

Pages: 1-196

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
800 North State Street, Suite 201
Dover, Delaware 19901-3910

COUNCIL MEETING

14-16 AUGUST 2012

at

Courtyard Philadelphia Downtown
21 N. Juniper Street
Philadelphia, PA 19107

TUESDAY AUGUST 14, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS RICHARD ROBINS	3
SWEARING IN OF NEW MEMBERS JOHN BULLARD	20
ELECTION OF COUNCIL OFFICERS JOEL MACDONALD	21
SPECIAL MANAGEMENT ZONE (SMZ) CONSIDERATION FOR DELAWARE REEFS RICHARD SEAGRAVES	25
SCUP ALLOCATION REPORT BRAD GENTNER	99

1 [8:14 a.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Okay,
5 take your seats please so we can get started.
6 Before we begin, I've got a couple of introductions
7 to make, but before I do that, I'd like to turn
8 to Warren Elliott from the Keystone State
9 delegation. Warren.

10 WARREN ELLIOTT: Good afternoon, and,
11 again, welcome to Pennsylvania. Kiley, come on
12 up. Kiley's going to help me. There's a lot of
13 pressure on this meeting with a new Regional
14 Administrator here. And Rick and Chris said, you
15 know, John's going to be here, and he's going to
16 expect something from Pennsylvania.

17 So with that in mind, what I did, and
18 Kiley's going to help me, as I said, I'll do the
19 first couple presentations. You know we have a
20 new logo, and we're pretty proud of this logo.
21 We want to unveil it to you, Mr. Board Chairman
22 and others. Let's start passing them out.

23 I actually got a gift so you'll remember
24 being in Pennsylvania, and maybe we'll start this

1 as a tradition, that the host state -- you know,
2 needs to provide a gift for all the members. Pass
3 these out. I will tell you that if you don't like
4 visors, I have a handful of ball caps. You can
5 see me afterwards. We'll trade them in. But I
6 got everybody a visor. You got to get staff as
7 well and these other people. When I wear a visor,
8 I go fishing, so I'm going to have to get up and
9 go. I like this.

10 And I'd also like to say that I brought
11 a newspaper along. Philly was just named as the
12 best late-night spot to eat in the nation, and
13 there's a list of restaurants here that you may
14 want to visit. I'll circulate this.

15 And also, if any of you have your spouses
16 along, I know you won't have free time, but the
17 Philly mint has just undergone a 4 million dollar
18 renovation. It's not far from here, and they say
19 it's a really neat thing to go see as a tourist.

20 So, if you're interested, that would be
21 one of the most recent highlights that not too many
22 people have seen yet. And I'd also tell you,
23 Kristen, stand up. This is our local tour guide.

24 She put me on last night for a great

1 little place called the Oyster House. Great bar.
2 Great seafood. And she knows all the local spots,
3 so if anybody's looking for anything to do while
4 they're here in Philadelphia, see Kristen. With
5 that, Mr. Chairman, thank you for the time. And,
6 again, welcome to the delegation. Hope you have
7 a good time while you're here.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
9 you, Warren, and thanks for your hospitality. I
10 appreciate that. I do have a couple of
11 introductions before we get into the swearing in
12 of new members. And at this point, I'd like to
13 welcome and introduce the new Admiral for the 5th
14 District of the U.S. Coast Guard, Admiral Steven
15 Ratti. Admiral, welcome.

16 ADMIRAL RATTI: Thank you, sir. I'd
17 feel more comfortable with that handy walk-around
18 microphone, but I'll go ahead and sit down. I
19 noticed that your astute staff was going to give
20 me one of the visors, but was also looking for SPF
21 50 to give me along with it, so I'm glad I didn't
22 get a visor because I'd be tempted to wear it.

23 Thank you, sir. I appreciate the
24 introduction. I'm the commander of the 5th Coast

1 Guard District, which is in Portsmouth, Virginia.

2 So all of the Coast Guard people you see, they're
3 basically from the New York-New Jersey border down
4 to the South Carolina-North Carolina border work
5 for the 5th Coast Guard District. And fisheries
6 enforcement is very important to us, and we don't
7 have all of the assets that we would like to have
8 to be able to do the proper level of enforcement,
9 but looking at the regulations that are placed into
10 effect and looking at the rules that are set out
11 to manage the species, we take as very important,
12 and we do our best to enforce those regulations.

13 So I have a permanent person that's here
14 working with you all of the time, and I have other
15 experts that are on our staff at our headquarters
16 in Portsmouth, Virginia.

17 I came up today specifically because I
18 want to hear the types of issues that are important
19 to the Council, and I want to ensure that I
20 understand what's important and what the Coast
21 Guard can do to ensure that all of our long-term
22 goals, which I hope we share, are all looked out
23 for and that we're able to manage our fisheries
24 in a wise manner and that the Coast Guard is able

1 to do our best to enforce those things that are
2 important and that are going to lead toward those
3 goals.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Admiral, thank you very much. We appreciate your
6 officer's support of our council's mission. I
7 would say anytime feel free to join us. You're
8 welcome at all of our meetings. We very much
9 appreciate your supporting all of our work to
10 manage the region's fisheries and also your safety
11 mission, which has a very strong bearing on the
12 overall welfare of the people that interact with
13 these fisheries. So thank you very much.

14 ADMIRAL RITTI: Thank you, sir.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Next
16 I'd like to introduce the new Regional
17 Administrator Mr. John Bullard. John, welcome.

18 JOHN BULLARD: Rick, thank you very much
19 for your warm welcome and to the members of the
20 Mid-Atlantic Fishery Management Council, thank you
21 for your warm welcome. It's a pleasure for me to
22 be here on my second week.

23 And, Warren, thank you very much for
24 this. I will wear it with pride. My name is John

1 Bullard, and I'm the new Regional Administrator
2 of the Northeast Region of the National Marine
3 Fishery Service.

4 I noticed sometimes the abbreviation of
5 that, NERO, is seen by many to stand for New England
6 Regional Office, and I know it doesn't stand for
7 that. It stands for Northeast Region, and it goes
8 from Cape Hatterus to Maine. And I intend to
9 emphasize that that includes the whole region and
10 to spend an awful lot of time down here. Why would
11 I do that? Because you have all of your fisheries
12 well managed, and you finish your meetings ahead
13 of schedule. I have a suitcase with syringes, and
14 I'm going to collect DNA and take it back up to
15 New England to see if we can try and capture
16 whatever it is you do down here; because there are
17 others who could learn from you.

18 And so I have a lot of learning to do,
19 and I do look forward to getting to know you and
20 how you do your work. I spent yesterday with many
21 of you in the visioning session. I'm very
22 intrigued by that. I think that's important work.

23 I'm interested about why you decided to
24 do it, how you're doing it. I'm looking forward

1 to the product that you arrive at at the end of
2 December. I think that's going to be very
3 important.

4 And, as I've said to Rick, I'm interested
5 in how that product that Adam is helping you with
6 will guide your decisions in the future. And I'm
7 going to stay with you through mid-day tomorrow
8 and then go on and do some listening sessions in
9 New Jersey and elsewhere over the coming months
10 because I want to meet with people on their own
11 turf to understand the needs and goals of the
12 territory that I serve. A little bit of background
13 so you will know me. I come from New Bedford.
14 It's a fishing port a little north of here. Some
15 of you may have heard of it.

16 And among other things, I was mayor
17 there, so I was comfortable being near a city hall.

18 Nice to be there. I know Warren's grandfather
19 was mayor here in Philadelphia. Gave Charles
20 Lindbergh a ticker tape parade. All I get's a hat.

21 Jesus. Later. Maybe I'll earn a ticker tape
22 parade.

23 And I was mayor when Ed Rundell was mayor
24 of Philadelphia. He went on to be governor of

1 Pennsylvania. I was luckier. I get to deal with
2 fish. Luckier. I didn't say what kind of luck.
3 But luckier nonetheless.

4 And for the last 10 years, I was
5 president of Sea Education Association in Woods
6 Hole where we teach college students about the
7 ocean. And so I certainly appreciate the
8 importance of oceans and how everything connects
9 to the oceans and how little most people appreciate
10 how all of us humans are connected to the bounty
11 of the oceans, how much we depend upon it, and how
12 little we know about it and how important your work
13 is to maintaining those vital connections, how
14 thankless this job tends to be, and what an exercise
15 in citizenship your job is, how difficult your
16 decisions are, and how much we need you.

17 This is not my first tour with NOAA.
18 In the mid-'90s I was a political appointee to NOAA.
19 I ran the first federal office of sustainable
20 development, a policy office at NOAA.

21 My job basically had two halves. One
22 half was to work with the President's Council on
23 sustainable development to try and figure out what
24 that was and how we could get more of it.

1 The other half was to work with fishing
2 communities in crisis around the country first in
3 the Northeast, then in the Gulf of Mexico, then
4 in the Pacific Northwest, and then in Alaska to
5 try and help out fishing communities that were
6 suffering from lack of fish to see if we could
7 provide help while we rebuilt fish stocks.

8 And so I spent a lot of time in those
9 fishing communities trying to help people through
10 the failures when we could not, did not properly
11 manage fish stocks. Looked in a lot of faces
12 understanding the consequences of our failure to
13 do our jobs, listening to lots of heartbreaking
14 stories of the consequences of our collective
15 failure. I don't like doing that. I didn't like
16 it then. I don't like it now.

17 And so I know how many people depend on
18 us to do our jobs. And I know how difficult it
19 is. I come from a fishing community. I know the
20 consequences, and I know they're measured in more
21 than dollar signs. And it's why Rich's report this
22 morning struck home.

23 And I know how that work that you
24 described this morning, Rich, is so very important,

1 so difficult. And as Lee said: Boy, it is hard
2 to get your arms around it. But as difficult as
3 it is, it's still really important.

4 So our work is important and has many,
5 many dimensions. One of the things that I learned
6 from that work is that all of the good ideas that
7 we got back then and how best to do our jobs came
8 from fishermen and their elected representatives.

9 They didn't come from me or the people
10 in my office or others in NOAA. I got the best
11 ideas from going out on the road. So that's what
12 I intend to keep doing. And I intend to spend an
13 awful lot of time out on the road listening to
14 people about what we should do. So this is my
15 seventh day at work. I've spent two days in
16 Gloucester. I think I spent a grand total of not
17 more than an hour at my desk. I don't know if I
18 can keep that ration up, but I think in general
19 it's a pretty healthy ratio.

20 I haven't learned how to use my computer
21 yet. I'm sure sometime I will learn how to do that,
22 but I think it's more important for me to listen
23 to people on their own territory.

24 I think I'll be in Surf City with Maggie

1 tomorrow. You should not worry, though, because
2 there are excellent people in the Gloucester
3 office. You deal with incredibly complicated
4 issues I do know that much. I know how little I
5 know about the issues. I know what I don't know.

6 I know some of the people here. I've
7 known them for a while. I know Dan Cohen. It's
8 good to see you. I've known Dan for 20 years.
9 Tony DeLernia who will be here tomorrow I've known
10 for a while, Lee, Rich.

11 But most of you I'm just meeting today
12 or yesterday for the first time. I'm looking
13 forward to getting to know you. The issues I know
14 are complicated. It will take me awhile to get
15 up to speed on them, but in the meantime, you are
16 in very good hands. Don't worry. George here has
17 the nuclear codes. Okay? So you are in good
18 hands. So you're in good hands.

19 I will say one last thing, and that is,
20 in terms of overall context, I think we're in some
21 very challenging times as we make these decisions,
22 in several ways.

23 I was at a meeting several weeks ago with
24 my boss, Sam Rauch, who I have a tremendous amount

1 of admiration for as a person who can operate at
2 whatever level of detail you need to operate at
3 and who is a straight shooter who just says it like
4 it is directly, doesn't mince words. Very
5 refreshing.

6 And what's needed in difficult issues
7 like the ones we deal with, complicated issues but
8 where you need direct straight talk. Just a great
9 leader of National Marine Fishery Service.

10 The issue happened to be New England
11 groundfish, but it could be any issue, and he said
12 as we look at things -- you know, it appears that
13 we may be seeing things that we haven't seen before
14 out in the environment, and the science centers
15 really need to probe this because the environment
16 may be changing; we may be looking at things we
17 haven't seen before. And so from whether it's
18 chemistry or temperature or other things, this is
19 something we need to keep aware of.

20 And so in that sense of biology and
21 chemistry, we need to be aware of what's going on
22 because we may be dealing with new phenomena and
23 we need to be aware of a rate of change. So that's
24 one thing that in terms of threats on the issues,

1 the ecosystems that we deal with that we have to
2 be very sensitive to.

3 Another thing that affects us -- and this
4 came up with one or two questions yesterday at the
5 visioning session -- we're all dealing with human
6 ecosystems and the businesses on land. It's a
7 volatile situation from a business standpoint, and
8 we need to be aware of that as well. It's pretty
9 volatile times.

10 And then the third thing I would just
11 keep in mind is we're all creatures of government
12 and fiscally it's going to be challenging
13 especially over the next several months.

14 There's a lot of uncertainty about that.

15 You may have read about it a little bit in the
16 news. And that could make everything difficult
17 over the next several months, a lot of uncertainty
18 there as well. And finally, I'd have to say the
19 ability of people to solve difficult problems,
20 reach across the aisle, is in my opinion never been
21 worse.

22 I was walking into the Dirksen Senate
23 Office Building on Tuesday or Wednesday, and
24 there's a bronze plaque. Next time you're in D.C.

1 if you happen to go into the Dirksen Building read
2 the plaque about Everett Dirksen.

3 It talks something about seeing the
4 necessity to work for the good of the country
5 compromising when necessary. Seems like language
6 that ought to be read at the beginning of every
7 day.

8 But it's something that seems harder to
9 do all the time. So we have difficult challenges.

10 And the reason I say that is because with all of
11 these very difficult challenges ahead, having a
12 vision of where you want to go becomes more and
13 more important.

14 And so you all have picked this most
15 important time to do this task. That is called
16 foresight, and that is going to stand you in very
17 good stead. So this council has a lot going for
18 it. You have done this at a very important time,
19 and that's going to pay big dividends. So I am
20 really enthused about getting to know you. I'm
21 very impressed with your work even though I've only
22 been here with you for 24 hours, and I'm really
23 looking forward to getting to know more and more
24 about you. Thank you, Rick.

1 COUNCIL CHAIRMAN RICHARD ROBINS: John,
2 thank you. And thank you for your very generous
3 acknowledgement of the Council's work. As you
4 point out, we are in the middle of a very intensive
5 engagement with the public and with our
6 stakeholders.

7 We look forward to working with you
8 through that, and I appreciate very much you
9 investing your time yesterday to come down and sit
10 with us through really the ground level of
11 beginning to hash out a strategic plan. So I
12 appreciate that very much.

13 We are excited to have an opportunity
14 to work with you. Also, recognize that there are
15 a lot of challenges right now in the Northeast
16 Region. Right now a lot of those issues are
17 grounded in New England groundfish.

18 I appreciate your sensitivity to the
19 ongoing needs of our council operations. In light
20 of that, it's inevitable that we'll all be affected
21 by those issues in the region at some level. We're
22 not removed from that. But I appreciate your
23 sensitivity to the ongoing needs of the Council
24 and look forward to working with you. So thank

1 you very much.

2 And with that, our next item is the
3 swearing in of new members. I'd also like to
4 acknowledge that Chris Batsavage has succeeded Red
5 Munden, and he is now on the Council.

6 I know many of you know Chris from your
7 work at the State of North Carolina but also through
8 his involvement on the Atlantic States Marine
9 Fisheries Commission. So, Chris, welcome aboard.

10 We also want to welcome and congratulate
11 three returning members: Chris Zeman, Jeff Dean,
12 and Pres Pate, all of whom are here today, so we'll
13 be swearing them in. And with that, I'll turn to
14 John Bullard for the swearing in of the new members.

15 John.

16
17

18 SWEARING IN OF NEW MEMBERS

19 JOHN BULLARD: Can I ask the new members
20 to stand up. You have the oath in front of you.

21 And raise your right hand and read along. I --
22 state your name -- as a duly appointed member of
23 a Regional Fishery Management Council established
24 under the Magnuson-Stevens Fishery Conservation
 and Management Act, hereby promise to conserve and

1 manage the living marine resources of the United
2 States of America by carrying out the business of
3 the Council for the greatest overall benefit of
4 the Nation.

5 I recognize my responsibility to serve
6 as a knowledgeable and experienced trustee of the
7 Nation's marine fisheries resources, being careful
8 to balance competing private or regional
9 interests, and always aware and protective of the
10 public interest in those resources.

11 I commit myself to uphold the
12 provisions, standards, and requirements of the
13 Magnuson-Stevens Fishery Conservation and
14 Management Act and other applicable law, and shall
15 conduct myself at all times according to the rules
16 of conduct prescribed the Secretary of Commerce.

17 This oath is given freely and without mental
18 reservation or purpose of evasion.

19 Congratulations.

20 [Applause.]

21 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
22 you, John. And, again, congratulations and
23 welcome to the new and returning members. With
24 that our next order of business is council

1 elections. And I'll turn to Joel.

3 ELECTION OF COUNCIL OFFICERS

4 JOEL MACDONALD: Thank you, Mr.
5 Chairman. First, I'd like to apologize for my
6 attire. I have not retired yet, but it's looming
7 in the near future. Howard, I understand that
8 you're sitting for Rick Cole. Do you have any
9 nominees for the position of chair?

10 HOWARD KING: Yes. We have one
11 nomination for the chair and that nomination is
12 Rick Robins.

13 JOEL MACDONALD: Okay. Thank you. At
14 this time I would like to call for any other
15 nominations for the position of chair. Are there
16 any other nominations for the position of chair?
17 Seeing none, Rick Robins is elected by acclaim.
18 Congratulations.

19 [Applause.]

20 JOEL MACDONALD: Next we'll turn to the
21 election of the vice chair. Howard, do you have
22 any nominees for that position?

23 HOWARD KING: One nomination for vice
24 chair. That nomination is Lee Anderson.

1 JOEL MACDONALD: Thank you. At this
2 time I'll call for any other nominations for the
3 position of vice chair. Are there any other
4 nominations for the position of vice chair?
5 Seeing none, I declare that Lee Anderson is elected
6 by acclaim. Congratulations.

7 [Applause.]

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
9 you, Joel. And I'll be brief, but I'll just say
10 I'm honored to continue to have the opportunity
11 to serve the Council in this capacity. I am
12 excited about the work that we're doing right now.

13 I think through the Visioning Project,
14 we've put ourselves in position to work very
15 closely with our stakeholders to take ownership
16 of the opportunities and challenges in the region's
17 fisheries. I think we'll be well served by it.

18 I think over the course of the next year,
19 we'll have outputs from that project that become
20 much more tangible. When we started out, it was
21 very much conceptual. It was abstract.

22 Those initial discussions I think were
23 challenging, but now we're really gaining some
24 momentum after having gone through the outreach

1 phase of the data collection phase.

2 We've heard pretty clearly from the
3 public about a lot of the concerns in the region,
4 a lot of the opportunities, and I think we'll have
5 a great opportunity to move forward in tackling
6 those over the course of the next year in addition
7 to building on our ongoing cycle of work, as John's
8 points out, has already put the region's fisheries
9 in terms of the health of the stocks in pretty good
10 shape. So I very much appreciate the opportunity.

11 I'll turn away if you have any comments.

12 LEE ANDERSON: I'll really be brief.

13 That I'm very happy to continue serving with Rick.

14 As I said, when I first was elected along with
15 him, that there's only room for one captain on the
16 Board, and he's the captain, but I really respect
17 him as a leader, and I'm also appreciative of the
18 things that he does turn over to me, and I pledge
19 when I am given an assignment from our chair, I
20 do it to the best of my ability.

21 So I'm looking forward to a very fruitful
22 year. And I'm also very much looking forward to
23 the way this visioning thing turns out. I'm very
24 excited about what we've done so far, and I think

1 we have a lot of potential that something
2 productive will come out of it. Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Our
4 next order of business is the SMZ request from the
5 State of Delaware. And I'll look to Rich
6 Seagraves, which has a report from the working
7 group that was formed to take that request up.
8 Rich.

9
10 SPECIAL MANAGEMENT ZONE (SMZ) CONSIDERATION

11 FOR DELAWARE REEFS

12 RICHARD SEAGRAVES: Thank you, Mr.
13 Chairman. The material I'll be referencing is
14 behind Tab 4 of the briefing book. And essentially
15 it's a report from the Special Management Center
16 Monitoring Committee, which includes an analysis
17 of the request by the State of Delaware for
18 designation of its five artificial reefs in the
19 EEZ as special management zones.

20 A little background. In June of 2011,
21 the Delaware Division of Fish and Wildlife
22 requested this status for its five permitted reefs
23 in the EEZ. This is under the provisions of
24 Amendment 9 to the summer flounder, scup, black

1 sea Bass FMP.

2 As they noted in a request letter which
3 is in the appendix to the report, the justification
4 for this SMZ designation is based on the need to
5 eliminate gear conflicts on Delaware EEZ reefs
6 between fishermen using
7 hook-and-line gear and fixed-trap-pot gear. And they
8 also noted that -- and you'll see DFW -- is Division
9 of Fish and Wildlife -- that the Division of Fish
10 and Wildlife is faced with potential loss of
11 funding for its reef program under the Sport Fish
12 Restoration Program if the gear conflict is not
13 ameliorated. This is based on a policy that's been
14 set out by the U.S. Fish and Wildlife Service which
15 is a federal entity that administers the
16 Wallop-Breaux program.

17 As most of you know, that program
18 basically uses fund derived from federal excise
19 taxes on sport fishing equipment and motor boat
20 fuel tax. And the Wallop-Breaux that name was
21 tacked on, I believe, in the '80s when there was
22 a significant increase in funding under that
23 program when motor boat fuel taxes were included.

24 And the Fish and Wildlife Service states

1 that the monies used by the states to fund fish
2 restoration management projects they interpret to
3 mean shall be construed to mean projects designed
4 for the restoration and management of all species
5 of fish which have material value in connection
6 with sport or recreation -- emphasis there -- in
7 the marine and/or fresh waters of the United
8 States.

9 Now, in March of 2011, the Fish and
10 Wildlife Service informed the state reef
11 coordinators at a meeting that the use of sport
12 fish restoration funded reef sites was deemed
13 incompatible with the objectives of the SFR. If
14 those uses were deemed incompatible, it could
15 result in termination of funding under a
16 Wallop-Breaux program, and the use of commercial
17 pot traps on official reef sites in their opinion
18 was determined to be incompatible with the sport
19 fish restoration objectives.

20 And the gear conflicts were basically
21 identified as a main issue to be addressed by the
22 states. The period of funding implications here
23 are as they're outlined by the Fish and Wildlife
24 Service policy is that they could require if this

1 situation is not ameliorated.

2 Replacement of funds have already been
3 expended. Suspension or termination of a project
4 for noncompliance. Or they can declare a state
5 ineligible to participate in the Sport Fish
6 Restoration Program altogether.

7 Now, New Jersey received a letter,
8 notification of the termination of funding for its
9 artificial reef program in March of 2011.

10 Delaware has five permitted reef sites,
11 and basically I think they were pretty much put
12 on notice that they may get the same determination,
13 and the U.S. Fish and Wildlife basically outlined
14 to the states that there were two avenues that they
15 could pursue. One is reefs that exist in state
16 waters could be dealt with through state
17 legislation in the EEZ. One avenue would be the
18 designation of the Special Management Zone.

19 And so Delaware in reaction to this
20 passed legislation that prohibits the use of
21 commercial gear in state waters, and now they're
22 seeking SMZ status for their five reefs under
23 Section 4.48 of the black sea bass regulations
24 including prohibition of fixed pot trap gear on

1 those sites.

2 So a little bit about 648.148. It was
3 a provision that was put in when the summer
4 flounder, scup, black sea bass plan was amended
5 in 1996 and allows for Army Corps of Engineers
6 permit holders to request the Council to designate
7 artificial reefs and any surrounding areas as SMZs,
8 and that the Council may prohibit or restrain the
9 use of specific gear types being not compatible
10 with the intent of the artificial reef permit
11 holder through regulatory amendment. Now,
12 Delaware is maintaining in their letter that the
13 use of fixed pot trap gear is not compatible with
14 their reef program objectives due to gear conflicts
15 with hook-and-line fishermen. So a little bit
16 about the procedure that's outlined and
17 contemplated in Amendment 9. In that provision,
18 first, it calls for a monitoring team to develop
19 a report to be presented to the Council. That's
20 behind Tab 4, and I'll be summarizing that report.

21 Following the delivery of that report,
22 the chairman of the council may schedule meetings
23 of the AP, the industry advisory panel and/or SSC
24 to review a report and advise the council.

1 The chair may also schedule public
2 hearings. The Mid-Atlantic Council then may
3 recommend to the Regional Administrator that a
4 special management zone be approved or not, take
5 no action of course.

6 Now, if the RA concurs, the RA would
7 publish a proposed rule. If the RA does not
8 concur, then the RA according to Amendment 9 would
9 be obligated to tell the Council why not in writing.

10 But if it was a positive consideration,
11 then there would be a proposed rule published after
12 public comment. The RA would then publish a final
13 rule establishing an SMZ if supported by way of
14 evidence in the record and if the action is
15 consistent with the Magnuson-Stevens Act and other
16 applicable law. So the part that we're doing today
17 is delivering the report, and then the Council can
18 begin deliberation on the findings of that report.

19 So under 648.148 of Amendment 9, based
20 on that procedure that's outlined there, the SMZ
21 monitoring team was formed in December of 2011 to
22 evaluate this request in the form of a written
23 report.

24 We sent letters to the regional office

1 and the Fishery Science Center asking for folks
2 to serve on that team, and we got Scott Steinback,
3 who is an economist with the Northeast Fishery
4 Science Center, has a lot of experience dealing
5 with recreational fishing issues, very good
6 economist; and Paul Perra, who is an employee at
7 the Regional Office in Gloucester.

8 Paul also has a fairly long history
9 dealing with recreational fishing issues. And
10 then at my personal request, we recruited Joel
11 MacDonald, and Joel is with the NOAA Office of
12 General Counsel, a long time serving as our general
13 counsel. And this was basically because we
14 started looking at this problem, and it became
15 obvious that it's largely a policy issue. There's
16 not a lot of science involved in this decision per
17 se especially when you look at we're limiting our
18 evaluation to gear conflict, so we really felt it
19 was -- and we really appreciate Joel contributing
20 and participating on this monitoring team.

21 He's a great asset. I'm glad to have
22 him here to help me out with the legal questions.

23 So, anyway, the report summarizes an analysis of
24 six factors which are outlined in Amendment 9.

1 Before I get into those, I wanted to give
2 you a brief background on the Delaware Reef
3 Program. Corps of Engineers permits were
4 obtained, so they have five sites currently
5 permitted.

6 There were originally three sites in the
7 EEZ, 9, 10, and 11, which they obtained permits
8 for in '95, and deployment for reef materials for
9 those initial three sites began -- I'm sorry --
10 in '94 they got the permits, and they deployed in
11 '95, beginning of '95.

12 The Corps of Engineers issued a new
13 permit in 2006 continuing authorization for the
14 original three sites, and then two additional sites
15 were added, Sites 13 and 14. Site 13 deployment
16 began there in 2007, and that's a large ship, the
17 Radford, and 14 is yet to have any materials
18 deployed on it. The total area of the five
19 Delaware reef sites according to our calculations
20 is just a little under 5 1/2 square nautical miles.

21 And here's a map of the five sights.
22 At the innermost is Reef Site 9, and 10 are both
23 about 4 1/2, 5 miles off. Eleven is about 16 miles.
24 Thirteen is 38 miles, something like that. And

1 14 is pretty far. It's just under 60 nautical
2 miles.

3 In terms of expenditures, Delaware has
4 expended a total of about 10.75 million dollars
5 during the history of deployment of the five
6 artificial reefs in question. So the monitoring
7 team it's outlined in Amendment 9, and that section
8 I've already cited.

9 There are six factors that need to be
10 evaluated. One is fairness in equity. Two is
11 promotion of conservation. Three, avoidance of
12 excessive shares. Four is consistency with the
13 FMP objectives, the Magnuson Act and other law.

14 Five is natural bottom in and
15 surrounding potential SMZs . And six is any
16 impacts on historical uses. Basically, when you
17 go through the report analysis hones in on each
18 one of those criteria. Now, it's important that
19 I point out right from the beginning that this
20 request has been evaluated based solely on the need
21 to resolve gear conflicts. And I tried to
22 highlight that, but the red's not showing too good.

23 So it's about resolution of gear
24 conflicts. There are a lot of issues related to

1 access to artificial reefs that go well beyond gear
2 conflicts. But the permittee and the SMZ
3 requested the Council receive what's based on gear
4 conflict, the U.S. Fish and Wildlife Service
5 policy.

6 They state a policy revolves around
7 amelioration of gear conflict. So our evaluation
8 of the request on those six factors are based solely
9 on that issue. So to get into it, the first three
10 criteria really are National Standard 4, fairness
11 and equity, promoting conservation, avoidances of
12 excessive shares or components of any National
13 Standard 4 evaluation that the Council would do
14 for any action that we're taking.

15 Now, it's normally related to the
16 allocation of shares of fishing privileges or
17 quotas. In this case, we're talking about
18 allocation access to certain areas of the ocean,
19 which certainly could indirectly affect access to
20 quota or quota allocations. But it's a slightly
21 different twist on what we would normally consider
22 under National Standard 4.

23 So the first part of National Standard
24 4 deals with our residents from different states

1 treated equally or unequally, and they basically
2 concluded that the SMZ if it were established would
3 not likely discriminate amongst residents of
4 different states. Is it fair and equitable?

5 An SMZ designation would definitely
6 benefit some hook-and-line fishermen, those who
7 utilize these reefs to some degree, and it would
8 definitely be at the detriment to some degree to
9 the fixed-pot trap gear sector because they would
10 suffer some loss of catch that they had been taking
11 in the SMZ.

12 However, the team concluded that, given
13 the small area in question and the small number
14 of effected pot-trap fishermen, that the SMZ
15 designation would not result in a significant
16 impact on a substantial number of entities. And
17 that's an important sentence that you'll hear
18 throughout the report. The basis of the
19 recommendation of the SMZ monitoring team is that
20 in their judgement it would be judged under a bunch
21 of other analyses that we would do for any
22 management plan looking at the economic impacts
23 that we would not be impacting a significant number
24 -- a significant impact on a substantial number

1 of entities.

2 And it's also expected that much of the
3 foregoing catch by the fixed gear sector would be
4 recouped in open areas, but certainly there will
5 be some economic losses to folks who had been
6 fishing on those reefs if SMZs are designated.

7 The next one under National Standard 4
8 is promotion of conservation. An SMZ designation
9 is related to the amelioration of gear conflict
10 in this case. The black sea bass fishing mortality
11 is controlled by quotas, the overall quota that's
12 allocated to the commercial and recreational
13 fisheries and overfishing definition, etcetera,
14 etcetera.

15 And as such, the SMZ team concluded that
16 an SMZ designation would be unrelated to the
17 conservation of black sea bass. Avoidances of
18 excessive shares.

19 The SMZ designation would have no direct
20 allocation of quantifiable fishing privileges to
21 the individuals or entities in the form of
22 individual fishing quotas. Within the allowable
23 gear types in an SMZ no individual entity would
24 be expected to gain an excessive share of fishing

1 privileges; so, therefore, the team concluded that
2 this did not appear to be an issue.

3 Now we get into an SMZ request. Is it
4 consistent with the objectives of Amendment 9?
5 Amendment 9 has six objectives. The first three
6 are basically related to National Standard 1, which
7 deals with the conservation of the resource.

8 The first is to reduce fishing mortality
9 to prevent overfishing. Number two is reduce
10 fishing mortality on immature fish to increase
11 spawning stock biomass. And the third is to
12 improve yield from the fisheries. The first three
13 are essentially yield and conservation oriented.

14 Four, promote compatible regulations in
15 federal and state waters. Five, promote uniform
16 and effective enforcement of regulations. And
17 six, minimize the regulations to achieve the first
18 five objectives.

19 So the first three objectives, again,
20 I've already said address National Standard 1.
21 An SMZ designation would appear to be unrelated
22 to those conservation objectives. Same
23 conclusion was reached with the previous
24 discussion about SMZs promoting conservation, that

1 is. An SMZ would appear to be unrelated in this
2 case, since the intent of the SMZ is to reduce gear
3 conflicts on Delaware reef sites.

4 Objective 4, promote compatible
5 regulations in federal and state waters, and SMZ
6 designation in the EZ for Delaware reef sites would
7 be compatible with their state regulations;
8 however, there are 30 other artificial reefs
9 currently permitted by the Corps in the EZ, which
10 are currently not designated SMZs, and so
11 therefore, we would have inconsistency across the
12 total population or universe of the reefs in the
13 EEZ.

14 Objective 5, uniform and effective
15 enforcement of regulations. Again, the team felt
16 that this was basically an SMZ action or not would
17 be unrelated to enforcement of current black sea
18 bass regulations.

19 And finally, No. 6, minimize regulations
20 to achieve objectives 1 through 5. Again, the
21 summary conclusion of the group was that the
22 designation whether it was or not had little to
23 do with the achievement of Amendment 9 objectives.

24 The primary purpose again to ameliorate the

1 conflicts. Therefore, the SMZ designation is not
2 necessary to achieve those objectives. The next
3 part of that particular criteria is consistency
4 with the Magnuson-Stevens Act and other applicable
5 law. Assessment of the consistency of the SMZ
6 provision with SMA was conducted when Amendment
7 9 was originally submitted to NMFS in 1996, and
8 Section 303B(2)(a) part of the Magnuson Act deals
9 with discretionary provisions of FMPs which do
10 contemplate measures such as an SMZ.

11 And that section says basically any
12 fishery management plan they designate periods
13 when fishing shall be limited or shall not be
14 permitted or shall be permitted by only specified
15 types of fishing vessels or specified types of
16 fishing gear.

17 Again, the take-home message is that an
18 SMZ designation is certainly within the Council
19 purview under the Magnuson Act. Consistency with
20 other applicable law. An SMZ designation would
21 require more thorough analysis under it.

22 There's a litany of things that we
23 normally have to deal with. We're primarily
24 dealing with the Magnuson Act, but we also have

1 to be in compliance with the Administrative
2 Procedures Act, National Environmental Policy Act,
3 Regulatory Flexibility Act, Marine Mammal
4 Protection Act, Endangered Species Act, Paperwork
5 Reduction Act, Information Quality Act and two
6 Executive Orders. Quite a mouthful.

7 Any management action that the Council
8 takes as a matter of course must comply or be in
9 compliance with all these federal regulations.

10 Now, the preliminary analysis is only
11 preliminary at this stage, and a more complete
12 analysis consistency with each law and Executive
13 Order would be necessary if the Council takes
14 action or strictly speaking, if the RA were to take
15 action.

16 However, I think it's important to note
17 that the South Atlantic Council has designated 51
18 artificial reef sites in the EEZ in the South
19 Atlantic Region as SMZs, which certainly sets a
20 considerable precedent for this action to be
21 consistent with the MSA or other applicable law.

22 The SMZs as Delaware has maintained and
23 backed up by what we know is that the current reef
24 sites exist in areas typical of most of the

1 Mid-Atlantic Bight, which is characterized by
2 large homogenous habitat, a relatively flat
3 topography composed of soft sediments, mostly
4 sands, sand, silt. And there's a paper that I
5 reference in there by Frank Steimle. I'll show you
6 one of his figures. It gives a real good review
7 of the habitat any sort of structured habitat in
8 the Mid-Atlantic Bight. And you might want to look
9 at that.

10 There are no habitat areas of particular
11 concern issues related to the SMZs. And here's
12 the figure from Steimle. It doesn't show up too
13 well, but basically shows that most of the shelf
14 area from Cape Hatterus north to Southern New
15 England is long flat bottom mostly sand or some
16 mixture of clay and silt.

17 As you move up into the Long Island
18 region, there are some rocky outcroppings. As you
19 move off the shelf bight, there's some features
20 there. But by and large the Mid-Atlantic Bight
21 is characterized by flat, featureless bottom.

22 And part of the argument from the
23 recreational side is -- especially in the South
24 Atlantic area, the argument was made that these

1 featureless areas really can't support the kind
2 of community that exists when you put a reef there.

3
4 Impacts on historical uses. There's
5 six. We're coming down to the wire here. So the
6 report described the use of the five Delaware reef
7 sites based on a survey of recreational fishing
8 effort conducted by Fish and Wildlife done biweekly
9 by airplane, and data were made available to us
10 for 2004 to 2011.

11 They also have a National Marine Fishery
12 Service VTR database for party and charter activity
13 for the recreational side, and Scott Steinback used
14 published values for recreational fishing expended
15 to estimate angler expenditures by reef site.

16 On the commercial side we have VTR
17 reports that were examined for 2004 to 2010, which
18 allowed for comparison of revenue drive for the
19 reef sites versus other areas. Impacts on
20 recreational fishing.

21 You'll see in the report that the
22 recreational activity in 2011 was highest at Reef
23 Site 11. Generated about \$840,000 in expenditures
24 based on the effort data from their survey combined

1 with the estimate of what people spend for a day
2 of fishing, followed by ten, 500,000; thirteen,
3 200,000; nine, 40,000. No estimates were
4 available for site 14, which is too offshore. It's
5 not covered by the Delaware survey. Overall
6 charter headboats count for the greatest amount
7 of fishing activity at all reef sites with a trend
8 towards higher use of -- greater use by charter
9 and headboats the further offshore you go.

10 In terms of commercial pot trap
11 activities described in the report, pot trap
12 fishing activity occurred at Reef Sites 11 and 13
13 with lower or no pot trap activity at the other
14 sites.

15 There was some pot trap activity at Site
16 14, but most of the activity on that site was from
17 mobile gear including trawls and dredges. I'll
18 show in the next figure. Pot activity at Sites
19 11 and 13 produced an average revenue of 7,000 and
20 \$27,000 respectively per year from 2008 to 2010.

21 This amounts to about 0.6 percent of the
22 value of total exvessel landings by pot trap gear
23 types in New Jersey, Delaware, and Maryland.

24 So to me I thought it was most

1 representative to characterize the revenues that
2 are being derived from given the information we
3 have, comparing that to the total landings of that
4 gear type in New Jersey, Delaware, and Maryland.

5 When averaged the exvessel revenue from 2008 to
6 2010 derived from Site 10 comprised 4 percent of
7 the total revenue of the vessels that fished that
8 site. Vessels fishing 13 derived about 11 percent
9 of their total revenue from that site. Now, the
10 problem is the number of vessels is so small the
11 confidentiality laws and rules prohibit us from
12 giving you exact number of vessels.

13 And the rule is that you have three
14 vessels or less, we can't tell you exactly how many
15 there are, though, I'll give you some idea. It's
16 a small number of vessels.

17 So the take-home was that it's a small
18 number of vessels that would be impacted, and of
19 those vessels that are impacted a relatively small
20 percentage of their total revenue from the reef
21 sites would be lost if an SMZ was to be so
22 designated.

23 And this isn't showing up too well.
24 It's too far away. But we acknowledge Chad Keefe

1 from the Northeast Fishery Science Center. Chad
2 pitched in and did some GIS work for us, and this
3 is in your report.

4 Do I talk about it? Obviously, you
5 can't see it up there. The first figure is on page
6 31, the one I have up there. And this is a plot
7 showing VTR trips from 2004 through 2010 in
8 proximity to the artificial reefs. So Chad was
9 able to pull out all the VTR trips and plot those
10 relative to the reef sites. Now, the way this plot
11 works is the upper rectangle shows the whole area
12 all trips, and then they're color coded red, blue,
13 and green I think it is, and so the boxes below
14 correspond to the colors above, so it enables you
15 to zoom in and see what's going on.

16 It basically shows for all types of
17 commercial fishing there's significant activity
18 on most of the reef sites outside of 10. The next
19 one is on the next page, page 32.

20 And this is a depiction of a 2004-2010
21 activity from the VTR data using hand-line gear,
22 and this is for party and charter boat vessels only.

23 You can see there's quite a bit of activity on
24 all the sites, but a little greater activity on

1 11 and 13. Only one trip at 14.

2 And the next figure is the one that we
3 really need to look at is the activity of commercial
4 pot and trap gear relative to the reef sites for
5 2004-2010. And so in the first red square you see
6 9 and 10 it looked like there was one trip right
7 on the edge. You go to 11 and you can see
8 significant pot trap activity over those years on
9 the reef site as well as Reef Site 13, and Reef
10 Site 14 no reported pot trap activity.

11 Chris Moore used to have a little thing
12 or a story. He said the mind's like a TV set; when
13 the screen goes blank, it's a good idea to turn
14 off the sound.

15 So our screen went blank here, but I'll
16 keep the sound going. So the take-home message
17 is that we have some fishing activity on Reef Sites
18 11 and 13. And obviously the conclusion of the
19 theme was that it's likely that there is potential
20 for gear conflict and probably gear conflicts
21 occurring on those two sites.

22 We came back to where we were. So the
23 impacts on historical use summary conclusions were
24 there was little or no pot trap activity reported

1 from Sites 9, 10 and 14, unlikely any gear conflicts
2 were occurring at those sites; however, 14 is
3 currently used by a number of other gear types.

4 There was moderately low pot trap
5 activity at 11 and 13, and given the high
6 recreational value of those sites, likely those
7 gear interactions have been occurring there. The
8 next slide is designation of Sites 9, 10, 13 and
9 14 as SMVs would be consistent with past Council
10 policy relative to the permitting and deployment
11 at those sites but may not be relative to Site 13.

12 And in the appendix to the report, there's a letter
13 from Dave Keefer, then Executive Director of the
14 Council in 1994, I believe, where the Council was
15 opposed to the placement of an artificial reef at
16 Site 11 during the original permit application.

17 I also note that significant presence
18 exists in other regions, primarily the South
19 Atlantic. Conclude the designation of Delaware
20 reef sites SMZs would be consistent with the MSA
21 and other applicable law.

22 Other things I'd like to point out.
23 Number one is that the Council recommendation
24 relative to designation of Delaware's five sites

1 has implications for 30 other reef sites currently
2 permitted in the EEZ. There are a total of 35.

3 If you look at page one, that summarizes
4 by state the number of existing artificial reef
5 sites in the EEZ. And, again, the monitoring team
6 analysis is based solely on the issue of gear
7 conflicts at the five Delaware sites. And so we
8 note that the conclusion that the SMZ designation
9 for those sites would not impact a significant
10 number of entities, but that conclusion might have
11 been different if the Council were considering SMZ
12 status on all 35 reef sites simultaneously. So
13 I get to the recommendations. One is that the SMZ
14 decision is largely driven by policy
15 consideration, and one of the main jobs of the
16 Council is to deal with these sorts of issues.

17 The Council should or could convene the
18 Demersal Committee or a special working group with
19 industry advisory members to develop a longer term
20 solution to this issue which considers all relevant
21 factors.

22 Two, this is the main recommendation.

23 The Council should consider designating all five
24 Delaware reefs as SMZs when the recreational season

1 for black sea bass is open.

2 So the SMZ as we were interpreting it
3 would include prohibition of fixed pot trap gear,
4 but that certainly is something that could be
5 debated by the Council, exactly what prohibitions
6 they wanted to consider. We were asked about pot
7 trap gear.

8 To ameliorate any real or potential gear
9 conflicts, we received advice from Coast Guard and
10 NMFS law enforcement who recommended that a
11 thousand yard buffer surrounding each reef be part
12 of the SMZ for enforcement. And I'll note that
13 in the South Atlantic for their 51 SMZs there's
14 a 500 meter buffer around each one of those. So
15 it's the Corps of Engineers flat (inaudible)
16 definition of the reef site plus 500 meters in the
17 South Atlantic.

18 Kevin Saunders and Logan Gregory both
19 agreed and recommended a thousand yard buffer.
20 Now, the recreational season for black sea bass
21 is currently open January and February it closes
22 from March through May 18th.

23 It reopens May 19th through 14th of
24 October, closes for two weeks, opens again for

1 November and December. So the SMV would be in
2 effect periods as indicated up there.

3 When the season's open, conversely there
4 would be no SMV restrictions from March 1st through
5 May 18th or October 15th through the 31st. Now,
6 one of the issues is that the black sea bass quota
7 is likely to increase in the future. It's fairly
8 restricted right now.

9 We'll be debating the quota tomorrow
10 based on recommendations of the SSC. But when the
11 stock is declared to be rebuilt and there's
12 significant confidence in that determination and
13 it's made, it's likely that the season for black
14 sea bass will likely increase. It will be a longer
15 open season. So that would make it similar to the
16 moving target in the future if you adopted every
17 year what
18 the -- tying it to the sea bass season.

19 So the idea here is that we're operating
20 under Amendment 9, which essentially is black sea
21 bass plan. The contention is that we've got gear
22 conflicts, principally pursuing black sea bass,
23 and we can regulate any gear that potentially can
24 take black sea bass.

1 And so since it's a gear conflict, the
2 Committee thought that it would be reasonable to
3 ameliorate that conflict to establish the SMZ when
4 the recreational season is open.

5 The Council might also consider
6 establishing a fixed period based on historical
7 fishing patterns, but we did not do that analysis.

8 The third recommendation is that the future
9 considerations when considering all the potential
10 EEZ sights might cause the Council to change or
11 revise any SMZs as designations and any
12 accompanying restrictions.

13 So you'd be basically reserving the
14 right to make changes. The other thing that I kind
15 of dug up as I was going through this is the Council
16 actually adopted in 1995 an artificial reef policy.

17 It apparently was not acted on, a lot of
18 coordination in the meantime. Some 30-plus
19 artificial reefs were put in the EEZ with not a
20 lot of coordination.

21 And so our fourth recommendation is that
22 the Council should review the 2007 National
23 Artificial Reef Policy and modify it if necessary
24 and implement that Artificial Reef Policy adopted

1 in 1995. And with that I'll take any questions.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Rich,
3 thank you for that presentation. I know we're
4 going to have a number of questions. But the sea
5 bass quota increases as the data we put on the
6 ticker tape parade for John Bullard. So I'll look
7 forward to that.

8 The Delaware (inaudible) is represented
9 by Jeff Tinsman, and I just wanted to ask Jeff if
10 he had any comments he'd like to follow up with
11 following the staff presentation.

12 JEFF TINSMAN: Thank you,
13 Mr. Chairman. Just a couple quick comments. One is
14 addressing the issue about Site No. 11, which is
15 our most heavily used and a site which we've
16 invested the most in in development, possibly not
17 being granted SMZ status because of an 18-year-old
18 letter from the Council to Mr. Sam Franny at the
19 Corps when we were seeking our first round of
20 permits. I think a lot has changed in those 18
21 years. The comments that the Council received as
22 far as I know there was only one letter that they
23 received from Cape May Seafood that the Council's
24 comments were based on, and those were very general

1 in scope.

2 They just indicated that this area might
3 have been used in the past for potting or dragging
4 and don't distinguish it in any way from any other
5 piece of ocean bottom out there.

6 There were no specific comments about
7 the value of that bottom to any particular company
8 and so forth. So those were general comments.
9 In the intervening 18 years, we have spent 2.3
10 million dollars on developing our ocean sites.

11 Most of that, the largest percentage of
12 that has been expended at Site 11. That's where
13 the conflict with potting is the greatest, and I
14 would urge you to please consider those things and
15 the great changes that have occurred since 1994
16 in your deliberations over this issue. One other
17 quick comment about concerns the Council might have
18 about the 30 other permitted sites between New York
19 and North Carolina. Certainly, the state
20 representatives at the table could be more specific
21 about the intentions of their particular states
22 in seeking SMZ status, but repeatedly along the
23 way as we build up to making our request we reached
24 out to all these other states to see whether any

1 were inclined to join with us in our request for
2 SMZ status, and none were able to or decided to
3 participate at that time. So I don't see this as
4 a great land rush for SMZ status. Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,
6 thank you. Questions? Peter.

7 PETER HIMCHAK: Yes, thank you, Mr.
8 Chairman. I'm most interested in the procedure,
9 Rich. And you went through a number of options
10 that Chairman Robins has. You made reference to
11 referring this to the Demersal Committee, AP
12 meeting, public hearings.

13 Now, the presentation is being made
14 before the entire council today, so I'm trying to
15 understand the process again. Does the entire
16 council recommend to the chairman the course of
17 action to take, or can the chairman unilaterally
18 call all these organizations together to consider
19 the recommendations of the working group? I guess
20 that's my first question.

21 COUNCIL CHAIRMAN RICHARD ROBINS: And
22 I was going to have a similar question for Joel
23 in terms of whether or not we could take action
24 today on the request or if in fact we were bound

1 to go through any of the other procedures.

2 And if we would benefit from going
3 through the other procedures, I'd be open to the
4 Council's advice and intent because one of the
5 options is to send it to the SSC.

6 But, as Rich has pointed out, is this
7 primarily a policy decision? I don't think
8 there's a critical question of science that's left
9 open after that analysis that needs to be vetted
10 through the SSC.

11 There could be AP engagement. There
12 could be public hearings. To the best of my
13 recollection, this is the second time we've had
14 this item on the agenda for public discussion.

15 So these have essentially been public
16 hearings, but we haven't held any specific hearings
17 in addition to this I guess at the state level in
18 Delaware. So I'm open to discussion by the Board
19 about that. But I wanted to ask Joel if he could
20 clarify that, I mean if this is something that's
21 entirely discretionary. Joel.

22 JOEL MACDONALD: Well, we're scrambling
23 to put the reg on the screen. But I think just
24 as a practical matter, I think there needs to be

1 more discussion about what the options are
2 available to the Council and to get some more input.

3 We don't have a very large
4 administrative record here, and I think it behooves
5 all of us to go through a little bit more process
6 even though the regs may not require.

7 You have the option at least of having
8 public hearings. You don't have to, but I think
9 -- you know, referring it to a committee, making
10 sure there's a solid recommendation, bringing it
11 forward as a recommendation from the committee and
12 move it to the Council and have the Council vote
13 on what ultimately the committee decides to do,
14 it recommends the Council do, so.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
16 you, Joel. I think that helps clarify things.
17 And in light of that, perhaps we could convene the
18 committee at the October meeting, have a public
19 hearing in Delaware and then bring it to the full
20 Council. But certainly, we can have more
21 discussion about what the working group has come
22 up with today. Peter.

23 PETER HIMCHAK: Yes. As a follow-up,
24 Mr. Chairman. And I commend the four person

1 working group for doing so much work. Very good.

2 My next dilemma is this: The Delaware action --
3 and I've been instructed from our Department of
4 Environmental Protection in New Jersey that we
5 support the Delaware action moving forward with
6 SMZ determination.

7 Now, the dilemma we face is do we do this
8 piecemeal by state, or do we do a comprehensive
9 package for all areas? Because that's going to
10 be a lot more heavy lifting by maybe even a bigger
11 committee.

12 So I'd like some direction today from
13 the Council. Do we proceed addressing Delaware
14 sites? Do we have a preference for asking states
15 to come forward with their intentions?

16 We have 13 sites in the EEZ. Does our
17 request for SMZ determination slow down the
18 Delaware process and hurt their request? So this
19 is a lot of new ground for a lot of us, but I can
20 state for the record that our commissioner of the
21 DEP, he continues to work with the various sectors
22 to resolve gear conflict issues. We have not
23 received our federal dollars because we haven't
24 resolved the gear issues. But we may be moving

1 in the same direction. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you. George.

4 GEORGE DARCY: I have a question. I
5 assume that there's lobster fishing activity
6 within these areas, and to what extent would that
7 be impacted? Would that gear be excluded also
8 because it catches black sea bass?

9 RICHARD SEAGRAVES: I'll take first
10 crack at that. We had a discussion about what are
11 the implications of prohibition of gear on these
12 reef sites, and Joel can chime in or hopefully
13 follow up here.

14 But the idea is that we can regulate
15 under the black sea bass FMP any gear that
16 potentially could catch black sea bass. And so
17 since lobster gear could potentially catch sea
18 bass, then it would apply to lobster gear. Is that
19 correct, Joel?

20 JOEL MACDONALD: That is correct. I
21 think there's a letter to Paul Pollard back in 2010
22 that says -- you know, you can't manage the lobster
23 fishery through another MSA FMP; however, we're
24 not managing the lobster fishery; what we're

1 managing is the black sea bass fishery. These
2 particular pots catch not only lobster from what
3 I understand -- and my information is somewhat
4 limited -- but they do catch black sea bass.
5 That's been a recurring theme over the years I've
6 been involved in this. And it reminds me of the
7 Montauk Inlet Seafood case back in about 2000 or
8 thereabouts.

9 You may recall it was a case involving
10 the scup gear restricted areas. And we were sued
11 by the loligo fishermen because they believed that
12 they were fishing for loligo, and we couldn't
13 manage their fishery through the scup FMP.

14 Well, the court essentially said, no,
15 these loligos are catching scup; therefore,
16 they're fishing for scup; therefore, you can
17 regulate them under the scup FMP. And that's a
18 similar situation here.

19 What I also might suggest is because
20 there are a couple jurisdictional issues involved
21 here that we get the Commission involved to see
22 if they are willing to take any action on their
23 side of the lobster fishery management process or
24 if they need to.

1 But I think expanding the discussion to
2 include the Commission is s worthwhile idea. And
3 on our side, even though there are technical legal
4 points that I'm just offering up, I'm going to go
5 back or we -- the batons going the other way soon,
6 but we'll go back to GCF and have a discussion to
7 see what people feel with respect to would this
8 be an inroad into the lobster fishery that they
9 feel may be impermissible even given the Montauk
10 precedent.

11 So I think there are a number of fronts
12 that we have to move forward on. We'll take care
13 of the legal front, and the Council -- you know,
14 Rick and Lee, you can decide what you want to do.

15 Getting back to the regulations. They
16 finally popped up. And holding public hearings
17 and referring it to the SSC is all within your
18 discretion. So you've got the option of doing
19 those things.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
21 Joel, is it possible -- I mean the working group
22 considered based on the request that was received
23 just pot and trap gear I believe.

24 JOEL MACDONALD: Yes.

1 COUNCIL CHAIRMAN RICHARD ROBINS: But
2 other gear types can considerably interact with
3 black sea bass. Now, would it be easier to simply
4 say that you're going to allow -- I mean if you
5 were to do it -- that you were going to allow
6 hook-and-line gear within the SMZ exclusively, and
7 that way recreational and commercial fishermen can
8 use hook-and-line gear within the SMZ?

9 JOEL MACDONALD: Correct. It would not
10 discriminate against any commercial or
11 recreational fishermen that wanted to use that
12 gear. It's open to everyone. So you've got the
13 same rules for everybody.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Other
15 questions? Dewey.

16 DEWEY HEMILRIGHT: Dewey Hemilright.
17 In past years I've fished in these areas
18 predominantly with longline shark fishing. I
19 think in the areas where you've looking at it's
20 going to be predominantly black sea bass pots,
21 habitat pots, not baited pots.

22 When you're fishing you might catch a
23 lobster, but you're not lobster fishing. It's sea
24 bass pots because the depth of your water is too

1 shallow, not that you couldn't have a crawl in,
2 but the majority of it is.

3 And when I've fished in the area shark
4 fishing, it was predominantly just sea bass pots
5 gear at the time. It's been a few years ago. I
6 was wondering: Has Delaware held any public
7 comments meetings with the stakeholders --
8 anything for the record? 'Cause it just seems that
9 there's a good report here that was put together
10 by the four folks, but before I would be comfortable
11 with anything, just some input from the public or
12 an opportunity for the public either way on both
13 sides to speak up about that. Because I see
14 basically really no public record. I don't know
15 if anybody's been advised or whatever. But thank
16 you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,
18 can you comment on that?

19 JEFFREY TINSMAN: From our point of
20 view, we have regulations for sites in state waters
21 limiting harvest to hook-and-line and spear only.
22 And in the process of working up to that, we made
23 a number of presentations into our Finfish Council,
24 which actually includes a member who's a pot

1 fisherman in the ocean, and we got their support
2 for our state regulations as well as our approach
3 to the Council for SMZ designation.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Dewey.

6 DEWEY HEMILRIGHT: How about it looks
7 like where you're at the site there, you would
8 probably also have New Jersey and Maryland
9 fishermen fishing that area. I know as you move
10 farther south to North Carolina, there's not a
11 whole bunch of individual fishing quota activity.

12 So I was wondering about Maryland and New Jersey
13 'cause I would suspect -- I don't know the magnitude
14 of fishermen that's out there reading the report
15 a little bit -- but I would suspect those two states
16 would have some active fishermen that were sea bass
17 pot and not just only Delaware.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff
19 or Rich, could either of you comment on that?

20 RICHARD SEAGRAVES: I know we can easily
21 obtain that information. It's not summarized in
22 a report the state of residence of the folks or
23 the port let's say that the commercial fishing
24 vessels in the VTR departed from, but from what

1 I can remember to -- (inaudible)-- not just
2 Delaware fishermen would be -- I know some New
3 Jersey activity and perhaps Maryland. But I could
4 find out for you but not right at this minute.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Howard.

7 HOWARD KING: Yes. Thank you. I like
8 your idea of framing this as hook-and-line only
9 rather than a specific gear type exclusion. I
10 think that's important. I would prefer moving on
11 the Delaware request with more public process, and
12 we probably would have to have a hearing in New
13 Jersey and Maryland for the Delaware sites.

14 But I think other states would probably
15 come forward pretty quickly as we work through the
16 Delaware process, and that would help us then
17 formulate policy and ideas for the Mid-Atlantic
18 states in general. I don't think we should let
19 Delaware wait too long.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
21 you, Howard. Joel, do the permit holders have to
22 come forward and request SMZ status? Is that
23 necessary for the designation of an SMZ?

24 JOEL MACDONALD: Actually, the group of

1 folks that can request SMZ status is limited to
2 recipient of a U.S. Army Corps of Engineers permit.

3 Not to say somebody even though the
4 regulations specify that particular group that
5 somebody couldn't petition the Council to give an
6 area SMZ status. I mean there's always that.

7 COUNCIL CHAIRMAN RICHARD ROBINS: So we
8 would be looking for the states -- or it would be
9 expected that if there were other SMZ designations
10 made, that would originate with the request from
11 those respective states. Other questions? Rob
12 O'Reilly.

13 ROBERT O'REILLY: I wanted to follow up
14 on something I was thinking about when Jeff made
15 his presentation or his comments, I should say.

16 But the commercial hook-and-line it would seem
17 since U.S. Fish and Wildlife Service has already
18 indicated to Delaware about a possible loss of
19 funding and submitted a letter to New Jersey in
20 2011, I'm not sure what all is involved there about
21 loss of funding. Maybe we can hear more about
22 that.

23 That the idea of commercial
24 hook-and-lining on the reefs probably wouldn't be

1 something that would be entertained. It would
2 seem that Delaware may have a little bit of a
3 situation where they'll have to address that when
4 the time comes for their hearings, but to say
5 hook-and-line only I can't see the U.S. Fish and
6 Wildlife Service would favor that.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Can
8 you address that, Jeff?

9 JEFFREY TINSMAN: In our discussions
10 with John Oregon and some of the folks at the Fish
11 and Wildlife Service, commercial hook-and-line
12 does not provide any impediment to the recreational
13 activity. It was the main intent of building the
14 reefs, so that would not create a conflict in their
15 mind and be a source or a reason for loss of funding.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thanks for that classification. Howard.

18 HOWARD KING: Jeff, in Delaware our
19 commercial hook-and-line fishermen are subject to
20 the same size limit and quota limit for black sea
21 bass as recreational.

22 JEFFREY TINSMAN: My understanding is
23 they have a quota, and they're not limited to the
24 daily harvest limits. And I'm not sure one way

1 or the other about the size limits.

2 I know potters can take an 11-inch fish,
3 and hook-and-liners recreational folks have to
4 take a 12 1/2 inch fish. So I'm not positive on
5 that part of it.

6 But in general the gear that they're
7 using is not anything that's going to be a problem
8 for the recreational folks. This is not an
9 allocation issue. I guess it's strictly a gear
10 conflict issue the way we see it now.

11 COUNCIL CHAIRMAN RICHARD ROBINS: JEFF
12 DEAN.

13 JEFFREY DEAN: We noticed or we were
14 told what the recreational season was for black
15 sea bass in Delaware. Is the commercial season
16 the same?

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,
18 can you comment?

19 JEFFREY TINSMAN: There again, my
20 understanding is that the potters have an annual
21 quota, and they can fish anytime. So while the
22 season was closed, they would be able to use the
23 reef sites as proposed by the Monitoring Committee.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Kevin.

2 KEVIN SAUNDERS: Thank you, Mr.
3 Chairman. I just want to point out that from an
4 enforcement perspective if we separated the
5 different gear types for passive gear between black
6 sea bass and lobster, it's extremely difficult to
7 enforce that particular to vessels not actively
8 tending to the gear without expending some serious
9 resources from enforcement's point of view.

10 It's slightly more difficult to enforce
11 a regulation that differentiates between the
12 recreational and commercial hook-and-line
13 fishing, but that's easier than if you were to
14 differentiate between two different passive gear
15 types that are just in the water. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you, Kevin. Dewey.

18 DEWEY HEMILRIGHT: I believe that in
19 Delaware they got individual fishing quotas or a
20 certain amount allocated to them because sometimes
21 they use different types of gear to land a certain
22 amount. But I don't believe it's a season. I
23 believe it's individual fishing quota to the
24 individual fishermen.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you. Chris.

3 CHRISTOPHER BATSAVAGE: Thank you, Mr.
4 Chair. This question might be better for Jeff.

5 If pot and trap gear were prohibited from these
6 sites when the recreational black sea bass season
7 was open but was allowed to be used when the
8 recreational season is closed, would that
9 alleviate the gear conflict issues on the reef
10 sites, or is there a recreational fishing activity
11 for other species during these times when pot and
12 trap gear would be allowed?

13 JEFFREY TINSMAN: That's a good
14 question. I'm not sure. Certainly, there are
15 flounder on the site that people could be fishing
16 for. The seasonal SMZ idea is not a perfect
17 solution to our problem. Part of the problem we
18 have comes from ghost pots. The nature of our reef
19 materials in some way cars pretty much like a train
20 car with an iron grate on each side of each end
21 of the car. You can imagine trying to pull a
22 polypropylene line around the end of any car. That
23 line's going to part as you're trying to retrieve
24 it if you come in contact with a car. And there

1 are 997 cars on Site 11 so plenty of opportunity
2 for lost pots.

3 And there are a lot of lost pots, and
4 so this would be an annual increase in the number
5 of ghost pots that fishermen would have to deal
6 with. So, as I say, it's not an ideal solution,
7 but it's a start, and my hope would be that when
8 the stock is approaching restored status that
9 eventually there wouldn't be any closed season and
10 we would have a true SMZ.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
12 you, Jeff. Further discussion? Mike.

13 MICHAEL LUISI: Yes. Thank you. I
14 should just make note on the record I don't know
15 how all the other states are set up in the
16 Mid-Atlantic, but of the 30 sites that were
17 mentioned earlier, I believe that seven of them
18 are in federal waters off the state of Maryland;
19 however, the state does not hold the permits with
20 the Corps on any of those sites. All of those
21 permits are held through the Town of Ocean City
22 through the Ocean City Artificial Reef Foundation
23 I believe is the name. So if we're looking to
24 expand this request -- and it wouldn't be up to

1 the state from how I understand it to make that
2 request; it would have to come through the City
3 of Ocean City to the Council.

4 And to my knowledge at this point, we
5 do not have the same user conflict issues, nor were
6 sport fish restoration Wallop-Breaux funds used
7 to develop any of those sites off the state of
8 Maryland's waters. So I don't know how the other
9 states are set up, but we're in a little different
10 situation compared to Delaware. Thanks.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Mike,
12 thank you for that clarification. Based on what
13 I've heard so far, I think one way to proceed would
14 be to take this to the Demersal Committee, engage
15 that committee in the development of options, and
16 then take those options out for one or more public
17 hearings in the area and get some more feedback
18 on it before making a final decision at the council
19 level. John.

20 JOHN MCMURRAY: Thank you, Mr.
21 Chairman. Jeff, what portion of the funding for
22 the artificial reef sites comes from the
23 Wallop-Breaux program?

24 JEFFREY TINSMAN: I would say close to

1 75 percent. Wallop-Breaux funds require 25
2 percent match of either nonfederal or contributed
3 materials and services, that sort of thing. It's
4 by far a major funding source.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Peter.

7 PETER HIMCHAK: Yes. Again, back to
8 the process. So we make a recommendation to the
9 Regional Administrator, say, for the five Delaware
10 sites, and then how would the management measures
11 -- say it comes out with this
12 recreational-commercial seasons on/off the site,
13 recreational measures can change every year.

14 So do we do a benchmark to Amendment 9
15 with the stipulation in there that these five sites
16 or four of the five would have regulations
17 depending on how the recreational measures are set
18 in a given year? And how quickly could this
19 Delaware request be implemented?

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 George or Joel, do you have a comment on the timing
22 of how long it will take to implement the regulation
23 and where the regulation would reside?

24 JOEL MACDONALD: It will take probably

1 several months to -- let's say you get a document
2 fee that has everything that the Agency needs,
3 we'll have to do all sorts of analysis.

4 All the laws and executive orders that
5 Rich mentioned in relation to his presentation on
6 legal considerations would apply to the rule making
7 process. So we'd have to make sure all the
8 analysis is done. Then we'd move forward with the
9 proposed rule request for comments, and then after
10 that we go with the final rule.

11 That will take -- I can't say precisely
12 how many months exactly. George may have a better
13 idea. But it will be at least several months
14 before that would get implemented.

15 GEORGE DARCY: I assume there will have
16 to be an EA for this. Is that something that the
17 Council staff is going to prepare, all the
18 analytical documents as they would any other packet
19 before they submit it to us? Or no?

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Chris, were you going to take that bait?

22 CHRISTOPHER MOORE: I'll take it. I
23 guess I was naive in thinking that this would move
24 a little quicker and that the Council would act

1 on the material in the briefing book that Rich
2 presented today.

3 I do agree that we need -- after hearing
4 the discussion, that we do need some additional
5 public input. But my understanding is that this
6 would be a simple Council recommendation to the
7 Regional Administrator and that it would be a
8 letter not a package.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 George.

11 GEORGE DARCY: In that case, I would say
12 it would probably be four or five months from the
13 time you made that request if we have to do the
14 EA and the analyses, proposed and final rule, and
15 cooling-off period.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you. Warren.

18 WARREN ELLIOTT: Thank you. Is
19 timeliness an issue? I mean are the funds going
20 to be rescinded or cut off? I mean is there a
21 deadline?

22 JEFFREY TINSMAN: I don't know that --
23 we've been put on notice that we're subject to loss
24 of funds if we don't address this issue, and so

1 far the Fish and Wildlife Service folks and Sport
2 Fish Restoration folks have been letting us slide
3 based on incremental progress that we've been
4 making, first, with regulations in state waters
5 to control potting on those sites and our
6 presentation last June before the Council.

7 I was also hoping that based on the
8 Monitoring Committee report, which seems to leave
9 the door open for council action on our request,
10 that the Council might take action at this meeting
11 recognizing that that could all change in the
12 future when further considerations are made based
13 on things other than gear conflicts.

14 But we were hoping to keep the ball
15 rolling and send the request to the Northeast
16 Regional Office as soon as possible.

17 COUNCIL CHAIRMAN RICHARD ROBINS: That
18 also -- the request has been made of the Council,
19 so it's actively under consideration. I think the
20 Service is aware of that. And if the Council
21 decides to refer this to the Demersal Committee
22 specifically to develop the range of options for
23 action and schedule public hearings we can transmit
24 that, of course, to the Fish and Wildlife Service

1 to keep them aware of where we stand in the process.

2 Chris, just in terms of scheduling,
3 would you anticipate a problem with putting this
4 on the October agenda for the Demersal Committee
5 to develop that range of options?

6 CHRISTOPHER MOORE: Mr. Chairman, I
7 think the range of options is pretty
8 straightforward, not having been directly involved
9 like Rich has in the process. So I think in terms
10 of the actual option development should be
11 relatively easy.

12 Certainly, we can put it on the October
13 agenda. If we do in fact go ahead with public
14 hearings, though, remember that we have that 23-day
15 period that we have to notice the public. So we'd
16 have to decided pretty soon if in fact we wanted
17 to do something before the October council meeting
18 and have that public input for the Council to
19 consider it in October. So we'd have to act on
20 it pretty quick. But we could do it.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I
22 guess one way to do is to have the Demersal meet
23 in October, finalize a range of options, and then
24 hold public hearings on those options and take

1 final action at the December council meeting. If
2 you want to schedule a meeting of the Demersal
3 Committee and then have public hearing prior to
4 taking action. Rob O'Reilly.

5 ROBERT O'REILLY: Based on a couple
6 comments today, would it be very difficult to get
7 information on all the reefs in terms of lack of
8 funding by Wallop-Breaux or funding by
9 Wallop-Breaux?

10 Mike just indicated the seven in
11 Maryland are not Wallop-Breaux funded, the five
12 in Virginia are not Wallop-Breaux funded. That
13 may come up again when someone thinks a synoptic
14 plan is the next step. Permit authority would also
15 be important. Probably those two questions.

16 And then also there was one other
17 comment, and I don't know if this is important or
18 not, but the comment that Dewey made on the other
19 states, the adjacent states. I'm assuming what
20 the document has here, all the trips regardless
21 of the origin of the trip, but it might be good
22 to know some kind of a state breakdown, a current
23 state breakdown of trips out there. I don't know
24 whether that's important or not for the problem,

1 but it's something at least I felt was a good
2 question.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Rich.

4 RICHARD SEAGRAVES: I think we might run
5 again into the confidentiality issue. We couldn't
6 report the total universe of vessels in the whole,
7 so to break it down by state would be even worse.
8 We could tell you what states they came from.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Chris.

11 CHRISTOPHER ZEMAN: What's the
12 opportunity for other states to request SMZ status
13 for their reefs? Would that timeline that you
14 proposed, public comments in October and final
15 action in December, allow for other states to make
16 a request that we can incorporate in that process?

17 CHRISTOPHER MOORE: There seems to be
18 a little confusion about how this might work for
19 other states. We can't just do a blanket SMZ for
20 all artificial reef sites in the EEZ. So we need
21 a letter from each one of the states requesting
22 that very specific reef sites be designated as SMZs
23 or having SMZs associated with a very specific reef
24 site.

1 So after this meeting, for example, if
2 the State of New Jersey decides that they want to
3 move ahead with SMZ status for five of their reefs,
4 we'd have to get a letter from the State of New
5 Jersey requesting the Council consider that
6 particular request. So we would just accommodate
7 each request as it came in.

8 The idea would be that we move forward
9 and get this Delaware one through the system, and
10 then as the other ones start coming in if in fact
11 we have other ones, we review those as well.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Dewey.

14 DEWEY HEMILRIGHT: Yeah. I would think
15 as far as the states, I mean it's probably just
16 a few fishermen Ocean City, Maryland that sea bass
17 pots, Cape May just a handful.

18 Delaware appears it's discovered it's
19 one pot fisherman. That's it. He's fine with it.

20 I mean you don't need to reinvent the wheel here.

21 Just make a couple calls or you get a state rep
22 to go there around the dock, say, hey, you know,
23 here's what was brought up, we're looking at it,
24 you got a wealth of information here.

1 There is confidentiality thing. If
2 it's three or less, you might run into that. But
3 I don't think it's a whole bunch of -- it don't
4 appear here like it's a whole bunch of fishermen.

5 And your VTR would tell you a few
6 different things. But as far as -- I just want
7 to make sure there's opportunity for the affected
8 fishermen that they get a chance to go on the record
9 and have the opportunity to know whether they take
10 advantage of it or not. That's the only thing I
11 want to make sure happens.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Steve.

14 STEVEN HEINS: Thanks, Mr. Chairman.

15 I'm just following up on what Chris was saying.

16 I just want to make sure everybody understands
17 that it's not the state that's petitioning, it's
18 the permit holder. And if there's an artificial
19 reef site that a state or some permit holder in
20 the past has built but the permit's not current,
21 they can't request anything. So there may be a
22 site there and there may be gear conflicts going
23 on, but unless an active permit is held by someone,
24 there can be no request. That's my understanding.

1 COUNCIL CHAIRMAN RICHARD ROBINS: John
2 Bullard.

3 JOHN BULLARD: I'm new here, but it
4 seems to me that we're all trying to get this done
5 quickly. But if Chris' thought was let's get a
6 letter to the feds, I think that scenario would
7 have us doing the design work, and that's I think
8 the wrong level of government doing the design
9 work.

10 I think this needs to be designed at the
11 level closest to the problem. That's what we're
12 seeing. And that we're going to consult with you
13 guys right along the way, but there are a lot of
14 fundamental questions. That's evident from the
15 discussion.

16 And so a lot of phone conversations are
17 going to happen and a lot of e-mails as you do it,
18 and we're going to be involved in all of those.

19 But as you work those out, I envision
20 what's going to happen is as they all get answered,
21 you're going to end up with a design that when it
22 comes to us, it's going to go sailing through.
23 But all those questions got to get answered first
24 along the way. That will ultimately be the

1 quickest road.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you, John. I saw a few hands from the public.
4 Let me just catch a few public comments before we
5 come back for action. Jim Fletcher.

6 JAMES FLETCHER: I'll be brief. Rick,
7 can you lay over the scallop grounds they closed
8 areas of the scallops and where the scallop fishery
9 predominantly fishes.

10 Because this is not my area of expertise,
11 but we have one fishery that's operating
12 economically, and that's the scallops, and I don't
13 want to see one square inch of the bottom that's
14 not closed for managing scallops. So can you pick
15 up there as where the scallop closed areas are and
16 where the scallop boats are fishing?

17 RICHARD SEAGRAVES: The figure that's
18 in the report is all gears for commercial activity.
19 So we could provide that, not today. Certainly
20 we could provide that information.

21 However, my recollection we did have
22 some gear stuff that we were looking at that didn't
23 make it into the report. Most of the scallop
24 activity was in around current Site 14 I believe.

1 But we don't have it here today.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you, Rich. Other public comments? Yes, sir.
4 Please come up to the microphone and state your
5 name for the record, if you would. Please turn
6 the microphone on. Thanks.

7 DOUG TAYLOR: My name is Doug Taylor,
8 state of New Jersey. I represent nobody but
9 myself. I don't want your vote at this time for
10 the SMZ, but it has to be made.

11 The reason being is that resources must
12 be protected, not eliminated. On pages 31, 32 to
13 me there appears to be a conflict of the -- there
14 just seems to be a conflict.

15 If you're looking at a fluke drift, they
16 will tie into the existing traps. There's too much
17 chance of snagging. For this reason the SMZ
18 designation should be granted; however, it should
19 be from the home state ruling and not federal.

20 The reason being is local rule knows the
21 problems much better than federal. The reason I'm
22 doing this is there's a report back in 2001. It
23 was a workshop by the Natural Resources Defense
24 Council.

1 They designated a map for putting a
2 no-fishing zones present. One of the main areas,
3 believe it nor not, was the map of the Delaware
4 River -- I'm sorry -- Delaware Bay extending all
5 the way down the coast of Delaware.

6 It extends a fair number of sites off
7 New Jersey, and this is going to effect us if we
8 don't do something now. We'll have no-fishing
9 zones like California has.

10 Please take this into consideration a
11 (inaudible) of the home rule. Remember that we
12 are stewards of our environment. We are not to
13 be ruled by a small amount of people.

14 Which if we don't do something now will
15 happen. Remember that New Jersey is going to
16 probably be the next one that will be looking for
17 the SMZs.

18 The reason being I believe we have about
19 15 sites or reefs. Of them 12 fall into the SMZ.

20 A map for the at-home rule. The only thing that's
21 keeping us from applying for it right now is one
22 politician holding up a bill.

23 I want to thank you for your time. I'm
24 really frustrated, and the reason being is I'm

1 speaking personally. That bill and not granting
2 closing of our reef program does not allow me to
3 place a memorial on any of the reefs all through
4 the state of New Jersey. Those funds are closed
5 down. There is no funds are allowed to be
6 designated for this. If it comes to a time when
7 the SMZ is allowed to be designated by each state
8 at home rule allows for a lot of things to be done
9 a lot more efficiently. Please do not pass the
10 buck. Thank you for your time.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
12 you. Other comments? All right. Bob.

13 ROBERT BEAL: See if I can do this
14 without spilling anything. I just want to get back
15 to the comment that Joel made earlier about his
16 initial read is that lobster gear should be covered
17 because it has a potential to catch black sea bass;
18 under the Magnuson-Stevens Act it should be
19 covered.

20 He also mentioned you'd go back to the
21 office and talk to the other lawyers there and see
22 if you're comfortable with that read.

23 I guess once you go back, if you do find
24 out that something needs to be done through the

1 Commission process or the Atlantic Coastal Act,
2 in the spirit of moving this along as quickly as
3 possible, if you can let the Commission know. Then
4 we can bring it to our board and get a
5 recommendation back to National Marine Fishery
6 Service as quick as we can because our board has
7 not talked about this issue at all, so we don't
8 have a position yet. So if there is a decision
9 or an indication our board needs to take some
10 action, just let us know. We can start the
11 process.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thanks, Bob. Further comments? Peter.

14 PETER HIMCHAK: One last comment. A
15 question, rather. Maybe Rich or Mr. Darcy can help
16 me out on this. In the event that New Jersey
17 proceeds with a petition on its 13 reef sites in
18 the EEZ, the statements here on impact are limited
19 to the Delaware petition.

20 What additional burden -- you mentioned
21 doing an EA. Do we move to a higher level of
22 analysis? I know the requirements on the working
23 group would be substantial if you're going to deal
24 with 13 additional sites.

1 And I'm just looking for advice here on
2 -- I mean do we do a disservice to Delaware's
3 requests because we're going to tie them up in a
4 more lengthy process? What's your opinion? I
5 mean I got to get some advice here on how timely
6 other states may want to move on this SMZ
7 determination.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Peter, I would think if another state comes
10 forward, we're still going to move forward on the
11 stated timeline with Delaware's request.

12 So I don't think we're going to stop
13 everything to take up the second request. I mean
14 we'd put that into the pipeline and begin to work
15 on it just as we've processed Delaware's. But
16 George had his hand up as well.

17 GEORGE DARCY: I think that's right.

18 I think you'd be better off going forward with the
19 Delaware one, since you've already come pretty far
20 with it. It's pretty small in scope. Any public
21 input sounds like it would be fairly
22 straightforward.

23 And I think it would be an EA, not an
24 -- I think you're asking if you expanded this, would

1 it go to an EIS? It could. But for a lot of
2 reasons I think based on what I'm hearing, you'd
3 be better off going ahead, finishing this one up,
4 submitting it; and then if you want to go through
5 a similar process for other states, do so. That
6 would be my advice.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
8 you. John McMurray.

9 JOHN MCMURRAY: Thank you, Mr.
10 Chairman. I have another question for Jeff. That
11 75 percent number is astonishing. I was kind of
12 under the understanding based on the discussions
13 that it was more like 50 percent, which would lead
14 me to believe that this is not just a gear conflict
15 issue, but a fairness one 'cause essentially the
16 recreational community are paying for these reefs.

17 I'm wondering if there's been any discussion with
18 Fish and Wildlife along those lines?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,
20 do you have any comment?

21 JEFF TINSMAN: I'm afraid I didn't get
22 the question.

23 COUNCIL CHAIRMAN RICHARD ROBINS: John,
24 can you repeat it? It related to the fairness.

1 JEFF TINSMAN: You're asking about the
2 percentage of Wallop-Breaux funds?

3 JOHN MCMURRAY: You gave me the answer
4 already on the percentage. That was 75 percent
5 paid for. These reefs were 75 percent paid for
6 through Wallop-Breaux funds if I understood you
7 correctly. And that would lead me to believe that
8 not only is this a gear conflict issue, but it's
9 a fairness one because the recreational community
10 appears to be paying for most of these reefs. And
11 I'm wondering if Fish and Wildlife has brought that
12 concern up with regard to proper use of
13 Wallop-Breaux funds if commercial pots or even
14 hook-and-line fishing is still allowed on those
15 reefs.

16 JEFFREY TINSMAN: Well, we've been
17 having this gear conflict for well over 10 years
18 and really didn't raise the issue. I mean we came
19 in to a couple meetings in 2007 about SMZ issues,
20 didn't pursue a request at that time.

21 But what really forced this to the table
22 -- this is not a discretionary request on our part
23 -- but a recognition of the problem by the Fish
24 and Wildlife Service that their program which is

1 strictly recreational money and recreationally
2 oriented that is in our case I guess a lot of states
3 are using their Wallop-Breaux funds in other ways.

4 We're a small state. We have access to
5 minimum one percent of the
6 Wallop-Breaux pot that all smaller states get, but in
7 our case we have a small staff, a small state, and
8 we have a lot of Wallop-Breaux funding for things
9 like launch ramps and artificial reefs and that
10 sort of thing. So without that money, we're out
11 of the reef business. And that's the situation
12 that New Jersey found themselves in in April of
13 last year, and they didn't have much warning. And
14 my associate from New Jersey is now working on
15 herring instead of building artificial reefs,
16 which is where he ought to be, so. We're trying
17 to keep that from happening. And, as I said, I
18 think our back is to the wall. My job in the last
19 20 years -- and I think Delaware has a very good
20 successful reef program -- is over unless we
21 resolve this issue.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
23 you, Jeff. And it seems that the actual details
24 related to options would be fairly small in number.

1 Jeff pointed out that the seasonal
2 solution there may not be the best long-term
3 solution, that is, whether it should be seasonal
4 or year round.

5 We've discussed whether or not it should
6 be hook-and-line only within the SMZ or exclude
7 specific gear types. It sounds like there are
8 probably there are a few items that still need to
9 be hammered out at the committee level. And I
10 would just ask if there's any objection to going
11 back to the Demersal Committee in October, tasking
12 the Committee with developing those options, and
13 then we could have a public hearing between October
14 and December, one or more at the request of the
15 Committee and Council, and then try to take final
16 action in December.

17 As we go forward, I think we could ask
18 the general counsel to continue to explore the
19 question of whether additional collaboration is
20 necessary with the ASMFC or if they'd have to
21 comment on the request as well and resolve it in
22 that manner. Is that acceptable to the Council?

23 Okay. Seeing no objection to that, then
24 we'll proceed in that manner. Thank you all very

1 much. And, Rich, thank you for the presentation
2 on behalf of the working group.

3 All right. With that, let's come back
4 at 10 after 3, and we'll have the report on the
5 scup allocation. I see a number of ASMFC members
6 coming in. I'd like to welcome them and invite
7 you to sit at the table with us when that
8 presentation is made. And, again, we'll come back
9 at 3:10. Thank you.

10 [Break: 3:00 p.m. to 3:12 p.m.]

11 COUNCIL CHAIRMAN RICHARD ROBINS: Let's
12 go ahead and come back to our seats, please, so
13 we can get started. At this point we have a
14 presentation by Brad Gentner on the scup allocation
15 report. This is a report that the Council
16 commissioned some time ago. It's obviously of
17 significant interest both to the Council and the
18 ASMFC.

19 And, again, we have a number of ASMFC
20 board members here today. Welcome to all of you,
21 and we look forward to today's discussion and then
22 tomorrow specification setting. So with that,
23 I'll go ahead and turn to Brad. Brad, welcome.

24 _____

SCUP ALLOCATION REPORT

1
2 BRAD GENTNER: Thanks. Can everybody
3 hear me all right? Excellent. Just one quick
4 thing before I get started. I do want to preface
5 all of this with this was a long project. It took
6 us a long time to get this taken care of, and when
7 we started it, the catch limits were a lot lower
8 than they are currently in 2011, and that thread's
9 going to go through this whole presentation. And
10 so I just wanted to put that out there at first.

11 And I'm going to start with sort of a review of
12 economic principals. Get us all on the same page
13 about why we're talking about economic value versus
14 economic impacts, how we go about estimating
15 producers surplus, commercial producers surplus.

16 The commercial seasonal models we looked at and
17 for-hire producer surplus. Estimating retail
18 consumer surplus, estimating recreational
19 surplus. The results of our analyses and sort of
20 the issues we encountered and the caveats we have
21 with our analysis -- a little bit of a discussion.

22 So why don't we focus on economic value
23 rather than economic impact. Economic value is
24 a normative metric. It answers the question: You

1 know, is this policy a good decision; is this a
2 good thing for society to do? And economic value
3 monetizes the value people place on resources and
4 resource use.

5 Like I said, it answers the question is
6 society better or worse off as a result of a
7 particular policy. Economic impacts is a positive
8 metric. It doesn't answer any questions. It's
9 just a display of data about our economy.

10 It doesn't answer if the policy is better
11 or worse than another policy, but it does sort of
12 explore equity and fairness, who wins and who loses
13 as a result of a policy. And it does this primarily
14 through examining the flow of expenditures through
15 a community.

16 And I like to use an example of
17 hurricanes as a demonstration between a positive
18 metric and a normative metric. From a normative
19 standpoint using economic value, hurricanes are
20 bad. Nobody wants to see a hurricane. They're
21 negative to society. They cause enormous
22 financial losses, value losses.

23 But if you were to look at a hurricane
24 from an economic impact standpoint, everybody

1 rushes out to Home Depot, buys all their plywood
2 before the event, buys all their chain saws after
3 the event. Every roofing crew from a 10-state area
4 comes to your state afterwards.

5 And it generates all these positive
6 economic impacts, all this additional money and
7 new money flowing through your community. And if
8 you were to use economic impact to judge whether
9 or not a hurricane's a good thing for your town
10 or your city, you'd say, wow, they're fantastic.

11 So that's why I want to caution everybody
12 here: Economic impacts are a part of this
13 presentation. We're going to talk a little bit
14 about economic impacts, but you can't use them to
15 judge whether or not one policy is better than
16 another. They're just simply numbers. They do
17 sort of explore the question: Who wins, and who
18 loses specifically? So the distribution of
19 losses, who's ox gets gored after a policy is
20 implemented. And so what is economic value? I'm
21 going to start here. Here's a thing probably no
22 one ever thought they's see again since their
23 elementary economic courses in college, but here's
24 a supply-and-demand curve.

1 And to boil this down, producer surplus
2 is the area below price and above the supply curve;
3 consumer surplus is the area below demand and above
4 the price. That's all fine and good, but what the
5 heck does that mean?

6 I'd like to start with producer surplus
7 because it's a real easy concept to talk about.

8 It's really the producer of the commercial
9 fishermen or the retail processors. It's their
10 profit. It's the amount they get to keep and take
11 home above and beyond the cost to produce that
12 particular good.

13 So, from a definition standpoint,
14 everybody knows what that is. Everybody knows
15 what profit is. That's a bit of a simplification
16 but not much.

17 And so I want you to think about consumer
18 surplus or a recreational user's value or the
19 consumer of a scup filet what their value is
20 consumer surplus. It's their profit from eating
21 that fish or catching that fish. It's the amount
22 of value they retain above and beyond the cost of
23 enjoying that trip or buying that fish filet. So,
24 if you want to think of it as a consumer's profit,

1 I find in explaining these concepts, that's a very
2 easy way to think about that and can help people
3 sort of wrap their heads around what economic value
4 is for a consumer or for a recreational angler.

5 And so what are economic impacts?

6 You've heard of a woman going into what's going
7 to be a donut shop, spending five bucks, and of
8 that five bucks you see all of these pieces that
9 circulate in the economy.

10 You have a dollar going to the manager
11 who looks like a really bad person, fifty cents
12 going to this guy who's actually boxing up the
13 donuts for her and ringing up her change.

14 You've got 10 cents that comes back to
15 the state house in taxes. You have a nickel going
16 to the transportation guy and \$3.25 going to this
17 factory.

18 This factory gets some electricity.
19 The donut store gets some electricity. All of
20 these transactions add up and sum up in the region
21 you're examining, and those are the total economic
22 impacts. You see the county line there. We're
23 assuming this slide is your county, anybody's
24 county where donuts are purchased. Anything that

1 goes outside of that county, anything that has to
2 be brought in from outside that county, whether
3 it's a county, a town, a state, whatever your study
4 region is is an import and disappears.

5 So that dollar that goes to let's say
6 the grain and the train cars and the 50 cents that
7 goes to the dairy producer are outside our study
8 region and those don't sum in that total.

9 And so that's just a real basic
10 description of what economic impacts are. It's
11 a sum total of all the economic activity that's
12 generated as that five dollars moves through your
13 particular economy in your study region. So
14 that's sort of a really basic, really quick
15 overview of the difference between economic impact
16 and economic value.

17 And so what are the goals of fisheries
18 management? I'll spend a second here. Is it to
19 maximize economic value and economic efficiency?

20 Well, no, not solely. We have no sort of national
21 standard that says this is what you should do.
22 But it comes up in several pieces of Magnuson that
23 we should be looking at economic benefits. But
24 we have to also look at equity and fairness.

1 Economists don't do very well with equity and
2 fairness. There's really no sort of quantitative
3 way to look at equity and fairness.

4 Economic impacts are one way to examine
5 sort of equity and fairness, how changes move
6 through an economy. And we also have to focus on
7 stock sustainability.

8 This report is only going to look at
9 economic efficiency, only one piece of sort of this
10 allocation puzzle. And we're going to look at it
11 using an equal marginal principal.

12 What that basically says is economic
13 value is maximized for the owners of the resource,
14 which is every single citizen in the United States,
15 when the marginal value for each sector are the
16 same.

17 So and the marginal value is -- I'm going
18 to define that really quickly -- is a value per
19 pound of scup is how we're going to define that.

20 And so for that next scup what is the
21 profit for the commercial guy, what is the consumer
22 profit for the recreational fisher, what is the
23 consumer surplus or consumer profit for the
24 consumer who buys the scup in the marketplace, and

1 what is the profit for the for-hire industry, both
2 the charter boat industry and the headboat
3 industry. You can't define that in two
4 dimensional space necessarily, but where all of
5 those are equal is what each sector should be
6 granted in sort of allocation.

7 And so what that means is we set out with
8 a goal in this project to trace out that demand
9 curve for quota for every sector. At every piece
10 of the quota, every pound of quota going from zero
11 quota to all of the quota, what is the marginal
12 value along that curve.

13 And what I'm going to get to as we move
14 through this we couldn't do that. There's a lot
15 of reasons we couldn't do that on this particular
16 case.

17 But from the very get go, we decided we
18 shouldn't do it, and one of the reasons was the
19 particular model we're using on the recreational
20 side that was estimated by National Marine Fishery
21 Service staff is incredibly big and
22 computationally challenging model.

23 And so it was very difficult to trace
24 out that whole function. And the other, we were

1 very concerned the study group was composed of
2 Atlantic States Marine Fishery staff, Commission
3 staff, and Council staff and National Marine
4 Fishery Service staff. We were really concerned
5 about forecasting too far away from the status quo.

6 And so here's what we wanted to do. We
7 wanted to trace out the demand curves from quota.

8 Here we have say the commercial demand for quota
9 and the recreational demand for quota, and the
10 equal marginal principal says we should allocate
11 these stocks where those two demands cross.

12 Boy would we have loved to have done
13 that. We weren't able to get there. But that's
14 what we set out to do. We're still going to use
15 the equal marginal principal.

16 And that is, we're going to focus on the
17 marginal values across these different sectors to
18 try to lead us in the direction of advice for
19 allocations.

20 And here's sort of the nut of why we ran
21 into problems here. The current allocation is
22 about 78 percent commercial, 22 percent
23 recreational. And before 2011 and during
24 rebuilding the recreational regulations were

1 tighter than ever across scup and other important
2 recreational fisheries. So you had the rec sector
3 really sort of clambering for some meat fish. Give
4 us some meat fish we can have and take some home
5 and participate in a fishery that allows us to keep
6 some fish. At the same time the recreational
7 anglers were regularly exceeding their quotas.

8 And yet on the commercial side, we had
9 some areas and some regions that had seasonal
10 market gluts that were driving prices to near zero
11 at times, and they were not harvesting their quota
12 in the years that they had the quota.

13 And so this all indicated to the Council
14 that they needed to potentially reallocate the
15 stock. And so that's why they contracted with me,
16 and that's why we formed this group of folks from
17 the Council and the Commission and from NMFS to
18 look at this issue.

19 Well, in the interim, the Council more
20 than doubled the harvest limit for 2011. And what
21 we're going to see in sort of econometric terms
22 is it sort of obviates the need to even examine
23 allocation. And we found that in our models.

24 So from the Planning Committee and

1 Steering Committee instead of examining all
2 potential allocation options and looking at the
3 complete demand curve for quota, we instead
4 examined these sets of allocation changes. On the
5 recreational and commercial split, we did plus 9
6 percent recreational in 3 percent increments all
7 the way down to negative 6 percent recreational
8 and visa versa for the commercial fleet; and for
9 seasonal allocations between winter and summer,
10 Winter 1 and Winter 2 and summer, we looked at plus
11 9 percent to negative 9 percent -- there's a mistake
12 in that slide.

13 I still have recreational there on the
14 plus. But suffice it to say the split between
15 winter and summer. We had to combine Winter 1 and
16 Winter 2 because of data points in the model and
17 also because they're essentially the same season
18 but separated by summer because of the ability for
19 the quota to roll over.

20 So what do we do for modeling commercial
21 fisheries? We did a dual revenue function. We
22 took estimated trip costs and landed value.

23 You have to have costs, and you had to
24 have returns to estimate profit. VTR data on all

1 federal water trips were used from 2005 to 2009.

2 We tried to incorporate the state data, but they
3 cannot separate state versus federal landings in
4 their database for some states. Some states can,
5 but not all states can. Most of the state
6 databases don't contain gear type, which is
7 necessary for where we were headed.

8 State data also does not contain enough
9 vessel characteristics or trip characteristics to
10 estimate trip costs. And what we did to estimate
11 trip costs -- we don't have trip costs for every
12 trip of every boat.

13 We have trip costs for a sample of trips
14 based on observer cost and earnings data
15 collection. And so we use functions based on
16 vessel characteristics to predict trip costs on
17 those boats that we don't have trip costs on.

18 And so, if we don't have the data
19 necessary to predict those trip costs, we don't
20 include them. So we didn't include state boats.

21 What was the impact of not including state boats?

22 Well, if their costs are substantially
23 higher, producers surplus values would be lower
24 than most presented here and visa versa.

1 If the costs are substantially lower,
2 then producer surplus estimates would end up being
3 higher than what's presented here. So we did a
4 little bit of exploration. We had some data in
5 these data sets with which to compare. And as it
6 turns out, it's really not that big of a problem.

7 There's a couple of things we did and we've done
8 in other studies.

9 We only included trips in the federal
10 permit that were scup trips. We considered a trip
11 to be predominantly scup if more than 25 percent
12 of the revenue on that trip was scup revenue.

13 This is something we've done for the
14 summer flounder report I did it for NMFS a couple
15 years ago. And this is a pretty standard rule that
16 NMFS uses in general in terms of what is a directed
17 commercial trip in these multispecies trips.

18 And so, when you start slicing up the
19 data this way, you end up with the number of state
20 permits that landed fish from state waters with
21 no federal permit ended up being a fairly small
22 proportion of the data set. So we feel after all
23 that the impact is fairly low.

24 And also looking at vessel

1 characteristics that we had in both data sets, the
2 state permitted boats that don't fish in federal
3 waters or don't have a federal permit in the data
4 set that we looked at, the time series of catch
5 between 2005 and 2009, they're a larger boat;
6 they're a longer boat, more horsepower and higher
7 gross tons. So it would be easy to suppose that
8 their costs would be higher; and therefore, if they
9 were included, they would bring the producer
10 surplus values down somewhat if costs are linearly
11 related with size of vessel, which they tend to
12 be.

13 What gear type did we look at? We only
14 looked at the otter trawl gear. It's
15 predominantly, almost all the scup landings come
16 out of the otter trawl, over 80 percent in this
17 time series come out of otter trawl gear type.

18 We would have loved to include other
19 gear types; we just don't have any trip cost
20 information on other gears, none. So we were kind
21 of hamstrung there.

22 And, again, we're saying the implication
23 is if the operating costs of these other gear types
24 are higher, producer surplus will be lower and visa

1 versa.

2 And, so, like I said, a little over 80
3 percent is otter trawl, almost 12 1/2 percent pots
4 and traps, 6 percent scup is caught in gillnets.

5 There's a small amount caught in midwater trawls
6 and the scallop dredges.

7 I won't go over this too much more. But
8 this is where we estimated the trip costs using
9 observer collected trip cost data. And we
10 estimated NMFS actually in this project did the
11 estimation of trip costs using the methodology I
12 used in my summer flounder report, which was based
13 on at Woods Hole Oceanographic Institute set of
14 cost functions that I updated for summer flounder.

15 And they estimated trip costs for that VTR
16 database.

17 There again, we only used scup trips.

18 We defined scup trips as any multispecies trip,
19 otter trawl multispecies trip where at least 25
20 percent of the revenue in that trip was from scup.

21 So I apologize. The slide is quite
22 tiny. I try not to do this, but sometimes it can't
23 be avoided. And so this is the predicted revenues
24 -- actual revenues and predicted costs and

1 accounting profit per trip by year.

2 As you can see here, revenues are fairly
3 stable falling off in recent years. Costs are
4 fairly stable with cost going up slightly likely
5 due to fuel costs.

6 And so the end result is profits have
7 been declining in this fishery. And this is really
8 to just sort of give you a flavor for what's in
9 the data. I'm not going to spend much time talking
10 about these numbers. I'll give you a second to
11 sort of digest them. They're also in the report
12 which was distributed I think to all you guys in
13 advance.

14 All right. How did the modeling go?
15 This is probably too much technical detail. We
16 did find some hetero-(inaudible) meaning that one
17 period affects the next period in the model. We've
18 weighted by the quasi fixed input to address the
19 hetero-(inaudible) which is a pretty typical
20 technique. The quasi fixed input is cost, total
21 trip costs.

22 Technology tests, these are tests to
23 sort of look at the theoretical underpinnings of
24 our revenue model. We rejected nonjointness,

1 meaning that all inputs are required to produce
2 all outputs.

3 Modeling is multi-product,
4 multi-species trips is a real challenge because
5 you never know what species is driving the bus and
6 how you can handle these things. And it becomes
7 particularly difficult for these species like scup
8 which are really for most vessels and for most boats
9 are bycatch species. And so it showed up in sort
10 of modeling in the fit of these in these technology
11 tests. Acceptability was also rejected. Neither
12 the inputs nor the outputs can be represented by
13 composite goods. So that means each one of these
14 has their own sort of within vessel production
15 function. And so to boil that down and I continue
16 to be too technical. My report was not fantastic.

17 We had a relatively low R squared for the scup
18 production function in the model, and the mixed
19 bottom fish production function had a much better
20 fit, much better predicted power, which makes
21 sense.

22 Scup is a bycatch species. Most of
23 these guys are probably hoping they'd catch mixed
24 bottom fish rather than scup when they go out on

1 their otter trawl trips.

2 Okay. So here's the modeling results.

3 These have a huge caveat around them. Here's the
4 numbers. We only have marginal willingness to pay
5 per pound for scup because I forced there to be
6 one.

7 We would have loved to create a
8 bioeconomic model for the commercial fishery and
9 combine it with the bioeconomic model that NMFS
10 estimated for the rec sector. We simply ran out
11 of time. And so insinuating these quota values,
12 these quota prices or the willingness to pay for
13 the next pound of commercial scup quota -- you know,
14 I forced the model to catch over two times the
15 amount of scup that's been caught in a year in the
16 data set. And so technically, the willingness to
17 pay when both sectors leave 3.9 million pounds of
18 scup on the table at the end of 2011, is zero.

19 So the column there for increases in
20 allocation would certainly be zero under these
21 conditions. But when forced we were able to pull
22 some numbers out.

23 And I think there's some information in
24 here, and I think it sort of shows -- I think it's

1 a pretty good estimate of what profitability is.

2 I think it's informative to look at for
3 commercial producers and sort of a ground truth
4 to say -- you know, the price of scup sort of around
5 a dollar a pound, we're looking at about 46 to 56
6 percent of that being profit per pound. So there's
7 information there.

8 And looking at the seasonal results,
9 again, this is forcing a model well outside of its
10 sort of any historic landings. We have value
11 maximized -- the final column over on the right
12 is total benefits of the commercial fishery
13 relative to the summer allocation.

14 So this model shows that values
15 maximized when 9 percent of the allocation is moved
16 to the summer season out of Winter 1 and Winter
17 2. And the least valuable scenario is allocating
18 9 percent of the scup to the winter seasons.

19 So what did we do to look at -- you know,
20 the consumer surplus of the consumer. We don't
21 have standard data. Nobody does. Nobody tracks
22 what seafood sells for in your retail market, how
23 much is sold, what the prices are.

24 That's ideally what you'd like to use

1 to estimate demand models. But an accepted and
2 well-used technique for doing this is using
3 dockside prices and inferring consumer willingness
4 to pay from dockside prices.

5 I know it sounds like -- you know,
6 perhaps far fetched because there's a lot of value
7 added in between the dock and the consumer, but
8 this has passed sort of economic muster. This
9 would fly in any peer review journal there
10 regarding how to look at consumer willingness to
11 pay for changes in scup quotas.

12 I developed the species groups developed
13 based on my market knowledge, knowledge of what
14 species are sold together, sort of what substitutes
15 are and correlation analysis. So we took the
16 landings of every single domestic species and all
17 imports, ran a model that had five species groups,
18 one of them being imports, one of them being scup,
19 one of them being mixed bottom fish, one of them
20 being a catchall category. I can't remember all
21 the species groups.

22 But anyway you want to build this model
23 with all the potential substitutes for scup,
24 seafood substitutes for scup. Some of these

1 models actually include other substitutes in the
2 protein process. We didn't include those. We
3 didn't include chicken or beef or pork or any of
4 those.

5 We used a particular model called
6 synthetic inverse demand system. Found no
7 (inaudible) correlation in the time series. We
8 found really good fit. We found that these
9 synthetic inverse demand system was the best fit.

10 We tried four different model
11 structures. Again, this is technical stuff that
12 I'm just going to zoom right over. What we found
13 at the end of the day these models give you the
14 marginal willingness to pay per pound for scup for
15 the consumer as well as a way to forecast what the
16 new dockside price would be under different
17 allocation scenarios. And that new dockside price
18 is used to drive the economic impacts. I'm going
19 to show you very briefly at the end of this
20 presentation. So the allocation scenarios on the
21 left are relative to the commercial allocation,
22 so that's a plus 6 percent for the commercial sector
23 and a minus 9 percent for the commercial sector.

24 And I have a mean willingness to pay from

1 about 2 cents, a penny and a half per pound to about
2 almost 2 cents per pound for allocation changes,
3 and a series of new dockside prices for those
4 allocation changes on the far right-hand corner.

5 So these are doing what they're supposed
6 to do. If quantities decrease, prices go up.
7 That's basic law of supply and demand. So, if you
8 take fish away, you take allocation away from the
9 commercial sector, the dockside price goes up and
10 so does the margin you are willing to pay.

11 So for-hire producer surplus what did
12 we do? We tried a lot of things. No one has ever
13 estimated a for-hire production function because
14 nobody knows what a for-hire trip's production is
15 in terms of fish.

16 They have multiple outlets and all of
17 them are unpriced. You pay for a trip. Some
18 people pay for a trip and are perfectly happy to
19 catch no fish and they got to see some sea gulls
20 and what have you. Some people it's very important
21 for them to catch fish and bring home fish. But
22 you have all these other outlets being generated
23 at the same time. You have trip enjoyment. You
24 have being out with friends.

1 You have all of these things unlike a
2 commercial fishing trip where it's about producing
3 pounds of scup or summer flounder or whatever the
4 particular species may be.

5 And so that makes it very difficult for
6 economists to estimate a production function
7 because on the commercial side the estimated
8 production function needs to say revenue is this,
9 \$10,000, and scup contributed this much to that,
10 and the price of scup is X, the poundage of scup
11 is Y, and for a for-hire trip you need to say that
12 the amount of enjoyment for just taking the boat
13 ride is this, and the price per unit of enjoyment
14 is that.

15 And we just don't have that. There's
16 no sort of theoretical way to wrap your head around
17 this. And so we did sort of a proxy for producer
18 surplus.

19 We looked at sort of profit per trip,
20 revenue minus total trip cost divided by the number
21 of trips to get sort of a profit per trip. And
22 we estimated total surplus for these allocation
23 scenarios driven by the effort changes predicted
24 by the bioeconomic model that NMFS estimated. So

1 we have total surplus equals the sort of profit
2 per trip times the number of trips. The amount
3 of effort predicted from the NMFS bioeconomic
4 model.

5 So, again, I know this slide may be too
6 tiny for everyone. Either that or my eyes are
7 really bad. So we have for-hire accounting profit
8 per trip split by charter boats and party boats.

9 This data comes from a survey of for-hire
10 and charter boat, headboat operators. It was done
11 by NMFS I guess two years ago now. The data was
12 just out in time to do this analysis, and we used
13 it to estimate sort of profit per trip.

14 And the profit per trip for the charter
15 boat fleet's about \$76 a person per trip, and the
16 party boat side is about \$23, almost \$24 per person
17 per trip.

18 So in this case, the bioeconomic model
19 is based on an experiment survey that NMFS
20 conducted. Some of you may or may not be familiar
21 with it. It was used most recently in some of the
22 groundfish stuff. In this particular survey the
23 angler percentage a series of hypothetical trips.

24 You'd have Trip A and Trip B and a no-trip option.

1 Those scenarios are sort of separated by the
2 amount of fish caught total, the amount of fish
3 you can harvest, and the regulations at the time
4 for that hypothetical trip.

5 You have two trips with varying
6 attributes. And the survey respondent was asked
7 to pick either Trip A or Trip B or when faced with
8 both of these trip options not taking a trip at
9 all. And then they used a random utility model
10 to estimate angler behavior, and they linked that
11 with an age structured, size structured model of
12 the scup stock.

13 This slide is a model to the 2010 stock
14 size. Like I said, it's an age structured model.

15 Length at age is used to determine keepability,
16 and that's what drives the total harvest and their
17 attainment of the quota whatever the catch limit
18 is.

19 That was calibrated using data from 2007
20 to 2009, and for scup it very accurately predicts
21 harvest compared to the MRFS estimates of harvest
22 during that time period.

23 It doesn't predict summer flounder
24 harvest, but that's not really part of this

1 analysis. Just sort of putting it out there.
2 Otherwise, it's a very well done model. But the
3 willingness to pay may be under predicted by sort
4 of 20 to 40 million dollars because of sort of this
5 under prediction in harvest.

6 But because they were able to use the
7 bioeconomic model, it took into account stock size
8 and catchability of the stock given past
9 performance in the fishery. They couldn't get to
10 buy, and if we had included the commercial fishery
11 in this model, if we had had the time, catch was
12 abundant in the commercial sector either, as we
13 can see from the results of the 2011 harvest. And
14 so that means there's no positive marginal
15 willingness to pay in this fishery either for quota
16 increases. They can't catch the quota they have
17 now according to 2011. But there are negative
18 marginal willingness to pay for decreases. They
19 don't want to see fish taken away from them.

20 However, current regulations are very
21 tight, and we found in the modeling that relaxing
22 the regulations creates higher aggregate
23 willingness to pay, and that's driven because
24 aggregate willingness to pay is a per trip

1 willingness to pay times the number of trips in
2 the model. And if you relax the regulations, the
3 model predicts more effort, which makes sense.
4 If you go back to the 9-inch minimum size, the 50
5 fish bag, people are going to come back to the
6 fishery, and new entrants may be attracted to the
7 fishery. And so that drives aggregate willingness
8 to pay higher.

9 And so using recreational aggregate
10 value, we have a 3 percent reduction generating
11 an aggregate value of about 47 million dollars in
12 aggregate value; and a 6 percent reduction
13 generating about a 45 almost 48 -- I'm sorry --
14 almost 46 million dollar aggregate value. And the
15 table below there describes what happens to
16 aggregate value as you decrease regulations, as
17 you relax regulations.

18 And so aggregate value is maximized with
19 a 9-inch minimum size and a 50-inch bag limit, which
20 according to the Council and biologists, that's
21 about the lowest biologically feasible we'd want
22 to reduce these regulations before we get into sort
23 of a recruitment overfishing situation.

24 A 9-inch minimum size is about the level

1 at which scup spawns for the first time. I'm no
2 biologist, so don't ask me a question about that
3 later. I'll just kick it back to you guys. But
4 that's where we quit looking at relaxing the
5 regulations, about a 9-inch minimum size and a
6 50-fish bag limit. And that is value increasing
7 even under the current increased catch limit. So
8 here's the allocation analysis.

9 I'm sure Lee's going to start shaking
10 his head any second now because Lee's going to argue
11 that the commercial net benefits should be all
12 pegged at the status quo of 11.9 million dollars
13 because for increases the marginal pays zero
14 because the catch isn't buying.

15 Think of that as sort of the best case
16 scenario then instead. We're looking at this as
17 sort of a least/most examination because there is
18 a positive value for moving allocation towards the
19 recreational sector if only to relax regulations.

20 And so that's what this table shows.
21 If you give the recreational sector a little bit
22 more fish, you could relax these regulations.

23 The bioeconomic model showed that if you
24 relax regulations right to their biological

1 minimum, that 9-inch minimum size with a 50-fish
2 bag, you would catch all of the current quota plus
3 about one percent, not quite one percent. So to
4 reach that maximum aggregate benefit, you would
5 have to increase the allocation even at the current
6 high catch levels to just a little over one percent
7 -- a little under one percent rather. Sorry.

8 And so relaxing regulations is benefit
9 increasing and to relax regulations to their sort
10 of maximum would require a little bit more quota.

11 But relaxing them anywhere in between that sort
12 of 9-inch minimum size and a 50-fish bag would
13 require no additional quota at the current catch
14 limit.

15 There's plenty of quota out there, but
16 the rec would catch all that quota if you relaxed
17 regulations. So I wanted to show you a little
18 allocation tool we built. It's posted on my
19 website. It's password protected.

20 And you can contact the Council for the
21 password if you want to play around with it. They
22 own the product, so I'll leave it as their
23 discussion as to who gets to play with the thing.

24 But you can go there and select any of

1 the allocation levels that were examined. Let's
2 look at the 6 percent plus commercial, 6 percent
3 reduction in the recreational fishery. You run
4 the query. You get the aggregate value estimate,
5 and you also get a change in economic impact. And
6 this isn't total economic impact; this is the
7 change from the status quo level. This is the
8 increase in jobs or in this case the reduction in
9 jobs, output and value added and income from
10 economic impact model.

11 So this is a situation where the
12 recreational fishery loses 6 percent of the
13 allocation, and the recreational -- and I mean the
14 commercial sector gets 6 percent more of the
15 allocation.

16 And this is a gross overestimate of
17 commercial value changes because of the issue of
18 nonbinding catch. This is more sort of a structure
19 to use in the future if catch limits are reduced
20 or the issue of resource allocation becomes tight
21 again.

22 And then if we look at sort of the 9
23 percent loss on the commercial side and the 9
24 percent increase in the recreational side, they

1 both lose jobs interesting enough.

2 And this one loses a few more jobs than
3 the maximum commercial scenario, and that's
4 because that sort of is driven by the increase in
5 price at the retail level, the increase in price
6 that would change retail impacts and change
7 dockside impacts for commercial harvest.

8 We'll try to get back into the
9 presentation here. Bear with me. So what did we
10 just find out? Well, because of the doubling of
11 the harvest limit, it's really impossible to assess
12 the efficiency of the current allocations.

13 We are unable to say whether the current
14 allocation is good, bad or indifferent for the net
15 benefits of society because catch was nonbinding
16 in 2011 because we were asked to analyze the catch
17 limit that was over two times anything seen in the
18 history of the fishery over the time series we used.

19 The new harvest limits did not buy in
20 either sector in 2011. The 2011 harvest limit was
21 26.1 million pounds, and the commercial harvest
22 was 26 percent under their allocation, and the
23 recreational harvest was 36 percent under their
24 allocation.

1 Reducing recreational allocation
2 reduces benefits relative to commercial benefits.

3 Relaxing recreational allocations is benefit
4 increasing.

5 The recreational sector will take more
6 trips if we relax regulations even though they're
7 not willing to pay for more fish, more people are
8 willing to pay to take trips. And so that drives
9 aggregate value higher. Relaxing recreational
10 regulations to their biological limit would
11 require less than one percent more quota. And so
12 that's really certainly sort of within the paradigm
13 bounds of this model.

14 I mean I think the real take-home here
15 is relax regulations just about as far as you think
16 you can and watch and see what happens. And if
17 it binds and they go over, maybe give them a little
18 bit more allocation in the next year.

19 There's really not much more stronger
20 conclusion you can sort of make. And the 2008
21 harvest limit 3.9 million pounds less were
22 harvested than the limit. If the harvest limits
23 are reduced in the future, which is likely from
24 what I hear, these results would change.

1 It would be great to rerun this model
2 with a catch limit that's closer to what the data
3 had in the model. And on the upside, we have a
4 powerful tool now that can be used to examine those
5 changes in the future and examine these sorts of
6 allocation issues as you guys go forward and
7 discuss different sort of catch limits from what
8 was used in 2011 and what we used in this analysis.
9 That's it.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Brad,
11 thank you. And I know we're going to have a lot
12 of questions and discussion based on the report.

13 With respect to that final slide, I just wanted
14 to ask in light of the fact that these quota levels
15 may be transitory in nature, how can this model
16 be adapted to consider other quota levels and other
17 stock sizes? In other words, if we wanted to more
18 broadly consider a range of quotas and stock sizes
19 that may fall somewhere in the range of our
20 historical quotas as opposed to the current levels
21 can the model be adapted to do that?

22 BRAD GENTNER: Certainly. Certainly.

23 I mean it all take time. What we'd really like
24 to do, and I've been talking to NMFS since we turned

1 in this report is how do we finish the bioeconomic
2 model that fully includes the commercial fishery.

3 Because at that point once you have a
4 model that both sectors are incorporated into,
5 you only have to change the stock and you only have
6 to do the simulation sort of once.

7 And so it would be a simple matter of
8 putting in any new baseline data, which is not
9 necessarily a simple matter, but it would be a
10 matter of putting in new baseline conditions for
11 whatever the new baseline is and shift the baseline
12 and then putting in new harvest limits. You still
13 can't get away from the fact that the recreational
14 data was collected at a period where catch limits
15 were less than two times what they are now. The
16 same with the commercial fishery.

17 So, if you're still going to operate in
18 a realm where the catch limits are going to be that
19 much higher than the data, you really don't have
20 much you can do but do another survey for the
21 recreational sector and run another commercial
22 revenue model using data that spans a time when
23 they had that sort of fish in their allocation
24 basket.

1 So it would be a relatively easy thing
2 if you moved catch limits back down to where they
3 were because we would be operating in a realm where
4 the data matched what we're being asked to measure.

5 If we stay up here in this realm of catch
6 limits, they're going to be the 25, 26, 28 million
7 range, we're going to need a new data collection
8 both on the commercial side and the recreational
9 side.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Questions? Dave Simpson.

12 DAVID SIMPSON: Yes. That was a very
13 helpful presentation. One of the things I keep
14 getting hung up on is the idea that in 2011 that
15 the recreational regulations weren't binding.

16 Now, I understand we didn't catch the
17 quota, but we did have a 10 1/2 or 11-inch minimum
18 size and a 10-fish limit most of the year. So
19 clearly we were landing less because of the
20 restrictions.

21 BRAD GENTNER: I understand. If I say
22 binding, I mean they weren't able to catch their
23 quota given the regulations on the ground. What
24 our model found was: If you relax those

1 regulations, they will catch the quota, and there
2 is value to that. So supporting exactly what you
3 would expect to be supported.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Dave.

5 DAVID SIMPSON: It's just a different
6 thing to say that, for example, the winter fishery
7 with a 50,000 pound trip limit didn't catch their
8 quota, and the recreational fishery with a 10-fish
9 limit and an inch and a half to two inch higher
10 minimum size didn't catch their quota. Those are
11 not apples to apples.

12 BRAD GENTNER: Well, they certainly are
13 apples to apples in terms of behavior, what
14 happened on the ground and in these models.
15 There's a whole lot of reasons why the commercial
16 sector wasn't able to catch their quota.

17 DAVID SIMPSON: Right.

18 BRAD GENTNER: And there's a whole lot
19 of reasons why the recreational sector wasn't able
20 to catch their quota, but primarily those reasons
21 are regulations. And so it's not contraindicated
22 by this report.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Tom
24 Fote.

1 THOMAS FOTE: Did I understand that most
2 of the data for the recreational side you looked
3 at the party and charter boat survey and you
4 basically got your figures for what the value of
5 trips are?

6 BRAD GENTNER: which survey are you
7 referring to? There's the for-hire telephone
8 survey. We didn't use that. We used a
9 single-time survey that was conducted I believe
10 two years ago. It ran all last year. So the
11 beginning of this year we just had the data.

12 THOMAS FOTE: This was for-hire?

13 BRAD GENTNER: For-hire. Correct.
14 Cost of return.

15 THOMAS FOTE: So where did you get your
16 information for -- let's use an example -- for
17 shore-based anglers. When you raised the size
18 years ago from 7 inches up to 9 inches, you lost
19 all the people who fish from dockside piers in the
20 New York Bight area because they don't see that
21 type of fish, so the value to them would actually
22 when you go down to 7 inches to make a trip. And
23 did you evaluate any of the shore-based anglers
24 what their trips are worth?

1 BRAD GENTNER: Yes. Yes. Shore-based
2 anglers were included in the recreational sector,
3 as were for-hire anglers and private boat anglers.
4 And the report did show that there would be value
5 in reducing the minimum size. We didn't explore
6 it on the 7 inches.

7 THOMAS FOTE: Yes. Because when we
8 brought the size limit from 7 to 9 inches to 10
9 1/2 inches, a whole bunch of the sector went out
10 of the fishery back in the late '90s.

11 BRAD GENTNER: We didn't look at that,
12 but I won't repeat that.

13 THOMAS FOTE: Because the data's there.
14 I mean you look at historical recreational fishery
15 in the New York Bight area, and there were areas
16 like Jamaica Bay, New York, the bay fleet, the
17 highlands fleet and all them they were fishing on
18 7-inch fish because that's what they saw.

19 BRAD GENTNER: All I can tell you: We
20 didn't look at anything less than a 9-inch minimum
21 size because they say that's the problem
22 biologically.

23 The minimum size below 9 inches causes
24 recruitment overfishing. I'm not going to discuss

1 sort of whether or not that's a good idea or not.

2 That's what the Council said.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
4 Pierce.

5 DAVID PIERCE: Thank you for your
6 presentation.

7 BRAD GENTNER: Sure.

8 DAVID PIERCE: But now I'm struggling
9 to determine to what extent I'll actually be able
10 to use that information. At this point in time
11 I'm not very confident. But maybe I will when
12 we're deeper into it.

13 BRAD GENTNER: I'm not either.

14 DAVID PIERCE: And the reasons why I'm
15 not sure the analyses and the model is very helpful
16 is -- you can correct me if I misstate anything
17 here -- you said in your presentation that the model
18 had a low R squared; it wasn't very predictive;
19 the model fit wasn't fantastic; and then you
20 produced some results that you gave to us that it
21 seemed you were using and you had faith in.

22 So I'm not sure how to balance your
23 findings from the model, your results with your
24 own evaluation of the model itself. So I'm

1 struggling with that.

2 BRAD GENTNER: Well, R squared isn't the
3 be-all of model fit.

4 DAVID PIERCE: But if it's low that to
5 me it pretty much means the model is not --

6 BRAD GENTNER: Well, you can evaluate
7 that yourself in the report. I mean the R squared
8 is published, and all the modeling results are
9 there. I mean I would prefer the higher model fit.

10 The only reason I brought that up, the
11 scup production function fit less well than the
12 bottom fish production function. I brought that
13 up only to suggest that this is a bycatch fishery
14 and that modeling these types of things in a bycatch
15 -- bycatch in a production function is driven by
16 another primary species that's problematic.

17 DAVID PIERCE: What is the bycatch
18 species?

19 BRAD GENTNER: Scup.

20 DAVID PIERCE: In what fishery?

21 BRAD GENTNER: In the larger
22 multispecies bottom fishery.

23 DAVID PIERCE: I don't follow that
24 because there's a major directed fishery for scup,

1 so. That doesn't seem to fit what we know to be
2 for the directed fishery, the otter trawl fishery
3 for scup which is rather significant. As a matter
4 of fact, we have at least one company urging that
5 we increase the landing limit because they want
6 to expand their markets overseas and develop new
7 markets. So, anyway --

8 BRAD GENTNER: Well, they left 30
9 percent of the fish on the table right there, so
10 they could have expanded all they wanted.

11 DAVID PIERCE: Yeah, that's due to
12 regulations and also lack of market. That's why
13 they want to expand. But, anyway. All right.
14 Did you factor into your analysis the possible
15 impact of the research set aside and the fact that
16 there aren't many major party boat charter boat
17 operators who have purchase scup through the
18 research set aside, meaning they're no longer as
19 dependant as they used to be on whatever was
20 allocated for scup for the recreational fishery?

21 BRAD GENTNER: No.

22 DAVID PIERCE: Okay. To me that's an
23 important point. And I say that only because in
24 the past relative to the sizes of the fish, the

1 size of the harvest limit the recreational fishery
2 the audience used to be full of individuals who
3 screamed bloody blue murder, and we labored over
4 the size of the allocations because they needed
5 the fish. Now not so much for some of the bigger
6 players because they're buying fish. So I'm not
7 sure to what extent this set aside plays into this
8 willingness to pay and other aspects of your
9 modeling conclusions.

10 And finally, an executive summary on
11 page two you mention something that I'm still
12 trying to wrap my head around to understand, and
13 that's the third paragraph where you say: Total
14 aggregate benefits are maximized when the
15 recreational sector has a 9-inch minimum size limit
16 and a 50-fish bag limit.

17 I think you also said in your report no
18 recreational fishing season. Am I right there?

19 BRAD GENTNER: I'm sorry?

20 DAVID PIERCE: I think in the report
21 you said no restrictions, that the whole year would
22 be open to recreational fishing.

23 BRAD GENTNER: Correct.

24 DAVID PIERCE: Okay. So that's pretty

1 significant. So to achieve this liberalization
2 less than one percent of the total harvest limit
3 would be needed to be transferred to the
4 recreational sector. So, in terms of reality,
5 in terms of what the individual states have
6 wrestled with and what this council has wrestled
7 with, 9-inch minimum size, 50-fish bag limit, no
8 way in the world have we ever been able to get or
9 to consider even with the existing quotas now that
10 kind of a bag limit and to say the season is open
11 year round, no way in the world would the allocation
12 that we have in the recreational fishery enable
13 us to adopt those particular restrictions, no
14 season, 50-fish bag limit. So that's why I'm still
15 confused as to why only a less than one percent
16 of the total harvest would need to be transferred
17 to the recreational sector. It doesn't seem to
18 make sense because of the experience that we've
19 had with the scup recreational fishery for the past
20 umpteen years.

21 Again, I'm just trying to highlight some
22 points for you based upon hard knocks and
23 experience that we've all had over the many years
24 of trying to deal with the scup recreational

1 fishery especially in Massachusetts and Rhode
2 Island, Connecticut and New York and I guess New
3 Jersey to some extent, maybe to a large extent.

4 Anyway, those are my questions and some of my
5 concerns about the work and the findings.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Brad.

7 BRAD GENTNER: I just heard a statement.

8 Is that a question?

9 DAVID PIERCE: Yes. I had a couple
10 questions in there, and you answered them.

11 BRAD GENTNER: Okay.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Adam
13 Nowalsky.

14 ADAM NOWALSKY: Thank you very much, Mr.
15 Chairman. Two points. The first is that there
16 was the question asked and you had indicated that
17 there was the ability to rerun this based on
18 different input, stock size, regulations in future
19 years, etcetera.

20 BRAD GENTNER: Correct.

21 ADAM NOWALSKY: That being said,
22 though, I also identified some of the poor model
23 fit that you saw. Could you identify some of the
24 specific improvements you would believe the model

1 would need in order to potentially have better
2 model fit because it seems to go ahead and just
3 rerun it with different inputs without trying to
4 improve it at the same time may yield the same level
5 of skepticism that I think is kind of the
6 undercurrent of some of the questions I've heard
7 so far.

8 BRAD GENTNER: No. I think that's a
9 very good question. And the trouble is I don't
10 think there's a good answer. The commercial data
11 is what it is. The poor model fit was -- I really
12 wish I hadn't used the word poor. It fit less well.

13 The scup production function fit less
14 well than the bottom fish production function.
15 It still had good predictability and decent fit.

16 The reason driving that is more of a
17 theoretical problem with this type of modeling when
18 you have a multispecies production function and
19 you don't really have -- when there are behavioral
20 decisions are being driven potentially by other
21 species in their product bundle than just scup,
22 you have this problem.

23 And so if were to sort of look for --
24 as the previous commenters suggested, there is a

1 scup directed fishery. Well, how do you find the
2 scup directed fishery? The advice and the
3 discussion within our working group was 25 percent
4 revenue for scup. Well, the modeling showed that
5 that probably wasn't the best choice.

6 That cut-off included a lot of trips that
7 were being driven by other species catch. And so
8 what you end up doing, though, is running out of
9 observations.

10 So you sort of go down that point to you
11 really try to find those trips that are just scup
12 directed trips, and you end up having problems with
13 your data set, and you end up having problems with
14 other modeling things.

15 And so my advice would be if you're going
16 to do this again and try to get the model fit better
17 for scup is to try to focus on trips that are just
18 scup trips.

19 How do you do that? We don't know that's
20 the answer. We don't know until after the trip's
21 been made. Short of asking trip costs from scup
22 fishermen that only catch scup or going out to fish
23 where they're targeting mostly scup, we don't know
24 besides using revenue cut-offs. And we picked the

1 25 percent revenue cut-off, and it probably was
2 not -- we erred on the side of including more trips
3 than less. And the model fit would go up if we
4 had taken a 50 percent cut perhaps, but then we
5 would end up with a data set that was rather spotty,
6 and we would have had even more problems catching
7 the quota because then you end up using more of
8 the observations over and over and over again in
9 your simulation instead of alternate observations.

10 So there's a trade-off there. If we had some way
11 to better identify what is a scup directed trip,
12 then the simple simplistic sort of naive really
13 revenue cut-off we'd do a better job. There's no
14 doubt about it.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Adam.

16 ADAM NOWALSKY: Thank you. And to
17 follow up on that then, it seemed that most of the
18 data points as inputs you suggested were published
19 information that was already available. Was there
20 anything done to ground truth that information with
21 any fishermen involved in the process to say, hey,
22 this is really what we're looking. I mean one of
23 the things that jumped out at me the number \$76
24 per person per trip on a for-hire. If I multiplied

1 that by six at my own business, I'm making more
2 money than the cost of the trip, and I haven't even
3 paid for fuel or bait or anything at that point.

4 So when I hear some of those numbers, I'd like
5 to know was there any input taken or were these
6 numbers just taken at face value, and if not, what
7 would you recommend as ways to better involve to
8 improve some of the information you're looking for,
9 i.e., specifically getting directed trip
10 information? How could we improve that utilizing
11 public input?

12 BRAD GENTNER: That's a great question,
13 and I'm going to give the stock economist response.

14 Is make the cost and earnings data mandatory in
15 every sector. Require everyone to report their
16 costs on every trip every time. It's probably
17 owners.

18 But what are you going to do? What we're
19 left with is sampling on the commercial side, the
20 observer sample trip costs on just a portion of
21 trips.

22 I believe their observed trip costs are
23 probably really good, probably better than asking
24 somebody a question because they're there when the

1 items are used.

2 They're there often when the captain is
3 purchasing some of those inputs, and so they don't
4 get digit bias that happens or recall bias that
5 happens when you ask someone their trip costs after
6 the fact in an annual survey. The for-hire survey
7 that we conducted -- I helped design that survey
8 for NMFS. I didn't conduct the survey, but I spent
9 a lot of time talking to captains up and down the
10 Mid-Atlantic and New England coasts and talking
11 to them about their costs.

12 But we had to use a survey instrument
13 to get for-hire captains to endorse the survey.

14 We couldn't tie it to the for-hire telephone
15 survey. So we couldn't do a random sample of
16 trips.

17 We were left to doing a random sample
18 of captains and collecting annual trip costs.
19 I've done a lot of expenditure surveys in my career,
20 and the farther you get the question away from the
21 actual expenditure, the less valuable that data
22 is.

23 And that makes sense. The less you
24 remember, the less you can sort of -- when I did

1 the prework for the survey, you had some captains
2 that would come and ask you into their office and
3 sit down with their tax returns and parse this stuff
4 out exactly how you'd want.

5 And you'd have some that would be, well,
6 you know, I think I spent \$5,000 on ice last year.

7 That's a bogus number, and I know it's a bogus
8 number when you give it to me. And it doesn't do
9 me any good from a modeling standpoint. So how
10 do you change that? I mean really the only thing
11 is a mandatory data collection. Every time
12 someone takes a trip they have to report their
13 costs. You want to get improvement there? That's
14 how to do it.

15 Beyond that the next best step is a
16 random sample of trips and the for-hire telephone
17 survey where they ask for return information and
18 cost information. That would be one slight step
19 more approved data.

20 And same with the commercial fishery.

21 If the sampling of trip costs was sort of more
22 random and more systematic and less tied to sort
23 of this observer process and more tied to sort of
24 a scientific process of capturing trip costs short

1 of a mandatory survey.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Chris
3 Zeman.

4 CHRISTOPHER ZEMAN: Thank you. I just
5 want to kind of go back to 2010 because I was like
6 making those decisions on scup back then. And I
7 think it's important to identify where the problem
8 was back then. And it was this; it was that we
9 initially set the scup quota more in terms of an
10 optimum amount in terms of commercial need and also
11 like recreational catch. I'd say less
12 recreational catch. It was probably lower than
13 what was preferred. Then in the next two months
14 we then got data back to us saying that -- you know,
15 certain states dramatically overfished scup and
16 we were looking at complete shutdown based on what
17 we set in terms of the quotas for the following
18 year. So then we had to basically change those
19 quotas, and we had to basically dramatically
20 increase the recreational to avoid complete
21 shutdown.

22 And the biggest concern we had at that
23 point was the allocation because it was a 22/78.

24 So that means that we had to basically double the

1 rec, and that automatically -- you know, just
2 pushed the commercial quota sky high. And now from
3 an economic standpoint, that's just basically
4 flooding the market with scup for the commercial
5 guys. That cannot be optimal. And that led to
6 us then asking, well, look, does this really make
7 economic sense that we're bound to if we need to
8 give the rec guys one fish, we have to give the
9 commercial guys four fish? Is that really the best
10 way to go? 'Cause it seems not. It seems like
11 you're going to flood one market, and you're not
12 going to give enough to the other guy, to the rec
13 guys to have an optimal catch rate. I mean I don't
14 see how that problem was addressed here.

15 BRAD GENTNER: It's not. It's not.

16 ADAM NOWALSKY: And why not?

17 BRAD GENTNER: We weren't asked to. I
18 mean we weren't sort of asked to look at the market
19 pathways. We were asked to look at sort of the
20 fishing allocation of scup at a point in time.

21 ADAM NOWALSKY: You raised that one
22 point in your slide. You said values maximize when
23 the value of the next unit of the good is the same
24 for each sector.

1 BRAD GENTNER: Correct.

2 ADAM NOWALSKY: That is not happening
3 with scup. We are the furthest from that. We are
4 like night and day.

5 BRAD GENTNER: I can't argue that point.

6 ADAM NOWALSKY: Your report comes back
7 and says, ah, nothing will really happen if we
8 change this allocation.

9 BRAD GENTNER: That's not what the
10 report says. The report says we were asked to
11 analyze a catch limit that was so far beyond any
12 data we've ever seen or any sort of indication of
13 behavior that we can't make an accurate assessment.

14 ADAM NOWALSKY: That was the problem.
15 That big glut. That was the problem. And maybe
16 the solution was an allocation that wasn't one to
17 four. It was more like one to three so that we
18 wouldn't glut one sector trying to save another
19 or visa versa.

20 BRAD GENTNER: Yeah. I can't argue
21 that point.

22 ADAM NOWALSKY: Okay.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Frank
24 Blount.

1 FRANK BLOUNT: Thank you. But all my
2 questions have been answered so far.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you. Lee Anderson.

5 LEE ANDERSON: I find this very
6 interesting, and must say that I'm putting on my
7 university professor hat here as well as my council
8 hat. And I'd like to take a minute to just put
9 a different perspective on it.

10 When this study was proposed, I was very
11 much in favor of it because we were going to apply
12 really the state of the art and then some new stuff
13 that was going on down in NMFS. And I think it
14 really would have got some interesting stuff.
15 Unfortunately, circumstances overtook us, and what
16 Brad is saying here is exactly right. The study
17 doesn't show much because the quota is up. And
18 really if you want to look at what is the value
19 of giving an extra fish to either sector right now,
20 it's zero. And he's absolutely right. In fact
21 I'm a little afraid of some of these numbers in
22 here 'cause somebody's going to come up with these
23 numbers and look at them and say, look, there's
24 one million here and one million there. But if

1 you read -- I hope I'm not misquoting you -- but
2 they don't show anything. They would have if we
3 had kept the quota right -- not right. But if we
4 had kept it where it was. Things have overtaken
5 it.

6 And I think there's a couple of
7 interesting things here. And first is I know the
8 stuff that Brad does, and I know there are other
9 economists that do it, and I would think it's fair
10 to say that what he does is state of the art stuff,
11 and although I am anxious to see the peer review
12 that we have, that we are planning for it because
13 some of these things they ask here, what about the
14 R squared and stuff like that, I think we need to
15 look at it. Frankly -- and I may be going out on
16 a limb here -- I'm not that worried about it 'cause
17 I've seen these studies for a very long time. I
18 think the important thing, though, is we have now
19 a study that can technically give us an answer,
20 and if the sectors expand or the quota comes back
21 down, we can use this model.

22 I was hoping that when they said we can
23 do this, it's kind of like an Excel spreadsheet
24 where you go over here and you've got some big

1 number up here, and you change the 25 percent to
2 30 percent, and you go bing, bing, bing; and then
3 you get a new answer. Well it's not. What it's
4 going to mean to do that is another healthy contract
5 to Brad or somebody else, not as healthy as the
6 last one. But it can be done. And I just think
7 it's kind of unfortunate that we didn't get what
8 we thought we would get out of it. And it isn't
9 that not because Brad didn't do his job. Brad did
10 the job the best he could. Let's just be cautious
11 about how we interpret this data and wait for new
12 things to come along, and we'll go ahead and do
13 it.

14 But the final thing, I really want to
15 see the peer review that we have so we can get some
16 other interpretations of the work. That's a
17 statement. Another question I have, Brad, in your
18 report you kept talking about the NMFS work, the
19 NMFS did this like they're some big group out there
20 that does it. There are people that are doing
21 that, and you know who they are. And there are
22 probably some reports out there that give what NMFS
23 did.

24 BRAD GENTNER: There is. It was Carl

1 Steinback ran that for Christy Wallmo did some of
2 the basic recreational demand modeling and I forget
3 the gentleman's name in Falmouth there that
4 helped Scott put together the sort of
5 bio-(inaudible) model.

6 LEE ANDERSON: And I would like to see
7 some of it. One of the things that I was excited
8 about that is that at that time you were talking
9 about you want to do the marginal value throughout
10 the length of the allocation. That's what we've
11 all been talking about. An some of this new work
12 at NMFS was supposed to get at that, and that was
13 one of the things that we had hoped would be
14 incorporated into this. But it didn't because of
15 I guess maybe other reasons than the quota went
16 up. Can you give me any assessment about that new
17 technique?

18 BRAD GENTNER: I don't think -- it was
19 a decision agreed upon by the working group most
20 of it being driven by NMFS saying we can't do that.
21 Well, can't and really didn't think it was
22 appropriate. They felt that they shouldn't draw
23 the entire quota demand function because it would
24 involved predicting -- this was even before the

1 quota was changed, before we were even talking
2 about a more than doubled quota. They didn't want
3 to forecast outside of sort of the status quo too
4 far. And additionally, there was a technical
5 issue that this bioeconomic model takes a very long
6 time to run for each change. We're not talking
7 about hours or days; we're talking about
8 potentially weeks for each run. And so they didn't
9 feel like they could run an infinite number of
10 those. And so in our discussions we settled upon
11 this negative nine to plus nine sort of range.

12 LEE ANDERSON: Just one other final
13 thing if I may. I think it's very right to question
14 Brad on how you got your stuff. And if you read
15 the stuff in there, he goes over a lot of stuff.
16 I kind of yawned at that.

17 BRAD GENTNER: Yeah. I know. There's
18 way too much detail in that report.

19 LEE ANDERSON: You have to do it.

20 BRAD GENTNER: But you have to if we're
21 going to make it through a period.

22 LEE ANDERSON: What you had to do is
23 compare this and say, now, how much wiggle room
24 do we have in the biological numbers, how good is

1 that data by doing this, that and the other thing.

2 And I think that, again, we're kind of state of
3 the art what's there, and if you get the experts,
4 that's what I want to hear: Can we do it any
5 better? That's the question.

6 BRAD GENTNER: It's just unfortunate
7 sort of timing or circumstances. I tried to trace
8 out the entire quota demand function for the
9 commercial quota, and it looked awful in the
10 (inaudible).

11 I was very thankful that as a working
12 group we decided not to report the whole quota
13 demand function. Because it looked okay in that
14 sort of 15 to 20 percent range around status quo,
15 but once you got much past that, it did all kinds
16 of strange stuff that I'm sure you can imagine quite
17 well.

18 And so when you ask a forecasting model
19 to forecast even a slight bit outside of the data
20 that you used to build the model, you should be
21 suspect.

22 And we're dealing with a situation where
23 we're asking a model to forecast more than double
24 any period landings that the model's been based

1 on, so there's not much to be said about that.
2 No one would accept a result that came out of a
3 model that was forecasting more than twice what
4 went into making the model.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Laurie Nolan.

7 LAURIE NOLAN: Thank you, Mr. Chairman.

8 A lot of this analysis goes way, way beyond my
9 understanding, but when you get back to the simpler
10 statements and presentations in your Powerpoint,
11 I mean you do a vessel comparison of the commercial
12 fleet in one of your slides where you're showing
13 state permits versus federal permits, and when you
14 talk about the mean as far as the length of the
15 vessel, the horsepower, they're all so similar.

16 The numbers are almost right on the mark.

17 And when you look at a table like that,
18 you say, wow, that doesn't seem right, that doesn't
19 look right. You make a statement that profits are
20 declining.

21 As far as the commercial sector goes,
22 it's just the opposite in reality. And I'm talking
23 what you see and hear on the docks. Vessels are
24 finally experiencing the opportunity of harvesting

1 these fish, of developing the fresh market.

2 Prices are higher than they've ever been. And you
3 all make a statement that profits are declining.

4 So when you hear these types of statements that
5 you're coming out with, you go on to say less fish
6 equals higher prices as part of your reasoning for,
7 oh, it wouldn't hurt the commercial sector to lose
8 a percent of their quota and give it over to the
9 recreational sector because the gain would be
10 higher.

11 When we start talking about allocation,
12 less fish does not necessarily promote higher
13 prices. If you don't have the fish on the market,
14 substitutes will work their way in, and you may
15 see that fish price decline for that reason.

16 So it just seems there's a lot of
17 assumptions that are made in this model, and it's
18 scary to think that's the foundation for what all
19 those numbers spit out in the end that I don't
20 understand. So, if the foundation's not solid,
21 getting to the end results it gets scary.

22 BRAD GENTNER: When did you see your
23 prices go up, and when did you see your
24 profitability start to increase -- the last two

1 years?

2 LAURIE NOLAN: I would say yes. I mean
3 I am personally not a scup fisherman, so I am
4 working off of what industry tells me, but in the
5 last two years prices have more than doubled.

6 BRAD GENTNER: I won't argue with you.
7 Our time series ended in 2009, which is almost
8 three years ago now. So what you saw on the board
9 were a time series of profits declining up until
10 2009. So you may very well be right. I'm
11 definitely not going to argue that.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Laurie.

14 LAURIE NOLAN: You know, to that point,
15 it makes it hard to move forward with the analysis
16 and the assumptions with any faith if that's not
17 what's going on currently. That's it.

18 BRAD GENTNER: I'd be happy to update
19 the model. I mean that's the thing, it takes time.

20 And we had hoped to have this analysis finished
21 a lot quicker, but for a lot of reasons that were
22 beyond any of our control, we couldn't. We had
23 this for-hire data was late by almost six months.

24 One of the employees at NMFS who was assigned to

1 do this recreational bioeconomic model resigned
2 in the middle of the project. They had to scramble
3 to put together another team to get it done.
4 Timeliness is everything, but these things take
5 time. And so you're always going to have this
6 issue. And I understand and fully respect that
7 issue. It's something --

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Laurie.

10 LAURIE NOLAN: I just thought of
11 something. In your analysis you seem to focus more
12 on the liberalization of the recreational
13 regulations to justify a transfer, but you don't
14 seem to focus much on what would happen if we
15 liberalized commercial regulations to give more
16 access to the resource. I mean we just recently
17 upped it to 50,000 pounds. So I just wonder why
18 there wasn't much done you know, lowering the size
19 limit. You went through all that on the
20 recreational side, but you didn't seem to explore
21 that on the commercial side.

22 BRAD GENTNER: That's because we didn't
23 have time to finish the bioeconomic model. I mean
24 that would have -- what would have been ideal is

1 if we could have built a seasonal bioeconomic model
2 that looked at sort of what happens with your season
3 link currently and what happens if we change
4 regulations. But we just don't have that in the
5 model.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Brad,
7 I'd like to follow up too on Dr. Pierce's question
8 about how the conclusion was made regarding the
9 liberalization of the technical measures we use
10 to manage the recreational fishery, that is, if
11 we bring down the minimum size limit to 9 inches,
12 increase the bag limit to 50, how is that just one
13 more percent is needed to achieve those measures?

14 Can you give us a summary of the methods that were
15 used to convert those technical measures into some
16 level of catch?

17 BRAD GENTNER: Sure. So we have this
18 survey on the recreational side that I described
19 that presents a series of hypothetical fishing
20 trips scenarios, and each one of those scenarios
21 varies in terms of the regulations scenarios under
22 each one of those trips. And recreational angler
23 there's a paper mail survey, and the recreational
24 angler is presented -- I don't know in this case;

1 I'm not terribly familiar with the exact survey
2 -- but anywhere from three to eight or nine of the
3 choice occasions. And each of these choice
4 occasions say you pick Trip A or would you pick
5 Trip B or would you chose to not take a trip? And
6 so Trip A and Trip B say you're going to catch --
7 you know, 50 scup, 30 of those will be legal, and
8 these are the regulations under which they would
9 be legal. And so then the angler chooses those,
10 and that's sort of the behavior model under which
11 recreational efforts and catch are measured. And
12 so once that model is estimated, you can take and
13 change those regulations, and it will tell you what
14 recreational effort will do, how many trips are
15 taken. And so that is used in a -- that is linked
16 to a model of the stock, an age and size structured
17 model of the stock that sort of simulates these
18 trips, hypothetical trips, in the future and how
19 close they come to attaining the catch limit.

20 And by changing those regulations, it
21 induces more or less effort in the fishery and
22 induces more or less mortality. And so that's sort
23 of how the model works in a nutshell. And so while
24 there's no willingness to pay for an increase in

1 catch because no one's catching their limit
2 currently, relaxing the regulations induces more
3 effort which increases aggregate value because
4 more people are taking trips at the same value.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thanks, Brad. I guess I'd be interested to see
7 how that lines up with the way we've been projecting
8 estimated catch as we look at different input
9 controls in these fisheries.

10 BRAD GENTNER: If I may comment, that
11 model, that bioeconomic model the scup portion is
12 just a small portion of an effort that includes
13 summer flounder and all of the groundfish species,
14 and that model is currently undergoing a very
15 substantial peer review because of it's use in the
16 groundfish council (inaudible).

17 COUNCIL CHAIRMAN RICHARD ROBINS: Other
18 questions? Peter Himchak.

19 PETER HIMCHAK: Yes. Thank you, Mr.
20 Chairman. Following on the heels of your
21 questions there and the answer that I'm not sure
22 I understood, I just find it incredulous to think
23 that a 9-inch, 50-fish bag limit and no closed
24 season would only require one percent transfer in

1 allocation from the commercial fishery. And then
2 I look at all the recreational measures -- I mean
3 the four states in New England take 98.2 percent
4 of the catch in 2011. They're at 11, 10 1/2 with
5 seasons May through December. So, boy, it just
6 doesn't seem to line up, and I don't think we'll
7 get into this tomorrow, but certainly in December.

8 I mean what is constraining the catch then in the
9 New England states where they have to go up such
10 a high size limit, 20 fish possession limit and
11 a limited season? What the mechanisms that we use
12 to keep under the harvest cap or quota seems like
13 they should be able to open the flood gates on this.

14 So maybe you --

15 BRAD GENTNER: That's basically what we
16 found, except for the fact that I'm incorrect in
17 saying we used an unlimited season. We used the
18 current season. We used the current season in the
19 modeling. We didn't do a seasonal model on the
20 rec side. So we didn't change the season length.

21 I did say earlier that we had used a model that
22 was an unlimited season. It wasn't unlimited so
23 much as we just didn't change it. We didn't look
24 at the season length at all. We only looked at

1 the minimum size and bag requirements. And so what
2 happens when you increase the TAC and so the
3 recreational sector left 36 percent of allocation
4 on the table this year. And so the model found
5 that to catch that 36 percent plus one percent they
6 could do so in the current season with a minimum
7 size of 9 inches and a 50 limit fish bag.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Other
9 questions? Comments? Mr. Augustine. You're
10 good to go.

11 PAT AUGUSTINE: Thank you, Mr.
12 Chairman. I'm as confused as ever, and I've gotten
13 a year older since I've been here. Through this
14 exercise that you did, were we expected to get the
15 results at this -- could it serve as a basis for
16 the Council moving forward with an addendum that
17 would possibly consider a shift in quota from one
18 group to the other or some mechanism that the quota
19 could be similar to our bluefish quota where for
20 a temporary basis quota can be transferred from
21 one sector to another? Was that one of the
22 underlying reasons for this?

23 If the answer is no, then it just seems
24 to me as long as you're doing single species

1 management, this turns out to be -- excuse the
2 expression -- but an exercise in futility. We can
3 determine what the value is to either the
4 recreational or the commercial, but at the end of
5 the day we're still governed by a threshold and
6 a target. And until we get the multispecies
7 management it would seem to me that this continuing
8 exercise along this road unless you use data from
9 2010 and 2011 to replace the 2007, 2009 or add four
10 years to five years together, as Laurie had said,
11 without the current value of what the return has
12 been to commercial fishermen for the last two
13 years, it would be pretty difficult to use this
14 or apply it in any way, shape, form or manner.

15 There's a question in there. But was
16 the goal to actually to put forth this assessment
17 that in the future if the Council decided to go
18 forward with a consideration for a quota transfer
19 from one sector to another that we would possibly
20 use this as a basis?

21 BRAD GENTNER: That's not really a
22 question that I can answer. I was hired to look
23 at this issue. I don't know what the Council's
24 going to do with it. You know, the one comment

1 I will make is had the quota that we were asked
2 to analyze been anywhere near the quota that has
3 been used in the time series used to estimate the
4 model, we would have had an answer for you, an
5 answer that would have been actionable. But
6 instead we were asked to look at something double
7 anything we had ever seen in the data.

8 PAT AUGUSTINE: Okay. You did answer
9 the question. So then I guess the question goes
10 back to the chairman whether or not the goal was
11 to look at this actual economic value of one sector
12 versus another to determine, one, whether we use
13 bag size and season to control how either sector
14 expands or utilizes their full quota, or is the
15 thought behind all of this to look at a possible
16 transfer mechanism in a future addendum? I think
17 they're two honest questions because that's what's
18 been put on the table. I do know last year there
19 was concern at the joint meeting. Dave ran that
20 meeting, and we talked about quota transfer New
21 York, Connecticut, New Jersey. We got our foot
22 in a ringer because we did what we did, but the
23 ultimate goal was to utilize the quota that wasn't
24 being used. So, Mr. Chairman, could you help me

1 with that?

2 COUNCIL CHAIRMAN RICHARD ROBINS: Sure,
3 Pat. We did want to have a technical basis to
4 evaluate this question, and that's what the study
5 was designed for.

6 And so, as Brad's pointed out, it looked
7 at the efficiency of the allocation what the
8 results of that were. Given the fact that the
9 quota was not constraining at the level that we've
10 set it at now, I think in part we have now a
11 technical study.

12 I'm going to ask Chris Moore to comment
13 on what level of review we might submit that to.

14 But we do have a technical evaluation. But given
15 some of these confounding factors, I think in part
16 we're going to be left to reflect on our historical
17 experience.

18 I think, frankly, whatever we have in
19 there for an allocation ought to be robust to
20 different levels of quota. I don't think you want
21 to be changing an allocation willy-nilly year to
22 year as you go through your specification cycle.

23 I mean allocations ought to be set and
24 periodically evaluated, but not done on an annual

1 basis. So I think that's going to be an open
2 question at the end of the day is what does the
3 Council and Commission want to do about that? But
4 I will ask Chris if he can comment on what type
5 of review you might contemplate for this study.

6 CHRISTOPHER MOORE: Thanks, Mr.
7 Chairman. I think Brad hit one part of the review.
8 Remember there's really only two components of
9 this, the recreational component and the
10 commercial component.

11 Recreational part of it's going to be
12 reviewed some time in September as part of a larger
13 review. This bioeconomic model was also used for
14 cod recently, and there's a lot of interest in New
15 England to really have a thorough examination of
16 those results.

17 So we're going to have that part of it
18 reviewed, which leaves the commercial part of it
19 unreviewed. We had planned as council staff
20 undergo a review sometime in October looking at
21 that component, and we'll proceed with that if in
22 fact the Council desires to have that done.

23 Just to add on, that review would include
24 folks outside of our SSC. We look at folks that

1 are more familiar with some of the technical
2 components of what Brad did to help us with that
3 evaluation.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
5 you, Chris. Further discussion. David Simpson.

6 DAVID SIMPSON: Yeah. One comment and
7 then a question. I'm really disappointed that the
8 direction that the consultant was given was to do
9 this evaluation under a full feeding frenzy level
10 of quota that won't be available to us in the coming
11 years. I'm sure of that. We're going to go back
12 to where we've been, and we're still going to have
13 this outstanding question of when allocations bind
14 harvest the economic allocation of these resources
15 will be critical. We'll be there next year. My
16 question, though, on the commercial side was: You
17 look at seasonal allocation, and I wondered whether
18 there was any signal in the assessment that would
19 suggest demand, the allocation on a monthly basis
20 if you thought about it that way, the market demand
21 varied meaningfully from one month to the other
22 such that you might consider allocating more than
23 simply one-twelfth of the annual quota for any
24 given month?

1 BRAD GENTNER: Well, two things: I'm
2 philosophically against controlling the market
3 that heavily; two, the data won't support it
4 looking at it that way; it just won't. I mean we
5 had a hard enough time trying to estimate models
6 that were Winter 1, Winter 2 and summer and couldn't
7 do it without combining Winter 1 and Winter 2
8 together.

9 Part of that may be because they're so
10 similar price wise and the fact that the quota rolls
11 from one end to the other. But going to a monthly
12 model would be darn near impossible.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Chris, could you comment somewhat on the model and
15 the timing?

16 CHRIS MOORE: Yeah. Thank you, Mr.
17 Chairman. I want to address Dave's point, which
18 is it's disappointing that the contractor was given
19 guidance to look at the current allocation. I
20 think if you look at the results, certainly I think
21 there's folks sitting around the table that aren't
22 happy with the results, but remember that we now
23 have a framework that we didn't have before. If
24 in fact, you believe that the quota and the

1 recreational harvest limit is going to go down in
2 the future, we can evaluate the allocations under
3 those particular schemes. And I think we've taken
4 a giant step with this bioeconomic analysis. And
5 Brad can address this. I mean there's things that
6 Brad did that are cutting edge when it comes to
7 looking at allocations. And certainly the next
8 step might be the development of the bioeconomic
9 model for the commercial fishery. That's
10 something that the National Marine Fishery Service
11 or a contractor could probably do for us at some
12 time in the future. But the bottom line is we now
13 have a framework that we didn't have. So, if in
14 fact, the Council or the Commission start making
15 decisions that actually bind commercial and
16 recreational fisheries in smaller allocations,
17 then we can look at that.

18 BRAD GENTNER: Really the best thing to
19 do is to combine the two bioeconomic models. They
20 run best when they're run together. Lee will back
21 me up on this. I would think because there's that
22 interplay between the sectors and there's
23 interplay between harvest between the sectors.
24 And so I've already started working with them sort

1 of what can we do to get that to happen. And I
2 want to say that if we go back to a situation where
3 the quota has come back down to closer or within
4 the range used for the analysis, this time series
5 of 2005 to 2009, the model will give us an answer,
6 will give us an answer of non zero willingness to
7 pays for increases for both sectors. I mean we
8 have two what I think are really good models. If
9 we're going to stay in this realm of quotas that
10 are double what we saw in our time series -- you
11 know, we just really can't come up with any sort
12 of meaningful advice; however, if in deed the
13 quotas come back down to where they were in that
14 time series, this model is going to be a very useful
15 tool.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you, Brad. Further comments? We have several
18 public comments. Jeff, if you want to come on up.

19 JEFF REICHLE: Thank you, Mr. Chairman.

20 Jeff Reichle from Lunds Fisheries. And it was
21 very difficult to follow that presentation. I
22 think a lot of council members are struggling with
23 that, and I'm not saying it doesn't make any sense,
24 but there's one thing that I surely agree with this

1 gentleman on, and that is that we should not be
2 trying to manage this fishery to regulate the price
3 in some way, because I don't think that's what the
4 Council's supposed to be doing or what National
5 Marine Fishery Service is supposed to be doing.

6 We're supposed to be managing the
7 fishery so that it's sustainable and -- you know,
8 we can hopefully build markets. But prices go up
9 and down all the time for a lot of reasons, and
10 I think that we should remember that. I'd just
11 like to make a series of comments. Maybe the
12 Council can think about this.

13 I know this is going to go for some time
14 here and peer review this. And we're going to have
15 a whole bunch of chances for discussion. But first
16 thing I'd like to say is scup historically has never
17 been a multispecies fishery. Scup was a directed
18 fishery.

19 It's become a multispecies fishery
20 because we've been forced to do that with
21 relatively low quotas and low landing limits so
22 that people would go out -- I'm talking from New
23 Jersey now, but I think this happens in a lot of
24 states.

1 People from New Jersey go out; fishermen
2 from New Jersey go out. They concentrate on
3 fishing for fluke first, and then if they can find
4 scup, they put them on, and they run home.

5 It never used to be that way. We had
6 a fleet of scup fishermen from Cape May that left
7 the dock looking for scup. That's what they
8 wanted. If they ran into something else, they took
9 advantage of it, but they were scup fishermen.
10 So this whole idea of it being a multispecies
11 fishery is something that's been forced on us, and
12 if the quota is high enough, we should be able to
13 direct fish for scup because that's what
14 historically it's been. Scup recently has been
15 predominantly a bycatch fishery.

16 I will agree with that, because of
17 regulations until 2012, until this year, when we
18 increase the trip limit. And you know, I think
19 this study has been done from 2011 prior, so that's
20 not taking that into account.

21 And I think that a bigger trip limit has
22 and will result eventually in higher prices
23 domestically. And one of the things that's
24 changed in the past few years, as I've told the

1 Council before, is there is a bottom to the scup
2 market now.

3 We've developed a good export market for
4 scup that's enabled us to put a bottom on the
5 market, and I think that over the course of time,
6 that bottom will rise because the fish is more
7 appreciated all the time in the export market, and
8 I think that we'll be able to get more money out
9 of it.

10 One of the other things I wanted to
11 mention is when fishermen go scup fishing, they're
12 not always going out to catch -- I mean having a
13 50,000 pound trip limit is good in that if the guys
14 are out there, they know there's a lot of other
15 fisherman out there directing on scup and -- you
16 know, the market may be bad because there were scup
17 landed two or three days ago and the market hasn't
18 recovered yet, the 50,000 pound trip limit gives
19 that guy the ability to make money on a trip with
20 a base price. We didn't have that before.

21 But the other side of that is when a guy
22 goes out fishing with a 50,000 pound limit, if he's
23 a smart fisherman and he's got a sac phone, he's
24 calling to find out what the market is.

1 So, if the market's -- you know, a buck
2 fifty or two dollars today and he's got 20,000
3 pounds on, guess what, he's not staying until
4 tomorrow. He's coming in to get those fish off
5 and get them in the market, and he'll worry about
6 catching more fish next time.

7 So I'm kind of worried about just looking
8 at the data as numbers without understanding the
9 behavior. And I think that -- I don't think that
10 was taken into account enough.

11 Then the last thing I'd just like to say
12 is the relationship of -- you know, supply and
13 demand is really not simple. The scup used to be
14 strictly a domestic market, and when there was a
15 lot around, the price went down to 10 cents. When
16 there was nothing around, the price could be up
17 to \$2 or 2.50. That's the way it was.

18 But the more we have base markets, the
19 more that changes. And when you have a base market
20 and if we're lucky enough to -- I mean we may not
21 maintain the same quota that we have now, but if
22 we're lucky enough to maintain relatively
23 increased produce compared to what we've had
24 through the last 10 years and we get fish back in

1 the market on a regular basis, we'll build the value
2 of that fish up again. So just like the Council
3 to think about those things. Thank you.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
5 you, Jeff. Bonnie Brady.

6 BONNIE BRADY: Hi, I'm Bonnie Brady,
7 Long Island Commercial Fishing Association. I
8 have many questions about the commercial side of
9 your study, Brad. Frankly, I think it's kind of
10 economics in a fish bowl.

11 As far as the costs using models versus
12 actually asking fleet, I think the biggest problem
13 is you talk about observer costs. I've known I'd
14 say tens of fishermen in Montauk, which is the
15 primary port. The observer shows up at two or four
16 in the morning. They're not asking for the cost
17 of fuel, which by normal times a trawler would go
18 and fish scup offshore is about a \$9,000 bill, just
19 straight.

20 They're not there for the ice. They're
21 not there for any component. They're there. They
22 show up. They measure the fish. They go home.

23 Regarding the revenue, the best scup
24 prices in 20 years were had this past year. And

1 what Jeff had mentioned before, depending on time
2 of year Winter 1 is traditionally that offshore
3 fishery because that's where the fish are.

4 So, in the past when you keep an
5 inordinately low scup limit of 30,000 pounds once
6 every two weeks, that means the guys are only going
7 to go out and do one scup trip, and then on the
8 way back they may get whatever else.

9 In New York they're going to go get the
10 fluke; they're going to go get the other fish.
11 But that's all they would be allowed to get.

12 In years past from about 2003 until two
13 thousand maybe eight or nine, scup was kept -- at
14 least I can speak for New York -- at such a low
15 level that it was keeping virtually everyone out
16 of the scup market. When you only have 5,000
17 pounds of scup for a winter trip, it's not even
18 worth filling the boat with fuel and going out for
19 us. So there would have been more trips if we had
20 been allowed a larger winter fishery at least in
21 Winter 1.

22 Now, you mentioned that Winter 1 and
23 Winter 2 they're rolled into each other, and
24 they're the same, but in effect they're not. First

1 of all, in Winter 1 -- and I have this actually
2 regarding this past year -- in April the majority
3 of the stock had actually moved inshore, so a lot
4 of guys were doing day boat fishing in April where
5 they go out at three in the morning. They'd go
6 off. They'd pick up a load of 20/30,000 pounds
7 and come in the same day, similar to what Jeff said,
8 what the market is.

9 But it also allowed for the maximizing
10 of profit with the least amount of cost because
11 it was a one-day fishery. So you would not see
12 a 50,000 pound catch because they were just going
13 in, getting it, and coming back in.

14 In the Winter 2 session, it tends to be
15 similar to that. I think it was what -- 8,000
16 pounds this past fall I think in New York federally
17 for catch. And so you had as long as the stock
18 stayed inshore, you had boats that were the inshore
19 fleet that were also catching at that rate.

20 If there had been a larger quota, they
21 would have caught more. There's no doubt the
22 number one reason that the quota is not caught
23 commercially in Winter 1 is because of the trigger.

24 When you hit 80 percent and you drop it

1 to a thousand pounds, no one's going offshore for
2 a thousand pounds. It just wouldn't make any
3 sense.

4 Let's see. I've got a whole bunch of
5 things I kept trying to write as you guys were going
6 along. Let's see. I've got the trigger. I've
7 got that.

8 Also, when you talked about -- and I have
9 to slightly disagree at least in New York with Jeff
10 on the winter fishery is -- predominantly on page
11 10 -- a bycatch fishery in the larger offshore
12 multispecies groundfish fishery.

13 We've got maybe 10 boats in New York that
14 catch groundfish because once Southern New England
15 flounder was removed as a catchable species unless
16 we're part of a sector a majority of the guys don't
17 want to come all the way down to New York to catch
18 it. We virtually have no groundfish boats in New
19 York. We've got a very much of a directed scup
20 fishery.

21 Let's see. I can tell you as far as
22 prices, what Laurie said was absolutely true. We
23 saw a dollar. We saw sometimes a 1.50 a pound.

24 I mean that was -- my husband is able to go to

1 the shipyard for the first time in three years
2 because of scup.

3 Scup saved a large component of the
4 winter offshore fishermen at least from New York
5 because if they hit them and they got them, they
6 could pay the bills.

7 Mr. Bullard, hi, how are you? I'm using
8 you as a reference because you spoke earlier about
9 the socioeconomic effects of many of these
10 regulations.

11 And what's missing in this report from
12 an economic long standpoint is the reality for
13 commercial. By not asking the fleet and using VTR
14 data, you are mixing the ultimate in apples and
15 oranges because VTR data -- and Russ Brown isn't
16 here to tell you -- is often so hideously incomplete
17 that they don't have the information that you need
18 without going and asking the commercial guys how
19 much is your fuel; how much is your ice; how many
20 days do you have to be out there? And the same
21 thing, they call up, and they say, oop, the price
22 has dropped to 30 cents; don't go to get scup, but
23 if you get them by tomorrow, you might get maybe
24 70 cents.

1 It's extremely important, and it's not
2 anywhere in that report that I could see. When
3 you talked about you wanted to get the analysis
4 a lot quicker, it worried me when you said that
5 because it would not have made it more correct
6 unless the goal was to redistribute quota.

7 The data that you used had multiple
8 errors, and I think that any type of review for
9 the commercial data has to include members of
10 industry that specifically are familiar with the
11 fishery and can straight out tell you what the costs
12 are.

13 Because the observers they don't know,
14 and they really don't care truthfully. I mean at
15 least the ones that we've met. They're not really
16 taking down notes. Well, how much did you pay for
17 fuel today? Or did you go to Rhode Island to get
18 your fuel because you don't have to pay the taxes
19 if you go to Rhode Island before you go out fishing?

20 Otherwise, the report just really -- yes, in dire
21 circumstances, it might have a component of
22 rationale versus where to move some of the
23 percentages maybe more to the summer fishery to
24 allow for a constant product in the market, which

1 would overall help create more markets, which it
2 has done.

3 But with the data that you have from the
4 commercial side, it's not really worth much. I'm
5 sorry. I would really implore the Council to
6 really take a much better look at the commercial
7 end of it. Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
9 you, Bonnie. Jim. We'll have time for one more,
10 and then we're going to have to wrap up this part
11 of the meeting. We've got a listening session
12 coming up right after this. So, Jim, if you want
13 to come up.

14 JAMES FLETCHER: Short and sweet. Most
15 of the industry knows that the price of tilapia
16 has driven the price of imports have driven the
17 price of scup. Does your report show anything that
18 the price of scup was tied to the price of tilapia?

19 BRAD GENTNER: We didn't look at that,
20 except in the fact that tilapia was included in
21 the consumer demand model lumped together with all
22 the rest of imports. We didn't look at tilapia
23 specifically.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Brad,

1 thanks again for the presentation. It's been our
2 intent to have the report reviewed, but I think
3 it's clear from the discussion that a lot of
4 questions have been raised about it and about some
5 of the conclusions as they relate back to the quota
6 levels, so I think we're going to have to explore
7 that further before we move into the review
8 process.

9 But I appreciate your presentation. I
10 appreciate the input we've had today from the ASMFC
11 members. Obviously, the report has raised a
12 number of important issues, and things are going
13 to have to be considered before it were put into
14 practice for management.

15 But I appreciate that. Thank you, Brad.

16 With that we're adjourned. We have a listening
17 session coming up now, and that will be on the
18 strategic planning process; and also John Bullard,
19 the new Regional Administrator for the Northeast
20 Office of the National Marine Fishery Service, will
21 be having a listening session. So why don't we
22 come back in 10 minutes and start that. Thank you.

23
24 WHEREUPON:

1
2
3
4
5
6
7
8
9

THE MEETING WAS SUSPENDED AT 3:58 P.M.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 21st, day of September, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

THIS FOREGOING CERTIFICATION OF
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
AND/OR DIRECTION OF THE CERTIFYING REPORTER.

Pages: 1-205

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
800 North State Street, Suite 201
Dover, Delaware 19901-3910

COUNCIL MEETING

14-16 AUGUST 2012

at

Courtyard Philadelphia Downtown
21 N. Juniper Street
Philadelphia, PA 19107

(Morning Session)

WEDNESDAY AUGUST 15, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	4
FINALIZE SUMMER FLOUNDER MANAGEMENT MEASURES IN CONJUNCTION WITH THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S SUMMER FLOUNDER, SCUP AND BLACK SEA BOARD	
JESSICA COAKLEY	10
Motion - Two Years	
Steven Heins	80
A.C. Carpenter	80
Vote - Council - Pass	82
Vote - Board - Pass	83
Motion - RSA	
Steven Heins	84
Pat Augustine	85
Vote - Council - Pass	92
Vote - Board - Pass	92
Motion - Specifications	
Steven Heins	93
Pat Augustine	94
Vote - Council - Pass	94
Vote - Board - Pass	95
FINALIZE SCUP MANAGEMENT MEASURES IN CONJUNCTION WITH THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S SUMMER FLOUNDER, SCUP AND BLACK SEA BOARD	
JESSICA COAKLEY	97
Motion - Three Years	
Steven Heins	162
Vote - Council - Pass	165
Vote - Board - Pass	166
Motion - RSA	
Steven Heins	166
Vote - Council - Pass	167
Vote - Board - Pass	168
Motion - Specifications	

Steven Heins	169
Vote - Council - Pass	170
Vote - Board - Pass	171

Motion - Amendment - Split	
David Pierce	176
Steven Heins	176
Vote - Council - Pass	203
Vote - Board - Pass	204

1 [9:00 a.m.]

2

3

INTRODUCTIONS AND ANNOUNCEMENTS

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

COUNCIL CHAIRMAN RICHARD ROBINS: Good morning, and welcome to Philadelphia. Let's go ahead and get started if we can. Today the Council's convened jointly with the summer flounder, scup, black sea bass board of the Atlantic States Marine Fisheries Commission.

I'd like to say welcome to all the Commission members. We look forward to a productive day. We'll be going through specification setting on summer flounder, scup, black sea bass and bluefish.

In between black sea bass and bluefish, we'll have an update on Amendment 17 to the black sea bass plan, and I thought that would be helpful to have that discussion while we were jointly convened so that we can have a broader discussion with the Commission on that as well.

We'll start out with a series of presentations by staff. Jessica is going to be giving you an update on the assessment and the staff recommendations as well as the AP report.

1 We'll then go to Dr. Tom Miller, who is
2 representing the SSC today, and he'll give us the
3 SSC's report for each of these species, and then
4 we'll come back to the Board and Council for
5 discussion on where to go with these ABCs, ACLs and
6 related specifications. So with that, I'll turn
7 to Jessica. I'm sorry. We do have one order of
8 business for me to take care of.

9 Congratulations are in order and a warm
10 welcome to Tony Dilernia who is coming back to the
11 Mid-Atlantic Council. We need to swear Tony in.
12 So, congratulations, Tony, and welcome.

13 ANTHONY DILERNIA: Thank you very much,
14 Mr. Chairman.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 John.

17 JOHN BULLARD: It's nice to see Tony
18 again. Most of my encounters with Tony have been
19 at good Brooklyn restaurants. So nice to see you
20 here. Tony, I think you have this oath in front
21 of you, so if you'd raise your right hand and repeat
22 after me. I, state your name.

23 ANTHONY DILERNIA: I, Anthony Dilernia

24 --

1 JOHN BULLARD: -- as a duly appointed
2 member of the Mid-Atlantic Regional Fishery
3 Management Council --

4 ANTHONY DILERNIA: -- as a duly
5 appointed member of the Regional Fishery
6 Management Council --

7 JOHN BULLARD: -- established under the
8 Magnuson-Stevens Fishery Conservation and
9 Management Act --

10 ANTHONY DILERNIA: -- established
11 under the Magnuson-Stevens Fishery Conservation
12 and Management Act --

13 JOHN BULLARD: -- hereby promise to
14 conserve and manage the living marine resources --

15 ANTHONY DILERNIA: -- hereby promise to
16 conserve and manage the living marine resources --

17 JOHN BULLARD: -- of the United States
18 of America --

19 ANTHONY DILERNIA: -- of the United
20 States of America --

21 JOHN BULLARD: -- by carrying out the
22 business of the Council --

23 ANTHONY DILERNIA: -- by carrying out
24 the business of the Council --

1 JOHN BULLARD: -- for the greatest
2 overall benefit of the Nation.

3 ANTHONY DILERNIA: -- for the greatest
4 overall benefit of the Nation.

5 JOHN BULLARD: I recognize my
6 responsibility --

7 ANTHONY DILERNIA: I recognize my
8 responsibility --

9 JOHN BULLARD: -- to serve as a
10 knowledgeable --

11 ANTHONY DILERNIA: -- to serve as a
12 knowledgeable --

13 JOHN BULLARD: -- and experience
14 trustee --

15 ANTHONY DILERNIA: -- and experienced
16 trustee --

17 JOHN BULLARD: -- of the Nation's
18 marine fisheries resources --

19 ANTHONY DILERNIA: -- of the Nation's
20 marine fisheries resources --

21 JOHN BULLARD: -- being careful to
22 balance --

23 ANTHONY DILERNIA: -- being careful to
24 balance --

1 JOHN BULLARD: -- competing private or
2 regional interests --

3 ANTHONY DILERNIA: -- competing
4 private or regional interests --

5 JOHN BULLARD: -- and always aware --

6 ANTHONY DILERNIA: -- and always aware
7 --

8 JOHN BULLARD: -- and protective of --

9 ANTHONY DILERNIA: -- and protective of
10 --

11 JOHN BULLARD: -- the public interest
12 in those resources.

13 ANTHONY DILERNIA: -- the public
14 interest in those resources.

15 JOHN BULLARD: I commit myself to
16 uphold --

17 ANTHONY DILERNIA: I commit myself to
18 uphold --

19 JOHN BULLARD: -- the provisions,
20 standards, and requirements --

21 ANTHONY DILERNIA: -- the provisions,
22 standards, and requirements --

23 JOHN BULLARD: -- of the
24 Magnuson-Stevens Fishery Conservation and

1 Management Act --

2 ANTHONY DILERNIA: -- of the
3 Magnuson-Stevens Fishery Conservation and
4 Management Act --

5 JOHN BULLARD: -- and other applicable
6 law --

7 ANTHONY DILERNIA: -- and other
8 applicable law --

9 JOHN BULLARD: -- and shall conduct
10 myself at all times --

11 ANTHONY DILERNIA: -- and shall conduct
12 myself at all times --

13 JOHN BULLARD: -- according to the
14 rules of conduct prescribed by the Secretary of
15 Commerce.

16 ANTHONY DILERNIA: -- according to the
17 rules of conduct prescribed by the Secretary of
18 Commerce.

19 JOHN BULLARD: This oath is given
20 freely --

21 ANTHONY DILERNIA: This oath is given
22 freely --

23 JOHN BULLARD: -- and without mental
24 reservation or purpose of evasion.

1 ANTHONY DILERNIA: -- and without
2 mental reservation or purpose of evasion.

3 JOHN BULLARD: Tony, congratulations.

4 ANTHONY DILERNIA: Thank you,
5 everyone.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Congratulations, Tony. Jessica.

8

9 FINALIZE SUMMER FLOUNDER MANAGEMENT MEASURES

10 IN CONJUNCTION WITH THE ATLANTIC STATES

11 MARINE FISHERIES COMMISSION'S SUMMER

12 FLOUNDER, SCUP AND BLACK SEA BOARD

13 JESSICA COAKLEY: All right. Good
14 morning, everyone. We're going to be talking
15 about summer flounder management measures. The
16 information we'll be discussing is behind Tab 6 of
17 the briefing book. One second. [Pause.] All
18 right. Catastrophe avoided. The process for
19 setting specifications for the 2013 fishing year
20 was actually a little different than what we did
21 for setting measures for the 2012 fishing year.

22 This year was the first time that the
23 staff developed a fishery information document in
24 June, which was based on the available information

1 at the time about the fishery and the stock.

2 And our advisors met on June 27th to
3 develop fishery performance reports. Those
4 performance reports were then passed on to the
5 Monitoring Committee and the SSC to consider in
6 their deliberations, and those are also in the
7 briefing book behind that tab.

8 On July 19th, the assessment update for
9 summer flounder was received, and the staff memo,
10 staff recommendations were developed on the 20th
11 and the 21st and then distributed to the
12 committees.

13 The SSC met on July 25th and 26th to
14 develop their recommendations, and the Monitoring
15 Committee met on July 27th. So essentially in a
16 period of a month, we've walked through the entire
17 process of having all those groups meet and develop
18 all their recommendations. All the information
19 from those meetings is behind your Tab 6. All
20 right. The fishery performance report that our
21 advisors developed I want to note that it was a
22 really diverse group with extremely diverse input
23 for those of you who read through those performance
24 reports.

1 The advisors were not driven to
2 consensus. In fact, a lot of them wanted to be
3 very clear that they didn't necessarily agree with
4 the opinions of some of the other advisors.

5 They wanted to make sure that their
6 individual opinions were heard. So those are all
7 captured in that document. And, again, they
8 reviewed the information that was available at the
9 time.

10 Just highlighting a few of the common
11 themes. Our advisors noted that for summer
12 flounder the three most recent years have been
13 highly variable, and they noted the same theme for
14 both scup and for black sea bass.

15 They've had winters that were
16 extremely cold and winters that were extremely
17 warm, so the fish movements and fish behavior and
18 the way they're distributing themselves has been
19 a little different for each of these years. The
20 advisors also discussed the summer flounder stock
21 and whether what they're seeing out there on the
22 water is either a range expansion for summer
23 flounder or it's actually a result of population
24 expansion as a result of the building program.

1 So they're seeing fish at different
2 places. They're seeing larger fish in different
3 areas than they've seen before. But there wasn't
4 really consensus to which of these it might be,
5 whether they're just moving around a little
6 differently.

7 Our advisors also noted that dogfish
8 predation is high on age one summer flounder, and
9 this was something that they were concerned about.

10 They also noted that discard mortality
11 is a concern and in particular the recreational
12 fishery they thought is one component that there
13 was actually room for improvement in terms of fish
14 handling techniques, use of hooks, and different
15 approaches to reducing mortality.

16 They were also concerned that the
17 fishery is targeting large more for fecund fluke
18 in the population as a result of the fish size in
19 the recreational fishery that's in place right
20 now. They pointed out that at this point they see
21 the population is split with about 50 percent of
22 the fish north of Hudson Canyon and about 50
23 percent of the fish to the south.

24 And one of the issues they noted was that

1 the allocations are actually about 70 percent of
2 the allocation goes to states New Jersey and areas
3 south, which exacerbates the issue of some of these
4 overages that we're seeing in the states to the
5 north states like New York and in those areas.

6 They pointed out that the markets are
7 tumultuous and that's been a result of the variable
8 quotas that occurred over the rebuilding time
9 periods through the 2000s. And there's a desire
10 for multi-year specifications to allow for
11 stability and allow for business planning for the
12 fishing industry.

13 So you've got the fully detailed
14 performance report in there. It's really hard to
15 summarize the viewpoints of 20 some-odd people in
16 a few slides, so please do take a closer look at
17 that.

18 The assessment for summer flounder was
19 last peer reviewed in 2008 at the SAW/SARC 47. At
20 that time an age-structured assessment program
21 called ASAP was the accepted model. The July 19,
22 2012 update that we received applied the exact same
23 modeling approaches that were peer reviewed and
24 approved. Essentially it's a turn-of-the-crank

1 assessment where we put new input information
2 through 2011 into the model.

3 So we've got updated estimates of
4 fishing mortality, spawning stock biomass, and
5 recruitment, and this assessment update also
6 updated the projections to get us to 2013 to set
7 our fishing measures.

8 The biological reference points were
9 peer reviewed and accepted at that time, and the
10 fishing mortality threshold rate, which is the
11 value above which overfishing is occurring, if
12 your fishing mortality rate is higher than that is
13 an F 35 percent FMSY proxy, and that value is 0.310.
14 So that's our overfishing threshold.

15 The biomass rebuilding target the BMSY
16 proxy is actually a spawning stock biomass proxy.
17 It's 132.4 million pounds or about 60,000 metric
18 tons. That's the target to which the stock was
19 rebuilt. The overfished threshold for the stock
20 would be one-half that value. Summer flounder was
21 declared rebuilt in the fall of 2011, and that was
22 based on the October 2011 update that this group
23 received last December when you met and had
24 indicated that summer flounder has exceeded that

1 threshold by a little less than a percent. It had
2 just crossed that line for SS BMSY in 2010.

3 Now, the assessment incorporates a
4 tremendous amount of information. Something like
5 49 age specific indices go into the summer flounder
6 assessment.

7 So I'm not going to show you all 49, but
8 I've just pulled a couple so that you can see the
9 general trends and the information that gets
10 incorporated into the assessment.

11 So this is the Northeast Fishery Science
12 Center trawl surveys. Both the Albatross and the
13 Bigelow are both on this graphic.

14 And, as you can see, the survey indices
15 actually dropped throughout the '80s and hit a low
16 point in the late '80s early '90s, and then you see
17 a general upward trend in those indices.

18 And that's the same trend that we're
19 seeing actually in the stock assessment as a result
20 of this information. This is also the
21 Massachusetts and Rhode Island trawl surveys.
22 And, again, a common trend where we see those lower
23 levels in the '80s and the '90s, and you see a
24 general upwards trend in terms of these fishery

1 independent indices. So the model calculated
2 fishing mortality as given in this figure. It's
3 actually the line with the dots on it.

4 The total fishery catch is given by the
5 solid line. So earlier in the '80s and '90s the
6 fishing mortality rates were extremely high. In
7 fact, in 1995 it was nearly 2.0 is what the fishing
8 mortality rate is, and the threshold rate is .31.

9 So, when you're way up at 2.0, about 85
10 or 90 percent of the fishable stock out there is
11 being removed each year. It's a very high fishing
12 mortality rate.

13 A rebuilding program was put in place.
14 Those fishing mortality rates were decreased, and
15 for the most recent five years the fishing
16 mortality rate is below the threshold rate, which
17 is that dashed line on the graphic.

18 And you'll see while we went through
19 that rebuilding period, if you look at that solid
20 line in catch, the catch levels did come down in
21 the late 2000s as we were working through that
22 rebuilding process, but you see an uptake in those
23 in the recent years as things have stabilized
24 around BMSY. This graphic gives the model

1 estimated spawning stock biomass and recruitment.

2 So the solid line is spawning stock
3 biomass, and stock size actually hit its lowest
4 levels in 1989 in the time series, but you see a
5 steady increase as we move through the fishing
6 mortality reduction programs and the rebuilding
7 program.

8 Corresponding to that low stock size was
9 the lowest recruitment on record for this time
10 series which starts in 1982, and that was in 1988
11 with that very low recruitment value. And the
12 recruitment bars on this graph the most recent one
13 is the 2011 recruitment value that was calculated.

14 So to summarize the stock dynamics, the
15 fishing mortality in 2011 was estimated to be .241.
16 This is below that threshold mortality rate of
17 .310. So overfishing was not occurring on the
18 stock in 2011.

19 The 2011 spawning stock biomass was
20 125.7 million pounds. This is 95 percent of that
21 rebuilding target, the SSV MSY value of 132.4
22 million pounds. So the stock size had declined
23 slightly from what it was in the most recent update
24 where we had crossed the threshold mortality rate

1 in 2010. So neither overfishing was occurring on
2 the stock, nor is the stock overfished.

3 So, once this assessment information
4 was received, the staff developed recommendations
5 in a staff memo that was passed on to the SSC and
6 Monitoring Committee, and part of the staff
7 recommendations were for setting multi-year
8 specifications, three-year specifications to
9 provide for some of the fishery stability that the
10 fishermen both in the recreational and the
11 commercial fisheries have been asking for to allow
12 for business planning and to know what's coming in
13 the most recent years.

14 Staff had recommended a constant catch
15 based approach, and as you'll see from Tom's
16 presentation, the SSC actually took a slightly
17 different approach than that, but I'll let Tom go
18 over that.

19 The other thing I do want to point out
20 since the staff memo is in there, the staff
21 recommended ABC for 2013 is the same as that which
22 was recommended by the SSC for that year, and that
23 was essentially a calculation using the assessment
24 information and the Council risk policy for

1 overfishing of that stock. So just so you know
2 that's where things aligned between the staff
3 recommendation and what the SSC has presented for
4 their recommendations. So with that, I'm going to
5 hand the presentation over to Tom. If you tell me
6 next slide, I can scroll through.

7 THOMAS MILLER: All right. Thank you,
8 Jessica. Good morning, ladies and gentlemen.
9 First, let me apologize on behalf of John Boreman
10 for not being here today. John is President elect
11 of the American Fisheries Society, and their
12 annual meeting is in Minneapolis next week, and
13 he's been called away on those responsibilities.

14 So it's my pleasure to introduce the SSC
15 recommendations. As Jessica said, we met in
16 Baltimore on the 25th and 26th of July to receive
17 the assessment from the Northeast Center and went
18 through what has become a fairly standard process
19 now for developing recommendations to you.

20 Next slide, please, Jessica. The first
21 term of reference we're given is to categorize the
22 assessment in one of four levels that is being
23 defined based upon the quality of information
24 coming out of the assessment. I want to emphasize

1 the criteria that we put these assessments in does
2 not reflect the level of work that the assessment
3 scientists undertake.

4 It's not a grade in the sense of
5 pass/fail. It is really a reflection of the
6 reliability for our assessment of the reliability
7 of the information coming out of the assessment.

8 The levels range from Level 1 at the
9 highest level where we would have fairly high
10 confidence in every piece of information coming
11 out of the assessment to Level 4 where we believe
12 the assessment is somewhat unreliable and have to
13 use more ad hoc methods to coming up with
14 recommendations.

15 So the summer flounder assessment was
16 categorized as Level 3, the same level that it had
17 been categorized in before. There were no new
18 structural changes in the assessment, as Jessica
19 has presented, and no new refinements of the levels
20 of uncertainty in various parameters.

21 From a Level 3 assessment follows a
22 series of decisions that are guided by the
23 Council's risk policy that you implemented a
24 little while ago. Next slide, please.

1 The first decision after the
2 determination of the assessment level is the
3 overfishing limit. The over fishing limit is
4 13,523 metric tons. That comes directly out of
5 the assessment. It's based upon an F MSY proxy of
6 F 35 percent is equal to F equals 0.31. And a Level
7 3 assessment indicates that we have confidence in
8 that OFL level.

9 Next slide, please. Based on those two
10 pieces of information, we then used the Council's
11 risk policy to estimate the ABC. And the steps in
12 that process are, first, to estimate the ratio of
13 the current biomass to the target biomass, the
14 BMSY.

15 When that ration is above one, we permit
16 more risk. When it's below 100 percent or one, we
17 reduce the risk allowable. So that risk ration
18 was close to 100 percent. It was 92 percent.

19 And then we used a level of risk P star
20 value directly from your risk policy of .346, and
21 we assumed that the uncertainty in the OFL could
22 be characterized by a log normal distribution with
23 a specified level of uncertainty specified to its
24 coefficient of variation. And applying then your

1 risk policy to the OFL gives us an ABC of 10,088
2 metric tons.

3 We had some discussion over the number
4 of years for which the OFL and ABC should be
5 specified. We heard the Council's or the staff
6 recommendation for three year. We also heard the
7 performance report comments of an attempt to try
8 and provide as much certainty moving forward for
9 the commercial and recreational sectors.

10 We also recognized that there is a new
11 benchmark assessment for summer flounder
12 scheduled in 2013 if it follows according to
13 schedule. And so based upon that, we decided to
14 recommend a two-year specification so the SSC
15 could be responsive to the new benchmark
16 assessment when it comes out.

17 So a two-year specification of the
18 constant F policy would mean that ABC would be in
19 place for two years. The SSC would revisit it
20 mid-year, but wouldn't need to go through the full
21 specification process each year. Next slide,
22 please.

23 We went through and tried to
24 characterize what we believed were the most

1 important sources of uncertainty that prevented
2 us, for example, in moving it to a Level 2
3 assessment, and there were really three core
4 sources of uncertainty.

5 The first is that there is a strong
6 retrospective pattern in recruitment, which means
7 the model is predicting different levels of
8 recruitment if you were to use shorter time series
9 on the model. So if you use all of the data you
10 have, you get one answer. If you compare that to
11 what we got last year when we had one year less
12 data, you get a very different answer.

13 And that retrospective pattern is a
14 concern. There is still a complete lack of
15 information in the uncertainty surrounding the
16 biological reference points, so we have a single
17 number for the biological reference points, and we
18 don't fully understand how reliable those numbers
19 are, and so that's the second important source of
20 uncertainty.

21 And as with many of these stocks, we have
22 quite poor information on natural mortality rates
23 both at absolute level and how it may vary with age.

24 And so those three sources of

1 uncertainty we considered the most important.
2 Those three deal with the assessment in general.
3 These deal with determination of the OFL and F ABC.

4 The first one is the uncertainty
5 associated with the change in vessel that the
6 Northeast Center has used for its surveys. And
7 this you'll see is a common feature among all of
8 the assessments. And there really is no way
9 around other than just facing this head on when we
10 have the two different vessels. It's unclear
11 whether the changes in survey biomass are fully
12 attributable to the changes in the underlying
13 stock biomass and how much is attributable to the
14 change in gear despite considerable efforts by the
15 Center to address them with two experiments.

16 The second source of uncertainty is
17 moving forward we'd have to use projections and at
18 this time we'd have to base it on the projection
19 of quota that will be landed in 2012 and 2013. And
20 obviously we have no way of knowing whether that
21 will be the case.

22 And then we also see that there's a
23 constant distribution of recruitments. What we
24 have seen in the past in terms of recruitment will

1 continue to reflect what we may see in the future.

2 If there are underlying changes in the
3 dynamics of the stock related to perhaps the
4 changes in distribution Jessica referenced in her
5 introductory comments or changes in environmental
6 conditions that alter recruitment those stock
7 projections become unreliable. Next slide,
8 please. And I'm done.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you, Dr. Miller. Jessica, do you want to
11 continue with the Monitoring Committee
12 recommendations?

13 JESSICA COAKLEY: Sure. I only have a
14 few slides left. The Monitoring Committee met
15 after the SSC had met on the 27th of July. They
16 reviewed all the information up to that point
17 including the performance report as well as the SSC
18 recommendations for ABC. And they focused their
19 recommendations on dealing with management
20 uncertainty and implementation and the
21 recommendations for annual catch targets.

22 As you recall, once an ABC has been
23 identified, it's split into the commercial and a
24 recreational ACL, the sum of the two of which are

1 equal to the ABC. So that was the starting point
2 for the Monitoring Committee's discussion for how
3 annual catch targets should be set.

4 The Monitoring Committee recommended
5 that there be no reduction from the commercial ACL
6 to the commercial ACT, which is that annual catch
7 target that's used to address management
8 uncertainty. They noted that the discards in the
9 commercial fishery are relatively low, and they
10 find that the landings monitoring and closure
11 system is actually quite timely. So there does
12 not seem to be performance issues relative to the
13 commercial quotas in that fishery.

14 They also noted that the recreational
15 fisheries have under harvested in the most recent
16 years. So similarly they did not recommend a
17 reduction from the recreational ACL to the
18 recreational ACT to address management
19 uncertainty.

20 They also noted that for stability
21 measures could be set at the lower of the two 2013
22 and 2014 sets of recommendations that came out of
23 the SSC for ABC and then the associated ACL;
24 however, they noted that there's really little

1 difference between the recommended ABC for 2013
2 and 2014. It's really only 45 metric tons, about
3 90 a hundred thousand pounds.

4 So they noted fishing at the SSC
5 recommended ABCs for 2013 and 2014 should enable
6 the stock to grow to BMSY due to the low constant
7 F associated with those recommendations. And
8 they were comfortable with either approach, either
9 sort of that constant catch over those two years
10 or the F-based approach since they were actually
11 so similar. The Monitoring Committee also did not
12 recommend any changes to the current mesh size
13 requirements or commercial minimum fish size.
14 They reviewed information on the Small Mesh
15 Exemption Program and the North Carolina Fly Net
16 Program for summer flounder, and they did not
17 recommend any changes to those programs.

18 They recommended an RSA up to 3 percent,
19 and similar to what's been done in prior years in
20 terms of recommendation, states should continue
21 measures to reduce discard losses in the
22 commercial fishery.

23 I know the manner in which some of those
24 measures are set in the states already try to get

1 at this and try to minimize those discard losses.
2 They thought that was a good thing to reinforce
3 each year.

4 So the recommended overfishing limit,
5 ABCs and ACTs that resulted from the SSC and
6 Monitoring Committee recommendations for 2013 and
7 2014 are here in this table. So the OFL was 29.81
8 million pounds. The ABC associated with that for
9 2013 would be 22.34 million pounds, and the
10 commercial quota those landings levels less RSA
11 would be 11.44 million pounds, and the
12 recreational harvest limit would be 7.63 million
13 pounds. For 2014 those landings levels would be
14 11.39 million pounds and 7.59 million pounds for
15 the recreational harvest limit, and that
16 difference is, again, a result of the 45 metric ton
17 difference between the 2013 and 2014 ABC
18 recommendations. So that's my final slide.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you, Jessica. Questions for Jessica and Dr.
21 Miller at this point? Peter.

22 PETER HIMCHAK: Yes. Could you kindly
23 go back to Dr. Miller's calculation of the ABC.
24 Okay. So these numbers are -- doing the math you

1 got to follow the ABC all through the flow chart.
2 So you have -- oh, the 2014 ABC is the 10,044.
3 Okay. Thank you.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Adam.

6 ADAM NOWALSKY: Thank you very much.
7 Given the under performance of the recreational
8 sector in the last three years where we've been
9 averaging landings between 5 and 6 million pounds,
10 how would a continued rate of under harvest if that
11 continued again this year -- I understand you use
12 the assumption that the quotas going to be fully
13 caught, but if we continue in this manner of under
14 harvesting this year would be in the magnitude of
15 close to 3 million pounds, how would it affect
16 these projections?

17 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
18 Miller.

19 THOMAS MILLER: Thank you very much.
20 The projections are based upon, as I said, the
21 assumption that those would be met, and therefore,
22 that amount of harvest is subtracted from the stock
23 biomass. If you under perform, as you suggested,
24 we would be effectively assuming more biomass was

1 being subtracted from the stock than really was,
2 which would leave a higher amount of stock there,
3 and under the constant F policy that we put forward
4 here, you would see an increase in the ABC level
5 that came out of it.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Adam.

8 ADAM NOWALSKY: I guess what I was
9 getting at was: Did the SSC look at that given the
10 recent performance of the fishery to see at what
11 level? I understand it would increase the ABC
12 recommendation, but did they SSC give any
13 consideration to that and what the magnitude of
14 change in ABC recommendation would be?

15 THOMAS MILLER: No, we didn't.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Jessica, could you follow up on that as well?

18 JESSICA COAKLEY: Sure. The
19 assumption that the quota will be taken exactly in
20 2012 is just one of a number of assumptions that
21 the assessment work group took into account when
22 those projections were done.

23 The incoming recruitment is sampled
24 from a distribution of the historical recruitment,

1 so a median recruitment level was assumed to go
2 into those projections.

3 If it turns out that that recruitment is
4 either lower or higher, in actuality that will
5 influence the projection. There's also
6 assumptions that go into the projections as to what
7 the projected landings and discards may be, what
8 those patterns are.

9 So the quota component may have one
10 effect on the projections, but there are other
11 assumptions that go into the projections that may
12 influence it in one direction or another.

13 So I just want to highlight it is very
14 difficult to interpret what the effect of that one
15 piece will be in isolation without understanding
16 how all those other factors interact as well.

17 COUNCIL CHAIRMAN RICHARD ROBIN: Thank
18 you. Pres Pate.

19 PRESTON PATE: Jessica, in the
20 Monitoring Committee recommendation that those
21 are somewhat -- that age one occurred in the gut
22 of dogfish frequently?

23 JESSICA COAKLEY: That was something
24 the advisors had noted. They were concerned about

1 the predation of spiny dogfish on age zero summer
2 flounder.

3 PRESTON PATE: Was there any
4 documentation of that how great it was, or is this
5 something that had been reported in the Monitoring
6 Committee report before?

7 JESSICA COAKLEY: Well, it wasn't in
8 the Monitoring Committee report. It was in the
9 Advisory Panel fishery performance report.

10 PRESTON PATE: Okay.

11 JESSICA COAKLEY: Something the
12 advisors had highlighted. It is something that
13 has been noted. I know that there have been
14 predation studies on spiny dogfish looking at what
15 they're consuming, and I don't recall summer
16 flounder being a very big portion of that; but,
17 again, that's something we'd have to ask the
18 Science Center and Jason Link, someone up there to
19 get us some information about because I'm just
20 trying to recall off the top of my head.

21 PRESTON PATE: Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Rob
23 O'Reilly.

24 ROBERT O'REILLY: Thank you, Mr.

1 Chairman. Thank you, Jessica and Tom. I guess
2 my first thought is that it would be refreshing if
3 we can have this two-year catch based approach,
4 something that's been looked at for a long time
5 over the years, so it would be good to think about
6 positively. The thought I had was on recruitment,
7 though. And Tom Miller had indicated with
8 recruitment that the patterns were showing some
9 problems there I guess you would say, and when I
10 looked at that, it really is much different than
11 what you would see in that there's no bias,
12 positive bias, and negative bias in a short
13 five-year period. So that's a problem. But with
14 recruitment I know a little bit about this model,
15 and you can wait to use that word either the indices
16 or the catch. And from the past at least what I
17 remember is the indices receive a bit more weight.

18 So in Mark Terceiro's documentation of
19 the assessment he indicates that there's been
20 about a 41 percent decrease in the 2009 estimate
21 of recruitment, and now the last couple of years
22 recruitment is lower than average. And I'm
23 suspecting that the information when we're looking
24 at recruitment and the effects on what it has for

1 SSB and fishing mortality rate that really it's
2 model driven. So I'm wondering if the SSC or the
3 Monitoring Committee made comparisons to the
4 actual recruitment stream where if you do look at
5 the age-specific recruitment beyond the zeros or
6 what are moved up to the ones, generally there's
7 a positive trend, but when you look at the under
8 year indices it's really not over the last several
9 years, and I'm wondering is there some comparison
10 of the model and the actual data since we know in
11 the model there is some weighting and that leads
12 to the idea that despite really appreciating the
13 idea we can have multi-year specifications, was
14 that factored in as well? Is that automatically
15 factored in?

16 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
17 Miller, can you comment on that from the SSC
18 perspective?

19 THOMAS MILLER: Rob, you're right that
20 there were fairly strong retrospective patterns in
21 the recruitment. You can see some of the evidence
22 for that in the slide that Jessica has up on the
23 screen there that you might imagine will give you
24 that retrospective pattern the last four years of

1 recruitment have been consistently declining.
2 The four years prior to that were consistently
3 increasing so there's a strong alter correlation
4 in the recruitment of the species which is almost
5 certain to give you a retrospective pattern when
6 you sample it random from that recruitment
7 distribution in the model.

8 I think the SSC felt that with the rate
9 of change of biomass that we're seeing in the
10 species that a two-year specification didn't
11 introduce unnecessary risk given that we would
12 have a complete re-look at the assessment as a
13 benchmark assessment in 2013. So there was some
14 discomfort on behalf of the SSC I think if we had
15 been asked to go beyond the two-year
16 specification. But because we get an opportunity
17 to go back and look at it again but don't have to
18 go through the formal process next year, I think
19 we were all comfortable with that two-year period.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you. Chris Zeman.

22 CHRISTOPHER ZEMAN: A question for Tom
23 Miller and I guess Jessica. But in the Monitoring
24 Committee report they say that the discards in the

1 commercial fishery have been relatively low;
2 additional work is being conducted to reevaluate
3 the estimation of commercial discards. Please
4 elaborate more on what's being done.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jessica.

7 JESSICA COAKLEY: Sure. Well, there's
8 some additional work being done through the
9 standardized bycatch reporting methodology
10 methods that are being revisited. But there's
11 also additional work looking at some of the other
12 approaches to estimating discards better applied
13 to some of the other stocks. So summer flounder
14 back when we did the benchmark in 2008, there was
15 a working paper developed looking at multiple
16 approaches to estimating discards in the
17 commercial fishery, and ultimately the assessment
18 work groups settled on one of those approaches
19 based on all the diagnostics that were presented.
20 So a process is underway right now to work through
21 some of these other approaches again, and that's
22 something that will likely be looked at carefully
23 when the next benchmark is conducted and the work
24 group has an opportunity to review it in 2013.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
2 Pierce.

3 DAVID PIERCE: Jessica, you mentioned
4 that there's a recommendation for up to 3 percent
5 for the research set-aside. I assume that the
6 majority of the research set-aside for fluke is
7 auctioned off and that the monies are used to fund
8 NEMAP.

9 I didn't see if there was any reference
10 to the NEMAP work that's been under way for quite
11 a few years now regarding using that information
12 to help us understand what's happening with the
13 fluke resource.

14 Obviously, we continue to get good news,
15 but still it's a research set-aside. So was that
16 information, that NEMAP information, used as part
17 of determining the status of the stock?

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Jessica.

20 JESSICA COAKLEY: Yes. In the updates
21 the NEMAP time series is something that the
22 assessment work group has examined carefully. At
23 the time that the benchmark was done back in 2008,
24 the NEMAP time series was too short to be included

1 in the full assessment at that time, but it has been
2 evaluated with the other information when the
3 assessment updates are presented. And I
4 anticipate through this next benchmark the
5 assessment work group does a correlation analysis
6 with all of the available survey indices and the
7 survey scientists from the states together in a
8 room and evaluates all of those and identifies
9 what's going to be incorporated into the
10 assessment and how it will be incorporated, and
11 NEMAP will be a part of that process and that
12 analysis.

13 DAVID PIERCE: That's good news because
14 NEMAP is supposed to provide indices of abundance.
15 It provides a lot of additional information that's
16 very useful, but indices of abundance is really
17 what we need.

18 So I'm hopeful that it will prove to
19 provide indices of abundance that will be useful
20 to us as we continue to manage this resource.
21 Otherwise, why do we have the 3 percent set aside
22 specific for fluke and the other stocks too.

23 My other questions is -- and this is one
24 it's a question that comes about because of my

1 recent dealings with Georges Bank yellowtail.
2 And Dr. Weinberg may help me on this. I think I've
3 got it right, Dr. Weinberg. Just recently U.S.
4 and Canadian scientists did an assessment of
5 Georges Bank yellowtail, an updated assessment,
6 and they noticed that for the first time I believe
7 the retrospective pattern flipped, that it's not
8 the way it used to be, that is, we were
9 overestimating spawning stock biomass and under
10 estimating fishing mortality. Now I think it's
11 the other way around.

12 Okay. So it's flipped. And that
13 caused great consternation for the scientists
14 around the table. My recollection is that they
15 couldn't come up with an explanation for it, and
16 it really in the eyes of some people, not everyone,
17 but in the eyes of some people cast doubt on the
18 usefulness of the Georges Bank yellowtail flounder
19 assessment as it would be presented shortly to the
20 New England Council.

21 So I see that in the stock assessment for
22 summer flounder, there's a reference to this flip,
23 that the last six terminal years fishing mortality
24 has been overestimated, the SSB has been

1 underestimated.

2 I'm trying to understand why for fluke
3 there's no problem, there's no sounding of alarm
4 bells, and the assessment information therefore
5 and the projection information can be used, but
6 with Georges Bank yellowtail that doesn't seem to
7 be the case. So I'm looking for consistency
8 especially with reference to fluke. How do you
9 use fluke as guidance for me to move forward with
10 my use of the Georges Bank yellowtail flounder
11 information.

12 So was there any discussion by the
13 Monitoring Committee or by the SSC regarding the
14 impact of this flipping of the retrospective
15 pattern on the usefulness of the advice for us?

16 COUNCIL CHAIRMAN RICHARD ROBINS: And
17 I'm all for understanding it. Just don't put that
18 yellowtail curse on us. Dr. Miller.

19 THOMAS MILLER: No, we didn't have
20 discussions specifically mentioning the
21 yellowtail issue. Retrospective patterns, as you
22 know well, are always of concern. They suggest
23 we're missing something either mechanistically in
24 the model or there's some sort of bias in the data

1 that we haven't fully accounted for. And abrupt
2 changes in retrospective are of concern whichever
3 way they go. I don't think there was as yet a
4 sufficient level of discomfort on behalf of the SSC
5 with the magnitude of the retrospective yet. But
6 if it continues to diverge as it has been, then I
7 think the size of the retrospective rather than the
8 direction will be what will be of concern.

9

COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you. Oh, I'm sorry. To this point? Jim
11 Weinberg.

12

JAMES WEINBERG: Yeah. I think just in
13 general about these retrospective patterns and
14 when they cause discomfort, they can show up in a
15 lot of assessments and sometimes go away or
16 reappear, and I think that the level of discomfort
17 comes when you consider other things as well about
18 the stock and the stock assessment. For instance,
19 in the example you cited, the biomass estimate is
20 extremely low, and so there's already a real
21 concern there. In contrast, with summer flounder
22 there's a real strong relationship between the
23 reduction in F over time and the increase in
24 biomass, and that's been a consistent result year

1 after year in these updates. So there's some
2 level of faith in the results that are coming out
3 due to the consistency of the stock assessment over
4 time. So when the retrospective pattern appears
5 in that case, I don't think it causes the
6 scientists to have that alarm that they would have
7 in a stock that looks like it has some real
8 problems.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Dr. Weinberg. Bob Ballou.

11 ROBERT BALLOU: Thank you, Mr.
12 Chairman. I have two questions. The first to
13 Jessica, and I believe this was covered and
14 probably covered well in the presentation, but it
15 just didn't sink in. And that is, under the
16 two-year projection scenario, why does ABC change,
17 in fact drop slightly from 2013 to 2014? And then
18 I have a follow-up. Thank you.

19 JESSICA COAKLEY: Sure. The
20 projection scenarios essentially carry forward
21 the age composition that's there in that last model
22 year and then assume an incoming recruitment which
23 is approximately median. In the most recent few
24 years, as you can see on the graph, the recruitment

1 seems to be coming down. So essentially the
2 projected stock size in 2014 is a little bit lower
3 than what was projected in 2013. So the
4 associated yield at that fishing mortality rate
5 that was projected, which I believe was .224. Is
6 that correct, Tom? That projected fishing
7 mortality rate resulted in a lower allowable catch
8 in 2014 when compared to 2013, and it was a
9 difference of about 45 metric tons.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
11 Miller, did you want to follow on this point?

12 THOMAS MILLER: The fundamental reason
13 is that for this stock we've recommended a constant
14 F policy, a constant fraction of the harvest, and
15 so that's going to respond to changes in biomass.

16 Another alternative would have been to
17 recommend a constant catch policy under which
18 terms the ABC would have been constant from year
19 to year, but the fraction of the stock that you were
20 catching would have changed from year to year.

21 So depending on which way you go, you'll
22 either see changes in the F and the exploitation
23 fraction or changes in the harvest. And in
24 general when you have more faith in the assessment

1 model that's moving forward, you're better to go
2 with a constant F because it gives the harvesters
3 a chance to take advantage of increases in biomass.
4 One of the downsides is that you may suffer a
5 decrease in harvest if stock size goes down.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Bob
7 Ballou, do you have a follow-up?

8 ROBERT BALLOU: I did. Thank you very
9 much. Very helpful explanations. My follow up
10 is to I believe, Mr. Chairman, and that is the
11 implications of the second year specification, is
12 that subject to change? I heard the SSC comment
13 I think was to be revisited but not to the extend
14 -- and I'm just trying to get my arms around or head
15 around the concept of the 2014 specification. Is
16 it a lock, or is it subject to change? And if it's
17 subject to change, what's the point?

18 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
19 ask Jessica to detail some of that. But we would
20 have a review of the specifications, and part of
21 it is an administrative efficiency. So it allows
22 the staff to submit a specs package that's a
23 multi-year package to the Agency. If
24 circumstances change, if we had an assessment

1 update in the intervening years and something
2 changed significantly, we could come in and
3 overwrite those specifications. But if they
4 don't it allows us to avoid having to submit
5 another specifications package. But I'll ask
6 Jessica to elaborate on that.

7 JESSICA COAKLEY: The basis for this at
8 the SSC meeting typically our SAW/SARCS, the
9 benchmark assessments, occur in June, and we
10 usually get the information just under the wire to
11 deal with it at our August council meetings when
12 we have benchmark assessments. Because of a
13 difficulty in getting all of the aging information
14 processed for summer flounder because it comes
15 from like 27 different sources, at the SSC meeting
16 the Science Center representative had indicated
17 that the SAW/SARC may not take place in June; it
18 may actually take place in July of 2013. Which if
19 we have to wait for peer reviewed reports six weeks
20 after that, it would put us in a bit of a time crunch
21 for both the August council meeting and to meet the
22 federal regulatory requirements to get quotas for
23 2014 on the books by January 1. Because under our
24 current process, those typically go to final rule

1 the last week of December right under the wire.

2 So it was suggested at the SSC meeting
3 by staff that one way to get us out of that
4 regulatory pinch would be to put a 2014
5 recommendation into place knowing that it would be
6 revisited and then can be overwritten. And that's
7 something that's actually frequently done by other
8 councils, like the North Pacific Council typically
9 sets two year specification and then overwrites
10 the second year part way through that year. That
11 way they can do it essentially on a slightly
12 different time line than would be required if they
13 had to have something in place on the first day of
14 the fishing year. So it was essentially to allow
15 a little bit more flexibility if in fact that SAW
16 does happen in July and we end up in a pinch with
17 trying to get everything done and something on the
18 books in time.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Pat
20 Augustine.

21 PAT AUGUSTINE: Thank you, Mr.
22 Chairman. Very interesting conversation back and
23 forth. I went back to your publication, Jessica,
24 on page six of this document, and I'm looking at

1 a concern that comes up based on what Mr. Ballou
2 said. It looks like the 2014 quota will be less
3 overall with the likelihood of what you described
4 is occurring in the stock, the 10 year classes. So
5 when I look at the last paragraph you talk about
6 taking an additional 8 percent out of the
7 recommended recreational ACL based on the MRIP
8 program. And it's interesting because when I
9 refer to the next page and we look at Table 3 and
10 we talk about the recreational fishery
11 performance, after the Council and the Commission
12 put on some very severe restrictions on
13 recreational folks in 2007 we were 39 percent over
14 quota, 2008 31 percent; however, 2009 we were 16
15 under, 2010 41 under, and 2011 50 percent under our
16 quota. If we're an average five years of minus 7
17 percent. So that's very close to 8 percent. And
18 MRIP being in the rebuild of its value assessment
19 and acceptance by the public, it seems rather
20 strange that we would take a hit on the
21 recreational sector of an additional 8 percent
22 reduction. It seems to me that will be cumulative
23 over 2014 and 2015. So how do we offset or
24 rationalize with the public for instance if they

1 get a hold of that and look at it, how does it make
2 sense when the average over five years is a minus
3 7 percent and we're on this very, very strict
4 regiment for controlling recreational harvest in
5 this particular case the bag size and season that
6 we're justified in looking at this 8 percent as an
7 additional reduction. I don't know if you can
8 answer that other than saying I'm a bad boy for
9 pointing it out or just passing on it. But I'd
10 like a response, Jessica, please.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Thanks, Pat. I'll ask Jessica to answer that.

13 JESSICA COAKLEY: Sure. Well, the
14 document you're referring to is the staff memo, and
15 in that memo an approach was put forward to try to
16 address management uncertainty for the
17 recreational fishery. Again, the staff
18 recommendation is a starting point for discussion
19 for the SSC and Monitoring Committee, and
20 ultimately the Monitoring Committee did not agree
21 with that approach, and they did not recommend an
22 adjustment either for the commercial fishery or
23 the recreational fishery to address management
24 uncertainty. They recommended the recreational

1 and commercial ACTs targets be set equal to the
2 ACLs. And those are documented if you go in Tab
3 6 and turn to I think the third page. There's a
4 great big table, tons of numbers in it that's the
5 SSC and Monitoring Committee recommendations. So
6 my point would be it was an approach that was put
7 forward early on in discussions through the staff
8 memo, but ultimately that's not what was
9 recommended by the Council's Scientific and
10 Technical Advisory Groups.

11 PAT AUGUSTINE: Thank you for that
12 clarification. It helps a great deal.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you, Pat. It's also worth noting I think
15 that a lot of the states have relaxed their
16 recreational measures this year, so it's not clear
17 why we have had significant underages in the past
18 few years it's not clear what the actual
19 performance of the fishery will be this year.
20 Mike Luisi.

21 MICHAEL LUISI: Thank you, Mr.
22 Chairman. I'm certainly supportive of the
23 direction that the recommendations are coming for
24 setting multi-year specifications, but the

1 question that I have comes back to whether or not
2 this will change the states' obligation or
3 evaluation on an annual basis.

4 Will states continue to be evaluated
5 based on MRIP estimations, and each year we'll
6 still be going through the same process of
7 establishing rules and regulations to meet the
8 next year's specs, or are we going to be looking
9 at this two years in a row and evaluating
10 performance over two years to make adjustments?

11 I understand the purpose of this is for
12 stability, but as I think through it, we'll still
13 be in that same position to continually be
14 adjusting regulations, guessing as you will, to
15 what next year will be and any other given year?

16 JESSICA COAKLEY: Well, for our process
17 -- and we've essentially got the two steps. So we
18 deal with the quota setting now in August, and one
19 of the efficiencies you gain from a multi-year
20 process if you set things for two or three years
21 is you could set those quotas two or three years
22 in advance, and you gain efficiency on that part
23 of the process. For the recreational part of the
24 process that's going to be a little bit more

1 complicated because the adjustments you make each
2 year are based on the most recent year's
3 recreational information.

4 So, based on some of the discussions --
5 and we talked about this a little bit at the
6 Monitoring Committee -- I don't know that for that
7 rec part that we do in December you necessarily
8 could get away from that because you are going to
9 want to look at what the effectiveness of your regs
10 were in that recent year, what they've produced in
11 terms of landings; and if it looks like you've gone
12 over or under, you do want to be able to tweak those
13 so that you can achieve your target in the next
14 year. So you probably wouldn't get a lot of
15 efficiency there.

16 Where I see the efficiency for the
17 multi-year process is for two parts; (1) if you're
18 trying to do an overwrite it does take the pressure
19 off us for January 1, or (2) if you really go
20 through and as we talk of scup or sea bass, you try
21 to set things fixed for two or three years out and
22 those go into place, we might not have to be here
23 in August to go ahead and modify those each year.
24 So, in terms of the two parts of the process, that's

1 where I think the efficiencies may be.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Rob
3 O'Reilly.

4 ROBERT O'REILLY: Thank you, Mr.
5 Chairman. And I just wanted to come back to David
6 Pierce. There are two figures in the assessment
7 update.

8 One is the multi-age information from
9 NEMAP catch per tow, and one is for the fall for
10 the age zero for the recruitment. It is a short
11 time series. I don't think anyone knows at this
12 point is what impact that has in the model itself,
13 and so when Jessica indicated that there'll be some
14 correlation analysis I think that will be very
15 helpful to give us a better idea.

16 And this information has come up at the
17 ASMFC, so it has been very important. The second
18 situation I wanted to follow up on which has been
19 mentioned a couple of times and Pat Augustine most
20 recently is the MRIP.

21 And what I recall is that there was a
22 scaled value for 2004 to 2011 for MRIP, and it was
23 about taking the MRFS and dividing by .92 to make
24 that adjustment, and it was done on a coastwide

1 basis. So, although a lot of us recognize that
2 there have been underages, we face two things I
3 think. One is the regulations have been
4 liberalized, and we haven't seen the effect of
5 that. We will be using the MRIP value straight
6 this year as opposed to the MRFS, and also there
7 could be some regional differences.

8 So, for example, my question to Jessica
9 would be: Did the Monitoring Committee look at
10 more recent years than just looking at an eight
11 year average across all states? Did they look at
12 the last three years? Did they look for problem
13 areas where maybe one region shows a pattern in the
14 last couple years of the MRIP values being quite
15 a bit higher than the MRFS values?

16 So I think probably overall there have
17 been close to 50 percent underages the last two
18 years, but there are a number of factors that I
19 think were on a wait-and-see approach going
20 through the end of this fishing year and going
21 forward into the next recreational
22 specifications. But, Jessica, if you could let me
23 know if those types of talks took place, that would
24 be great.

1 values and the TC, and the Monitoring Committee
2 will have to work out those issues that we started
3 to talk about, as Jessica indicated earlier in the
4 year for next year.

5 ROBERT O'REILLY: But the assessment
6 update did do the scaling. Right?

7 TONI KEARNS: Yes. The assessment
8 update did incorporate MRIP numbers for 2004 to the
9 present, and there are efforts ongoing now to try
10 to recalibrate the MRFS time series prior to 2004,
11 2003, earlier. I don't know what the results of
12 those efforts are going to be. That's something
13 we'll have to follow.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Tony
15 DiLernia.

16 ANTHONY DILERNIA: Thank you, Mr.
17 Chairman. As a member of industry, I'm pleased to
18 see that the Council is considering multi-year
19 specifications. It makes planning much, much
20 easier.

21 The gentleman from Maryland asked the
22 question of staff that I guess I would like to
23 redirect to Mr. Beal of ASMFC. Because this is a
24 multi-year specification, can ASMFC do multi-year

1 specs? Can you pass specifications that will
2 remain in place for two to three years? That's my
3 first question, Mr. Chairman. I do have a follow
4 up.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Bob,
6 would you like to address that?

7 ROBERT BEAL: Sure. The answer is,
8 yes, we can do that. It's in our FMP.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you. Tony.

11 ANTHONY DILERNIA: That's wonderful
12 news. That's good. Thank you. My next question
13 is for the representative of the SSC. It was noted
14 that this strategy uses a constant F rate for the
15 three years. And I was wondering has it been
16 calculated what the F rate would be had the SSC used
17 a constant catch rate versus a constant F rate?

18 COUNCIL CHAIRMAN RICHARD ROBINS: I
19 think it may have looked at both scenarios, but
20 I'll ask Dr. Miller if he could comment on that.

21 THOMAS MILLER: We did. We looked at
22 both scenarios. The initial recommendation from
23 the staff was for a constant catch policy, and the
24 projections that we were provided with would have

1 included estimates of the fishing mortality rates
2 associated with those catches.

3 There was a long discussion at the SSC
4 of the merits of both approaches, and the consensus
5 view was that a more effective approach would have
6 been to use the constant F given the sense of
7 confidence in the assessment going forward.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Tony, do you have a follow up?

10 ANTHONY DILERNIA: Yes, sir. Thank
11 you very much, sir, for your response. I was just
12 wondering -- I'm sitting here. I can't help but
13 wonder had the SSC recommended the constant catch
14 rate what the difference in the F rates for the
15 different years would have been.

16 It seems to me it would have been -- my
17 assumption is the differences in the F rates over
18 the three years would have been low, actually
19 perhaps within the standards of error and perhaps
20 -- I'm a bit disappointed they did not use the
21 constant catch rate instead of the constant F rate.
22 Thank you, sir.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
24 you, Tony. Peter Himchak.

1 PETER HIMCHAK: Yes. Thank you, Mr.
2 Chairman. My question goes back to the multi-year
3 specifications. And you have terminology; you
4 want to know what it means, an overwrite versus a
5 remand. I'm assuming that the overwrite
6 situation is analogous to what we recently did with
7 surfclams, ocean quahogs where we accepted the
8 three-year specification package implementing the
9 first year ABC with the option to re-examine the
10 second year before we officially accepted it. We
11 don't want to get into a situation what we did with
12 black sea bass to ask the SSC to recalculate or
13 reconsider an ABC. That's a remand. And that has
14 very strict guidelines by the Council as to when
15 that can be done. So the overwrite, I view the
16 overwrite as analogous to what we did with
17 surfclams and ocean quahogs just recently. Am I
18 correct in this?

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Peter, as I understand it, if we set these
21 multi-year specifications, part of it being in
22 anticipation of that 2013 benchmark assessment,
23 when we have that benchmark assessment, we'll be
24 going back to the SSC with a new set of terms of

1 reference to give us an updated ABC to reflect that
2 new information. That wouldn't be a remand
3 situation at all. It would just be part of the
4 decision making cycle. But we'd have these specs
5 in place as a placeholder in the event that that
6 information can't be considered in time to have the
7 regs in effect by January 1. I mean we continue
8 to operate under that as a legal constraining, that
9 is, because of past litigation we have to have the
10 specs packaged together and implemented by then.
11 So it would give us a little bit of flexibility in
12 dealing with that aspect of it and trying to
13 incorporate that 2013 benchmark. John McMurray.

14 JOHN MCMURRAY: Thank you, Mr.
15 Chairman. Just looking at the SSB chart again,
16 it's pretty apparent that recruitment has been
17 really low in 2010 and 2011, which would lead me
18 to believe that SSB is probably going to be low also
19 in 2014 and 2015. Is that a correct assumption,
20 or am I missing something?

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Jessica, do you want to comment on that?

23 JESSICA COAKLEY: Well, under the
24 projections that was looked at, the SSB does

1 decline slightly between 2013 and 2014, which is
2 why that associated constant F approach results in
3 that smaller 45 metric ton decrease.

4 But if you do look at the projections,
5 and it does suggest if you continue to fish at that
6 low F that the stock size is going to remain
7 relatively stable at those levels or increase back
8 up to BMSY right around that area.

9 Because recall that 2012 projected SSB
10 is 92 percent of BMSY. So it's just below that
11 BMSY value. So those projections aren't
12 indicating that we're going to see a big swing
13 either downwards or upwards in SSB if we fish at
14 those fishing mortality rates.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Thank you, Jessica. I'll take another question or
17 two and then I'm going to see if there's any public
18 on the staff and SSC recommendations, and then
19 we'll come back to the Council and Board for the
20 motions. Chris Zeman.

21 CHRISTOPHER ZEMAN: In review of the
22 performance reports if you could go to page three
23 of that report. On the bottom of the page it notes
24 the recommendation there that management show lack

1 for a certain number of gut hooked fish to be kept
2 cut line in gut hooked fish. Discard rate is a
3 conservatively low number.

4 This is an issue that I've been hearing
5 about as well from New Jersey fishermen about how
6 can we turn the -- there's recreational discards
7 the summer flounder that are dead they're thrown
8 back or gut hooked into landings.

9 And is there a biological impact from
10 allowing retention of a gut hooked summer flounder
11 as part of your daily catch limit versus catching
12 a larger summer flounder?

13 Now, I mean obviously that question
14 can't be answered now, but I'd like to have that
15 analyzed before December so that it can be an
16 option we consider for management in setting the
17 actual management measures for the fishery.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Chris, I think that specific measure might raise
20 significant enforcement concerns, but the broader
21 concept of trying to reduce discards and reduce
22 retention is something that we are looking at. I
23 mean I think that's where some of the ongoing
24 management strategy evaluations come into play.

1 Right now there is a technical analysis of slot
2 sizes going on.

3 And I don't know. Dr. Moore, can you
4 comment on some of the work that's being done right
5 now through a project that staffs undertaking?

6 CHRISTOPHER MOORE: Sure. Actually,
7 there's two or three things. They're looking at
8 that question, Chris. We have a contract underway
9 to basically provide the Council and Commission
10 with a tool to evaluate bag size and seasonal
11 limits for summer flounder. Those would include
12 limits hopefully that might consider slot limits
13 that might help address that question.

14 There's also ongoing work that John
15 Boreman's involved with that might also help with
16 that. And finally, there's the work that's being
17 done up in the Northeast for some of the groundfish
18 stocks, and that model might be used as well.

19 So we hope that the culmination of those
20 three projects will provide the Council with the
21 tools to evaluate those kinds of questions by
22 December.

23 CHRISTOPHER ZEMAN: I just have one
24 follow-up, and that is, I've already spoken with

1 the Coast Guard in just preliminary discussions
2 about this, and they said that enforceability
3 can't happen here. It's not something that would
4 just be clearly enforceable

5 So I think -- some details on that
6 point. And so I guess my follow-up question is:
7 So will we be able to consider that option as an
8 analyzed option in December?

9 Because I really want that to happen. I
10 know research is going on, but I'd like to have that
11 option developed. So if it has to be in our
12 briefing book or something else it should be done.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Dave
14 Simpson to this point.

15 DAVID SIMPSON: Yeah. Thank you. My
16 understanding of the work that Dr. Boreman's work
17 group was going to do was to take this issue right
18 back into the assessment itself and incorporate
19 down at that level the idea of shifting the partial
20 recruitment vector for recreational fisheries
21 down to something more similar to the recreational
22 to balance off the mortality between males and
23 females because now we're fishing predominantly on
24 females on the recreational side. So the idea

1 that that might be ready for us to work with in
2 December would be welcome news, but I'm surprised
3 to hear that being said. My perception is there's
4 still a whole lot of work to do to get us there.

5 COUNCIL CHAIRMAN RICHARD ROBINS: And,
6 Chris, I don't have an update on when that MSC work
7 will be finished. Jeff Dean.

8 JEFFREY DEEM: As I recall from our last
9 term three years ago, we would need an amendment
10 or a change in the plan somehow before we could use
11 slot sizes. Has that been addressed?

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Jessica.

14 JESSICA COAKLEY: Well, the way the FMP
15 is set up both through the Council and Commission
16 components of the FMP there's a minimum size, a
17 season, a possession limit that can be established
18 both for summer flounder, scup and black sea bass.

19 It doesn't speak to minimum and maximum
20 sizes or variations on those. So there is the
21 possibility that either a framework or an
22 amendment or on the Commission side and an addendum
23 might be required to address that. I see Joel
24 reaching for his mic, so we'll go ahead and defer

1 to Joel.

2 JOEL MACDONALD: One of the last times.
3 It would need an amendment, Jeff. The reason for
4 that is we could consider a framework, but the
5 problem is a lawsuit back around I think 2006
6 Oceanna versus the Agency.

7 And it had to do with Amendment 10 of
8 the scallop plan, and what it did is it said that
9 you can't use a framework adjustment mechanism to
10 remove something that was previously imposed by an
11 amendment; you can only use those to make
12 adjustments.

13 When, as Jessica said, the FMP does not
14 address slot sizes, so all we're left with
15 procedurally here is to do an amendment to put that
16 concept in place.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Sure, Jeff. And, well, I'll point out too later
19 today we're going to be discussing an amendment to
20 this plan at least on sea bass. So I would suggest
21 if we want to consider moving forward and creating
22 that opportunity that we can do it there. But go
23 ahead.

24 JEFFERY DEEM: Well, I was just

1 temper that with it depends on all the other things
2 going on and workloads as to how fast that can move.

3 COUNCIL CHAIRMAN RICHARD ROBINS: It
4 could also have implications on the assessment
5 side, and that's something that we'd have to work
6 with the Science Center on to further understand,
7 too, Jeff. All right. one more comment, and then
8 we go on to public comment. Chris.

9 CHRISTOPHER ZEMAN: Just on that one
10 point. I really hope that that's a priority
11 because I know that NOAA and this Council has
12 considered and implemented measures to turn
13 discard mortality and the landings mortality to
14 the commercial fishery.

15 It should be equally a priority for
16 doing that same approach for recreational
17 fishermen. This should be a primary issue for a
18 recreational fishery.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Dewey.

21 DEWEY HEMILRIGHT: I don't do much
22 flounder fishing recreationally, but it seems like
23 to me here that if you go trying to change
24 recreational discards you could say all of them are

1 gut hooked.

2 This could be more something to do with
3 maybe terminal tackle or something with different
4 hooks or some stuff to do studies or something.
5 Because in the commercial industry as far as I'm
6 familiar with the pelagic long-line industry, in
7 the Grand Banks a few years ago there was turtle
8 interactions, so between a cooperative effort of
9 the Agency and the fishermen there was something
10 put together for three or four years where they did
11 studies and tried a bunch of gear and different
12 things, and we come up now that we have to use a
13 16 or 18 ought circle hook, and even though it
14 reduced the swordfish catch by 30 percent, it
15 helped out with the turtle interactions and the
16 different baits that you use.

17 So, in the commercial industry,
18 sometimes minimizing the bycatch or turning the
19 discards in for us it has to be something to do with
20 tackle terminology or your gear use or something
21 like that. So maybe in the recreational industry
22 there could be something done.

23 And people go kicking and screaming when
24 you go changing the way they like to fish, but I

1 do know in North Carolina I think the red drum
2 fishery at night or something has to use a certain
3 hook or something.

4 So maybe it could be something with the
5 gear technology because turning a gut hooked fish
6 into a landing, they could all be gut hooked. So
7 maybe looking at the tackle and the way people fish
8 or something. I really don't know, but I think
9 that's a start.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thanks, Dewey. Joel, is it possible that the
12 states through conservation equivalency could
13 incorporate the use of slot sizes into their plan?

14 JOEL MACDONALD: Chris just asked me
15 this question. And, Toni, I may have
16 misunderstood what you were asking me. The
17 question is: If we go with conservation
18 equivalency, can the states have a slot limit in
19 their regulations?

20 And my answer to Chris was, yes. The
21 reason is we make a determination of conservation
22 equivalency based upon the package of state regs.
23 Do they have the same conservation benefit that we
24 would achieve under the coastwide measures?

1 We are not adopting the state
2 regulations. That was one of the arguments in a
3 2008 New York United Boatmen versus Locke case.
4 They were trying to argue that by going with
5 conservation equivalency the Agency was virtually
6 adopting the state measures and were therefore
7 subject to all the national standards, and the
8 court did not buy into that particular argument.
9 So, no, we're not adopting the state measures.
10 We're making a determination essentially to waive
11 the application of the coastwide measures in favor
12 of the state measures applicable to their vessels
13 fishing in the EEZ.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Joel, thanks for that clarification. Toni, are
16 you doing a follow-up on the Commission side of
17 that?

18 TONI KEARNS: Just so that the Board and
19 Council know then the Commission would need to do
20 an addendum to allow for maximum size limits
21 because we do not have that within our plan
22 currently. But I believe -- and I would have to
23 double-check to confirm -- that we would need just
24 an addendum to do that and not an amendment.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Okay. At this point I'd like to ask if there's any
3 public comment that's specific to the staff and SSC
4 recommendations as we go into the ABC setting
5 process? Are there any public comments on those
6 recommendations?

7 Okay. Seeing none, we're back to the
8 Board and the Council. In terms of the process,
9 I think the easiest way to do this would be to
10 determine whether or not you want to have
11 multi-year specifications, and then from that go
12 ahead and make a motion on the specific
13 specifications that you want. Then we'll have to
14 take up RSA. RSA will take a positive action to
15 put that into effect.

16 There are several other measures that
17 you could consider that don't require positive
18 action to keep in place, but if you want to modify
19 them, we would need a motion.

20 That would be on the commercial minimum
21 fish size, the current mesh and gear requirements,
22 and the small mesh exemption of North Carolina
23 Flynet Program. Those will remain status quo
24 unless they're modified.

1 But, again, we'll need to determine the
2 length of the specifications, what specifications
3 specifically you want, and what you want to do with
4 RSA. So we'll go ahead and go into the motion
5 making part of it. Peter Himchak.

6 PETER HIMCHAK: In the crafting of the
7 motions, I wanted to mention the New Jersey Marine
8 Fisheries Administration's position on research
9 set-aside.

10 I hope this issue can be dealt with in
11 a separate issue as a separate motion from than the
12 full specifications, because we maintain our
13 position in opposition to the research set-aside
14 up to 3 percent. This would be the third year that
15 we have taken this position. The Agency -- I can
16 only speak for the Agency. The Agency does not
17 have sufficient funds to adequately enforce,
18 administer, and monitor vessels engaged in the
19 research set-aside program.

20 And we also have concerns about the
21 compensation fishing aspect of the RSA in context
22 with what we have to issue. The only vehicle we
23 have for exempted fishing permit status is a
24 scientific collecting permit.

1 So we even have questions about the
2 compatibility of a scientific collecting permit
3 with compensation fishing. So I just wanted to
4 say that before motions are crafted because
5 sometimes the RSA is included in all the
6 specifications. I'd like to see it addressed on
7 an individual basis.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Peter, your concerns are well noted, and I think
10 that's exactly what we had contemplated, that is,
11 again, we'll set the time frame for the specs, the
12 specs themselves, and then the RSA decision, and
13 we can do all three of those in separate motions,
14 so that should not be a problem. Steve.

15 STEVEN HEINS: Mr. Chairman, I move
16 that we set the summer flounder specifications for
17 two years.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 there a second to that motion? Second by Steve
20 Linhard. And for the Board do we have a like
21 motion? Motion by A.C. Carpenter. Second by Pat
22 Augustine. Discussion on the motion? Tom Fote.

23 THOMAS FOTE: I guess I've been very
24 quite sitting here for the last two hours listening

1 to this, and I find when the stock is basically at
2 the level it is, one of the highest levels that
3 we've had and we're still going to do a reduction
4 in quotas.

5 I don't know the message it sends out to
6 the public. They have great difficulty, and I do
7 myself basically going -- you know, when looking
8 at specs for three years when it was constant
9 regulations because that gives it consistency and
10 a constant quota for three years.

11 My feeling here is that we wouldn't harm
12 the stock if we did that, and it would be basically
13 find out next year, and we could basically see the
14 consequences. With the recreational community
15 going under for the last four or five years and
16 we're basically putting that in the stocks. So I
17 have great difficulty supporting quota that would
18 be lower next year than it is this year.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Further discussion on the motion? Rob O'Reilly.

21 ROBERT O'REILLY: A friendly amendment
22 in both cases just to indicate a little more on the
23 specifications. It looks like we have a Table A
24 in the package from the Council at least, and

1 everyone should have that.

2 And just for insurance I mean that
3 provides the ABCs all the way down to the rec
4 harvest limit. So I expected maybe that someone
5 would actually read all of those into the motion.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
7 that will be the second motion. This motion is
8 simply setting the time frame for which we'll
9 specify the quotas.

10 ROBERT O'REILLY: I'm with you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Okay. Hopefully, it's clear at this point. Is
13 there any further discussion on the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 the Council ready for the question?

17 {Move that summer flounder specifications be
18 set for 2 years.}

19 COUNCIL CHAIRMAN RICHARD ROBINS: All
20 those in favor please raise your hand.

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Nineteen. Opposed like sign.

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Abstentions like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: The
5 motion carries unanimously. Dave Simpson, if
6 you'd like to call the question for the Board.

7 DAVID SIMPSON: Yes. Does the Board
8 need a moment to caucus? I need to find my partner
9 because there's no room at the table for him
10 apparently.

11 (Pause.)

12 DAVID SIMPSON: Ready for the question
13 then?

14 For the Board all those in favor please
15 raise your hand.

16 (Response.)

17 DAVID SIMPSON: Opposed.

18 (No response.)

19 DAVID SIMPSON: I don't see any. Any
20 abstentions?

21 (No response.)

22 DAVID SIMPSON: Any null votes?

23 (No response.)

24 DAVID SIMPSON: Seeing none, the motion

1 passes 11-0-0.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Steve.

4 STEVEN HEINS: Mr. Chairman, I believe
5 we should dispense with the RSA question first
6 because it might make further motions easier.

7 COUNCIL CHAIRMAN RICHARD ROBINS: If
8 that's your preference, then go ahead and make a
9 motion.

10 STEVEN HEINS: Then I would move that we
11 set RSA at up to 3 percent for the 2013 and 2014
12 seasons for summer flounder.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to that motion for the Council?
15 Second by Pres Pate. Is there a like motion for
16 the Board? Motion by Pat Augustine. Is there a
17 second to the motion from the Board? Adam
18 Nowalsky. Thank you. Discussion on the motion?
19 Tom Fote.

20 THOMAS FOTE: For some of the same
21 reasons Pete basically put out there and because
22 NEMAP was not supposed to be paid for by research
23 set-aside. The research set-aside was basically
24 to do specific projects for commercial and

1 recreational fishermen address issues like
2 bycatch, hook, catch-and-release, and things like
3 that. That was the purpose.

4 That would give industry funds to go
5 outside the box to do something, and it was not to
6 be a slush fund for National Marine Fishery Service
7 to do their research projects out of.

8 So, until they correct this problem and
9 until we start going back to research that's done
10 on fish species especially if we're using the money
11 for summer flounder to do other things.

12 And I'm looking at summer flounder
13 research, and that's a majority of the money that
14 comes in from research because the price is high
15 for summer flounder. It should really be spent on
16 projects that deal with summer flounder.

17 So for that reasons I cannot support the
18 research set-aside, and I have the same opinion
19 that Pete has, and I've been voting against it for
20 the last three years.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Thank you, Tom. Further discussion on the motion?
23 Chris Zeman.

24 CHRISTOPHER ZEMAN: I concur with those

1 comments as well. The one that supports RSA I have
2 supported in the past; however, right now by
3 default most of that RSA money goes directly to
4 NEMAP, which is basically an overarching project.

5 And there really isn't anything being
6 funded that goes back to the summer flounder
7 fishery and the crucial data gaps we have there in
8 terms of catch reporting and discard evaluation.
9 So monitoring those are crucial.

10 Every year we see in these stock
11 assessments how we have limited data in terms of
12 this. Fundamental questions have been
13 unanswered, and yet we have no focus of this RSA
14 money going back to that fishery.

15 So for that reason I'll make an amended
16 motion here, and I would say move it up to 3 percent
17 of the total to be allocated for RSA in 2013 and
18 2014 and one percent of that is dedicated to summer
19 flounder fishery specific projects. And the
20 effect of that will mean that you can only dedicate
21 2 percent of the 3 percent RSA to NEMAP, and then
22 one percent has to go back to that fishery for that
23 specific fishery address the fundamental data gaps
24 we have in that fishery.

1 I think that's a fair balance in terms
2 of funding NEMAP, which is a very important
3 project, but we also have something that fishermen
4 can say, hey, I sacrificed; this is what's coming
5 back to me and this is what's going to help our
6 fishery in the future.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Is
8 there a second to the motion to amend?

9 (No response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 there a second to the motion to amend?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: All
14 right. Seeing none, the amendment dies for lack
15 of second. Dr. Pierce, I believe you had a
16 comment.

17 DAVID PIERCE: Well, I agree with Pete
18 Himchak regarding the problems that the RSA has
19 created for individual states, and New Jersey, of
20 course, is a great example of that. I think New
21 York is a good example as well as the RSA applies
22 to recreational fisheries. I don't support using
23 the RSA for recreational fisheries, but it is being
24 used that way, and I suspect it will continue. So

1 I'm very tempted to support the motion to not have
2 the research set-aside the 3 percent research
3 set-aside, but at this point in time I cannot
4 support doing away with it because it is the
5 primary source if not the sole source for NEMAP,
6 and I have been waiting many years as a member of
7 the ASMFC NEMAP board to wait for an evaluation of
8 NEMAP survey results over a five-year period let's
9 say and maybe we're going into the sixth year now
10 to determine if indeed it can be used to provide
11 indices of abundance.

12 If it can, then it has great value
13 because the Bigelow cannot get into the shallow
14 water strata. We have a huge gap there. NEMAP is
15 expected to fill that gap.

16 So I have a wait-and-see situation, and
17 if indeed after the evaluation of NEMAP regarding
18 indices of abundance if there is nothing there for
19 the key species that we manage, then I'll have a
20 different attitude regarding the research
21 set-aside, and then I will rethink my attitude
22 towards Chris Zeman's suggestion because he makes
23 a very good point about where is the money going,
24 where are the fish going. It's not going really

1 where it needs to go. It's for NEMAP now. I'll
2 support it for a while longer until I get that
3 evaluation. So I will support the motion to have
4 that 3 percent of the TAL being allocated the RSA
5 for those two years.

6 PETER HIMCHAK: (Inaudible, problem
7 with microphone.) Yes. One final point then.
8 And I know I sound like a hypocrite on this, but
9 I do not want to do anything that would jeopardize
10 the funding of the NEMAP survey.

11 (Inaudible, problem with microphone.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
13 you want try that again, and if this doesn't work,
14 we'll take a minute to fix it.

15 JAMES LOVGREN: Jim Lovgren,
16 Fishermen's Cooperative. I support the 3 percent
17 research set-aside (inaudible) early on. After
18 three years of this what I saw with the projects
19 being proposed for the same old black sea bass,
20 (inaudible) side studies by 10 different guys. I
21 didn't see nothing new coming in in requests for
22 research.

23 There's probably recreational research
24 that could be used that hasn't been because they

1 we got to do it through research set-aside, then
2 we have to do it, but what we need is a permanent
3 source of funding, and it has to come through NMFS
4 'cause we've been fighting for it for years.
5 Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Jim. Is the Council ready for the
8 question on RSA?

9 {Move that up to 3% of the TAL be allocated
10 for RSA in 2013 and 2014.}

11 COUNCIL CHAIRMAN RICHARD ROBINS: All
12 those in favor please raise your hand.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Fourteen. Opposed like sign.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Two.
18 Abstentions like sign.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: One
21 abstention. The motion carries. Thank you.
22 Dave Simpson.

23 DAVID SIMPSON: Do you need a moment to
24 caucus? No. Okay. All those in favor please

1 raise your hand.

2 (Response.)

3 DAVID SIMPSON: I see nine in favor.

4 Opposed?

5 (Response.)

6 DAVID SIMPSON: I see one. Any null

7 votes?

8 (No response.)

9 DAVID SIMPSON: Any abstentions?

10 (No response.)

11 DAVID SIMPSON: None. The motion

12 passes 9-1-0. Right? Did one state not vote?

13 Okay.

14 COUNCIL CHAIRMAN RICHARD ROBINS: The

15 motion carries. Thank you. What's the pleasure

16 of the Council and the Board on the specifications?

17 Steve.

18 STEVEN HEINS: Well, the motion's up on

19 the board, and I would move that for 2013 the

20 recreational ACL equal ACT which equals 10.23

21 million pounds, and the commercial ACT equal 12.11

22 million pounds, which results in a recreational

23 harvest limit of 7.63 million pounds and a

24 commercial quota of 11.44 million pounds after

1 deduction of RSA.

2 And the second part of that motion is
3 that for 2014 the recreational ACL equals ACT
4 equals 10.19 million pounds, commercial ACL equals
5 ACT equals 12.05 million pounds, resulting in a
6 recreational harvest limit of 7.59 million pounds
7 and a commercial quota of 11.39 million pounds
8 after deduction for RSA.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion? Second by Erling
11 Berg. Is there a like motion for the Commission?
12 Pat Augustine. Is there a second to the motion for
13 the Commission? Second by Pete Himchak.
14 Discussion on the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 there any discussion on the motion?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Seeing none, is the Council ready for the question?
21 {Move for 2013, the recreational ACL = ACT = 10.23
22 mil lb and commercial ACL = ACT = 12.11 mil lb.
23 This results in a recreational harvest limit of
24 7.63 mil lb and commercial quota of 11.44 mil lb

1 (after reduction for RSA).

2 For 2014, the recreational ACL = ACT = 10.19 mil lb and
3 commercial ACL = ACT = 12.05 mil lb. This results
4 in a recreational harvest limit of 7.59 mil lb and
5 commercial quota of 11.39 mil lb (after reduction
6 for RSA).}

7 COUNCIL CHAIRMAN RICHARD ROBINS: All
8 those in favor please raise your hand.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Eighteen. Opposed like sign.

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Abstentions like sign.

15 (Response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: One
17 abstention. The motion carries.

18 TONI KEARNS: Does the Board need to
19 caucus? Okay. Give them a moment for caucusing.

20 (Pause.)

21 DAVIS SIMPSON: We'll give you a moment
22 to caucus because I know we need to. For the Board
23 then all those in favor raise your hand.

24 (Response.)

1 DAVID SIMPSON: That's 10 in favor.

2 Opposed same sign.

3 (Response.)

4 DAVID SIMPSON: None. Any

5 abstentions?

6 (Response.)

7 DAVID SIMPSON: One. And no null

8 votes?

9 (No response.)

10 DAVID SIMPSON: Right. So the motion

11 passes 10-0-1. Thanks.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Dave. Does the Council or Commission

14 care to make any changes to those items that could

15 be modified in terms of commercial minimum fish

16 size, current mesh or gear requirements for the

17 small mesh exemption for North Carolina Flynet

18 Program? Are there any motions to change or

19 modify any of those issues?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Okay. Seeing none, is there any other business to

23 come before the Council or Board on this issue?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Very
2 well. Let's take a 10-minute break, and we'll
3 come back and take up scup. Thank you.

4 (Break: 10:45 a.m to 11:00 a.m.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Let's go ahead and get started. Jessica's going
7 to run through again the presentations on the staff
8 recommendations, the AP recommendations, and then
9 we'll have Dr. Miller summarize the SSC's advice
10 on the scup ABC and related specifications.
11 Jessica.

12

13 FINALIZE SCUP MANAGEMENT MEASURES
14 IN CONJUNCTION WITH THE ATLANTIC STATES
15 MARINE FISHERIES COMMISSION'S SUMMER
16 FLOUNDER, SCUP AND BLACK SEA BOARD

17 JESSICA COAKLEY: All right. Well,
18 good morning again. We're talking about scup
19 management measures. The process for 2013 for
20 scup was exactly the same as for summer flounder,
21 so I'm not going to go over that in length.

22 We developed fishery performance
23 reports with our advisors. The assessments were
24 received on the 19th, a staff memo crafted, and the

1 SSC and Monitoring Committee met to develop
2 recommendations. The performance reports that
3 were developed for scup there were some themes that
4 were common to summer flounder and sea bass as
5 well, one of which was the issue of the last three
6 winters being highly variable, so having very warm
7 winters, cold winters that were affecting the
8 distribution of the fish.

9 The scup advisors had mixed opinions on
10 stock abundance. There were some that were
11 concerned that perhaps the scup stock is not as
12 robust as it may be. There were others that were
13 not concerned about that.

14 They thought that the changes they were
15 seeing in the scup stock were more related to
16 changes in stock distribution, that they were
17 seeing scup in other areas that they hadn't
18 normally seen those, and those may be related to
19 those winters and those changes in patterns or
20 related to something else.

21 The scup advisors highlighted some
22 market issues. In particular they highlighted
23 that tilapia is taking over market shares for scup
24 in the marketplace, and that continues to be an

1 issue that continues to affect price.

2 I will point out that at the SSC meeting
3 one of our social scientists or socioeconomic SSC
4 members did highlight that tilapia is not just an
5 issue for the scup fishery. That is something
6 like a 500 million dollar import industry that's
7 dominating the market for a lot of fish species in
8 those categories. So it isn't just scup that's
9 being affected by the large amount of tilapia
10 imports. So I thought that was important to note.

11 The advisors indicated that the
12 recreational regulations as they're being set now
13 are excluding ethnic fishermen from this fishery.
14 It has an effect on shore-based fishermen,
15 fishermen fishing in the party charter mode.

16 They felt that the recreational
17 for-hire vessels are really not able to utilize the
18 resources as well as the commercial fishery is
19 being able to access those.

20 They indicated that the bonus season
21 fishery, which are the higher possession limit
22 time periods that the states New York and north
23 have implemented has helped with the for-hire
24 vessels, but they're not able to take advantage of

1 the high stock sizes and high quota levels in the
2 same manner that the commercial fishery is able to.

3 They noted that the recreational
4 fishermen are unable to avoid scup when the seasons
5 are closed and spoke a little bit about that sort
6 of complex issue of if the season isn't open, then
7 they're discarding large numbers of these if
8 they're fishing for other species at the same time.
9 The advisors wanted to point out that in the
10 fishery information document there is some
11 information for the Northeast fishermen what their
12 purpose for fishing was.

13 And this relates back to some of the
14 surveys that the Office of Science and Technology
15 has conducted, and those surveys highlighted that
16 the majority of fishermen is something like 80
17 percent of the recreational fishermen are fishing
18 for pleasure, for enjoyment.

19 And our advisors wanted to highlight
20 that while that may be a generalization for the
21 entire Northeast, that's not why people are
22 fishing for scup, that the scup fishery is really
23 a food-related fishery, and people do want to have
24 the opportunity to take scup home.

1 It's not the kind of fish that you want
2 to go out and do catch-and-release for like big
3 striped bass or bluefish or some of those other
4 types of species that people may do more fishing
5 for enjoyment and not be dissatisfied with doing
6 catch-and-release. The advisors also indicated
7 they wanted to see the commercial minimum size
8 reduced to 8 inches to turn discards into landings.
9 And so that's something we'll talk about in terms
10 of the Monitoring Committee recommendations and
11 staff recommendations as I continue through the
12 presentation.

13 For scup the most recent peer reviewed
14 assessments occurred in 2009, and that was a result
15 of a data poor stock working group and peer review
16 panel. Both scup and black sea bass were peer
17 reviewed at that time.

18 The model that was presented is the same
19 assessment model for summer flounder. That's the
20 age-structured assessment program that's used.
21 It's called ASAP.

22 So the update that we just received this
23 past July 19, 2012, applies the same methods, the
24 same models that were peer-reviewed and approved

1 in 2009 but updates the information through 2011.

2 For those 2011 model estimates of
3 fishing mortality, spawning stock biomass and
4 recruitment were provided at this most recent
5 update as well as updates for projections to get
6 us to the 2013, 2014, and 2015 fishing year. The
7 biological reference points for scup include an
8 overfishing threshold rate, which is an F 40
9 percent, FMSY proxy of 0.177. So, if the fishing
10 mortality is above that level, overfishing is
11 occurring.

12 The spawning stock biomass MSY proxy,
13 which is effectively the rebuilding target that
14 target level you rebuild stock to that's 202.9
15 million pounds or about 92,000 metric tons.
16 One-half of that amount is the overfished
17 threshold.

18 So if the stock size drops to about
19 45,000 metric tons, which is about one-half of
20 that, and below that level the stock would be
21 overfished.

22 At present the stock is not subject to
23 a rebuilding plan. The stock was declared rebuilt
24 back in 2009 based on the data poor stock work group

1 results. So it isn't under a rebuilding program.

2 So a lot of information feeds into the
3 assessment itself. This is just one figure of our
4 fishery independent indices. This is the
5 Northeast Fishery Science Center biomass indices.
6 And, as you can see for scup, those indices tend
7 to be a bit variable, but there is a general trend
8 where through the '90s and 2000s you see those
9 indices at lower levels, and then you see through
10 the 2000s and in recent years that those index
11 values are actually a bit higher. So that feeds
12 into the assessment and informs the model along
13 with catch and other pieces of information.

14 This graphic is also something I think
15 is interesting, and that's why it's included.
16 This is the Northeast Center spring survey indices
17 by age. And so the years are given on the Y axis.
18 You've got the age on the X axis, and ages one to
19 seven plus.

20 Age one is actually your zeros 'cause
21 the model doesn't like zero. It likes to start at
22 one. But moving out one to seven plus. And so you
23 can see early in the '70s and '80s that the age
24 structure sort of expanded all the way out to that

1 seven plus category.

2 While the survey isn't encountering
3 large numbers of those older fish 'cause it tends
4 not to pick those up very well in the survey, you
5 do see fish out into those older age categories.
6 And that age one would also indicate your recruits.

7 So the size of the bubble indicates the
8 magnitude of that age class. So in the '90s and
9 into early 2000, you see that hole in those older
10 age categories on that graphic where we see that
11 compression of the age structure. And, again,
12 2000, the more recent years you again see there's
13 bubbles extending out into that seven plus
14 category as the age structure is again expanding
15 back out and as the stock rebuilds itself.

16 So, I actually like looking at this
17 graphic a lot. There's a lot of information in
18 there about it. And you also see the early 2000s
19 with some of those big recruitments that are bigger
20 relative to what we've seen in other parts of the
21 time period.

22 So the model estimates fishing
23 mortality. And fishing mortality rates were much
24 higher earlier in the time series. We see fishing

1 mortality rates above 1.0.

2 If it's above .177 overfishing is
3 occurring. So overfishing was occurring up until
4 2001 when it dropped below the overfishing
5 threshold of .177, and overfishing has not been
6 occurring since then.

7 So, again, that line with the dots is the
8 fishing mortality rate, and that solid line on this
9 graphic indicates the catch levels. Stock
10 biomass is estimated by the model. It's given as
11 the solid black line. Stock sizes were much lower
12 earlier in the time series, and we see a very rapid
13 and steady rebuilding since 2000 up to the high
14 stock level of that of present. Also the bar graph
15 gives the recruitment for the time series.

16 And so, if you look past 1999, there's
17 some relatively high recruitment bars in that time
18 series, which corresponds to that rebuilding, lots
19 of recruits coming in, growing and aging into the
20 population with fishing mortality rates
21 decreasing.

22 For the stock dynamics and summary, the
23 fishing mortality rate in 2011 was a point estimate
24 of .034. This is well below that F40 percent

1 threshold of .177, so overfishing was not
2 occurring on the stock.

3 The 2011 spawning stock biomass was
4 estimated to be about 420 million pounds. This is
5 above the SSC BMSY value of 203 million pounds. So
6 that 203 is your BMSY rebuilding target. The
7 stock size is about twice that.

8 So, based on that the stock is not
9 overfished, and it's above the rebuilding target.
10 The staff recommendations are similar for scup as
11 they were for summer flounder. There was a
12 three-year recommendation for specifications to
13 provide some fishery stability for all the reasons
14 we discussed earlier. The staff recommendation
15 similar to summer flounder was also a constant
16 catch approach. The SSC did something a little
17 different, so Tom will go over that. And the staff
18 recommended ABC for 2013 that was presented in the
19 staff memo is the same as that recommended by the
20 SSC.

21 It's, again, based on that risk policy
22 calculation and the information from the
23 assessment for the overfishing limit that's taken
24 into account. So with that, are you ready, Tom?

1 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
2 Miller.

3 THOMAS MILLER: Thank you, Mr.
4 Chairman. Thank you, Jessica. I will run
5 through the SSC's deliberation. It follows
6 largely along the lines that we discussed for
7 summer flounder an hour or so ago.

8 The first term of reference is for the
9 SSC to determine the level that is most appropriate
10 for the assessment. We assigned it a Tier 3 level,
11 which is exactly the same level as it was
12 previously.

13 And, again, there was no reason to
14 change; there were no new estimates of
15 uncertainties in the assessment, and the structure
16 of the assessment had remained unchanged since the
17 data poor work group. Based on that assessment,
18 the next step then is to determine the overfishing
19 level. Jessica, please. The overfishing level,
20 the OFL, is 21,680 metric tons.

21 That comes straight out of the
22 assessment by applying the accepted reference
23 point, the FMSY proxy, which is a spawning
24 potential ratio 40 percent, and F equals .177.

1 So, with that piece of information, we
2 then developed the ABC. The ABC is developed from
3 the control rule, the Council's control rule.

4 It requires us to estimate the ratio of
5 the current biomass to the target biomass. And as
6 Jessica indicated, the scup were well above the
7 target biomass, and that means that we then apply
8 the Council's risk policy a P star of .4 and end
9 up with an ABC recommendation of 17,557 metric
10 tons, which is 81 percent of the OFL.

11 We recommended a three-year
12 specification for the ABC. We based it, again, on
13 a constant fishing mortality rate approach; and
14 the rationale for that is with an expanding stock
15 and for stock that you have some belief in the
16 estimates coming out of the assessment this gives
17 the opportunity for the fishery to take advantage
18 of expansions. The down side again is that you
19 have reductions in catch if the spawning stock
20 biomass is estimated to be going down in response
21 to recruitments.

22 So a three-year specification. The ABC
23 specification was 17,557 in 2013 based on a F rate
24 of .142. That was applied in both 2014 and 2015

1 to yield the ABCs indicated there on the screen.
2 The three-year specification was given largely
3 because we expect an update of the assessment in
4 2014 to be used to reevaluate the biological
5 reference points. Next slide please, Jessica.

6 Most significant sources of uncertainty
7 there were four. Jessica discussed in her
8 presentation the expansion of the age structure,
9 that bubble plot where you saw increases in
10 abundances of the older age classes of scup in the
11 most recent years as the stock has recovered.

12 One of the problems with that is that the
13 indices that we have aren't particularly good at
14 catching older scup, so all of the information on
15 older scup is coming from the fishery, from the
16 catches rather than fishery independent surveys.
17 As with summer flounder that we discussed earlier,
18 uncertainties in the level and the pattern then
19 used in the assessment remain and there are no
20 estimates of uncertainty in the biological
21 reference points for which the species is managed.

22 As a result of that, we use a presumed
23 distribution with a CV of 100 percent based upon
24 an analysis of other surveys. So those are the

1 four principal sources of uncertainty that we have
2 struggled with in determining the ABCs from a
3 scientific point of view, from a data point of view
4 these sources of uncertainty we felt were
5 important.

6 Again, we have high recruitments in
7 recent years. We don't have much historical
8 information because this stock is expanding to
9 know whether these levels of recruitment will be
10 maintained.

11 There's no reason to expect they won't,
12 but we don't have historical information to back
13 that up. As with other pelagic species, the
14 survey indices are sensitive to the movements of
15 scup rather than just their abundances.

16 So the indices can change dramatically
17 based upon whether the scup distribution and the
18 survey coincide this year compared to previous
19 years. And so this assessment doesn't hang
20 together quite as well as the summer flounder one
21 does in terms of stable indices of abundance. If
22 you look at the indices of abundance of scup, they
23 really do vary a lot from year to year.

24 We have the ongoing issue of the

1 Albatross to Bigelow conversion. This will of
2 course be resolved over time as we no longer are
3 trying to calibrate the two surveys together. In
4 the intermediate time, it's still a remaining
5 concern.

6 And as with summer flounder, the
7 projections when you're making multi-year
8 specifications, rely on the assumption that the
9 quota is going to be landed in all years. Next
10 slide, please. And that's it.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Thank you, Dr. Miller. And we'll go back to
13 Jessica for the Monitoring Committee
14 recommendations. Jessica.

15 JESSICA COAKLEY: Okay. Well, after
16 the SSC met, the Monitoring Committee was
17 presented with the SSC ABC recommendations, and
18 they developed their recommendations for annual
19 catch targets. So the Monitoring Committee noted
20 that the commercial fishery really has under
21 performed in the last few years, and because of
22 that they recommend no reduction from the
23 commercial ACL to the commercial ACT to address
24 management uncertainty because there has been such

1 an under performance in those most recent years
2 where the fishery just hasn't been attaining its
3 commercial quota.

4 They also noted for the recreational
5 fishery that it has under harvested quite
6 substantially in the last year in response to the
7 increased harvest limit. And, again, on that
8 basis they did not recommend reducing the
9 recreational ACT from the ACL to account for
10 management uncertainty because they did feel there
11 was enough of a gap in terms of the performance of
12 those fisheries.

13 They noted some more to summer flounder
14 that for stability measures could be set at the
15 lowest of the three of the 2013 to 2015 sets of
16 recommendations if you wanted to do a constant
17 catch type approach over those three years;
18 however, fishing at the SSC recommended ABCs for
19 2013 to 2015 should enable the stock to remain high
20 due to the low constant fishing mortality rate that
21 the SSC had applied. So they highlighted that you
22 could consider that constant catch approach, but
23 they were also fine with the F approach on that
24 basis. They did not recommend any changes to the

1 current mesh requirements, pot trap requirements
2 or GRAs. At the Monitoring Committee meeting, the
3 industry had commented that they would like to see
4 a reduction in the commercial minimum fish size
5 from 9 inches to 8 inches.

6 In addition, they were interested in
7 seeing an increase in the possession limit from
8 50,000 pounds for the Winter 1 commercial period
9 to 75,000 pounds.

10 So the Monitoring Committee did discuss
11 both of these issues, and they suggested that a
12 reduction from 9 inches to 8 inches would not be
13 expected to have considerable impact on the
14 assessment or the spawning capacity of the stock
15 based on the information that they had.

16 So they had noted that essentially an 8
17 inch fish is a two-year-old fish and a 9 inch fish
18 is a three-year-old. And because in the trawl
19 fishery of the mesh size that's used a lot of those
20 8-inch fish are already selected into the trawl
21 mesh.

22 So those 8-inch fish are ending up as
23 part of the discards even though the mesh isn't
24 directing on 8 inches. The mesh selectivity is

1 higher than that, some of those 8-inch fish are
2 ending up there in discards. And the commercial
3 discard mortality does assume 100 percent
4 mortality for all of the fish that are in the trawl.
5 So those 8-inch fish are discarded dead.

6 So they did note that by moving it from
7 9 to 8 inches, those dead fish that are 8 inches
8 could then be landed; however, they pointed out
9 that this assumes that there are no changes in the
10 minimum mesh size and the seasonality of the
11 fishery remains the same as it does right now.

12 They also noted there were concerns
13 about the limited data on the pot trap fishery and
14 hook-and-line fishery, which do not have 100
15 percent discard mortality associated with it.

16 So moving the minimum size from 9 inches
17 to 8 inches could have an effect on the mortality
18 rates for those other types of fishing gears, but
19 we actually have no information to evaluate that
20 at this time. So that was something that they
21 wanted to make sure they noted on that issue.

22 I will point out that the staff did
23 discuss this issue as well, and the staff
24 recommendation at this time is not to reduce the

1 minimum size from 9 inches to 8 inches for several
2 reasons. One, the fish that are 9 inches are about
3 98 percent mature at that point, so if you begin
4 to decrease the minimum size below 9 inches, there
5 may be a portion of the fish that are being retained
6 that are either immature, they have not matured
7 yet, or depending on the timing of the fishery, you
8 could be capturing them before they've actually
9 had the opportunity to spawn. So you could be
10 taking fish before they've had one opportunity to
11 spawn at that point.

12 Another consideration was also this
13 would further increase the discrepancy between the
14 minimum size in the recreational fishery and the
15 commercial fishery which currently is an issue
16 that's been highlighted.

17 And the staff was likewise concerned
18 about the behavior for some of these other gear
19 types, that if in fact it did result in more
20 mortality of 8 inch fish. But we don't have the
21 data to evaluate it, and we don't have that data
22 being incorporated into the assessment.

23 It could actually be affecting
24 productivity, and that would actually not creep in

1 directly in the discard estimates; it could have
2 an effect on future survey indices or future things
3 if the stock is responding to those changes. So
4 that's the basis for the staff recommendation on
5 that. So I wanted to highlight that for you as
6 well.

7 The Monitoring Committee also responded
8 to those industry comments on changes to that
9 Winter 1 possession limit. They noted that
10 increasing the possession limit from 50,000 pounds
11 to 75,000 pounds in Winter 1 may not actually be
12 an issue, and it may not be an issue at this point
13 in time with these high quotas; however they did
14 caution about multiple adjustments to things like
15 possession limits, the 80 percent trigger
16 adjustments to the minimum size all being made
17 simultaneously in this fishery.

18 In addition, under the current stock
19 size, possession limits greater than 50,000 pounds
20 may not result in rapid attainment of the quota
21 particularly since the threshold analysis that's
22 presented in the fishery performance report
23 indicates that there are not a large number of
24 trips that are actually catching 30, 40, 50

1 thousand pounds when they're out fishing; however,
2 it may make a difference if market conditions
3 change or the conditions of the stock change. So
4 they wanted to make sure that that was very clear,
5 too, that it may not have a big effect at this
6 point, but if quotas became more constraining or
7 if the conditions of the marketplace changed, it
8 may have an effect.

9 They also wanted the Council to consider
10 the effects of making that change on the different
11 size vessels. That adjustments to the possession
12 limits will have an effect on large vessels that
13 are capable of actually achieving those high
14 possession limits and retaining those fish and
15 bringing them back to their dealers versus vessels
16 that aren't going to be able to do that, some of
17 those medium size and smaller vessels that may be
18 operating in the fishery. So the measures we set
19 do have an effect on those.

20 And the Council should also consider the
21 effect of that change in possession limit on the
22 remaining fishing seasons, either the summer
23 period or the Winter 2 period, Winter 2 period in
24 particular because Winter 1 landings that are left

1 over can actually roll over into the Winter 2
2 period and increase the quotas and trip limits in
3 that second period. So for the advisors, there
4 was actually not enough time to convene them in
5 that one-week period between the Monitoring
6 Committee meetings and the Council meeting, so
7 staff reached out to our advisors via e-mail and
8 put these two issues to them, and we solicited
9 comments either via phone or e-mail, and those have
10 actually been distributed to you. You should have
11 a summary that was a handout as well as all the
12 comments that were received.

13 I believe there were four that actually
14 appeared in the briefing book, and then the
15 remaining comments are either in that packet or the
16 additional handout because we received those on
17 Monday. So you should have all of those.

18 The majority of comments that were
19 received from advisors were in support of lowering
20 that minimum size limit to 8 inches; however, there
21 were several advisors that expressed concerns that
22 that decrease in minimum fish size would actually
23 have a negative effect on the stock.

24 There was mixed input on the Winter 1

1 trip limit change. A majority of comments that
2 were received were actually opposed to the
3 increase, but there were some comments that were
4 in favor of seeing that increase. Some of the
5 advisors had expressed concerns that the
6 additional trip limit increases may lead to
7 further declines in prices either daily, weekly,
8 or annual based on the fact that there is a strong
9 scup price volume relationship that we've seen
10 exhibited for this fishery. So you do have all the
11 comments.

12 It's, again, really hard to boil down --
13 you know, all those sets of personal comments into
14 a summary, but these were some of the main points
15 that were made. And I'm sure we've got some public
16 here that will share comments as well.

17 So, in summery, the SSC and Monitoring
18 Committee recommended OFL, ABCs, ACTs are in this
19 table for 2013, 2014, and 2015. The OFL is 39.64
20 million pounds based on the application of the
21 Council risk policy that was described. The ABC
22 for 2013 would be 38.71 million pounds.

23 The Monitoring Committee recommended
24 the ACTs be set equal to the ACLs. So the

1 recreational harvest limit for 2013 would be 7.55
2 million pounds. That already includes a 3 percent
3 RSA deduction, if that's something that the
4 Council wants to do; and for commercial quota a
5 23.53 million pounds commercial quota.

6 For 2014 and for 2015, those values
7 would decline slightly in response to the
8 calculations of the overall ABC. That's it.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Jessica, thank you. And Tony let me know that Rick
11 Bellavance may have had some additional dialogue
12 with the AP or members of the AP. Rick, did you
13 have anything you wanted to add to that?

14 RICHARD BELLAVANCE: Thank you, Mr.
15 Chairman. In addition to my role here as a proxy
16 for Rhode Island I also sit on the advisory panel
17 for the Council and the Commission, and I did get
18 that phone call from Jessica, and Toni in regards
19 to my opinion on the different 8-inch size limit
20 and the possession limit increase.

21 I don't do a lot of commercial fishing
22 for scup, so I reached out to some of the
23 constituents in Rhode Island, and they were a
24 little bit slow in getting back to me, but I do want

1 to pass along that everybody I spoke to was opposed
2 to decreasing the size limit to 8 inches. That
3 included fish dealers as well as industry
4 participants.

5 And they were also opposed to the
6 increase in quota in Winter 1 from 50,000 to 75,000
7 pounds. And I have those in e-mail form. I can
8 pass those along to either Toni or Jessica if
9 that's helpful.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you, Rick. Other questions for Jessica or
12 Dr. Miller? Tom Fote.

13 THOMAS FOTE: Dr. Miller, my question
14 is to you. When we look at Level 3, if we go to
15 a Level 2, that would mean the increase in the quota
16 because we have more surety in the data is my first
17 question.

18 THOMAS MILLER: So the Level 2 means
19 that the risk policy is slightly different. It
20 reduces some of the uncertainty, so it probably
21 would translate to a higher quota.

22 THOMAS FOTE: Okay. The follow-up
23 question is -- and I mean to bring this up with
24 summer flounder, but I basically will do it when

1 I look up black sea bass and scup and make it one
2 time.

3 The question: When I look at summer
4 flounder, which NMFS has told me we have spent more
5 money on summer flounder than any other species in
6 the Mid-Atlantic, have more data going back to the
7 '80s, we have all this data, all this information,
8 and yet you still have summer flounder listed as
9 a Level 3, which is more restrictive than Level 2;
10 and black sea bass and scup, which you have data
11 poor, the only stock assessment we have is data
12 poor, you basically referenced when you made your
13 pitch is that the reason you have scup you have less
14 confidence in is because we have this information
15 on summer flounder and we don't have it on scup,
16 and we don't have it on this.

17 I find it very confusing to me how you
18 reach these levels, and maybe there should be a
19 gradient or more than one, two, three and four to
20 do this when you basically can lump summer flounder
21 with all that information with the same level as
22 you can with black sea bass and scup.

23 It also proves to me that we spend
24 hundreds of thousands of dollars researching black

1 sea bass and scup; we will never get out of a Level
2 3 because I don't see how we're going to get out
3 of a Level 3 with summer flounder.

4 And it just basically concerns me
5 greatly, and I think it gives less credibility to
6 the one, two, three, four levels that you have if
7 you can basically consider summer flounder and
8 black sea bass and scup on the same level.

9 THOMAS MILLER: I think that's a really
10 pertinent question. So the four levels came about
11 through a process where a subcommittee of the SSC
12 were asked to put forward a proposal and a final
13 proposal for the four levels came up in front of
14 the Council and was approved by the Council.

15 The reason for trying to make it four
16 rather a continuous process was to try and provide
17 more prescription to the process, in a sense to try
18 and take some of the freedom of the SSC away to
19 having to evaluate risk separately for every
20 individual species by categorizing it in to a
21 restricted number of bands.

22 The Council could know going forward
23 what level of uncertainty would be associated with
24 that and what level of risk the Council was taking

1 on by setting its ABCs.

2 I do think that it is the four levels to
3 attain one of those four levels is a very, very
4 significant challenge, and I'm not sure any of the
5 assessments we've been given would ever reach that
6 highest level.

7 It is a very, very high standard to set.
8 It says that we have absolute confidence in every
9 piece of information going into the assessment,
10 that we have fully described and fully understand
11 the biology and ecology of the species, and that
12 we fully described the uncertainty of all of the
13 estimates that come out of it. Where we sit then
14 in deciding whether something is a two, three, and
15 a four, there is inevitably some degree of
16 subjectivity because we have to put them in one of
17 those four categories.

18 Something could be a very, very high
19 Level 4 or a very low Level 3, and there are some
20 consequences to what those decisions are. All I
21 can tell you when we go through our process we have
22 very extensive discussions on each of them based
23 around our sense of the uncertainties of the input
24 and not on the consequences.

1 We tend not to try and say, well, if this
2 was a Level 3, this would be the quota; or if this
3 is a Level 4, that would be the quota, and work back
4 from a desired quota. We work forward from first
5 principals of our understanding of the
6 uncertainties.

7 In terms of your comment about what does
8 it take to get out of the level once it's in there
9 and your concerns about the investments that are
10 made, I think that's a valid concern of how much
11 investment would be needed to move a species from
12 one category to another and what would you gain in
13 terms of changes in quota out of that. I think
14 what the process does is it helps the National
15 Marine Fishery Service target what those
16 investments should be. We're very clear about
17 what those sources of uncertainty are and what
18 would need to be done to move it forward from there.

19 So I think there is some fairly clear
20 guidance to the Service as what the most critical
21 sources of uncertainty are. And you've seen us
22 highlight those in both of the previous
23 assessments.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Tom,

1 do you have a follow-up?

2 THOMAS FOTE: Yeah. Is there any
3 opportunity, or has that committee met since this
4 first started? Because there's was a lot push,
5 there was a lot of looking at things differently.

6 I'm asking: Could you re-evaluate
7 those levels when we look and re-evaluate in
8 comparison what you have in summer flounder, what
9 you have in black sea bass, what you have in scup;
10 and say or maybe or maybe not it should be a Level
11 2 because we do have a huge amount of data on summer
12 flounder and equate that in the same level with
13 black sea bass and scup. It really, as I said,
14 gives me a lot of agita. So I'm just asking maybe
15 the SSC should maybe look at that again.

16 THOMAS MILLER: We haven't met since we
17 put these recommendations forward. Our next
18 scheduled meeting is in I think the 26th and 27th
19 of September. The procedures and policies that we
20 use are approved by the Council, and if the Council
21 wishes us to go back and re-evaluate those, I think
22 the SSC would welcome the opportunity to do so, to
23 both look at we're a year and a half in from when
24 we started using those policies to ask are they

1 effective; have they resulted in outcomes that we
2 think are defensible; and are we using them in a
3 strictly equitable way from species to species? I
4 think that would be a very reasonable thing for the
5 Council to ask of us.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Dr. Miller. And, Tom, I would just
8 point out the black sea bass discussion will
9 actually raise more questions about that very
10 issue.

11 Having sat through the deliberations I
12 have some concerns on that myself. Having said
13 that, sea bass is a Tier 4. These others are Tier
14 3. There is a significant difference potentially
15 in quotas as you go from Tier 4 to 3 or visa versa.
16 There's not as much gain in quota the way the
17 control rule is set up going from Tier 3 to Tier
18 2. That's not to say there's not an incentive in
19 place for it.

20 But we're able to fish at about 81
21 percent of the OFL under Tier 3 on a rebuilt stock.
22 So to the extent that we've had gains going from
23 that to a Tier 2, it would have a tighter
24 distribution of the OFL estimate. We'd have

1 gains, but they'd be more marginal.

2 But this does raise a question about the
3 way they're being tiered. As I pointed out, I
4 think the sea bass discussion raises maybe some
5 finer points about that that we can discuss, too.

6 THOMAS FOTE: That's the only I'm
7 concerned about. Looking at it -- you know, it
8 seems it might be a very small amount of fish, but
9 a very small amount of fish means a lot to the
10 fishermen. And also what is necessary to get out
11 of there is a very good question.

12 COUNCIL CHAIRMAN RICHARD ROBINS: And
13 that's something that gets a lot of discussion at
14 the SSC level I can assure you. Rob O'Reilly.

15 ROBERT O'REILLY: Thank you, Mr.
16 Chairman. Thank you, Jessica and Tom. A lot of
17 information. I tried to keep up with most of it.
18 But one thing that captured my attention was Tom
19 Miller's comment about the expanded age
20 composition, and I couldn't really tell how sudden
21 that has been or to what extent that really has
22 occurred, whether it's a pretty robust expansion.

23 But the fact that there has been
24 expansion I think leads to the idea that on the size

1 limit request to lower the size limit to 8 inches.
2 Tony mentioned that there were some fisheries,
3 such as the pot fishery, which has not had 100
4 percent discard mortality, so somehow the age has
5 expanded with the conditions that have occurred
6 with the regulations the way they have been, and
7 I would think you probably would want that to not
8 be undermined with lowering the size limit.
9 That's something that someone didn't say directly.

10 And then of course how much time it would
11 take -- Tom Miller could tell us perhaps -- but
12 eventually start to erode -- could erode depending
13 on the conditions SSB to a certain extent. So I
14 wouldn't think that lowering the size limit at this
15 point is a wise thing to do, and it seems to have
16 gotten similar comments from a lot of industry.
17 The other thing that was striking, which I'm not
18 used to seeing, is a fishing mortality rate of
19 0.34, and that brings up the question of just what
20 is the natural mortality rate.

21 And I think that is one of the reasons
22 for the Level 3 assignment by the SSC, and it
23 certainly will be something to look at with the
24 benchmark approach. But, on the other hand, if

1 age expansion is there and does increase a little
2 bit more, then that has direct influence on natural
3 mortality rate because the expectation that more
4 older fish, more stability that lends itself to a
5 slightly lower natural mortality rate.

6 So those are just things that I found
7 kind of very striking about these presentations,
8 and they are interlinked between the fishing
9 mortality rate, the SSB and the natural mortality
10 rate and the fact that the age expansion is
11 something that was brought out and among other
12 information. Thank you.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you, Rob. We did not ask the SSC to comment
15 on the minimum size change. But, Dr. Miller, do
16 you have any comment on that aspect of Rob's
17 comments relative to the age structure of the
18 population or year class expansion?

19 THOMAS MILLER: So Rob's quite right.
20 The stock has expanded fairly sharply after being
21 at its most constricted age structure in the period
22 of '95 to 2000 when we really had ones and twos.

23 We're now in the position where we're
24 regularly seeing the fives and sixes, so within the

1 decade we've seen a fairly
2 dramatic -- Jessica's put it up on the screen there; you
3 can see it -- a fairly dramatic expansion with most
4 of that expansion coming in a very short period of
5 time.

6 So you can follow perhaps that large
7 sort of '98 year class as having really being
8 partially responsible for the full expansion of
9 the age structure.

10 If you look at some of the other survey
11 indices by age structure, which Jessica doesn't
12 have in her presentation, you really do see that
13 in most of the fishery independent surveys are
14 highly truncated in what they catch.

15 And so all of that information on the age
16 structure or most of the information on the age
17 structure is coming from the commercial fishery
18 itself.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you. Peter Himchak.

21 PETER HIMCHAK: Yeah. Thank you, Mr.
22 Chairman. It's probably difficult for you to
23 answer, Jessica, but the advisory panel you have
24 -- I'm focusing on scup commercial measures. You

1 had 12 members respond by e-mail. You have
2 advisory panels from the Mid-Atlantic and the
3 ASMFC, and then we have additional comments.

4 So I'm trying to get a sense of the
5 consensus of the advisory panel on the 8 inch
6 minimum size limit.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Jessica, can you comment?

9 JESSICA COAKLEY: Well, Toni's leaning
10 over and saying, well, there's not a consensus.
11 Generally, as I indicated, a majority of the
12 comments were not in favor of the minimum size
13 decrease from 9 to 8 inches, but we did have some
14 commenters that were in favor of that.

15 And likewise, for the possession limit
16 increase to 75,000 pounds, there was mixed input,
17 but again, a majority was opposed to the increase.
18 And I am going to note at this point because I
19 didn't do it during my presentation that the staff
20 recommendation on the 75,000 pound increase was
21 also not to increase the possession limit at this
22 time to give the fishery some time to respond to
23 the possession limits that were put in place for
24 2012. Recall that in 2011 there was a 30,000 pound

1 I believe it was biweekly possession limit in place
2 for Winter 1.

3 That was increased to a 50,000 pound
4 possession limit in state waters without the
5 weekly requirement. It shifted to a daily
6 possession limit on a 50,000 pound possession
7 limit in federal waters. So the fishery it's just
8 happening this year.

9 It would make sense to give an
10 opportunity for the fishery to respond and the
11 markets to respond to the changes in possession
12 limits at this time. So I just wanted to make sure
13 because I failed to say that in my presentation
14 that I pointed that out as well. But that's the
15 general leanings of the comments.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Peter.

18 PETER HIMCHAK: Yes. A follow-up on
19 the same point. Yeah. I know it's putting you in
20 a position because this is the majority of
21 comments, and the majority of the 12 or the
22 universe of 18 members I don't know what it is.
23 But a question for Dr. Miller. Okay. And this
24 follows on what Rob has brought up. Going to an

1 8-inch minimum size limit and recognizing that the
2 trawl fishery is the major source by far of the
3 commercial landings, if you're thinking that
4 you're turning discards into landings, that's
5 good, but the other gear types now that could
6 select for 8-inch fish that would be a down side
7 of it; but considering the amount of landings that
8 they have, would that down side be overwhelmed by
9 turning discards into landings?

10 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
11 Miller.

12 THOMAS MILLER: You noted very
13 carefully that I avoided that part of Rob's
14 question specifically. We weren't asked to
15 comment on it. We've not looked at that question.

16 Anything I said here would be completely
17 off the top of my head, and I don't think it would
18 be reasonable for me to do so without an ability
19 to carefully look at the question.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Dr. Miller. Pat Augustine.

22 PAT AUGUSTINE: Thank you, Mr.
23 Chairman. Question: If we continue on this
24 trend of constant harvest, is there any indication

1 that with a biomass of 240 percent now that it will
2 come down to the threshold of the stock?

3 And the reason I ask the
4 question -- I'd like an answer to that -- but the
5 following questions would be: Are we completely
6 ignoring single-species management and the effect
7 of oversized species, oversized like striped bass
8 and some of these others up to 137 percent above
9 SSB and so on, the effect upon the subspecies of
10 which we have overfishing occurring, such as
11 winter flounder, wheat fish, and lobsters? So
12 they're kind of interrelated. I hope you can help
13 me on that one.

14 THOMAS MILLER: So there is nothing in
15 the data at the moment that would suggest anything
16 returning -- the trend seems to still be going
17 upwards.

18 I noted in my comments the decline in
19 recruitments in recent years or at least the
20 potential for changes in recruitment, and that's
21 where we would see it first.

22 The models would suggest that over time
23 the FMSY proxy should bring it to its target
24 abundance but doesn't provide any guidance as to

1 by what time frame it would do so. The second part
2 of your question for ecosystem considerations
3 you've not seen it on any of the presentation
4 slides that Jessica has included, but one of our
5 specific terms of reference is to comment on the
6 extent to which ecosystem considerations were
7 included in the assessment.

8 And we noted for this one that there
9 really were no specific additional ecosystem
10 considerations. Those considerations are to some
11 extent included in specification of the natural
12 mortality rate and other components.

13 But I think that's a generic question of
14 to what extent are we making decisions on one
15 species, and how do they affect the others and
16 we've not given that particular consideration.

17 PAT AUGUSTINE: Thanks you, Mr.
18 Chairman. It seems like that is one of the
19 considerations that we have to put in the mix
20 sooner or later, and I would think sooner.

21 We're talking about economic impact on
22 commercial or recreational as the case may be,
23 excess or more fish for both groups based on the
24 status of the stock. And it's kind of a dilemma

1 when you listen to the one side where if we increase
2 the daily quota for commercial fishermen, whether
3 it's 50, 60 or 75 or a 100,000 pounds a day, the
4 question is: What impact does that have on the
5 smaller vessels who end up sitting at the dock;
6 likewise, no offense against the commercial or
7 recreational, but if one side continues to harvest
8 at a greater rate unless there's an increase in the
9 recreational side comparative to it, we find party
10 boats, charter boats tied up at the dock because
11 of limited quota. So it is a catch 22. But thank
12 you, Mr. Chairman.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thank you. Chris Zeman.

15 CHRISTOPHER ZEMAN: I just have a
16 question and one follow-up. When was this option
17 proposed, and who proposed it in terms of the going
18 to the 8-inch minimum size limit.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Jessica.

21 JESSICA COAKLEY: Well, at the Advisory
22 Panel meeting it was highlighted by an advisor that
23 attended there, and at the SSC and Monitoring
24 Committee meeting, it was a member of the public

1 that had attended the meeting. It was not a
2 committee member that had proposed that.

3 CHRISTOPHER ZEMAN: Because it's odd.
4 It seems similar to going back to summer flounder
5 where an Advisory Panel member recommended the
6 measure to turn discards into mortality by
7 retaining gut hooked fish. But I don't see that
8 developed here, and I see no plans for development.

9 But then I see this recommendation being
10 recommended in a similar way similar time, and
11 there's a full evaluation here. There's actually
12 it looks like staff did work on this one, and we're
13 now looking at it's actually implemented today
14 when I was told that there's no plan on analyzing
15 the gut hooked measure, and I may not even be able
16 to vote on it in December.

17 I just don't understand what's the
18 distinction there in terms of why did this one get
19 analyzed, and the other one did not?

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Jessica.

22 JESSICA COAKLEY: Each year when we do
23 specifications for each of these species, there
24 are very specific measures that are up for

1 discussion each year. That includes the ACLs,
2 ACTs, commercial quotas, rec harvest limits, the
3 minimum fish size, the gear requirements,
4 including possession limits, and it's essentially
5 the things that we've listed out. So the staff
6 memo has specific recommendations on each of those
7 in it, and that's carried through in the discussion
8 of the Monitoring Committee and the Council on
9 those specific issues.

10 So that's why on both the commercial
11 minimum size and the possession limit the specs is
12 the opportunity for the Council to consider making
13 changes to those. So special attention is spend
14 on those.

15 If there are other issues that the
16 Council would like to see evaluated that the
17 advisors had recommended, that's something that
18 the Council or Board would then need to task staff
19 with going out and evaluating at that point. But
20 as a means of just normal process the staff takes
21 a look at each of those specific measures each
22 year.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Chris, one other point. I think when the

1 Monitoring Committee reviews rec measures in
2 November prior to the December meeting of the
3 Council and the Commission, that's a point when
4 specific recreational measures get evaluated.
5 But staff hadn't recommended this in this case
6 anyway. Laurie Nolan.

7 LAURIE NOLAN: Thank you, Mr. Chairman.
8 On the 8-inch versus the 9-inch issue, if we're
9 looking at commercial landings and saying
10 industries didn't land their quota in full, and
11 therefore, maybe we should reduce the size, I think
12 if you go through the comments that were written
13 this past winter specifically Winter 1, 2012, was
14 a very different kind of year.

15 The fish were not distributed in their
16 historical way; access was really not there
17 anywhere south of New York. So I think when
18 Jessica kind of makes a recommendation of let's
19 shape this 50,000 pounds this 9-inch fish size,
20 let's give this an opportunity to run through a
21 normal year even -- you know, the idea that
22 industry isn't catching the fish is just, again,
23 that availability issue rather than -- I don't know
24 -- rather than I'm not sure.

1 I just think we should stick -- you know,
2 with where we are today. Let that run through
3 another year or two and see what industry comes up
4 with for landings. The 9-inch fish is described
5 as a desirable market size. Prices have gone up.
6 We don't necessarily have that data in front of us
7 right now but -- you know, industry is telling us
8 prices have doubled and tripled. Things are
9 looking good. So it just seems to create this
10 stable scenario for industry would be a good thing
11 at this time.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thanks, Laurie. Jeff Deem.

14 JEFFREY DEEM: Two questions, if I may,
15 for Jessica. Can you put up your graph that shows
16 recruitment and stock biomass. I believe it's
17 Figure 1. Unless I'm doing something wrong,
18 that's not what's shown on page three.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Jeff, which document is that?

21 JEFF DEEM: At the end of the tab. The
22 Scup AP Information Document.

23 JESSICA COAKLEY: Yes. I can clarify
24 that for you. The Fishery Information Document,

1 which is the last document in the tab was prepared
2 based on the update that was received last year,
3 the assessment update. So it was the July 2011
4 update.

5 When the advisors met on June 27th, we
6 didn't have the new update in hand, so when the 2011
7 data was added, essentially it modified the
8 estimates of both stock size and recruitment.

9 JEFFREY DEEM: Okay. So which one went
10 to the SSC?

11 JESSICA COAKLEY: The one that's on the
12 screen, which is based on the update that we just
13 received this past month.

14 JEFFREY DEEM: Okay. Thank you. My
15 second question if I may: If we're trying to
16 reduce the number of 8-inch fish in the trawl
17 fishery, was a larger mesh considered, or would
18 that just not work in this fishery?

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Well, that was not something that the Monitoring
21 Committee explicitly discussed. I think for some
22 of the groundfish species there are larger meshes
23 used in the prosecution of some of those fisheries,
24 but changing the mesh size I think would really

1 require going back and taking a close look at all
2 of the mesh analysis studies that have been done
3 to look at the retention rates of all the different
4 size categories.

5 So we would have to take it back to a
6 technical group to get advice on that, if that's
7 something that the Council is interested in doing.

8 JEFFREY DEEM: Well, if we have an
9 excessive amount of 8-inch discards, I would think
10 that I would appreciate it if somebody would
11 address that at some point.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Thanks, Jeff. Further questions? Dewey.

14 DEWEY HEMILRIGHT: Following up with
15 what Jeff said about the discards, when I look at
16 this, I'm a big fan of turning dead discards into
17 harvest because regulatory discards is no good
18 from any perspective.

19 And going on Laurie's comments of
20 letting the fishery see what happens in a year or
21 two or something 'cause last year was a lot
22 different, but somehow I don't see not getting
23 around somehow of having to lower the mesh size for
24 the regulatory discards whether it's some type of

1 portion or something because I mean 20 percent of
2 your quota going to dead discards is too much, and
3 also see the different market conditions as far as
4 the southern end of the scup and the northern end
5 and the mixed markets and stuff like that.

6 And I would hope that the public
7 comments would give some insight on how to address
8 or how to turn the regulatory discards into
9 harvest. So maybe the public comments can help us
10 on that. Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Thank you Dewey. We'll take a couple more
13 questions, and then we'll hear from the public.
14 Peter.

15 PETER HIMCHAK: Jessica, you may have
16 been talking about this when I was having a
17 sidebar. Under the current mesh in the trawl
18 fishery, what is the percentage of 8-inch fish that
19 are discarded -- 8's, 7's?

20 COUNCIL CHAIRMAN RICHARD ROBINS: Do we
21 have that information?

22 JESSICA COAKLEY: I do have behind the
23 tab a memo that was prepared when back in was it
24 2005 -- yes, 2005, when the Monitoring Committee

1 at that time was asked to review whether to reduce
2 the minimum size from 9 inches to 8 inches, and
3 there are some limited mesh studies.

4 And I'm just looking quickly while I'm
5 talking for the numbers here. So of those limited
6 studies, it looks like at a 5-inch mesh size -- this
7 is a study of Narragansett Bay -- the L25 percent
8 for that mesh was 8.3 inches. The L50 percent was
9 9.2 inches.

10 There was another study by Butall et al
11 at a 6-inch mesh. It shows that the L25 percent was
12 about 10 inches. The L50 percent at a 6-inch mesh
13 was 11.22 inches. It looks like these are they
14 looked at both diamond and square codends. I need
15 to take a closer look at it. I know that the mesh
16 as its currently set, the L50 is not set at 8
17 inches. So those 8-inch fish that are ending up
18 in the net are ending up in there sort of grouped
19 with the other fish because they were not able to
20 escape from the mesh size that's in place. But
21 that's the best I have. I can't give you an exact
22 percent on the fly.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Dave.

1 to do is have to go through and pull every other
2 fish to see what the size limit is. So, I mean,
3 it's off the top of my head, but I do think the gear
4 they're fishing has reduced the smaller fish, and
5 we are moving in the right direction. We see
6 recruitment. We see the year class through the
7 stock. I don't know. Just thought I'd throw that
8 out there.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you. Why don't we hear from the public on
11 the proposed specifications. I know there are a
12 number of issues contained in here in addition to
13 the quota that are now under discussion. Bonnie
14 Parady.

15 BONNIE PARADY: Hi. Good morning. A
16 couple of issues that I just wanted to let you all
17 know. There were additional letters that were
18 sent from New York fishermen, Hank Lackner, Mark
19 Phillips, and Dave Areoparch (phonetic). I don't
20 think Hank's letter is actually in the packet,
21 though, because I checked, and I didn't see it.
22 But nonetheless, he echoes the sentiments of Dave
23 Areoparch and Mark Phillips. A couple of things
24 regarding the Advisory Panel comments.

1 First of all, I know it came out on the
2 discussion that it was industry. It was someone
3 from industry. It was not New York's industry.
4 If you look at some of the data that's in the --
5 and I'm sorry; I'm a little bit disjointed here,
6 but bear with me.

7 When they referred to the memorandum on
8 scup management measures, page 11, Table 5 top part
9 of landing of scup for 2011, you'll see that Rhode
10 Island and New York catch approximately 9 million
11 of the total 15 million pounds in 2011.

12 So I did some quick somewhat decent
13 math, and I came up with 60 percent of all scup was
14 caught last year by New York and Rhode Island
15 boats.

16 With the exception of the AP Panel,
17 commercial guys that had time to hear about this
18 position and wrote in were uniformly against both,
19 both the decrease in size and also the increase in
20 limits as in wanting to wait. The number one
21 reason for not decreasing the size was because of
22 the fecundity level of the scup at the age and size
23 and they wanted to wait where it's 90 percent at
24 8-inch fish and 98 percent at a 9-inch fish.

1 Additionally, as far as in the trip limits, right
2 now we're getting decent prices, so we want to be
3 able to see if that could actually last for more
4 than one year. You don't want to tank that market.

5 I did notice on the AP's comments that
6 were offered -- excuse me while I do this again --
7 I did a quick list of the comments in the packet
8 that was given. There were 12. Nine of the 12
9 people that wrote in are recreational and/or
10 charter fishermen. The trawl fishery is the major
11 component of the scup fishery for the commercial
12 side.

13 Except for Rhode Island -- hi, I've met
14 you before -- and New York, they both wrote in with
15 a negative for -- leaving scup status quo for both
16 sides and for the trip limits because they
17 apparently spoke to industry.

18 The other panel members -- and I'm not
19 trying to negate -- you know, their right to their
20 opinion; however, Maryland two of the comments
21 were from Maryland where there was absolutely no
22 catch of scup whatsoever. Let's see. What else
23 have I got to tell you here? I noticed a gentleman
24 from SSC as far as in scup is not of the same stable

1 indices of abundance that summer flounder has. In
2 general we'd like to see it stay as it is. I
3 understand obviously depending on your need if you
4 are a processor versus a fisherman, your needs are
5 different and your economics are somewhat
6 different.

7 It's great to be able to increase your
8 markets and buy back the market which we hope is
9 happening, but we do need to maintain at this point
10 just a couple of years to see how it goes.

11 You don't want to take a stock that's 203
12 percent, the spawning stock biomass right now, and
13 blast it down so that we have to cut because that
14 will ultimately slit all of our throats. Thank
15 you very much.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thank you, Bonnie. Other comments from the
18 public? Jeff Reichle.

19 JEFF REICHLE: Thank you, Mr. Chairman.
20 This is all my fault.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Jeff, please state your name for the record, if you
23 would.

24 JEFF REICHLE: Yeah. Jeff Reichle,

1 Lunds Fisheries.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you.

4 JEFF REICHLE: Yeah. I had sent a
5 letter in requesting that the Council look at
6 allowing us to land an 8-inch fish because I
7 philosophically have a problem with throwing over
8 dead fish that have market value.

9 At one time, there was a very large
10 market for those smaller fish in the southern
11 states -- Virginia, North Carolina, down into
12 Georgia. There was, I don't know, 15 to 20 cutting
13 houses with hundreds of people working in them
14 dressing those fish and selling them down there.

15 It's my opinion if we're catching them
16 and killing them anyhow, we should do something
17 with them. I think it will have very little impact
18 on the marketplace because there's a limited
19 market for small fish in the North.

20 I think it's going to have relatively
21 little impact on the majority of the fishermen
22 because they're still going to go out. The
23 fishermen aren't stupid.

24 They go out and they target the fish

1 that's going to get them the most money, the size
2 that's going to get them the most money.
3 Unfortunately, while they're doing that right now,
4 we're still killing some sexually mature fish.
5 So, again, my opinion: We should be utilizing
6 that. As far as the daily landing limit, I think
7 it should go up. I'm not hung up on that. I think
8 that -- you know, when you see the data from 2012
9 even though we increased the landing limit to
10 50,000 pounds, you'll see very few trips that were
11 50,000 pounds. I'm not even sure if there were any
12 trips that were fully 50,000 pounds, but I think
13 -- you know, what a larger landing limit does with
14 a guaranteed bottom price, which we now basically
15 have in this marketplace for the larger fish that
16 we've been catching, I think the fisherman knows
17 it helps him make a decision before he leaves the
18 dock that, hey, I can go out there and -- you know,
19 if the market's not good I know that I can land
20 50,000 or 60,000 or 70,000 pounds of fish at a
21 bottom price level and still make money. Where
22 they didn't have that before.

23 And I think that there's some boats in
24 some areas because the fish seemed to have moved

1 further North that now have a difficult time really
2 targeting that fishery. An increase would help
3 those few boats. Again, in general I don't think
4 it's going to greatly increase the individual
5 landing because -- you know, these guys fish by
6 market. They go out. They make a tow. If they
7 have 20/25,000 pounds they know who else is out
8 there in that area fishing. They're talking on
9 the radio all the time. They pick their sac phone
10 up. They call the marketplace. They know what
11 the market's worth. They make a decision at that
12 point, hey, I got 20,000 pounds. The market's a
13 buck fifty. I'm going home. Or I've got 20,000
14 pounds on. There's a lot of fish in the market
15 right now. The market's only 50 cents. I'm going
16 to work and continue to put fish on and come in at
17 the freezer price and know that I'm still going to
18 have a good trip. Anyhow, that's the reasoning.
19 I'm not going to go against what all the fisherman
20 think. But I do think the Council needs to look
21 at turning discards into landings. I think that's
22 a very important subject. Thank you.

23

COUNCIL CHAIRMAN RICHARD ROBINS:

24

Thank you, Jeff. The gentleman in the back row.

1 Please turn the microphone on and state your name.

2 Thank you.

3 DENNIS LOVGREN: My name is Dennis
4 Lovgren. I have a 78-foot dragger out of Point
5 Pleasant, New Jersey. I'm strongly opposed to
6 increasing the trip limit. I don't think --
7 you've only gone one year now with the 50,000. I
8 was opposed to that to begin with. We went from
9 two years ago we had a 30,000 pound trip limit once
10 a week. So now we increase it to 50,000 daily. So
11 I think we need more time. This was a very strange
12 year where the fish never came south of New York
13 this year.

14 So I can't see going through increasing
15 the trip limit there. I think you take a chance
16 of doing a lot of damage to the resource, and the
17 market will not handle those prices.

18 2011 and 2010 the scup prices were
19 horrible. They did rebound this year. I think it
20 was because of a lack of fish. At this point I'm
21 also opposed to the size limit of 8-inch. I think
22 it should stay at 9-inch.

23 The fresh market does not want an 8-inch
24 fish, so all an 8-inch fish will do in the fresh

1 market is depress the other prices. I know there
2 was a lot of questions here on the bag sizes on how
3 much 8-inch fish, under size fish you were getting.

4 Personally, using a 5-inch bag and a
5 5-inch net, unless you get a large tow of scup --
6 and when I say a large tow, anything over a 100,000
7 pounds -- you barely see any under size fish. The
8 5-inch bag size has worked very well over the last
9 few years. Like Bonnie was saying, we don't want
10 to be out there and have to do extra work.
11 Personally, there's a very, very rare time that we
12 have to do any sorting with the 5-inch bag. We
13 just shovel them up and put them down. That's my
14 comments.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Thank you. Further public comment on the
17 specifications? Greg DiDomenico.

18 GREGORY DIDOMENICO: Greg DiDomenico,
19 Garden State Seafood Association. I just wanted
20 to say, Chris, it was I who brought up this issue
21 of reducing the size limit on scup.

22 I've brought it up for several years for
23 basically two reasons: turning discards, of
24 course, into landings; number two, I've looked at

1 the biological performance of this fishery under
2 the strict management that we've had for the last
3 couple of years, and it's obviously yielding some
4 very good results, and I honestly did not think it
5 would change regional fishing practices at all to
6 target smaller fish, so I was comfortable doing
7 that. Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you. Is there any further public comment?
10 Okay. We'll come back now to the Council and the
11 Board for discussion and action. What's the
12 pleasure of the Board and Council? I would
13 suggest that we go through these as we did with the
14 last set of specifications and determine the
15 number of years for the specifications, then the
16 specifications for them, then the RSA decision, if
17 you care to follow it by the actual specifications,
18 and then we can consider the other discretionary
19 measures that may be modified. So what's the
20 pleasure of the Board and Council with respect to
21 the timeline for the specifications? Erling.

22 ERLING BERG: If the chair is ready, I
23 have a motion. I'm not sure you're ready for that
24 yet.

1 COUNCIL CHAIRMAN RICHARD ROBINS: If
2 you're ready to make a motion on the timeline for
3 the specs, that's fine.

4 ERLING BERG: I'll hold off. My
5 motion's on something else.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Steve.

8 STEVEN HEINS: Mr. Chairman, I would
9 move that the scup specifications be set for three
10 years beginning in 2013. That's for the Board and
11 the Council.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Board and Council. Thank you. Second for the
14 Council by Preston Pate. Is there a second for the
15 Board? Second by Pat Augustine. Thank you.
16 Discussion? Thank you. I need another second
17 from the Board. Second by Peter Himchak. Thank
18 you. Discussion on the motion? David Pierce.

19 DAVID PIERCE: Yeah. For the record,
20 for my own benefit, I don't recall the reasons why
21 we went with two years with scup and why we would
22 do three years for black sea bass. I think the
23 reason was stated. What's the difference between
24 the two stocks that would warrant two and three?

1 COUNCIL CHAIRMAN RICHARD ROBINS: It's
2 a fair question, and I will ask Dr. Miller to
3 address that, please. Tom.

4 THOMAS MILLER: It was to do with the
5 assumed timing of the next benchmark assessment.
6 The next benchmark assessment for summer flounder
7 was a year earlier than the next scheduled
8 benchmark assessment for this stock.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Actually, Tom, I'm not sure that there's a
11 benchmark for scup scheduled. Dr. Weinberg.

12 JAMES WEINBERG: Yeah. In 2013 there
13 is a scup update scheduled, and nothing is
14 scheduled beyond that. Which doesn't mean it
15 won't occur. It just means that the NRCC has not
16 scheduled out beyond 2013 yet. But a 2013 update
17 is on the schedule. And typically, there have
18 been annual updates of that stock.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Dave, I think the primary point was simply one of
21 stability and trying to achieve that in the
22 multi-year nature of those specs. But you had a
23 follow-up question?

24 DAVID PIERCE: Well, Dr. Miller

1 indicated it was tied to benchmark assessments,
2 and we're not going to have one for scup;
3 therefore, it seems more logical to keep it the
4 same, two years for both stocks. We'll have
5 updates, of course, but they're not benchmark
6 assessments. So for the sake of consistency, I'll
7 move to substitute that the specification be set
8 for two years consistent with fluke.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you. The motion is on behalf of the Board.
11 Is there a second to the motion from the Board?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to the motion from the Board?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Seeing none, the motion to substitute dies for lack
18 of a second. Further discussion on the motion?

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 the Council ready for the question?

22 {Move that scup specifications be set for 3 years.}

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 those in favor please indicate by raising your

1 hand.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Eighteen. Opposed like sign.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Abstentions like sign.

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: The
10 motion carries. Dave Simpson.

11 DAVID SIMPSON: Thanks. For the
12 Board, do you need a moment to caucus? All set.
13 All those in favor please raise your hand.

14 (Response.)

15 DAVID SIMPSON: I see nine in favor.
16 Opposed?

17 (Response.)

18 DAVID SIMPSON: I see one. One
19 opposed. Abstentions?

20 (Response.)

21 DAVID SIMPSON: One abstentions. Null
22 votes?

23 (No response.)

24 DAVID SIMPSON: The motion passes.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Thank you. What's the pleasure of the Board and
3 the Council on the question of the RSA set-aside?
4 Steve Heins.

5 STEVEN HEINS: Thanks, Mr. Chairman.
6 As with fluke, we need to dispense with this first
7 before we get to the rest of this. So I move that
8 up to 3 percent of the TAL be allocated for research
9 set-aside in 2013, 2014, and 2015. That's the
10 scup TAL. And that's for the Board and the
11 Council.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there a second to the motion from the Council?
14 Second by Pres Pate. Is there a second to the
15 motion from the Commission? Second by Adam
16 Nowalsky. Thank you. Discussion on the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 there discussion on the motion?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Seeing none, is the Council ready for the question?
23 {Move that up to 3% of the TAL be allocated for RSA in
24 2013, 2014, 2015.}

1 COUNCIL CHAIRMAN RICHARD ROBINS: All
2 those in favor please indicate by raising your
3 hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Sixteen. Opposed like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Two.
9 Abstentions like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One.
12 The motion carries. Thank you. Dave Simpson.

13 DAVID SIMPSON: For the Board do you
14 need to caucus? Those in favor raise your hand.

15 (Response.)

16 DAVID SIMPSON: Nine in favor.
17 Opposed?

18 (Response.)

19 DAVID SIMPSON: I see one opposed. Any
20 abstentions?

21 (Response.)

22 DAVID SIMPSON: One abstention. Any
23 null votes?

24 (No response.)

1 DAVID SIMPSON: None. The motion
2 passes. Thanks.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Thank you. With respect to the specifications,
5 what's the pleasure of the Board and the Council?
6 Steve Heins.

7 STEVEN HEINS: Thank you, Mr. Chairman.
8 I move that for 2013 the recreational ACL equal the
9 ACT equal 8.52 million pounds, and the commercial
10 ACL equal the ACT equal 30.19 million pounds, which
11 results in a recreational harvest limit of 7.55
12 million pounds and a commercial quota of 23.53
13 million pounds.

14 Further, for 2014 the recreational ACL
15 should equal the ACT which equals 7.92 million
16 pounds, and the commercial ACL equal the ACT, which
17 equals 28.07 million pounds resulting in a
18 recreational harvest limit of 7.03 million pounds
19 and a commercial quota of 21.95 million pounds.

20 And further, for 2015 the recreational
21 ACL equal the ACT equals 7.43 million pounds, and
22 the commercial ACL equal the ACT equal to 26.34
23 million pounds resulting in a recreational harvest
24 limit of 6.6 million pounds and a commercial quota

1 of 20.6 million pounds. And that's for the
2 Council and the Board.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there a second for the Council? Second by Pres
5 Pate. Is there a second for the Board? Second by
6 Rob O'Reilly for the Board. Discussion on the
7 motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any further discussion on the motion?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Seeing none, is the Council ready for the question?

14 {Move for 2013, the recreational ACL = ACT = 8.52 mil
15 lb and commercial ACL = ACT = 30.19 mil lb. This
16 results in a recreational harvest limit of 7.55 mil
17 lb and commercial quota of 23.53 mil lb.

18 For 2014, the recreational ACL = ACT = 7.92 mil lb and
19 commercial ACL = ACT = 28.07 mil lb. This results
20 in a recreational harvest limit of 7.03 mil lb and
21 commercial quota of 21.95 mil lb.

22 For 2015, the recreational ACL = ACT = 7.43 mil lb and
23 commercial ACL = ACT = 26.34 mil lb. This results
24 in a recreational harvest limit of 6.60 mil lb and

1 commercial quota of 20.6 mil lb.}

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 those in favor please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Eighteen. Opposed like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Abstentions like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One
12 abstention. The motion carries. Dave.

13 DAVID SIMPSON: Need a moment to
14 caucus? Doesn't look like it. All those in favor
15 raise your hand.

16 (Response.)

17 DAVID SIMPSON: Nine in favor.
18 Opposed?

19 (Response.)

20 DAVID SIMPSON: I see none opposed.
21 Any abstentions?

22 (Response.)

23 DAVID SIMPSON: Two. Any null votes?

24 (No response.)

1 DAVID SIMPSON: None. So the motion
2 passes 9-0-2.

3 COUNCIL CHAIRMAN RICHARD ROBINS: With
4 respect to the other measures that might be
5 modified, the first on the list is commercial
6 minimum fish size. Are there any motions to
7 modify the minimum commercial fish size? Erling.

8 ERLING BERG: Yes, Mr. Chairman.
9 Jessica, is that a motion there? Can you put that
10 up for me? Okay. I'll wait for Jessica.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Can
12 you read the motion, please, Erling, into the
13 record.

14 ERLING BERG: I'm not sure we have the
15 same, I had it from 9 inches to 8 inches, but that's
16 not important. I'll read it from the board. Move
17 to change the scup commercial size limit from 9
18 inches to 8 inches consistent with the Monitoring
19 Committee recommendation. If I get a second, I'll
20 try to justify it.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 there a second to the motion?

23 PETER HIMCHAK: Mr. Chairman, I'll
24 second it for the Council and introduce the motion

1 on behalf of the Board.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second on behalf of the Board? And then
4 we'll get into the discussion.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second to the motion on behalf of the Board?
8 Seeing none, it dies for lack of second. For the
9 record, I think Toni has a comment.

10 TONI KEARNS: I just want to point out
11 for the record that the Monitoring Committee did
12 not make that recommendation to change the size
13 limit. They just commented on the changes that
14 did not make the recommendation.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Joel, am I correct in understanding that we would
17 need a motion from both bodies in order to move
18 forward with this? Okay. As I understand it, the
19 question now is dead. The next item on the list
20 is the commercial season possession limits. Are
21 there any motions to modify the possession limits?

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Seeing none, the next item is the commercial mesh

1 or gear requirements. Pot or trap requirements or
2 GRAs are there any motions to modify any of those
3 additional measures?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Seeing none, I believe that concludes the
7 specifications part of this meeting. Jessica,
8 are there any other items to come before us? David
9 Pierce.

10 DAVID PIERCE: Yeah, Mr. Chairman.
11 Before you break for lunch, I wanted to highlight
12 that I do have on behalf of the Board an issue to
13 raise and a motion to make relative to scup. So
14 I would defer to you and co-chair as to when would
15 be appropriate to make that motion and initiate
16 that discussion.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 David, if you don't mind, why don't we go ahead and
19 break for lunch and just take that up as soon as
20 we come back, and then we'll move into the black
21 sea bass discussion. There are a number of places
22 to eat within a fairly short walking distance of
23 the hotel, within several blocks. I would suggest
24 that we take an hour and 15 minutes. Why don't we

1 come back at 1:45. Thank you all. Come back at
2 1:45.

3 (Lunch 12:28 p.m. to 1:48 p.m.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Come
5 back to our seats, please, so we can get started.
6 Thank you. Let's go ahead and come back to order
7 so we can begin where we had left off. Dr. Pierce
8 had a motion, but we went ahead and adjourned for
9 lunch. And so now we're back with one final item
10 for discussion before we move on to black sea bass.
11 Dr. Pierce.

12 DAVID PIERCE: Thank you, Mr. Chairman.
13 Yesterday and certainly today we spent some time
14 talking about the split in the ABC between the
15 commercial and recreational fishery. Of course
16 we were given a presentation yesterday -- a
17 presentation that I believe ended up with a
18 decision for additional review, peer review time
19 to take to look it over and determine how to use
20 it. So notwithstanding all of that work that will
21 be ongoing and will take some time, I believe
22 there's a need for us to act now regarding our
23 addressing the commercial and recreational split
24 of the scup ABC. And also there's a need for us

1 to deal with the range we allocate the scup quota
2 between winter periods and the summertime. So I
3 would move to initiate an amendment -- and it's on
4 the screen -- to (1) revise the commercial and
5 recreational 78/22 split with an upper bound of
6 60/40 and (2) reallocate commercial quota from the
7 winter periods to the summer period with up to 50
8 percent of the quota being allocated to the summer.
9 So that is my motion, Mr. Chairman. And I'll
10 elaborate further if I get a second and, of course
11 -- I'm making this on behalf of the Board
12 obviously.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you, Dr. Pierce. Motion's on behalf of the
15 Board. Is there a second to the motion from the
16 Board? Second by Tom Fote. Is there a like
17 motion from the Council? Motion by Steve Heins.

18 STEVEN HEINS: For discussion.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
20 you. Is there a second to the motion? Second by
21 Howard King. Very well. Dr. Pierce.

22 DAVID PIERCE: Okay. Thank you. This
23 is not a new issue, obviously. This Council and
24 Board have debated this split for a long time, and

1 I've come to conclude especially after yesterday's
2 presentation that the time is now right for us to
3 act on this allocation between commercial and
4 recreational. Part of my rationale is I think for
5 the State of Massachusetts Division of Marine
6 Fisheries and having to with the other states New
7 York through Massachusetts because that's where
8 the focus is, the recreational fishery, knowing
9 how difficult it has been to work with the
10 allocation for the recreational fishery, it's been
11 relatively low causing us to not be able to
12 implement consistent measures across the board.

13 It's enabled us -- it's caused us to not
14 be able to implement specific regulations we feel
15 would be of great benefit for example, the
16 shoreside fishermen who can't get larger scup.

17 That and other reasons have caused great
18 difficulty for the states to deal with the
19 recreational fishery; and, frankly, I don't think
20 we dealt with it very well because too many
21 recreational fishermen have been denied access to
22 scup as a consequence of the way we have had to
23 develop our rules and regulations in the states of
24 New York through Massachusetts.

1 It was mentioned earlier this morning an
2 important point, and I'll highlight it here. And
3 I think it is a very important point. And the
4 point was that there's a consideration, and ethnic
5 consideration in that there are many low income
6 people who are not in a position to catch the scup
7 that are available to them along the shore, that
8 is, the predominant size of scup along the shore
9 is relatively small; let's say 9 inches or so.

10 They are not in a position to find and
11 to benefit from -- you know, the 10 1/2 or 11 inch
12 scup that we are obliged to implement in order for
13 us to collectively live within the recreational
14 allocation for scup.

15 So this would initiate an amendment to
16 have us focus on different splits and consequences
17 of those splits to the commercial and recreational
18 fishermen.

19 I say an upper bound 60/40 meaning that
20 we could also consider 70/30 as an option. That
21 would fall within the range to be considered.

22 Those are my main points regarding why
23 it's necessary for us to move this forward now and
24 not wait additional years to determine the best

1 option for us to chose and then to select that best
2 option. And the second part of this motion
3 relates to, again, the winter fishery, the winter
4 periods and the summer period and right now we have
5 -- so this would change the way in which we allocate
6 the fish between the winter periods with up to 50
7 percent of the quota being allocated to the summer.
8 It could be less than 50 percent.

9 But it merits some evaluation to see the
10 benefits that would ensue from our making perhaps
11 a modest change, perhaps a more significant change
12 in how the fish are distributed between the winter
13 and the summer.

14 And I say all of that with clear
15 recognition that there is an important winter
16 fishery and that there are fishermen involved in
17 the winter fishery who would obviously like to see
18 more fish landed through an increased possession
19 limit.

20 But we're not going to go that way now
21 at least for the time period. We're going to stick
22 with the 50,000 pounds. So that's my motion, Mr.
23 Chairman, and I await any response to it.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you, Dr. Pierce. Just for clarification:
2 So you've established or included in your motion
3 some upper limits on what these potential
4 reallocations might be, but it's your expectation
5 that if this goes forward, that the staff and FMAT
6 would work to develop a full range of options
7 within those boundaries, and then presumably would
8 come back and have Committee and Board discussion
9 and review and public review, etcetera?

10 DAVID PIERCE: That's right, Mr.
11 Chairman. That's my intent. That would be the
12 best way to proceed and give the Council as well
13 as the Board that full range of options to examine.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you. Discussion on the motion? Tom Fote.

16 THOMAS FOTE: I was looking around the
17 table and trying to remember who was sitting here
18 when we decided on this quota in '94. Chris Miller
19 was here. Lee Anderson was here. I'm trying to
20 think who else was sitting at the table. Maybe
21 A. C. Carpenter. And if we go back and look at the
22 memory -- Tony, were you sitting? Okay. Tony was
23 here. Because what we did was we looked at
24 basically rewarding the commercial fishery for

1 basically affecting the discard rate. And we
2 basically let them use not only the catch figures
3 but the discard figures to basically set the quota.
4 Am I right, Chris? Yeah. So it really wasn't the
5 quota what the recreational catch and the
6 commercial catch was at that time, but it was set
7 up -- and it actually got reduced I think it was
8 six or eight points. And at that time in '94,
9 nobody said this is not going to be a problem. I
10 basically yelled, yes, it would be a problem, and
11 it will come back.

12 So that's one of the reasons I want to
13 discuss this and look at it because unlike almost
14 all the other quotas we basically looked at with
15 the split, and sometimes we talk about the years
16 that splits are made, and maybe it's not the most
17 advantageous to one group or the other, but this
18 was actually made actually 'cause of discards.
19 Now, we're still working to this point to get rid
20 of the bycatch and discards, but that was the
21 promise in '94. So that's why I second that
22 motion.

23 As far as the winter fishery, I think
24 it's part of the discussion maybe we should be

1 looking at it because we see this controversy every
2 year. I'm not of one opinion or the other. I'm
3 willing to listen to information. But that's why
4 I second the motion because, again, when this quota
5 was set up, it was set up -- oh, Rick Cole was there,
6 too. It was set up by different rules. So I mean
7 it happens when you're an old guy sitting at the
8 table. You have a long memory.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Lee,
10 I think he blamed it on you. Do you have anything
11 to say in your defense? Any further discussion?
12 Bob Ballou.

13 ROBERT BALLOU: Thank you, Mr.
14 Chairman. I certainly support the importance of
15 this issue from the standpoint of evaluation and
16 discussion.

17 The proof is going to be in the pudding
18 in terms of looking at the series of options, how
19 they play out, visa vis, commercial quotas and
20 recreational harvest limits given the specs that
21 we already just set earlier today.

22 So I very much support the move toward
23 doing that. I frankly wasn't thinking that we
24 were going to be moving forward with an amendment,

1 but I realize that the process of moving forward
2 with an amendment is to first conduct the
3 evaluation, a public information document that
4 would come back before the Council and the Board
5 for us to look at, think about and decided whether
6 we would support moving out for public review a
7 direct amendment.

8 So, without necessarily supporting any
9 specific direction, I think it's an important
10 issue that needs to be fully evaluated and
11 considered, and I think the motion that Dr. Pierce
12 has put up enables that process to move forward.
13 So I would support it for that reason. Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Bob. Pat Augustine. Pat, if you can
16 wait a minute. We've got a microphone problem.
17 We need to get the mic re-established. Just hang
18 on a second.

19 PAT AUGUSTINE: -- (inaudible)
20 -- that if the recreational quota is not harvested,
21 which is typically 25 million pounds, and the
22 recreational group gets maybe 40, 50, 60 percent
23 of that, there's an offset that's allowed to bring
24 the commercial quota up to a certain level.

1 It just seems to me --hopefully this
2 will go forward. But it just seems to me that we
3 should take a look at how that plan works where that
4 plan being adopted or considered could apply to
5 summer, flounder, scup and black sea bass in the
6 event over a period of one, two, three years, that
7 the commercial quota is not reached or visa versa,
8 the recreational quota is not reached, that there
9 is a temporary transfer, "temporary transfer" for
10 a period of one, two, three years to be determined
11 by the subcommittee and what information brought
12 forth by the staff that we could look at it.

13 It seems to me that that approach would
14 give us much, much greater flexibility. Right now
15 in those species where we're 60/40 and whatever
16 that break is, we're locked in. We're basically
17 locked in until we come up with an economic
18 assessment or we go through this long drawn out
19 process. Now, most of you will recall that for the
20 last nine or ten years, maybe eight years,
21 Amendment 12 was put on the table, and that was just
22 to identify the commercial -- I'm sorry -- to
23 identify the charter boat group as a sector by
24 itself over a period of about three to six years.

1 A simple amendment of two or three items
2 went from summer flounder to scup and black sea
3 bass; it went from three to four items over a period
4 of six to nine years to 28 items to kill it.

5 And if those of you around this table
6 were here when Jack Travelstead said I guess a year
7 or two ago; he said, Amendment 12 is dead; all the
8 things we were trying to do were dead; there's no
9 interest; there's nothing we can do with it, so in
10 about 30 seconds I raised my hand to table
11 Amendment 12 forever, and we had a, boom, and it
12 was gone after all the years of mashing out teeth
13 and not getting anywhere.

14 It just seems to me if we lock into a
15 single approach for doing this, one sector or the
16 other is going to throw up such a defense that this
17 amendment, like all others, are going to be loaded
18 down; it will die it's own natural way. So I think
19 we really need to take a broader look and hopefully
20 the staff can glean out what I said as some
21 suggestions to take a look at the bluefish FMP and
22 see if there's anything that can be pulled out of
23 that that might be offered as another possible
24 approach if this fails.

1 And I really think you need some serious
2 consideration on it. There's a lot behind this,
3 and there's going to be a tremendous amount of
4 resistance.

5 We saw what happened with that economic
6 assessment that was put together yesterday.
7 Maybe all the right elements weren't there. If
8 data from 2007 to 2011 were presented, it would
9 have been more up to date and timely.

10 As around the table those folks that
11 spoke about the economic impact, positive economic
12 impact, of foraging in the commercial fishery in
13 the last two years, if that data had been used, the
14 outcome could have been completely different. So
15 all I'm asking is take a broader look at this before
16 we say this is the only way to go and thumbs down.
17 Thank you, Mr. Chairman.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you, Pat. Just in talking to staff, I think
20 if the Council and Board wanted to explore that
21 type of transfer of the quota between the different
22 sectors on an interannual basis, we could include
23 such an option in this amendment. It would
24 require modifying the architecture of the ACLs,

1 but that's something that could be explored. Adam
2 Nowalsky.

3 ADAM NOWALSKY: Thank you, Mr.
4 Chairman. As you -- to kind of clarify that point,
5 do you think it would require an amendment to this
6 motion to include a provision to look at
7 transferability at this point?

8 Because if you think it would, I would
9 be prepared to move to address that. Or do you
10 think this is sufficient that it could be looked
11 at in the amendment?

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Adam, frankly, I don't think we need it at this
14 early stage. I think the basic question before us
15 is whether or not we're going to initiate an
16 amendment because either one of those would
17 require an amendment. Further discussion?
18 Steve.

19 STEVEN HEINS: Thanks, Mr. Chairman.
20 I don't know if I'm sold exactly on revising this.
21 I made the motion for discussion purposes. I feel
22 very much as Bob Ballou. He expressed my
23 sentiments exactly. But I'm wondering if the
24 wording here commits us to doing a revision or is

1 a possible outcome of this to retain a 78/22 split?

2 COUNCIL CHAIRMAN RICHARD ROBINS: I
3 think any amendment would have a status quo option
4 I mean just as a matter of default. So, as I
5 understand it, we'd be examining the question.
6 There'd be a range of options developed.

7 And, again, it would be an iterative
8 process. I mean you'd have interaction with the
9 Committee, the Board, etcetera. Further
10 discussion on the motion? Laurie.

11 LAURIE NOLAN: Okay. I'm from New
12 York. I have to say it. Why don't we add summer
13 flounder to this amendment and possibly discuss
14 reallocating the state-by-state allocation on
15 fluke while we're doing this? Could we consider
16 adding that to the motion? I know. It's tough.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Laurie, I would just -- I mean could you? Yes, you
19 could with the consent of the Board and the
20 Council; but I would just point out that just
21 having concluded this massive outreach project
22 that we've done with the public, we did hear a lot
23 about summer flounder, the changes in their
24 physical distribution and allocations and access

1 to that resource through that project. That is in
2 the data. That's something that we're going to
3 have to inevitably discuss.

4 This issue, though, has been simmering
5 for a while. We had discussion between the
6 Commission and the Council. We had agreed to put
7 this off pending the technical analysis that we
8 commissioned as a Council and had done.

9 That was just presented to us yesterday.
10 So I think in terms of where we are in the timing
11 of things, this is something that's ripe for
12 consideration. Tony.

13 ANTHONY DILERNIA: I can understand,
14 Ms. Nolan's concern for summer flounder also being
15 from New York. But at the same time, this is very
16 simple. It's clear, to the point, and only two
17 points that we're really looking at.

18 And Pat made a good point, when we had
19 an amendment that had 20-something different
20 aspects to it; it didn't go anywhere. This has
21 just simple two items to be examined, and the fact
22 that we're putting it out as an amendment which
23 will require significant public review, I think
24 it's a good thing, and so I would support the

1 motion.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Further discussion on the motion? A.C.

4 A.C. CARPENTER: Thank you, Mr.
5 Chairman. My only thought is: Can the Board do
6 this through an addendum, or does it have to go
7 through an amendment?

8 And if we can do it through an addendum,
9 just I would add Addendum to the motion, and the
10 other I think perfection would be somewhere in this
11 motion you may want to use the word scup.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 A.C., some very fine editing. Is there any
14 objection from the maker or seconder to the motion
15 to add the word scup to the motion? Seeing none,
16 consider it done. Tony, can you respond to the
17 question about amendment versus addendum for the
18 Commission, though?

19 TONI KERNS: A.C., I'll have to look up
20 whether or not we can do it through an addendum.
21 But the Council has to do it through an amendment.
22 And if they're going to have to do an amendment it
23 makes it easier for Jessica and I to have
24 concurrent documents, so that's what we try to do.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. Any further discussion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 there any public comment on the motion? Greg.

6 GREGORY DIDOMENICO: Well, you'd think
7 I'd know this routine by heart, but I'm still going
8 to refer to this blue book. I'm sure you're all
9 familiar with it. The intent of this, the result
10 of this is without a doubt in violation of National
11 Standards 4 and 5.

12 We went through this issue on fluke, and
13 now we're going back and reviewing the scup
14 commercial and recreational allocation. So let
15 me split this in two if I can, and of course I oppose
16 both but for more than just they are against and
17 contrary to National Standards.

18 The commercial and recreational
19 allocation has always been a problem, but it's been
20 exacerbated by the fact that now we have ACLs and
21 AMs for the recreational fishery.

22 So now we're holding them to their
23 quotas, this has become more of an issue. Well,
24 the fact that we've got management uncertainty so

1 high in the for-hire sector that it drags down --
2 I'm sorry -- for the fact that we have management
3 uncertainty so significantly high in the private
4 angler sector that it drags down the for-hire
5 sector that's not the commercial industry's fault.
6 I'm not going to place any blame, but I know it's
7 not our fault.

8 So why don't we address that issue
9 before we start to take from the commercial people
10 who also were burdened by rebuilding this fishery,
11 and why would we remove the part -- or I should say
12 why would we remove the option that has become so
13 important to our winter fishery in New Jersey?

14 The scup fishery now compliments our
15 other fisheries and has made people money.
16 They've been profitable because now they've got a
17 choice of doing fluke fishing, squid fishing, and
18 scup fishing.

19 Why would we now jeopardize that? I
20 don't see any justification for that whatsoever.
21 In fact, it's I think blatantly unfair and short
22 sighted.

23 Number two, the issue to reallocate the
24 scup commercial quota in the winter period for the

1 summer period, again, why don't we take a look at
2 the summer allocations? Why doesn't Rhode Island
3 give up some of their 56 percent to Massachusetts
4 or to New York for that matter? I don't know.
5 Probably because it's unfair. So where does it
6 end? Everybody wants to take from somebody, and
7 I can tell you that the impact of this will be
8 focused on a very small group, chiefly New Jersey.

9 So I don't see any justification for
10 this. I think it's unfair. I think it's contrary
11 to National Standards. I think it's poor timing.

12 I think there are other issues that
13 should be addressed, like removing some of the
14 management uncertainty in the recreational
15 fishery. That's what pulls down the for-hire
16 sector. Nothing else.

17 So I'm sure I could go on. I don't think
18 I need to. We're always going to oppose this. We
19 opposed it for six years in the fluke fishery, and
20 finally we're vindicated I guess. But where does
21 this end? Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thanks, Greg. Jeff, did you have your hand up?

24 JEFFREY KAELIN: Thank you, Mr.

1 Chairman, members of the Council and Board. Jeff
2 Kaelin with Lunds Fisheries. It's disappointing
3 to see this today. I was at a herring meeting
4 yesterday when the allocation report was
5 described, and I remember that one of the
6 conclusions was that the effort was unable to
7 determine the efficiency of the current
8 allocation. I wonder what kind of metric the
9 Council will now develop after spending \$80,000 on
10 a report that couldn't define equity beyond the
11 current status quo.

12 We just came up with a couple of
13 approaches to maximizing the commercial winter
14 fishery. We have a lot of money invested in that
15 fishery. Our freezers we're trying to maximize
16 them. We've got some quota to work on.

17 Accountability is difficult under the
18 Magnuson Act, and if the recreational fishery
19 can't meet the standards of the Act, it's unfair
20 frankly to go back to the commercial side.

21 As Greg said, we sacrificed. We've
22 done everything we could do. And we're strongly
23 opposed to this motion, and I really have to wonder
24 how after the report that you reviewed yesterday

1 this Council would ever come to a conclusion on
2 efficiency and fairness. This is certainly
3 unfair, and we're strongly opposed to it. Thank
4 you.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you, Jeff. Bonnie.

7 BONNIE PARADY: I was hoping I'd get
8 through a Council meeting before having to pop my
9 two Advil, but as some of you may have seen, I just
10 took two more. A lot of what was discussed
11 yesterday regarding the winter quota and why we
12 have not traditionally used the winter quota has
13 everything to do with the trigger.

14 It has everything to do with what the
15 catch limit becomes when the 80 percent trigger is
16 hit. If you let the offshore Winter 1 and Winter
17 2 catch their fish, give the quotas they can, have
18 the trigger be a more reasonable amount barring
19 acts of god and hideous weather, we will catch
20 those fish.

21 For the last six, seven -- gosh, I'm
22 trying to think. Dr. Moore, when did I send you
23 that letter when New York offered to give away
24 their quota from the commercial based upon the

1 teflon limits? Was it 2003 or 2004? I seem to
2 forget.

3 CHRISTOPHER MOORE: Got me, Bonnie.

4 BONNIE PARADY: But you remember the
5 letter. All right. We had been held in New York
6 to artificially low catch limits forever before
7 even in the offshore periods on the state by state.
8 Before you take fish from folks that frankly have
9 been regulated for a far longer time -- and, look,
10 I get the whole recreational gig; I get the charter
11 boat guys. I've been at the rallies.

12 We understand these are all small
13 businesses. But to take the fish that we right now
14 have a chance to actually catch, and go, okay,
15 we're going to let you have it, and, whoosh, now
16 we're not, it's just inherently unfair.

17 And I mean I can go over list by list what
18 was wrong with the Brad report. To use that as a
19 metric for anything is just a scary thought.

20 And I would really, really implore you
21 all to first let the commercial fleet try to catch
22 the fish that are there. Let us try to catch our
23 quota. We haven't had a chance to.

24 This is the first year we're almost

1 until the trigger hits, and then a thousand pounds
2 no one's going offshore. I guarantee if you made
3 the trigger and then made it 20,000 pounds or
4 25,000 pounds, it would be caught if the weather
5 held. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Bonnie. Back to the Council and
8 Commission. Peter.

9 PETER HIMCHAK: Is there a mechanism to
10 so-call follow the bluefish model where within
11 year adjustments can be made? And I refer back to
12 last year when three states in New England extended
13 their recreational scup season beyond what was
14 originally approved by the ASMFC, and the basis of
15 this is while the commercial quota was
16 underutilized, it was the recreational landings
17 had been, so they may not have met the
18 expectations, so the consequence of extending the
19 season had no repercussions on the stock. So,
20 again, you could do it on an annual basis.

21 And as far as the summer quota, New
22 Jersey has a summer commercial quota that I doubt
23 we use very much of at all, and they essentially
24 throw it into the pool for those states that have

1 fish available to catch.

2 So, again, this is a mechanism to keep
3 fisheries productive underneath the caps and yet
4 allow for shifts from one sector to the other. Can
5 we follow that kind of an amendment versus one
6 specific to addressing basic allocations right up
7 front?

8 COUNCIL CHAIRMAN RICHARD ROBINS: Peter,
9 the discussion so far has gone to the fact that we
10 could include that type of approach or option
11 within this amendment as an alternative set. We'd
12 have to modify the ACL architecture that's in this
13 plan.

14 If you just wanted to do that and not
15 consider any of these other questions, that would
16 require a different motion. But, as I understand
17 it now, if we go forward with this motion, we'd also
18 ask staff to include looking at that type of
19 mechanism as well. Peter.

20 PETER HIMCHAK: Then I would ask the
21 makers of the motion if they thought of using a more
22 generic approach instead of dealing with or
23 adjusting the initial allocation, base
24 allocations as they exist now if they could come

1 up with -- again, the bluefish model for a number
2 of species, summer flounder, scup, and black sea
3 bass in the same plan. Would they consider that
4 approach?

5 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
6 looking at the makers of the motion. David
7 Pierce.

8 DAVID PIERCE: It is being considered,
9 as you said, Mr. Chairman. It can be evaluated as
10 part of this amendment. And after that evaluation
11 occurs, perhaps the Board and the full Council will
12 find it to be a more attractive option. But I
13 can't address it here today. I don't know all the
14 specifics. I'm a little bit rusty on bluefish.
15 This is my intent: The motion expresses my
16 intent, but with that understanding that what Pete
17 has suggested and what Adam has suggested will be
18 evaluated.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you. Frank Blount.

21 FRANK BLOUNT: Yeah. Thank you, Mr.
22 Chairman. I want all the people around the table
23 and the audience to realize that this is the start
24 of an amendment.

1 We're starting to get into scoping
2 comments right now. We're a long way from what's
3 going to happen here. There's nothing here that
4 says that the allocation may end up being 82/18
5 when you're done. It might go the other way.

6 I know that's not the intent of the
7 motion, but there's nothing right now. We're into
8 scoping. And I think there should be an up or down
9 vote now. I don't want to tell you how to run a
10 meeting, but people around the table should keep
11 that in mind. Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Thank you. I think we've had ample discussion at
14 this point. I'm going to go ahead and call the
15 question. Is the Council ready for the question?
16 {Move to initiate an Amendment to: (1) revise the scup
17 commercial:recreational 18:22 split with an upper
18 bound of 60:40 and (2) reallocate the scup
19 commercial quota from the winter periods to the
20 summer period, with up to 50 percent of the quota
21 being allocated to the summer.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 those in favor please signify by raising your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Eight. Opposed like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Eight. Chair votes yes. The motion carries.

6 For the Board. Abstentions.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One

9 abstention.

10 DAVID SIMPSON: Thanks. For the

11 Board. Do you need to caucus? Are you ready for

12 the question then?

13 All those in favor please raise your

14 hand.

15 (Response.)

16 DAVID SIMPSON: Six in favor.

17 Opposed?

18 (Response.)

19 DAVID SIMPSON: Three states are

20 opposed. Any abstentions?

21 (Response.)

22 DAVID SIMPSON: One -- two. Any null

23 votes?

24 (No response.)

1
2
3
4
5

DAVID SIMPSON: Motion carries.**

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 25th, day of September, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

THIS FOREGOING CERTIFICATION OF
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
AND/OR DIRECTION OF THE CERTIFYING REPORTER.

Pages: 1-155

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
800 North State Street, Suite 201
Dover, Delaware 19901-3910

COUNCIL MEETING

14-16 AUGUST 2012

at

Courtyard Philadelphia Downtown
21 N. Juniper Street
Philadelphia, PA 19107

(Afternoon Session.)

WEDNESDAY AUGUST 15, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	4
FINALIZE BLACK SEA BASS MANAGEMENT MEASURES IN CONJUNCTION WITH THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S SUMMER FLOUNDER, SCUP AND BLACK SEA BOARD	
JESSICA COAKLEY	4
Motion - One Year	
Adam Nowolsky	35
Steven Heins	35
Vote - Council - Pass	39
Vote - Board - Pass	40
Motion - RSA	
Steven Heins	40
Vote - Council - Pass	41
Vote - Board - Pass	42
Motion - Specifications	
Steven Heins	42
Vote - Council - Pass	43
Vote - Board - Pass	44
BLACK SEA BASS AMENDMENT 17	
JESSICA COAKLEY	51
Motion - Delay	
Anthony Dilernia	109
Vote - Pass	112
FINALIZE BLUEFISH MANAGEMENT MEASURES IN CONJUNCTION WITH THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S SUMMER FLOUNDER, SCUP AND BLACK SEA BOARD	
JAMES ARMSTRONG	117
Motion - Two Year	
Steven Heins	142
Vote - Council - Pass	142
Vote - Board - Pass	142

Motion - RSA	
Steven Heins	144
Vote - Council - Pass	144
Vote - Board - Pass	145
Motion - Specifications - 2013	
Steven Heins	146
Vote - Council - Pass	147
Vote - Board - Pass	148
Motion - Specifications - 2014	
Steven Heins	150
Vote - Council - Pass	151
Vote - Board - Pass	152

1 [2:25 p.m.]

2

3

INTRODUCTIONS AND ANNOUNCEMENTS

4

5

6

7

8

9

10

11

12

13

FINALIZE BLACK SEA BASS MANAGEMENT MEASURES

14

IN CONJUNCTION WITH THE ATLANTIC STATES

15

MARINE FISHERIES COMMISSION'S SUMMER

16

FLOUNDER, SCUP AND BLACK SEA BOARD

17

18

19

20

21

JESSICA COAKLEY: All right. Black sea bass management measures. Similar to scup and summer flounder the process was essentially the same where we went from advisers, staff memo, SSC, Monitoring Committee.

22

23

24

The fishery performance reports that the advisers developed they highlighted some of the similar issues that were put forward for both

1 summer flounder and scup, but there were some other
2 sea bass specific issues. The advisers
3 highlighted that the catch and landings patterns
4 that they were seeing generally supported the
5 science that's out there, particularly the Mozard
6 and Shephard work that looked at the movements and
7 migration of sea bass based on the tagging studies,
8 and they saw this information suggested there are
9 possible subgroups of fish within the northern
10 management unit, the management area and a
11 southern area and that the Council and Board should
12 consider how to handle those as management units.

13 They noted that either regional or state
14 management approaches may be appropriate. They
15 also highlighted that the population component
16 that's found inshore in Massachusetts in the
17 summertime is extremely abundant, that there are
18 large numbers or large fish that both commercial
19 and recreational fishermen are seeing.

20 The advisers felt that the current
21 quotas are constraining, that dogfish predation
22 similar to summer flounder is an issue for this
23 species and that multi-species dynamics should be
24 considered for this stock and for other stocks.

1 They also highlighted that the discard
2 mortality for black sea bass is very high in deeper
3 waters, and so minimizing discard mortality is a
4 common important theme. We talked a little bit
5 about changes in fishing effort and trends in that,
6 and the advisors highlighted that the increasing
7 private rental fishery component for black sea
8 bass in recent years is in part due to improved
9 access and technology.

10 So they talked a little bit about
11 everyone has good GPS systems now, can locate
12 wrecks more easily, and has better access for
13 private anglers where previously you needed to go
14 with either party or charter captains to find those
15 locations. So it has become more accessible.

16 They noted that the for-hire fleet in
17 some areas still dominate the fishery. This is in
18 part due to the high fuel prices that make it
19 expensive for the private anglers to go offshore
20 to target black sea bass.

21 For the stock assessment, the most
22 recent peer-reviewed accepted assessment was a
23 statistical catch at length model. It's called
24 SCALE.

1 And this was reviewed at the data poor
2 stock working group and peer review panel that
3 occurred in 2009. This was the same peer review
4 that looked at scup at the same time. So this July
5 19, 2012 update that we were provided for black sea
6 bass included information through 2011 and updates
7 our fishing mortality, spawning stock biomass,
8 recruitments, and updates projections as well.

9 Now, at that data poor stock work group,
10 the fishing mortality reference points included a
11 threshold fishing mortality rate or overfishing
12 limit of 0.42, which is the F 40 percent FMSY proxy.

13 The SSB MSY proxy, which is the
14 rebuilding target, is 27.6 million pounds or about
15 12,500 metric tons. One-half of that would be the
16 overfished threshold.

17 So, if the stock size is less than about
18 6,000 metric tons, the stock would be considered
19 overfished. The stock is not currently subject to
20 a rebuilding plan, and the letter declaring the
21 stock rebuilt was the same letter that we received
22 on scup back in 2009 after the data poor stock work
23 group.

24 In this 2012 update, there were some

1 changes that were made to the model based on the
2 recommendations of the SSC and the peer review
3 panel that had occurred this past December, and
4 that was the peer review that had put forward an
5 age-structured model, and that actually did not
6 pass peer review back in December. But some of the
7 modifications that were proposed were
8 incorporated, and that included things like log
9 transforming the indices.

10 For all three of these stock for the
11 Albatross and Bigelow vessels, length-based
12 calibration coefficients were incorporated, as
13 opposed to using an aggregate calibrate
14 coefficient. And because some of those changes
15 were made, it was appropriate to recalculate what
16 the reference point value should be.

17 So the definition of the reference point
18 didn't change. Just the value was updated. So
19 these updated values are an F 40 percent of 0.44,
20 which is at overfishing threshold, and an SSC MSY
21 of 24.0 million pounds, and the SSC did look at
22 these when these were presented in July and
23 acknowledged that these deterministic reference
24 points, the .44 and 24.0, were appropriate to use

1 for setting measures.

2 The model calculated fishing mortality
3 rate as given in this figure as well as some
4 confidence intervals around it. Fishing
5 mortality was lower in the pre-1980 period.
6 Fishing mortality then increased through the early
7 2000s and then dropped below the threshold fishing
8 mortality rate of .44 in the most recent few years.
9 So that solid line with the two slashes that's
10 essentially going across the graph is the FMSY
11 proxy level.

12 Model estimated stock size is given in
13 this figure. It's calculated two different ways.
14 The line with the dots is the exploitable biomass,
15 and the line with the little stars on it is the
16 total stock biomass.

17 Both exploitable and total stock
18 biomass follow a similar trend with the
19 exploitable biomass falling below that BMSY level
20 in the most recent few years.

21 In the most recent model year, the total
22 biomass is right at that BMSY level. Just to show
23 you some of the survey indices that feed into the
24 assessment, this is the Northeast Fishery Science

1 Center spring offshore survey.

2 And, as you can see, the index values
3 bounce around a little bit. We had some high
4 flyers back in the mid-'90s and some high index
5 values in the mid-2000s, but generally those
6 indices don't show those strong upward or downward
7 trends that we see in the summer flounder indices
8 where it was really obvious where they were really
9 low, and all the indices were kind of going up. We
10 don't necessarily see that trend following in
11 these indices. And, again, this is the winter
12 offshore survey from the Science Center which is
13 a much shorter time period.

14 So, in terms of stock dynamics, in
15 summary, the fishing mortality rate in 2011 was a
16 point estimate of 0.21, which is less than that
17 fishing mortality threshold rate of 0.44, so
18 overfishing is not occurring on this stock.

19 The 2011 spawning stock biomass was
20 estimated to be 24.6 million pounds. It's higher
21 than the SSC MSY proxy of 24.0 million pounds, so
22 the stock is neither overfished, nor is
23 overfishing occurring.

24 The staff recommendation is similar to

1 scup and summer flounder in the fact that it was
2 a three-year recommendation to provide for fishery
3 stability.

4 In 2010, 2011, and 2012, a constant
5 catch approach was used. That was based on a 4 1/2
6 million pound ABC for the time period, and that was
7 also what the staff had put forward as a
8 recommendation for discussion by the SSC and
9 Monitoring Committee. So with that, I'm going to
10 hand the presentation over to Tom Miller.

11 THOMAS MILLER: Thank you, Jessica.
12 So the presentation from the SSC will follow the
13 same pattern as the previous two we've considered
14 today. Next slide, please. The first question,
15 again, is the determination of the level.

16 We spent an inordinate amount of time
17 discussing this. There were a great deal of
18 discussion among the SSC both for a Level 3 and for
19 a Level 4 determination with strong arguments on
20 both sides for reasons to maintain it at Level 4,
21 which is what it has been for the past two years,
22 and reasons to change it to Level 3 reflecting some
23 improvements in the assessment that Jessica
24 referred to based upon the rejected age-structured

1 model that was presented at SAW 53 in December.

2 After those discussions, the decision
3 by the SSC was to maintain it at a Level 4 for
4 several principal reasons. The first and perhaps
5 most important is that this is a very unusual
6 species.

7 This is different from nearly all of the
8 other species that we exploit in that it changes
9 sex during its life history. It starts off as a
10 female and changes to a male, and so the fishing
11 mortality rate that you apply affects not only the
12 abundance, but also the sex ratio. And the
13 determination of the reference points which is
14 done on the basis of a species with a normal sex
15 life history when applied to this species raises
16 important questions.

17 The other important area that we had a
18 lot of discussion on was the potential for stock
19 structure in this species. And there's a lot of
20 evidence of movement of elements of the stock
21 between restricted areas.

22 This evidence comes both from the
23 tagging work and also from the age-structured
24 information that was brought forward at SAW 53.

1 On a coastwide basis, the surveys don't appear to
2 be coherent in the age structure, that is, an
3 increase in one year in one survey is not
4 necessarily followed by an increase in the one year
5 older fish the next year; but when you divide the
6 survey spatially, they do become coherent with
7 respect to their age structure.

8 Why is that important? If there are two
9 distinct groups in the stock range setting a single
10 reference point may mean that you over exploit one
11 more productive stock -- sorry -- less productive
12 stock and under exploit a potentially more
13 productive stock. And so we were very concerned
14 on the SSC that the consequence of what we describe
15 on the screen is incomplete mixing in the stock
16 area and not fully being addressed or in fact
17 considered. So for those reasons more than
18 anything else we determined to keep the stock at
19 a Level 3 designation. Next slide, please,
20 Jessica.

21 Given that we went on then to an OFL
22 determination, the OFL determination is provided
23 by the assessment. It came out at a level of 3,175
24 metric tons based upon an FMSY proxy that Jessica

1 described as a 40 percent spawning potential ratio
2 as an F equals .44.

3 However, we had serious concerns over
4 the reliability of that number for many of the
5 reasons that I have just identified. So we moved
6 forward -- next slide, please, Jessica -- and did
7 not accept the OFL in the assessment and rather
8 recommended to maintain a constant catch ABC given
9 2,041 metric tons.

10 That constant catch policy has been
11 adopted for the last two years, and appears at
12 least from the survey indices and from the
13 abundance estimates in the model to be producing
14 a fairly constant level of abundance in the
15 species.

16 Next slide, please, Jessica. We
17 recommended a three-year specification through
18 the 2015 fishing year largely I think to reflect
19 the administrative efficiencies for the gain in
20 terms of material that the Council staff have to
21 submit to the Service every year but caution
22 strongly that because of these uncertainties the
23 SSC would like to and expects to review all of the
24 information each year to assess whether to

1 continue that constant catch policy and in
2 anticipation of a new benchmark assessment which
3 is currently scheduled; although, I don't think
4 confirmed for spring 2014.

5 Next slide, please, Jessica. Most
6 significant sources of uncertainty I've already
7 mentioned some of them. The atypical life
8 history, that is, a protogynous hermaphrodite it's
9 female first and then male, which brings up
10 questions of the reference points.

11 I will note that the Council is
12 sponsoring a workshop of national experts on
13 atypical life history species in North Carolina at
14 the end of this month which will hopefully be able
15 to make progress on this issue.

16 The second point of the incomplete
17 mixing in the stocks and its impact on the
18 reliability of reference points, the unusual life
19 history gives rise to additional concerns over the
20 natural mortality rate. We always have some
21 concerns over M both the scale and the pattern of
22 M for any species we access, but it's particularly
23 true in this species where we don't fully
24 understand how the size and age at which they

1 change sex responds to exploitation rate.

2 And then finally, we have again the
3 concern over the calibration of the trawl between
4 the two research vessels that have been used for
5 the survey. Next slide, please, Jessica.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Dr. Miller. Jessica, do you want to
8 present the Monitoring Committee recommendations,
9 any additional recommendations you may have for
10 the benefit of the group?

11 JESSICA COAKLEY: Yes. The Monitoring
12 Committee reviewed the SSC recommendations and
13 considered both the commercial and recreational
14 ACTs.

15 You'll recall last year that the Council
16 set the commercial ACL and ACT equal to one another
17 but reduced the recreational ACT in response to a
18 trend of increasing discards that were observed.
19 The discards that we were projecting we would get
20 would likely be higher than expected and
21 potentially result in the recreational ACL being
22 exceeded. When the Monitoring Committee again
23 reviewed the information on discards for the
24 recreational fishery, which this year included the

1 marine recreational information program, MRIP,
2 values not the MRFS information, so that
3 information had been revised, they did not see that
4 same pattern continuing.

5 In fact, the recreational discards had
6 actually decreased in the most recent year. So
7 because they did not see that continuing trend,
8 they did not recommend a reduction from the
9 recreational ACL to the ACT and recommended they
10 be set equal to one another.

11 For the commercial fishery, they noted
12 that the constant catch approach that was put
13 forward by the SSC for the ABC seemed to adequately
14 address both scientific and management
15 uncertainty, that the ABC was a significant
16 difference from the overfishing limit in terms of
17 conservatism, and they felt that it wasn't
18 necessary to take an additional adjustment for
19 that commercial ACT on that basis as well as the
20 fact that the quota monitoring system is quite
21 timely. So they recommended those be set equal to
22 one another. They did not recommend any changes
23 in the minimum size limit, the trawl mesh
24 regulations, the pot trap regulations for black

1 sea bass and recommended an RSA up to 3 percent.

2 So, in summary, the 2013 ABC would be
3 4.50 million pounds. The overfishing limit,
4 which was calculated but not accepted by the SSC
5 was at 7 million pounds value.

6 The ACLs and ACTs for each year because
7 of the constant catch approach would be equal to
8 one another. A 2.37 million pound recreational
9 ACT and a 2.13 million pound commercial ACT, and
10 the landings levels associated with that that have
11 had the research set-aside of 3 percent potential
12 already subtracted from it would be a 1.85 million
13 pound recreational harvest limit and a 1.78
14 million pound commercial quota.

15 I do want to note for you because someone
16 will probably notice it and bring it up, in the
17 Table A that big table that has the summary of all
18 the ACLs, ACTs and harvest limits, I did put the
19 2012 current values in there for comparison, and
20 in the case of sea bass because when the
21 projections were redone the discarding pattern had
22 changed, the ACTs for 2013, '14, and '15 are not
23 identical to what was there for 2012, and that's
24 because of differences in the discarding patterns

1 that were incorporated into the projection. So I
2 just want to highlight that for you where that
3 difference arises from. So having said that,
4 those are the recommendations. And I'll take any
5 questions.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Jessica. I do have a couple for Dr.
8 Miller, and these relate back to the tiering
9 decision and the fact that sea bass again is in Tier
10 4.

11 And I'm looking back at the 2011 report
12 from the SSC having had the benefit of sitting
13 through last year's deliberations as well as this
14 year's, and it seems there were several
15 outstanding concerns last year that drove the
16 decision.

17 There was a significant divergence
18 between predicted and observed indices in the
19 availability in 2011, and there was also a pretty
20 retrospective pattern in the biomass estimates.

21 It seems like those were largely
22 resolved this time around. And so I think the
23 overall results this time were somewhat tighter in
24 that sense. But it just seems that we have I think

1 the basic challenge we have now is that we have a
2 stock that's been through another assessment. We
3 had hoped the benchmark would advance our position
4 significantly in terms of our understanding of the
5 stock and also look at the question of stock
6 structure.

7 But you've got these outstanding issues
8 now in 2012 of the question of stock mixing, stock
9 structure, and also the uncertainty associated
10 with the life history. The life history is going
11 to be addressed, as you pointed out, in this
12 upcoming workshop, and hopefully that will advance
13 the discussion. I certainly hope it will.

14 But the question of stock mixing I think
15 frankly we need to sit down with the Science Center
16 and ask the question, so what? and have them
17 actually model it out, that is, do some
18 regionalized modeling versus modeling as one stock
19 and see what the implications and risks really are
20 so that we can have a better informed decision, and
21 we're not sitting here in the same position next
22 year waiving our arms about stock mixing and saying
23 we don't know how to respond to it. But I still
24 have outstanding questions about this because it

1 seems to me that relative to where we were last
2 year, we've made some significant improvements,
3 and we had an assessment that while the new model
4 failed, we still had reference points that went
5 through the peer review process. And that's a key
6 component of a Tier 3 stock is having a peer
7 reviewed or accepted OFL.

8 And now we come to the point where the
9 OFL in fact is not accepted in the SSC decision,
10 and we end up with a Tier 4 category stock. And
11 that does have very important implications I think
12 for the way the quota gets set.

13 But it seems that earlier today we
14 talked a little bit about the way in which these
15 are tiered, and I think it might be appropriate to
16 have some more discussion about just reviewing
17 those tiering criteria and the consistency
18 essentially with which they're tiered. I don't
19 know if you could comment on that.

20 THOMAS MILLER: There was a lot in your
21 comment, and I'll see if I can get to all of them
22 in the order you raised them. The first one was
23 that you're quite right. If you could look at the
24 2011 SSC report there were certain areas that we

1 raised as a concern, a large mismatch between the
2 survey indices and the predicted model abundances,
3 and we discussed this, as you remember, at length
4 at the meeting, at the SSC meeting, and there were
5 two fairly disparate views on the extent to which
6 that had been resolved.

7 I, if you remember, made the point that
8 I thought it had been adequately resolved. There
9 were others who felt that in fact the magnitude of
10 the deviations remained the same, but because
11 there was one high biomass in the series now when
12 the graph was plotted to cover the full range, the
13 actual deviations appeared as if they were smaller
14 even though they were in terms of their absolute
15 magnitude no difference in scale than they were a
16 year ago.

17 So I think there is still some question
18 as the extent to which those issues have been
19 resolved, and the majority of the SSC came down in
20 favor of them having been partially addressed but
21 not completely resolved.

22 The issue of the assessment, the failed
23 assessment last year, and what it contributed to
24 the discussion, the new assessment did indeed

1 bring forward new reference points. Those
2 reference points didn't address the atypical life
3 history of the species, so although they are a
4 revised estimate, they suffer from the same
5 weaknesses as the original ones did. The issue of
6 the stock structure I agree with you fully. It is
7 a question that should and could be resolved I
8 think fairly expeditiously with some limited
9 modeling to compare outcomes of a regional model
10 compared to an aggregate model to address the
11 question: Is it a big concern?

12 Absent that we don't know whether it's
13 a big concern or not, and I think that is what gave
14 the SSC caution in moving forward. I do think that
15 there are strong points on both sides on keeping
16 it a Level 4 and promoting it to a Level 3. It does
17 have consequences for the quota that would come out
18 of it. I don't think that those consequences are
19 as big as I suspect, some people would like to think
20 they (inaudible) -- and as you well know, we don't
21 look at what the consequences of our decisions are
22 for the quota setting to try and avoid that
23 discussion of, well, we'd like to see the quota
24 here; how can we adjust our decision making to get

1 it there.

2 We do it as a first principal's
3 discussion of what are the sources of uncertainty
4 and how does that influence our decision regarding
5 the tier that we've determined to be appropriate.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Dr. Miller. Other questions of Dr.
8 Miller and Jessica? Tom Fote.

9 THOMAS FOTE: We're recommending we
10 freeze the quota at this year's quota for three
11 more years. And this is the same quota that we had
12 when the stock was overfished, overfishing was
13 taking place, and it wasn't rebuilt. Am I right?

14 THOMAS MILLER: You're right in
15 absolute terms, but I was careful to say in my
16 comments that we had made that recommendation
17 because of the administrative deficiencies of
18 setting that quota for three years introduced, but
19 the SSC was cautious in its comment that we wanted
20 to carefully inspect the patterns in the data in
21 the intervening years.

22 THOMAS FOTE: But what I'm trying to
23 understand is that we have a stock that is growing
24 according to the graphs, a stock that the mortality

1 rate is going down, a stock that has changed from
2 being overfished with overfishing taking place,
3 and not recovered to recovered, yet there is no
4 consequences basically getting a recovered stock
5 because we've been closing at the same levels for
6 the last six years or four years, and we're
7 proposing it for another three. I mean then
8 should we really list this stock on NMFS' web page
9 saying that it's recovered and that we're not
10 overfishing and overfished so this quota is the
11 same as if we were overfished overfishing was
12 taking place.

13 It's how I try to explain it to people
14 that I really get a little crazy because I'm
15 saying, yeah, we supposedly have a recovered stock
16 that wasn't recovered four years ago, and by the
17 way, you have a frozen quota for every year after
18 it was overfished, and matter of fact, we're
19 recommending we do that for three more years.

20 It just doesn't make -- it's a bad PR
21 relations. I know you're not in the PR business.
22 But also it doesn't show us that this stock is
23 recovered. So you should make one decision or
24 another.

1 And if the last data poor workshop had
2 declared it overfished, then we should do
3 something about it, not just basically keep it --
4 that's one of the problems we had keeping it at
5 Level 4. We just really -- I'm going to pass.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
7 Miller.

8 THOMAS MILLER: I respond. I do
9 understand many of your concerns. I would just
10 point out that at least from the information that
11 we look at, the comment that the stock is growing
12 is not fully supported by the information.

13 Jessica, would you put up the SSB plot,
14 please. So it has been growing from 1997, '98 up
15 until 2002, 2003. It's hard to see from this
16 distance.

17 Since then those indices have been
18 declining during a period in which we have been
19 maintaining or recommending this constant catch
20 policy. It's now at it's BM MSY. At least at one
21 level there doesn't seem to be compelling evidence
22 for the statement the stock is growing.

23 THOMAS FOTE: But the mortality rate
24 has been jumping down, going way down, the

1 mortality rate.

2 THOMAS MILLER: And as the stock
3 abundance goes down to maintain constant biomass,
4 F would go down.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Other questions? Adam.

7 ADAM NOWALSKY: Thank you, Mr.
8 Chairman. Not questions but two comments. One,
9 I definitely think we've heard here today that
10 there is reason for the Council to go ahead and have
11 the SSC start looking at the tier process. We're
12 a couple years into it or the Council and the SSC
13 is.

14 Obviously, we here at the Commission are
15 in it as well from the outcomes end of it. But Dr.
16 Miller has expressed some interest here today from
17 the SSC to go ahead and do that, and I'll look
18 forward to hopefully the Council following up on
19 that in the near future.

20 The second comment would be when we get
21 to the point when we're ready for motions, this is
22 going to be one species where I'm not prepared to
23 support the concept of the multi-year
24 specifications.

1 I don't think the SSC should be in the
2 business of making recommendations based on
3 facilitating administrative ease. I don't think
4 that's a good enough reason to do it in this case.

5 They've clearly stated that they want to
6 be able to look at this each year, and I believe
7 that if we say we want to do it for three years,
8 it kind of allows for this to be glossed over more
9 easily, not that it necessarily would be, but I
10 think it kind of allows for that smoothing over to
11 take place in future years. So this is going to
12 be one species where I'm not going to support that
13 multi-year spec setting process.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Other comments or questions at this point? Dr.
16 Pierce.

17 DAVID PIERCE: Dr. Miller or Jessica,
18 just a clarification. In the report that John
19 Boreman provides to the Chair under black sea bass,
20 it indicates that the SSC did not endorse the OFL
21 of 3,175 metric tons, which is an F of about 0.44.
22 That's on page two of the report, No. 3 under black
23 sea bass.

24 So you did not endorse it, and I

1 understand the reasons why. You rejected the peer
2 review results. That's my first question. The
3 SSC rejected the peer review results. Am I
4 correct?

5 THOMAS MILLER: If you want to use the
6 word reject.

7 DAVID PIERCE: I have no problem with
8 that. I've always said in New England that if the
9 SSC feels that there is a problem one way or another
10 with what comes out of a SARC or any sort of a peer
11 review, the SSC is free to state its view and then
12 to have the Council be guided by that, which is not
13 really guidance. I mean we do what you say we need
14 to do, start with your recommendation, be it as it
15 may. So you rejected that particular OFL number,
16 but then you went with the constant catch approach
17 giving us an ABC of 2,041 metric tons, which I think
18 equates to about a fishing mortality rate of 0.21.

19 So I guess my question is, my last
20 question is: Did the SSC have any opinion
21 regarding what the OFL should be? Because right
22 now it seems like you didn't address that
23 particular issue and you jumped right to the ABC.

24 I suppose we're kind of lucky here

1 because the SSC could have said the OFL is 2,041
2 metric tons to have a big gap between the OFL you
3 rejected and that which you are recommending. So
4 that's my question.

5 THOMAS MILLER: I don't think we had any
6 formal discussions over what we would have
7 proposed as an alternative to the OFL that was
8 recommended by the assessment.

9 I think there were concerns that if
10 anything was likely to be too high, but there were
11 no formal discussions or suggestions over what it
12 should be. I think there was a great deal of hope
13 around the table at this workshop that the Council
14 was cosponsoring at the end of this month will
15 provide a way forward to give an approach that
16 would leave a quantitative estimate of OFL that the
17 SSC could support.

18 DAVID PIERCE: Thank you. And also I'm
19 thankful to the Council for sponsoring that
20 workshop. It will be a very important workshop.
21 I'll try to attend that because it should prove to
22 be extremely interesting, very beneficial to all
23 of us.

24 And I do agree with the SSC that the peer

1 reviewed definition of OFL giving us .44 as that
2 defined fishing mortality rate just seems awful
3 high for this particular species.

4 I do agree with the caveats with the
5 levels of concern expressed by the SSC, even though
6 I don't like the outcome because we are having a
7 difficult time managing our black sea bass fishery
8 in state waters in Massachusetts.

9 It's almost unmanageable with the size
10 of the quota for our commercial fishery in our
11 state. Even though I'm unhappy with it, I do
12 understand the reasons for those low numbers, and
13 I'll be supporting those low numbers.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Other questions?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Adam, just to follow on your point about
19 multi-year specifications, I think this is a species
20 and a case in which we really need to work our way
21 out of this box.

22 We need to do that thoughtfully and by
23 working together with the Science Center working
24 with the SSC and through this upcoming workshop.

1 There's still a couple of unresolved questions
2 about stock structure and also the atypical life
3 history of this fish that are bearing on the quota
4 setting process.

5 So I would agree that as we go forward,
6 we probably wouldn't want to go more than a year
7 because I think we need to try to get to a different
8 place with this fishery as quickly as we can.

9 So hopefully we can put a plan together
10 to do that over the course of the next year and be
11 in a better situation come next July when we
12 convene with the SSC. Adam.

13 ADAM NOWALSKY: To that end,
14 Mr. Chairman, would you like a motion on annual spec
15 setting?

16 COUNCIL CHAIRMAN RICHARD ROBINS: Let
17 me go ahead and go to the public for comments before
18 we take motions. I think Jessica had a comment.
19 Are there any public comments on the issues that
20 have been proposed or the staff recommendations
21 and SSC recommendations?

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Seeing none, we're back to the Council and the

1 Commission for discussion and action. Adam.

2 ADAM NOWALSKY: I'd like to go ahead,
3 Mr. Chairman, and make the motion that the sea bass
4 specifications be set for one year on behalf of the
5 Board.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second on behalf of the Board? Second by
8 Rick Bellavance. Is there a like motion for the
9 Council? Like motion by Steve Heins. Second by
10 Chris Batsavage. Thank you. Discussion on the
11 motion?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there any further discussion? Yes. Bob.

15 ROBERT BALLOU: I guess I'd just be
16 interested in Jessica's response to that. I know
17 it was a staff concern, an administrative issue if
18 you will. So I just wanted to make sure before we
19 run forward. I support the motion, but in
20 fairness to staff, I just would like to have them
21 respond to the issue of now a year process rather
22 than a three year. Thank you.

23 JESSICA COAKLEY: Sure. I appreciate
24 you asking that. Well, part of the basis for the

1 multi-year recommendations that staff made were in
2 response to commercial and recreational industry
3 asking for stability and the ability to plan ahead
4 and not have sort of the tumultuous year-to-year
5 changes that they observed. So that was part of
6 it.

7 In the case of summer flounder, because
8 we were expecting a July 2013 assessment update,
9 there might have been difficulty to getting specs
10 into place in time by January 1, 2014. So that was
11 part of the basis for that two-year recommendation
12 there.

13 In the case of sea bass, as Tom had
14 indicated and I think Jim Weinberg, there is a
15 black sea bass stock assessment scheduled for I
16 think it's the spring of 2014 is tentatively on the
17 schedule.

18 So we wouldn't be in a bind in terms of
19 getting something into place in response to that
20 assessment until

21 January 1, 2015. So I wanted to relate it to the summer
22 flounder situation because I think it's a little
23 bit different case for sea bass because we may be
24 in the same position next year of just getting an

1 update like we normally do, which doesn't tend to
2 bind our timelines up in the same way as a benchmark
3 does.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thanks, Jessica. Further discussion on the
6 motion? Peter.

7 PETER HIMCHAK: I'll support the
8 motion, but I mean when I listen to Dr. Miller, it
9 appeared that the SSC was going to be particularly
10 vigilant in looking at the recommendations on
11 black sea bass more so than any of the other
12 species. But I guess I'll support the motion.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Well, again, I think we're in a situation that's
15 essentially data poor. We're right on the cusp of
16 this being a Tier 3 stock this time, and I would
17 think with some additional work between now and
18 next year, we might have a chance of having a
19 different outcome.

20 Like Dr. Miller says, it might not be
21 radically different, but a different outcome.
22 So, if we can improve our understanding of the
23 stock and then go forward from there with
24 multi-year specifications, at that point trying to

1 build in some stability I think that does make good
2 sense. Further discussion? Chris.

3 CHRISTOPHER ZEMAN: I just have one
4 question for Tom Miller regarding this. Is there
5 anything that RSA funds can focus on in terms of
6 research to get this fishery to a Level 3 fishery?

7 THOMAS MILLER: I'm not exactly sure
8 what the scope of RSA could do. What we're looking
9 for here or what we're requesting here is not a data
10 collection program. It's not something that
11 would be improved necessarily in the short term by
12 additional data on the fishery.

13 It is really a question of a work group
14 sitting down and looking at modeling results and
15 comparing it with the way other species have been
16 managed to suggest ways in which the reference
17 points should be set and suggest ways or suggest
18 whether distinct sub units in the stock have
19 important consequences for the overall stock
20 productivity. And I think those are more modeling
21 results, and my understanding is that falls
22 outside of the RSA program.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Further discussion on the motion?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 the Council ready for the question?

4 {Move that black sea bass specifications be set for 1
5 year.}

6 COUNCIL CHAIRMAN RICHARD ROBINS: All
7 those in favor please raise your hand.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Nineteen. Opposed like sign.

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Abstentions like sign.

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Motion carries. Thank you. For the Board.
17 Dave.

18 DAVID SIMPSON: Any need to caucus? I
19 don't see one. All those in favor raise your hand.

20 (Response.)

21 DAVID SIMPSON: Eleven in favor. Any
22 opposed?

23 (No response.)

24 DAVID SIMPSON: I think that's

1 everyone. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. What's the pleasure of the Council and
4 the Board on the issue of the RSA set-aside? Steve
5 Heins.

6 STEVEN HEINS: Thanks, Mr. Chairman.

7 I would move that up to 3 percent of the TAL for
8 black sea bass be allocated to research set-aside
9 for 2013 on behalf of the Board and the Council.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you, Steve. Is there a second for the
12 Council? Second by Pres Pate. Is there a second
13 for the Board? Second by Adam Nowalsky. Thank
14 you. Discussion on the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 there any discussion on the motion?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Seeing none, is the Council ready for the question?

21 {Move that up to 3% of the TAL be allocated for RSA in
22 2013.}

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 those in favor please raise your hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Sixteen. Opposed like sign.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Two.

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One.

9 The motion carries. For the Board, Dave.

10 DAVID SIMPSON: For the Board, all

11 those in favor raise your hand.

12 (Response.)

13 DAVID SIMPSON: That's 10 in favor.

14 Any opposed?

15 (Response.)

16 DAVID SIMPSON: One opposition. Thank

17 you.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you. With respect to the specifications,

20 what's the pleasure of the Council and the Board?

21 Steve Heins.

22 STEVEN HEINS: On behalf of the Council

23 and the Board, move that for 2013 the black sea bass

24 recreational ACL is equivalent to the ACT is equal

1 to 2.37 million pounds, and the commercial ACL is
2 equal to the ACT is equal to 2.13 million pounds
3 resulting in a recreational harvest limit of 1.8
4 million pounds and a commercial quota of 1.78
5 million pounds.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second for the Council? Second by Pres
8 Pate. Is there a second for the Board? Second by
9 Mike Luisi. Thank you. Discussion on the
10 specifications contained in the motion?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there any further discussion on the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 the Council ready for the question?

17 {Move for 2013, the black sea bass recreational ACL =
18 ACT = 2.37 mil lb and commercial ACL = ACT = 2.13
19 mil lb. This results in a recreational harvest
20 limit of 1.8 mil lb and commercial quota of 1.78
21 mil lb.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 those in favor please indicate by raising your
24 hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Nineteen. Opposed like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 abstention. 18-0-1. I'm sorry. Thank you.
10 The motion carries. For the Board, Dave.

11 DAVID SIMPSON: For the Board, all
12 those in favor raise your hand.

13 (Response.)

14 DAVID SIMPSON: Ten in favor.

15 Opposed?

16 (No response.)

17 DAVID SIMPSON: Abstentions?

18 (Response.)

19 DAVID SIMPSON: One. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Jessica, is there anything else to come before us
22 on specifications for sea bass?

23 JESSICA COAKLEY: There are a few other
24 items that the Council and Board could consider

1 taking action on. This would include the
2 commercial minimum fish size, any commercial mesh
3 or gear requirements or any pot or trap
4 requirements. So we need an affirmative if you
5 want to change something.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there any motion by the Council or the Board to
8 modify any of those measures?

9 (No response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Seeing none, I believe that concludes this
12 portion. Is there anything else to come before us
13 on black sea bass? Peter Himchak.

14 PETER HIMCHAK: Mr. Chairman, a number
15 of us are confounded by the vote on the scup
16 amendment, and I don't know if procedurally if I'm
17 out of order, but it's my understanding that the
18 vote was 8 to 8, and you broke the tie; and yet we
19 have 20 voting members around the table, and 8 plus
20 8 if there's an abstention, we're still not coming
21 up to 20 voting members.

22 So is it appropriate to request a roll
23 call vote on a motion that -- there were 20 voting
24 members in the room, and we can only account for

1 17 votes.

2 COUNCIL CHAIRMAN RICHARD ROBINS: I can
3 ask our counsel. We can't let him retire that
4 easily, can we? Joel.

5 JOEL MACDONALD: I don't think you can
6 just bring it up again. There's a mechanism for
7 doing that, and that's reconsideration. But I
8 don't think that's what you really want to do.

9 I don't think you can re-vote it and ask
10 for a roll call vote. That's essentially what I
11 get. I don't think that's appropriate.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 You're asking us to re-ascertain what the vote was
14 I believe. I mean that's the way I understand it.
15 Jeff Deem, did you have a comment?

16 JEFFREY DEEM: Yeah, I do. I didn't
17 get counted, but I abstained. This was brought on
18 much too fast. I didn't have time to put all of
19 this together, and I didn't feel -- I apologize for
20 anybody that was taken back by it, but I didn't feel
21 I had enough information to make a fair assessment,
22 so I abstained. It did not get counted I don't
23 believe.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Peter, I counted eight hands in the air on both of
2 them when we went around the room. Toni, did you
3 count votes as well or Dave?

4 TONI KERNS: We both counted votes and
5 had eight and eight as well. And I had seen Jeff
6 abstain, so I wrote one abstention as well.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Peter, I think that's about the best I can do at
9 this point. Joel, is that the end of that issue?
10 Otherwise, you'd have to vote to reconsider and
11 then have a roll call vote, wouldn't you?

12 JOEL MACDONALD: I mean that's the only
13 mechanism I can see approaching this problem. But
14 it's not really a reconsideration. I mean you can
15 handle it that way. I mean you've got a lot of
16 discretion in the chair if you chose to say
17 somebody voted on the prevailing side can have a
18 motion to reconsider. I mean that's a
19 possibility, but it's really up to you.

20 CHRISTOPHER ZEMAN: Point of order.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 State the point.

23 CHRISTOPHER ZEMAN: I think this is
24 absolutely out of order, and I think we had a

1 quorum. I think that vote counted.

2 COUNCIL CHAIRMAN RICHARD ROBINS: I
3 think we've had some verification at least. I
4 wasn't the only one counting, so I think we'll just
5 leave it there. Dewey.

6 DEWEY HEMILRIGHT: I'd like to ask in
7 the future for something like this comes up to have
8 like I guess you would do it beforehand a roll call
9 vote. Because when something is kind of decisive
10 on a reallocation issue even to go out for the
11 public I think it would be just good for everybody
12 so you could go back to your constituents and
13 they're going to say, how did that go?

14 Well, so and so -- I just I guess you
15 would ask that before a vote for a roll call. But
16 I don't know how it works, but I think it's good
17 to know when you have an issue that's going out to
18 the public even to let the foot in the door for a
19 reallocation issue that to be able to allow to know
20 how each state voted or something if that's
21 appropriate.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Dewey, I appreciate that. And any member can ask
24 for a roll call vote at any time when we're voting.

1 of order. This motion has been voted on, and I
2 don't think we need to issue a comment on this.

3 GREGORY DIDOMENICO: I'm not
4 commenting on the spirit of the motion or the
5 merits of the issue. I'm purely trying to figure
6 out where we stand, and I would ask that someone
7 who prevailed, you, Chris the one who voted for it,
8 to have it reconsidered and vote again. Thank
9 you.

10 CHRISTOPHER ZEMAN: I think it was an
11 8-8 vote. The tie was broken. We had two people
12 comment on it. Two people counted. People leave
13 the table. It happens all the time.

14 Just because we're all here doesn't mean
15 we all have to vote. I'm not surprised that the
16 vote was lower, and there's nothing here that
17 surprised me. I don't know why we're talking
18 about this.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Peter.

21 PETER HIMCHAK: I brought it up because
22 everybody was at the table, and the number just
23 didn't add up. Nobody left the room.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Not

1 everybody voted. Okay. I'm going to go ahead and
2 move on to the next item, which is the black sea
3 bass Amendment 17. Let's take a
4 10-minute break and come back to that. Thanks.

5 (Break: 3:17 p.m. to 3:37 p.m.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: The
7 next item on the agenda is Amendment 17 for the
8 black sea bass plan. Jessica, if you want to run
9 through that.

10 BLACK SEA BASS AMENDMENT 17

11 JESSICA COAKLEY: Sure. All right.
12 Good afternoon, everyone. Amendment 17. The
13 document and information we're going to be talking
14 about is behind Tab 9 in your briefing book. You
15 might want to keep that tab handy just because
16 there's some tables in there that I'm not going to
17 be able to fit on the screen, so I'll be referring
18 to the document itself.

19 So the process for development of this
20 public hearing draft actually started a ways back.
21 We've been talking about it for quite some time.
22 And you recall that the Commission through their
23 process both for 2011 and 2012 did sort of a quasi
24

1 state-by-state conservation equivalency type of
2 addendum. So this action is intended to try to
3 formalize the process by which regional and
4 spacial management can be applied to the black sea
5 bass recreational fishery.

6 It was initiated to address the observed
7 regional differences in catch rates that are seen
8 for the black sea bass stock particularly among
9 sort of the northern areas and the southern areas
10 within the management unit as well as the
11 variability of the effectiveness in the
12 regulations because it's clear that if you set a
13 minimum size and a possession limit in one state
14 versus another, it does not have the same effect
15 because of the availability of a different size
16 fish in those areas and those different catch
17 rates.

18 The action is also intended to ensure
19 consistency across the state and federal waters
20 processes, as we've done for many of our other
21 species, and to expand the management tools. And
22 so these tools proposed in this public hearing
23 draft would include conservation equivalency. So
24 conservation equivalency for those that may be new

1 or not very familiar with that process, it's
2 already utilized in the summer flounder
3 recreational fishery. It essentially enables
4 either state-by-state or voluntary regional
5 measures to be set so the minimum fish size even
6 a possession limit could either be set for
7 individual states for groups of states that could
8 pool their harvest limits. It could be set for
9 that region in the same manner.

10 What conservation equivalency does not
11 do is alter the manner in which the annual catch
12 limit and catch targets and recreational harvest
13 limits are set.

14 So, as we talked a little bit earlier,
15 the specifications are really set in a two-step
16 process where now we're dealing with a commercial
17 package for overall catch limits and landing
18 limits both for the commercial fishery and the
19 recreational fishery as well as the commercial
20 management measures.

21 In December when we have more
22 information about what's happening in the
23 recreational fishery in 2012, the Council and
24 Board will meet then and make decisions on

1 recreational management measures. So this
2 amendment and a public hearing draft are focused
3 on that second step in the process and don't
4 actually alter those components that are happening
5 now in the first step. So it's also conservation
6 equivalency is really a complimentary process.

7 It requires both federal and state plan
8 adoption and joint action under joint rules, which
9 is what's done for summer flounder. Both the
10 Council plan and the Commission plan define the
11 roles for each group in that process, and so it
12 really while we're talking about the public
13 hearing draft today for federal waters and federal
14 measures, the process can't occur unless a
15 complimentary action is developed by the Board and
16 established in the Commission FMP, and these
17 processes can function in conjunction.

18 So the alternatives proposed in the
19 public hearing draft for conservation equivalency
20 are broken out in this figure. For all of our
21 documents we always have a status quo, no action
22 alternative for NEPA.

23 So Council would select that if they
24 don't want to take any action and under those

1 coastwide measures would continue as they exist
2 for black sea bass. Now, for Alternative Suite 2,
3 which would be conservation equivalency, there are
4 two types of conservation equivalency that are
5 explored. Alternative 2A is state-by-state with
6 voluntary regions. And this is very similar to
7 that summer flounder conservation equivalency
8 that's applied right now. Alternative 2B would be
9 a conservation equivalency with six mandatory
10 regions.

11 So regions would be established, and the
12 conservation equivalency process would focus
13 around developing measures for each region, the
14 sum of which would be the equivalent to the
15 coastwide measures.

16 There's also two other suites of
17 alternatives in here that are in the last few pages
18 of the document. Alternative Suite 3 deals with
19 sunset provisions and review provisions for this
20 recreational system of management, and
21 Alternative Suite 4 deals with what items may be
22 addressed through framework actions -- proposed as
23 some of those items that could be considered
24 through framework action. Excuse me.

1 So Alternative 2A,
2 the state-by-state, under that alternative proposed
3 measures would allow the Council and Board to
4 decide on an annual basis or a
5 multi-year basis, which I put in there in case some
6 process evolves where we are able to do it multi
7 year whether to (a) require states to develop
8 state-specific conservation equivalent measures
9 or to form those voluntary regions or (b) to
10 specify coastwide measures for the black sea bass
11 stock. So same measures apply throughout the
12 range, essentially what's done now through the
13 federal plan.

14 If the Council and Board selected
15 conservation equivalency, then the Commission
16 would move through their process and develop the
17 technical proposals, go out to public hearings
18 with those measures and then submit those measures
19 to the National Marine Fishery Service to consider
20 waiving the federal waters measures.

21 Now, if those measures were waived,
22 federal waters fishermen would be subject to the
23 measures in the state in which they land.

24 So this process that's proposed for

1 black sea bass, again, mirrors the summer flounder
2 conservation equivalency process. It's the same
3 process, and it's described in this document.

4 It was also described in Framework 2, in
5 an addendum or an amendment that the Commission
6 did, whose number escapes me, so I won't even
7 attempt to put that number in there. But one of
8 the differences for black sea bass is the timeline
9 that is proposed in this document is based on the
10 actual timeline for summer flounder. So when
11 Framework 2 was contemplated way back when, a
12 timeline was established in that document for when
13 the different steps in the process would take
14 place.

15 It turned out that that timeline wasn't
16 particularly realistic. It didn't allow for the
17 time that many states need to go out for public
18 hearings to get measures implemented in their
19 states and to finalize those before they submit
20 those to NMFS.

21 So the timeline in this black sea bass
22 public hearing draft mirrors a more realistic
23 timeline as it occurred for that process right now.
24 So the timing is detailed in the text but also on

1 page 14, which is Table B in the document, and it
2 starts with that December vote on coastwide or
3 conservation equivalency with the Council and
4 Board.

5 Late February/early March the Board
6 goes through and approves measures. The Council
7 around that time would also submit the
8 specifications package in that May/June time
9 period once public hearings have been held and
10 states have identified what the conservation
11 equivalent measures for each state or voluntary
12 region would be. Those are packaged up, submitted
13 to the Commission, submitted to the National
14 Marine Fishery Service. National Marine Fishery
15 Service reviews them, chews on it, thinks about it,
16 and then can come out with a final rule in that
17 June/July time period.

18 So this is the general timeline that is
19 proposed for conservation equivalency for black
20 sea bass. Alternative 2B, which is a different
21 approach, would deal with six mandatory regions.

22 So the Council and Board would decide on
23 each year again. They'd have a choice whether to
24 do coastwide measures or to do region-specific

1 conservation equivalency. So there would be a
2 fixed set of regions.

3 There are three sub options that are in
4 this document. The Council would need to identify
5 which regional sub option they would like to
6 implement into the FMP, and each region would
7 develop a set of common measures, minimum size,
8 season and possession limit for that region, and
9 then those measures could follow the same process
10 as the state-by-state process that's laid out
11 where they would go ahead develop those, submit
12 those to NMFS, and potentially NMFS could consider
13 waiving the federal waters measures in lieu of
14 those region-specific measures. So the three
15 fixed mandatory regional sub options that are
16 contained in the document revolve around New
17 Jersey.

18 The north and south patterns there are
19 northern and southern patterns that are exhibited
20 in the catch rate, but it appears that those
21 patterns seem to change along the Hudson Canyon
22 boundaries.

23 So the FMAT really discussed at length
24 how to deal with New Jersey, where is the most

1 appropriate place to put New Jersey. And so the
2 three options here are either to group New Jersey
3 with the northern states, and to keep it
4 straightforward, I called it 2B New Jersey to
5 north; to group it with the southern states, which
6 is 2B New Jersey to the south; or to group it in
7 its own little middle section, and that's keeping
8 New Jersey in the middle as its own little
9 individual region and let the states New York and
10 north be one region, and the states Delaware and
11 south.

12 So the FMAT, again, really wrestled with
13 this. It's tough. The catch rates in Northern
14 New Jersey and that northern part really do mirror
15 what's happening further north. So it's going to
16 be something that the Council's really going to
17 have to put some thought into when you decided how
18 to tackle that. Now, for both the Alternative 2A
19 and 2B, each type of conservation equivalency,
20 there's four allocation sub options that have been
21 developed for each conservation equivalency
22 alternative.

23 And the tables associated with that are
24 way too small and complicated for me to put on the

1 screen, but Table C and Table B on pages 18 and 22
2 in the document actually lay out what the
3 allocation percentages themselves would be.

4 So the Council would select one of those
5 sub options to align with either 2A or 2B as a
6 preferred alternative. The basis for those four
7 sub options are landings prior to FMP development
8 so it's the pre FMP management period.

9 Two years were actually excluded from
10 that analysis because they appeared to be aberrant
11 landings years and the FMAT was not comfortable
12 with including those two years in that time series.
13 So that's documented in here.

14 A post fishery management plan, a
15 landings time series. So that includes all the
16 more recent years with the exception of the
17 inclusion of two years. 2009 was a problematic
18 year to include in these allocation time series
19 because there was an emergency closure that was put
20 into place in the black sea bass fishery.

21 And in addition to federal waters being
22 closed to black sea bass late in that year, there
23 are actually also two states that also closed their
24 fisheries in state waters.

1 So it wouldn't allow for an equal
2 comparison of landings across all the states. So
3 2009 was removed from that. Also, in the post FMP
4 management landings, 2011 was also removed because
5 that was the most recent full year we had to work
6 with, but it was also the first year that the states
7 did an addendum to do state-specific quasi
8 conservation equivalency approach, and so
9 depending on how the minimum sizes and measures
10 were implemented, it would have skewed those
11 landings patterns for that time period. So that
12 year was actually excluded from that time series.

13 There's just a recent landings time
14 series which is the '06 to '08 and 2010, but there
15 also is a recent catch allocation alternative.
16 And I'm noting here that this allocation
17 alternative would need to link to an annual catch
18 target so that it would be catch based. So it
19 wouldn't just be a landings based alternative.
20 And the federal plan has annual catch targets that
21 are already set before we set our recreational
22 harvest limit so it includes that discard piece.

23 But that would need to be something that
24 would be incorporated into how those measures are

1 implemented for each of the states. So those are
2 the four general approaches, and there's four
3 under each alternative 2A and Alternative 2B.

4 Now, for these allocation sub options --
5 and you'll see when you look at the tables on page
6 18 and page 22, Tables C and
7 D -- it really depends a lot on the time period selected,
8 and it also depends on whether you select landings
9 versus catch for each of those individual time
10 periods.

11 And part of the reason for that is we do
12 seem to have a shift in the patterns, the landings
13 patterns. So I'm looking at
14 Table C. I don't know if people have it handy.

15 But if you look at Table C,
16 sub option 2A(1), which is the pre-management time
17 series, New Jersey is a large player throughout the
18 entire time series. They really have a large
19 proportion of landings coming from New Jersey;
20 however, if you shift to the more recent allocation
21 alternative, like sub option 2A(3) and 2A(4) that
22 are recent landings or recent catch, you see those
23 more northern states being responsible for larger
24 proportions of the landings, so that there's a

1 shift going on there.

2 And so it really depends a lot on which
3 period you select to address allocation. For the
4 regional approaches that are shown in Table B,
5 which in on page 22, really where New Jersey ends
6 up really drives those percentages.

7 So taking a look at the Alternative Sub
8 Option 2A(1), if you put New Jersey to the south,
9 about 90 percent of the allocation for that time
10 period would go to the states New Jersey and
11 further south.

12 If you go and you look at the northern
13 region for that, Mass. to New York, about 9 percent
14 of the allocation would go those states based on
15 that historic time series; whereas, if you just
16 look up a little bit and you shift New Jersey to
17 the north, it's more of an equal split, closer to
18 an equal split, like a 60/40 split between the
19 northern region and then the southern region. And
20 those patterns shift a little bit as you shift over
21 in terms of the time periods used. So for Sub
22 Option 2B(3) and 2B(4), you can see that a larger
23 percentage would be allocated to those northern
24 states in the more recent years even if New Jersey

1 isn't included.

2 So really where New Jersey ends up is
3 what's going to drive these changes. And I see
4 Peter smiling over there. I'm from New Jersey
5 originally. We cause all kinds of trouble.

6 PETER HIMCHAK: I just wanted to know
7 who wanted us.

8 JESSICA COAKLEY: So, as I said, some
9 years are excluded from the analysis by the FMAT.
10 The basis is provided in the document. I'd be
11 happy to go over those in more detail if the group's
12 interested.

13 For the third alternative suite that's
14 proposed in here, the Council had indicated they
15 were interested in seeing some sort of sunset
16 provision to force the process to be revisited or
17 force it to default to a previous system because
18 for summer flounder once conservation equivalency
19 was implemented in 2001; it's never gone back to
20 coastwide. It's been conservation equivalency
21 since then, and there hasn't been either the votes
22 or the will to shift that vote to coastwide in
23 December.

24 So there is an option in here,

1 Alternative 3B, which would result in defaulting
2 to coastwide measures, and this would be after five
3 years or every five years unless the Council votes
4 to continue the conservation equivalency
5 approach, whether it be that 2A approach or 2B
6 approach, whichever, and the NMFS regional
7 administrator publishes a notice in the Federal
8 Register to continue that system.

9 The FMAT also included another option,
10 an Alternative 3C in here, which is sort of a softer
11 system of review. It wouldn't be an actual
12 sunset. It would just require a formal system of
13 review of the process every five years to revisit
14 the allocations, how the system is working and
15 identify or highlight any possible issues that may
16 be occurring and solutions to those for the
17 Council.

18 Alternative Suite 4 identifies
19 frameworkable items. And there are really two
20 issues that the FMAT was concerned about and felt
21 may need to be frameworked in the near future. The
22 first would be recalibration of the MRFS data into
23 MRIP terms prior to 2004. So for any of the
24 allocation sub options that could be selected that

1 used data prior to 2003, right now that information
2 is in MRFS numbers; but there's an effort under way
3 to recalibrate that data in MRIP terms, and if
4 those values change, they could influence those
5 allocation percentages.

6 So the FMAT is recommending that we
7 revisit this issue in a few years, and if in fact
8 that data has been revised, that through a
9 framework we could update those allocations
10 definitions as they stand, whatever the preferred
11 was, based on those MRIP numbers that would be
12 presented then as -- you know, best available
13 information on rec statistics.

14 So that was one issue. The other issue
15 is there are proportional standard errors that are
16 highlighted in this document for the recreational
17 data. So PSEs essentially are a measure of the
18 variability around the data.

19 And there are PSE values that are used
20 under the summer flounder plan and are proposed
21 under this system that would prevent a state or a
22 region from developing either mode specific or
23 area specific regulation if the data doesn't meet
24 a certain level of quality in terms of proportional

1 standard errors.

2 So it's essentially a limit that if,
3 say, you don't have a 30 percent proportional
4 standard error on your data, you can't just
5 aggregate the recreational data further and use
6 that to develop either mode- or area-specific
7 measures.

8 The information that was used to set
9 these measures for summer flounder was based on the
10 MRFS information. We now have MRIP information.
11 We really do need a -- there are some values
12 proposed in this document, but it would be valuable
13 the FMAT thought to have a technical group take a
14 closer look at what those PSEs look like under the
15 new MRIP information at different levels of
16 disaggregation and perhaps provide
17 recommendations for what values might be
18 appropriate to use for this kind of data if that
19 is a provision that the Council wants to retain in
20 this document.

21 So there's a cover memo behind Tab 9, and
22 the FMAT highlighted a few issues that they wanted
23 the Council to provide input on and that they were
24 concerned about.

1 There were originally some other items
2 that were under consideration in this amendment.
3 Those included different alternative approaches
4 to addressing minimum fish size for black sea bass
5 and how possession limits are applied relative to
6 the life history issues or were there more
7 appropriate ways to approach how those measures
8 are implemented.

9 There were also measures under
10 consideration to deal with either spawning areas
11 or other types of spacial types of management that
12 could be applied to this type of species.

13 The FMAT discussed this, but given the
14 timeline, actually recommended removing those
15 issues from the document to expedite the public
16 hearing draft. So that actually is what the FMAT
17 has done in this draft. And I guess we want to make
18 sure that you guys are okay with it, because in
19 order to get this done by 2013, the FMAT did not
20 have enough time to explore those other technical
21 issues, and we realize that it was very important
22 for the Council and for the Board to get something
23 in place for 2013.

24 The FMAT, as I said, recommends that a

1 technical group review the proportional standard
2 errors under the MRIP data for this document, and
3 I just want to note that the ASMFC Technical
4 Committee meeting week happens to be in September,
5 so that may be an appropriate group and that may
6 be a reasonable time because it fits into our
7 timeline to have them take a look at that, but
8 that's something we have to ask the Commission and
9 their Technical Committee chair about.

10 Another issue, both for allocation sub
11 options 2A(2) and 2B(2) that are in the document,
12 those options use data that's pre-2004, so it
13 included MRFS data, and it includes MRIP data for
14 2004 and beyond because the MRIP now is the best
15 available data.

16 Now, the FMAT actually didn't think it's
17 appropriate to mix and match that information, to
18 mix the two time series. So there are really two
19 ways to tackle this. One is to delete those two
20 approaches or any options that mix and match sort
21 of the historical and recent data from those two
22 time series, or to go back and evaluate it using
23 an all MRFS time series.

24 So we would need to go back and use the

1 MRFS data for the more recent years so we have a
2 complete time series and that continuity. So I
3 guess I'm asking the group how important are those
4 options to you blending the historical and the
5 recent, and is it something that you want the FMAT
6 to go back and revisit, or should it be deleted?

7 In addition, for the sunset provision,
8 the FMAT wants to ask: Is it necessary to include
9 a sunset provision? Their concern is that it may
10 just create additional work for the staff, and the
11 reason being if the Council under either type of
12 conservation equivalency, that's state by state or
13 fixed regional, does not have the will or the
14 interest or both to vote for coastwide at that
15 point in time, if it comes down to a sunset
16 provision where this measure would automatically
17 default to coastwide, the Council or the Board may
18 also not have the votes then to not continue the
19 process and to actually allow the process to
20 sunset.

21 And so, as we know from the black sea
22 bass state-by-state allocation addendum that the
23 Commission did, I think it sun-setted three times
24 and all three times got extended, and new addendums

1 had to be done, and it created a lot of additional
2 staff work to continue a program that the group had
3 intended to continue.

4 So that's something that the FMAT wants
5 to point out, that under this system there is the
6 option in December to either go coastwide or
7 conservation equivalency.

8 So my final issue, the FMAT continues to
9 express concern about the appropriateness of
10 state-by-state conservation equivalency for black
11 sea bass. Black sea bass is a very different
12 creature than summer flounder.

13 And summer flounder, like sea bass, they
14 move offshore in the winter and are well mixed, but
15 don't appear to have the strong site fidelity or
16 the strong movement patterns that we're seeing in
17 the black sea bass stock.

18 And the FMAT has concerns because of
19 that site fidelity and those movements for black
20 sea bass that there is the potential for either a
21 highly nonuniform F to be occurred if it's just
22 aggregated into two small groups and for there to
23 be localized depletion of black sea bass
24 population. So this is a biological issue, and I

1 just want to point out that the FMAT does have some
2 concerns about that and wanted to make sure that
3 the Council and Board consider that as well as you
4 consider this document.

5 So there are five public hearings that
6 are proposed, five locations proposed in this
7 document. Those would be: Mass., New York, New
8 Jersey, Maryland, Virginia.

9 If the Council and the Board want to try
10 to move forward with action, we would probably need
11 to move quickly on public hearings, so it would be
12 good to get input now if something like that is
13 reasonable.

14 Also, if complimentary action is taken
15 by the Board, then ASMFC will likely need to do
16 public hearings as well. Should locations be
17 split amongst the Council and the Commission to
18 minimize costs and duplication if we're going
19 forward with the same document for public hearing.
20 Just something to think about.

21 So for timeline, the question is the
22 Council could consider approving a public hearing
23 draft today and going out with that. The question
24 is to the Board whether the Board wants to move

1 forward to try to develop some sort of
2 complimentary action. As I said, if the Board
3 doesn't develop complimentary action, the system
4 won't work. We could potentially take it out for
5 hearings in September noting that we must have 23
6 days public notice for the hearings, so it would
7 put a really tight timeline on that.

8 Potentially return with comments and a
9 full amendment and full EA in October 2012, so the
10 full EA could be built concurrently with the
11 specifications package this fall.

12 The Council could review those comments
13 in October and submit in October or if there are
14 revisions, in December. This is, again, a very
15 ambitious timeline, but it seems doable. And
16 that's it for the presentation.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Thank you, Jessica. You indicated that there
19 might PSE requirements associated with the catch
20 estimates for regions. So where would that leave
21 a region if they didn't have the data that met that
22 quality standard?

23 JESSICA COAKLEY: Well, the quality
24 standard would simply be if that region wanted to

1 desegregate the data to set either mode-specific
2 or smaller-area-specific measures. So the region
3 would need to use the data they have available to
4 set a minimum fish size, season, possession limit,
5 but if they wanted to set separate measures for,
6 say, the party charter fleet and the private shore
7 mode, there would be this expectation that the data
8 should meet a certain level of proportional
9 standard -- it's been a long day -- error in order
10 to be allowed under the plan to go ahead with those
11 measures.

12

COUNCIL CHAIRMAN RICHARD ROBINS:

13

Thank you. And I just have one more question.

14

There's a review period considered every five

15

years, that is, every five years you can go back

16

and review the program or the allocations and that.

17

I'm wondering if we'd have the option in

18

here to have a more frequent review or at least have

19

the initial review earlier, say, after three

20

years? just in light of the fact that this fishery

21

has changed a lot in the last decade, and I don't

22

know if that pattern will continue or if it will

23

stay in the pattern that it's in today.

24

But it just seems like if we're going to

1 start allocating this thing out on a finer scale
2 than we have in the past, it might be good to have
3 a reasonably frequent review so that we're looking
4 at that more adaptively. I just hate to see us get
5 locked in, and then things change dramatically,
6 and we don't get to look at it for five years. Is
7 that an option, or can we put that in?

8 JESSICA COAKLEY: You can ask me to put
9 whatever in here that you would like to go out to
10 public hearings with. So I'm just waiting for
11 direction on -- you know, are you satisfied with
12 this, what changes would you like to see made to
13 it; and we can package it up.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you. Tony DiLernia.

16 ANTHONY DILERNIA: Thank you, Mr.
17 Chairman. I'm just -- excuse some of the
18 questions from the new kid on the block back at the
19 Council table here. I've been absent here for a
20 while.

21 But it seems to me that coastwide was
22 working quite well, and I'm just wondering what was
23 the impetus for the consideration of looking at the
24 conservation equivalency?

1 As far as I knew the coastwide was
2 working just fine. What caused the initiation of
3 this amendment? Could someone help me understand
4 that, please?

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Tony, there was a significant differential in the
7 performance of the fishery in the northern and
8 southern areas, and in recent years the catch in
9 the Northeast really skyrocketed in response to
10 increased availability.

11 And that had implications relative to
12 how we were going to monitor and deal with
13 recreational catch, given the fact that we were
14 under a lot tighter standards now for accounting
15 for recreational catch.

16 ANTHONY DILERNIA: Are those catches
17 that disparagancy, that difference in catch is
18 continuing, or was it just a variability of a
19 couple years in one location, or are we back to a
20 distribution of traditional catch? Can anyone
21 help me there?

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Yeah. I think they continued the availability of
24 fish in southern New England remains very, very

1 high. Frank.

2 FRANK BLOUNT: Thank you, Mr. Chairman.
3 Hot off the press within the last two hours Wave
4 3 data is in. Well, good news for New England,
5 George, codfish is way down.

6 But anyway, the state of
7 New Jersey's landings for Wave 3 are double what they
8 were last year. The state of Maryland is up by 60
9 percent. The state of Delaware is up by 45
10 percent. That's from last year. So I think this
11 amendment started around two years ago what
12 happened, and right now it's Wave 3, one part of
13 the year.

14 But to put an amendment in place that's
15 going to be permanent from what happened in one
16 year, I really think the Council should really
17 reconsider that or take a real close look before
18 they put something in that's going to be final.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thanks, Frank. Rob O'Reilly.

21 ROBERT O'REILLY: Thank you, Mr.
22 Chairman, and thank you, Jessica. You made this
23 sound like a very pleasurable voyage I might say;
24 however, having lived through the last 15 years of

1 summer flounder year-by-year specifications and
2 then the states having to come forward with their
3 plans, I think I know better.

4 But I also was interested in the comment
5 that Tony made concerning the coastwide. And I
6 guess what I'm recalling is that in 2010 there was
7 sort of a hurry-up approach by the ASMFC to address
8 the fact that there had to be reductions quite
9 substantial, not from all the states, but from
10 about five I'll say altogether, and then in 2011
11 it was the other way. The liberalization could
12 occur for those same states. There had been great
13 underages. And this is symptomatic of this type
14 of a process, and we should all recognize that.

15 I'm not saying good or bad or yeah or nea
16 on the approaches here, but there's a lot to
17 consider. And someone mentioned administrative
18 burden before. Well, that's definitely part of
19 this approach for the states.

20 And the other things I'd like to mention
21 just rather quickly, concerning what Jessica
22 outlined from FMAT, the MRFS, MRIP, I would think
23 there might be a way to go backwards in time with
24 MRFS but use some sort of calibration based on the

1 MRIP to MRFS to adjust, if maybe not just looking
2 at MRFS by itself. In other words, MRIP should
3 come into there in some way.

4 The other part is the rather frank
5 question about state by state. I think the
6 difference here is we knew three years ago that the
7 PSE coastwide was very high even under MRFS, and
8 there were a lot of questions about that at the
9 Monitoring Committee as far as why can't you just
10 assume that maybe since it's a PSE that the
11 landings could also be much lower not just higher.
12 And a lot of debate about the PSW then. I think
13 we know that MRIP is going to show higher, in
14 general higher PSEs. And so certainly, again, not
15 to be a limiting factor, but maybe an evaluation
16 of what the PSEs should be will have to take place.

17 And I know you just mentioned 30 percent
18 because that's sort of a holdover from the past.
19 I think the other idea is that I'm not particularly
20 new to the Council process, but I don't see
21 anything here to back up the justification for the
22 failings of the current system, and I think that
23 would respond to the couple of comments here as to
24 the rationale of why moving forward.

1 And that may have been previously
2 discussed in the formation of Amendment 17. I'm
3 not sure. And then I guess I'll just wait and see
4 how it goes with the rest of the members.

5 But -- you know, we have been thinking
6 about this for quite some time and what the
7 implications are and -- you know, I guess the next
8 thing to do is to realize that it's going to take
9 a lot of effort to get this to the point where it's
10 manageable. Summer flounder still is not
11 manageable. And I have spoken about that at
12 Council meetings before. At the administrative
13 level, at the state level it's still very
14 unmanageable. There have been a lot of complaints
15 about five years of recreational underages, and I
16 really do think that part of the reason for that
17 especially the last two years owes to going out on
18 a limb.

19 And states haven't been willing to push
20 that at all, and that contributes to the underages
21 as well, which is really not very fortunate. But
22 the reason you don't go out on a limb is you do not
23 have the technical tools to be able to judge a
24 state-by-state plan or on a state-by-state basis.

1 They just aren't there.

2 Some states have volunteer angler
3 surveys. Some don't. And black sea bass is going
4 to be a little bit more difficult than summer
5 flounder is what I would expect. Thank you for
6 allowing me to make all those comments.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Rob. And I think we'll have a lot more
9 discussion here. Chris Batsavage.

10 CHRISTOPHER BATSAVAGE: Thank you, Mr.
11 Chairman. My question is for Jessica. You
12 mentioned having the Technical Committee take a
13 look at the PSEs to determine what an appropriate
14 level would be for the mode split for the region.
15 Since we're still I guess waiting some of the
16 changes for MRIP, angler registry and things like
17 that, will the information be there to evaluate the
18 appropriate PSEs in September? Is that something
19 we're not going to really know until a couple years
20 down the road? Thank you.

21 JESSICA COAKLEY: Well, in terms of the
22 MRIP program and implementation of all the
23 different pilot studies, that's an evolving
24 process. So we may not have all of that addressed

1 for several years.

2 For the estimates that we have now I
3 think we can take a look at what those values are
4 -- you know, broken out by on a coastwide, state,
5 regional basis mode area and have the PC evaluate
6 what they have in hand for now.

7 But the FMAT thought that was an issue
8 that would require ongoing discussion, and that's
9 why they added it to the list of frameworkable
10 items.

11 It's something that if the Council and
12 Board put something into place now, if the
13 information changes and those need to be revised,
14 that they could through framework. It was a
15 concern of the FMAT as well, and it's a valid point.

16 COUNCIL CHAIRMAN RICHARD ROBINS: John
17 McMurray.

18 JOHN MCMURRAY: Thank you, Mr.
19 Chairman. I'm still struggling to understand
20 what the biological justification for this is,
21 particularly when you take out the technical
22 provisions, the time and area closure analysis.

23 Now you're saying it's pretty clear that
24 unless biology militates otherwise, the stock

1 should be managed as a single stock. Just
2 speaking personally, in looking at the regional
3 catch percentages and possible allocations, it
4 really just looks like summer flounder all over
5 again, and New York is likely going to get the short
6 end of the stick. So the more we talk about this,
7 the more worried I get.

8 COUNCIL CHAIRMAN RICHARD ROBINS: You
9 saying Peter's not going to give you any fish?
10 Dave Simpson.

11 DAVID SIMPSON: Yeah. Thanks. I
12 guess my question related to the CV issue as well
13 as the proportional standard errors and what
14 latitude a jurisdiction, state, or region would
15 have to adjust their measures based on CVs. One
16 of the important points not to be overlooked here
17 is the magnitude of the estimate. High CV on an
18 extremely low catch doesn't matter either way.
19 It's the type of thing that the SBRM took into
20 account explicitly that -- you know, you focus your
21 effort where you get the best estimate for the
22 highest most important catch, and if you're
23 talking about a few hundred pounds, which in some
24 of these allocation scenarios that's what we could

1 be talking about, it's just not important.

2 So, from a technical perspective, I hope
3 the PSE criteria discussion needs to include or
4 should include the idea of the magnitude of the
5 catch and how important a given standard is based
6 on the magnitude of the catch.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
8 Miller, can I ask you to comment some on the
9 regional aspects of this fishery in terms of the
10 underlying biology? You were involved in the SAW
11 and ultimately the SARC for this. Can you comment
12 a little bit on those aspects of the fish?

13 THOMAS MILLER: I think there's a lot of
14 growing evidence that there is some coherent
15 spacial structure within the stock, whether it
16 amounts to genetic differentiation would give them
17 different vital rates I think is unclear, but
18 particularly the work that done for the SAW/SARC
19 which looked at the age structure within the stock
20 provided fairly compelling evidence that there are
21 groups that move onshore and offshore coherently
22 as a group and separate from a group to their north
23 or to the south. So as always with these issues,
24 when you're talking state-by-state regs or other

1 components, how you -- whether we have enough
2 knowledge to be able to allocate to individual
3 quotas as stocks move about I think is an open
4 question and one that would require careful
5 consideration because the fish don't move along
6 political boundaries and how you allocate those
7 stocks is unclear and would require careful
8 consideration.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you, Dr. Miller. Other questions or
11 comments? Tom Fote.

12 THOMAS FOTE: We're talking about
13 summer flounder, how we were going to resolve the
14 problem. It reminded me that I think it was 2004
15 or 2005 -- I was trying to ask Tony if he remembered
16 -- is that we set up a committee to basically deal
17 with all these giant increases in quotas we were
18 going to see in the next five or ten years, and we
19 were going to spread that equally among the states
20 so we could make some of those discrepancies
21 happen. And if that would have happened, we
22 basically would have done that, but when we start
23 freezing quotas for five years and we've actually
24 went in the other direction for 2004 and some of

1 the others, it doesn't make it possible, and it
2 winds up in these fights between states.

3 I'm not sure what this would do. I mean
4 we've created problems -- I can hear Gordon Colvin
5 sitting here and saying we really don't need to do
6 state by state because it creates other kinds of
7 problems.

8 How do you divide between the states?
9 Are you going to put New Jersey in a special area?
10 I don't think that's going to happen. I don't
11 think we're going to have enough votes to do that.
12 Or how are we going to work that system?

13 We've spend a lot of time on something
14 that eventually I don't think is going to go
15 anyplace. But that's my opinion from looking at
16 -- that working group maybe should be put back
17 together so when we see these increases coming
18 along in quota, we finally get all these stock
19 assessment right in the next four or five years,
20 then maybe we should figure out some way of
21 dividing that access between those quotas that
22 have already been established.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Other questions or comments? George.

1 GEORGE DARCY: I would concur with the
2 FMAT's conclusion that the sunset provision is
3 probably unnecessary and may just lead to extra
4 administrative burden for no particular benefit.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you. Peter Himchak.

7 PETER HIMCHAK: Yes. I mean compared
8 to what we've gone through in the last two years
9 with fast tracked addendums through the ASMFC and
10 the burden on the Commission and the states with
11 conference calls under a very tight time frame,
12 yeah, the first year we reduced our percentages,
13 and then we were allowed liberalization.

14 We can decide in -- I mean this amendment
15 can go through the public hearing process, and we
16 still have the option in December to say we're
17 going to go with coastwide measures. Correct?

18 COUNCIL CHAIRMAN RICHARD ROBINS: That
19 is correct.

20 PETER HIMCHAK: Okay. I mean we may
21 end up at that point, but let's vet it and get more
22 input on this.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
24 enough. George has pointed out that this sunset

1 provision as the FMAT has discussed may be
2 unnecessary and unwieldy. By the same token, I
3 think if we go down this road, it would be good to
4 have a review process that's required so that we
5 don't lock ourselves into something that we find
6 to be inappropriate. Other comments? Steve.

7 STEVEN HEINS: Just want to (inaudible)
8 what you just said. I think based on our
9 experience with summer flounder, not having some
10 way to review it down the road is a bad move. We're
11 going to need that. And so I'd support either a
12 sunset provision or some other way to get at that.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thanks, Steve. Tony DiLernia.

15 ANTHONY DILERNIA: Mr. Chairman, is it
16 the intent of the staff to have all the work done
17 for the amendment for a vote up or down at the
18 December meeting? Is that what I'm hearing?

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Jessica.

21 JESSICA COAKLEY: Yes. Let me put the
22 timeline back up. In terms of a potential
23 timeline, if the Council decided to go out for
24 public hearings and potentially the Board took

1 action now or in the near future, we could take it
2 out for public hearings in September and then
3 return with comments potentially in October, and
4 then it could be voted for submission either in
5 October or if there are revisions in December.
6 That's a possible timeline if we get out for public
7 hearings in September.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Further questions or discussion? Bob Ballou.

10 ROBERT BALLOU: Mr. Chairman, thank
11 you. I'd be remiss if I didn't note the
12 awkwardness of looking at a Mid-Atlantic Council's
13 proposed amendment that deals with regional and
14 state issues pertaining to states that are not
15 represented on the Mid-Atlantic Council.

16 And while I realize it's a sensitive
17 issue and a political one and not one that at this
18 moment really necessarily bears, I do need to state
19 for the record the awkwardness of that approach.

20 Now, given the joint approach that the
21 Council has with the ASMFC Board, I certainly feel
22 comfortable in our ability to work through these
23 issues together, but, again, looking at some of
24 these options and seeing Massachusetts, Rhode

1 Island, and Connecticut folded in and recognizing
2 that at the end of the day there will be a vote of
3 which we will not be party to, it's an awkward
4 situation. Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Bob,
6 I appreciate your concern. As you know, that's
7 something we've discussed before. In fact, as we
8 just went through this project to collect data up
9 and down the coast, we heard that concern amplified
10 significantly throughout Southern New England.

11 That will be reflected in our report out
12 I'm sure. And I know that's of significant
13 interest to your state. So I appreciate you
14 bringing that up.

15 Please know that while we're convened
16 here jointly today, if Commission members have
17 specific concerns about this document and want to
18 recommend that the Council consider adding
19 anything to our document for purposes of going out
20 to public hearing, I'd be glad to entertain those
21 through discussion. Was it Rick or Adam? Adam.

22 ADAM NOWALSKY: Thank you, Mr.
23 Chairman. Was there conversation of the FMAT
24 about what the Commission has done in recent years

1 in terms of the don't use the word allocations --
2 and maybe Toni can choose whatever words she'd like
3 to use for what we've done in the last couple of
4 years. She's frequently said: Don't call them
5 allocations. But they've been percent shares or
6 something to that end. Nothing in this document
7 really reflects what the Commission has done in
8 recent years.

9 I was wondering if the FMAT had
10 discussion about what the Commission has done in
11 recent years and how the current Council amendment
12 really doesn't reflect what the Commission's been
13 doing.

14 TONI KERNS: Adam, the document doesn't
15 completely reflect what the Commission's been
16 doing. I think that if you want the document to
17 reflect per se what the Commission had done, for
18 instance, this past year where we did regions
19 ultimately, but we allowed the states within the
20 regions to have flexibility to set measures that
21 were unique to the state but overall would not
22 exceed the region's liberalization allowance.

23 So you may call that flexibility for
24 regional development or something, and an option

1 like that could be added to this document to
2 reflect what we did this year. For the first year
3 that the Commission did their addendum, we did
4 state-by-state shares, but those state-by-state
5 shares were not reflective of any particular set
6 of years. It was a little bit of a sharing of fish
7 amongst the states.

8 And since the Board has specifically
9 stated that they did not want what they were doing
10 through the addendum to set a precedence for how
11 we move forward, as the FMAT member I did not
12 recommend that particular set of allocations
13 because they were not based on a particular set of
14 years.

15 If we wanted to use those
16 state-by-state allocations that were developed as an
17 option, I can pull those allocations percentages
18 up, and that could also be a recommendation for the
19 state-by-state measures as well.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Well, Toni, to follow up as well, I mean if we add
22 options to this there still has to be a basis that's
23 ultimately justified in the EA that goes to the
24 Service.

1 So whatever baseline's crafted for a
2 different allocation scenario needs to be spelled
3 out, analyzed, justified, etcetera. Adam.

4 ADAM NOWALSKY: Well, clearly I'm not
5 in a position to make that motion on behalf of the
6 Council here today, but I do think that Council
7 members that have not been a part of the Commission
8 process in recent years when you look at some of
9 the shares that have been handed out in recent
10 years at the Commission level, quite frankly, it
11 might make some of those Council members more
12 comfortable.

13 You know, I certainly think anytime we
14 sit down and look at a document the first thing we
15 all look at is, oh, what's our share; what's our
16 number going to be? And a lot of times when we look
17 at that, it keeps us from looking at the big picture
18 of -- you know, is it how we're doing this, or is
19 it the outcome for my constituents.

20 And I think that the numbers the ASMFC
21 has utilized in recent years would address some of
22 the concerns I'm hearing here, not just from states
23 on the Council, but would also potentially address
24 some of the concerns that have been raised by

1 Commission member states here that are not part of
2 the Council.

3 And I would encourage the Council to
4 take a look at some of those options and consider
5 including them in this document. I'll just also
6 add that not just from that perspective, but I do
7 feel that there's a very strong biological reason
8 for doing this with this particular species. In
9 recent years we've had a preponderance of evidence
10 that supports this.

11 We have recent catch, localized catch,
12 that's been very high in areas. We have tagging
13 studies that have been done by the Northeast
14 Science Center that indicate these meta
15 populations of fish.

16 We have information, aging studies
17 coming out from some of the northern states that
18 indicate that northern inshore fish age more
19 quickly than southern inshore fish.

20 We heard here today from
21 Dr. Miller about that there's not a coherent age
22 structure on a coastwide basis, but he said it's
23 much more locally.

24 I think all these things give a very

1 strong indicator that at the very least there are
2 meta populations of the stock that lend themselves
3 to a more regional management not just at the
4 Commission level, but also at the Council level,
5 and I'd really encourage Council members to
6 consider all that here today. Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Adam. Frank.

9 FRANK BLOUNT: Yeah. Thank you, Mr.
10 Chairman. Assuming that this goes through in
11 October, which would probably be very optimistic,
12 but if it goes through in December, it would
13 probably going to be I'm going to guess the Service
14 would be May or June before they could have a
15 determination on it.

16 So is the intent of this to go in place
17 in the middle of next year's fishing season or to
18 wait until the beginning of 2014? That's one part
19 of it.

20 The other part is seeing how this year
21 coastwide we're already at 800,000 fish and last
22 year we landed 1.1 million, it may not really be
23 necessary to go much further because
24 accountability measures maybe take care of it for

1 us.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Jessica.

4 JESSICA COAKLEY: Sure. When we set
5 our measures normally, just by season, possession
6 limit for sea bass for each year, the final rule
7 typically doesn't go into place until June or July
8 of the upcoming year. So, when we make a decision
9 in December for those measures, it goes through a
10 five- to six-month process, and the measures that
11 are in place from the prior year roll forward into
12 that next year until they're replaced by the new
13 final rule, which you'll recall is part of the
14 issue this year.

15 Last year when you voted to open January
16 and February, it didn't happen this year because
17 the rule making didn't happen until May, so it will
18 happen in the beginning of 2013 on that basis.

19 So, if you do vote to submit this in
20 either October or December, yes, it would have a
21 five- or seven-month regulatory window to get
22 through the rule making process, but it will
23 probably still line up with the timing for setting
24 your normal measures anyway because that final

1 rule doesn't happen until June or July. Does that
2 make sense? Okay. All right.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Further questions or discussion? What's the
5 pleasure of the Board in terms of moving out with
6 this document for public hearing? It seems if we
7 do that we'd want to address a couple of details.
8 David.

9 DAVID SIMPSON: Yeah. Unfortunately,
10 I need to leave to catch a train in a few minutes,
11 and there's a lot still to consider and be done
12 here, but I'm really concerned about taking out a
13 document for public hearing that's just where the
14 allocation, or reallocation I should say,
15 alternatives are so disparate.

16 If I look at how Connecticut and our area
17 might be affected, the range runs from on the
18 regional basis 9 percent of the allocation to 89
19 percent of the allocation, all over the map.

20 Virginia on a state-by-state basis
21 could go from as high as 22 1/2 percent of the
22 allocation to 3 percent of the allocation.
23 Massachusetts is sort of the inverse of that.
24 We're all over the map and no real objective way

1 to decide -- you know, which alternative to follow.

2 And that's part of the difficulty of
3 this setting measures by history. It leads me to
4 wonder whether the Council -- I think this joint
5 management is a very important but very delicate
6 relationship.

7 And just with the scup question we had
8 before -- you know, here I think that relationship
9 is really important, and perhaps an approach that
10 uses the flexibility that Adam was alluding to that
11 the Commission has to sit down with the states that
12 share in this resource on an annual basis if that's
13 what necessary and make sure that no one's harmed
14 too badly by some of the measures we have to live
15 with. That would be a great alternative, and I
16 think that might be by the Council and the federal
17 government taking on a more a step back type of
18 level of just setting that overall limit and then
19 allowing the Commission to figure out how to share
20 in that resource equitably based on this highly
21 variable distribution and abundance of this
22 resource.

23 I think we did that pretty reasonably as
24 best as anyone could hope for in the last couple

1 of years. The states of Maryland and Virginia and
2 some others were coming forward saying, Jesus --
3 you know, if we go on this track and keep increasing
4 our minimum size on a coastwide basis, we won't
5 have a fishery left.

6 And I thought the Commission did a good
7 job responding to that in a way that the Council
8 and the federal government can't. So those are
9 some of the things that I'd like to be able to do
10 that I don't see being possible here. So those are
11 my thoughts, and I apologize; I am going to have
12 to leave pretty early here.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Dave, thank you. And I guess what I would see as
15 an ideal if there is going to be a regional
16 management of this resource, that that overall
17 architecture would in fact be reflected in both
18 sides of the plan, that is, it would reside both
19 in the Council plan and on the Commission side as
20 well.

21 I'd ask Jessica if the FMAT had an
22 opportunity to discuss that process much in the
23 development of options or -- you know, if she sees
24 an immediate opportunity to add an option that

1 might better track or characterize what's
2 happening right now on the Commission side.

3 JESSICA COAKLEY: Well, I think in
4 order to do that, it is something that I'd have to
5 go back to the FMAT to, to really sit down and
6 discuss how a process like that might work where
7 it sort of gives the additional flexibility I guess
8 to the allocation component the state part, yet we
9 would still have some sort of conservation
10 equivalency as we know it through summer flounder.

11 One of the, I guess, the advantages of
12 doing the complimentary conservation equivalency
13 process with summer flounder is the ability to
14 waive those federal waters measures in lieu of
15 state waters measures. Because I know for species
16 like scup or some of the others where we've had even
17 sea bass these addendums where you end up with a
18 different set of measures in state waters and a
19 different set in federal waters, it becomes very
20 confusing for fishermen.

21 People don't know what rules they should
22 be following. It creates misalignment if seasons
23 don't line up. People could fish in federal
24 waters but can't land in their state. I mean it

1 really sets up a disconnect.

2 So that was the appeal for the FMAT of
3 having that structured process similar to summer
4 flounder. So I guess the long and short of it is
5 I mean I have to go back to the FMAT, really sit
6 down with general counsel, some people at NERO, and
7 talk through what types of options might be there
8 to build a process that might enable it. I don't
9 off the top of my head have an idea.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Mike
11 Luisi.

12 MICHAEL LUISI: Thank you, Mr.
13 Chairman. I'd like to echo what Mr. Simpson said.
14 I think having advocated for this a few years ago,
15 I think the objective was to be in the position to
16 have some flexibility to work within states to find
17 a way to manage so that one state isn't crippled
18 while another is -- you know, running the hundred
19 yard dash. It's a bit ironic how through the
20 madness of almost emergency style addendums over
21 the last few years we've gotten to a point where
22 I think the regulations which are set have provided
23 for that flexibility, and now we are at the point
24 where the addendum -- the amendment's at the point

1 where it's becoming final, is getting close to
2 being final, and we're seeing the rigidity in that.

3 And I after the discussion just today I
4 have some concerns about being tied down and being
5 forced into choosing years. Some years are thrown
6 out. Some years are thrown in. We have MRIP and
7 MRFS.

8 It's a little -- I wish I could waive a
9 magic wand and know what the answer is. I'm not
10 sure what the answer is. I'm not sure being in the
11 position like we are with summer flounder is the
12 answer.

13 All the states have gone through an
14 enormous heartburn with summer flounder over the
15 years. So just to echo your points, Dave,
16 ultimately I hope we can get there. Maybe with
17 additional work through this process we can
18 certainly achieve that. Thanks.

19 COUNCIL CHAIRMAN RICHARD ROBIN: Tony
20 DiLernia.

21 ANTHONY DILERNIA: Thank you, Mr.
22 Chairman. As I listen to the discussion around
23 the table, it's clear that there's quite a bit of
24 uncertainty regarding releasing this draft

1 document for public hearing.

2 Jessica has made some suggestions
3 regarding additional work that could go into the
4 document. So I would move that the document be
5 delayed and returned to the staff for additional
6 work.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Thank you, Tony. Is there a second to the motion?
9 Second by John McMurray. Discussion on the
10 motion? Rob O'Reilly.

11 ROBERT O'REILLY: I think the
12 schedules's ambitious and probably could stand to
13 be delayed, but I would hope that if it's the FMAT
14 that they can look at some other information.

15 The one thing I've been looking at is
16 some of the sub options proposed might not match
17 the biological performance of the stock and it's
18 very difficult for me to look at about 28 plots in
19 figure 1 with the length frequency to get an idea
20 about what age might have been like back in -- up
21 to about the early 1980s, but I do notice there's
22 a bimodal pattern with both the abundance and the
23 spawning stock biomass, and it looks as if the two
24 peaks are somewhere in the ending -- in the very

1 early '80s in both. Maybe spawning stock biomass
2 was higher a couple more years, and then it shifts
3 to about the 2004 perhaps or '05 to present time
4 period.

5 So, if the FMAT hasn't looked at that,
6 rather than us look at years of landings, I would
7 hope that maybe others could be looking at maybe
8 indirectly the length if there's enough age
9 composition to look at, I would think you'd want
10 to look at times for allocation based on the stock
11 and its performance.

12 And I think they probably encompass some
13 of those years in both time periods but not in a
14 way that's direct. So that's just one detail.

15 There are other details that have been
16 mentioned by other members. And I think that does
17 add up to probably not fast tracking through
18 October. I can't see that.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
20 enough. Chris, is this on the motion?

21 CHRISTOPHER ZEMAN: I think it's a
22 question of whether or not we should be considering
23 this. The result was a lot clearer back in 2010
24 when this whole plan came about because what

1 question on this because we do have a motion to go
2 back to the FMAT for further development. We've
3 had I think ample opportunity for discussion.
4 What's the pleasure of the Council? Is the
5 Council ready for the question?

6 {Move that the public hearing draft for Amendment 17
7 to the Summer Flounder, Scup, and Black Sea Bass
8 FMP be delayed and returned to staff for work.}

9 COUNCIL CHAIRMAN RICHARD ROBINS: All
10 in favor please raise your hand.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Seventeen. Opposed like sign.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: One.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Abstentions like sign.

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 18-1-0. The motion carries. Thank you. Chris.

21 CHRISTOPHER ZEMAN: I think it may be
22 all true that this amendment needs more work, so
23 I think the alternative I'd like to see in there
24 is one that -- I'm not really fixed on it either

1 way, but there has to be some sort of situation
2 where it's like one state dramatically goes over
3 -- you know that could be New Jersey in the future.
4 I don't know.

5 But we're seeing certain states going
6 over dramatically, and for every state to be
7 affected by that, it's kind of hard to work with
8 because your state can be under your historical
9 average, and now you're looking at no fishery.
10 And I think it's going to happen again this year.
11 So that was the crux of this amendment.

12 That was the whole idea behind this was
13 that sort of each state is sort of like the master
14 of its own fate. And since then, it's been about
15 two years, and it's been pretty quiet since then,
16 so I could see resolve going away or there's less
17 focus on this.

18 But I think this is going to bring it
19 back to the forefront of our management in
20 December. If there's a way to sort of -- I mean
21 I'm less focused on the allocation. It's more
22 just about trying to work something out.

23 I mean I generally like the fact that
24 states are working together and not sort of -- to

1 come up with solutions and that should be done, but
2 it should be done in a way that like if one state
3 dramatically goes over, then it shouldn't penalize
4 every other state.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Mike
6 Luisi.

7 MICHAEL LUISI: Just a quick question.
8 I'm under the impression that -- this I guess is
9 a question for either Toni or Jessica. Since
10 we're moving to delay this action, when we sit down
11 again in December, are we going to be in the same
12 position that we've been in the last two Decembers
13 where we are going to be voting whether or not to
14 fast track an addendum for states to provide
15 flexibility for options for management just for
16 another year until maybe this comes into more
17 completion, or are we now, since this is not going
18 to carry forward by December, are we now just
19 reverting back to coastwide equivalency --
20 coastwide measures? I think it's important for
21 all of us to understand at the state level. Thank
22 you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thanks, Mike. Jessica or Toni.

1 JESSICA COAKLEY: Sure. Well, this
2 delay, as you know, you just voted to do a lot of
3 things for specs, so we're going to be putting our
4 specification package together, so it's going to
5 take some time to get the FMAT together. So it's
6 going to slow our timeline down substantially.

7 I know the last two addendums have been
8 developed over the Christmas holidays and -- you
9 know, just a very busy, busy timeline to get
10 everything into place in early January for the
11 Commission in terms of the addendum, so it may be
12 a case where if you know that this is coming, as
13 a Commission you may not want to wait until
14 December to initiate the addendum at the Council
15 meeting and perhaps anticipate earlier in the fall
16 that you could start a process that you could then
17 finalize at that point.

18 It's just I'm suggesting it. I'm not on
19 Commission staff, but it's just a thought that may
20 help streamline the process for the Board members
21 and for the staff.

22 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
23 give Toni the last word, and then we'll go on to
24 bluefish specifications. Toni.

1 TONI KERNS: I mean it's up to the Board
2 to decide when you guys are going to move forward,
3 but the northern states are less than 200,000 fish
4 shy of your quota. The southern states are 20,000
5 fish shy of your quota, so. And that's just Wave
6 3. And they're preliminary numbers, so you guys
7 are going to be butting up against again.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thanks, Toni. With that, Jim, are you ready to
10 start on bluefish specifications? Okay. We'll
11 take just a minute and let Jim set up. A.C., you
12 want to come on up? -- bluefish specifications.
13 Jim Armstrong will be presenting the staff
14 recommendations as well as summarizing the
15 Monitoring Committee report. Again, we'll look
16 to Dr. Miller to provide the ABC advice from the
17 SSC on bluefish. Jim.

18
19 FINALIZE BLUEFISH MANAGEMENT MEASURES
20 IN CONJUNCTION WITH THE ATLANTIC STATES
21 MARINE FISHERIES COMMISSION'S SUMMER
22 FLOUNDER, SCUP AND BLACK SEA BOARD

23 JAMES ARMSTRONG: Thank you, Mr.
24 Chairman. Picture on the right is from the 4th leg

1 of the men's 4 by 100 relay in the Olympics. I'm
2 not promising anything, but I'll go as fast as I
3 can here. On the left is what we got to do, so
4 let's be realistic.

5 COUNCIL CHAIRMAN RICHARD ROBINS: So
6 you're going to bolt through it.

7 JAMES ARMSTRONG: Bluefish are not
8 overfished. Overfishing is not occurring.
9 Fishing mortality in the updated assessment or the
10 assessment update was .114, which is much less than
11 the overfishing threshold, .19. Biomass is
12 currently estimated to be about 133,000 metric
13 tons, which is less than the biomass target,
14 147,000 metric tons. And the updated assessment
15 showed that the 2009 through 2011 year class of
16 bluefish were among the lowest or were actually the
17 lowest in the time series.

18 So that's the new information from the
19 assessment. Some more detail. The catch of
20 bluefish over time starts in 1981 when
21 recreational catch data started to be collected.
22 That was a different era, as you can see in the
23 figure, from the present. From about the mid-'90s
24 forward, the bluefish fishery has been fairly

1 stable and much lower than previously.

2 Fishing mortality over time was high
3 back when catches were high and has declined over
4 time. The horizontal straight line that you see
5 on the figure is FMSY.

6 You can see that since about the
7 mid-'90s, fishing mortality has been estimated to
8 be below that, and you can also see in that time
9 period that lighter green line is starting to move
10 up, and that's abundance.

11 Then you see the decline in recent
12 years, which is due to the low year classes. I'm
13 not expecting anybody to make that out. The tab,
14 Tab 10 I guess we're under in the briefing book has
15 the details if you want to look at them.

16 But what you see there is the matrix of
17 number at age over time. And the bottom left of
18 the table is the most recent year classes of age
19 zeros, and those are the lowest in the time series.
20 They're about 50 percent of the long term average.
21 The estimation of age zeros was subjected to
22 retrospective analysis in the ASAP assessment
23 update, and it's not a significant retrospective
24 pattern here that we kind of see in some species,

1 but there do seem to be some underestimates that
2 are -- or estimates in terminal years that didn't
3 go up as more data are added.

4 The biomass trend is a lot smoother I
5 guess. Biomass was very high in the '80s when the
6 catches were very high and bottomed out around the
7 mid-'90s and have since been steadily increasing.

8 And see here that the top horizontal
9 line which is BMSY, the target for rebuilding,
10 doesn't appear to be approached in this assessment
11 update, and we think that here's four assessment
12 updates in the last four years.

13 You see the top two lines are reddish
14 color, and the bottom two are greenish color, and
15 those bottom two are the more recent, the 2012 and
16 the 2011 updates.

17 And what happened last year was that the
18 weight at age of bluefish was treated differently.
19 There were some corrections basically that were
20 made in the assessment, and it wasn't changed in
21 its configuration, just the way it treated weight
22 at age. And so what that did was it sort of
23 decreased overall biomass by a factor, and so the
24 shape of the trend is the same, but the magnitude

1 drops down by a little bit. Another thing that was
2 done last year in the assessment update not updated
3 this year was just a long-term projection of FMSY
4 to get a ballpark figure for what BMSY might be
5 under current assessment and stock data
6 conditions.

7 And that value was lower than the BMSY
8 that we are currently operating under. The
9 Bluefish Advisory Panel met in Baltimore and
10 developed a fishery performance report. I have
11 some of the highlights from that on here.

12 Generally, there was a perception that
13 effort is overestimated by MRFS, that recreational
14 effort has been down due to depressed economy, high
15 price of fuel, factors other than the availability
16 of fish necessarily.

17 It was noted that health advisory may
18 depress retention locally. For example, in New
19 Jersey there's a rather strong statement about
20 keeping bluefish. Other states, North Carolina,
21 Virginia, are fairly silent on the issue. So that
22 may affect landings.

23 Availability of bluefish was perceived
24 to be variable but not scarce. The resource was

1 not perceived to be scarce. Observations did not
2 support the low year classes, so it was several
3 people commented on seeing a lot of very small
4 bluefish recently in their experiences. The low
5 commercial catches in North Carolina were
6 attributed to the closure of Oregon Inlet that's
7 been happening where it's just been filling in and
8 also to the restrictions that have been added, not
9 the commercial catch but the recreational catch in
10 North Carolina the restrictions on beach access
11 that have been put in place there for turtles.

12 So those are other factors that may --
13 you know, affect landings that are outside of the
14 resource's condition. So it was a pretty useful
15 discussion that we had.

16 As part of the process the staff
17 recommendation is developed for ABC and then a
18 subsequent management measure. It's really just
19 a staff calculates using what we expect will be
20 applied in the various committees for the
21 different measures.

22 And so, as was done last year for
23 bluefish, the control rule for a Tier 3 assessment
24 was applied. Came up with an ABC of about 27.5

1 million pounds. Corresponds to P star of .341 and
2 71 percent of catch at OFL. It's also recommended
3 that we extend the management measures on a
4 multi-year basis. So, in summary -- it takes us
5 up to the slide right before Tom jumps in. And in
6 summary, not overfished, no overfishing. Stock's
7 at about 90 percent of BMSY. Assessment shows
8 recent year classes are low. ABC value is given
9 there. Recommend extending to 2014.

10 And the Advisory Panel says there are
11 many other factors contributing to the low
12 bluefish catches. I'll now hand it off to Moe
13 Farrer.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
15 Miller.

16 THOMAS MILLER: That's the second year
17 you've done it at a vote. I think you may become
18 a legend in your own lifetime. For the last time
19 today I'll run through the
20 Mid-Atlantic SSC recommendation. It will follow the
21 same flow of information as we've seen for all of
22 them.

23 Next slide, please. First,
24 designation as always is the level of the

1 assessment. The bluefish assessment was tiered
2 at a level 3 largely because the structure of the
3 assessment was unchanged from previous updates.
4 There were no new estimates of uncertainty
5 associated with the maximum fishing mortality
6 rate, but the SSC did accept the reference point
7 after the assessment. Next slide, please. From
8 the assessment the OFL based on an FMSY of .19 is
9 17,521 metric tons. Because it was a Tier 3
10 assessment we used the OFL and the Council's
11 control rule, which requires us to calculate the
12 ratio of current biomass to target biomass based
13 upon the 2012 data. That's about 86 percent of the
14 target biomass.

15 Applying that to the control rule gives
16 a P star of .341, which gives us then a recommended
17 ABC of 12,461 metric tons for the next fishing
18 year, which is about 71 percent of the catch at OFL.

19 Next slide, please. We recommended a
20 two-year specification using a constant F policy
21 subject to SSC review. The two-year
22 recommendation was based largely upon the view
23 that we will have an updated assessment in 2013.

24 The SSC noted, though, in that

1 recommendation that the current biomass is
2 substantially below the BMSY value, and we echoed
3 the comments that were just made about the last
4 three years of recruitment having been remarkably
5 low. From applying the constant F policy, we get
6 the 12,461 metric tons for the next fishing year,
7 and if we apply it for the second year of the
8 specification, it results in ABC for 2014 of 12,273
9 metric tons. That decline is caused by the
10 application of a constant F to a slightly smaller
11 biomass predicted in 2014 and, again, assumes that
12 the quota is met.

13 Next slide, please. The most
14 significant sources of uncertainty that we
15 identified in determining both the OFL and the ABC
16 relate to, first of all, the age length key that
17 is used in the model. This is a matrix of
18 information that translates lengths to ages.

19 There should be -- these transitional
20 matrixes should be full for all years and for all
21 length classes and age classes, and there is a
22 substantial amount of data in the bluefish age
23 length key that has to be borrowed from different
24 years or aggregated over length classes, and that

1 gives rise to uncertainties in the OFL and hence
2 in the ABC.

3 The same comment that we've made on the
4 other three species about the calibration
5 coefficients from Albatross to Bigelow. This
6 comment is despite considerable effort by the
7 Center to try and come up with selectivity
8 patterns. They all introduce uncertainty, but
9 particularly perhaps the bluefish compared to some
10 of the other species. The Albatross was able to
11 go inshore to regions that the Bigelow now cannot,
12 and that may produce additional uncertainties.

13 And we also noted that commercial
14 discards seem to be insignificant. Next slide,
15 please. Another three points related
16 specifically more to the ABC determination.
17 Similar to one of the other species, scup, that we
18 looked at today, there's not a lot of information
19 on the older fish from the surveys. Most of it
20 comes from the fishery itself, and that always is
21 a cause of concern.

22 We noted concerns over the MRFS
23 estimates particularly for bluefish because of the
24 highly transitory nature of this fish, meaning the

1 catches come in pulses and in pulses in different
2 regions up and down the coast.

3 That means the wave-like structure of
4 the MRFS may not be optimal for estimating bluefish
5 catches. And there was also an unusual pattern in
6 the age structured model that isn't commonly
7 observed in many other models, and that suggests
8 that both younger and older fish are equally
9 selected with a dip in the middle, and that's a very
10 rare pattern, and we don't quite fully understand
11 the derivation of that pattern. Next slide,
12 please. We're done.

13 JAMES ARMSTRONG: So the SSC provided
14 us with an ABC recommendation for the next two
15 years, and then now we pick up with the bottom of
16 the process where the Monitoring Committee comes
17 in.

18 And the Monitoring Committee is tasked
19 with identifying management uncertainty, and so we
20 discussed this issue at length. We note that
21 there is uncertainty looking forward in the
22 forecast of recreational landings and discards,
23 which are a necessary part of the process, and also
24 in terms of the effectiveness of management and the

1 ability to constrain landings below the harvest
2 limits.

3 So those were the primary sources of
4 management uncertainty that we were focusing on.
5 In terms of the forecast, we use a three-year
6 running average of landings to come up with
7 projected landings.

8 At least at this stage of the game, we
9 use a three-year average to project landings in the
10 upcoming year and then based on that expectation
11 of landings, then we are able to calculate the
12 transfer amount. So we looked at the accuracy
13 really of using a three-year running average.
14 Went backward at the realized catches to see how
15 well that running average does at predicting
16 actual catch, and the Monitoring Committee noted
17 that since 2000 there was about a minus 5 percent
18 error. That is, there were overestimates of
19 landings.

20 It's actually quite variable from year
21 to year. But that was the average error. In
22 terms of discards, we noted that it was fairly
23 stable at about 20 percent of the landings, and we
24 also noted that there was no trend and that if we

1 used the last three years, it pretty much captured
2 the range of discards that have been observed since
3 about 2000.

4 So we were comfortable with those -- I
5 think that we had accounted for those sources of
6 management uncertainty. We also looked at
7 management uncertainty in terms of fishery
8 performance relative to harvest limits.

9 So the horizontal line that you see
10 there corresponds to a -- if you go above that, then
11 you're exceeding the limit. The bars are the
12 ratio of landings to the limit.

13 So, if it's above one, it goes above the
14 line. The black bars are the commercial catch,
15 and the orange bars are the recreational catch.
16 You can see that since 2000 only once did any of
17 that go above the line, and that was the
18 recreational fishery in 2007. So the Monitoring
19 Committee identified and considered sources of
20 management uncertainty. We noted that except for
21 in 2007, that generally there was under
22 performance of the fishery, that that tends to
23 offset any sources of uncertainty that we might
24 want to build in as a buffer.

1 And so the Monitoring Committee did not
2 recommend an additional buffer for management
3 uncertainty. Okay. So we've dealt with
4 management uncertainty, and then we go to the
5 bottom of this figure, which is all the dividing
6 up among the recreational and commercial and then
7 redistributing based on a transfer allowance that
8 is provided for in the FMP and deductions for RSA
9 and that sort of stuff.

10 And we get these wonderful tables that
11 I think are appreciated by people if they have hard
12 copies and can look at them and read them. They
13 do a good job at explaining each step of the way
14 how we calculate each one of those management
15 measures.

16 So at the bottom what you have is the
17 recreational harvest limit and commercial quota
18 post transfer and adjusted for a full 3 percent RSA
19 deduction. And you start at the top with OFL. So
20 it goes all the way down there. On the right-hand
21 side it explains how each step was calculated. So
22 I hope that you've had a chance to review that.
23 What we did at the Monitoring Committee was we just
24 went into the spreadsheet where these numbers were

1 live and verified that all the calculations had
2 been done correctly.

3 And what we did was maximized the
4 transfer amount. So we didn't make any judgement
5 call on how much to transfer. That's typically
6 what the Council has been doing, and so that's what
7 we did.

8 So we have RHL, all those numbers for
9 2013 and 2014 based on the ABC values that were
10 provided for those two years. Here's a summary
11 and graphical form of what we're doing going
12 forward.

13 You see on the top the recreational
14 harvest limit in a blue line, and the recreational
15 landings in the red line. You see 2007 popping up
16 above there. And then over on the right-hand side
17 of the top of that figure you see kind of a dash
18 line coming in from the bottom of assumed
19 recreational landings and then relative to the
20 recreational harvest limits. So you can see that
21 those are pretty much one in the same. And then
22 on the bottom you see the commercial quota and the
23 commercial landings relative to each other. And
24 so we are not making any assumptions necessarily

1 about commercial landings going forward, but
2 rather setting up the conditions for them to be
3 probably unconstrained.

4 Okay. Here are the values in summary
5 form. We're looking at about a 27.5 million pound
6 ABC in 2013; 27 million pound ABC in 2014; a
7 transfer of 4.7 million pounds in 2013; 4.3 million
8 pounds in 2014.

9 And we're looking at an RHL of about 14
10 1/2 million pounds in both years, which is
11 consistent with to the pound projected
12 recreational landings of both years, which is a
13 three-year average, and then a commercial quota of
14 9.4 million pounds in 2013 and 9.0 million pounds
15 in 2014. I now have some draft motions that take
16 up the rest of my slides, so I'll close there.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
18 thank you. Questions for Jim or Dr. Miller on
19 bluefish? Rob O'Reilly.

20 ROBERT O'REILLY: Yeah. I can
21 remember thinking about this four years ago, and
22 it's a case where the same model is used for summer
23 flounder and bluefish, this forward projection
24 model ASAP, but it's like night and day. And I

1 think the comments earlier are underscored again
2 here about the levels and what a broad band it must
3 be to capture summer flounder as well as bluefish.

4 But my question is: With bluefish the
5 weighting is on the catch, and that's what the
6 emphasis is, and that's the way it's been for a few
7 years; whereas, for summer flounder it's on the
8 indices, and both suffer right now from some poor
9 recruitment relative to the average over the last
10 three years; so in the case of bluefish, by
11 weighting on the catch does that introduce risk or
12 take away risk concerning the poor recruitment?

13 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
14 Miller.

15 THOMAS MILLER: Rob, you always ask the
16 best questions. Off the top of my head, I'm not
17 sure I can give you a definitive answer. I think
18 it would depend upon the relative reliability with
19 which the bluefish catch reflects the underlying
20 abundance and the summer flounder surveys reflect
21 their underlying abundance. And I'm not sure that
22 anyone's looked at that in a comparative way to
23 understand where the risk is. As to your first
24 point about the width of the bands, those bands are

1 broad, but there are critical features that mark
2 the transition from one to the other. So, from
3 four to three, we go to a point where there is an
4 accepted OFL that the SSC believes to be true.

5 From three to two, it goes an accepted
6 OFL with estimated uncertainties, and that's the
7 step that most of them usually fall down upon them.
8 So we're dealing with a summer flounder assessment
9 that probably is towards the upper range of that
10 three band and a bluefish assessment that is
11 towards the lower level of that three band.

12 But where the relative risk lies in
13 those I think is a tremendously interesting
14 question, but I don't know we know enough to
15 provide you a definitive answer.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Other questions? Dewey.

18 DEWEY HEMILRIGHT: I got maybe a
19 question or two and a few observations. For the
20 last 20 years I bluefished a lot in the wintertime
21 for big bluefish mainly in depths of water from 180
22 foot to 500 feet of water in the wintertime. We
23 gillnet fish. Some of the observations looking at
24 these environmental conditions, environmental

1 issues, there's a couple different factors. This
2 past year was the first year in a long time I've
3 never caught a bluefish, a big bluefish offshore.
4 So the landings are going to reflect that in North
5 Carolina this year or for 2011.

6 It seemed like the fish in the
7 wintertime fisheries, the fish didn't migrate down
8 this year. If you had the weather, you could have
9 maybe went to the canyons, to the Norfolk Canyon
10 and above and maybe caught some bluefish, but it's
11 just a great distance to go.

12 As far as in here in these environmental
13 factors about -- I've never -- the menhaden issue
14 might be for something inshore with the bluefish;
15 but for the off shore issue, I've never seen a
16 menhaden out there or have never caught one in 400
17 feet of water or something.

18 The environmental conditions at Oregon
19 Inlet based on the gillnetting, even though it's
20 real dangerous going underneath that bridge, just
21 with the closure had no effect on the bluefish
22 fishery as far as landings.

23 There was a few trawl boats that went in
24 probably at the Hampton, but they're not targeting

1 or having in the past targeted on bluefish just the
2 way you catch the bluefish. If conditions stay
3 the same, environmental factors you might not see
4 a bluefish again this next year.

5 But for the northern states north of
6 North Carolina, they probably don't have a
7 wintertime fishery because of the distance you
8 have to travel out to the depths of water and the
9 time and also the gear factor.

10 The gillnets you have to build are
11 pretty extensive and sturdiness, and it costs a lot
12 of money to build that specific gear. So that was
13 my comments.

14 And for my question: Is there anything
15 lacking that can be got from like commercial
16 landings or something like that that any more
17 surveying or something like my state can sample
18 that needed to be done for the bluefish indices
19 especially in the winter months?

20 'Cause in the summer, we don't -- I don't
21 or other people don't really fish for them a lot.
22 Maybe that's more inshore. Water temperature
23 heats up before the offshore wintertime. And
24 there is difference of the gillnets that we use

1 anywhere from a 3 3/4 to a
2 6-inch gillnet, and so a lot of times on the boat you'll
3 have three or four different sizes. And another
4 thing that's been a real big factor in the
5 availability in the catch of the bluefish, I mean
6 the spiny dogfish and the smooth dogfish in that
7 depth of water because what tends to happen is
8 you'll run around and look for a mark, and somebody
9 will dip in or something.

10 You'll run back the other end. You'll
11 be darn loaded with dogfish. So -- you know, it's
12 not really a mortality on the dogfish because you
13 ain't going to be sitting there fishing on them
14 because the season will be closed.

15 But that has a lot to do with that smooth
16 dogfish and that spiny dogfish. It's crazy. I
17 mean there's a lot of them out there and in that
18 depths of water.

19 So my question would be, and I'll get off
20 of here: What can be gotten from the commercial
21 industry, like the data that you'd need, that would
22 help you with some of your other stuff?

23 Because right now it depends -- it feels
24 like that the catch is going to be limited unless

1 we have some different weather conditions for the
2 wintertime. Summertime and stuff like that I
3 don't know much about. Thank you.

4 THOMAS MILLER: Obviously, the
5 environmental conditions whatever is going to be
6 next year will be next year. There's nothing we
7 can do about that.

8 In terms of the data, the biggest
9 shortfall in the bluefish assessment is this
10 age-length key. So, if you imagine a table with
11 length across the bottom and ages down the side,
12 what you do is you sample length classes of fish
13 and age them so that you can say fish that are 30
14 to 40 centimeters are these ages; and then you go
15 back and you apply that to the length data in the
16 catch.

17 And when you have holes in that
18 age-length key in that table, you introduce
19 substantial uncertainties into the assessment.
20 So any sampling that allows us to expand the
21 age-length key for the commercial fishery would be
22 advantageous.

23 Now, some of it is that we had --
24 coastwide we have enough data, but when you begin

1 to break it down into smaller regions to try and
2 apply a regional age-length key to the catches from
3 that region is where we fall down. But I'm sure
4 the local agencies would welcome additional fish
5 to complete that age-length key.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thanks. Dr. Miller. Mike, you have an addition?

8 MICHAEL WAINE: Yeah. I just wanted to
9 update the Council. The Commission implemented
10 an addendum to actually increase the amount of data
11 that is collected, age and lengths for bluefish,
12 coastwide for several states.

13 So that's currently underway. 2012 is
14 the first year, so we hope that that will help
15 resolve some of these issues moving forward.
16 Thanks.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Further questions? Jim, did you have any
19 follow-up in addition to Dr. Miller's comments or
20 Mike's about data?

21 JAMES ARMSTRONG: Well, I just happened
22 to look at the research recommendations in the SSC
23 report, and it did say that the offshore population
24 in the winter was a priority that apparently that's

1 under sampled, so it seems like a good fit to
2 Dewey's interests.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Thank you. Other questions? Is there any public
5 comment on the proposed measures that staff has
6 recommended or the SSC has recommended? All
7 right. Seeing none, we're back to the Council and
8 Commission for discussion and action. What's the
9 pleasure of the Council or Commission with respect
10 to the time horizon of the specifications? Steve
11 Heins.

12 STEVEN HEINS: Thank you, Mr. Chairman.
13 I move that we adopt two-year specifications for
14 the bluefish fishery beginning in 2013.

15 COUNCIL CHAIRMAN RICHARD ROBINS: For
16 the Council and the Board?

17 STEVEN HEINS: For the Council and the
18 Board, yes, sir.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Is
20 there a second for the Council? Second by Chris
21 Batsavage. Is there a second for the Board?
22 Second by Chris Batsavage. Thank you.
23 Discussion on the motion?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is
2 the Council ready for the question?
3 {Move to adopt two-year (2013 and 2014) management
4 measures for bluefish.}

5 COUNCIL CHAIRMAN RICHARD ROBINS: All
6 those in favor please raise your hand.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Nineteen. Opposed like sign.

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Abstentions like sign.

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: The
15 motion carries unanimously. Thank you. For the
16 Board, A.C.

17 A.C. CARPENTER: Is there a need for a
18 caucus?

19 (No response.)

20 A.C. CARPENTER: Seeing none, all in
21 favor of the motion raise your hand.

22 (Response.)

23 A.C. CARPENTER: I have nine in favor.
24 All opposed?

1 (No response.)

2 A.C. CARPENTER: Any abstentions?

3 (No response.)

4 A.C. CARPENTER: Any null votes?

5 (No response.)

6 A.C. CARPENTER: The motion carries.

7 COUNCIL CHAIRMAN RICHARD ROBINS: With
8 respect to the RSA set-aside, what's the pleasure
9 of the Board and Commission? Steve.

10 STEVEN HEINS: Thank you. I would move
11 that up to 3 percent of the TAL be set aside for
12 research set-aside in each of the years, 2013 and
13 2014 for the Board and the Council.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you. Is there a second for the Board and the
16 Council? Second for the Board? Who's going to
17 second for the Board? Adam Nowalsky. Second for
18 the Council? Pres Pate. Discussion on the
19 motion?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 the Council ready for the question?

23 {Move to allow a research set-aside of up to 3%, 715,819
24 lbs., of the combined recreational and commercial

1 TALs in 2013.}

2 Move to allow a research set-aside of up to 3%, 703,395
3 lbs., of the combined recreational and commercial
4 TALs in 2014.}

5 COUNCIL CHAIRMAN RICHARD ROBINS: All
6 those in favor please raise your hand.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Eighteen. Opposed like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One.
12 Abstentions like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: One
15 abstention. The motion carries. Thank you.
16 A.C. for the Board.

17 A.C. CARPENTER: For the Board is there
18 a need to caucus?

19 (No response.)

20 A.C. CARPENTER: Seeing none, all in
21 favor raise your right hand.

22 (Response.)

23 A.C. CARPENTER: I have eight in favor.
24 All opposed same sign.

1 (Response.)

2 A.C. CARPENTER: One opposed. Any
3 abstentions?

4 (No response.)

5 A.C. CARPENTER: Any null votes?

6 (No response.)

7 A.C. CARPENTER: The motion carries.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you. With respect to the specifications,
10 what's the pleasure of the Council and the Board?
11 Jim, do you have a draft motion to help us through
12 that?

13 JAMES ARMSTRONG: Yes, I do. This was
14 taken word for word from the minutes from last year
15 and just changed the numbers to fit the update.
16 And I have separate motions for 2013 and 2014.

17 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
18 sorry. Did you say that the numbers have been
19 changed to reflect this year's numbers?

20 JAMES ARMSTRONG: Yes.

21 COUNCIL CHAIRMAN RICHARD ROBINS: They
22 have. Thank you. Okay. Steve.

23 STEVEN HEINS: Thank you. I'm going to
24 follow Jim's script this time instead of winging

1 it. I'll move to adopt for bluefish in 2013 an ACL
2 of 27.41 million pounds equivalent to the ABC, a
3 recreational ACT of 22.802 million pounds, and a
4 commercial ACT of 4.670 million pounds
5 corresponding to a recreational TAL of 19.190
6 million pounds and a commercial TAL of 4.670
7 million pounds and to allow a transfer of up to
8 4.686 million pounds from the recreational to the
9 commercial TAL resulting in a recreational harvest
10 limit of 14.504 million pounds and a commercial
11 quota of 9.357 million pounds for the Board and the
12 Council.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you. Is there a second for the Council?
15 Chris. And the Board? Okay. Seconded by Chris
16 Batsavage for the Council and the Board.
17 Discussion on the motion?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS: Is
20 the Council ready for the question?
21 {Move to adopt for bluefish in 2013 an ACL of 27.41
22 million pounds equivalent to ABC, a recreational
23 ACT of 22.802 million pounds and a commercial ACT
24 of 4.670 million pounds corresponding to a

1 recreational TAL of 19.190 Million pounds and a
2 commercial TAL of 4.670 million pounds, and to
3 allow a transfer of up to 4.686 million pounds from
4 the recreational to the commercial TAL resulting
5 in a recreational harvest limit of 14.504 million
6 pounds and a commercial quota of 9.357 million
7 pounds.}

8 COUNCIL CHAIRMAN RICHARD ROBINS: All
9 those in favor please raise your hand.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Nineteen. Opposed like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: One.
15 Abstentions like sign.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: One
18 abstentions. The motion carries. Thank you.
19 For the Board, A.C.

20 A.C. CARPENTER: Is there a need for a
21 caucus?

22 (No response.)

23 A.C. CARPENTER: Seeing none, all those
24 in favor raiser your hand.

1 (Response.)

2 A.C. CARPENTER: Eight in favor. All
3 opposed.

4 (No response.)

5 A.C. CARPENTER: No opposition. Any
6 abstentions?

7 (Response.)

8 A.C. CARPENTER: One abstention. And
9 null votes?

10 (No response.)

11 A.C. CARPENTER: The motion carries.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Thank you. Jim, is there anything else under the
14 specification package?

15 JAMES ARMSTRONG: There's the 2014
16 measures.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Go
18 ahead.

19 JAMES ARMSTRONG: They're up on the
20 screen. 2014 needs a separate motion.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Steve.

23 STEVEN HEINS: Thank you, Mr. Chairman.
24 I'll move to adopt for bluefish in 2014 an ACL of

1 27.057 million pounds equivalent to the ABC, a
2 recreational ACT of 22.458 million pounds, and a
3 commercial ACT of 4.6 million pounds corresponding
4 to a recreational TAL of 18.846 million pounds and
5 a commercial TAL of 4.6 million pounds and to allow
6 a transfer up to 4.342 million pounds from the
7 recreational to the commercial TAL resulting in a
8 recreational harvest limit of 14.504 million
9 pounds and a commercial quota of 8.924 million,
10 pounds for the Board and the Council.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there a second for the Board and Council? Second
13 by Chris Batsavage for the Board and Council.
14 Thank you. Discussion on the motion? A.C.

15 A.C. CARPENTER: Mr. Chairman, I wasn't
16 going to bring this up, but the table that has the
17 14 has a different number for the commercial quota.
18 It's 8,942,207 pounds, and what's on the board is
19 8,924,000 is that a transposition, or is there --

20 COUNCIL CHAIRMAN RICHARD ROBINS: In
21 one or the other. Jim, could you look at that?

22 JAMES ARMSTRONG: Sorry about that.
23 Yeah. That's my mistake. It's 24 -- I mean 42.

24 A.C. CARPENTER: Okay.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Did
2 the maker and seconder accept that perfection of
3 the motion? Yes. Thank you. Further
4 discussion on the motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 the Council ready for the question?

8 {Move to adopt for bluefish in 2014 and ACL of 27.057
9 million pounds equivalent to ABC, a recreational
10 ACT of 22.458 million pounds and a commercial ACT
11 of 4.600 million pounds corresponding to a
12 recreational TAL of 18.846 million pounds and a
13 commercial TAL of 4.600 million pounds, and to
14 allow a transfer up to 4.342 million pounds from
15 the recreational to the commercial TAL resulting
16 in a recreational harvest limit of 14.504 million
17 pounds and a commercial quota of 8.942 million.}

18 COUNCIL CHAIRMAN RICHARD ROBINS: All
19 those in favor please raise your hand.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Eighteen. Opposed like sign.

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Abstentions like sign.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: One.
4 The motion carries. Thank you. For the Board,
5 A.C.

6 A.C. CARPENTER: Is there a need for a
7 caucus?

8 (No response.)

9 A.C. CARPENTER: Seeing none, all in
10 favor raise your hand.

11 (Response.)

12 A.C. CARPENTER: Eight in favor. In
13 opposition same sign.

14 (No response.)

15 A.C. CARPENTER: Abstentions.

16 (Response.)

17 A.C. CARPENTER: One abstention. Null
18 votes?

19 (No response.)

20 A.C. CARPENTER: The motion carries.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thank you. Jim.

23 JAMES ARMSTRONG: There are no other
24 motions needed unless the Council or Board would

1 like to change the bag limit from 15 fish to
2 something else.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there any desire to modify the bag limit by the
5 Council or the Board?

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Seeing none, Jim, are there any other items under
9 specifications?

10 JAMES ARMSTRONG: No.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
12 you very much. Is there anything else to come
13 before the Board or Council before we adjourn for
14 the day on this item?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Seeing none, we'll be adjourned. This evening we
18 have the opportunity to celebrate Joel MacDonald's
19 retirement at six o'clock. It will be at a
20 Brazilian steak house called Fogo de Chao.

21 I don't know how that translates, but I
22 think it has to do with eating a lot of food. Jan
23 has the map and address, so please see Jan if you
24 have a question about that. And that starts at six

1 o'clock. Thank you all very much. And safe
2 travels for any Commission members who may be
3 leaving early. Take care. And we start at eight
4 o'clock tomorrow morning. That's the good news.

5

6 WHEREUPON:

7

8 THE MEETING WAS SUSPENDED AT 5:35 P.M.

9

10

11

12

13

14

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court
Reporter and Notary Public in and for the Commonwealth
of Massachusetts, do hereby certify that the foregoing
transcript represents a complete, true and accurate
transcription of the audiographic tape taken in the

above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 26th, day of September, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

THIS FOREGOING CERTIFICATION OF
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
AND/OR DIRECTION OF THE CERTIFYING REPORTER.

Pages: 1-279

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
800 North State Street, Suite 201
Dover, Delaware 19901-3910

COUNCIL MEETING

14-16 AUGUST 2012

at

Courtyard Philadelphia Downtown
21 N. Juniper Street
Philadelphia, PA 19107

THURSDAY AUGUST 16, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	5
RESEARCH SET-ASIDE (RSA) PROPOSALS AND 2014 PRIORITIES	
RICHARD SEAGRAVES	7
Motion - Approve Staff Recommendations	
Preston Pate	11
Approved By Consent	12
Motion - Research Set-Aside Committee	
Preston Pate	21 & 29
Approved By Consent	40
Motion - Permit Required	
Preston Pate	42
Vote - Pass	54
Motion - Auction Provisions	
Preston Pate	55
Motion To Table	
Steven Heins	65
Approved By Consent	65
Motion - 2014 Priorities	
Preston Pate	81
Vote - Pass	82
Motion - Interaction -- Loligo Squid	
Laurie Nolan	84
Approved By Consent	85
Motion - Summer Flounder	
Laurie Nolan	92
Approved By Consent	93
Motion - Bluefish	
Preston Pate	98
Motion To Amend	
Steven Heins	100
Approved By Consent	101
Motion - Black Sea Bass	
Laurie Nolan	112
Approved By Consent	113
Motion - Scup	

Lee Anderson
Approved By Consent

116
116

Motion - Illex and Tilefish	
Laurie Nolan	118
Approved By Consent	118
NOAA OFFICE OF GENERAL COUNSEL	
DENISE DESAUTELS	119
NATIONAL STANDARD 1 GUIDELINES	
GEORGE DARCY	127
AMENDMENT 3 TO SPINY DOGFISH	
JAMES ARMSTRONG	145
Motion - Move Forward	
Peter Himchak	161
Vote - Pass	162
NORTHEAST FISHERY SCIENCE CENTER	
STRATEGIC PLANING	
RUSSELL BROWN	163
APRIL AND JUNE 2012 MINUTES	
RICHARD ROBINS	186
Approved By Consent	186
NEW ENGLAND COUNCIL LIAISON REPORT	
RICHARD ROBINS	186
NMFS REGIONAL ADMINISTRATOR'S REPORT	
GEORGE DARCY	188
NMFS NEFSC DIRECTOR'S REPORT	
JAMES WEINBERG	198
U.S. COAST GUARD REPORT	
KEVIN SAUNDERS	202
FEDERAL ENFORCEMENT	
SCOTT DOYLE	207

ASMFC DIRECTOR'S REPORT	
ROBERT BEAL	211
EXECUTIVE DIRECTOR REPORT	
CHRISTOPHER MOORE	219
Motion - RSA	
Laurie Nolan	223
Vote - Pass	224
VISIONING AND STRATEGIC PLANNING COMMITTEE	
RICHARD ROBINS	234
EXECUTIVE COMMITTEE REPORT	
RICHARD ROBINS	235
ECOSYSTEM AND OCEAN PLANNING COMMITTEE REPORT	
WARREN ELLIOTT	236
Motion - Deep Sea Coral Protection	
Warren Elliott	238
Vote - Pass	238
Motion - Memorandum Of Understanding	
Warren Elliott	239
Vote - Pass	240
CONTINUING AND NEW BUSINESS	
SQUID WORKSHOP	241
Motion - Letter To NMFS On Butterfish	
Howard King	265
Vote - Pass	273
Motion - Letter To NMFS On "H" Permits	
Laurie Nolan	275
Approved By Consent	278

1 [8:02 a.m.]

2

3

INTRODUCTIONS AND ANNOUNCEMENTS

4

COUNCIL CHAIRMAN RICHARD ROBINS:

5

George and I discussed it this morning. I told him

6

I know what a metric ton feels like now. We talk

7

about these numbers, but now I know how they feel.

8

Once again, we'd like to congratulate

9

Joel MacDonald on 32 years of service. He has done

10

a great deal to advance the Council's work and

11

support the Council's management programs and has

12

contributed enormously to the sustainability of

13

our fisheries.

14

Last night it was great having a

15

historical perspective of some of the constituents

16

that have been involved in the council process for

17

that same amount of time to reflect on the early

18

days when surfclams were in crisis and dominating

19

every meeting, and we were considering what the

20

Russians were doing off the coast.

21

And it was just an entirely different

22

time. But he's presided over a lot of council work

23

that's come through some radical changes and very

24

dramatic changes over that period of time. But,

1 again, congratulations to Joel.

2 (Applause.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: Our
4 first order of business today is RSA related
5 issues, and I look to Rich Seagraves to get that
6 started. Rich.

7

8 RESEARCH SET-ASIDE (RSA) PROPOSALS

9 AND 2014 PRIORITIES

10 RICHARD SEAGRAVES: I think Pres was
11 going to open it up, Mr. Chairman.

12 COUNCIL CHAIRMAN RICHARD ROBINS: All
13 right. Pres.

14 PRESTON PATE: Thank you, Mr. Chairman
15 and thank you for attending the meeting. I'd like
16 to first welcome our new vice chairman is Laurie
17 Nolan, who was recently appointed by the chairman
18 of the Council after being in the right place at
19 the right time. Thank you, Laurie.

20 The agenda this morning is broken up
21 into two parts. The first of which was prepared
22 to be presented at the last meeting, but got cut
23 short because of the emergency that we had, so it
24 had to be held over until this meeting. And that's

1 a review of the committee motions that came out of
2 the Research Set-Aside Committee.

3 So we'll take those up first and then go
4 to the next item on the agenda, which was
5 consideration of the Council's research
6 priorities. So, Rich, if you're ready, I'll turn
7 it over to you.

8 RICHARD SEAGRAVES: Thanks, Pres. In
9 the briefing book, there is a list of motions. As
10 Pres indicated, we had a RSA Committee meeting June
11 11th in New York City, and at that meeting we
12 discussed -- staff presented various
13 recommendations, options, and so forth to improve
14 the performance of the RSA Program.

15 And so I'm going to start off -- there
16 are three sections to the motions, and there are
17 kind of three considerations that we deliberated
18 on at the RSA Committee level.

19 The first, we broke it up into
20 scientific issues, scientific quality of the RSA
21 program; and then the other part was
22 administrative enforcement, which we then further
23 subdivided into enforcement administration issues
24 and then issues directed or specifically looking

1 at the RSA auction process.

2 And so we've been meeting over about a
3 year and a half trying to find ways to improve the
4 program in terms of scientific quality, and there
5 was pretty much universal acceptance that there
6 was a need to improve the science that was coming
7 out of RSA projects. We have been in business --
8 the RSA has been in operation now for I think 11
9 or 12 years. We've spent in excess -- used
10 utilized resources in excess of probably about 12
11 million dollars over that time period.
12 Essentially, the RSA program's producing about 1.2
13 million dollars a year give or take some each year.
14 And as part of this review process, we went back
15 and looked at all the projects that have been
16 funded and tried to find examples where the results
17 of an RSA project were used either in an assessment
18 to inform a stock assessment in the development of
19 an FMP or in the direct formation of some sort of
20 management measure, and the list was pretty thin.
21 And this really was the genesis for this review
22 that we've been conducting.

23 So I started off looking at how can we
24 improve the science. And I think one of the things

1 of recommendations, and it resulted in a set of
2 motions. The first motion has five parts. So,
3 again, the Committee has already approved these
4 motions at the June 11th -- the RSA Committee
5 approved these motions at the June 11th meeting,
6 and at this point, I guess Pres can make the motions
7 on behalf of the Committee for the scientific
8 quality issue part.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Pres.

11 PRESTON PATE: I'll turn around where I
12 can see them. On behalf of the RSA Committee, I
13 move to accept the staff recommendations following
14 procedural order for development of RFP funding
15 and review of research projects under the MFC RSA
16 Program; (1) SSC ranks research priorities during
17 development update of Council's five-year
18 research plan, RSA Committee identifies the top 10
19 research and management needs based on SSC
20 priorities, (2) National Marine Fishery Service
21 develops RFP based on research and management
22 needs identified by the RSA Committee, (3)
23 National Marine Fishery Service coordinates
24 technical review of proposals, SSC members

1 included in a pool of technical reviewers, (4) the
2 Research Set-Aside Committee conducts management
3 review, makes recommendations based for funding of
4 projects through the National Marine Fishery
5 Service, and (5) researchers required to submit
6 interim and final reports reviewed by the SSC for
7 scientific validity and approval for use by the
8 Council. Those are motions made on behalf of the
9 RSA Committee. Don't need a second.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you, Pres. Is there any further discussion
12 or discussion on the recommendations of the
13 Committee?

14 (No response.)

15 (Motion as voted.)

16 {Move to approve the Scientific Quality Issues, as
17 stated in the MAFMC RSA Program Recommendation
18 paper, numbers 1-5, as recommended by the RSA
19 Committee.}

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 there any objection to the motion that has been
22 made on behalf of the Committee?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Seeing none, we'll approve that by consent. Rich.

2 RICHARD SEAGRAVES: Thank you, Mr.
3 Chairman. So now moving on to the administrative
4 and enforcement issues. The Council has received
5 a lot of complaints over the period that the RSA
6 has been active relative to both from the public
7 and also from some of our state partners here
8 around the table on the administration and
9 enforcement of the RSA quota.

10 So, as we did yesterday, the Council
11 approved -- recommended a 3 percent set-aside. So
12 we're making a 3 percent investment of the total
13 dockside value of our resources to improve our
14 understanding in terms of the stock assessment or
15 other processes that are occurring in the
16 fisheries such that we can improve the management
17 of those.

18 So it's a pretty significant
19 investment. And I think one of the things that has
20 occurred, what I said at the RSA Committee meeting
21 in June, is that essentially the original problem
22 was envisioned to be a cooperative research
23 between industry partners and scientists. There
24 was a great distrust, and, of course, there still

1 is some trepidation about the science that we have
2 to use. The original intent of this program
3 really was focused on this cooperative nature of
4 the research to get a partnership between
5 scientists and industry: go out, identify a
6 problem, conduct some research, using the value of
7 the fish to fund the research, and then bring forth
8 the results of those projects to the table to
9 improve our management of our fisheries.

10 And after about a year, maybe three
11 years, into the program, a very innovative
12 individual by the name of Dan Cohen, who is helping
13 in our visioning process, he had a vision then that
14 why couldn't we auction off the RSA, use the monies
15 to be an efficient process and would also probably
16 maximize the amount of revenue that the RSA Program
17 can produce.

18 And so outside of the Council process an
19 auction process was developed, and this particular
20 component of the program has led to a lot of the
21 enforcement and administrative issues and a lot of
22 questions and concerns that people have about
23 adequate enforcement of RSA landings, tracking
24 them and making sure that we have a good accounting

1 of what's taken and landed under the RSA program.
2 I think the other point that I made in the paper
3 that I presented in June was that in essence what
4 we've created is sort of a back-door ITQ, and
5 unintended ITQ. And that fisherman that
6 participate in the auction bid on the quota, and
7 the successful bidders then have this RSA quota
8 that they can go out and catch pretty much to their
9 maximum advantage, which is an essential feature
10 of an IFQ.

11 And I think one of the major issues here
12 is it wasn't intended for the program to go that
13 way, but that's kind of the free market system took
14 over, and that's where we ended up.

15 And I think a lot of the problems is
16 related to the administration enforcement of this
17 or a manifestation of that process. And I think
18 if the Council at the time that they developed the
19 RSA Program had known that this was the way it was
20 going to work out, and we've explicitly said, well,
21 we're going to auction off the quota and this is
22 going to be basically a formative IFQ, then there
23 would have been a lot more thought and a lot more
24 discussion, debate around this table about how to

1 implement that program. Currently what we're
2 doing is using the permitting process to run the
3 program, to enforce the program, administer the
4 program. So there had not here before been a lot
5 of debate about exactly how this should be done.
6 So this next section deals with trying to tie up
7 some loose ends and also make it clear what the
8 Council intent and policy is relative to this
9 program so that we can get effective
10 administration enforcement at least raise a cloud
11 of doubt that exists in the public's eye, not only
12 the public but many marine fisheries agencies as
13 well about there's just too many opportunities for
14 people to take advantage of this program and land
15 fish -- you know, outside of the RSA Program.

16 They're given this RSA amount, and the
17 concern is that we're not riding herd on it well
18 enough to control it. So the next set of motions
19 deal with these issues, and there are four staff
20 recommendations, and ultimately there were four
21 motions that were approved, and we were going to
22 bring those forth when the RSA Committee reported
23 out in June.

24 In the interim we've had a little more

1 time to talk about it in house, and Chris Moore when
2 he reviewed when we were putting the briefing book
3 together, we had originally had in that
4 recommendation that we require a federal permit,
5 period, that you had to have a federal permit to
6 participate in the RSA program. When we discussed
7 this with the Regional Office -- and I've had some
8 discussions with Joel since then.

9 Obviously, if you're going to catch the
10 fish in the EEZ waters, you have to have a federal
11 permit to fish whether or not you're in the RSA or
12 whatever you're doing, but there's also fishing
13 under the RSA program that occurs only in state
14 waters.

15 So, at the time of the June meeting, we
16 had left it where we didn't put that explicit
17 requirement in there because the feeling was,
18 well, there's really nothing to be gained by it.

19 But since that time, we've discussed
20 this in the office at staff level, and we're going
21 to request that in addition to the four motions
22 that the RSA Committee approved that we make it
23 explicit about this permit requirement.

24 Now, the other issue that you may want

1 to debate -- and this is to make sure that it's
2 clear that private vessels will not be able to
3 obtain RSA quota because there's no way to track
4 them. I mean in my mind, you've got a public
5 resource; everybody should have some opportunity
6 to take advantage of -- you know, whatever level
7 that resource is made available. And this is a
8 sense of fairness and equity. But my discussions
9 with Joel about this is the overriding concern,
10 though, is that we get adequate enforcement of the
11 landings.

12 So there are cases where you can
13 restrict who can participate because of the
14 imperative to enforce the program. And so private
15 boats or private individuals may have some right
16 in a pure sense to the resource under RSA, or they
17 may argue that they have it.

18 But the feeling -- and Joel when we get
19 to that part of the discussion can elaborate on
20 that. But basically, in this case our primary
21 concern is integrity of the program, making sure
22 that we enforce the thing adequately.

23 But the second part of it is in that
24 consideration the party charter vessel component

1 of this is much more difficult to track. They have
2 party charter permitted vessels have been
3 participating. The problem is they don't sell
4 their fish, and they normally don't weight their
5 fish. The headboat gets an RSA quota, season
6 closes in their state, obviously, there's great
7 financial advantage to them to now be able to go
8 out and take trips when their state is closed under
9 the RSA program, which is great for them, but it
10 does result in some serious challenges in tracking
11 their landings. So we've got some things in this
12 set of motions that will help with that.

13 But another consideration is that the
14 Council could consider the option that we had not
15 explicitly discussed -- well, we discussed it
16 throughout the course of the last year and a half,
17 but we ended up it didn't make it into the motions.

18 But another consideration, that you
19 could limit it to commercial vessels only. Now,
20 I've talked to Greg DiDomenico. One of the first
21 questions that Pres had: Well, if we did that how
22 much money would we lose in the program?

23 And apparently, it's fairly
24 significant, about 20 to 25 percent of the revenues

1 are coming out of the auction are coming from party
2 charter vessels. So that's the down side to you
3 get tighter enforcement.

4 Commercial vessels only they will be --
5 commercial vessels typically have to -- if they're
6 federally permitted, they have to sell to a federal
7 permitted dealer. We've got some new requirement
8 you'll see in the motions about them separating
9 their RSA quota and tighter tracking of that. But
10 we already have a system in place that we have to
11 basically adjust to ensure that we're getting good
12 enforcement of the RSA, improve that enforcement.

13 On the party charter side -- you know,
14 the mechanism just doesn't exist. The same system
15 does not exist for them. So that's the
16 consideration that I think warrant some debate,
17 but given the amount of revenue that they're
18 producing, I think that will color the discussion.
19 So the next set of motions and Pres can put those
20 forth on behalf of the Committee relating to
21 administrative enforcement issues.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Pres.

24 PRESTON PATE: Thank you,

1 Mr. Chairman. I make the following motions on behalf
2 of the Research Set-Aside Committee. I move that
3 in addition to the current call-in and reporting
4 requirements the Council recommend the following:
5 for all vessels landing RSA quota commercial and
6 party charter boats require a pre-landing
7 notification by call-in by the RVR system that the
8 vessel is landing RSA quota with an estimate of the
9 RSA pounds to be landed by species at least one hour
10 before returning to the dock, (2) require vessels
11 to report their VTR serial number when calling into
12 the RVR system when reporting research set-aside
13 quota amounts landed and to report the dealer
14 number that they are selling their RSA quota to;
15 encourage National Marine Fishery Service to fully
16 implement a notification system by e-mail or other
17 real-time communication mechanism which alerts
18 law enforcement personnel about all vessel
19 activities under the RSA program including trip
20 and landing notifications received from vessels
21 participating in the RSA program, (4) require
22 commercial dealers who purchase RSA quota to
23 report RSA amounts purchased from vessels
24 separately from other commercial landing

1 purchases; this will improve verification and
2 accounting by National Marine Fishery Service on
3 the RSA amounts landed.

4 Mr. Chairman, I make those on behalf of the RSA
5 Committee.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Pres. Discussion on the motion?
8 Tony.

9 ANTHONY DILERNIA: Thank you, Mr.
10 Chairman. I have a few questions first related to
11 Mr. Seagraves presentation. Then I do have a
12 couple questions relating to the motion.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Go
14 ahead, Tony.

15 ANTHONY DILERNIA: Mr. Seagraves,
16 could you tell me how much is currently on the
17 average generated each year for the RSA set-aside
18 total?

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Rich.

21 RICHARD SEAGRAVES: About 1.2 million.

22 ANTHONY DILERNIA: Where does that
23 funding go?

24 RICHARD SEAGRAVES: Well, recently --

1 last year the lion's share of money the last
2 several years has been going to fund the NEAMAP
3 Program.

4 ANTHONY DILERNIA: Which?

5 RICHARD SEAGRAVES: NEAMAP. The
6 Northeast Area Monitoring Program, which is
7 basically the inshore compliment to the Northeast
8 Science Center spring/fall surveys conducted by
9 VIMS.

10 And it was developed principally
11 because the new vessel can't get into shallow
12 water, the NMFS survey vessel. And so in a
13 partnership amongst the states we had various
14 committees that were involved in development of
15 that program. It's been peer reviewed. So it's
16 a fishery independent twice a year survey that
17 provides data for all species collected that
18 compliments the Northeast Fishery Science Center
19 spring and fall surveys. That accounts for most
20 of the money.

21 ANTHONY DILERNIA: Do the states run
22 those surveys, individual states?

23 RICHARD SEAGRAVES: It's run by VIMS,
24 Virginia Student Marine Science, but the states

1 were heavily involved in the development, design
2 of the program. Have been very, very supportive
3 of it because it does get inside. The samples are
4 in the ocean but within state waters.

5 ANTHONY DILERNIA: Is that NEAMAP's
6 only source of funding?

7 RICHARD SEAGRAVES: No, it's not. In
8 some years I believe it has been. John Hoey has
9 been pretty innovative. Again, the NEAMAP
10 program basically the total cost annually to
11 conduct that survey is roughly equivalent to what
12 we've been generating in terms of RSA.

13 So, if they had no other sources of
14 funding, and the Council continued to fund it, it
15 would pretty much eat up the budget; however, John
16 Hoey's been pretty innovative in finding
17 cooperative research moneys to supplement
18 funding, so we, I think, last year NEAMAP cost the
19 Council about 650/700,000 in that range. That
20 freed up the balance of the RSA funds to conduct,
21 one, the scup fishery independent survey using
22 ventless traps.

23 Also, that was expanded to include
24 sampling for sea bass. So they were the three

1 primary funded projects. However, going forth in
2 the future, one of the concerns is given the tight
3 budgets that we're going to be faced with in this
4 upcoming year and future years, the concern is --
5 and John Hoey has expressed this -- they might not
6 be able to cobble together auxiliary funding for
7 NEAMAP, so the potential is that if we're going to
8 continue with NEAMAP, that could eat up pretty much
9 the whole budget.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Russ
11 Brown, do you have a comment to this point?

12 RUSSELL BROWN: Really quickly, over
13 the past two or three years, approximately 25
14 percent of the NEAMAP budget has been funded by the
15 Commercial Fisheries Research Foundation, which
16 is a foundation that was supported by a
17 congressional earmark that is no longer there in
18 the budget, and so that's an additional source of
19 concern. So somewhere between 20 and 25 percent
20 of the NEAMAP operating budget, which I believe is
21 approximately 1.2 million dollars.

22 RICHARD SEAGRAVES: Right. And then I
23 think there was another Gulf of Maine Fishery TMRI
24 or whatever -- Research institute. There was

1 monies I think came out of there John was able to
2 procure to help that freed up some money for RSA
3 programs to conduct other projects. But the
4 concern is that it's going to be tougher and
5 tougher.

6 Rich has already indicated a big chunk
7 of that money is not going to be there, and it's
8 uncertain and probably doubtful that we'll get
9 money from other areas.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thanks, Russ. Tony, did you have a follow up
12 question?

13 ANTHONY DILERNIA: Thank you for that
14 explanation of how the funding's going. Yes, I
15 was part of the original council that passed RSA
16 program, and I think Mr. Seagraves correctly
17 summarized what was my intentions when I voted for
18 it and maybe the intention of many other council
19 members who are no longer here. And that's why I
20 asked for a side explanation of how the RSA program
21 is currently working because it's not in my mind
22 what had occurred or what we intended to do when
23 we originally passed it.

24 My other question regarding -- or

1 statement or comments is towards the motions
2 that's on the board, regarding the one-hour
3 call-in ahead of time, if RSA is going to continue
4 to be used for the for-hire industry or the
5 for-hire industry is going to have access to the
6 RSA program, be aware that many of the for-hire
7 vessels do use the RSA set-aside to increase the
8 opportunities for the anglers on board their
9 vessels.

10 Many of those are four-hour fishing
11 trips, and so now prior to landing, cell phone
12 notification is acceptable. But be aware the
13 vessel will continue to fish prior to returning to
14 the dock, and I would not like to see a vessel
15 penalized for an estimate of what's going to be
16 landed when it's called in, say, three hours into
17 the trip; and when the vessel does land an hour
18 later because it could result in significant catch
19 that the vessel is permitted to fish for. So so
20 long as fishing does not have to end at the time
21 of the call-in, then I can support the motion. But
22 if fishing has to end at the time of the call-in,
23 then I could not support the motion.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 George, you have a comment on this point?

2 GEORGE DARCY: Yeah. To that point and
3 to the broader point. Our staff at the Regional
4 Office and at the Center and Council staff I think
5 are also continuing to look at the details of these
6 suggestions here to see which of them we can do or
7 which can be improved through further analysis.

8 So there's a lot of details that are
9 continuing to be looked at that would go into what
10 we can and can't do or how we would actually
11 implement it.

12 ANTHONY DILERNIA: Okay. Thank you.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Pres
14 Pate.

15 PRESTON PATE: Yeah. Unfortunately, I
16 quit too soon in my explanation of the motions that
17 were passed by the Council. There's one more: To
18 investigate the feasibility of requiring the RSA
19 quota fished to be taken individually or for higher
20 volume amounts boxed and marketed at sea
21 indicating they are RSA quota. And No. 6 is the
22 motion that --

23 RICHARD SEAGRAVES: Six is the one that
24 the staff was going to ask for -- or you may want

1 to go through the first five.

2 PRESTON PATE: Well, that's what I was
3 thinking.

4 RICHARD SEAGRAVES: Okay.

5 PRESTON PATE: Number 6 is the one that
6 we're discussing now. Thank you, Mr. Chairman.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Chris Zeman.

9 CHRISTOPHER ZEMAN: Thank you. I just
10 had one question, and that is: Have there been any
11 enforcement actions for violation of using RSA in
12 some sort of a legal manner?

13 COUNCIL CHAIRMAN RICHARD ROBINS: I
14 believe there have. I'll ask the regional office
15 to comment.

16 GEORGE DARCY: I'm sorry. Your
17 question was: Have there been any enforcement
18 actions?

19 CHRISTOPHER ZEMAN: Yes. And
20 identified violations.

21 GEORGE DARCY: I can't answer that
22 question. Do you know, Joel? Joel says he has
23 not heard of any. Do you know of any?

24 RYAN SILVA: Yeah. I believe there

1 have been or there may be some ongoing, but I'm not
2 familiar with the details of those.

3 GEORGE DARCY: There have been
4 instances referred to enforcement to look into.
5 That I know.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Peter Himchak.

8 PETER HIMCHAK: Mr. Chairman, at the
9 June meeting, Officer Scott Doyle gave us a
10 presentation, and he talked about an ongoing case
11 that, of course, he's limited in his ability to
12 expound on it, but he left me at least with the
13 impression that their net was being cast in a wider
14 scope, and that he was going to come before us with
15 a much more extensive enforcement report.

16 I don't think it's going to happen at
17 this week's meeting. But he said that we would be
18 receiving something in the future.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Kevin Saunders.

21 KEVIN SAUNDERS: Thank you, Mr.
22 Chairman. The recommendation I think was on the
23 Board for a phone call to go in to law enforcement.
24 Was the intent of that to be NOAA law enforcement?

1 VMS because certainly if you're going to have a lot
2 of the smaller vessels that participate in the
3 program do not have VMS. And I think the feeling
4 of the Committee was it would be too great of a
5 burden for just this program.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thanks, Rich. Steve Heins.

8 STEVEN HEINS: Thanks. Just following
9 up on the law enforcement issue, and then I have
10 another thing about No. 2 that I want to clarify.

11 New York has had a couple of what we call
12 violations of the conditions of our permits, and
13 so we handle it as on a state level. And the way
14 we handle that is we do not allow the person that
15 is in violation to participate in the following
16 year. So we've had a couple of those.

17 As far as the case that Scott Doyle
18 talked about, my understanding is it could be a
19 year or two before that's fully developed and we
20 see any kind of report out of that, so it could be
21 some time.

22 My question for clarification is on Item
23 2 in our list. The requirement is to report the
24 dealer number they're selling the RSA quota to.

1 But my understanding would be that in the case of
2 a party and charter vessel that are not selling
3 their catch that they would be exempt from that or
4 that there would be some other provision made, a
5 disposition code or something that they would have
6 to report. I'm not sure how that would happen.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Steve, I think that is the case. George, do you
9 have any comment on that?

10 GEORGE DARCY: I'm sorry. I was
11 looking at something else. Ryan --

12 RYAN SILVA: Like George said, all of
13 these items need to be looked up more carefully to
14 make sure they're practical and effective.

15 Some of these wouldn't be applicable for
16 all the vessels that are participating in the
17 program. If the Council chooses or wants to limit
18 that pool, that may change how the conditions
19 apply, so.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Ryan. Other discussion on the motion?
22 Dewey.

23 DEWEY HEMILRIGHT: I don't know if this
24 is the time, but I got some questions about the RSA,

1 but I don't believe it's on some of these motions.
2 So maybe after these motions if there could be some
3 further comments or something.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 That's fine. Rob O'Reilly.

6 ROBERT O'REILLY: Yeah. I guess on the
7 one hand I am not sure about this hour before
8 either, and I don't think anyone said, yes, they'd
9 keep fishing, but you'd assume they would keep
10 fishing.

11 And I think the law enforcement
12 situation getting notifications, it may be that
13 right here that sounds pretty good, but to me the
14 best system would be for law enforcement to know
15 who's out, a hail in system where there was plenty
16 of time for that information to be disseminated
17 among law enforcement, and they would have a pool
18 of permittees that they knew would be out that day.

19 I'm not sure what it really accomplishes
20 to have a report or an estimate because I'm
21 skeptical that those estimates are really
22 scrutinized according to the landings afterwards.

23 So to me it would be more important to
24 hail in than to do the hour before. Since there

1 is state waters involvement, it's a little
2 different than some of the offshore fisheries
3 where you can require once they land, and land
4 means enter that state waters the way Virginia
5 defines it, there's plenty of notification that
6 way. So that's one point, to think about whether
7 the hailing in might be more important. I guess
8 law enforcement and others would have to talk about
9 that.

10 The second idea is on the party charter.
11 I assume they are not calling in anything, but they
12 certainly could call the VTR system, and then at
13 least if there are problems, their word is their
14 bond.

15 I mean they have called in and said we
16 have this amount of fish, if there are any
17 problems, at least there's a record somewhere.
18 But to my knowledge they don't call in. Is that
19 correct at this time?

20 RICHARD SEAGRAVES: No. This would be
21 a new requirement. But to your point about trip
22 notification, I think your concern is captured a
23 little bit in No. 3.

24 We're encouraging NMFS to fully

1 implement a notification system, and so that could
2 and hopefully would include a notification of
3 departure, and then also we're adding the return.
4 So everybody would have to call in.

5 ROBERT O'REILLY: Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thanks for the clarification, Rich. Dewey.

8 DEWEY HEMILRIGHT: This past year I
9 participated in an exempted fishing permit for the
10 closure off North Carolina to Key West, Florida,
11 and we would call in. I would suspect -- it might
12 not be true, but all state agencies probably have
13 somebody there 24 hours a day to answer a phone in
14 enforcement.

15 I know in North Carolina we would have
16 to call in 24 hours ahead, tell the lady where we're
17 going fishing, what we're fishing for and stuff,
18 and coming back we would call in, and there was some
19 way -- and you'd call back if you had break down.

20 It worked. You just had to remember to
21 call in in 24 hours. But because the different
22 tides or something happened, but it pretty much
23 worked pretty good. But I don't know if somebody
24 hanging out in the Gulf 24 hours a day. I know in

1 North Carolina we do. But it didn't seem to be a
2 problem.

3 A lot of the commercial vessels we have
4 VMS. So I would think that it's workable as far
5 as that. Because you got a couple things to look
6 about it. On these boats if you have independent
7 universities or something that's with you, that's
8 one story, but if you're just by yourself and some
9 things might have to be you get to the dock, you
10 meet with a state person to do measuring or
11 sampling and stuff like that. But I would think
12 it's a doable thing the 24-hour call-in or
13 something just to get an idea. So that way they
14 have a list. Say here it is. Well, did he call
15 in?

16 And it's workable working with the folks
17 with it to try it out. But it worked for us for
18 the blue line tile thing. It was like a hundred
19 trips over like six months that that 10 or 12 boats
20 had to call back and forth. And there might have
21 been a hiccup or two, but it worked.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thanks for pointing that out, Dewey. And I think
24 the system that we're contemplating using is

1 automated. It's an RVR system. But anyway.
2 Other discussion on the motion? Peter Himchak.

3 PETER HIMCHAK: Just one other point on
4 the call-in system. In addition to getting an
5 exempted fishing permit from the National Marine
6 Fishery Service, I believe every vessel would also
7 have to have some kind of a state-issued fishing
8 permit under the RSA Program. And in New Jersey
9 that is one of the requirements. You can put in
10 any number of requirements under your state
11 collecting permit as well. We require that they
12 declare if they are embarking on an RSA trip. And
13 -- you know, for our enforcement officers who are
14 located in different areas then they are apprised
15 of who's fishing where and under what
16 circumstances, so that when a call-in comes, they
17 can anticipate being -- and we have other
18 requirements on weighing fish and monitoring the
19 catch, so. Yeah, you can put another layer of
20 specific requests -- conditions to meet the needs
21 of your state.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thanks, Peter. Further discussion on the
24 Committee motions?

1 (No response.)

2 (Motion as voted.)

3 {Move to approve the Administrative and Enforcement
4 Issues, as stated in the MAFMC RSA Program
5 Recommendation paper, numbers 1-5, as recommended
6 by the RSA Committee.}

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Seeing none, is the Council ready for the question?

9 Is there any objection to the motion as
10 presented by the Committee?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Seeing none, it's approved by consent. Thank you.
14 Rich.

15 RICHARD SEAGRAVES: Thank you, Mr.
16 Chairman. So then that would bring us again to No.
17 6, which was not passed by the RSA Committee, but,
18 again, after the meeting and conversations with
19 Chris and also I talked with Joel, we think it would
20 be prudent to entertain a motion requiring -- it's
21 up on the board -- and this would require a motion
22 and a second from the Council because it was not
23 part of the RSA.

24 But the essence of it is make it clear

1 that only vessels that have federal permits are
2 going to be allowed to participate. And Joel has
3 advised that in cases where the RSA is to be
4 harvested in state waters only, that a state permit
5 would be considered to meet this requirement.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Rich. Pres. Go ahead. Is there a
8 second to the motion? Thank you. Second by Steve
9 Heins. Discussion on the motion? Jeff.

10 JEFFREY DEEM: I'm sorry. Is this for
11 commercial vessels only?

12 RICHARD SEAGRAVES: The way it's
13 currently written, it would allow any federal
14 permitted vessels, so that would include party and
15 charter.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Further questions or discussion on the motion?
18 Tom Fote.

19 THOMAS FOTE: Tom Fote. I represent
20 Jersey Coast Angler Association. We have had
21 serious concerns the way the money is being used
22 for the RSA program all along. And when I look at
23 this motion here -- and I understand the reasoning
24 behind it, and I understand how much it's hard to

1 enforce it on private boats, but when I look at the
2 quota, example, yesterday wearing my other hat
3 sitting around this table, we looked at summer
4 flounder, and we looked at where a large portion
5 of that summer flounder quota comes from, and it
6 comes from the private boats and the surf, and the
7 party boats and charter boats make up a percentage
8 of that, but it's a small percentage compared to
9 the rest of the fishery. You are now eliminating
10 those people from participating, yet when you
11 basically take away their quota for the research
12 there comes a large portion out of their fish.

13 And I heard yesterday fair and equitable
14 thrown around here a lot. We try to do certain
15 things. And this is really not fair and
16 equitable. I understand the problems with
17 enforcement, but I really need to put that on the
18 record because -- and I know when Jersey Coast
19 signed up for this program and supporting this
20 program when Tony was, we supported a different
21 program. It didn't go out to public hearing. It
22 was basically a program that was supposed to do
23 cooperative research.

24 I can't help it if NMFS built a boat that

1 can't do the job it was supposed to do, so they
2 relinquished part of their responsibility of stock
3 assessment which they -- their responsibility.
4 And now trying to push it onto the states and making
5 the states pay for it. I think there'd be a lot
6 more sympathy and understanding in the private
7 boat industry and from private fishermen if they
8 knew the research was going toward what it was
9 designed to when this program was put forth to them
10 for cooperative research.

11 I've watched over the last couple of
12 years recreational projects put in and because a
13 large portion of this goes to NMFS for this NEAMAP
14 program, which is a very important program, but it
15 comes out of those pockets that were not supposed
16 to design there. And those projects that we
17 wanted to go forward the recreational community,
18 got turned down including one this year. So we
19 have dramatic concerns about this program to begin
20 with. And as you notice, New Jersey votes against
21 it. And I think there's going to be more of a
22 ground swell especially in the recreational
23 community if this continues the way it is. It used
24 to be NEAMAP was a line item down in there in the

1 southern region.

2 Why is the north different from the
3 south? I didn't know. We didn't lose no war. So
4 I'm basically upset about this. So that's my
5 concerns. I understand the problem with private
6 boats. But, again, we get to the fair and
7 equitable. How do you handle it?

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Bonnie, did you have your hand up? I didn't see
10 it until after the vote. But did you want to
11 comment on this motion or more generally? If you
12 want to comment, go ahead, please.

13 BONNIE PARADY: I just had a couple of
14 questions, and you may have answered one. But,
15 one, when it says require pre-landing notification
16 with an estimate of the RSA pounds at least one hour
17 before returning to the dock, obviously, it is
18 fishing, and so if you're offshore for a period of
19 time, I'm not sure how that works whether they're
20 planning on boat tracks method of calling in
21 because cell phone service if you're offshore you
22 have no service unless you have a sat phone, and
23 sat phones are extremely expensive. So that's
24 something I know New York as it stands now 'cause

1 I do it, you e-mail in the day before when you're
2 leaving, which port you're leaving from, at the
3 time that you're planning on leaving, the
4 approximate time you think you're going to be back,
5 and the VTR number.

6 And then once the fish is landed, within
7 24 hours we have to send a copy of the VTR to the
8 state which gives the information on the dealer.
9 But saying how many pounds necessarily there may
10 be some problems as far as in getting that exact
11 amount or even a close amount because you don't
12 know.

13 You're not going to know if you're
14 offshore. You have no way to contact in house.
15 And also which dealers it's going to, unless
16 there's that window of 24 hours because there's
17 several dealers in New York and you're playing one
18 against the other to get the best price.

19 They know that they've got you over a
20 barrel before you leave for your trip. It's
21 ludicrous. So there has to be I think a little
22 leeway in New York especially because we sell it
23 on the flying face of consignment, which is a
24 unique process to begin with. We don't sell it

1 straight to the dock, so as such there should be
2 some other way involved.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you, Bonnie. And as we've heard, there will
5 be a review of a lot of these details going forward
6 in terms of what's practical and what's not.

7 I think we can draw on the experiences
8 of the Regional Office as well as the states as far
9 as notification programs. But thank you.
10 Further discussion on the motion?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 the Council ready for the question?

14 Is there any objection -- yes, Frank.

15 FRANK BLOUNT: I want to ask, No. 6 it
16 says a federal permit to harvest. Is that a new
17 federal permit or just a federal permit?

18 RICHARD SEAGRAVES: Existing.

19 FRANK BLOUNT: Can it be any federal
20 permit?

21 RICHARD SEAGRAVES: Yes.

22 FRANK BLOUNT: So if I could have a
23 squid permit, can I land fluke?

24 RICHARD SEAGRAVES: Yeah. I mean

1 that's the way -- well, no. No. I'll throw that
2 one back over to Joel for his final. That's a good
3 question.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Joel, we're going to put you on the spot one more
6 time.

7 JOEL MACDONALD: I'm always on the spot
8 it seems. Frank, are you asking whether you need
9 a permit for the species involved in the RSA?

10 FRANK BLOUNT: Yes. Yeah.

11 JOEL MACDONALD: Unless you have a
12 party and charter boat permit, this covers a
13 multitude of species. If there are party and
14 charter boat permits required for the species of
15 fish that you receive as RSA, you would need a party
16 and charter boat permit for that.

17 If you're another federally permitted
18 vessel and are fishing for species that you don't
19 have a federal permit for, you'd have to get it.
20 That's my understanding how it works. Does that
21 clarify the situation?

22 FRANK BLOUNT: So, if somebody doesn't
23 have a moratorium permit, they wouldn't be able to
24 buy RSA fishing under a different one. That's the

1 intent?

2 JOEL MACDONALD: That's correct.
3 Because you're stuck with the possession limit if
4 you don't have a moratorium permit for some of
5 these species.

6 FRANK BLOUNT: But is there a
7 possession limit if you have RSA?

8 JOEL MACDONALD: Do you want to speak to
9 this?

10 GEORGE DARCY: I think it would depend
11 upon the exemption you ask for. You can get
12 exempted from a bag limit or a possession limit or
13 a trip limit or a seasonal limit if you get an EFP
14 to accompany the RSA allocation you've got.

15 So that's partly why this works, because
16 people can gain value from those fish because they
17 can fish times, places, sizes, and so forth that
18 they couldn't otherwise fish. But you'd have to
19 have the EFP to do that.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Greg, to this point?

22 GREGORY DIDOMENICO: To this motion,
23 Mr. Chairman, just a quick question I'm hoping Ryan
24 Silva can answer. Good morning, Ryan. No, I

1 didn't ask anything yet.

2 Just speaking to No. 6, we believe this
3 will cut down on probably close to 30 percent of
4 the bidders in the auction. Will this be enough
5 to take down the number of vessels that will -- you
6 know, address some of the Agency's concern of the
7 difficulty of managing all this?

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Ryan.

10 RYAN SILVA: I actually am not sure how
11 No. 6 changes anything. The way I look at that,
12 we already for federally permitted vessels they
13 need an EFP. For state-only vessels they work
14 with the states to get the state permits. To me
15 that's what that says.

16 The only thing I see this doing is
17 limiting someone who doesn't have any permit at all
18 state or federal from participating in the
19 program.

20 GREGORY DIDOMENICO: Okay. I don't
21 think that was the intention. Am I right?

22 RICHARD SEAGRAVES: It's okay. What
23 was the issue?

24 GREGORY DIDOMENICO: The intention of

1 No. 6 is to essentially allow people who are only
2 federally licensed to participate in the auction.
3 Right?

4 RICHARD SEAGRAVES: Except that if
5 you're going to be harvesting in state waters only,
6 a state water permit would suffice.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Greg.

9 GREGORY DIDOMENICO: So the second part
10 of it: So what does No. 6 accomplish?

11 RICHARD SEAGRAVES: Again, tidy things
12 up, make it clear that you -- I mean we're relying
13 on some suggestions and policies that have been
14 adopted in this permitting process and the auction
15 process, and here is an attempt to be transparent
16 about who gets to participate.

17 So, basically, in terms of the way
18 things are working right now, probably nothing.
19 But if an event that private groups got together
20 and didn't have any kind of permit and wanted to
21 come into the auction and bid on it, it would
22 prohibit that.

23 So it really doesn't change anything,
24 but it's an attempt to be transparent and clear

1 about what the intent of the Council is.

2 GREGORY DIDOMENICO: Okay. I asked for
3 the obvious reasons to understand the intent but
4 also -- you know, to explain we've tried in several
5 different ways to limit the number of people
6 fairly, but to limit the number of people who are
7 in the auction. We're still not at a manageable
8 amount quite frankly, but we'll continue to try to
9 do that because I know it's a difficult situation
10 for the Agency. Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Tom
12 Fote to the motion.

13 THOMAS FOTE: I know New York basically
14 requires state permits, but I don't know if New
15 Jersey does. I know they require as part of the
16 MRIP program they have to be registered now because
17 of the party and charter boat, but I'm not sure if
18 they need to have fluke permits or any of those
19 permits in state waters.

20 And so would that qualify for those
21 because Jersey coast does have those two charter
22 boat associations that are members of it. So I'm
23 not sure how that would affect them, whether they'd
24 be able to get it or not.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Peter, do you want to follow it up?

3 PETER HIMCHAK: Yeah. So every vessel
4 that lands fish under the RSA program has to come
5 under what our scientific collection permit. So
6 every vessel is listed. You need the exempted
7 fishing permit from the feds and additionally with
8 the state.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thanks, Peter. Is the Council ready for the
11 question?

12 (Motion as voted.)

13 {Move that the Council include a requirement that
14 vessels be required to possess a federal permit to
15 harvest RSA quota. In cases where RSA quota is to
16 be harvested in stat water only, a state permit
17 would be considered as meeting this requirement.}

18 COUNCIL CHAIRMAN RICHARD ROBINS: All
19 those in favor please indicate by saying aye.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Opposed like sign.

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: The

1 motion carries. Thank you. Pres.

2 RICHARD SEAGRAVES: Yeah. Okay.
3 Thank you, Mr. Chairman. So the final set of
4 motions related to the RSA program improvement
5 relates to the RSA auction. And basically the
6 public has been critical of the current process.

7 It basically has operated outside of the
8 council process and criticisms have included
9 complaints about lack of transparency oversight,
10 perceived unfairness by some of the eligibility
11 rules that sometimes are imposed, and lack of a
12 publicly available accounting of transactions
13 associated with the RSA quota and auction and its
14 distribution.

15 So the next set of motions deal with
16 trying to improve the accounting transparency,
17 etcetera, rules that are relative to the auction
18 process itself. So Pres.

19 PRESTON PATE: Mr. Chairman, on behalf
20 of the Committee, I make the following motion: To
21 request the National Marine Fishery Service enter
22 into a contractual agreement with a third party to
23 conduct an auction of research set-aside quota;
24 the contractual agreement should include

1 stipulations to be developed in consultation with
2 the Council about how the auction is to be
3 conducted including but not limited to rules
4 concerning eligibility to participate in the
5 auction and transferability of fish among RSA
6 auction participants, specifications of
7 administrative fees, and distribution of funds to
8 researches; the goal is to provide an RSA quota
9 auction system that generates revenue to fund
10 scientific research through a competitive and
11 transparent process; conduct annual financial
12 audit so the RSA program including the auction
13 process which would be made available to the
14 public. I make those motions on behalf of the
15 Committee.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thanks, Pres. The motion does not require a
18 second. Discussion on the motion? I'm sorry.
19 Go ahead, Joel.

20 JOEL MACDONALD: I don't believe NMFS
21 has any authority to conduct an auction. The only
22 reference to auctioning in the Magnuson Act is in
23 Section 303A. It pertains to a limited access
24 privilege program, and it's a creature of an FMP

1 a little?

2 JOEL MACDONALD: I'm sorry. I can't
3 drag it quite close enough without pulling -- okay.
4 Thank you. What I was saying is even though you're
5 looking at a third party, this action would be
6 attributable to the Fishery Service.

7 It would be the Fishery Service
8 conducting the auction regardless of the fact that
9 it's done under a contract, and I really question
10 -- I've never seen any authority that the Fishery
11 Service would have to conduct such an auction.

12 As I mentioned previously, the only
13 auctioning authority is in the lap section, and we
14 don't have a lap FMP that would authorize such a
15 program. So we will look into it to see -- you
16 know, we'll have to talk to the DOC folks to see
17 what their perspective is.

18 I mean they're the ones that have dealt
19 with the issue of whether the RSA Program had to
20 be conducted under a grant or a contract, and they
21 hold firm to the position that it has to be done
22 through a grant process. So we'd be more than glad
23 -- well, Denise will be more than glad to look into
24 this.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. Chris.

3 CHRISTOPHER MOORE: Thanks for that,
4 Joel. I think there may be some confusion because
5 we do have an auction process that's currently in
6 place through NFI. So how does that arrangement
7 work with the National Marine Fishery Service? It
8 probably would be good for you to explain how that
9 happens and how this would be --

10 JOEL MACDONALD: The NFI auction is
11 totally separate from any action on the part of
12 NMFS. Once NMFS goes through the grants process
13 and awards the fish to the successful applicant,
14 then it's really within the province of the
15 applicant alone as to what to do with that.

16 There's no nexus between that stage of
17 the process and the Fishery Service; whereas, here
18 we have a direct nexus in that NMFS is contracting
19 with this other party, and that does not exist in
20 the NFI situation.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Joel, in light of that answer, is there anything
23 that would prevent the Council from imposing
24 stipulations or adopting requirements of any

1 auction process as a council prerogative? I mean
2 could the Council lay out the requirements related
3 to the auction and require a report back to the
4 Council if those fish are being transferred
5 between researchers and the market?

6 JOEL MACDONALD: The honest answer is:
7 I don't know. My suspicion is that, no, you can't
8 do that. It really is beyond the purview of the
9 functions set out in Section 302 of the Council,
10 and it relates to my answers to the original
11 questions and which Rich characterized as no, no,
12 and no. But we will be glad to look into it.

13 I typically don't express a personal
14 opinion on a lot of this, but I'm really concerned
15 about the involvement of the recreational side of
16 the fishery in the RSA program.

17 There's virtually no accountability.
18 They don't sell the fish. You don't have a
19 convenient dealer report to keep track of this. I
20 don't know how to get on top of that.

21 I mean obviously one of the
22 considerations is, okay, let's require the fish to
23 be sold to a federal dealer and not go through an
24 auction. I mean that's a consideration. You

1 think we're going to have to refer this section of
2 the motions to general counsel for evaluation and
3 consideration. But further discussion on this?
4 Erling.

5 ERLING BERG: Now we have some kind of
6 agreement with NFI to run this. Now, what was the
7 process that got us into that scenario? It just
8 didn't come out of thin air. It had to be some kind
9 of process. How was that done?

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Erling, I think the way Rich described it, the
12 proposal came from an NFI member at the time, Danny
13 Cohen, and the plan unfolded from there as far as
14 putting together a forum really where the
15 researchers once awarded the fish could auction
16 them off and turn them into revenue dollars to
17 support the research. Erling.

18 ERLING BERG: Listening to Joel again,
19 maybe this motion should be postponed to some
20 future date. Maybe that's the way to go until we
21 get more information.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Well, I think we need to get some legal advice on
24 whether or not we can do this before we recommend

1 it to the Agency. Chris Zeman.

2 (No response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Laurie.

5 LAURIE NOLAN: Thank you, Mr. Chairman.

6 I wonder if -- I mean all along NFI has been
7 operating kind of on their own and independently
8 and making the rules of the road. With us the last
9 motion that we just passed tightens things up some
10 so the Council is kind of weighing in on how NFI
11 conducts their auction, who can participate and
12 who can't.

13 So you almost wonder if that doesn't
14 have to be a concern anymore. It makes for another
15 layer of regulation perhaps, and it certainly may
16 down the road reduce flexibility that NFI has that
17 we don't necessarily want to reduce.

18 So I mean I understand we're putting
19 this on the back burner regardless, but maybe it
20 should be something that we don't have to worry
21 about so much based on the motions that we passed
22 prior to that.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Well, Laurie, I think to that point, there may be

1 some significant improvements that come about from
2 the first part of the recommendations, but I think
3 we still ought to go through the review of the
4 general counsel to see what in fact we could
5 recommend in terms of programmatic changes.

6 And if those aren't possible, then we
7 may be able to further evolve some reporting or
8 take other practical steps to increase the
9 transparency which is what this is trying to get
10 at if the process remains an NFI process. Pres,
11 do you have any further thoughts on this question?

12 PRESTON PATE: No. I think asking for
13 some clarification of it is necessary, and we need
14 to put it on the back burner.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Okay. Then without objection, why don't we send
17 this to general counsel, this part of it to general
18 counsel for review. Steve Heins.

19 STEVEN HEINS: Do we need a motion to
20 table this until we get a review? No.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Well, you can make a motion if you would to refer
23 this to general counsel for review.

24 STEVEN HEINS: All right. Then I so

1 move.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion? Second by Peter
4 Himchak. Is there any objection to the motion
5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Seeing none, it's approved by consent. Thank you.
8 Preston.

9 PRESTON PATE: Rich, have you got
10 another set of motions?

11 RICHARD SEAGRAVES: That concludes the
12 business of the RSA Committee from the last -- from
13 the June meeting what motions they passed. So
14 hopefully we can move on now and pretty quickly
15 move through the 2014 prioritization process
16 identification.

17 And this process we've been doing for a
18 number of years. Essentially, we have to deliver
19 a list of research priorities for the RSA program
20 by October to the National Marine Fishery Service
21 for the development of request for proposals. And
22 so in the briefing book and then there should be
23 a handout with an update. We had some late
24 entries.

1 Essentially what we do is take last
2 year's list of priorities and circulate those
3 around and get recommended changes. And we had a
4 few late entries.

5 In addition to that, you had another
6 handout that's a spreadsheet. It says final
7 weighted average scores total sorted from total
8 high to total low. And as I had indicated, we had
9 been working with the SSC in developing a
10 prioritization process, and this was our first cut
11 that we were actually -- I worked with Mark Holiday
12 and one of his interns. And what we did is we took
13 last year's research prioritization list and ran
14 it through the process.

15 This is a work in progress, but I did
16 want to present it because basically this process
17 is one in which initially each species group or
18 research category is weighted based on the species
19 economic value and its recreational value. So
20 it's sort of an importance filter that each species
21 goes through.

22 And then the SSC was asked to score each
23 of the proposed topics relative to a bunch of
24 different parameters. How much would this

1 research decrease scientific uncertainty, would
2 it have positive social impacts?

3 And you can read across the top. And
4 they have various weights. And then each of the
5 SSC members was asked to score each of last year's
6 projects, and what you see is a result on the right
7 sides.

8 A relative decibel would be an overall
9 ranking of the 22 research RSA priorities that were
10 listed last year. Now, this was sent out for
11 timing with the SSC meeting. It included some
12 things that we're going to scratch off the list
13 unfortunately. Well, fortunately some work has
14 been accomplished, and we're going to go through
15 that. So I think the value -- and so this is a work
16 in progress.

17 But I did want to put it in front of you
18 so that you have an understanding of where we're
19 headed when we perfect this. I think it will be
20 used integrally next year.

21 And I think my personal problem with --
22 it sounded like a good idea to do the species
23 weighting, importance initially, but when you
24 think about it it's counterintuitive if you take,

1 say the dockside value of the landings for the last
2 couple of years and you've got a stock that's
3 overfished or a low level of abundance or a high
4 scientific uncertainty, as in the case of black sea
5 bass where you're restricting the quota because of
6 uncertainty, that's going to artificially reduce
7 the economic value of the landings, etcetera, the
8 recreational harvest.

9 So we've got some work to do here. This
10 was not discussed at the SSC meeting, but this idea
11 of weighting the thing initially. So what you see
12 is the species that have the greatest economic
13 value automatically score higher relative to other
14 species. So you're kind of in a conundrum where
15 if you set -- the value of the fishery has been
16 constrained because of rebuilding, well, they're
17 the ones that you really need to have the highest
18 priority.

19 So this spreadsheet does not -- I don't
20 think it's state of the art, ready for prime time
21 yet for comparison across species, but within
22 species it is useful because it gives you the SSC's
23 prioritization of the topics within a species
24 relative to one another, the topics relative to one

1 another.

2 So just a word of explanation. I'm not
3 going to draw heavily on that. But up on the board
4 and what we've done in the past is to go through
5 last year's list and look at suggested changes and
6 go ahead and wordsmith this list right up on the
7 board.

8 So the first, if I draw your attention
9 to the screen, the first topic is research items
10 spanning multiple species. And the only one
11 listed under there is conduct fishery independent
12 surveys for all Mid-Atlantic species especially in
13 the near zone.

14 And basically what we're talking about
15 is NEAMAP. And so we discussed this at the SSC.
16 And you also see that in terms of ranking it did
17 score the highest under the SSC's prioritization
18 process as well. So you have the full support of
19 the SSC in listing NEAMAP as a RSA project. So
20 what I was thinking, Mr. Chairman, is what we would
21 do is I'll go through each of these. They're
22 basically broken down by topic area.

23 So the first one is multiple species.
24 So I'd look for concurrents or any discussion on

1 the Council on each item, and then I'll move
2 through them.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Go
4 ahead, Rich.

5 RICHARD SEAGRAVES: So the first one,
6 again, would be NEAMAP. So are there any
7 objections to including that on the list again?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any objection to including that?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Seeing none, Rich.

14 RICHARD SEAGRAVES: Now, we'll move on
15 to interactions between loligo squid, butterfish,
16 Atlantic mackerel and river herring. The first
17 topic is related to improving methods, at-sea
18 observer and port sampling procedures and to
19 investigate the accuracy and precision of that
20 sort of information. As you note, Jason has
21 recommended deleting this because it has been
22 addressed in Amendment 14. So the proposal would
23 be to X this one out, cross this one out.

24 The next one: test gear modifications

1 in addition to mesh size and/or alternative gear
2 types, e.g. jigging in the loligo squid fishery to
3 reduce bycatch of butterfish and other species.

4 Secondly, study mortality rates of
5 loligo squid to pass through trawl meshes to
6 evaluate effects of mesh regulations on fishing
7 mortality of loligo by size/age.

8 And third, evaluate the use of
9 videography to document loligo catches without any
10 or minimal butterfish bycatch. What Jason has
11 recommended is that we strike out the last as an
12 individual topic item, the videography portion,
13 insert that language into testing gear
14 modifications.

15 So we would be keeping -- so under
16 Atlantic mackerel, under the squid, mackerel,
17 butterfish complex, we would be striking out that
18 one since it's already been addressed, and we would
19 strike out the last one and insert videography into
20 test gear modifications. So get the Council's
21 pleasure on that.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Peter Himchak, you've got a comment?

24 PETER HIMCHAK: Yeah. Incorporating

1 into. Well, it loses its impact as a stand-alone
2 objective, but. Okay. So it's deleted as a
3 separate entity, but it's included under generic
4 heading of test gear modifications including
5 videography.

6 COUNCIL CHAIRMAN RICHARD ROBINS: I
7 believe that's correct. Is that correct, Rich?
8 Okay. Further questions on this section? Jeff
9 Kaelin.

10 JEFFREY KAELIN: Thank you, Mr.
11 Chairman. Good morning, members of the Council.
12 Jeff Kaelin, Lunds Fisheries in Cape May, New
13 Jersey. I wanted to -- I agree that the bullet on
14 at-sea observers and so forth has been addressed
15 by Amendment 14. I think it's good to take that
16 out.

17 But there are a couple other issues on
18 this loligo squid interaction issue in the
19 mackerel fishery that I'd like to highlight to the
20 Council and see if we couldn't move some language
21 in to kind of expand this. I really appreciate the
22 re-evaluation of priorities, and I think these are
23 priorities that actually might get funded, which
24 is nice to see because so many times we're

1 developing lists that are never funded. And
2 clearly we're challenged by an awful lot of issues
3 that we're struggling with on the fishing grounds
4 in terms of avoiding species that we commonly
5 interact with, and -- you know, we've got
6 situations where fisheries that are very important
7 and valuable like the loligo squid fishery may be
8 shut down over -- the butterfish cap may shut us
9 down for the third trimester. So we need to make
10 some progress.

11 On the loligo butterfish interaction,
12 I'd like to consider adding language that would
13 investigate the potential for industry surveys to
14 support assessment.

15 We've been working with Rutgers on some
16 habitat modeling that I think is promising in terms
17 of identifying whether or not the survey
18 historically has missed butterfish habitat.
19 That's a big issue, and there's a lot of science
20 developing around this.

21 Did you put that up there? I'll give
22 that to Jason. I'd like to see if we couldn't add
23 that. On the mackerel side, remember we asked for
24 a 3-inch mesh in the mackerel fishery because we

1 thought it had potential to eliminate river
2 herring and obviously also eliminate juvenile fish
3 in both the mackerel and the herring fishery, and
4 we were told that there hadn't been any gear
5 studies, so that we couldn't consider it, so I'd
6 like to have mesh sizes applied to a bullet that
7 would focus on the mackerel, river herring
8 interactions.

9 And I think there's a potential to use
10 grates perhaps also to minimize river herring
11 beyond the bycatch avoidance project that we're
12 working with in the fishing grounds. So thanks
13 for the time to add those things.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Jeff, and why don't you stay there for
16 just a minute in case we have any questions. Rich.

17 RICHARD SEAGRAVES: Yeah. To your
18 first point, Jeff, and I didn't get that. I
19 started typing in and jumped on the second one.
20 But we're going to move down to during the spring
21 -- maybe this can be broadened.

22 But the idea is conduct exploratory
23 sampling for squid, mackerel, butterfish species
24 in deep water beyond the range of the current

1 survey. Would that --

2 JEFFREY KAELIN: I like that also. And
3 that's the whole issue of seeing if there's
4 mackerel that's on the edge of the shelf in deep
5 water, and that's an important one.

6 RICHARD SEAGRAVES: It doesn't --

7 JEFFERY KAELIN: No, it doesn't. I
8 think there ought to be a squid fishery butterflyfish
9 interaction bullet that would say something like
10 investigate the potential for industry surveys to
11 support assessment.

12 And we've been talking to the Science
13 Center about that kind of an approach. And Bill
14 Carp we're going to enjoy him I think at the Center,
15 and I'm looking forward to tomorrow to Russ' or
16 today I guess to Russ' description of the new
17 approach at the Science Center. We're looking
18 forward to that too. And I think this is something
19 that we could make some progress with. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Jeff. And I would just ask also --
22 Jason, I don't know if you have any comment -- but
23 did staff give consideration or discussion to
24 either of these issues, the 3-inch mesh or the

1 issue of industry surveys?

2 JASON DIDDEN: I think the mesh and the
3 grate thing would be interesting and certainly
4 have some potential applicability. Probably
5 worthwhile to highlight those as needs. And the
6 industry surveys it's especially supporting
7 assessments in terms of real time assessments, I
8 think is something that I can imagine being looked
9 at over the next year or two and good to highlight
10 here also.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. Jim Weinberg.

13 JAMES WEINBERG: Thank you. I just
14 wanted to raise a small flag here. In the past
15 when I've heard discussions about industry funded
16 surveys to support stock assessments, usually the
17 conversation gets around to whether this will take
18 place for one year or it will be something that is
19 actually well funded that can continue for
20 multiple years in the way that it's usually needed
21 to serve as an abundance index in a stock
22 assessment.

23 So I have no objections to initiating
24 studies such as Jeff has suggested, but I think we

1 have to be aware of the fact that these things have
2 to be continued in order to be incorporated into
3 the assessments as long-range projects.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Jeff.

6 JEFFREY KAELIN: May I respond to that?

7 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.

8 JEFFREY KAELIN: We really get that
9 message, and we've spent money before with
10 inadequate protocols and for limited periods of
11 time, and we don't want to spend anymore money on
12 projects that aren't going to work. And I point
13 to the early acoustic work in the Gulf of Maine as
14 an example. So we get that.

15 So we have to find some funding for three
16 to five years to make these investigations
17 worthwhile, and we do understand that. And we're
18 trying to identify funds not only our own funds,
19 but other funds that could help support those kind
20 of long-term projects. So I appreciate that.
21 Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Thanks, Jeff. We've had the request. What's the
24 pleasure of the Committee with respect to this

1 section and the request to add these two additional
2 items? Rich, do you have those characterized?

3 RICHARD SEAGRAVES: I have them up
4 there on the board. Investigate the potential for
5 industry surveys to support assessments. Does
6 that need to be more specific? I think it was
7 related to butterflyfish issues.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Yeah. I think you want to put the species in
10 there.

11 RICHARD SEAGRAVES: Was it relative
12 just to butterflyfish, Jeff, or real time squid?

13 JEFFREY KAELIN: Well, yes, it is, Mr.
14 Chairman. Yeah. I think the butterflyfish is the
15 focus for this approach. So, yeah, you could
16 limit it to butterflyfish. We're not worried about
17 the other ones not right now.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you. So I'll ask if the Council has any
20 discussion on adding these items. Tony.

21 TONY DILERNIA: Mr. Chairman, I think
22 this is a very good idea to add these items. I
23 think it gets back to the original spirit of what
24 RSA was developed for originally. So I would very

1 strongly support this inclusion.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. Further discussion?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Is
6 there any objection to moving forward with this
7 section that's recommended by staff and modified
8 through discussion now? Chris.

9 CHRISTOPHER ZEMAN: My one objection is
10 that it seems like we're using RSA to fund surveys.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 What's the pleasure of the Council with this
13 section? I'll entertain a motion, given the fact
14 that there is one objection on this. Jason before
15 we do that.

16 JASON DIDDEN: Just one potential
17 addition. With some of the communications that
18 the Council has been receiving about real time
19 squid management to support butterflyfish or squid
20 assessments could be useful.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 thanks for that clarification. Pres.

23 PRESTON PATE: Mr. Chairman, I'll make
24 a motion to approve the amendment.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. Motion by Pres Pate. Is there a
3 second to the motion? Second by Steve Heins.
4 Discussion on the motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 the Council ready for the question?

8 (Motion as voted.)

9 {Interaction Between Loligo Squid, Butterfish,
10 Atlantic Mackerel, and River Herring: Move to
11 delete items "Evaluate potential improvements to
12 at-sea observer and port sampling procedures and
13 investigate accuracy and precision of at-sea
14 observer and port sampling based estimates of
15 catches of butterfish and Alosine species in the
16 Loligo fishery and Alosine special in the mackerel
17 fishery" and "Evaluate use of videography to
18 document Loligo catches without any or minimal
19 butterfish bycatch". Change "Test gear
20 modifications (in addition to mesh size) ..." item
21 to read "Test gear modifications (in addition to
22 mesh size), videography and/or alternative gear
23 types (e.g., jigging) in the Loligo squid fishery
24 to reduce bycatch of butterfish and other

1 species". Also, add two new recommendations to
2 the priorities under this section: (1)
3 "Investigate potential for industry surveys to
4 support butterfish or squid assessments", and (2)
5 "Investigate mesh size and/or gear technologies
6 (grates or separators) to reduce retention of
7 small mackerel and river herring in the mackerel
8 fishery".}

9 COUNCIL CHAIRMAN RICHARD ROBINS: All
10 those in favor please indicate by saying aye.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Opposed like sign.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: One.
16 Abstention like sign.

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: The
19 motion carries. Thank you. Rich.

20 RICHARD SEAGRAVES: Okay. So moving
21 on, Jason had three additions that relate pretty
22 much to mackerel. They're in red up there. So
23 No. 1 is explore the spacial distribution of the
24 stock relative to the mixing of northern and

1 southern contingents of mackerel using tagging,
2 genetics, chemical assay, microchemistry of
3 otoliths, etcetera. Strike that, the priority
4 stuff.

5 And that I believe came out of the last
6 TRAC assessment and research recommendations as
7 with all that process.

8 No. 2, exploration of bottom trawl characteristics for
9 catchability of mackerel, and lastly, participate
10 with industry investigating the contemporary
11 overlap with survey stock area, commercial fishery
12 and mackerel distribution and explore the
13 historical databases for the same purpose, to
14 better understand interpretation of abundance
15 indices. And likewise, I'll strike that -- well,
16 not that part, the elements of prioritization he's
17 got in here. If that's acceptable to include
18 those, then that would finish up with mackerel
19 butterfish.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Rich. Discussion on this section?
22 Laurie.

23 LAURIE NOLAN: I would move to include
24 the three recommendations coming from Jason

1 highlighted in red.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion? Second by Erling
4 Berg. Discussion on the motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there any objection to the motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Seeing none, it's approved by consent. Thank you.
11 Rich.

12 RICHARD SEAGRAVES: Okay. Summer
13 flounder there's one recommendation: Evaluate
14 the length, weight, and age compositions of landed
15 and discarded fish in the summer flounder
16 fisheries both recreational and commercial by sex,
17 focus age sampling on summer flounder 24 inches or
18 larger in total length. And Rob O'Reilly had made
19 a recommended change to add the words "using paired
20 hard part samples -- scales and otoliths." So
21 that would be the one item for summer flounder if
22 the Council accepts that.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
24 would you like to comment on that at all?

1 ROBERT O'REILLY: Well, I guess in the
2 last few years otoliths ages have been submitted
3 along with the traditional scale ages, and
4 certainly it would seem that it benefits the
5 assessment process to have the otoliths for these
6 larger fish where aging becomes a little more
7 difficult problem with scales. So that was the
8 basis for the recommendation, and of course it's
9 easy to get the scales at the same time.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you for that explanation. What's the
12 pleasure of the Council on this section? Chris
13 Zeman.

14 CHRISTOPHER ZEMAN: I'd like to add one
15 priority as evaluating gear modifications to
16 reduce bycatch mortality. This relates back to
17 the one recommendation by the summer flounder
18 advisory panel regarding looking at ways to either
19 like change a gut hook summer flounder or looking
20 at ways to, yeah, minimize mortality and turn
21 discard mortality into catch.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Chris, those are separate questions. On the
24 bycatch mortality is that specific to the

1 recreational fishery?

2

3 CHRISTOPHER ZEMAN: Yes.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Because if you're going to make it for the
6 commercial fishery, that opens up a whole
7 different range of discussion.

8 CHRISTOPHER ZEMAN: Yes. Yes. The
9 point I'm raising is related to the specific
10 recommendations regarding using discard mortality
11 in the recreational side.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Okay. So it would be adding an evaluation of gear
14 modifications to reduce discard mortality in the
15 recreational fishery. Okay. Howard King.

16 HOWARD KING: A question for Bob Beal.
17 Is there currently any mandatory sampling of
18 summer flounder required by ASMFC?

19 ROBERT BEAL: No. The interstate FMP
20 does not have mandatory sampling right now.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Tony
22 DiLernia, did you have a comment?

23 ANTHONY DILERNIA: A couple things.
24 And, first, this is Chris Zeman's. I think it

1 should be reduce discard mortality rather than
2 bycatch mortality. Chris.

3 CHRISTOPHER ZEMAN: That's correct.

4 ANTHONY DILERNIA: Scrolling back up to
5 the top, all the discards to be used paired hard
6 part samples, I can see scraping scales off of fish
7 and letting them go, but once you take his ear bones
8 out, he's not going to swim away.

9 So I'm not sure what to do with that
10 other than recognize that any of the discarded fish
11 that are sampled by this process while they'll be
12 discarded, they're not going to survive.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Yeah. I think Rob's looking at operating with a
15 hundred percent mortality rate. Rob.

16 ROB O'REILLY: All right. I think
17 Howard sort of asked a question which is important
18 to the state level if there is any requirements --
19 but there are programs that do collect now and
20 maybe this has to have some sort of an optional
21 basis whether it's how that's handled, but there
22 are definitely some programs that are
23 automatically getting scales and otoliths and so
24 I guess that's what my basis for that was.

1 And I'm not sure of all the states, but
2 I think North Carolina has a program; Virginia has
3 a program. I think Delaware may have had a little
4 bit in the past but not recently.

5 So perhaps this is a conditional
6 situation. But it's certainly a benefit. I mean
7 having the otoliths has been shown to have a direct
8 effect on where your fishing mortality rate, an
9 effect on that and your other state variables.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
11 do you want to perfect it to make it optional, that
12 is, scales and/or scales and otoliths?

13 ROBERT O'REILLY: Yes. Scales and
14 otoliths when possible. Get the hard parts from
15 scale and otoliths. Yes, that's fine.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Okay. Fair enough. Chris.

18 CHRISTOPHER BATSAVAGE: Thank you, Mr.
19 Chairman. Yeah. I agree with that modification.
20 Sometimes just cannot get the otoliths. But the
21 other component of this research recommendation is
22 the landing component of the catch, too.

23 It won't be necessarily just killing the
24 discarded fish. If there's an opportunity to let

1 those go, we can and get the otoliths from the
2 landed component 24 inches and greater.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you. Further discussion on this part of the
5 proposal? Tom Fote to this section.

6 THOMAS FOTE: Tom Fote. I'm speaking
7 now as a governor's appointee from the Atlantic
8 States Marine Fisheries Commission. A couple of
9 years ago when we started looking at striped bass
10 and the hook-and-release mortality in the
11 recreational community became greater than what we
12 were harvesting in the recreational community, we
13 started looking at hooks and how they would
14 basically do that.

15 Now, we were able to set up a committee
16 in Atlantic States Marine Fisheries Commission to
17 work with the manufacturers whose problems with
18 hooks was we had to get a uniform what was a circle
19 hook and what was not, and it had a bend, and it
20 didn't have bend. And it took a lot of conference
21 calls. We got some satisfaction out of that and
22 wanted to go further.

23 The other thing we looked at is that most
24 of the people that go summer flounder fishing

1 especially on party buy store-bought rigs, and the
2 problem is the store-bought rigs are still putting
3 on ones and twos and three hook, the 1-0s and 2-0s
4 and 3-0 hooks and regular hooks, J hooks, not an
5 English hook or something, which is a lot harder
6 to gut hook.

7 I think a study in that because summer
8 flounder has now reached a point where the
9 recreational discards are above or more than what
10 we're basically harvesting that we need to do the
11 same as we did striped bass and basically look at
12 how we basically reduce that.

13 We tried -- matter of fact, Jersey Coast
14 did an independent study with a bunch of our clubs
15 years ago looking at circle hooks with summer
16 flounder. We found that that didn't really work
17 because of the way the summer flounder feeds, the
18 way it goes like this instead of going off to the
19 side, and you end up gut hooking it worse than you
20 were with the regular hook. So I would hope that
21 would be a priority especially since the amount of
22 discards of summer flounder is starting to effect
23 the quota. And, again, it would be a great
24 opportunity to prove to the recreational community

1 that research set-aside money is going towards a
2 purpose that really could help, and it's also an
3 education process.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thank you, Tom. What's the pleasure of the
6 Council with respect to these modifications? Can
7 we have a motion to approve those or consider them.
8 Laurie.

9 LAURIE NOLAN: Yes. I would move to
10 approve the two added items under summer flounder.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there a second to the motion? Second by Chris
13 Batsavage. Discussion on the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there any objection to the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Seeing none, it's approved by consent. Thank you.
20 Rich.

21 RICHARD SEAGRAVES: Okay. I'm sorry?

22 JAN SAUNDERS: Who was the second?

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Second was by Chris Batsavage.

1 JAN SAUNDERS: Thank you.

2 RICHARD SEAGRAVES: Thank you. Moving
3 on to bluefish. No. 1 item is evaluate amount,
4 length, weight, and age composition of discards in
5 the commercial and recreational fisheries.

6 Secondly, collect size and age
7 composition of the fisheries by gear type and
8 statistical area. Jim Armstrong has commented
9 that this work -- and it was in discussion
10 yesterday about this bluefish spec setting -- that
11 that work has been -- No. 2 there, has already been
12 completed or is underway. So the suggestion is to
13 strike the second item.

14 Moving down, the next item is initiate
15 fishery dependent/independent sampling of
16 offshore population of bluefish during the winter,
17 consider migration seasonal fisheries and unique
18 selectivity patterns resulting in a bimodal
19 partial recruitment pattern, consider if the
20 migratory pattern results in several recruitment
21 events. This was in last year. It was discussed
22 yesterday. Dr. Miller noted the two humps in the
23 selectivity pattern question. This is something
24 that's been in the data evident since I think Chris

1 Moore and Mitt Greco were doing bluefish
2 assessments back in the '90s, and it's never been
3 resolved.

4 Now, Jim has recommended that this
5 perhaps be deleted because it may not be a good fit
6 for the RSA Program. And also the next one,
7 develop a bluefish fishery index survey as proof
8 of concept including abundance, biomass trend
9 estimates for the offshore populations in winter.

10 COUNCIL CHAIRMAN RICHARD ROBINS: So,
11 Rich, if we delete these, are we doing anything in
12 the priorities to improve our understanding of
13 bluefish?

14 RICHARD SEAGRAVES: No. I think
15 they're still outstanding. It gets at the issue
16 of I guess Jim's position or concern was that it
17 doesn't lend itself well to an RSA project, but we
18 are doing that for other species.

19 So it's the Council's call as to whether
20 they want to keep it in or not. It certainly needs
21 to be addressed. The issue is whether or not it's
22 under RSA.

23 COUNCIL CHAIRMAN RICHARD ROBINS: And
24 what would you characterize as the most important

1 of those in terms of improvement of understanding
2 of that species?

3 RICHARD SEAGRAVES: I think the
4 immediate impact would be the first one,
5 understanding the partial recruitment vector.
6 The bluefish survey index I think there's a long
7 shot that I think it would be pretty expensive and
8 maybe the return on investment wouldn't be all that
9 great. I think the greater good would be served
10 by the first one.

11 COUNCIL CHAIRMAN RICHARD ROBINS: When
12 you say the first one, you mean
13 initiating --

14 RICHARD SEAGRAVES: Initiating a
15 fishery independent sampling and looking at the
16 selectivity pattern which would address concerns
17 directly in the assessment.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Okay. Thank you. Discussion on this section?
20 Howard.

21 HOWARD KING: I don't want to drag
22 this out, but what use would we make of that
23 information, Rich?

24 RICHARD SEAGRAVES: Again, there's a

1 lot of borrowing. And I think Tom Miller
2 described it yesterday in the
3 length-at-age key and trying to determine selectivity
4 patterns, partial recruitment vectors within the
5 assessment. There needs to be information to
6 explain why that is and what the best way to
7 incorporate that into the assessment. So it would
8 be a direct improvement in the assessment.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Rob
10 O'Reilly.

11 ROBERT O'REILLY: I'd like to ask Bob
12 Beal to comment on the aging aspect because that's
13 sort of a recent situation that involves the
14 states.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Bob.

16 ROBERT BEAL: Sure. Thank you, Mr.
17 Chairman. The Commission approved
18 Addendum 1 to the bluefish FMP earlier this year, and
19 that addendum will require the states of
20 Massachusetts, Rhode Island, Connecticut, New
21 York, New Jersey, North Carolina, and Virginia to
22 collect a certain number of mandatory age samples
23 from the bluefish population.

24 The year is divided in half, and a

1 certain number of samples have to be in the first
2 half of the year and the second half of the year.
3 This was a program that was developed by a
4 technical committee to get at the first item that
5 Jim is recommending be deleted. So I think
6 hopefully this new sampling program by those
7 states will get out a lot of the questions as far
8 as improving the bluefish aging samples that we
9 have.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Bob. Further discussion on this section?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 What's the pleasure of the Council?

15 PRESTON PATE: Mr. Chairman.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Pres.

18 PRESTON PATE: I'll make a motion that
19 we adopt the changes that Rich had discussed,
20 leaving the bluefish RSA quota to evaluate amount
21 and length, weight, and age composition of
22 discards from the recreational and commercial
23 fisheries.

24 COUNCIL CHAIRMAN RICHARD ROBINS: As I

1 understand it -- I just want to be clear: I
2 understood his recommendation to be that based on
3 the narrative of Jim Armstrong's comments that
4 that's being done through the ASMFC work. Is that
5 accurate or not? Bob or Rich.

6 ROBERT BEAL: Yeah, I think that is
7 accurate.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Okay. So Rich had suggested that the one item that
10 would give us some benefit or the most benefit
11 perhaps was initiating the fishery dependent and
12 independent sampling of the offshore population.
13 The question is whether or not you want to retain
14 that or not retain any of these components I think.

15 RICHARD SEAGRAVES: Mr. Chair.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Rich.

18 RICHARD SEAGRAVES: Just to clarify it:
19 So if you look up on the screen, basically what
20 we're saying is we still need adequate sampling of
21 the discards both commercial and recreational to
22 characterize that component. So the first one
23 would stay.

24 The second one we would strike because

1 the deal about aging is ongoing and has occurred.
2 I would say my suggestion would be to keep in the
3 initiate the independent sampling, fishery
4 dependant/independent sampling to address the
5 selectivity issue 'cause that's an ongoing
6 assessment thing and take Jim's suggestion on the
7 last one, which would be the survey index abundance
8 development could be struck.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Rich, thanks for that clarification. Steve.

11 STEVEN HEINS: So I would move to amend
12 Pres's motion to include the section on initiating
13 the fishery independent and dependent sampling
14 offshore populations as suggested by Rich.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
16 you. Is there a second to that motion? Second by
17 Laurie Nolan. That's now a perfected motion. So
18 let's see. Further discussion on the motion? Is
19 the motion clear?

20 So it would be, just to be clear: We're
21 including the first item, which is evaluation of
22 amount and length and weight and age composition
23 of discards in the commercial and recreational
24 fisheries, and initiating the fishery dependent

1 and independent sampling of offshore populations
2 that Rich has described that would get at that
3 partial recruitment vector. Is there any
4 objection to that motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Seeing none, that's approved by consent. Thank
8 you.

9 RICHARD SEAGRAVES: Okay. Moving on
10 to sea bass, the first one from last year was
11 validate methods used to age black sea bass scales
12 versus otoliths. And Jessica is recommending
13 that that be deleted because that work has been
14 conducted and I believe may well be completed.

15 Moving down to the next two, perform
16 studies focused on life history and reproductive
17 behavior, such as changes and sex ratios or
18 function of age and size or the evaluation of the
19 sizes of territories in relation to mating or
20 reproduction.

21 And the next one is increase age
22 sampling across all components of the commercial
23 and recreational fisheries. And Jessica is
24 recommending or has noted that that work has been

1 completed recommending that that one be deleted
2 for 2014. So I'll cross that out.

3 And so that leaves the business of
4 collecting information focused on special life
5 history characteristics of black sea bass. The
6 next one is increase sea sampling to verify
7 information from commercial logbooks towards
8 better estimates of discards.

9 Jessica recommends changing that to
10 read: with emphasis on pot trap and hook and line
11 gear. And this is because they are currently not
12 sampled, those gears are not sampled or
13 represented in the at-sea observer program. The
14 next one, develop fishery independent indices.

15 The Council has funded one year of a
16 fixed gear survey similar to scup that was
17 conducted for sea bass, and in their
18 deliberations, the SSC recommended changing that
19 to read: Evaluate, and if appropriate, continue
20 a fixed gear survey of black sea bass similar to
21 the one used for scup.

22 And then in addition -- and this is one
23 that I flagged -- the SSC recommended as a top
24 priority -- this was discussed yesterday:

1 Develop assessment models which incorporate
2 atypical life history characteristics of black sea
3 bass and explore the utility of a
4 spatially-structured assessment model for black sea
5 bass to address the incomplete mixing in the stock.

6 So what we have -- I'll just go back to
7 the top -- is the first one deals with collecting
8 the basic data that would be required to performing
9 the studies on their life history, and then the SSC
10 recommendation was the use of that information in
11 modeling. So I flagged the question whether or
12 not the Council wanted to include modeling
13 exercises, etcetera as being appropriate for RSA
14 projects. But that's up to you guys whether --
15 potentially I discussed it with Jessica.

16 She said, well, you know, through the
17 auction somebody could put in a proposal to do the
18 modeling work using RSA funds. But it gets at some
19 basic questions about how you want to use your RSA
20 funds. But I just wanted to make that
21 distinction. The first part's about collecting
22 the data that would go into the model. The second
23 part's the modeling.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Rich, it does raise an important question. I
2 think if you think of it as a priority, it's clearly
3 the key piece that we're missing in terms of
4 reducing uncertainty in the sea bass assessment,
5 their modeling questions about stock mixing and
6 stock structure but also the atypical life
7 history.

8 And I think even if they resolve the
9 mixing question, that atypical life history and
10 making sure the reference points are appropriate
11 it's going to be critical. We discussed during
12 the sea bass quota setting process the fact that
13 we need to have a strategy to get out of this box
14 because we're still stuck in Tier 4. That's
15 having consequences that are significantly
16 constraining that fishery with respect to the
17 quota. We proposed so far to plan to make progress
18 on this life history question through a workshop
19 later this month.

20 We had planned to work with the Science
21 Center on the modeling trying to get them to do some
22 work in regional modeling. But having said that,
23 this may create an opportunity as well, but that's
24 what we need to discuss. Jim, did you have a

1 comment on this?

2 JAMES WEINBERG: Yeah. I think we have
3 to be a little bit careful here about not
4 misinterpreting what Tom Miller was telling us was
5 needed yesterday. And I'm not sure that that's
6 captured in the language here.

7 If you go back to what the SARC review
8 panel said, they indicated that a lot of research
9 was needed, probably a few years of research,
10 before the black sea bass model could be developed
11 that would have enough data in it to support having
12 sub units or sub stocks and also to really
13 understand the migration patterns and so forth.
14 And I think Tom Miller understood that. So I think
15 it's fair in an RSA project to consider funding
16 projects that would collect data to support that
17 modeling effort. But I think that what Tom was
18 asking for yesterday was something else that he
19 thought could be done right now, and it was a
20 modeling exercise more or less a sensitivity
21 analysis that would compare the unit stock
22 definition and its biological reference points and
23 productivity to a theoretical model which had
24 hypothetical sub stocks and to see whether the

1 productivity and the reference points and the
2 stock status actually changed between those two
3 models.

4 And if it didn't matter very much, then
5 that would be a way of getting out of the box
6 because that huge uncertainty that you have about
7 how important this is could go away if that
8 analysis could show that in fact the results aren't
9 really very sensitive to which approach you use.

10 So, on the one hand, there's this
11 recommendation for a long-term effort to collect
12 data to support an assessment model, and on the
13 other hand, what Tom was calling for was a
14 short-term modeling exercise that could be done
15 within the next year. So I think in terms of how
16 you write this, you have to just be aware of that
17 distinction.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
19 to that point, is that short-term modeling
20 exercise something that you anticipate that we'll
21 be able to work with the Center to do through the
22 Center?

23 JAMES WEINBERG: Perhaps. I haven't
24 had a chance to run this by the folks at the Center,

1 and I did talk with this very briefly with Tom
2 Miller about, and he said in fact it might not even
3 be something that the Science Center has to do;
4 perhaps someone else could do the work.

5 So I think we have to have a bit of
6 discussion probably with the lead assessment
7 scientist and Tom, Rich, and a few others to pin
8 that down.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Rich.

11 RICHARD SEAGRAVES: Yeah. Jim makes a
12 good point. But I think that's what Tom Miller
13 talked about yesterday; however, at the SSC
14 meeting, there was discussion about there's more
15 to it than just the spacial structure of the stock.
16 There's also the atypical life history aspect.

17 So, as part of their -- and he really
18 didn't get into the nexus of those two things. But
19 both of those need to be developed. I agree that
20 what he was suggesting yesterday was in the short
21 term that you could probably address the issue of
22 stock mixing, separation, the effect on biological
23 reference points pretty quickly, and that could be
24 handled in a working group.

1 My suggestion is that we probably just
2 strike the recommending adding as a top priority
3 develop assessment models, etcetera. Strike that
4 as an RSA funded project and leave what we
5 currently have as the collection of data that would
6 inform that modeling exercise and that we could
7 handle any short or long term modeling issues
8 through the normal way we do it in cooperation with
9 the Center.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff
11 Deem.

12 JEFFREY DEEM: Could we list this as two
13 separate items and get bids to do both separately
14 and then decide if we have the money or the need
15 to do both?

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Rich.

18 RICHARD SEAGRAVES: I'm sorry? List
19 between the atypical and the stock mixing? They're
20 one and the same.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
22 sorry. I couldn't hear Jeff.

23 JEFFREY DEEM: Separate the stock
24 mixing and the modeling as two separate things to

1 be bid through research.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Rich.

4 RICHARD SEAGRAVES: Well, what's being
5 proposed here that the issue of stock mixing be
6 explored in a modeling exercise. You can't really
7 separate them.

8 What's at issue is the atypical life
9 history pattern and trying to come up with a model
10 that explains the population dynamics of black sea
11 bass given their sex change, mating behaviors,
12 etcetera, etcetera.

13 And on top of that, you have the spacial
14 structuring potential of the stock that would
15 affect the outcome of the biological reference
16 points to come out of a model that incorporated the
17 atypical life history aspects. So they're all
18 kind of bound together.

19 Tom was suggesting we could do the stock
20 structure part pretty quickly yesterday and we
21 would do that hopefully working with the Science
22 Center. So, again, I would recommend that it be
23 separated out as not appropriate. That's why I
24 footnoted it as an RSA funded project. We handle

1 this directly with the Center or whoever.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
3 enough. Further discussion on this section?
4 Bob.

5 ROBERT BEAL: Thank you, Mr. Chairman.
6 Just a quick point on the SSC recommendation
7 regarding fixed gear survey. The ASMFC has been
8 provided funding to hold a workshop later in the
9 year.

10 The funding's coming from the
11 Partnership for Mid-Atlantic Fisheries Science,
12 and the goal of the workshop is to design a
13 fixed-gear survey for black sea bass throughout
14 the range of the sea bass population managed by
15 this council, so from Hatteras north.

16 We're going to have this workshop before
17 the end of the calendar year. Even though we're
18 a little bit behind on planning, we're going to get
19 it done. So the outcome of this workshop should
20 be a fixed-gear survey designed that can be
21 implemented.

22 And I don't think anything needs to be
23 changed as far as this recommendation goes. I
24 think hopefully the output of this workshop can be

1 Thanks, Laurie. Second to the motion? Second by
2 Steve Heins. Discussion on the motion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 there any objection to the motion?

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: Any
8 objection to the motion?

9 (No response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Seeing none, it's approved by consent. Thank you.
12 Rich.

13 RICHARD ROBINS: Thank you. Moving on
14 to scup. Develop fishery independent indices for
15 scup ages 2+. Now, Jessica recommended deleting
16 that since it's currently being addressed.

17 But, again, this was also discussed at
18 the SSC meeting, and the issue then becomes, well,
19 it's getting it's funding from the RSA program.
20 So if we delete it from the priority list, we send
21 the signal that we want to eliminate it. But I'll
22 get to that. I'll circle back to that one.

23 Estimate the fishery components used to
24 calculate scup mortality commercial rec landings

1 and discards. And Jessica recommended the change
2 with emphasis, adding to that with emphasis on
3 discards. The next one is expand age sampling of
4 scup for commercial and recreational catches,
5 focus age sampling on scup 10 inches or larger in
6 total length. And then the last one is adding a
7 new item, review and evaluate existing fishery
8 independent indices for scup. So essentially we
9 would delete the develop.

10 First, I would recommend deleting that,
11 developing the fishery independence. They have
12 been developed. The issue is are they any good;
13 should we continue funding them. And so there has
14 been some peer review of that. I was involved in
15 that, but I'm still not satisfied that we've got
16 an answer.

17 And the other, that it is going to
18 provide useful information above and beyond what
19 we already have for the commercial fisheries, my
20 question is I don't think it's fishery
21 independent, and so that gets subsumed in the last
22 recommendation to evaluate existing indices.

23 So I would agree with Jessica. Strike
24 the first one, develop fishery independent

1 indices; the second one, estimate the components
2 of mortality with emphasis on discards. And I'll
3 draw your attention -- we're pressed for time here.
4 But if you look at the SSC report, when we were
5 going through the research recommendations
6 species by species, I tried to nail their feet to
7 the floor and say, okay, I don't want a laundry
8 list; we need prioritized research needs. So
9 here's the list, and priority discards was number
10 one.

11 Mark Terceiro jumped all over that, said
12 no question the greatest source of uncertainty in
13 this assessment is discarding in the scup fishery.
14 And actually the fishery independent indices issue
15 fell to the bottom.

16 So I think the way to handle this is to
17 strike the develop part, No. 2, include the
18 language with emphasis on discards, keep the
19 expanded age sampling of scup in both the
20 fisheries; it still needs to be expanded, and to
21 add the last one, review and evaluate existing
22 fishery independent indices for scup.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you, Rich. Discussion on this section?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: What's
3 the pleasure of the Council with the scup section?
4 Lee.

5 LEE ANDERSON: I move we do what Rich
6 suggested.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Lee,
8 turn the microphone on.

9 LEE ANDERSON: Drop the develop out,
10 make the changes to the estimate, and then add the
11 new item.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there a second to the motion? Second by Laurie
14 Nolan. Discussion on the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 there any objection to the motion?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Seeing none, it's approved by consent. Rich.

21 RICHARD SEAGRAVES: Okay. Two more.
22 Illex there were no recommended changes to
23 determine the size, age of maturity and growth
24 parameters for Illex squid. We would suggest

1 leaving that.

2 And then tilefish, investigate the
3 effects of hook size and other fishing practices,
4 e.g. bait, soak time, on catchability of tilefish
5 by size in longline fishery. And this is, again,
6 because this assessment is principally there's no
7 fishery independent information on tilefish.

8 The assessment is a surplus production
9 model that depends heavily on the effects of
10 catchability on tilefish. So your CPUE index
11 really uses a direct measure of abundance, and it
12 plays heavily in the surplus production model. So
13 any changes in fishing practices through the years
14 has a direct effect on catchability, so the idea
15 there is to get information that would shed some
16 light on what's going on in that fishery. So
17 there's the last two.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thanks, Rich. What's the pleasure of the Council
20 on the recommendations on illex and tilefish?
21 Laurie.

22 LAURIE NOLAN: When I first looked at
23 this, it may not be appropriate to research
24 set-aside funding. Did that apply to the tilefish

1 or not?

2 RICHARD SEAGRAVES: I'm sorry.
3 That's footnoted just to the one item above.
4 Yeah. Those two there's no comment on those
5 other. I think they are still legitimate.

6 LAURIE NOLAN: Okay. Thanks, Rich. I
7 would recommend that we move forward with the illex
8 recommendation and the tilefish recommendation.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you. Is there a second to the motion?
11 Second by Steve Heins. Discussion on the motion?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there any objection to the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Seeing none, it's approved by consent. Rich, is
18 there anything else under RSA?

19 RICHARD SEAGRAVES: That's it.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I
21 appreciate it. Thanks. I would also like to
22 thank Pres and the Committee for all the work that
23 went into these recommendations for the changes to
24 the program. We'll look forward to working with

1 general counsel to get some of those outstanding
2 questions answered.

3 Our next item is going to be the NOAA
4 general counsel report. I'm going to ask Denise
5 Desautels to give that. She has to leave
6 momentarily, so I'll look to Denise and/or Joel for
7 any comments they have.

8

9 NOAA OFFICE OF GENERAL COUNSEL

10 DENISE DESAUTELES: I'm just going to
11 give you an update on the Flaherty versus Locke
12 litigation.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Excuse me, Denise. Jan, can you check the volume?
15 It seems like the volume of the system may have gone
16 down.

17 DENISE DESAUTELES: The Flaherty versus
18 Locke litigation, the Atlantic herring Amendment
19 4 litigation, Judge Kessler issued a second order
20 just recently, and that order is applicable to NMFS
21 within the context of the Atlantic herring FMP.

22 Amendment 4 is remanded to NMFS for
23 reconsideration and explanation. The Amendment 4
24 is vacated but that vacatur is suspended for one

1 year.

2 NMFS is to set forth its consideration
3 of whether Amendment 4's determination of the
4 stocks in the fishery complies with the MSA and
5 file supplemental explanation.

6 NMFS is to send a letter to the Council,
7 the New England Council, explaining the applicable
8 law and the National Standards relating to
9 determination of the stocks in the fishery and
10 recommend that Council consider whether river
11 herring should be designated a stock in the
12 fishery.

13 Also, NMFS is to recommend the Council
14 consider a range of alternatives in 2013
15 specifications or other appropriate action for
16 minimizing bycatch to the extent practicable for
17 the AMs and for the interim ABC control rule. NMFS
18 is to file supplemental explanation whether the
19 FMP minimizes bycatch to the extent practicable in
20 compliance with National Standard 9 and the MSA.
21 That's by August 2nd, 2013.

22 Then the court has ordered a
23 six-month status report in which we will describe our
24 progress in that remedial action. The annual

1 status report will come a year after that, and that
2 is where we will explain whether we've taken the
3 necessary NEPA analysis which will be for the
4 specifications and management measures in which we
5 demonstrate a hard look was taken at the
6 environmental impacts including an appropriate
7 range of alternatives and an examination of
8 cumulative impacts.

9 And then the court will change
10 jurisdiction pending on full compliance a year
11 from now. Any questions? Okay.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Well, Denise, my recollection was that when the New
14 England Council went through Amendment 5, they
15 ended up not taking action on the stock in the
16 fishery question. Is that correct? So this is
17 going to be done separately?

18 DENISE DESAUTELES: Right. Amendment 4
19 was the decision on stock in the fishery. The
20 judge in her earlier decision made reference that
21 the Council had delayed it to Amendment 5. That
22 was a factual error in the decision, and we
23 clarified that on the record. We had oral
24 argument in front of the judge two weeks ago. So

1 we clarified some of those things. It was a
2 complicated history.

3 COUNCIL CHAIRMAN RICHARD ROBINS: I
4 appreciate that. So it will be taken up in
5 compliance with the order as a separate action?

6 DENISE DESAUTELES: Right. Applicable
7 to Amendment 4. Okay?

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Further questions of Denise on the ruling? Jim.

10 JAMES WEINBERG: I just wasn't clear on
11 how quickly it is vacated. Is it immediately or
12 in one year?

13 DENISE DESAUTELES: Oh, she ordered
14 vacatur, but she suspended the vacatur for a year,
15 so it has no practical effect unless NMFS fails to
16 come into compliance and she finds that NMFS has
17 failed to come into compliance a year from now. So
18 it's status quo until the judge orders
19 differently, which would be at least a year from
20 now. Okay?

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Thank you, Denise. Jason.

23 JASON DIDDEN: And is the
24 interpretation that the New England Council has to

1 commence an amendment to consider adding the stock
2 in the fishery, or has to consider starting an
3 amendment?

4 DENISE DESAUTELES: Actually neither.
5 The court order is simply the judge ordering NMFS
6 to recommend to the Council that they reconsider
7 including river herring as a stock in the fishery.
8 That's the extent of her order.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Lee.

10 LEE ANDERSON: What do you anticipate
11 would happen if the Council just accepts the letter
12 and says thank you very much?

13 DENISE DESAUTELES: Further litigation.

14 LEE ANDERSON: NMFS would comply by
15 writing the letter.

16 DENISE DESAUTELES: Right.

17 LEE ANDERSON: Which is all that was
18 ordered.

19 DENISE DESAUTELES: Exactly.

20 LEE ANDERSON: So if the Council reads
21 it and says, all right, we've considered this, is
22 that the end of the story?

23 DENISE DESAUTELES: I can't really
24 predict. No fortune teller abilities here. But

1 I suspect there will be additional litigation that
2 would be filed. Or we don't know how the judge
3 would feel about that.

4 But she understands her judicial
5 powers, the limit of her judicial powers, which
6 extend to requesting a recommendation to the
7 Council; she cannot order the Council. She made
8 that clear during the oral argument.

9 LEE ANDERSON: If I may, it seems to me
10 the Council has to do some kind of a moral
11 obligation to consider it actively and say we read
12 this letter; here's what we do, we consider it, and
13 then whatever they add the Council does have
14 latitude to do what they want to do, but they need
15 to consider it and make an administrative record
16 of doing so.

17 DENISE DESAUTELES: Exactly. Thank
18 you. Joel, you've trained them very well.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Further discussion? Jeff, did you have a quick
21 question on this?

22 JEFFREY KAELIN: Thank you, Mr.
23 Chairman. I do, Denise. I've read that opinion,
24 too. I'm not a lawyer. I just pretend I'm one

1 sometimes for expediency. You said that the
2 Agency had already addressed the stocks in the
3 fishery issue in Amendment 4, and my recollection
4 was that the Agency determined that any river
5 herring protections could be done in Amendment 5
6 and that the problem was a NEPA technicality in
7 that the stocks in the fishery issue was put into
8 the considered but rejected portion of the
9 Amendment 4 document and not analyzed.

10 And the fact that considered but
11 rejected component of the amendment was not
12 analyzed was the NEPA technicality which, of
13 course, hardly -- I don't think it ever happens
14 that considered but rejected items are analyzed
15 under NEPA. Is my understanding of how that
16 evolved correct?

17 DENISE DESAUTELES: Well, I don't want
18 to really want to speculate as to what the judge
19 was thinking or her interpretation. I really
20 can't do that. I mean anyone can interpret the
21 decision as they would like.

22 But there was a factual error that we
23 corrected in front of the judge in which she was
24 under the impression that the Council had delayed

1 making a determination on the stocks in the fishery
2 until Amendment 5. We explained that that was
3 not the case.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you, Denise. Further questions?

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Okay. Let's go ahead and take a 10-minute break,
9 and then when we come back, we'll have the
10 presentation on National Standard 1 Guidelines.
11 Thank you.

12 (Break: 10:10 a.m. to 10:30 a.m.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Let's go ahead and get started on the next item,
15 which is going to be the presentation on the
16 revisions to the National Standard 1 Guidelines,
17 and George Darcy will be presenting that to the
18 Council.

19 We will have an opportunity to develop
20 comments on that, and so I look forward to some
21 discussion after George's presentation. We can
22 work after this meeting to develop a comment letter
23 if the Council chooses to do so. And look forward
24 to this presentation. George.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

NATIONAL STANDARD 1 GUIDELINES

GEORGE DARCY: Thank you, Mr. Chairman.

Just to clarify: This project is being run out of our Silver Spring office. It's a national initiative, but I was asked to give t his on their behalf today. So I'll do the best I can to represent their issues here. As

I think you all know, National Standard 1 is a very fundamental principle by which we're all governed in every action we take, and it has to do with ensuring that our measures prevent overfishing while achieving on a continuing basis optimum yield from each fishery.

And although Congress establishes the National Standards, they're quite short, as the wording in this slide indicates. The Agency then follows up also required by Congress with National Standard Guidelines that expand on those guidelines -- or on the Standards rather to give some additional clarity hopefully and to interpret Congress' intent and to provide additional guidance to the councils on how the Agency intends to interpret compliance with those guidelines --

1 or the Standards rather.

2 Here's a little history of addressing
3 overfishing. I won't go through all of this. But
4 the most relevant part here is in 2007 Congress
5 passed the Magnuson-Stevens Act, Reauthorization
6 Act, and this is what put in place annual catch
7 limits and accountability measure requirements
8 that had not previously been there as well as a
9 number of other things that required
10 implementation. But the National Standard 1
11 Guidelines are largely dealing with how councils
12 set ACLs and AMs and the issues surrounding them.
13 In 2009 the Agency published the National Standard
14 1 Guidelines that are now in place to address the
15 new requirements, and that was based on quite a
16 lengthy period of public comment proposed rule,
17 and so forth in which the Agency proposed its
18 interpretations and reacted to public comments.

19 So in 2009, again, these are the
20 National Standard 1 Guidelines that are currently
21 in place and that we're working under. It dealt
22 with, as I said, implementing ACLs and AMs, which
23 the councils are required to do and which this
24 council successfully did.

1 It looked at exceptions to those
2 requirements clarifying what stocks are in need of
3 conservation management. This is where the
4 concept of stocks in the fisheries come up, which
5 has caused some issues with some of the councils,
6 including this one and the New England Council,
7 trying to define the relationship among various
8 reference points, such as maximum sustainable
9 yield and optimum yield, better defining the SSC's
10 role in setting the ABC, which was relatively new
11 out of the 2007 act, describing how the Council
12 should account for scientific management
13 uncertainty in developing their measures, and
14 describing the time frames for implementing
15 rebuilding plans. I'm not going to spend any time
16 on this. I think this is very familiar to this
17 council and others. You looked at this a lot.

18 It just describes the relationship of
19 the overfishing level, the ABC and the ACL. I
20 think you're all familiar with that.

21 So, since 2007, we and the councils have
22 implemented ACLs and AMs for all the FMPs, which
23 was a big effort for everyone, and I think actually
24 quite successfully accomplished, but in doing that

1 I think every council had some questions, some
2 issues, some things that they felt were special
3 circumstances, things that were perhaps not
4 entirely clearly laid out, certainly not in the
5 statute and maybe not clear enough in the
6 Guidelines or maybe people disagreed with how the
7 Guidelines interpreted certain things when it
8 actually came to trying to implement some of the
9 requirements.

10 So, over the last few years, there have
11 been a number of issues that have been raised to
12 the Agency through stakeholder meetings they've
13 held and various public meetings including from
14 the councils. There have been three
15 congressional hearings held in 2011 about aspects
16 of implementation of the 2007 act. There have
17 also been several bills proposed in Congress to
18 revise various aspects of what was in the last act
19 or to further define them, and the Agency felt that
20 it may be time to take a look at what we've learned
21 and what questions remain from that process.

22 Another thing that this slide doesn't
23 mention, that is litigation. There have been a
24 number of lawsuits including a challenge to your

1 Omnibus Amendment, your ACL Amendment. Some of
2 these have gone through the process and have had
3 a court finding. Others are still out there
4 pending a court action or are under appeal.

5 So we have learned and will continue to
6 learn how the courts interpret the Agency's
7 interpretations of how the Act should have been
8 implemented.

9 There's a possibility to address some of
10 these issues through regulatory or policy
11 processes including changes to the National
12 Standard 1 Guidelines or through other means. So,
13 in order to kind of test the waters to see if this
14 was the appropriate time to undertake this
15 potential revision to the National Standard 1
16 Guidelines, the Agency published an ANPR, and
17 advanced notice of proposed rule making. And an
18 ANPR is basically like a pre-proposed rule or a
19 proposed proposed rule.

20 It's just a notice to the public that the
21 Agency is thinking about doing something and may
22 or may not actually do it, and it's looking for
23 input from the public as to what issues might need
24 to be addressed and any ideas that are out there

1 to do that.

2 The comment period on that ANPR has been
3 extended from August 1st to September 15th. So
4 it's still open. If the Agency on the basis of the
5 comments it gets back decides to proceed at this
6 time, it will be a long-term process. These are
7 very difficult, complicated issues.

8 Every time there's a change in the Act,
9 the Agency has taken probably at least a year, more
10 likely two years, to work through all the comments
11 and to analyze interpretations to try to come up
12 with the best guidelines they can, and I don't
13 think that would be any different this time. The
14 Agency's not anticipating that the revisions will
15 cause the councils to have to revise much,
16 hopefully nothing of what they've already done,
17 but it could. The emphasis is going to be on
18 improving guidelines rather than trying to add any
19 new requirements.

20 And here's sort of a list of the issues
21 that were outlined in the ANPR that have come up
22 or that may be of interest to the public or to the
23 councils in further definition. Either people
24 feel that what's in the guidelines now isn't the

1 correct interpretation or there needs to be
2 further interpretation, or there could be
3 exceptions made. Everything is basically on the
4 table, and these include other stocks in the
5 fishery, how should they be treated, how do you
6 look at overfishing, multi-year impact, how do
7 ACLs and optimum yield interact, what about mixed
8 stock fisheries and achieving the optimum yield
9 from them? How do you deal with scientific and
10 management uncertainty? How do you deal with data
11 poor stocks, ABC control rules, catch accounting,
12 accountability measures, exceptions to the ACLs,
13 and measuring rebuilding progress?

14 And there are certainly more issues that
15 you might want to comment on. So, in summary, the
16 Agency recognizes that this has been a big change.
17 It was required by Congress.

18 I think the councils have stood up to the
19 challenge and have done a good job in trying to be
20 proactive and constructive in responding to that.
21 We want to be responsive to the concerns that come
22 up and to learn from what the councils have gone
23 through and the litigation and other comments that
24 we've gotten. If, again, these revisions go

1 forward, it's going to focus on improving clarity
2 and flexibility and not coming up with new things
3 that have to be done.

4 And there may be the need to supplement
5 what's in the National Standard Guidelines with
6 additional technical reports, something that the
7 science side of the house, for example, might come
8 up with.

9 This has been done before where there
10 are technical working papers that can provide
11 examples of how you might implement certain
12 difficult challenges.

13 So, if you have comments as a council or
14 as individuals, these are some thoughts as to what
15 the Agency might be looking for: should the
16 guidelines be revised at all at this time, or do
17 you feel it's too soon; there hasn't been enough
18 time to collect them work and see how they work;
19 should we just continue to monitor how they're
20 doing and then consider revising them at a future
21 time, or is now the time to start looking at solving
22 some of the issues? We're looking for comments on
23 specific issues, as I said, not just the ones I
24 mentioned, but anything that may come to your mind

1 Jim, on that point, the next annual CCC meeting is
2 going to be set to coincide with managing our
3 nation's fisheries, and so it may be that -- our
4 thinking at least at CCC has been that that would
5 precede any full blown reauthorization of the act.

6 That might be an opportunity at least
7 for some discussion of issues related to the act
8 at that forum. So I would hope that will be the
9 case from a timing standpoint, but of course that's
10 out of our control. Other questions or comments?
11 Lee.

12 LEE ANDERSON: When I look at this, I
13 sense that it's going to go forward. I know the
14 question is genuine. But when they throw this out
15 I think there's going to get enough comments that
16 they will go forward.

17 And if you look at the issues there, and
18 there are 11 -- I don't know if you can put those
19 back up, the 11 things -- a lot of them we have been
20 directly related with, the stocks in the fishery,
21 one, mixed stocks, the difference between
22 scientific and management uncertainty. We have
23 problems with that. I don't want to go into the
24 details. Acceptable biological catch control

1 rules we talked about in the Executive Committee
2 on bringing ecosystem into that. All of that
3 stuff is related to this. So, Mr. Chairman, I
4 would suggest that we do submit a letter. I don't
5 propose that we come up with a stand on each one
6 of these because who knows how it's going to go.

7 It's going to be a give-and-take
8 iterative issue, but I think a descriptive letter
9 that says these are the issues that we are
10 confronting and here's some of the things that have
11 hindered us or helped us just to set it up.

12 And the second thing I would suggest is
13 that we request as far as possible an open
14 discussion of this so the councils can get in there
15 as these things are going. Sometimes it comes in
16 out of a black box, and we don't get to see it until
17 it's far along. I think we need a letter.

18 COUNCIL CHAIRMAN RICHARD ROBINS: I
19 would agree. I think the biggest problems we've
20 had are related to data poor stocks; that's not a
21 secret, the butterfish and the black sea bass and
22 species like that.

23 And I don't have a silver bullet
24 solution for any of those as it relates to these

1 guidelines, but I think it would be fair to
2 certainly raise some of those concerns in drafting
3 this letter. Additionally, we have been talking
4 increasingly about ecosystem considerations as
5 they may relate either to OY or ABC and how we would
6 incorporate those types of factors into our
7 decision making processes, and yet I'm not sure
8 whether those would be best addressed in NS1
9 Guidelines, which are then just that, they're our
10 guidelines, or it seems to me some of those things
11 might be well addressed through a technical paper
12 -- you know, some of these considerations about
13 interactions between trophic levels and how to
14 best address those.

15 Some of those things could be addressed
16 through an Agency technical paper, and then we've
17 got a reference document that represents technical
18 guidance from the Agency as opposed to some of the
19 white papers that are circulating out there in the
20 marketplace, so to speak.

21 But I think we ought to raise a number
22 of these issues in the letter. I'd be open to your
23 input. The deadline for comments is September
24 15th.

1 There will be a proposed rule that asks for
2 questions. I think it will be a long time before
3 we get to a proposed rule if that's what the
4 ultimate decision is. And I would expect that
5 between the comments that they get from the council
6 and the public -- the whole public is being asked
7 for comment on the ANPR. So when they sift through
8 all of that, I would expect that there would be some
9 feedback as to what was found, and at that point,
10 they may ask for additional detail. But that's
11 just my take on it.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 George, thank you. Further discussion on this or
14 reaction to it? Chris Zeman.

15 CHRISTOPHER ZEMAN: Thank you. One
16 issue that we had to deal with actively was the
17 issue of dealing with anadromous species and how
18 do we deal with like stock status and ACLs, AMs in
19 anadromous species.

20 On the one hand, there isn't much
21 discussion there in terms of how to deal with those
22 sort of biologically distinct species that we want
23 to rebuild, but then just it's the lack of guidance
24 there is kind of it's making people cautious as to

1 sort of embracing that. So any guidance there
2 would be very helpful. Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Further comments or questions? Rob O'Reilly.

5 ROBERT O'REILLY: I'm just wondering if
6 you're going to have a letter would you touch on
7 all 11 of these issues in some form, and there's
8 a few weeks, but is that time enough to really just
9 go the record itself to make the points that have
10 existed from previous meetings? Is that
11 something the staff could do to subset the minutes,
12 the record in that case?

13 The other thought I had was I was going
14 to ask but since George indicated -- you know,
15 touch upon these, I wondered whether these would
16 all come up and accurately reflect the Council's
17 views on them; would they come up independently in
18 the course of this type of review?

19 But anyway, if you're going to have a
20 letter, then I would think you'd just say here are
21 the issues and shorten the list and reiterate it
22 that you would want something behind it as much as
23 possible to do over the next couple of weeks with
24 the many things there are to do maybe that could

1 be streamlined just by going to the actual minutes
2 and someone pulling out the salient parts of why
3 these issues have been difficult or not difficult.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
5 I think what we'll probably do is highlight our
6 problems that we've had relative to the NS1
7 Guidelines. Frankly, a lot of the applications of
8 those guidelines to the data moderate species has
9 been pretty straightforward, but we have had
10 trouble with the data poor situations. We've had
11 questions about stocks in the fisheries when you
12 get some of them almost look like in between cases
13 and then some of these econological questions.

14 But, again, I'm not sure that all those
15 things need to be addressed through the guidelines
16 or if there may be other means to do it. But I
17 would think we could certainly identify the things
18 that are most problematic relative to the
19 guidelines based on our council's experience.

20 The Agency's going to be hearing from
21 all the councils, so you'll see a lot of different
22 experiences reflected in that. But I know the
23 data poor area is one is the one that challenges
24 a lot of the councils, so I would think we might

1 highlight some of those issues in the letter.

2 I don't think all of those areas need to
3 be opened up necessarily through this, but we can
4 certainly reflect our experience in the letter.
5 Rob.

6 ROBERT O'REILLY: I guess the last
7 thing I'll mention is it doesn't have to all be
8 negative. In other words, of the 11 there could
9 be those that have been denied in the council
10 process and that might be just good worth
11 mentioning as well.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Thank you. Any further discussion on this?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 George, again, thank you for the presentation.
17 The next item is going to be spiny dogfish
18 Amendment 3. Are you ready for that, Jim?

19

20 AMENDMENT 3 TO SPINY DOGFISH

21 JAMES ARMSTRONG: All right. This is
22 -- I'm here to update you on the progress of
23 Amendment 3. We're looking forward in the next
24 phase to going out to public hearings and for

1 further FMAT work on the document itself.

2 The amendment has four basic issues in
3 it, and they're primarily administrative in
4 nature. The first issue is RSA, and currently the
5 dogfish fishery does not participate in the RSA
6 Program, so an action alternative under this issue
7 would allow for research set-aside during
8 specifications.

9 We actually have a couple of action
10 alternatives. The standard 3 percent is one
11 alternative, but a higher 5 percent was
12 recommended in the FMAT discussion owing to the
13 very low value of dogfish and how that might I guess
14 help make it more appealing during the bidding
15 process. So those are the RSA alternatives.
16 Basically, dogfish would just go onto the list of
17 other species for RSA. So there's no detail or
18 anything different about this.

19 EFH is required, the definitions of EFH
20 for many species are required to go under review
21 every five years under Magnuson, under the EFH
22 guidance under Magnuson, and that hasn't occurred
23 for dogfish.

24 The FMP went into place in 2000, and so

1 we're required to do a review of EFH for dogfish.
2 What we're not required to do is change our EFH
3 definitions, but under the action alternative, we
4 would update EFH based on the latest biological
5 survey data.

6 We do this specific to life stages for
7 dogfish, and there are only two being viviparous,
8 that is, they give birth to live young. There are
9 juvenile dogfish and adult dogfish. So they're
10 treated separately.

11 Here we have a map showing the EFH for
12 juvenile dogfish under the status quo. So the
13 blue squares on there are 10-minute squares, 10
14 geographical minutes on each side. And here is
15 the alternative using the more recent through 2011
16 data. So, as you can see, dogfish are still
17 everywhere. The same thing, adult EFH status quo,
18 adult EFH updated. There is a somewhat smaller
19 area in the update, and I think that's because in
20 the older one it was a very simple -- that would
21 change as well, the way that the 10-minute squares
22 are turned on or off, in the old one, 90 percent
23 of the 10-minute squares in which dogfish were
24 caught comprised the mapping part of the

1 definition, and now it's done with a geometric mean
2 or a little more sophisticated mathematical
3 process. But it's still an awfully big area.

4 Additionally, EFH definitions are not
5 explicitly -- I'm sorry. The life stages are not
6 explicitly defined in the status quo EFH
7 definition. It just says juveniles and adults,
8 but we know that the sizes that correspond to
9 juvenile and adult life stages differ among males
10 and female dogfish.

11 So the catches in the survey are sex
12 specific and then are categorized as juvenile and
13 adult based on the size, sex information there. I
14 said that the 10-minute square are ranked
15 differently. Also, we would update -- and this is
16 ongoing -- the temperature, salinity, and depth
17 preference. We're not expecting any great
18 revelations there. The third issue in the
19 amendment is what happens if rulemaking is delayed
20 and the fishing year starts and we're supposed to
21 have a new quota?

22 Under the status quo, the trip limit
23 carries through to the next year, to the new
24 fishing year, but the quota goes away, so we're

1 operating without a quota. Nobody really knows
2 this.

3 But anyway, it does make sense for us to
4 close that loophole, and so what we would do is we
5 would make sure that all management measures put
6 in place through specifications in the prior year
7 are carried through until replaced on the
8 effective date by the new specifications. So that
9 would keep those in place. That's easily taken
10 care of.

11 The final issue in Amendment 3 is the
12 issue of quota allocation, perhaps the most -- you
13 know, important of the things in terms of problems
14 that are currently existing in the fishery.

15 There's a bit of a conflict in the way
16 that the interstate FMP has evolved and compared
17 to the federal FMP. Addendum 2 to the dogfish FMP
18 established geographic allocation of the
19 coastwide quota. Now, the federal FMP maintains,
20 as it has since 2000, seasonal allocation of the
21 quota. And so that creates an issue where off of
22 a given state, you could have state waters closed
23 while federal waters are open or vice versa
24 depending on that state's landings for the

1 coastwide catches relative to the period.

2 So what we would try to do is amend the
3 allocation of the quota to minimize the conflict
4 that arises from that. Now, since Addendum 2 to
5 the interstate FMP, Addendum 3 has gone through,
6 and that took the regional allocation, which was
7 a two region, north and south allocation --
8 actually, north, south and North Carolina, three
9 regions -- and then took the remaining states in
10 the south, New York through Virginia, and divided
11 the quota up in the percentages that are on the
12 screen.

13 And that's the existing geographic
14 allocation of the quota under the Commission's
15 plan. So our two alternatives in Amendment 3
16 would either just establish a coastwide quota and
17 close federal waters to the possession of dogfish
18 once the coastwide quota is caught, or
19 alternatively would match the geographic
20 allocation that's been established through the
21 interstate FMP. Some of the language in the
22 amendment that's been written already kind of
23 points to some possible problems that might come
24 with that latter alternative, that is, matching

1 the interstate FMP in that the Commission's plan
2 can evolve rather quickly, and it's already had
3 three addendums, and it's got a fourth in review
4 right now.

5 And this is really our first that's --
6 you know, changing something, other than the two
7 that preceded Amendment 3 were SBRM and ACLAM
8 Omnibus Amendment. So this one is the first
9 that's really a dogfish-specific amendment.

10 And the federal process is such that if
11 the interstate plan were to change, it would be a
12 long process for us to then change ours to, again,
13 match the interstate plan.

14 So that may be avoided if we were to go
15 with Alternative 2, the coastwide quota. Another
16 issue with this and sort of a conflict with the
17 interstate plan that exists is that there's a 5
18 percent rollover provision in the plan, the
19 Commission's plan, where if there's unharvested
20 dogfish, then up to 5 percent of that can be carried
21 over to the next year.

22 And we're not contemplating that in the
23 federal plan. So, if we matched up the allocation
24 or just had a coastwide quota, we would still have

1 that bit of difference, but it's likely to be a
2 minimal source of conflict. We do have in the
3 draft some scenarios for -- you know, because this
4 is not a joint plan, they are complimentary plans,
5 there is always a possibility that federal and
6 state quota could be different.

7 So, even though we match up our
8 allocation schemes, the Commission could have a
9 higher quota or the federal waters could have a
10 higher quota, which almost happened for the
11 current fishing year. And so we do address that
12 in the amendment. And that sort of differs
13 between the alternatives there.

14 So the next step of the operation here
15 is to go out for public hearings. We've got them
16 scheduled for the first week of September. We're
17 going to have one down in Virginia Beach, one in
18 Manahawkin, and one up in Warwick.

19 And anybody want to meet me in the back
20 to sign up to be a hearing officer, I'd appreciate
21 it; otherwise, expect a phone call. And we're
22 looking for September approval by the New England
23 Council, October by the Mid, and final submission
24 of the EA in December and implementation May 1.

1 sea bass, or for a -- you know, for a joint plan,
2 but for a complimentary plan, that's not linked
3 sort of -- you know, in any sort of obligatory way
4 from both ends, like the Commission's plan isn't
5 linked in any way to the federal plan, I'm not sure
6 that that's a viable way to do it.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Peter.

9 PETER HIMCHAK: So the question then:
10 If the state-by-state allocation percentages
11 change, could a framework be done through spiny
12 dogfish to match the geographic allocations?

13 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

14 JAMES ARMSTRONG: I think so. Yeah.
15 We could add that in as a frameworkable item in the
16 amendment, yeah.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
18 it seems to me you'd want to do that, but I would
19 think also just given all the discussions we've had
20 about allocations and regional and state-by-state
21 issues, that you'd want to have an automatic review
22 period in here, maybe every three to five years
23 that the allocation will be reviewed, if in fact
24 that option's selected. And right now there is no

1 review that's built in.

2 JAMES ARMSTRONG: No, not as currently
3 characterized, but we can certainly improve it
4 with that language.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Other questions for Jim or discussion? Bob.

7 ROBERT BEAL: Probably not a question
8 but just a comment. I think the other thing that
9 the Commission has discussed as far as our
10 continually changing allocation for spiny dogfish
11 is the potential to establish
12 state-by-state shares for the norther region, so it
13 would be Maine through Connecticut, taking that 58
14 percent and dividing that up into state shares.

15 So it's been talked about a couple times
16 at the Management Board. It hasn't been acted on,
17 but that's something that's out there that the
18 states may want to do in the near future.

19 And the other point or the other
20 question actually is: The Commission's plan
21 allows state transfers of quota, so if the Council
22 were to adopt the state shares for the southern
23 region, would they allow transfers between states
24 similar to what we have for summer flounder?

1 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

2 JAMES ARMSTRONG: Yes. Transfers
3 would be allowed.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thank you. And I think back to Bob's point, it
6 would be important to add the allocations
7 including future development of allocations in the
8 northern region, something that's frameworkable
9 so we could react quickly to it if in fact this gets
10 selected.

11 'Cause you don't want to have a
12 situation where we have to go through another
13 amendment to get the plans lined up. That's the
14 whole intent of the plan. Other comments?
15 Dewey.

16 DEWEY HEMILRIGHT: Any way that can
17 simplify the Atlantic States Marine Fisheries plan
18 with the federal plan. It needs to be done for the
19 spiny dogfish because I'd venture to say that
20 probably 99.9 percent of the fish are caught are
21 probably in state waters.

22 I know in the southern end, in North
23 Carolina it predominantly is and where you have
24 problems with you got a federal permit or don't you

1 and all this other ruffraff stuff.

2 Anything that would further compliment
3 simplicity. And I know that's probably a hard
4 word to use sometimes in this stuff, but it would
5 help out greatly. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Other questions or comments?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 What's the pleasure of the Council? We've had a
11 couple suggestions that the state-by-state
12 allocations or the allocated scheme be
13 frameworkable and it would have a review period
14 associated with that. Are there any other
15 modifications that you want to make to the public
16 hearing document? Go ahead, Mike.

17 MICHAEL LUISI: Thank you, Mr.
18 Chairman. If I could ask a question of Jim. One
19 of the issues that we have every year is that given
20 the current standing of how quotas and how
21 management jurisdictions are laid out, state
22 waters fishermen, they are limited to where they
23 can go, and they ultimately end up needing to fish
24 in state waters to catch the remainder of whatever

1 quota that they have.

2 By going forward with in the case of
3 Alternative 4C, would that essentially
4 allow -- is the coordination there that would allow for
5 fishermen to fish in the federal waters throughout
6 the year and not be forced and -- you know, directed
7 just in state waters to catch the remainder of the
8 quota? Would it help align the quotas more
9 closely so that the federal waters don't close
10 while states are still open? Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

12 JAMES ARMSTRONG: That relates goes
13 back to whether the quotas are the same. If the
14 quotas are the same, then -- you know, barring the
15 5 percent issue, which -- you know, if that's there
16 and a given state has 5 percent more that adds to
17 the total quota compared -- you know, against its
18 more than the federal quota would be because the
19 federal quota wouldn't carry that amount over.

20 So that does create a scenario where the
21 state waters would be -- the fishing activity would
22 be restricted to state waters. If the quotas are
23 identical and quota monitoring done by the states
24 and -- states and federal are getting the same

1 information so that there's not a conflicting
2 landings reports, then the closure would happen
3 when the last pound is allowed, and that could
4 occur in either federal or state waters.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thanks, Jim. Dewey.

7 DEWEY HEMILRIGHT: Maybe help, Mike, in
8 answering the question. Basically what I've seen
9 happening in North Carolina is that the federal
10 quota will close about three or four days before
11 the state does, so what happens there in that
12 scenario is your fishermen get their federal
13 permit and they fish and then get notification that
14 the federal's going to close, you fax in your
15 federal permit and you fish in the state waters.

16 That needs to be cleaned up because it's
17 a pain in the -- I mean butt. It's a pain. It just
18 needs to be that fix there because it is difficult.

19 People need that resource. It's
20 valuable to them. It's not a whole bunch of money,
21 but it's important. So if that could be cleaned
22 up.

23 It almost seems like a few days
24 difference. The federal will close. You'll get

1 notification, but yet there's three or four days
2 left in the states. I'm sure different states are
3 a little bit different in their time.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thanks, Dewey. Further discussion?

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 What's the pleasure of the Council? Do you want
9 to move forward with the public hearing document?
10 Can we have a motion to that effect? Peter.

11 PETER HIMCHAK: Yes. I would move that
12 the Council move ahead with Amendment 3 for public
13 hearings on spiny dogfish.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there a second to that motion? Second by Erling
16 Berg. Would that include making the allocations
17 frameworkable and having say a five-year review
18 period of the allocations?

19 PETER HIMCHAK: Yes. Including the
20 two issues that we discussed today.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thank you. Further discussion on the motion?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 the Council ready for the question?

2 (Motion as voted.)

3 {Move forward with Dogfish Amendment 3 for public
4 hearings making allocations frameworkable and
5 including a 5-year review of regional allocation.}

6 COUNCIL CHAIRMAN RICHARD ROBINS: All
7 in favor please say aye.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Opposed like sign.

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Abstentions like sign.

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: The
16 motion carries. Thank you. Thank you, Jim. Our
17 next item is the update and a presentation from Dr.
18 Russ Brown of the Northeast Fisheries Science
19 Center Strategic Planning presentation. Russ.

20

21 NORTHEAST FISHERY SCIENCE CENTER

22 STRATEGIC PLANING

23 RUSSELL BROWN: Great. I want to thank
24 the Council for providing a little bit of time on

1 your agenda for us to update you on some of our
2 strategic planning processes.

3 We heard obviously a quick summary of
4 what the Mid-Atlantic Fisheries Management
5 Council's doing relative to a strategic planning
6 process.

7 And I hope what comes through here is the
8 need to sort of coordinate these efforts so that
9 we come out with the best products possible in
10 terms of facilitating the interactions between
11 these various processes.

12 So we're actually undergoing a couple of
13 different strategic planning processes. The
14 Fisheries Science strategic planning process is
15 being driven at an agency level, and it's a
16 simultaneous exercise between all five of our
17 science centers and the Office of Science and
18 Technology. And so there's been an effort to
19 coordinate among centers to really identify some
20 of the core responsibilities and activities that
21 are common to each one of the science centers. And
22 we hope that this process sort of positions the
23 Agency to prioritize our science programs in
24 response to what we fully expect to be some

1 challenging budget conditions coming up in the
2 future.

3 So there really are two separate
4 planning processes the Northeast Fisheries
5 Science Center is undergoing right now. The
6 science strategic planning process is the one that
7 I'm going to discuss first. And, again, that's
8 being conducted by all five of the regional science
9 centers.

10 The second process is a facilities
11 visioning process, and what we hope to do is to
12 really identify the scientific capabilities that
13 the Center needs to focus on within the next decade
14 or so and then come back and really take a look at
15 what the facilities sort of resources that we're
16 going to need to support those various processes.

17 And when I get into this part of the
18 presentation, one of the things that I'll sort of
19 note is the fact that the Northeast Fisheries
20 Science Center from a facilities basis is
21 comprised of a bunch of 40 to 60-year old
22 facilities. So the second part of this is
23 something that only the Center's undergoing at
24 this time, not the other science centers in the

1 region.

2 So, from a big-picture sort of
3 standpoint, the framework for our strategic plan
4 is to continue some of our core activities and
5 deliver some of our core products.

6 And these really focus on a range of data
7 collection and also analytic products that support
8 fisheries science and management in the region.

9 We want to document a range of work
10 capabilities and collections that we have
11 traditionally done within the Center, but also
12 really take a look at it divergently in terms of
13 what we need to focus on in the future.

14 And finally, and I think this is a common
15 feature that we're seeing in the
16 Mid-Atlantic strategic planning process is really a
17 focus on the science program and moving the program
18 toward ecosystem types of assessment in support of
19 ecosystem-based management.

20 So one of the things that the process had
21 tried to do is to identify some common themes, and
22 the first three of these themes are ones that are
23 common to all five of the field science centers.
24 The first one really focuses on monitoring,

1 evaluation, and assessing fish and vertebrate and
2 marine mammal populations in fisheries, marine
3 ecosystems and the natural and human communities
4 associated with these.

5 And there are basically some core
6 activities that we've identified here. We want to
7 maintain and enhance our data and sample
8 collection and processing systems and also our
9 analytic capabilities that support single
10 species, multi-species and ecosystem-based
11 assessments for the wide range of resources that
12 we're responsible for managing including human
13 activities.

14 And the second core activity is really
15 providing the data, analysis assessment and
16 information and scientific support to our regional
17 office, to our federal partner agencies, to
18 fisheries management councils and commissions and
19 international treaty organizations and
20 obligations that the Northeast Fisheries Science
21 Center has.

22 And, frankly, the clientele or
23 stakeholders that we're dealing with in terms of
24 providing these analyses is evolving quickly over

1 time as we start to look at features like ocean
2 planning and coastal zone management and those
3 types of activities; and what we found particular
4 to the Northeast Fisheries Science Center is that
5 we're a very data rich sort of organization to
6 support these sort of processes.

7 So the demands on Center scientists'
8 time to provide data and to provide analysis to
9 support these types of activities is certainly
10 evolving.

11 The second theme area that all of the
12 science centers are really focusing on is
13 understanding forecasting and mitigating for the
14 effects of environmental change including climate
15 change on marine ecosystems, coastal communities,
16 and economics.

17 And this is an area where we anticipate
18 receiving political support and likely funding
19 support in the future to move these programs
20 forward.

21 And so some of the challenges involved
22 really taking a critical look at some of our data
23 collection systems and really determining whether
24 those are going to be sufficient to support the

1 types of information needs and analysis that are
2 going to be asked for in the future. A third sort
3 of research theme is to describe and assess the
4 role of habitats in ensuring healthy marine
5 ecosystems, healthy populations of all of the
6 resources that we're responsible for providing
7 science and supporting management and also to
8 support analysis to promote resilient coastal
9 communities and economies.

10 And this is an area where there are --
11 significant efforts have been made in terms of a
12 habitat improvement plan which so far hasn't
13 yielded a significant amount of funding support
14 but something that we're hopeful will occur in the
15 future.

16 But, again, there's a significant
17 portion of the Northeast Fisheries Science Center
18 that focuses in this sort of area. The fourth
19 research theme is a little bit more specific to the
20 Northeast Fisheries Science Center, and this
21 relates to the development of sustainable marine
22 aquaculture, and really the focus here is
23 understanding the anthropomorphical, ecological
24 and biological factors affecting the development

1 of sustainable marine aquaculture on the Northeast
2 Continental Shelf.

3 So there are two basically unique
4 programs to the Northeast Fisheries Science
5 Center. One is that we currently house the
6 national systematics laboratory which is located
7 at the Smithsonian Institution, and this provides
8 systematic support for marine fish and
9 invertebrate taxid (phonetic) in terms of
10 identification and cataloguing and things like
11 that. But they provide support for basically the
12 entire federal government including all of the
13 science centers.

14 The second program is our aquaculture
15 program, which is primarily housed at our Milford,
16 Connecticut facility, and there are only two
17 marine aquaculture programs within the National
18 Marine Fisheries Service. The other one is
19 located at the Northwest Fisheries Science Center.

20 And this is an area that's been
21 receiving some recent funding increases. I'll
22 mention that the aquaculture program on the east
23 coast has focused primarily but not exclusively on
24 shellfish research -- shellfish aquaculture, and

1 the west coast program is focused more on fish
2 aquaculture but not exclusively.

3 So, in terms of our planning process,
4 starting on the right-hand side of this figure,
5 we've gone through a gap analysis with our staff
6 to really try and identify -- you know, what we have
7 been doing versus what we will be needing to do in
8 the future. We generated a draft strategic plan
9 that went to the Science Board. And the Science
10 Board is basically a collection of science center
11 directors and the chief scientists for NOAA
12 Fisheries. And all of the draft plans for each one
13 of the centers were presented, and there was some
14 feedback in terms of what the focus needs to be.

15 Where we are at right now is we have
16 recently had an opportunity for folks to provide
17 some public comment. There will be additional
18 opportunities to do that.

19 But we're also in the idea of basically
20 identifying all of the activities that are
21 conducted by the Center, and so each one of the
22 programs is identifying their key activities and
23 the sort of the labor and the funding that's
24 associated with those, and we're moving toward

1 developing an implementation plan to take
2 basically the science plan and really talk about
3 how that's going to be implemented given the
4 resources that are available to us.

5 So there are some opportunities to
6 provide input into the science planning process.
7 We expect to have probably a more formal engagement
8 with the two councils and the Commission, and
9 obviously, we want to dovetail with the process
10 that the Mid-Atlantic Fisheries Management
11 Council is undergoing. Our draft science
12 strategic plan is available on our website now.
13 We had an initial comment period that closed on
14 August 8, and that was primarily so that we could
15 incorporate the public comments that we've
16 received to date into a draft that would be
17 presented again to the Science Board meeting the
18 week after next, but we also expect to have an
19 opportunity for additional public comment.

20 Some of the key fundamentals that I
21 think that you'll find within the plan are an
22 effort to have our data systems modernized to meet
23 the science and management goals that we expect to
24 have in the future, and there's also somewhat of

1 a focus on research platform in terms of what the
2 needs are going to be for various research
3 platforms in the future.

4 So I think -- you know, probably one of
5 the really important keys to this is to really have
6 close coordination with all of our various
7 partners. And this figure is certainly not an
8 exhaustive list of all of our partners.

9 One of the things that we did through
10 this process was we asked our staff to list the
11 various stakeholder groups and partners that we
12 interact with, and that list was approximately 430
13 separate organizations, institutions -- you know,
14 stakeholder groups, etcetera, that we're having
15 significant partnerships with or research
16 relationships. And so the idea here is to try and
17 achieve the greatest level of coordination among
18 our partners as possible.

19 And so we expect as a center to
20 participate actively within the strategic
21 planning process that the Council's undergoing,
22 but we're going to be looking for ways to dovetail
23 these two processes so that they're as closely
24 linked as possible.

1 So I'm going to switch over and talk a
2 little bit about the facilities visioning process.
3 Again, this is a process that only the Northeast
4 Fisheries Science Center is undergoing at this
5 time, but we are actually the second science center
6 in the Agency to go through this process. The
7 Northwest Fisheries Science Center was first.

8 This is very strategic on the part of the
9 Agency because the way we upgrade our facilities
10 is we sort of move from region to region. Despite
11 the fact that we have some stark budget scenarios
12 that we're looking at in the next few years, when
13 the Agency does go to upgrade or replace
14 facilities, we are at or near the top of the list,
15 and so by going through this facilities visioning
16 process, linking this to our science planning
17 process, we hope to have a product that we're going
18 to be able to put on the table as NOAA shifts around
19 and says: Okay, what does the Northeast Fisheries
20 Science Center envision in terms of upgrades to its
21 facilities?

22 This is an external contractor led
23 process. We're working with a company called
24 Makers Incorporated, which is out of Seattle,

1 Washington. And it builds -- what we are hoping
2 to do is build on the other NMFS and their plans,
3 including the north strategic plan, the north
4 facilities modernization plan, and -- you know,
5 certainly the National Marine Fisheries Service
6 strategic plan and our own strategic planning
7 process.

8 So one of the misnomers about the
9 Northeast Fisheries Science Center is that we're
10 in Woods Hole and no place else, and that's not true
11 at all. We actually have a field station at Orono,
12 Maine that focuses on Atlantic salmon research.
13 There is a small number of researchers there.

14 Probably 70 to 80 percent of our total
15 staff are located in Woods Hole and the various
16 satellite labs that are in the western part of Cape
17 Cod. We have a laboratory in Narragansett, Rhode
18 Island that focuses on a number of issues but is
19 primarily the core for a lot of our oceanographic
20 research.

21 We have a laboratory in Milford,
22 Connecticut that focuses primarily on aquaculture
23 issues but also does some work on habitat. We have
24 a laboratory in Sandy Hook, New Jersey, which has

1 obviously been the point of some political
2 attention recently, but that's a laboratory that
3 focuses on habitat and also on recreational
4 fisheries, and then we have the national
5 systematics lab at the Smithsonian station. So we
6 obviously have a lot of staff, approximately 500
7 staff, about 275 are federal employees.

8 That number bounces up and down. It's
9 probably going to bounce down here for a while. We
10 have other contractual staff, and then we have
11 approximately 150 contractual staff that are
12 associated with our observer program.

13 So the facilities visioning process
14 really involves generating a facilities strategic
15 plan that defines a sort of framework that we need
16 to support our future scientific missions.

17 What will happen after that plan is
18 developed is there'll probably be some type of cost
19 benefit analysis that really determines the amount
20 and type of space and the most cost effective
21 approach to support the mission.

22 And then we'll go through a facilities
23 design and hopefully construction process in the
24 future to start to upgrade some of the facilities

1 at the Center.

2 As I mentioned before, most of these
3 laboratories with the exception of the main
4 laboratory building in Sandy Hook, which was
5 rebuilt after a fire, most of these facilities are
6 at or past the end of their projected sort of useful
7 life. So many of these facilities are 50 to 70
8 years old. These are sort of some of the key
9 activities associated with this process.

10 We had a kick-off meeting with our
11 supervisors in April. The contractor has done
12 site visits to all of our laboratories now, and
13 that occurred in May through August. We had a
14 visioning workshop with all of our supervisors in
15 June.

16 We're currently conducting some
17 stakeholder interviews with some key stakeholders
18 that we've identified to get their impressions of
19 what the facility needs are. We've have an
20 alternatives workshop in October, and we expect to
21 release a final report likely in December.

22 So to wrap up here, I think the key to
23 both of these planning processes is really
24 effective integration and coordination among the

1 various organizations that we coordinate with and
2 that we support.

3 And from that standpoint, we hope that
4 the Council and the various stakeholders that may
5 be represented here do provide input so that we can
6 position the Science Center to really support your
7 activities in the future. So thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Russ, thank you. And thank you for giving the
10 Council the opportunity to hear this presentation.
11 Obviously, the relationship between the Science
12 Center and the Council is crucial to the management
13 of our fisheries.

14 And I appreciate you giving us the
15 opportunity to see where you're heading with this.
16 I wanted to give the Council an opportunity also
17 to ask any questions or comment on what they've
18 seen here today. Are there questions for Dr.
19 Brown? Rob.

20 ROBERT O'REILLY: Yes. Thank you for
21 the presentation. And just one question. I
22 notice that you have a lot of contractual
23 employees, not quite a third, and in other areas
24 of the federal government, contractual positions

1 are being eliminated. Is that something that has
2 moved to your area specifically?

3 In the medical field I know that it's
4 occurred where they give an opportunity for some
5 of the contractual portion of them to achieve a GS
6 status, but the others are not. Is that something
7 that's going on?

8 RUSSELL BROWN: Well, as a general
9 staffing strategy, we obviously have certain staff
10 that are federal employees that we expect to be
11 supported in the long term in terms of funding.

12 So when we have funding lines that are
13 permanent, that are core activities to the Center,
14 we generally staff those with the support of
15 federal employees.

16 There are various activities that we do
17 that are either temporary or the funding is less
18 stable over time, and for many of those activities,
19 we tend to staff -- we tend to rely more heavily
20 on contractual staff so that if funding in those
21 particular areas contracts in the future, then it
22 gives us more flexibility in terms of contracting
23 our work force for potentially staffing in
24 different directions.

1 If the focus -- you know, this year and
2 next is in one activity but two years down the road
3 it's in another activity, that gives us the
4 opportunity to bring on staff to appropriately
5 support the activities that are being funded.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Other comments or questions? Erling.

8 ERLING BERG: Yeah. Thank you, Mr.
9 Chairman. Russ, you mentioned the Sandy Hook lab
10 and how there was a proposal to move that to Woods
11 Hole or someplace else in the Northeast. You said
12 that's political and there was a lot of opposition
13 to that. Being from New Jersey, I'm not sure I'm
14 interested in that. So what is the status? Is
15 that still ongoing, or is that kind of put on a back
16 burner? Where is it at?

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Russ.

19 RUSSELL BROWN: I'll give you the best
20 perspectives I can. The specific proposal was to
21 close the Sandy Hook lab and to move those
22 personnel either to our Milford, Connecticut lab
23 or potentially some personnel down to NOS
24 laboratory in Oxford, Maryland.

1 The fact is that was a feature in the
2 President's 2013 budget that received a
3 considerable amount of congressional attention
4 and congressional opposition, so certainly no
5 decisions have been made on the President's 2013
6 budget.

7 But I suppose I'll give you the
8 viewpoint that we probably -- we don't feel like
9 that in the long term that that's going to be an
10 option that Congress is going to support it.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thanks, Russ. Other questions or comments?

13 Russ, I wanted to share a couple observations, and
14 one is just reflecting on all the frequent
15 conversations we have at the Northeast Regional
16 Coordinating Committee as we talk about the
17 assessment schedule and cycle, obviously that's an
18 area of important and pretty intense interest from
19 the Council.

20 Typically, in those conversations we
21 end up developing an assessment schedule that
22 reflects current capacities, and those capacities
23 are limited. And so as the requirements for ACLs
24 and AMs have put an additional load on the region,

1 it seems like this does create an opportunity to
2 have a longer term process to discuss what those
3 capacities should be or could be and then have a
4 plan to do that.

5 So I think you had a slide up there that
6 talked about the big picture, and it talked about
7 characterizing capabilities and capacities and
8 then where to go from there.

9 But it seems like this is an opportunity
10 to benchmark those capacities at least as they
11 relate to developing stock assessments and those
12 products that we're going to need on a continuing
13 basis and then trying to identify what sort of
14 capacity objectives or pathways there might be to
15 get to the point that we really have adequate
16 capacity to fully support the needs from a stock
17 assessment perspective.

18 RUSSELL BROWN: I think this is one of
19 the big challenges, and it's certainly an area that
20 we spend a lot of time on within the NRCC sort of
21 negotiating out this the schedules for
22 assessments.

23 One of the things that we're really
24 focusing on in the Center at least in terms of

1 internal discussions at this point, is how to sort
2 of increase the efficiency.

3 We understand that there's a demand for
4 more frequent stock assessment updates, and the
5 real challenge in my mind is absolutely aligning
6 the resources that we need.

7 And resources means people to age fish
8 when they need to be aged, through-put on observer
9 data that's needed for discard estimates and stock
10 assessment biologists to actually do the analysis.

11 And we're very sensitive to that and
12 trying to align especially the human resources
13 that we need to support the level of demand that
14 we expect from the Councils and the Commission in
15 the future; but we also really want to focus on the
16 efficiency of the process in terms of the amount
17 of time that we spend, the amount of meeting days,
18 in person meeting days that it takes to generate
19 a stock assessment.

20 That doesn't mean that we're going to
21 back away from peer review processes. They're
22 absolutely critical to producing quality science,
23 but we really do need to take a look at some of those
24 efficiencies.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

COUNCIL CHAIRMAN RICHARD ROBINS:

Thanks, Russ. The other point I wanted to make was that as we went through the Visioning Project, we heard a lot about data collection systems; we heard a lot about science from the different perspectives of our constituents; and I think that coming out of that that we will inevitably develop strategic objectives related to that subject.

So I would anticipate we would have a lot to talk about on those points, but in the interim while you're developing this plan, perhaps we could at least try to package some of what we've heard in a way that would be constructive and informative and include that in our comments to the Center with respect to the strategic plan. The Council hasn't endorsed strategic objectives in that area yet, but we certainly heard a lot of concerns that relate back to that. So we look forward to working with you on that obviously.

But it seems very timely because you're moving forward now with the strategic plan as are we, and it seems like it's an opportunity at least to mesh the two and bring any information that we can into that discussion. So we'll look forward

1 to submitting comments along those lines. Thanks
2 a lot, Russ. Any further comments or questions
3 for Russ?

4 (No response.)

5

6 APRIL AND JUNE 2012 MINUTES

7

COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you. Our next order of business is the
9 approval of the April and June 2012 Council meeting
10 minutes. Those have been circulated. Are there
11 any modifications to those minutes? Are there any
12 changes to the minutes from April and June?

13 (No response.)

14

COUNCIL CHAIRMAN RICHARD ROBINS:

15 Seeing none, those are approved by consent.

16

17 NEW ENGLAND COUNCIL LIAISON REPORT

18

19 COUNCIL CHAIRMAN RICHARD ROBINS: The
20 next item is the liaison report, and for the New
21 England Council that's behind Tab 15. I had the
22 benefit of attending that meeting. You'll recall
23 they were taking up Amendment 5 to the Atlantic
24 Herring Plan. We had submitted, or we had taken
final action on Amendment 14 to squid, mackerel,

1 butterfish the week prior. From our perspective,
2 the outcome on Amendment 5 was largely similar in
3 terms of the measures that were adopted.

4 They didn't adopt a cap yet, the catch
5 cap, as we did, but they indicated based on leg
6 advice that they would have to consider that in a
7 future action.

8 So it appears that they were positioned
9 to take that up either as a framework or an
10 amendment, whatever needed to be done in future
11 development.

12 So I think the outcomes were largely
13 compatible. They're not exactly identical.
14 Jason could probably highlight any key
15 differences. But by and large I think we ended up
16 with a relatively well coordinated outcome.

17 So, if you think about where we were
18 earlier in the process, to get to the point that
19 we had fairly compatible outcomes out of those two
20 amendments was a significant outcome. And we also
21 discussed monkfish there. And this council had
22 raised some concerns about talking out ITQs from
23 Amendment 6. The Council voted on that and agreed
24 to leave those in for the time being for further

1 development. And there's been a Monkfish
2 Committee meeting in the interim, but that was
3 another significant outcome. And, Frank, I don't
4 know if you'd like to highlight anything else
5 related to groundfish that came out of that
6 meeting?

7 FRANK BLOUNT: No. You did a pretty
8 good job. The only thing is on the small mesh
9 multi-species, the Council agreed to increase the
10 southern whiting possession limit from 30,000 to
11 40,000 pounds. And that was basically from Long
12 Island through Montauk the ones that brought that
13 to our attention.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Frank. The next report is the Regional
16 Administrator Report. George, would you like to
17 give that?

18

19 NMFS REGIONAL ADMINISTRATOR'S REPORT

20 GEORGE DARCY: Sure. Thank you, Mr.
21 Chairman. I actually have quite a short report
22 today. The Trimester 2 longfin squid, aka loligo,
23 fishery was closed on July 10th, and vessels issued
24 longfin squid permits are now prohibited from

1 fishing for catching, possessing, or landing more
2 than 2500 pounds of longfin squid until Trimester
3 3 reopens on September 1, which is actually
4 contingent upon something else I'll mention in a
5 minute. I will apologize again to the Council and
6 to the industry for the way this closure was done.
7 It was not done the way we would have liked to have
8 done it.

9 It's not the way we usually do these
10 things, which should have been a very routine
11 matter. We have several different ways of
12 notifying the public of these actions, and
13 virtually every one of them failed for a variety
14 of human or technological reasons in this case.

15 So we did not give adequate notification
16 to the fleet, and we're looking at ways to make sure
17 that that doesn't happen again. So I'm sorry that
18 went that way, but by the time we found out what
19 had happened, it was basically too late.

20 An update on surfclam and ocean quahog.
21 You had requested that we undertake an action to
22 reopen a portion of Georges Bank PSP closure area.

23 We are close to completing a proposed
24 rule to do that and hope to be publishing that soon

1 along with a draft environmental assessment, and
2 EA, with a 30-day public comment period. It is
3 still our intent to have a final rule effective for
4 the start of the 2013 fishing year, and I think so
5 far so good on that one. Two other pending actions
6 that relate to squid, the squid fishery and
7 butterfish.

8 We have a final rule for your Framework
9 Adjustment 6 to the mackerel, squid, butterfish
10 FMP under final review. If that is approved, we
11 will get that in place as soon as possible.

12 Without that, because the butterfish
13 cap in the longfin squid fishery has been exceeded
14 under the existing specifications, without the
15 approval and implementation of Framework 6 and an
16 associated final rule that would increase the
17 butterfish specifications including the
18 butterfish cap, also this Council recommended that
19 Trimester 3 cannot re-open.

20 So, if both of those rules are approved,
21 we will be able to re-open Trimester 3 until such
22 time as whatever remaining butterfish cap is
23 exceeded or the loligo quota itself is exceeded.
24 So that concludes my report. Thank you, Mr.

1 Chairman.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, George. And the Trimester 3 situation
4 is very problematic. That's something I think we
5 may take up under new business. I'm looking at
6 Jason now, but we can entertain some discussion on
7 that under new business. Are there any questions
8 for George otherwise or comments? Jason.

9 JASON DIDDEN: George, there was the
10 letter regarding the joint FMAT PDT related to
11 Amendment 14 and Amendment 5 and moving forward
12 with the industry funding proposal. Were you guys
13 looking for council action here for the Council to
14 create that body so that could move forward and
15 work on the industry funding aspects?

16 GEORGE DARCY: Thank you. Good catch.
17 That would be great. We just sent you that letter
18 in the last day or two. As you recall, both
19 councils took final actions on important herring
20 and mackerel, squid, butterflyfish amendments in
21 June, and in order to work through the
22 implementation of the industry funded observer
23 program and how that might work, we have sent
24 letters to both councils asking for a joint FMAT

1 PDT to work through those problems and asked you
2 to consider setting up such a committee.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thanks
4 for that question because that is important, and
5 I did just get the letter, so we'll be moving
6 forward with developing that working group.
7 Greg, did you have a question on this?

8 GREGORY DIDOMENICO: Sorry, George.
9 Could you please clarify again the particular rule
10 making timeline for Framework 6.

11 GEORGE DARCY: We're at the final rule
12 stage. The final rule has been developed and is
13 under final review in headquarters. So the
14 decision as to whether to approve or disapprove
15 Framework 6 is still pending.

16 And if it's approved, we would have to
17 publish that final rule and make it effective as
18 soon as possible. But I can't give you a date. We
19 don't know yet. It's still under review.

20 GREGORY DIDOMENICO: But that will be
21 the final action, regulatory action, to implement
22 Framework 6 at that time?

23 GEORGE DARCY: There's a final rule to
24 implement Framework 6, which would change the

1 Council's risk policy; and there's a separate
2 action, a separate final rule, that if Framework
3 6 is approved that changes that risk policy, it
4 would implement the butterflyfish specifications
5 that you had originally recommended and we
6 proposed that then we had to change because of the
7 risk policy issue; and then the SSC reaffirmed its
8 recommendation, and the Council reaffirmed its
9 desire to go forward with what it had originally
10 recommended. So that would be done in another
11 final rule that would follow close on to Framework
12 6 if both actions are approved.

13 GREGORY DIDOMENICO: Two separate
14 final rules?

15 GEORGE DARCY: Yes.

16 GREGORY DIDOMENICO: Concurrently?

17 GEORGE DARCY: As close together as is
18 feasible.

19 GREGORY DIDOMENICO: Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Chris Zeman.

22 CHRISTOPHER ZEMAN: Before this
23 Council meeting, there was a letter sent to us by
24 the New England Council regarding ACLs or

1 potentially having to create ACLs or sub ACLs for
2 one of their flounder species, and I think that was
3 going to be discussed at this Council meeting.
4 Are we going to address that next?

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 That's next. The windowpane issue I think it's
7 played out a little bit differently through their
8 PDT discussion. Maybe Chris can update us on
9 that. Any further questions for George?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: All
12 right. Seeing none, Chris, did you have a comment
13 on that?

14 CHRISTOPHER MOORE: Thanks, Mr.
15 Chairman. The issue is that Rick received a
16 letter from the New England Council that was
17 distributed to this council basically asking our
18 council to develop sub ACLs for windowpane
19 flounder in cooperation with the Atlantic States
20 Marine Fisheries Commission.

21 We didn't respond to the letter. We had
22 some additional discussions with staff. As I
23 understand it, the groundfish PDT has decided to
24 move in a different direction.

1 The letter hasn't been rescinded, but my
2 understanding is that in fact we're not on the hook
3 to develop sub ACLs for windowpane flounder.

4 CHRISTOPHER ZEMAN: Great news.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Bob,
6 have you had any further interaction with New
7 England staff on that also?

8 ROBERT BEAL: No. We're in the same
9 position as the Council on that. We have not
10 responded to the letter either. We were kind of
11 waiting to see how it played out a little bit and
12 see what came about from this discussion today.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
14 enough. Any other questions for George or Chris?
15 Yes. George.

16 GEORGE DARCY: If I might add a little
17 bit to what Chris just said. I think where they
18 are now is the Groundfish Committee and Groundfish
19 PDT they're looking more generically at
20 accountability measures that might be implemented
21 through by gear type rather than by fishery.

22 So there's still the potential that it
23 would have impacts on summer flounder, scup, squid
24 fisheries and so forth. So I think you still do

1 want to track this very closely and coordinate as
2 this goes along to make sure that you're aware of
3 what's happening and have input to it as
4 appropriate.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thanks for that clarification. Bob.

7 ROBERT BEAL: Just a question. I know
8 some of the species that are managed by the New
9 England Council, winter flounder for example, have
10 sub ACLs for state waters. Are those set up for
11 windowpane flounder as well, or is the majority of
12 the interactions taking place in federal waters?

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 George.

15 GEORGE DARCY: I'm not sure I can answer
16 the second question. The first is there actually
17 aren't sub ACLs per se in state waters because
18 there's no authority for the Council to -- well,
19 I'm sorry.

20 There are no accountability measures
21 for state waters. There's a certain amount that's
22 taken off the top for state waters fisheries, but
23 there's no accountability measures associated
24 with them because there's no authority to do that

1 for state waters fisheries.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. The next report is the Science Center
4 Director Report. Jim Weinberg, are you going to
5 give that or Russ?

6

7

NMFS NEFSC DIRECTOR'S REPORT

8

JAMES WEINBERG: Thank you. I'll
9 review some survey activities and then talk about
10 stock assessments. The 2012 sea scallop survey
11 was completed on schedule on July the 7th, 2012.
12 On this survey there was a combination of the
13 traditional dredge tows, which are taken by the
14 Sharp and the habcam camera system, and all the
15 data were successfully collected and now being
16 analyzed so that they can be used in future PDT work
17 and in stock assessments. The 2012 shrimp survey
18 on the Harvey, Gloria, Michelle began on July the
19 22nd, and Leg 3 is currently underway.

20

21

22

23

24

Regarding the cooperative clam survey,
I think you know that the Delaware is no longer
being used at the Science Center, and the clam
survey has been taken up by a commercial vessel,
the ESS Pursuit out of Atlantic City, New Jersey.

1 lot of the information that was provided on the
2 assessment updates of Mid-Atlantic stocks, and I
3 believe that the dogfish update is also something
4 that you can be expecting later in this summer.
5 I'm not exactly sure what progress has been made
6 on that.

7 But anyway, then next spring would again
8 be the TRAC with the shared stocks between the U.S.
9 and Canada on Georges Bank as well as another round
10 of assessment updates for the Mid-Atlantic stocks.
11 And I think that basically takes you far enough
12 into the future.

13 The NRCC continues to meet twice a year
14 and make revisions to the assessment schedule.
15 I'll take any questions. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Erling.

18 ERLING BERG: Jim, the clam survey on
19 the Pursuit, is that limited to surfclams, or does
20 that also include the ocean quahogs?

21 JAMES WEINBERG: It's both clams, but
22 they're not collecting information on other
23 species that might come up.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff

1 Deem.

2 JEFFREY DEEM: You mentioned the
3 dogfish update later in the summer. Was that this
4 summer or next?

5 JAMES WEINBERG: That's this summer.
6 Typically, it's been provided around September I
7 believe by Dr. Rego, and I'd have to speak with him
8 to see how that's going.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Further questions? Jim, as we've discussed,
11 we'll look forward to working with you on the
12 questions related to black sea bass as well. I
13 know there aren't any additional modeling efforts
14 that are scheduled on that calendar. I think to
15 further yesterday's discussion, we got plenty to
16 think about and work together with you on.

17 JAMES WEINBERG: Yeah. I've already
18 sent an e-mail to the Science Center informing them
19 about how the meeting went regarding black sea
20 bass. So we'll have to schedule some meetings
21 with the appropriate people.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you. We'll look forward to coordinating
24 that with you. Any other questions for Jim?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, Jim. Our next item is the law
4 enforcement reports. Scott or Kevin. Kevin.

5

6 U.S. COAST GUARD REPORT

7 KEVIN SAUNDERS: Thank you. It's been
8 a busy two months for the Coast Guard. That's the
9 good news. The bad news is unfortunately it's
10 been so busy we haven't been able to do a whole lot
11 of fisheries enforcement.

12 So you'll see in the report we did 55 LMR
13 boardings, and of those we had zero violations.
14 Most of our resources were used for the War of 1812
15 celebration and RBS, recreational boarding safety
16 events that we do every year when summer breaks out
17 and all the people take the boats out of storage
18 and get back out on the water just to make sure
19 they're safe.

20 We're hoping that in the fall, like most
21 years, we're able to get back and do some more LMR
22 boardings and get those numbers back up. This
23 year for this two-month period, we're about a
24 quarter of what we did last year. So these

1 different events sucked up a lot of resources.
2 Just a couple of things to point out.

3 We did an operation we do yearly with
4 Station Ocean City and the National Aquarium, the
5 annual dolphin count, and this year we reported
6 seeing 31 bottlenose dolphins, which is just a
7 survey to try to see what the bottlenose population
8 is.

9 And I think that's one of the lowest
10 numbers that I've seen in a while. Last year I
11 believe we had 117. So I don't know what that
12 plays out when all the research is done. But just
13 something to note.

14 Also, I want to point out that in the
15 fall we're going to participate with Operation
16 Safe Catch, which is a commercial fishing vessel
17 safety operation we do every year. So I would
18 encourage everybody to reach out to communities.
19 This is something we like to push.

20 Getting ready for the winter season,
21 when fall hits, we like to make sure everybody's
22 on board with all the right safety equipment. I
23 hope that the next report I'll have an update as
24 to what our safety examination procedures are

1 going to be in the years moving forward as we get
2 a little more organized with that. You'll see on
3 the Figure 1 in the handout I provided we're pretty
4 much at about just over 25 percent I think of our
5 total HPLP boarding targets that we try to hit.

6 We divide up all the fishing fleets that
7 we work with in the D5 Area, and we designate them
8 either high priority or low priority based upon
9 what we see with this council and some other
10 things, and we have a boarding target.

11 As you can tell, resources just don't
12 permit us to meet all the workload that we have.
13 But we're continuing to try to leverage technology
14 and just to do a little bit better with that for
15 you.

16 Lastly, the last page of your guide
17 you'll see -- normally I provide an update for just
18 an emphasis on a particular type of safety gear.

19 This month I decided that I wanted to
20 emphasize something that's not necessarily safety
21 gear that the Coast Guard requires, but just to
22 make sure that when you're pulling catch on board
23 that your load tackle is actually capable of
24 pulling that on board. We've seen a couple of

1 cases, not many, but a couple of cases through the
2 years where vessels encountered some problems
3 because they were trying to pull up too much, and
4 things snapped, and people got injured.

5 So it's just something else to take a
6 look at, making sure that your gear is equipped to
7 handle the weight that you're putting on it. And
8 that's all I have, sir. Thank you.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you, Kevin. Questions for Kevin? Dewey.

11 DEWEY HEMILRIGHT: Yeah. I got one.
12 I was looking at your Figure 1 about your targets.
13 How many boardings was this? When you look at all
14 you have is percentages. You don't have no
15 numbers there.

16 So, looking just say for croaker, your
17 target could have been one, and you reached that.
18 When you look at this, is there any numbers of
19 boardings that showed there for this? And this is
20 year to date. It's not just -- I was just
21 wondering about what was your target on each one
22 or thereabouts -- a idea.

23 KEVIN SAUNDERS: It's very perceptive,
24 Dewey. So it's sensitive information to see what

1 our target's going to be for each fishery, so I
2 choose just to give you percentages. So I can give
3 you an update as to how we're doing, but I don't
4 want to give you too much information about what
5 our actual target is.

6 That might show some fisheries might
7 have a little heartache with that. So just to keep
8 it kind of a level playing field, I'm not providing
9 that information. Thank you.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Further questions for Kevin? Kevin, please
12 communicate our appreciation to the Admiral for
13 his participation in the meeting earlier this
14 week. We appreciate him coming in. It was nice
15 to have the opportunity to meet him at that. So
16 thank you. Scott.

17

18 FEDERAL ENFORCEMENT

19 SCOTT DOYLE: Thank you, Mr. Chairman.
20 I'm here representing Logan Gregory, our SAC. I
21 have three items. The first is that OLE continues
22 to work with industry as we emphasize compliance
23 and outreach and conduct patrols and
24 investigations to ensure a level playing field for

1 many of our hard working fishermen and other
2 members of the fishing industry. Since the last
3 meeting, there were 35 documented incidents of
4 outreach, which include gear conflict mediation,
5 contacting dealers and vessel owners and operators
6 related to reporting issues. We created a new
7 laminated guide for the Mid-Atlantic recreational
8 and charter boat fishery and others. And these 35
9 incidents don't include our daily BMS outreach as
10 well as our agents and officers who may be dockside
11 dealing with industry.

12 So outreach and compliance has been the
13 buzz words for us for a little time here. As far
14 as incidents, since
15 January 1, 2012, up to the 31st of July, we had 560
16 incidents, which break down to 78 complaints
17 received, 272 inspections.

18 We have 193 investigations going on, and
19 we have 17 other, which I have no idea what other
20 is, but it's other. As a case highlight, I'm just
21 going to highlight one case that came to fruition.

22 This was almost a four-year
23 investigation, and it involved a seven-week trial
24 over in federal court in Camden. It involved

1 multiple defendants who were convicted on various
2 felony counts of creating false documents,
3 trafficking in illegal possessed oysters,
4 obstructing the Food and Drug Administration
5 regulations regarding public health and safety,
6 and all conspiring to commit these crimes. The
7 defendants include: Thomas Reeves, Todd Reeves,
8 Shell Rock Limited of Port Norris, Harbor House
9 Seafood, Mark Bryant, and Kenneth Bailey.

10 They were convicted of multiple felony
11 counts of various Lacy Acts by creating false
12 records for illegally possessing oysters. They
13 trafficked in these oysters and falsifying the
14 records.

15 Another individual I didn't name was
16 Renee Reeves, who is I believe Todd Reeves' wife.
17 She was also convicted of conspiring to commit and
18 obstruct justice. This involved over \$750,000 in
19 illegal product.

20 Sometimes they over harvested their
21 allotted amount by up to 60 percent of the year's
22 quota they're allowed. And that's just one of the
23 cases.

24 We've had numerous -- we had four hump

1 whale entanglement incidents happen. We're
2 investigating those. And we're also working with
3 some noncompliant gillnet fishermen and trying to
4 get them on board. Mr. Chairman, that concludes
5 my report.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Scott. And earlier today we were
8 discussing the RSA program and really trying to
9 identify measures to improve the enforceability of
10 that, and we had some questions about whether there
11 were some ongoing cases. Is that still the case,
12 that there's some ongoing RSA investigation?

13 SCOTT DOYLE: I can't give you too many
14 details, but I can tell you that we have an ongoing
15 criminal investigation. It surrounds the Long
16 Island fishery. It surrounds several fishermen,
17 several dealers.

18 It's a two-year investigation that's
19 been ongoing. We should see some results in the
20 near future. Once we get those results, we'll
21 certainly bring them to you. And I think at the
22 end of the day, we'll hopefully ask the Council for
23 some time to do a presentation on that case and also
24 the general impact and our impressions of how the

1 RSA fits with enforcement and some problems.

2 The one comment I would make
3 particularly because our big concern is to make it
4 possible from our perspective would be to have a
5 call-in requirement.

6 When the boats land, they should have to
7 call in what they have on board prior to
8 offloading. That would make enforcement of the
9 RSA program certainly a lot easier, and I think
10 avoids some of the pitfalls for some of the folks
11 who are not so honest.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Scott, we endorsed those recommendations earlier
14 today as a council that came to us from the RSA
15 Committee. The details of those are still going
16 to have to be worked out in consultation with the
17 Regional Office, but I appreciate your
18 recommendation. Further questions for Scott?

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Okay. Thank you, Scott. The next report is the
22 ASMFC Executive Director, Bob Beal. Bob.

23

24

ASMFC DIRECTOR'S REPORT

1 ROBERT BEAL: ASMFC met last week in
2 Alexandria, Virginia. Since that meeting
3 occurred last week, we didn't have time to
4 obviously get our meeting summary and the briefing
5 materials for the Mid-Atlantic Council.

6 I'll hit a couple of highlights and be
7 happy to answer any questions. The Atlantic
8 striped bass management board approved a new
9 mandatory tagging program for all commercial
10 fisheries.

11 A number of states up and down the coast
12 have a wide range of what they require as far as
13 commercial tags, but under this program all the
14 states will be required to tag all commercially
15 caught striped bass before it enters the market.
16 The idea here is to hopefully close some of the
17 loopholes that have been created.

18 And there are some substantial cases
19 made in the Chesapeake Bay region for folks that
20 were taking advantage of these loopholes and
21 landing a lot of striped bass above the seasonal
22 quotas and under the minimum size limit. So
23 hopefully, that will help address some of those
24 concerns.

1 The shad and river herring board met,
2 and they hope to hear a final decision on the ESA
3 petition for river herring, which was supposed to
4 be published on August 6th I believe; however, that
5 decision was not published, so we're still waiting
6 for that decision on the Endangered Species Act
7 petition for river herring.

8 The Atlantic menhaden board met for an
9 extended period of time and discussed moving
10 forward with an amendment, a comprehensive
11 amendment to the menhaden management program.
12 They agreed to bring this document up for public
13 comment. The final touches are being put on that
14 document right now. Hopefully, it will be
15 available in early September with the public
16 comment period extending for close to 60 days.
17 Public hearings are anticipated for early October.

18 This obviously has generated a lot of
19 public interest, and we anticipate pretty
20 significant public comment on this document, and
21 the Commission hopes to have a meeting in December
22 to make final decisions on the menhaden management
23 program moving forward under Amendment 2.

24 The Atlantic sturgeon board met, and

1 they agreed to develop a petition to National
2 Marine Fisheries Service to delist or down list
3 Atlantic sturgeon under the Endangered Species
4 Act.

5 As everyone knows, the four out of the
6 five distinct population segments for Atlantic
7 sturgeon were listed as endangered under the ESA
8 earlier this year.

9 The Gulf of Maine is listed as
10 threatened, and the rest of the coast is listed as
11 endangered. A number of our states are concerned
12 that the evidence and data that was used was not
13 current, and there's some additional information
14 that's available that indicates there's more
15 sturgeon in the ocean than was given credit for in
16 the National Marine Fisheries Service finding, and
17 they want to develop a petition to potentially down
18 list that species. So that will move forward. It
19 should be interesting to see where that goes and
20 how that shakes out over the next few months.

21 American eel. The board initiated an
22 addendum to look at comprehensive changes to the
23 management program for American eel. There's a
24 stock assessment that was recently completed that

1 listed the American Eel stock as depleted.

2 So the board's exploring some options to
3 potentially initiate rebuilding for American eel,
4 and will have a draft of that document available
5 at our annual meeting for potentially being
6 approved for public comment toward the end of the
7 year.

8 And last but not least, the South
9 Atlantic board is moving forward with the fishery
10 management plan for black drum. They completed a
11 first round of public hearings on a public
12 information document, and they're in the stage of
13 actually drafting the fishery management plan.

14 Hopefully, we'll have a version of that
15 for approval for public comment at our annual
16 meeting in October. So that's the quick
17 highlights of our meeting last week, Rick.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Bob,
19 thanks for the summary. And with respect to
20 delisting those sturgeon, it seems that in order
21 to move forward with that and for that to be
22 successful, we'd need some new information I would
23 think. So the Commission has agreed to prioritize
24 a stock assessment and fund a stock assessment of

1 sturgeon in 2013. Is that also correct?

2 ROBERT BEAL: Partially. What they
3 agreed to do was make the Atlantic sturgeon stock
4 assessment a high priority, and they also agreed
5 to make the Atlantic menhaden stock assessment a
6 high priority for next year.

7 And for 2013 and 2014, we had I believe
8 eight other species that were supposed to go
9 through benchmark assessments and peer review.
10 So adding those two brings the total up to 10, and
11 we don't have the resources to do 10 benchmarks and
12 peer reviews even with the help from the Science
13 Centers and the Sea (inaudible) process in the
14 South Atlantic.

15 So what the policy board agreed to do is
16 have all these sort of competing priorities come
17 back to our Assessment Science Committee, which is
18 a group that oversees our benchmark assessment and
19 peer review process and we'll bring some options
20 forward to the policy board at our annual meeting
21 in October, and they can decide which course they
22 want to take and which species are actually high
23 priorities.

24 But you're right. For the sturgeon

1 petition, we're going to need to pull together some
2 additional information and additional background
3 that can support the Commission's request for
4 delisting or down listing before it can go too far.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
6 enough, Bob. I just wanted to raise that question
7 because it seems like in order for that to have a
8 reasonable chance of success, you need to have some
9 additional information to bring to bear on. Rob.

10 ROBERT O'REILLY: Yeah. I just
11 wanted to mention that that doesn't mean that
12 anyone gets to sit around because -- you know,
13 there's also the situation of the information that
14 National Marine Fisheries Service does have.
15 There's questions about how much they don't have.
16 And the other part is that even with an assessment
17 you're still looking at about a couple of years
18 here -- a year and a half -- to be optimistic; and
19 in the meantime most states have already started
20 the process of gearing toward -- (Inaudible.)

21 ANTHONY DILERNIA: When would be the
22 earliest you would see the new regulations?

23 ROBERT BEAL: Probably 2014.

24 ANTHONY DILERNIA: Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS: And,
2 Bob, that benchmark will be done in the first half
3 of '13. Is that correct?

4 ROBERT BEAL: I believe it is. I think
5 that's when it's (inaudible).

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you. Further questions for Bob?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Bob,
10 thank you for your report and for being with us
11 throughout the week. Chris.

12

13

14

EXECUTIVE DIRECTOR'S REPORT

15

16

17

18

19

20

21

22

23

24

CHRISTOPHER MOORE: Thanks you, Mr.
Chairman. There's a couple items behind Tab 17
that I'd like to bring the Council's attention to.

The first one is our 2012 planning
Council meeting topics. The next council meeting
is going to be in Long Branch, New Jersey. It's
scheduled for October 16th through 18th.

The result of this meeting a couple
things have changed. We do expect to look at
dogfish specifications, and we do expect to

1 approve Amendment 3 to spiny dogfish, but we won't
2 be taking any action on Amendment 17 to scup and
3 black sea bass. One other thing, we expect that
4 we will have a strategic plan working group meeting
5 that week, probably beginning -- at least at this
6 point -- probably beginning on Monday of that week
7 and half a day on Tuesday. So plan on that.

8 The next item behind the tab is our
9 schedule of events. Again, you can take a look at
10 that and see what we have planned for August and
11 September. We do have one addition, again, as a
12 result of our meeting on Monday.

13 September 21st is the likely date for
14 our visioning and strategic planning working group
15 meeting. So plan on that. Speaking of meetings,
16 the next item behind the tab is our 2013 Council
17 meeting schedule. If you're interested, take a
18 look at that.

19 We're going to be meeting in a couple
20 different places and also in places that we've been
21 in the last couple of years including Raleigh,
22 North Carolina; a place called Eatontown, New
23 Jersey; and Montauk.

24 So take a look at that, and the dates and

1 places are listed there. Just a couple items
2 behind the tab is our usual tables detailing our
3 progress on amendments and specifications. Take
4 a look at those when you get a chance. The next
5 item behind the tab is an e-mail from Galen Tromble
6 to me regarding butterfish and mackerel
7 determinations. And this e-mail response to
8 (inaudible) in response to an e-mail that I sent
9 to Galen at the request of Jason, who bugged me for
10 weeks and months to send an e-mail to Galen,
11 regarding the status determination for mackerel
12 and butterfish.

13 So this was an ongoing question for us.
14 It's in our documents and our books and the
15 briefing book that you see in front of us. We had
16 butterfish and mackerel status was as unknown.

17 The Service continued to list them
18 differently. That difference was causing some
19 confusion amongst our stakeholders. I sent this
20 e-mail to Galen. We got a positive response on
21 butterfish. Butterfish is now listed as unknown,
22 but for overfishing is overfished.

23 But it didn't change the status
24 determination for Atlantic mackerel at least not

1 yet. In response to our letter and the response
2 we got from Galen -- sent a letter to Galen
3 requesting that they reconsider the status
4 determination for mackerel. And she is not here
5 to talk about the letter. And I don't think that
6 she's gotten a response to this letter yet.
7 Jason, right? So we'll see how that plays out with
8 regards to Atlantic mackerel determination.

9 The next item behind the tab requires
10 some council action if you want. Because of the
11 events in New York relative to how things played
12 out with the chaos, we didn't get to this.

13 If you look at this, this is a memo to
14 me from Jason regarding RSA for squid, mackerel,
15 butterfish. In this memo he talks about basically
16 that we need to consider RSA for mackerel and
17 butterfish and no action regarding RSA is needed
18 for the squid because we're going to two-year
19 specs.

20 He recommends that we take care of this
21 now, and I agree. His recommendation for mackerel
22 is a 3 percent research set-aside. For butterfish
23 the request is or the recommendation is 2 percent
24 of the 7,560 metric ton ACT, which translates into

1 151 metric tons.

2 And then it discusses in that paragraph
3 there why that's appropriate. So the Council
4 today needs to take action regarding this
5 recommendation, Mr. Chairman.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Chris. Can you repeat that, please.

8 CHRISTOPHER MOORE: Sure. The
9 recommendation is a 3 percent RSA for mackerel and
10 2 percent for butterfish.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Again, we didn't take those up at the June meeting,
13 so we need to take action on that now to perfect
14 specifications. Laurie.

15 LAURIE NOLAN: Thank you, Mr. Chairman.
16 I would move that up to 3 percent of the mackerel
17 TAL be allocated for RSA in 2013, as the
18 recommendation states; and I would also move that
19 the butterfish RSA recommendation 2 percent of the
20 7,560 metric ton ACT with the rationale. Does
21 that all need to be read into the record?

22 COUNCIL CHAIRMAN RICHARD ROBINS: You
23 just need to make a motion, and we'll get a second
24 and present the rationale. Is there a second to

1 the motion? Second by Steve Heins. Discussion?
2 Laurie.

3 LAURIE NOLAN: This is what we've done,
4 and the explanation is there that it reserves one
5 percent for the RSA Program if someone were to come
6 forward with a project, and in the meantime we have
7 2 percent to allow for any butterfish discard that
8 might occur during a research set-aside
9 allocation.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you, Laurie. Further discussion on the
12 motion?

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there any further comment on the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 the Council ready for the question?

19 (Motion as voted.)

20 {Move that up to 3% of mackerel TAL be allocated for
21 RSA and 2% of the butterfish ACT be recommended.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 those in favor please indicate by saying aye.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Opposed like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Abstentions like sign.

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: The
8 motion carries. Thank you. Chris.

9 CHRISTOPHER MOORE: Thank you, Mr.
10 Chairman. One of the other things that we
11 discussed at length at the June Council meeting was
12 Amendment 15 to squid, mackerel, butterflyfish. The
13 next item behind the tab is the preliminary
14 amendment timeline and action plan for that
15 particular amendment. This is something that we
16 promised the Council at the June meeting that we'd
17 have for review at this meeting just to give folks
18 an idea of what we were planning.

19 This basically takes us through the next
20 several years up through a final rule effective
21 date of January 2015. So, based on what we know
22 now, this is our best guess for a timeline for
23 Amendment 15. And, of course, things have changed
24 depending upon complexities associated with the

1 new alternatives or the lack of complexity
2 associated with the new alternatives. And,
3 again, this is the timeline that we're
4 contemplating at this point.

5 The next item behind the tab is
6 something that Jason gave me. This hasn't been
7 published widely yet. This is a summary of the
8 February 2nd, 2012 workshop on the opt-in angler
9 panels. This is something that we coordinated
10 with -- I'll let you speak in a second, Jason.
11 This is something we coordinated with MRIP as a
12 result of Council initiative and Council action.
13 Jason had a large part to do with this particular
14 workshop, and Jason, I believe, has a comment.
15 Jason.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Jason.

18 JASON DIDDEN: More a question for
19 George. It's related to Amendment 15 if you need
20 positive action by the Council requesting an FMAT
21 be assigned for Amendment 15.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 George.

24 GEORGE DARCY: I think that's up to the

1 Council. I don't think we need anything. We
2 would just like some response I guess confirming
3 that the Council will do that. I don't think a
4 motion --

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 That's essentially standard practice; right,
7 Chris?

8 CHRISTOPHER MOORE: Yeah. It's
9 basically an administrative issue. What we'll do
10 when we get back this week is mail a letter
11 requesting FMAT participation from the Northeast
12 Fisheries Science Center in the Northeast Region
13 as well as probably the United States Marine
14 Fisheries Commission and establish that FMAT so we
15 can get going on Amendment 15.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Jason.

18 JASON DIDDEN: Okay. It sounds good.
19 And related to the workshop, there's a lot of
20 interest in anglers providing data directly.
21 There's some statistical issues with that. The
22 workshop tried to kind of get in there and see what
23 could be provided, what are issues with different
24 things are provided. The folks have questions

1 about the report. I think it's near final. They
2 can definitely follow up with me.

3 CHRISTOPHER MOORE: Just a couple more
4 items. The last item behind the tab is the report
5 of the Northeast Region Coordinating Council
6 meeting dated July 9th, 2012. If you haven't had
7 a chance to read this document, you should. There
8 are a number of items in here that I think would
9 be of interest to the Council. If you have any
10 questions, feel free to give me a call to talk about
11 them.

12 Last but not least, Jan, if you could
13 bring up the link. Just scroll down a little bit.
14 So some of you may have forgotten that we have
15 undertaken a project to redo our website. So this
16 is a screen shot of our home page as it exists now.
17 Mary has been working between her other projects
18 to try to get this done. We had thousands and
19 thousands and thousands of pages that we're going
20 through on our old website and trying to figure out
21 exactly what we need to keep and what we can get
22 rid of. So I'm expecting that over the next couple
23 months that we'll have this completed. We'll send
24 it out to Council for beta test and comments, and

1 we look forward to getting this done. So this will
2 include all those pictures that Pres took of you
3 guys at the April Council meeting. With that, Mr.
4 Chairman, I'd be glad to answer any questions.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Chris, thank you. What's the timing again on this
7 new architecture for the website?

8 CHRISTOPHER MOORE: It's largely done.
9 We expect to have it done within a month as a beta,
10 what we call a beta test. So we send that out to
11 the Council in a link and let the Council play
12 around with it for a while. I'd expect it within
13 a month.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you. Questions for Chris Moore? Jim.

16 JAMES WEINBERG: I just wanted to point
17 out that I think that the draft of the NRCC report
18 that's in here is not the final draft. Mike Ruccio
19 sent that out a day early, and then the Science
20 Center provided some comments back to him, and he
21 revised it. So you may want to just check to see
22 if there's a version that came in a couple of days
23 after the one that you included.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,

1 did you have any specific points that you wanted
2 to make about that or simply refer us back to the
3 amended document?

4 JAMES WEINBERG: Just to the amended
5 document.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you. Any further questions for Chris? We
8 have several more committee reports. I'm sorry.
9 Yes, Jeff, come on up.

10 JEFFREY KAELIN: Thank you, Mr.
11 Chairman and members of Council. I know we're all
12 in a hurry to get out of the room. But on the
13 status of stocks of butterfish and mackerel and the
14 exchange of letters and so forth, I'm just learning
15 about that now. It sounds like there was a good
16 determination on butterfish. I'm not sure why the
17 Center for Marine Conservation wrote a letter. I
18 don't know. But I'm suggesting that maybe the SSC
19 ought to have a discussion about that, that there
20 should be some opportunity for this to be reviewed
21 at the SSC rather than through an exchange of
22 letters possibly. It just surprised me really
23 that it's being handled that way. Maybe that's to
24 expedite things, but I have a concern about that,

1 Chris. And the other issue on the SSC is if you're
2 designing your website, it would be helpful to have
3 a link to who the people in the SSC is. I think
4 right now if you pull it up, you get a conflict of
5 interest document or something like that. And
6 maybe it's an issue with spam, but I think the New
7 England Council has a little more information
8 about who is actually on the SSC, and I just thought
9 I'd throw that out while I can get a microphone.
10 Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. Chris.

13 CHRISTOPHER MOORE: In terms of the
14 last issue, in fact that's one of the improvements
15 that we're making with the new website. So that's
16 a good idea. In terms of the first issue, we're
17 surprised that there is or has been a difference
18 between what we consider to be the status of
19 mackerel and butterfish and what NMFS officially
20 says about the status of mackerel and butterfish.
21 And their status of stocks -- that document that
22 they put together every year. So for a couple of
23 years -- and Jason can give you the specifics --
24 we've had this discrepancy where we've looked at

1 the information from the latest stock assessments,
2 information that our SSC looks at, and they make
3 their ABC determinations, and it's always the last
4 couple years are unknown. NMFS has continued to
5 say basically no overfishing, not overfished, but
6 we have problems with the biological reference
7 points; we have problems with identifying exactly
8 what the fishing mortality rate is or exactly what
9 the status of the stock is. So from our
10 perspective, unknown is the right way to specify
11 both butterfish and mackerel. And we're trying to
12 convince the Service that in fact they should say
13 it as well.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thanks, Chris.

16 JEFFREY KAELIN: Okay. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Any
18 further questions? Jim.

19 JAMES WEINBERG: I'll make this real
20 quick. That on that issue about butterfish and
21 mackerel, we've always had this issue where we're
22 very tuned in to the stock assessment results, as
23 you are, and we work with the Regional Office, and
24 all of this gets transmitted to headquarters, and

1 there seems to be at different levels they want to
2 assign status and when they'll accept new
3 information. There's some inconsistencies in how
4 quickly it can come in, what the rules are. But
5 e-mailing your book from Galen back to you was sent
6 before I was actually contacted and brought into
7 the communication loop. So I'm now involved in
8 this as well providing the Science Center's
9 perspective on this. So I think there's more to
10 come.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Chris.

13 CHRISTOPHER MOORE: Last but not least,
14 so we have these name badges that we've given to
15 everyone. We'd like to collect them when you
16 leave today, unless of course you're retiring,
17 then you can keep it. And we will get name badges
18 out to the new members for the next Council
19 meeting. And I think we have one misspelling we
20 need to take care of. We'll take care of that as
21 well. And that's it, Mr. Chairman. Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Okay. Then we've got a couple more committee
24 reports quickly, and then we'll get on to new

1 business.

2

3

VISIONING AND STRATEGIC PLANNING COMMITTEE

4

5

6

7

8

9

10

11

12

13

14

15

16

17

EXECUTIVE COMMITTEE REPORT

18

19

20

21

22

23

24

COUNCIL CHAIRMAN RICHARD ROBINS: The Visioning and Strategic Planning Working Group met on Monday. We had our first of a series of facilitated meetings, and we're using this group to draw on the work that we've already done through the data collection process to develop the vision and strategic plan. We'll be developing a series of strategic goals and objectives. Largely I think that's where the rubber will meet the road, and then we'll develop a tactical plan that will have a one- to three-year time horizon as well as a strategic plan with a longer term time horizon.

COUNCIL CHAIRMAN RICHARD ROBINS: The Executive Committee also met the following day, and Rich Seagraves presented us with an update on our progress on ecosystem-based management. And, Rich, do you have a quick synopsis on that for us?

RICHARD SEAGRAVES: Yeah. Sure. Thanks, Mr. Chairman. Essentially, we updated

1 the Executive Committee on progress to date. The
2 Council voted in 2011 to develop a document.
3 We've been working on that. We've got goals and
4 objectives, purpose and needs statements on
5 ecosystem. There are forage consideration
6 protocols that have been approved by the Council.
7 We've been working on the outline for the document,
8 and we were passed by the Executive Committee staff
9 to work with the SSC to develop a framework for
10 incorporation of ABC in the ABC and OY control
11 rules for ecosystem considerations. We have a
12 meeting scheduled a half day session with the SSC
13 at the September SSC meeting to discuss where and
14 when in the process of either ABC determination or
15 OY determination these various ecosystem
16 considerations should be considered. And based
17 on that framework, we'll be developing the
18 components and scope of the ecosystem approach to
19 the fisheries management document.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Rich. Are there any questions related
22 to those committee work?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

1 Warren, would you like to give the report for the
2 Ecosystem and Ocean Planning Committee?

3

4 ECOSYSTEM AND OCEAN PLANNING COMMITTEE REPORT

5 WARREN ELLIOTT: I will, Mr. Chairman.
6 Thank you. And I'll be succinct. The Ecosystem
7 and Ocean Planning Committee met Tuesday morning.
8 We considered two items relating to deep sea
9 corals. As you know, the Council voted in April
10 to proceed with an amendment to protect the corals.
11 The Committee discussed various options available
12 to carry out the intent of Council and felt that
13 an amendment to the squid, mackerel, butterflyfish
14 FMP was the most appropriate means of moving ahead.
15 The second item was the development of a deep sea
16 coral MOU that we would send to the North Atlantic
17 and South Atlantic Councils. That was presented
18 in your briefing booklet. There were several
19 amendments offered by committee members
20 specifically dealing with some expanded language
21 regarding the purpose of the MOU in the protection
22 of corals and a better description of the
23 boundaries. I would like to bring both of those
24 items before Council.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Warren. Please do if you have that
3 motion on behalf of the Committee. Jan, do you
4 have those? Thank you. It will be just a minute
5 for her to get those up. (Pause.) Warren, do you
6 mind reading that into the record on behalf of the
7 Committee.

8 WARREN ELLIOTT: Move to recommend that
9 Council moves forward with deep sea coral
10 protection under the squid, mackerel, and
11 butterfish FMP.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Thank you. Motion on the behalf of the Committee.
14 It doesn't require a second. Discussion on the
15 motion? Is there any discussion on the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Seeing none, is the Council ready for the question?

19 (Motion as voted.)

20 {Recommend that the Council moves ahead with deep sea
21 coral protections under the Squid, Mackerel, and
22 Butterfish FMP.}

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 those in favor please indicate by saying aye.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Opposed like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstentions like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: The
9 motion carries. Thank you. The next motion.

10 WARREN ELLIOTT: Move to approve the
11 memorandum of understanding regarding the
12 management of deep sea corals that would involve
13 the cooperative agreement among the three
14 councils: the New England Fishery Management
15 Council, the Mid-Atlantic Fishery Management
16 Council and the South Atlantic Fishery Management
17 Council.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you. Discussion on the motion? Warren, I
20 appreciate the work the Committee did to go through
21 that. You all had to go through line by line, but
22 I think that was the way to do it just to make sure
23 the language was acceptable to everybody, and
24 there were a number of constructive edits made to

1 that. So I appreciate all that. Any further
2 discussion on the motion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 the Council ready for the question?

6 (Motion as voted.)

7 {Approve the Memorandum of Understanding regarding the
8 management of deep sea corals that would involve
9 the cooperative agreement among the three
10 Councils: the New England Fishery Management
11 Council, the Mid-Atlantic Fishery Management
12 Council and the South Atlantic Fishery Management
13 Council.}

14 COUNCIL CHAIRMAN RICHARD ROBINS: All
15 those in favor please indicate by saying aye.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Opposed like sign.

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Abstentions like sign.

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: The
24 motion carries. Thank you. Is there anything

1 else from the Ecosystem and Ocean Planning
2 Committee? Warren, thank you. And thank you for
3 running that meeting. Okay. That brings us to
4 continuing and new business. And I know we've
5 been discussing with staff about the possibility
6 of having a squid workshop. And, Jason, if you
7 could summarize quickly the issues that might come
8 into that and the potential timing of it.

9

10

CONTINUING AND NEW BUSINESS

11

SQUID WORKSHOP

12

13

14

15

16

17

18

19

20

21

22

23

24

JASON DIDDEN: Sure. The Council's
got a variety of communications regarding
different management issues, also realtime
management of squids the industry would like to
kind of have a chance to hash out.

One idea that Chris came up with or Chris
and I came up with was kind of having a squid summit
of sorts where we brought industry in to talk about
some of the various current management issues also
realtime management.

And have had a couple discussions kind
of preliminary with GSSA, the Cornell cooperative
extension squid trawl network, the

1 Rhode-Island-based commercial research
2 association, that they'd be definitely interested
3 in facilitating if the Council wanted go down this
4 route.

5 I was thinking maybe two meetings, the
6 first just to kind of get input from fishermen both
7 on problems and some solutions. Then I could kind
8 of turn around, work with the region and Science
9 Center, do some analysis, craft some things that
10 might be kind of alternative-type things and bring
11 that back to them to get some more input. Maybe
12 early December for one, early January for another.

13 That would set up some things maybe
14 could be taken in specs, or the Council could
15 decide what it wants to do with that input.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thank you, Jason. And, Jimmy, I saw your hand up.
18 Did you want to comment on these realtime
19 management issues or related squid issues?

20 JAMES RUHLE: Thank you, Mr. Chairman.
21 Yeah. I'll take a few minutes. I know you all are
22 busy here, but the timing of this is actually the
23 main reason that I took the time to come here.

24 The financial loss that the loligo

1 fishermen are experiencing this trimester here is
2 going to be immeasurable. I have never seen an
3 abundance of squid like is out in that ocean now
4 over the broadest range that it's every been.

5 But there's other issues that you all
6 need to be made aware of as you go forward with this
7 that I think is going to make it a lot easier for
8 the squid group to deal with. And I've had
9 conversations with John -- I mean -- no, that's not
10 the right person. I can't even think of the right
11 -- yeah, John Hoey, about some of the data and how
12 fast they can turn that around. But you're all
13 familiar, very familiar. First of all, it's nice
14 to see so many familiar faces, and it's not so much
15 on others.

16 And while you are very familiar with the
17 requirements of the Council members, National
18 Standard 1, which says, conservation management
19 measures shall prevent overfishing while at the
20 same time achieving optimum yield from each
21 fishery in the United States.

22 The second portion of that is what I want
23 to talk about. Luckily, through NEAMAP, we were
24 able to actually see this influx of loligo before

1 the industry ever started.

2 That's one of the most rewarding parts
3 about being involved with a project, when you're
4 actually fishing when other boats are not.

5 It is not at all uncommon to call party
6 charter and headboats and draggers to say, hey, you
7 might want to come out here and look around. I saw
8 squid, and I started right off of Ocean City,
9 Maryland. I said, they're here, and they're here
10 early. But they've evolved. They've done
11 something that you need to consider. And I can't
12 support this scientifically, but before it's all
13 over, I will. What they have done in the last 15
14 or 20 years, they now spawn and then back off, back
15 off the beaches. They're not caught where the
16 spawn is.

17 Spawn only lays on the ground for two to
18 three, 3 1/2 weeks, and then it becomes buoyant in
19 the water and takes off. You used to catch the big
20 tow of squid in that spawn. Now you don't.

21 I would dare say 60 to 80 percent of the
22 squid caught in Trimester 2 have already spawned.
23 Once I get that proven through VIMS --I've already
24 got Gartlin on it -- we're going to be able to say:

1 What are you saving them for; the rest of them are
2 going to die in six months.

3 You need to have a realtime program in
4 place that establishes based on this performance
5 of the fishery through CPUEs, leave the existing
6 trimesters where you are; leave the allocations
7 for those trimesters where you are; measure it part
8 way through.

9 Example, Trimester 1 this year nothing
10 would have happened because you did not hit the
11 trigger. You've come under, way under. But
12 thankfully there was a program in place that
13 allowed you to roll the underages of Trimester 1,
14 2 and 3. That was one of the last things I was able
15 to achieve sitting at that table. That's good,
16 but you can do better.

17 This year -- and I've got samples at VIMS
18 to support this -- got a sample of squid caught I
19 think it was -- I can't remember what day it was
20 in June -- 12 fathoms, 6 miles south of Long Beach,
21 New York, Cholera Bank. Tony knows exactly where
22 it is.

23 Within two days there was another sample
24 taken 280 miles away in 140 fathom of water, a

1 50,000 pound tow that had to be released of loligo,
2 clean clear loligo after the closure.

3 The mortality on the loligo after the
4 closure is also immeasurable. It's a dollar a
5 pound. That's a very, very big deal. All you do
6 is put in place a program, establish different
7 numbers -- and I don't know what those numbers are
8 -- based on the performance of the fishery.

9 I'm not talking about taking some from
10 this trimester and putting it in that. I'm
11 talking about grabbing them right out of the air
12 where you grab your initial allocation and say 50
13 percent. We're 50 percent better on CPU than
14 we've ever been. Let's add 50 percent to
15 Trimester 2 recognizing that these are going to
16 die. I understand that squid are a very big prey
17 issue for a lot of fisheries. You need to go to
18 NEAMAP's website and look up the interact data and
19 find out what each squid and what the percentage
20 of those belly contents are.

21 You'll find a fluke, which I thought was
22 going to be way up there in the 40s and 50s is now
23 in the teens. Yes, they're important, but it's
24 not going to be the death of everything in the

1 ocean.

2 I just feel like -- and I think, I think
3 you can incorporate the NEAMAP survey to ask the
4 question of: What is the maturity of the spawning
5 of the squid in the spring as you're moving up the
6 coast?

7 We don't do it now. Gartlin said that
8 he thought he could incorporate it in it and
9 provide more information to support this kind of
10 approach. Again, this is not -- I haven't talked
11 to any of the scientists at Woods Hole, and I don't
12 plan to.

13 I'm going to pass it to somebody that can
14 talk their language and not lose their temper, and
15 that ain't me. But the fact is that it's a yearly
16 crop. You can't overfish it. You cannot catch
17 every one because when there was no regulations in
18 place, there's never been a collapse of loligo,
19 never with hundreds more boats fishing than there
20 is now.

21 Study fleet. I'm involved, enrolled in
22 that now and have been for four or five years. The
23 data that I produce every day describes how many
24 tows I made, how long they were, what depth they

1 were, measures the water temperature on the bottom
2 for that tow, is available to John Hoey six hours
3 past midnight. 6 a.m. the next morning he's got
4 it.

5 Don't say that you can't get into
6 realtime management. Technology has advanced to
7 a point now where it needs to happen. And what
8 better species to put it on than an annual crop,
9 one that you protect?

10 If you make a mistake, what are you going
11 to lose? It's not going to affect a four- or
12 five-year cycle of this species. I think it's
13 something that you really need to start to
14 investigate, sir. Well, we're already there.
15 We're starting it. But get more energetic about
16 it.

17 The financial loss, again, to the
18 industry, there's no way it could be less than 20
19 million dollars. The mortality that's being
20 caught -- the illex fishery has been severely
21 hampered by the 2500 pound trip limit. The
22 freezer trawlers are throwing ungodly amounts of
23 loligo away every day to maintain that 2500 pound
24 trip limit.

1 He's out two days or 20 days, 2500 pounds
2 is all he's allowed. That's unfair. The state
3 boats, by the way, that don't have a permit, are
4 under no regulations. They're landing squid at
5 record rates.

6 The actions of this council that have
7 minimized market opportunities for such fish as
8 scup and fluke. People used to eat scup and fluke
9 are eating tilapia.

10 The market for loligo has just done the
11 opposite. It's gone way up. So the market
12 opportunities are there. The product is there
13 this year. And I'm seeing -- and, Tony, I don't
14 know if you're seeing it or not -- I'm seeing a very
15 significant ecosystem change.

16 That's making the bight of New York,
17 Ambrose Channel, the mudhole, whatever the hell
18 you want to call it, for years that was one of the
19 most productive areas on the coast. I fished it
20 as a kid. Then it was understandable because the
21 honey barges were dumping tons and tons of
22 nutrients, let's call it, into the water that
23 produced fish, whiting, herring, all of that and
24 mackerel and squid. Something has changed. They

1 actually got to a point where they polluted it.
2 They dumped too many.

3 But now it's coming back. Squid are
4 moving further west and offshore. There's been
5 three big years. The conditions may be right to
6 have another real big loligo year next year or the
7 year after or may not.

8 Have a management plan in place that at
9 least allows the industry to take advantage of
10 that. That's what we're asking for. And,
11 lastly, if you don't mind, I'd like to end on a high
12 note.

13 I participated in -- I'm on the board of
14 that Gulf and South Atlantic Fisheries Foundation
15 down in -- I had a meeting in New Orleans with all
16 the big shots, Crabtree, Hogarth, Sam Rauch
17 presented this realtime to them.

18 But I did want to report this. There's
19 a lot of interest in research set-aside because Sam
20 announced that the budget reductions to all NOAA
21 agencies is severe. And the interest and the
22 success of your research
23 set-aside and NEAMAP -- but they can't do a trawl survey
24 down there, but that's not to say that they can't

1 have industry boats involved with something that
2 puts good numbers up. So there's a lot of interest
3 in what you all are doing. I did give them a
4 heads-up.

5 It's not as easy as it sounds. There's
6 problems associated with it, but it works, and it
7 works for all the stakeholders. Thank you, Mr.
8 Chairman.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Jimmy, thank you. And I think the workshops that
11 Jason's spoken to would be an opportunity to
12 explore that realtime management. He's already
13 doing some data or some literature search I think
14 on what other countries are doing in terms of
15 trying to have more adapted squid management.
16 Jeff Kaelin.

17 JEFFREY KAELIN: Thank you, Mr.
18 Chairman. Just briefly I wanted to identify
19 myself with Captain Ruhle's remarks, particularly
20 about the serious economic effect of not being able
21 to loligo fish when the squid are widely available.
22 And I was pleased to learn today about the summit
23 approach, and it's very timely, and we look forward
24 to participating in that process with you. Thank

1 you.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, Jeff. Greg.

4 GREGORY DIDOMENICO: Mr. Chairman,
5 Council members, I just have three I hope that are
6 simple requests that the staff can I'm sure help
7 us with and educate myself and the Council on what
8 can be done to avoid serious complications in the
9 Trimester 3 loligo fishery for a lot of the reasons
10 that George spoke about today.

11 We're anticipating a possible early
12 closure of the loligo fishery in Trimester 3 due
13 to the bycatch count even with the additional fish
14 provided by Framework 6 and the updated specs from
15 2012.

16 We are looking for some administrative
17 process to avoid economic harm. We've suffered in
18 the Trimester 1 fishery from a closure that was
19 absolutely human and technological, as George had
20 said.

21 We suffered some economic harm in the
22 summer fishery due to another human and technical
23 problem. Now I need your help to avoid some
24 possible impacts in the Trimester 3 fishery.

1 We're looking for every possible pound, ounce,
2 metric ton of butterfish to add to the cap. There
3 might be two ways to do this. One's a little more
4 obscure than the other. So let me go to the more
5 simple one or the more obvious one first.

6 It may be possible to take unused
7 portion of the butterfish quota from the directed
8 fishery and put it into the cap during the
9 Trimester 3 period. That's one.

10 And Jason, just hear me out on the second
11 one. The second one may be to take the unused
12 portion of the research set-aside butterfish that
13 is essentially administratively put into the squid
14 research set-aside. Both these amounts I think
15 can be estimated.

16 And, like I said, every pound counts at
17 this particular point to keep the Trimester 3
18 fishery open for as long as possible. Jason,
19 whatever light you can shed onto that situation
20 would be excellent.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Jason, can you give us a sense of how long that
23 Trimester might last or what your expectations are
24 about how that fishery's going to play out I mean

1 subject to the rule making process associated with
2 Framework 6, etcetera?

3 JASON DIDDEN: So these are all
4 back-of-the-envelope ballparks. But I think
5 they're in the ballpark. If loligo were to open
6 September 1 with the higher original 3622 metric
7 ton ABC as the Council put in, on September 1, then
8 it increases the cap by a thousand metric tons, but
9 it's already over the original cap.

10 So it would actually be less to work on
11 when you think of the 90 percent closure, etcetera.
12 If it opens on September 1 around 4 or 500 metric
13 tons. Now, how long does that last?

14 It depends -- you know, what the ratio
15 goes up or down. It depends on how fast they catch
16 loligo. If they're catching loligo at the rate
17 that they were in Trimester 2, you're talking four
18 or five weeks. If they're catching loligo at a
19 much slower rate, then it would last longer. So
20 it just depends on how fast they catch loligo.

21 If they get into observer trips and it
22 changes the ratio, if there's a lot of butterflyfish
23 bycatch, it would be shorter than four or five
24 weeks. So there's a couple things that move, but

1 it potentially could be short four or five weeks
2 or shorter or longer. It's hard to pin down. I
3 can imagine several possibilities of the Council
4 contemplating. We'll look at the RSA. That may
5 have already been put back into the quota. I'm not
6 sure. NMFS typically does that if the RSA is not
7 used. It releases it back into the quota.

8 Another thing, again, is the Council
9 could request NMFS to -- if NMFS increases the ABC
10 with Framework 6, it also increases landings.
11 We're pretty far in the year. It looks like maybe
12 some of those landings will just be left on the
13 table.

14 The Council could ask NMFS to look at the
15 landings trajectory and shifting some landings
16 into the cap if it looks like that would be
17 feasible.

18 And then the other option the Council's
19 going -- you know, to ask NMFS or the SSC to look
20 at the ABC for 2012. All of these involve
21 different timelines for NMFS also -- for the
22 Council to do something, for NMFS to do something
23 in terms of actions, can take a month or two.

24 The last time the Council did an

1 emergency action with butterfish and ABCs I think
2 it took about three months. So there are various
3 timelines associated with these things. So those
4 are three potential things that, again, have the
5 potential to increase the cap depending -- you
6 know, on a wide variety of circumstances.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Jason, with respect to the SSC, I mean the
9 specifications for this fishery have been
10 complicated this year. At some point we had to go
11 back to the SSC and ask them to reaffirm the ABC
12 recommendation for 2012.

13 We did that in light of what was going
14 on with the Agency's rejection of the first number
15 relative to the risk policy. We then amended the
16 risk policy through our vote on Framework 6. We
17 went back to the SSC.

18 When we went to the SSC, we were asking
19 them to give us primarily specifications for 2013.
20 And I don't think any of us might have anticipated
21 the outcome of that, that is, they came back and
22 recommended an 8400 metric ton ABC.

23 Having said that, the Agency in light of
24 the rule making history, it asks us to get the SSC

1 to reaffirm the 2012 number so that they can
2 implement it subject to the adoption of Framework
3 6. So our term of reference to the SSC was not --
4 you know, start from scratch and give us a de novo
5 set of specs for 2012. It was to reaffirm the
6 decision for 2012. But when they were at that
7 meeting, they set the specs or gave us an ABC
8 recommendation for 2013 based essentially on
9 survey results, etcetera, catch information from
10 2011.

11 So, if it's relevant for 2013, there may
12 be some opportunity to look at that relative to
13 2012. I mean it raises significant timing
14 questions. It's outside the normal cycle, and
15 that would require going back to the SSC, perhaps
16 having a webinar asking it them
17 re-examine that or projections of what Trimester 3 might
18 catch relative to their existing ABC
19 recommendation.

20 But then we'd have to come back and
21 presumably we could have some Council action in the
22 interim. But then we'd have to go back to the
23 Agency. And it's not clear to me if through the
24 rule making process somehow we could find any

1 additional opportunity for Trimester 3 through
2 that process. But, if you can elaborate on that,
3 I'd appreciate it.

4 JASON DIDDEN: So at the May meeting --
5 it was three months ago, and I'm recollecting a bit
6 here -- as you said, the term of reference was to
7 reaffirm the 3600. When the SSC recommended 8400
8 for 2013, I think I may have posed the question to
9 them, well, you're basing on 2011 data. If it
10 applies to 2013, it applies to 2012 in spades. And
11 I think the discussion was along the lines of,
12 well, that really wasn't in our term of reference
13 to re-evaluate 2012 kind of from the start. And
14 I think also there may have been discussion that
15 they thought they were kind of perceiving this
16 step-wise fashion, and maintaining 36, 22 was kind
17 of perceiving, again, not making a huge jump from
18 all the way up to 8400 at one point. But, again,
19 that's just kind of off from my memory there. It
20 was three months ago. But I remember also part of
21 it was that wasn't their charge.

22 So the timing it's three weeks to FR
23 notice the meeting. Then for the Council to
24 consider it. Then the Council would have to ask

1 for emergency action. It's probably at least two
2 months from the date of the Council letter to NMFS
3 to when NMFS might be able to implement a change.
4 It might be November or December anyway. It's
5 really hard to predict how that timeline could work
6 out. George may have additional thoughts.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 George.

9 GEORGE DARCY: I'm pretty much there
10 with you. There is a provision in the mackerel,
11 squid, butterfish regs at 648.22E that says
12 in-season adjustments specifications established
13 pursuant to the section may be adjusted by the
14 regional administrator in consultation with the
15 Council during the fishing year by publishing
16 notification in the Federal Register.

17 So that provides a procedure, but I'm
18 not sure that it's going to be that much help
19 because, first of all, I think we would need a new
20 recommendation from the SSC. We couldn't do
21 anything that was inconsistent with best available
22 science.

23 We'd need a recommendation from the
24 Council as to what you would want to do, and I think

1 we probably have to do proposed and final rule
2 making to implement that, and there would be some
3 analysis that would have to go along with that. So
4 I think our part of the process would be at least
5 two months by the time we got the request from the
6 Council. So we are looking at -- I think you're
7 right, November, at the best. And if the Council
8 doesn't take action until October, there's no
9 chance that we could do anything even through an
10 emergency action, we wouldn't be able to do
11 anything in that time frame.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Let
13 me ask: Joel, is there any way if we were to
14 consider that course of action in the past we've
15 scheduled SSC webinars to consider information.
16 I'm thinking of the timing of the next SSC meeting
17 and the noticing requirements. So if we were to
18 set up hypothetically an SSC review of this
19 question by webinar, could the Council follow
20 immediately after that by webinar to consider
21 making a recommended modification to the
22 specifications?

23 JOEL MACDONALD: I believe the Council
24 could do that. I'm trying to remember back in time

1 when we did have council meetings by telephone
2 hook-up, and as long as there were places that the
3 public could go and participate that was a
4 defensible process; although, it's frowned upon.
5 Obviously, there's an emergency situation here
6 that needs to be addressed. So I think it can be
7 done.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you, Joel. And I think that's the question
10 before us is what sort of course of action do we
11 want to pursue. These smaller issues of moving
12 some RSA over I mean that's an administrative thing
13 I think we could request. It may have already been
14 done. Jason said staff would work at the Regional
15 Office to look at that. Jason, can you elaborate
16 on moving any of the quota from directed landings
17 to the cap? Is there much room there?

18 JASON DIDDEN: If the administrative
19 procedures allow it, I think it may be worth
20 looking at. With the current trajectory of
21 landings if Framework 6 goes through, it bumps the
22 landings quota up to 1,087 metric tons. Current
23 trajectory says you'd end up maybe around 700
24 metric tons. That leaves 3 or 400 metric tons on

1 the table potentially that doesn't get landed, and
2 so it's something to look at. There are various
3 administrative, procedural, and substantive
4 issues. But the Council could consider, again,
5 requesting NMFS to make that shift if it's feasible
6 and -- you know, not substantively impacting the
7 landings of butterfish themselves. Then Council
8 and NMFS staff could kind of look at it and see if
9 it makes sense. But there are also administrative
10 issue with it, so it's sketchy.

11

COUNCIL CHAIRMAN RICHARD ROBINS:

12

13

14

15

16

George, does that sound like a practical issue from
an administrative standpoint? I mean is that
something we could simply request, and subject to
an analysis, could the Agency move some quota over
to the cap?

17

18

19

20

21

22

23

24

GEORGE DARCY: Not as simply as I think
you'd like. I think we'd still be operating under
the provision I just mentioned. We'd have to go
through -- since you wouldn't be increasing the
ABC, you might get out from under the requirement
to need a new SSC recommendation, which might save
some time; but we would still need I think to go
through this process probably proposed and final

1 rule making, certainly some analysis. So it
2 wouldn't be quick, but it might be a little quicker
3 than the other approach.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
5 enough. Thank you, George. It seems like we have
6 two potential options if the Council chooses to
7 pursue them, and we may be able to pursue both.
8 But one would be to request that the Agency move
9 any unutilized quota over to the cap. The other
10 would be that we potentially reconvene the SSC,
11 engage them with new terms of reference to consider
12 the 2012 specification as it relates to the third
13 trimester. And then if we do that, set up an
14 immediate review by webinar of the question by the
15 Council. What's the pleasure of the Council on
16 this issue? Howard.

17 HOWARD KING: Why wouldn't we do both?

18 COUNCIL CHAIRMAN RICHARD ROBINS: I
19 think we could do both.

20 HOWARD KING: That's what I would
21 recommend.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Would you like to make a motion to that effect?

24 HOWARD KING: Yeah. Do you want a

1 motion or a recommendation?

2 COUNCIL CHAIRMAN RICHARD ROBINS: A
3 motion, please.

4 HOWARD KING: I move that the Council
5 request by letter to the National Marine Fisheries
6 Service to reallocate unused butterfish from the
7 directed fishery to the longfin squid bycatch
8 quota for Trimester 3, and in addition, I move that
9 the Council convene by webinar the SSC to review
10 and reconsider the data and application of that
11 data to increasing the 2012 Trimester 3 butterfish
12 bycatch quota.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to that motion? Second by Dewey.
15 Discussion on the motion? George.

16 GEORGE DARCY: Yeah. The notion of
17 unused quota, we're only in August, so we have the
18 rest of the whole fishing year that has to
19 accommodate the butterfish fishery. So how do we
20 decide how much is unused? There would have to be
21 some analysis, some projection, some assumptions
22 made; and if that component of the fishery goes
23 over because we've reallocated too much, then that
24 would trigger accountability measures for next

1 year I believe. So it's not going to be quite that
2 simple. There's going to have to be judgements
3 made if that's the way we're going to go.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 George, I appreciate that. I think though if
6 there were an overage associated with the cap, we
7 could try to account for that. I mean there's a
8 much larger ABC in play for next year, so it seems
9 we'd have more room to operate within. But,
10 Laurie, you had a comment?

11 LAURIE NOLAN: I do. I just wondered
12 if we should add perhaps the unused RSA allocation
13 would be transferred also. I thought was what we
14 were looking for also.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Laurie, I'm sorry. I had trouble hearing that
17 last part.

18 LAURIE NOLAN: Sorry?

19 COUNCIL CHAIRMAN RICHARD ROBINS: I had
20 trouble hearing that last part.

21 LAURIE NOLAN: I would like to make a
22 friendly amendment to include unused RSA quota to
23 be transferred also.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Howard, is that acceptable? Acceptable to you,
2 Dewey? And just another perfection: I think the
3 last word would be ABC since the SSC is not setting
4 the butterflyfish cap but rather the butterflyfish ABC.
5 Is that acceptable? Thank you. And immediately
6 following this, we would convene the Council by
7 webinar to consider the output of the SSC. Is that
8 also consistent with your recommendation?

9 HOWARD KING: That's consistent, yes.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you, Howard. All right. Discussion on the
12 motion? Chris.

13 CHRISTOPHER ZEMAN: I was just going to
14 add that this is one-year thing where up to 2012.
15 I don't think it was clear that it was just like
16 a one-time transfer. But I think it is now.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Yeah. It's specific to 2012 Trimester 3.

19 CHRISTOPHER ZEMAN: Right. And my
20 other question I had was in terms of like the cap
21 if we cancel the cap, is it just an automatic
22 closure, or is there an option to, yeah, address
23 it as an overage that you have to then deal with
24 AMs in the next fishing year? Is that an option

1 of the regs? I just don't know if I'm asking --

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Chris, I don't think the Agency has the option of
4 suspending the cap and letting it ride. Despite
5 the fact that we have a higher ABC next year --

6 CHRISTOPHER ZEMAN: It was a question:
7 if there was an option to go with an AM as opposed
8 to a closure. I just wanted to ask that.

9 COUNCIL CHAIRMAN RICHARD ROBINS: I
10 don't think that's an area of flexibility, but I'm
11 going to ask George. George.

12 GEORGE DARCY: I don't think so. I
13 mean you've got a process that sets up closures
14 based on triggers. They're in the regulations.
15 They're in the FMP. We'd be obligated to carry
16 those out as they're structured. You can change
17 the amount of those quantities, but we couldn't
18 just look the other way and let it go. I don't see
19 how we could do that.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 That's something for future discussions when we're
22 talking about the ACT. Right? Okay. Further
23 discussion? Erling.

24 ERLING BERG: I don't know who to ask

1 this -- maybe Jason. I could throw it at him. Is
2 there any information on how much of the directed
3 butterfish quota has been caught so far? Is that
4 available?

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jason, do you have the current landings or
7 year-to-date landings?

8 JASON DIDDEN: I think it's around 350
9 metric tons of 500. So it actually might be a
10 little higher. So the directed butterfish
11 fishery will actually probably close soon unless
12 Framework 6 is approved and that quota; but that
13 increase is substantial enough that if that
14 occurs, then from where we are right now to the end
15 of the year, it may not be achieved. But it's
16 getting close to being closed based on 500 metric
17 tons right now.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Jason. Further discussion on the
20 motion? Rich.

21 RICHARD SEAGRAVES: Yeah. I just
22 wanted to point out that we have a 23-day
23 notification requirement for any SSC meeting. If
24 we send it in tomorrow, the earliest we could have

1 the meeting would be September 10th, and we're
2 currently scheduled for a 26-27 SSC meeting.

3 So you would gain two weeks assuming we
4 could get it done tomorrow. And given that short
5 timeline, I think we would just schedule it hoping
6 that the SSC would participate.

7 But normally we poll the SSC and try to
8 get -- the other issue is the SOPs say we have to
9 have a quorum of the SSC to make an ABC
10 determination. Joel may want to speak to that.

11 He's repeatedly said that we don't need
12 that under Magnuson, but it is in our SOPs. So
13 there's some danger that if we just go ahead and
14 schedule the thing without consulting the SSC,
15 that we wouldn't get a quorum. But anyway, the
16 best that's possible, you would gain 12 days if you
17 did it tomorrow versus the already scheduled 26-27
18 SSC meeting. We could put it on that meeting
19 agenda.

20 COUNCIL CHAIRMAN RICHARD ROBINS: While
21 I appreciate we could put it on that meeting
22 agenda, I think given the urgency of the timing,
23 it would be in order to go ahead and engage the SSC.
24 We could poll them tomorrow and check several dates

1 that week.

2 But I think it would probably be
3 important to go ahead and try to buy some extra
4 time. Joel, can you comment on the question of a
5 quorum and whether or not one would be necessary
6 for that recommendation to be valid?

7 (Inaudible.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Joel, can you comment on the question of whether
10 or not a quorum of the SSC would be necessary in
11 order for their recommendation to be valid as it
12 relates to that?

13 JOEL MACDONALD: You do need a quorum.
14 I mean it's like the Council. You've got to have
15 a quorum to vote.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Okay. Fair enough. Then I think we would need to
18 poll them, Rich, and we'd proceed in that fashion.
19 George.

20 GEORGE DARCY: Just to answer the
21 previous question, we are currently at 74 percent
22 of the butterfish quota under the existing specs.
23 That would go up. And we're required to close the
24 directed fishery at 80 percent. So we're close

1 right now.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Under the existing ABC pre-Framework 6?

4 GEORGE DARCY: Correct.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you.

7 GEORGE DARCY: This will go up.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thanks. Okay. Is there any public comment on the
10 motion?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Seeing none, we're back to the Council. Is the
14 Council ready for the question?

15 (Motion as voted.)

16 {Move that the Council request by letter to NMFS to
17 reallocate unused butterfish from the directed
18 fishery to the cap in Trimester 3 and in addition
19 to convene by webinar the SSC to reconsider the
20 2012 butterfish ABC. Also request NMFS to check
21 to ensure any unused RSA has been released.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 in favor please raise your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Twelve. Opposed like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One
8 abstention. The motion carries. Thank you. Is
9 there anything else to come before the Council
10 under new business? Laurie.

11 LAURIE NOLAN: Yes. Thank you, Mr.
12 Chairman. We had a committee meeting on monkfish,
13 and one of the items that came out of that was a
14 request to question NOAA general counsel as to
15 whether or not getting rid of the north line for
16 the H permits was frameworkable.

17 So I gave Jan a motion, and at this point
18 I would be asking for the Mid-Atlantic, move to
19 recommend that the Mid-Atlantic write a letter to
20 NMFS questioning the ability of removing the line
21 restricting the monkfish H permits from fishing
22 the full southern area through a framework action.
23 And I can give some justification if we get a second
24 for that.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is
2 there a second to the motion? Second by Erling
3 Berg. Discussion on the motion? Go ahead,
4 Laurie.

5 LAURIE NOLAN: Well, this was one of the
6 items had this amendment gone forward in the Y
7 approach, this is one of the cherry-picking items
8 that we wanted to knock off. The spec package is
9 two years out, so to piggy-back that it's a timing
10 issue that these guys would have to wait at least
11 two years to have this addressed.

12 Amendment 6 we don't know how long
13 Amendment 6 is going to take, so to expect that
14 action to handle this issue may be asking for a lot.
15 We had our meeting. The AP members in the southern
16 area no one is fighting this.

17 Everyone is willing to accept that the
18 H permits would have full range of the southern
19 area. They're in a situation where they're just
20 getting pushed further and further north with the
21 rolling closures for the turtles, and then they hit
22 the northern line, and they basically can't fish
23 any more, don't have access to the remaining days
24 at sea that they could have fished if this northern

1 line wasn't there.

2 So we just got a summary from Phil
3 Herring on what went on at the monkfish meeting,
4 and we requested that this letter be written there,
5 and I don't see that being itemized as one of our
6 requests in the summary. So I think this would be
7 a really good thing just to keep that issue on the
8 table and try to get it moving in a framework action
9 if that's a possibility.

10 COUNCIL CHAIRMAN RICHARD ROBINS: So
11 it's really just a matter of getting a
12 determination of whether or not this can be done
13 by framework?

14 LAURIE NOLAN: Yes.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 George.

17 GEORGE DARCY: But didn't you say that
18 request has already been made of general counsel?

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Laurie.

21 LAURIE NOLAN: We spoke to this issue at
22 our meeting. As I say, in summary report I don't
23 see that request was made, and rather than have it
24 slip through the cracks, if it's just to show that

1 the Mid-Atlantic is supporting this and wants to
2 see this move forward and not get lost somewhere,
3 just for that reason alone.

4 COUNCIL CHAIRMAN RICHARD ROBINS: So we
5 would essentially be reaffirming the request.
6 Fair enough. Discussion on the motion?

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 there any objection to the motion?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Seeing none, it's approved by consent. Thank you.
13 Is there anything else to come before the Council?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Seeing none, I'd like to once again just take this
17 opportunity to congratulate Joel MacDonald on his
18 32 years of service. Thank you, Joel.

19 (Applause.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: Safe
21 travels. We'll see you in New Jersey in October.
22 We're adjourned.

23

24 WHEREUPON:

1
2
3
4
5
6
7
8
9

THE MEETING WAS CONCLUDED AT 1:18 P.M.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 1st, day of October, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

THIS FOREGOING CERTIFICATION OF
THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF
THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
AND/OR DIRECTION OF THE CERTIFYING REPORTER.