a role call manner. I will defer to staff to decide what order to conduct that vote. But we are looking for 12 votes on the motion to amend. Staff, I'll go ahead and turn to you to conduct the role call vote for the Board.

MS. KERNS: Mr. Chair, if we could just use the hands in favor, and I'll call off the states.

CHAIR NOWALSKY: That will be fine if that meets the needs of the outlined voting procedures. Let's go ahead and have hands raised for those states that are in support of the motion to amend. One hand per jurisdiction, please.

MS. KERNS: Just letting the hands settle. I have Delaware, Maryland, New Jersey, Virginia, North Carolina, and Potomac River Fisheries Commission.

CHAIR NOWALSKY: Okay, so we have six votes in favor, if we could put those hands down and clear them. Very good, all those opposed to the motion for the Board, please.

MS. KERNS: Letting the hands settle. I have Massachusetts, New York, Connecticut, New Hampshire, and Rhode Island. Mr. Chair, we're not looking for 12 votes. U.S. Fish and Wildlife Service does not sit on black sea bass. They only sit on summer flounder.

CHAIR NOWALSKY: Right, but I believe we've got 11 so far, and I believe we still have the Service here to consider as the 12th vote.

MS. KERNS: Oh yes, sorry.

CHAIR NOWALSKY: Looking for abstentions.

MS. KERNS: Abstention, NOAA Fisheries.

CHAIR NOWALSKY: Okay, so that gives us our 12 votes, so I don't have to call for null votes. This motion passes the Board by a vote of 6 in favor, 5 opposed, with 1 abstention. Chairman Luisi, I will turn to you to conduct the vote for the Council.

MID-ATLANTIC CHAIR LUISI: Yes, thank you, Mr. Chairman. The Council will now vote on the motion to amend, to change the original motion from 2 percent to 1 percent, as an increase to the baseline for New York, based on its appeal to the Policy Board at ASMFC. I will say that because we made like motions here.

While the Board has to make a change, the Council does not. However, there is a consequence to the Council not moving along in lockstep, or locking arms with our partners at the Commission on this, because of the issue with the allocations being put into the federal FMP. If the Council decides to not support this motion at all, there will be a challenge with the Service, because we'll have two different allocation scenarios, one at the Board level, one at the State level, and one at the Federal level.

It has been stated during the meeting, but I just wanted everybody to be aware. I think I've clarified what it is we're voting on as a Council, and so again, this motion is to amend from 2 percent to 1 percent, and I will go ahead. I can't see hands, so Toni, you're going to have to help me out on this one. Why don't I go ahead and call for all of those in favor of the motion to amend from 2 percent to 1 percent. Can you please raise your hand at this time? I'm going to have Toni either read the names or count, whatever you prefer, Toni.

MS. KERNS: I can read the names, since the public can't see them either. I have David Stormer, Kate Wilke, Sonny Gwin, Peter Hughes, Sara Winslow, Kris Kuhn, Joe Cimino, Wes Townsend, Michelle Duval, Scott Lenox, Chris Batsavage, Dewey Hemilright, Ellen Bolen, and Adam Nowalsky.

MID-ATLANTIC CHAIR LUISI: Okay, thank you for that, Toni. I counted 14 as you were reading those names off. Well, you can confirm that that is the same count that you got.

MS. KERNS: I'll ask Julia to do that.

MS. JULIA BEATY: Yes, that is correct.

MID-ATLANTIC CHAIR LUISI: Okay, so if everyone could put their hands down, or Toni if you can lower the hands. Let's go ahead, and I'm going to ask for those in opposition of the motion to amend, can you please raise your hand at this time?

MS. KERNS: Letting the hands settle. I have Maureen Davidson, Paul Risi, Tony DiLernia, and Dan Farnham.

MID-ATLANTIC CHAIR LUISI: Okay that's four on my count.

MS. KERNS: I agree.

MID-ATLANTIC CHAIR LUISI: Lower those hands, and I'm going to ask for any abstentions to the motion to amend.

MS. KERNS: I have one abstention, Mike Pentony.

MID-ATLANTIC CHAIR LUISI: Okay, so the Service is abstaining. Motion passes 14 to 4 to 1. Chairman Nowalsky, I'm going to go back to you. There should not be a 0 at the end, we do not have null votes at the Council, since everyone has a vote. 14 to 4 to 1 the motion passes. **Therefore, the motion to amend, based on the Board and the Council's vote has passed.** Chairman, I'm going to bring it back to you to conduct the remainder of the main motion.

CHAIR NOWALSKY: Very good, thank you very much, and again just for clarification. We did not require that the motion pass both bodies for it to be valid by the Board, but it is certainly helpful I think, in terms of what we're trying to accomplish today.

MID-ATLANTIC CHAIR LUISI: We do need to make it clear. I know you did it earlier, but before we vote on the main motion. If the Board passes the motion, even if the Council does not, it will still pass the Board, so that is a good clarification. I appreciate that. I'm going to go back on mute.

CHAIR NOWALSKY: Yes, fair enough. We're certainly so used to doing this jointly that that is what we're used to doing, so appreciate everybody's patience as we work through this modified process today. All right, so this brings us back to the main motion. If staff could now put this up as the modified motion with the 2 percent changing to 1 percent.

Since it has been amended by both the Council and the Board, it is now the property of both bodies. Thank you very much. **The amended main motion now reads, move to increase New York's baseline allocation in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound.**

New York's baseline allocation for black sea bass will be increased by 1 percent. This action maintains Connecticut's baseline allocation of 3 percent, and maintains the percentage of quota redistributed according to the regional biomass. The remaining states' baseline quotas will be adjusted consistent with the allocation tables provided during this meeting. I will now ask for anybody who wants to speak to do something to this motion, with regards to a need for an amendment or a substitute to it. Jim Gilmore, I will turn to you first.

MR. GILMORE: I would like to move to amend the New York baseline allocation for black sea bass will be increased by 1.75 percent.

CHAIR NOWALSKY: I have a motion by the Board for 1.75 percent. Let me go ahead and see if there is a second by another state. I will ask one more time, is there a second to this motion from the Board from another state? I just got Jay McNamee's hand went up. Are you seconding this motion, Jay?

DR. McNAMEE: Yes, Mr. Chair.

CHAIR NOWALSKY: Okay, so we now have a motion on behalf of the Board to increase the allocation by 1.75 percent. Let me make it clear that it is not my intention today to debate these numbers to tenths

or hundredths of a percent ad nauseum. It was my hope that we would perhaps stick to half percent's.

I understand the desire on New York's part to do what they feel is in the best interest of their fishermen. I think that quarter percent are in line with things that staff has looked at, along the way. I do not believe we saw 1.75 percent earlier. I know that staff has the ability to put up those allocations if anybody needs to see them.

I think most people have a pretty good idea what this does, but staff does have the ability to put something up. I will just say that I will entertain the ability to look at stuff at halves and quarter percent, but that's it. We're not going to parse this anymore than that. We have a motion by the Board. Do we have a like motion by the Council? **Paul Risi, are you making this motion for the Council?**

MR. RISI: Yes, I am, Mr. Chairman, thank you. Do I have a second on behalf of the Council? Dan Farnham, are you seconding this motion on behalf of the Council?

MR. FARNHAM: Yes, I am, Mr. Chairman, thank you.

CHAIR NOWALSKY: We now have a valid motion here by both the Board, we also have a valid motion by the Council. Again, the Board motion would stand on its own. I am going to allow up to two speakers to do pro and con. I don't really think the nature of the debate is going to be any different than what we've heard so far.

I will turn to Mr. Gilmore to go ahead and provide input with things that he would like to. I will then also turn to Mr. Risi, if he would like to provide comments in favor. Are there two people who would like to speak in opposition to this motion? Okay, I've got Tom Fote and Mike Luisi. We're going to limit debate to that, so we're going to go Jim Gilmore, Tom Fote, Paul Risi, Mike Luisi, and then we're going to go ahead and take a vote on this question. Go ahead, Jim.

MR. GILMORE: I agree, we don't need to debate this more. I'll just make the simple comment that we are now arguing over mostly hundredths of percentage points, maybe a tenth of a percent or whatever. That is all I have to say, thank you.

CHAIR NOWALSKY: Tom Fote.

MR. FOTE: Yes, Greg brought up the arguments I was going to make in the beginning, I kind of forgot when I was speaking. We're fighting over scraps. These quotas make no sense whatsoever, whether it's summer flounder and black sea bass. That's why we're basically trying to mess with each other over what the quota. The quota should be bigger. There is no sense of what we're doing.

I mean I've been yelling that for 15 years now, and it basically causes these problems. Again, New Jersey gave up 20 percent of the quota, and Bruce Freeman, I remember when he did it, got a lot of flak over it, and basically took it. But we tried to make the plan work. I think we're the only state that gave up that much quota on any species, to try to make a plan work. We're working basically at not doing it again with these small quotas.

CHAIR NOWALSKY: Paul Risi.

MR. RISI: I was really feeling 2 percent was appropriate, so 1.75 is closer. In New York scraps are really important for us, they'll help a lot. Thank you.

CHAIR NOWALSKY: Chairman Luisi.

MID-ATLANTIC CHAIR LUISI: I'll be really quick. I think we could do this all day. We could go back and forth, and I know that's not what your intention is, to be debating over fractions of a percent. But I feel like for the states that are going to be giving up the most in this, we reached a compromise in that last vote on the amended motion to 1 percent.

You know it was clear that the southern states supported it, the northern states didn't. But it is a compromise, it is a partnership, and we're doing what we can to try to maintain the fisheries that we

have, although they haven't changed, and they are not diminished at all, based on what Sonny was talking about. You know they're seeing more sea bass down here than they have in years past. I think that was a good compromise at 1 percent, and therefore, speaking for the state of Maryland, we cannot support the 1.75 at this time. Hopefully, you know I think Greg DiDomenico mentioned during public comment that with the new assessment that's going to be available soon, perhaps the quotas will increase, and everybody can get a little bigger piece of the pie.

You know that's my hope. I think debating over fractions of a percent, we can do this all day. I don't think it's worth the time of the Board. We found a compromise that was voted up by the Board and the Council, and I think we should move forward in that direction, so I'll be opposing this motion. Thanks.

CHAIR NOWALSKY: Okay, thank you. Before we vote on this, Robert's Rules would allow somebody to further amend or substitute or take some action on this motion to amend. I would advise that we just try to get to main motions and work off of that. But again, if there is somebody who feels that something is in order from Robert's Rules perspective, I'll entertain that and decide. Otherwise, we're going to go ahead and take a vote on this question. Do we need to go ahead, staff, and just show what the table of 1.75 percent would look like, and include anything here at this point?

MS. KERNS: Adam, that would be good for the record, just to note it for the voting. Maya, if you could give control to Savannah while the states caucus, and just note for the record that on the screen we will be looking at the allocations, if New York's baseline were to increase by 1.75 percent.

CHAIR NOWALSKY: Okay, I wasn't intending on caucusing for an extended period of time, but go ahead, and while Savannah is getting that up then we'll give everybody one more minute after Savannah gets that's table up. None of this would need to be read at this point, with the nature of these webinars being recorded. We have this as

video part of the record, Toni, would that be correct?

MS. KERNS: That is correct, Adam.

CHAIR NOWALSKY: While people are also caucusing, let me also add that should this motion not pass the Board, we will then need to do something with the Council motion. Options would be once it does not pass the Board, I would go back to the original maker of the motion, and give them the opportunity to withdraw the motion if they so desire, with the consent of the Council, or we'll have to go ahead and just take the vote on the Council motion, so that we can dispense with it.

Due to the nature of what we're doing, this isn't technically a joint vote, so we do have to treat these separately. All right, let's go ahead and get to a vote on this. For the Board on the motion to amend, and let's go ahead and get the motion page back up from staff. Okay, on the motion to amend the New York baseline black sea bass allocation to be increased by 1.75 percent. Motion by Mr. Gilmore, seconded by Dr. McNamee, for the Board. All those states and jurisdictions in favor, please raise their hand of the motion to amend.

MS. KERNS: I have Massachusetts, New York, New Hampshire, Rhode Island.

CHAIR NOWALSKY: Okay, we've got four in favor. Clear those hands please. All those opposed, please raise a hand.

MS. KERNS: Letting them settle here. I have Delaware, Maryland, New Jersey, Virginia, North Carolina, and Potomac River Fisheries Commission.

CHAIR NOWALSKY: I have six opposed, abstentions.

MS. KERNS: NOAA Fisheries.

CHAIR NOWALSKY: One abstention, do we have a null vote?

MS. KERNS: One null vote with Connecticut.

CHAIR NOWALSKY: Okay, the Board motion fails, 4 in favor, 6 opposed, 1 abstention, 1 null vote. Mr. Chairman, I will turn to you to dispense with the motion. Again, you might request that the original maker with a consent may choose to withdraw the motion. If they choose not to, then I believe you're going to have to go ahead and conduct a vote on this. I see John Almeida's hand up, does he have something else to add, before we do that procedurally?

MR. ALMEIDA: Yes, Mr. Chair. I'm not sure it would be appropriate. The motion is perfected and before the Council. I don't know that we can withdraw it at this point.

CHAIR NOWALSKY: My sense was that if the maker requested it and had consent of the Council, yes, but if you feel we just need to go ahead and vote on it, and that is your direction, then I'll defer to the Chair to how he wants to proceed.

MID-ATLANTIC CHAIR LUISI: Thanks, Adam. John, you think we need to call the vote here on this one?

MR. ALMEIDA: I think with the motion perfected before the Council, yes, we probably should vote on it.

MID-ATLANTIC CHAIR LUISI: Okay, yes, let's go ahead and do that then, we'll just make it clear as to the intent of the Council. To the Council, we have a motion to amend the New York baseline black sea bass allocation to be increased by 1.75 percent. If the Council is ready for the question, I'm going to go ahead and call for those in support of the motion to amend, if you can raise your hand, and then Toni can call out the names, and take a count.

MS. KERNS: Okay, I have in favor, Paul Risi, Tony DiLernia and Dan Farnham.

MID-ATLANTIC CHAIR LUISI: Okay, thanks, Toni.

MS. KERNS: I have one more, Maureen Davidson, apologize.

MID-ATLANTIC CHAIR LUISI: All right, so that was four in favor. Let's go ahead and all those opposed to the motion to amend, please raise your hand.

MS. KERNS: Letting the hands settle for a second. All right, I have David Stormer, Kate Wilke, Sonny Gwin, Peter Hughes, Sara Winslow, Kris Kuhn, Joe Cimino, Wes Townsend, Michelle Duval, Scott Lenox, Chris Batsavage, Dewey Hemilright, and Ellen Bolen.

MID-ATLANTIC CHAIR LUISI: Did you get a count on that, Toni, or was Julia taking a count? I wasn't able to count that one, I was trying to get the dog settled down.

MS. BEATY: I got 13.

MS. KERNS: Yes, 13.

MID-ATLANTIC CHAIR LUISI: Let's go ahead and clear hands, and are there any abstentions?

MS. KERNS: I'm sorry, there should have been 14, I forgot to say Adam's name, he can't raise his hand. That's my bad, I'm really failing you, Mike.

MID-ATLANTIC CHAIR LUISI: No, no, you're doing great, Toni, there are challenges throughout the day, all day long. You're doing a great job.

MS. KERNS: For your abstentions I have one from NOAA Fisheries, Mike Pentony.

MID-ATLANTIC CHAIR LUISI: From the Service, okay. We had a vote of 4 to 14 to 1, is what the Council vote was on this motion to amend, so the motion also fails the Council, which brings it back to the main motion, and I'm going to turn it back to Chairman Nowalsky to conduct the vote by the Board on this one.

CHAIR NOWALSKY: All right, very good. We're back to the main motion again. I will ask one more time, is there anything else to come before, before we vote on the main motion? Emerson Hasbrouck.

MR. HASBROUCK: I would like to amend the main motion to change 1 percent to 1.5 percent.

CHAIR NOWALSKY: Based on what I've heard so far, I will say this. I think I'm providing an extreme amount of latitude in providing a third bite at the apple here, so let me just make clear that I will allow this. We will immediately look for a second, same on the Council, immediately go to a vote.

But I am not going to go beyond this motion, given what I've heard so far, and where I believe these bodies intend to go at this point. With that being said, again, I think a third opportunity to make a motion is a lot of latitude here. Is this the motion you would like to make in light of that?

MR. HASBROUCK: Yes, Mr. Chair.

CHAIR NOWALSKY: Okay, so again, I think I'm extending an extreme degree of latitude here, let's try to move through this. Move to amend to change 1 percent to 1.5 percent. Motion made by Mr. Hasbrouck, I saw Dan Farnham's hand was up, are you seconding this, Dan?

MR. FARNHAM: Actually, Mr. Chairman, thank you. I was going to ask if we could caucus for 20 seconds before Emerson did that, but it might be too late, it's your decision. Thank you.

CHAIR NOWALSKY: I need to have a motion to caucus on, so what I would allow is that if there is a second, I will pause for a moment to allow, it sounds like principally your state to decide if you want to go forward with this or withdraw it before we have any debate. Let me first ask, if you do want to go ahead and make a second or not, Dan.

MR. DiLERNIA: You need a second from the Board, not from Dan. Dan is on the Council.

CHAIR NOWALSKY: You're right, my apologies. Thank you, Tony. Do I have a second from the Board? Thank you very much, I appreciate that. Jay McNamee, are you seconding this from the Board?

DR. McNAMEE: Yes, Mr. Chair.

CHAIR NOWALSKY: Okay, thank you very much. For the Council, let me just give New York 30 seconds here to decide if their Council representation is going to go ahead with a motion, before I ask for that. Okay, for the Council. Is there a like motion to move to amend to change 1 percent to 1.5 percent?

Dan, I still see your hand up. I'm not sure if it was up for that purpose. I don't see it up any more. Emerson, your hand is up, but you're a Board member, and Jim Gilmore I see your hand up, but I believe Maureen is the Council member here. Okay, so I see Maureen's hand up, you are making this motion on behalf of the Council?

MS. DAVIDSON: Yes, I would like to make a motion for the Council, and however, my motions might be different than the one that was made by Mr. Hasbrouck.

CHAIR NOWALSKY: I am going to only allow at this point a like motion, so would you like to make a like motion on behalf of the Council, or not?

MS. DAVIDSON: Yes.

CHAIR NOWALSKY: Okay, I have Dan Farnham's hand up. Dan, are you making a second to the Council motion?

MR. FARNHAM: Yes, I would like to do that, Mr. Chairman, thank you.

CHAIR NOWALSKY: Again, given the extensive debate we have had on these at this point, we are going to go right to the question at this point.

MR. GILMORE: Mr. Chairman.

CHAIR NOWALSKY: Do you have a point of order you would like to raise, Mr. Gilmore? Again, I believe I've extended an extreme amount of latitude at this point. If you have a point of order you would like to raise, I'll be happy to entertain that. Beyond that we're going to go ahead and vote on the motion.

MR. GILMORE: Yes, Mr. Chairman, thank you for the indulgence. **That one minute during that caucus, we agreed that we would change the 1.5 to 1.25, and I believe both for the Board and the Council motions. Since this is going to be the last opportunity, and understanding what the southern states have brought up or whatever, we would like to change that percentage from 1 to 1.25.** Again, it's Mr. Hasbrouck's motion, so he would have to change it, and Ms. Davidson, but that is what we would like to pursue.

CHAIR NOWALSKY: John Almeida, do you have any objection to both of them making that change as a friendly at this point, or do you feel we need to formally have the motions withdrawn and remade for the Council side.

MR. ALMEIDA: Where we haven't discussed the motion yet, I don't really have a problem with that as a friendly.

CHAIR NOWALSKY: Staff, do you have any concerns about doing that on the Board side?

MS. KERNS: No, Adam.

CHAIR NOWALSKY: We now have a Board motion made by Mr. Hasbrouck, seconded by Dr. McNamee; Move to amend to change 1 percent to 1.25 percent. For the Council, motion by Ms. Davidson, second by Mr. Farnham to do the same. Okay, we're going to go right to the question here at this point, unless there are any points of order that need to be raised. Otherwise, I'm going to request that hands be cleared at this point. Tom Fote, your hand is up. Do you have a point of order you wish to raise about the proceedings?

MR. FOTE: Yes, I didn't hear the maker of the motion or the second of the motion at the Board change their motion. We changed the numbers to what Jim Gilmore said, but he was not the maker of the motion.

CHAIR NOWALSKY: Thank you very much. Mr. Hasbrouck and Dr. McNamee, can you verbally

confirm for us that you are changing the motion to 1.25 percent from 1.5 percent?

MR. HASBROUCK: I'm fine with that friendly to change it from 1.5 to 1.25.

CHAIR NOWALSKY: Mr. Hasbrouck has confirmed, Dr. McNamee.

DR. McNAMEE: I agree as well, Mr. Chair, thank you.

CHAIR NOWALSKY: All right, thank you. Chairman Luisi, do you have something you would like to add at this point?

MID-ATLANTIC CHAIR LUISI: Yes, just something really quickly, Adam. You have been very gracious to allow for these motions to amend. I've been receiving a lot of feedback on my phone and via text message and e-mail. Would you allow for the consideration of a motion, based on what we've gone through over the last 45 minutes, for something less than 1 percent made by the Board?

You said this is the last change. We came up with a compromise of 1 percent, but I think there is some frustration growing, and I wonder if you would consider another amended motion for something less than 1 percent. I'm not advocating for it, I'm just asking you as a point of order, whether or not this is the last amended motion that you are going to consider.

CHAIR NOWALSKY: I'm going to offer that if it is the intention of people to go ahead and advocate for something less than 1 percent at this point, I would encourage a voting down of the main motion. We then clear the table, and we can start over at that point, would be my preferred way forward, Mr. Chairman.

MID-ATLANTIC CHAIR LUISI: Okay, that sounds great. That sounds good, Adam, I appreciate that.

CHAIR NOWALSKY: I think it's a great point to bring forward. Again, when we made these changes to these motions, as New York has brought them

forward, if somebody else had raised their hand and made a motion for something lower than 1 percent, to be clear I certainly would have recognized people at that time.

If somebody had wanted to amend one of these amendments to change 1 percent to something lower as a third level of Robert's Rules, I would have entertained those. Quite frankly, I haven't heard anybody bring that forward so far, but it's a valid point, and at this point the way I would like to pursue that is, if that is the intent of someone from the Council or the Board when we get back to the main motion, to vote it down, clear the deck and we'll go from there.

MS. KERNS: Mr. Chairman, can I just ask for Maya to put, it's in the back of my presentation, the slide up with the 1.25 allocation, since we haven't seen that?

CHAIR NOWALSKY: That would be consistent with what we did for 1.75, so let's go ahead and do that.

MS. KERNS: Just for the verbal record, the presentation shows an increase in New York's baseline for 1.25 percent.

CHAIR NOWALSKY: All right, very good. Tom Fote and Mike Luisi, if you can both clear your hands as we prepare for the Board vote. All right, let's go ahead and put the motions back up, please. **We are voting on the motion to amend to change 1 percent to 1.25 percent. For the Board, all those in favor, please raise a hand.**

MS. KERNS: I have Massachusetts, New York, Connecticut, New Hampshire, and Rhode Island.

CHAIR NOWALSKY: I count 5 in favor, let's go ahead and clear those hands. All those opposed.

MS. KERNS: I have Delaware, Maryland, New Jersey, Virginia, North Carolina, and Potomac River Fisheries Commission.

CHAIR NOWALSKY: Thank you, Toni, I have 6 in opposition, abstentions.

MS. KERNS: I have NOAA Fisheries.

CHAIR NOWALSKY: One abstention. The motion fails the Board 5 in favor, 6 opposed, 1 abstention.
Chairman Luisi.

MID-ATLANTIC CHAIR LUISI: Let's go ahead and call the question to the Council. The motion is to amend to change the 1 percent to 1.25 percent. All those in favor of the motion to amend, please raise your hand, and I'll have Toni call off the names.

MS. KERNS: I have Paul Risi, Tony DiLernia, and Dan Farnham.

MID-ATLANTIC CHAIR LUISI: Okay, that count is 3. If you can lower the hands, Toni. We'll go ahead and call for those in opposition to the motion to amend, if you can raise your hand, Toni can call out your names.

MS. KERNS: I have David Stormer, Sonny Gwin, Peter Hughes, Sara Winslow, Kris Kuhn, Joe Cimino, Wes Townsend, Michelle Duval, Scott Lenox, Chris Batsavage, Dewey Hemilright, and Ellen Bolen, and Adam Nowalsky.

MS. KATE WILKE: This is Kate Wilke; my hand should have been up in opposition.

MID-ATLANTIC CHAIR LUISI: Thanks, Kate. Yes, we'll make note of that. Toni, if you could make a note of that as well and then give me a count. I wasn't counting with you as you mentioned the names. We have 3 opposed.

MS. KERNS: I'll ask Julia.

MIS-ATLANTIC CHAIR LUISI: Twelve or 13 in opposition?

MS. BEATTY: I think it should be 14, I think there were 12 hands raised and then there was a verbal addition of Adam Nowalsky and Kate Wilke. I don't know if Maureen's vote got counted.

MS. DAVIDSON: I was going to say, my vote is for yes, I'm sorry, I'm having some technical difficulty.

MID-ATLANTIC CHAIR LUISI: All right, so that would be 4 in favor, and did you say it was 14 opposed, Julia?

MS. BEATY: Yes, so it would make it 4, 14, and 1, which would make sense, because that is how all the other numbers have lined up so far for all the other motions.

MID-ATLANTIC CHAIR LUISI: Yes, and I never asked for abstentions, but I assume that the Service is going to abstain. Maybe just on the record we can get that clarification that the Service will abstain.

MS. KERNS: Yes, the Service, Mike's hand is raised.

MID-ATLANTIC CHAIR LUISI: Okay, perfect, so the motion to amend from 1 to 1.25 has failed both the Board and the Council, and so we're back to the main motion again, Adam. Chairman Nowalsky, I want to turn it back to you, and I don't know if you want to call the question at this point, or consider other alternatives. But it's up to you.

CHAIR NOWALSKY: Again, to be consistent, if there is something that somebody, my preference at this point is that if you are intending to do something less than 1 percent, my request would be that we do so by voting this down, and then starting with a fresh slate. If there is somebody. Again, to be fair we were on the plus side of 1 percent.

If somebody feels the need to go ahead and move in another direction, I will entertain that. I will say that if we're going to go down that road, we will take a short break for a couple minutes beforehand. We will need to wrap up a couple of other Council motions to tidy this up before we are done. Either we go down the road of voting this up or down, assuming this were to get voted up, we would tidy things up with a couple of other Council motions.

It is our intention to conduct the FMP Review at another time, so we're not going to have that on our plate. But again, if there is the desire by somebody from the Board to move in another direction, we will fully consider that. Again, this has

been a Commission driven issue at this point. The Policy Board has provided direction.

I appreciate everyone's indulgence here today, but I want to make sure that we have fully considered this, in hopes that we don't find ourselves back here with another appeal on this issue. That is my goal here. Let me turn to Bill Hyatt, you've got your hand raised.

MR. WILLIAM HYATT: I just feel the need to say something here. I would like to point out that during some of the discussion that pertained to percentage switches higher than 1 percent. Some of the people, or at least one of the people speaking in opposition, referred to the 1 percent as an acceptable compromise. At this point this discussion has gone along for some time, and I would hope that that feeling that 1 percent was an acceptable compromise holds forth herein, and we can take some action on this main motion. Thank you.

CHAIR NOWALSKY: Thank you very much, Bill. Is there anyone else who feels the need to speak on behalf of this, before we go ahead and vote on this? Again, at this point this is a motion, because it was amended. It is owned by both the Board and the Council jointly at this point, which is why you don't see makers or seconders on the screen. Not seeing any hands or hearing anything else, we are going to go ahead and conduct a vote on this motion. It has been read previously. It has been up on the board for some quite time, so I will not be reading it again. I will turn to the Board to go ahead and conduct a vote on this motion. All those in favor of the motion.

MR. HASBROUCK: Excuse me, Mr. Chairman, can we caucus before the vote, please?

CHAIR NOWALSKY: I'll provide one more minute. I believe we've caucused multiple times, including the times when other baselines were up. We're going to go ahead and put up a one-minute timer, and then we're going to go ahead and vote. Thank you very much.

MS. KERNS: Maya, would you put the 1 percent up for me, please, and note for the record the screen shows 1 percent? Thank you, Maya.

CHAIR NOWALSKY: Okay, the question to the Board. All those in favor, please go ahead and raise a hand, and if staff would put the motions back up, please, just so it's clear what everyone is voting on. Before they get read, Toni, please make sure that the motion itself is on the board before you start reading them off, just so that we're crystal clear on what people are voting on.

MS. KERNS: I have Delaware, Maryland, Massachusetts, New York, New Jersey, Connecticut, Virginia, New Hampshire, Rhode Island, North Carolina, and Potomac River Fisheries Commission.

CHAIR NOWALSKY: Very good, that looks like 11 in favor. Opposition. No opposition, abstentions. One abstention from National Marine Fisheries Service. Sorry for doing your job there, Toni. We've got 11 in favor, 0 opposed, 1 abstention. Chairman Luisi.

MID-ATLANTIC CHAIR LUISI: Let's go ahead and bring this question to the Council. All those Council members in favor of the main motion, which is an increase to New York's baseline allocation for black sea bass by 1 percent. If you are in favor of that motion, please raise your hand, and I'll have Toni call out the names.

MS. KERNS: I have Adam Nowalsky, Maureen Davidson, David Stormer, Kate Wilke, Sonny Gwin, Peter Hughes, Sara Winslow, Kris Kuhn, Joe Cimino, Wes Townsend, Michelle Duval, Scott Lenox, Paul Risi, Tony DiLernia, Chris Batsavage, Dan Farnham, Dewey Hemilright, and Ellen Bolen.

MID-ATLANTIC CHAIR LUISI: Okay, thanks, Toni. Do we have a count on that? I was trying to keep track, and I think I caught 15 of 16.

MS. BEATY: I got 18.

MID-ATLANTIC CHAIR LUISI: Did you get 18, okay, is that Julia?

MS. KERNS: Yes.

MID-ATLANTIC CHAIR: Okay, 18 in favor, we can put hands down. I'll go ahead and call for those in opposition to the main motion, you can raise your hand.

MS. KERNS: I see no hands.

MID-ATLANTIC CHAIR: Okay, any abstentions?

MS. KERNS: Waiting, to see if I get a hand.

CHAIR NOWALSKY: I see one hand, Toni, I believe it's the hand you are looking for.

MS. KERNS: Mike Pentony has his hand up, NOAA Fisheries, thanks, Adam.

MID-ATLANTIC CHAIR: Okay, so we have a motion to the Council at 18 to 0 to 1, so the motion passes the Council, and I think we've accomplished what it is you were set out to do Mr. Chairman today, which is to get both the Council and the Board in lock step with one another on allocation changes. I'm going to turn it back to you to see where we want to go from here.

CHAIR NOWALSKY: Again, my extreme appreciation to everyone on the Board and Council. I do believe I took some liberty in providing some latitude, but I think it was for the better in creating the record here, to support what we've done together today. Let me first turn to Commission staff. Are there any additional motions that are needed on behalf of the Board, in advance of completing this Addendum process?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Adam, this is Bob.

CHAIR NOWALSKY: Bob, go ahead.

EXECUTIVE DIRECTOR BEAL: The short answer is no additional actions are needed. The motion that was just passed by the Board will modify the contents of Addendum XXXIII, so I think as far as the Commission side of this goes, the Board is all set.

CHAIR NOWALSKY: Okay, thank you very much for that, Bob. Let me turn to staff, either from the Board or the Council, who I believe have been working together diligently this morning, while we've all been working. What is required on the Council at this point? Earlier we had rescinded the main motion. At the last meeting the Council had put a hold on the submission of the package, so what else is needed for Council business, and then I'll turn to Chairman Luisi to administer what needs to be done.

MS. BEATY: This is Julia, I guess I'll chime in. I don't recall if the Council actually voted on that recent motion, but in addition to that we have a draft motion ready to go for basically resubmitting the amendment with the changes made today to the Agency.

CHAIR NOWALSKY: Chairman Luisi, I'll let you take over from here. My thinking is put that motion up, and get any feedback from the Service or General Counsel about if they feel anything else is needed. But again, I think if they've got that Draft Motion put it up, and I'll defer to you to figure out how to tidy this up for the Council.

MID-ATLANTIC CHAIR LUISI: Yes, I appreciate that, Mr. Chairman, so let's go ahead and put that up. The motion is to submit the Black Sea Bass Commercial State Allocation Amendment to the National Marine Fisheries Service with the preferred alternatives as amended by the action today. Is there anyone from the Council that wants to make that motion at this time?

MS. KERNS: Mike, I think there might be some perfection to that motion, if you wouldn't mind.

MR. CHRIS MOORE: Mr. Chairman, I think we had another version of this motion, Julia, that was ready to go based on the e-mail exchange we had with John.

MID-ATLANTIC CHAIR LUISI: Yes, thanks, Chris. Why don't you guys take a minute to get up there what it was that was perfected.

MS. KERNS: John, if you could just perfect that for Maya, at that point Maya was in the thick of moving things, so I didn't send her any changes.

MR. MOORE: Julia has it. I don't know if Julia can have control of the screen, or just send it to Maya, that would be the easiest, unless John, you just want to read it.

MS. KERNS: John can just read it; I think that will be our fastest way.

MR. ALMEIDA: Okay, what I had sent to Julia read; I move to submit the Black Sea Bass Commercial State Allocation Amendment to NMFS with the preferred alternatives approved at the December 16, 2020, and February 1, 2021 meetings as amended by the action today.

MS. BEATY: Can you just read the last part of that again, please?

MR. ALMEIDA: With the preferred alternatives approved at the December 16, 2020 and February 1, 2021 meetings, as amended by the action today.

MID-ATLANTIC CHAIR LUISI: Okay, John, can you see the screen?

MR. ALMEIDA: Yes, I can see it.

MID-ATLANTIC CHAIR LUISI: Does that read as you intend it to read?

MR. ALMEIDA: Yes, the intention here is to just wrap things up in a bow here that we voted on undoing earlier, we're now wrapping up and making clear that the alternatives are only amended as to the extent that we amended them with the vote that just finished.

MID-ATLANTIC CHAIR LUISI: That just happened, okay. Yes, and I think it's important for the Council to understand, that by supporting the work of the Board. Well supporting the motion by the Board and the Council, those allocations in the Federal FMP will stay the same, based on state and federal FMPs.

We're not going to be in a situation based on the vote that just happened, we're not going to be in a situation where we have different state and federal allocations to the states. I think that's an important thing to just recognize, as far as the action that just happened. I'm comfortable with this, do you want me to read it into the record and then call for a person to second on this? Is that the best thing, John?

MR. ALMEIDA: I think we need someone to make the motion.

MID-ATLANTIC CHAIR LUISI: Does anyone want to make this motion, and if so, can you please read it into the record? I can't see hands go up, so I'll ask Toni to call on members of the Council that want to make this motion.

MS. KERNS: Joe Cimino.

MID-ATLANTIC CHAIR LUISI: Go ahead, Joe.

MR. CIMINO: Move to submit the Black Sea Bass Commercial State Allocation Amendment to NMFS with the preferred alternatives approved at the December 16, 2020, and February 1, 2021 meetings as amended by the action today.

MID-ATLANTIC CHAIR LUISI: Okay, so we have a motion made by Joe Cimino, and I'm going to look for a second on behalf of the Council. Does anyone want to second that on behalf of the Council?

MS. KERNS: You have Maureen Davidson.

MID-ATLANTIC CHAIR LUISI: Okay, so we have Ms. Davidson. Thank you, Maureen. Any discussion on the motion? Is there any opposition to the motion? If anyone is opposed to the motion, can you please raise your hand?

MS. KERNS: I have Kate Wilke with her hand up.

MID-ATLANTIC CHAIR LUISI: Kate, go ahead.

MS. WILKE: Yes, Mike, thanks Mr. Chair. This isn't opposition, I wanted to just make a comment before we vote on this, and just say that I want to

support Shanna Madsen's earlier suggestion that the allocation issue be looked at by the Allocation Working Group, because there were some questions about the Policy Board kind of weighing in on allocation on this issue. You know I felt a little hamstrung as a Council member today, because I think it's really important that the state allocations be a part of the federal FMP. You know it was just difficult voting today. I just wanted to say that on the record, before we submit this to the Service, but I am not opposing this motion.

MID-ATLANTIC CHAIR LUISI. Thanks, I appreciate that, Kate. You know based on the discussion that Shanna brought up, you know that is something certainly that the Board can take up, to work with the Executive. Bob, is that Executive Committee, or is that Policy Board that is spearheading that Allocation Work Group? Bob Beal.

EXECUTIVE DIRECTOR BEAL: Yes, thanks, Mike. That would be the Policy Board.

MID-ATLANTIC CHAIR LUISI: Maybe that's something that can come up at a future meeting, maybe as an agenda item, to talk about how the allocation issues are being dealt with, I don't know. Just something to follow up with. Does anyone else have any other comments on the motion before us as a Council member? Toni, do you see any hands?

MS. KERNS: No additional hands.

MID-ATLANTIC CHAIR LUISI: Okay, let me ask again, is there any opposition to the motion to submit the revised changes from today, the amended changes to the Black Sea Bass Commercial State Allocation. Is there any opposition to resubmitting that as we discussed today?

MS. KERNS: I see no hands in opposition.

MID-ATLANTIC CHAIR LUISI: Okay, so motion carries based on unanimous consent. Let me ask staff, is there anything else that we need to take up as a Council at this point?

MS. KERNS: Mike Pentony has his hand up, Mr. Chair.

MID-ATLANTIC CHAIR LUISI: Yes, go ahead, Mike.

MR. PENTONY: Just flagging an abstention.

MID-ATLANTIC CHAIR LUISI: Oh, okay, so motion carries unanimous consent with abstentions by GARFO.

MR. MOORE: Mr. Chair, we have nothing else.

MID-ATLANTIC CHAIR LUISI: That's it, Chris?

MR. MOORE: We have nothing else, yes, that is it.

MID-ATLANTIC CHAIR LUISI: All right, back to you, Chairman Nowalsky. We're good on our end on the Council side, I'll let you go ahead and call the meeting adjourned. Thanks for your efforts today too, you did a great job.

CHAIR NOWALSKY: Well again, I appreciate everyone's indulgence and patience today. To wrap up the Board agenda at this point, the next agenda item that we had was FMP Review and Compliance Reports. Staff has been working behind the scenes with the Council this morning to have that added as a Board only agenda item for next week's meetings, when we will be meeting jointly, as opposed to concurrently.

But that would be a Board only action, as well as seeing if there is anything else that can be taken up. That is going to address that issue. Under Other Business, again we've heard the concerns raised by both a Board and a Council member here today about the process here. I'll offer that the Policy Board is meeting tomorrow.

Again, I would offer anyone to bring that up under Other Business there, as well as this species board can continue to go ahead with that, that what we've done here and make any recommendations to the Policy Board moving forward at some point moving forward.

ADJOURNMENT

CHAIR NOWALSKY: Is there any other business that has to come before the Board today? Okay, seeing no hands and hearing nothing else, and having completed the business before the Board, the meeting stands adjourned. Thank you again to everybody; staff and all Board and Council members and the public today. Thank you so much.

(Whereupon the meeting adjourned at 1:15 p.m. on
Wednesday, August 4, 2021)