

# MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

## JUNE 2013 MEETING MINUTES

---

JUNE 11-13, 2013  
EATONTOWN, NEW JERSEY

---

### TABLE OF CONTENTS

- Atlantic Mackerel, Squid, Butterfish Committee
- Surfclam and Ocean Quahog Committee
- Draft 5-year Strategic Plan Review
- Organizational Report- Science Center and Regional Administrator
- Listening Session with John Bullard
- Omnibus Recreational Management Measures
- Atlantic Sturgeon Update
- Atlantic Mackerel, Squid, Butterfish- Full Council
- Surfclam and Ocean Quahog Specifications
- Executive Committee

DRAFT

**Squid, Mackerel, Butterfish Committee**  
**June 11, 2013**  
**Doubltree**  
**Eatontown, NJ**

**ALREADY IN PROGRESS**

*Jim Weinberg:* ...a real specific answer on how to achieve that and I think that's something we just need to have more discussions about. Off the top of my head, I think that figuring out where the fish in some sort of cooperative study that's on a wider special scale than U.S. waters, that's the sort of thing that seems to be called for, but given the data that we have, if we were to just try to analyze it and have a benchmark assessment, I think the reviewers would be scratching their heads as much as we are and saying, "Why did you bring us here to look at this because it's a big question mark based on the information that you have."

*Howard King:* Thank you. Mary Beth.

*Mary Beth Tooley:* Thank you, Mr. Chairman. I just wanted to note that there was some work that was done at the Northeast Science Center by Dr. Bill Overholtz looking at the stock distribution and the ecological factors on the shelf in the wintertime as far as water temperature and other things, which is quite interesting and there has been changes that have occurred that certainly can impact the presence and absence of that stock. So I think it raises a lot of questions and would likely be considered if on a research track of some kind, but there is some information.

*Howard King:* Thank you. Any additional questions by committee members? Any comments or questions by the audience?

*Geir Monsen:* Geir Monsen, Seafreeze, Thank you for letting me talk. There is no directed mackerel fishing taking place at present. Mackerel is only caught as bycatch, with herring catch. Whether you have quota for mackerel or not, it's still gonna get caught. The only thing that you allow by having a quota is for that mackerel to be saved and sold. If you put that at zero, you're gonna do nothing for the mackerel stock at present. By having a quota number, the only thing that you do is you allow it to be sold and, if the stock improve in the future, you allow directed fishing to take place. So it's not a drastic type of measure. Thank you.

*Howard King:* Thank you. Jason, please continue.

*Jason Didden:*

Okay. Moving on to the next issue is the river herring and shad cap. Amendment 14 is now in the NMFS pipeline into the headquarters review and eventually Notice of Availability of the Amendment to the DEIS and the proposed rule that the editing staff, Council, NERO is finished, so it's in that pipeline. So coming up in the next weeks, month and a half or so, there should be all those kind of proposed rule and that part of Amendment 14. One of those things it stipulates river herring and shad cap that's set via the annual specifications. So kind of like where the Council was a couple years ago with ACLs AMs, and having a specifications package that's kind of going along in parallel to the ACL AM Amendment, kind of in the same situation where Amendment 14 is, you know, will be in a rule-making process and then the specifications will later in the fall will be in a rule-making process and assuming that Amendment 14 becomes final, then whatever the Council sets this week via for a cap, would also apply to the 2014 fishing year. So, but and that's kind of how things proceeded in the ACL AM Omnibus and it worked out okay. We had a couple different alternatives in the specs package for if the Amendment went through, if it didn't go through, and from a procedural point of view, it didn't create a huge issue to have kind of both things kind of coming to culmination at the same time.

So, you know, kind of summarizing, kind of some staff perspective in the Monitoring Committee's perspective on the river herring and shad cap, there's still, you know, a lot of concern as was expressed in Amendment 14 that you can't tie any cap level to some quantitative biological impact for river herring and shad. There's a general qualitative impact that, you know, if it's reduced from what it would have otherwise been, there should be some qualitative impact to river herring and shad, but without an assessment that produces, you know, something to pin an annual overall catch on, and it makes it really tricky, but in Amendment 14 the Council essentially utilized the Magnuson-Stevens Act discretionary authority regarding non-target species to say, and I'm pulling this from Amendment 14, that you know, the idea with these caps was to directly limit the mortality of the relevant river herring and shad species. Again, all the Amendment 14 discussions, the concern about the generally apparently depleted and very low status of at least many runs of river herring and shad, so Monitoring Committee, again, echoed this concern that, you know, it's – you know, for the Monitoring Committee is normally used to, you know, having kind of something to sink its teeth into of saying, "Okay, this is the overall biological safe catch," like with butterfish and, you know, kind of starting there, so that was a

real challenge for the Monitoring Committee.

Also, you know, the cap is – will be estimated, kind of like how the butterfish cap is in terms of looking at mackerel trips, the ratio of river herring and shad to other species that are caught on these mackerel trips, and then make an extrapolation based on how much landings of fish is coming in on these mackerel trips. And the Amendment 14 analysis the Science Center did was more based on looking, okay in these quarters by these gear types, this is how much river herring and shad we thought – and it made sense to do it that way. That's how the SBRM is geared, that's how the observers deployment is based on that kind of perspective of this area, gear, quarter. However, when it gets down to managing a fishery, you know, the gear aspects, you know, there's overlap of gear, especially between the Atlantic herring fishery and the Atlantic mackerel fishery. New England is looking into a river herring and or river herring and shad cap for the Atlantic herring fishery, they're a little bit behind this because they're doing it via a framework, but you know, there's you know, the analysis that will be used to determine the cap is just a little different by necessity because now instead of just trying to get an overall picture of river herring and shad catch, you're trying to manage it in one particular fishery. So the Monitoring Committee struggled with that. How, you know, we have a sense of, although the CVs are high in a lot of cases, the uncertainty is high, a lot of time, you know, plus or minus 100 percent for 95 percent confidence intervals are more. You know, at least there's a sense of numbers with those measures of uncertainty in Amendment 14, but how that translates to, you know, managing the fishery is – it's a little different.

Also, as we'll get into a little later and you saw in the briefing package, you know, I basically use the methodology that will be used to monitor the cap to run out of saying, "Look, you know, in the last several years, what would that have said you would have caught," Science Center folks and myself also are concerned of, you know, we don't have CVs for those, so I know those numbers, and I'm talking about Column G on Page 7 of the tab, those CVs are – you know, we don't have CVs for those. Now they're gonna be – they're high, we know the ones that were done in fourteen were high. This is a subset of that. It's, you know, it's gonna be higher than that, but we don't have exact CVs

And also, you know, I think with the Monitoring Committee and, again, the Monitoring Committee is Aja Szumylo, she's a Plan Coordinator, kind of my counterpart at the region, and then we've got the biological leads at the center. You know I think what we

would be most comfortable with would be kind of a – more of a linked bycatch cap with Atlantic herring and mackerel that kind of looked at it in the same respect as the SBRM does, as fourteen did that kind of looks at these kind of, at least somewhat comingled fisheries and addressed it that way. And I think that the Monitoring Committee and PDT met jointly a few weeks ago. I think eventually that, through that coordination, we may get to that point, but for the time being at least we're left with, okay just looking at the mackerel fishery and, again, so I know – I think that summarizes kind of some of the concerns of the Monitoring Committee. And I'll get – we did kind of a gauge and some bounding in terms of numbers, and then I had a staff recommendation I'll get to first. But another thing, and kind of a decision point, I think that would be useful before we kind of get into that is that another issue that was discussed of okay, if right now the way the cap is, the way the mackerel fishery is has a 20,000 pound threshold per directed trip. And there's concern expressed by the public and, you know, if there's a river herring and shad cap that closes a fishery and with a 20,000 pound threshold, that's still kind of high, could you just have directed fishing that still occurs under that. And the Monitoring Committee looked at that and they said, well (a) 98.5 percent or more of mackerel landings occur on trips greater than that and the trips that occur on 20,000 pounds and less is a real mixed bag, so it really looks like that is incidental landings, it's not directed fishing that we can tell. The advisory panel gave some input on this issue also that, you know, they said for sure, I mean the way the mackerel and you look at the trips, the way the mackerel fishery operates, you know, it's three, four, five, six hundred thousand pounds a trip. You put a 20,000 trip limit, it ends the directed mackerel fishery.

So kind of – I think the first action item for the river herring and shad cap would be, and this would be my and the Monitoring Committee's recommendation of establishing that 20,000 pound threshold that represents a directed trip that would qualify for the cap and also that would be the level that the fishery would go to incidentally if the cap closes the mackerel fishery.

I'll turn it back to you, Howard.

*Howard King:*

Jason, in the briefing book, what – you know, how does the information that's been provided to us, subsequent discussion with NMFS staff concluded that, while such provision could potentially be part of the cap system, it wasn't contemplated Amendment 14 would require a framework provision. Does that get to the

question of whether any catch would be permitted following the river herring and shad closure or not?

*Jason Didden:* That's a slightly different – it's related, but slightly different, and I'll pick that up with the minimum mackerel idea, so I'd say I think slightly connected, but I think can be addressed separately from this particular issue.

*Howard King:* Well we're looking at a 20,000 directed trip cap trip definition for mackerel 20,000 pounds. Any questions from the committee members? Peter.

*Peter Himchak:* Yeah, but I have a question on how this cap would operate considering what Geir mentioned in the public comment period about mackerel. No mackerel directed fishing trips now because what's being taken is during Atlantic herring trips. So would not a cap on river herring and shad have to be developed for both Councils and be – I mean how would they work? If the mackerel are being taken on Atlantic herring trips, you're gonna have a cap for Atlantic herring and a cap for mackerel?

*Jason Didden:* So in general, we've gotten input and through, actually Mary Beth on the committee, related to mackerel limited access that usually a twenty – you know, for real directed herring trips that a 20,000 pound trip would cover, especially in terms of like Gulf of Maine and, you know, when it gets real mixed in the mid-Atlantic, you know, if herring's open and mackerel's closed, there could be a regulatory discarding issue there. In terms of some of the other herring fishing that goes on, the 20,000 pound, you know, it will often cover them, however, I think going forward and again, the New England Council is kind of at a start – I say early, kind of middle to early phase of their framework process.

I think they will probably be developing a river herring and/or river herring and shad cap for Area 2 – Area 2 and 3, maybe by time of year and that will allow some kind of overlap and the potential, at least, for an alignment. If the caps are set in a similar fashion and at a similar level that the herring and mackerel fisheries would kind of close at the same time, and whether it's that coordination of the Councils or it's a more formal, real meshed cap that really, you know, both Councils adopt something that's more based on gear and time and area that I think, you know, New England's looking at something for probably the second half of 2014 and 2015 that they would set in their framework. And then they would revisit it again probably in 2015 setting it for 2016. That '14-'15, the timing doesn't quite link up to – they'll see what

we've done and they'll have the option of setting a cap for Area 2 that aligns fairly well with ours. We'll see what they've done for 2015, and the Mid-Atlantic Council will have the option of trying to set the mackerel cap that kind of aligns with that.

So I think there are opportunities for kind of alignment as we go forward. Then when the New England Council, after – if they decide to set up a cap for river herring and shad. When they kind of come back and revisit after the framework will set it for two years and then they'll come back and, Lori, correct me if I go astray here. Then when the New England Council has kind of set it up and everyone kind of understands what they're doing, then when both Councils are setting their caps for 2016, kind of at the same time, I think that will be a real kind of ripe opportunity for the two Councils to try to figure out how to align these caps in a really kind of meshed way, but I think for now we're kind of in a situation where they'll see what we did and have an opportunity to, I think, create something that will be complimentary and then vice versa for 2015 – we'll have seen what they did.

*Howard King:*

Lori Steele.

*Lori Steele:*

Yeah, just to add to that, that's pretty much I think what has been discussed up until now in terms of the overlap between these two fisheries and these sort of transition years, I guess, 2014 and 2015 as we're moving into catch caps for the two fisheries. In terms of 2014 and 2015, though, I do think if a 20,000 pound threshold, for example, is chosen to represent the mackerel trips that would be subject to the cap, there will be a similar threshold likely established or some sort of way to identify herring trips that would be subject to the herring cap. Right now, we're considering 6,600 pounds – that's our open access possession limit, so if you possess anything over 6,600 pounds, you have to have a limited access permit. So yes, if there are two caps operating, for example, and a vessel goes out and catches more than 20,000 pounds of mackerel and more than 6,600 pounds of herring on a mixed trip, that vessel's river herring catch could be – would be deducted from both caps. That's my understanding of how the caps would operate until we move into some sort of joint or combined cap.

*Howard King:*

Thank you. Mary Beth.

*Mary Beth Tooley:*

Thank you, Mr. Chairman. I think that it's an interesting discussion in that the overlap of the two fisheries and how we could define what is a mackerel trip versus a herring trip as we move forward might change, but I think what Jason's looking for

here is the decision point at the top of Page 6, which really is the current 20,000 pound threshold, and a response from committee and the Council is that reasonable to continue within the document. I think they've done the analysis that says it captures 98 percent of mackerel landings that supports a decision that, yes, this is reasonable and we can move forward. That would be my recommendation.

*Howard King:* You are correct, and thank you. Are there any questions or comments from the audience?

Seeing none, we come back to the committee members. Is there any interest on changing that trip limit, cap limit from 20,000 pounds?

Seeing none, then no action is needed, correct, Jason?

*Jason Didden:* I think it would be useful – I mean there is no cap right now, so there's the – you know, it's carried forward currently if the mackerel fishery closes because the mackerel – that's a directed trip limit I think. And it may be something that can be done through unanimous consent from the committee to the Council to still identify 20,000 pounds as the trip definition and closure trip limit for the cap.

*Howard King:* All right. Can someone provide a motion to that effect, then? That 20,000 pounds is established as the definition of a directed trip or cap threshold? Peter.

*Peter Himchak:* I move that the committee recommend to the Council the establishment of a 20,000 pound trip limit to identify a directed mackerel fishing trip.

*Howard King:* And cap. Jason, can you perfect that motion?

*Jason Didden:* Directed trip.

*Howard King:* It's currently 9:05. We'll try to take a five-minute break around 9:30.

Thank you. Do we have a second for that motion? Erling Berg. Jason, did you wanna add anything?

*Jason Didden:* Just one thing. It's generally – and we had this issue with the butterfish cap, it's that greater than – since a vessel can land right now up to 20,000 pounds incidentally, that what we did with



butterfish would be greater than 20,000 pounds. That distinction did become important with butterfish so if – I'd recommend that it be greater than 20,000 since 20,000 is allowed as an incidental trip limit, that it be greater than 20,000 pounds to identify that.

*Howard King:* Thank you. Is that agreeable to the maker? It is agreeable. Committee members, any questions about this motion?

Seeing none, we'll take a vote. All those in favor, please raise your right hand.

*Jason Didden:* Did you make a count there?

*Howard King:* Pardon me. Go ahead.

*Jason Didden:* Did you take a count?

*Howard King:* Yes, nine to zero is what I got. Thank you. Go ahead, Jason.

*Jason Didden:* And just for the record, that says greater than 20,000 to identify the directed trip, but the post-closure trip limit would be 20,000 pounds and I think that – the record is sufficient that that motion will capture that, but okay.

Another issue that came up was in the table on Page 7, when I did some of those numbers and those ratios that came out, at the Joint Monitoring Committee and Atlantic herring PDT meeting on May 23, an issue was raised. It said, okay, you saw those ratios based on the whole year of data, but keep in mind if you had had a cap running in those years, the fishery could have been closed and you wouldn't have seen, you know, what would have occurred later in that year. And you know, that's just a fact of the cap, and we see the same thing with butterfish right now. On February 15, it's different than what was estimated on February 1 or on June 22 because they rerun the cap as the new data kinda comes through. So I kinda had this idea of saying, well you know, would you want to say given that that can change and we know the data's patchy, would you wanna say – specify, okay, regardless of what the cap extrapolation comes out to be, allow a certain amount – 2,000; 5,000; 10,000 pounds – metric tons of mackerel to be landed as a secondary trigger? I mean there's some good discussion on the idea, but ultimately talking to the region pretty much concluded that since that wasn't discussed at all in Amendment 14, really wouldn't be appropriate for specifications and, again, depending on what the Council wanted, this could be done through our framework or for later thought, but that you know, it wasn't really

something – it was, you know, an interesting idea but really not appropriate for specifications. And you know, it also would create, I think, at least an optics issue of, you know, if the cap had been reached but the fishery didn't close and the public would obviously be confused about what's going on, so there's a variety of reasons that it was, I think, ultimately staff both regional office and Science Center staff said, you know, this kind of was an interesting idea but not really appropriate for specs at least and it could always be thought about later via a framework. However, one issue to address the same thing of, you know, could you get in a situation where you know, you get a few trips early in the year and, boom, it shows you – especially since these river herring and shad caps may be fairly low, that after not much metric tonnage of mackerel has been landed that it looks like, you know, the river herring and shad cap has been reached, and maybe if you let the fishery, especially with the voluntary bycatch programs, maybe they would get cleaner throughout the year if they'd been allowed to operate. So one – the butterfish cap has the same issue and there's a transition period. When there's only a few observer trips, they kind of base it partly on last year's average, and then they work in the new trip. And it was kind of a collaborative process of how we got to that, you know, the magic numbers for when you're – how you're transitioning over and when you go from last year's data to only the new year's data. So I had thought about, you know, would it make sense for the Council to specify, okay, let's have a longer transition than is for butterfish to try to ease into that data and that would dampen a lot of volatility, which is quite possible to happen. Given that process is really kind of set up by the region in cooperation with the Council of how to figure that out and then the region kind of will probably come back later in the year and said, okay, this is what we've done, this is how it worked for butterfish, this is what we've come up with towards the end of the year and get some comments from the Council and then they kind of finalize methodology that probably not appropriate until that has occurred for the Council to specify the – you know, how many trips as you move through transition, but just – it could be a really important issue, so for the Council, again, just to – I mean obviously we – the region and staff will take a careful look at it, but just to go on the record as flagging for the region to take a very close look at the transition protocol is probably a good thing just to flag and be on the record.

*Howard King:*

Thank you. Mary Beth.

*Mary Beth Tooley:*

Thank you, Mr. Chairman. Some of this came up at our last Herring Committee meeting; not on the specific issue of transition

periods, but certainly the methodology that the regional office is using to estimate these bycatch caps for a variety of species – butterfish, haddock and the herring fishery and now these river herring caps, and the discussion with the regional office at that time, which I assume include the Science Center is that there's going to be a review this summer that goes on. They're gonna look at a number of different issues, including the seasonal aspects of the programs and how they work. So our request to those present at the meeting – this was a little uncertain if the meetings would be public meetings or they'd probably be a series of meetings or how it would be conducted is that they'd come back to the Council and the committee and just let us know how that process is going to lay out so that people can be involved in those discussions, and I think this issue clearly is one that is important that Jason raises and hopefully would be added to the list of things for that review.

*Howard King:* Thank you. Is that review being conducted over the summer?

*Mary Beth Tooley:* That was our question to the regional office staff, and that was the impression I had, but she's just a little unclear of how the process is going to move forward, but she did know that it was their intention to do so.

*Howard King:* George, can you add anything to that?

*George Darcy:* I believe that's still the plan. It will be this summer, but I haven't heard any updates beyond what you've just said recently.

*Howard King:* Thank you. Hearing that, Jason, is there any need to make any recommendations at this point?

*Jason Didden:* Well, I guess – were you suggesting, Mary Beth, that the Council requests that river herring be – that that review also kind of review what would be used for river herring?

*Mary Beth Tooley:* Mr. Chairman, to Jason, I think it's an important issue to highlight. I mean I think we know that in this particular instance there's a lot of volatility or variation in encounter rates and so it's worth sending the issue along. I mean, I don't know how it compares to the discussions that you had with the butterfish cap in squid. I mean, it seemed like that it came up initially there and certainly that butterfish methodology is going to be part of the reviews, so perhaps if the Council would consider just perhaps sending a short letter that highlights the issue that could be included in the review for their consideration might be helpful.

- Howard King:* All right. To make sure we're included, then, we should entertain a motion to send a letter to the regional office requesting that the methodology review include these issues that are a concern. Can anyone propose a motion to that effect? Mary Beth.
- Mary Beth Tooley:* Well I'll try. That the committee recommend to the Council that the Council send a letter to the National Marine Fishery Service asking that the transition period – let's see if I can articulate this – that the Council send a letter to the agency asking that river herring shad estimation in methodology – Jason's writing it; he's doing a great job. Keep going. Be included in the upcoming review. No, go ahead with your words. You're doing good, Jason. Bycatch methodologies in the region – something to that effect.
- Howard King:* Thank you. George, is that clear to the regional office?
- George Darcy:* I think so, and certainly our staff understands the issue, so they'd work with our analytical folks to make sure that we're all doing what you want.
- Howard King:* Thank you. Do we have a second? Erling Berg. Committee members, are there any questions concerning this motion?
- Audience, any questions concerning this motion?
- Jeff, do you have a comment?
- Jeff Kaelin:* Thank you, Mr. Chairman. I think this is a good idea. I've been talking to – we've been talking to Pete Christopher about the haddock catch cap methodology. It appeared that the mackerel fishery catches were almost what the haddock catch cap up over where we were supposed to be by early May. It was reconsidered; they do a good job going back and continuing to re-evaluate what the actual catches are. We dodged that bullet. In this case, we're very, very, very concerned about a two cap approach and the impact on the same boats in both fisheries, so we think if – for the Agency to start looking at how the cap would be implemented would be very helpful because, from our perspective, you know, river herring protection is important. It's not new that river herring have been caught in the herring or mackerel fisheries. I can guarantee you that. In fact, we used to can them periodically in the herring fishery, so we'd like to see a cap set high enough that the National Standard One requirement that OY be retained be the key point of this cap. You know, you've gotta take the fish with the cap being secondary – the same thing that happened with the

yellowtail catch cap in the scallop fishery. When the Council gave the scallop industry 90 percent of its need – another 90 percent of its highest year's catches as the cap for yellowtail, and I agree you gotta – that the cap works well with the bycatch avoidance project. So we don't know how any of this is gonna work. First of all, the mack will have to show up as this is in one sense a paper exercise, but we're very concerned about the potential for early closures and so forth, so I think it's a good idea to begin to chew on this and figure out how the methodology would work so that we could have successful winter fisheries, so I think it's a good motion.

*Howard King:* Thank you. Committee members, is there any opposition? Oh, sorry. Patrick, do you have a comment?

*Patrick Paquette:* Thank you, Howard. Patrick Paquette, recreational fishing advocate from Massachusetts, I was just questioning is use of the term bycatch the appropriate term? 'Cause we're also talking about incidental catch in this, correct? I just don't wanna lose the fact that we do land and sell fish in this fishery. Thanks.

*Howard King:* Mary Beth.

*Mary Beth Tooley:* Actually I think that's a good point. So as maker of the motion, I would just make a slight adjustment review of bycatch/incidental catch methodologies because, I mean, it is used in other fisheries is bycatch, but the correct terminology here is incidental catch.

*Howard King:* Thank you. I believe that came up at the Herring Committee meeting as well. Committee members, is there any opposition to this motion? And I should be formal – does the seconder of the motion agree with that change? Agreeable. Is there any opposition to the motion? If not, it's approved by consensus. Thank you. Jason.

*Jason Didden:* Give me one minute just to save this document so we don't have any disasters.

*Howard King:* We're approaching 9:30. Are Committee members comfortable to continue or would we like to take a break? You know, give a nod if you'd like to take a break. All right, let's take a five minute break. Jason, that'll give you time.

Let's try to get back to our seats as soon as we can now.

Jason, you can continue. Thank you.

*Jason Didden:*

Thank you, Howard. So you know, from staff's perspective it, you know, without an overall catch guidance, it really just kind of boils down to the Council's policy preferences of, you know, how much river herring and shad conservation verse how much mackerel, obviously keeping in mind that, you know, the cap potentially has the potential to incentivize the fishery to avoid river herring and shad while catching mackerel, but you know, how strict the Council wants to be is obviously up to the Council. The Monitoring Committee did say that, well when you look at things, and again we still have some discomfort with, you know, with you know, with these numbers are gonna be very, to some degree, uncertain. Now hopefully Amendment 14 is going to usher in higher levels of observer coverage, but if you saw the New England memo recently, there's you know, also concern about you know, how rapidly that process is evolving to implement those higher levels of observer coverage, but anyway, hopefully the actual estimation will be made at a higher level observer coverage, but that's kind of yet to be seen to some degree. So you know, it looks like, at least based on the data we have in hand today, that to align the Council's, you know, goals with Amendment 14 and specs, you know, something less than the 1,685 that in the analysis the Monitoring Committee looked at, you know, suggests at least in the last seven or eight, nine, ten years, you know, is not likely to ever shut it down. That's, you know, to match fourteen, it probably would have to be, you know, lower than that, but how much lower, that's really up to the Council. My recommendation was 236 metric tons, and that came out of, you know, looking at Table H from – on Page 7 and really 236 – it's the median value of, you know, if you're looking at the ratios that have been observed on mackerel trips over 2005 to 2012, you know, range from 0.27 percent – so like a quarter of 1 percent – to about 4 percent. And taking into account that mackerel trips don't just land mackerel, but also land a fair bit of herring – on average over these years, I think it was about 13 percent Atlantic herring and about 84 – or 86 Atlantic mackerel. And thinking out, okay, if the actual mackerel quota was landed – 33,821 metric tons currently, keeping in mind that the cap is going to be based on mackerel trips total catch – mackerel and herring, not just mackerel – it's just how these cap methodologies work, that if you look at that median, that means that 236 metric tons is the amount that, you know, basically if the fishery can hold to a reasonably low encounter rate, then it would have the opportunity to catch the quota and based on, you know, kind of my sense of, you know, overall where the Council is at, that was my recommendation and I imagine there'll be discussion of that.

Just a few things that I flagged again, the 2005-2012 mean was 269 metric tons; 2005-2012 median was 119 metric tons. I was – both the Science Center, talking to Kirsten Curti, she's a mackerel lead assessment biologist and also has been doing a lot of work with the endangered species analysis that NMFS has been doing. She noted that, you know, I flagged later in the discussion that, you know, looking at the 2011 and 2012, you know, a thing to consider with '11 and '12 is the fact there's been almost no mackerel fishery, so she mentioned and also Howard flagged it to me when I was talking to him, you know, what are the means and medians if you look at 2005-2010, that was also the – kind of the data the Council focused on when you were making decisions for Amendment 14. Those mean and medians are 350 metric tons and 150 metric tons. So ultimately, you know, I think there's a decision point now for the Council about what you'd like to specify as a river herring and shad cap for 2014.

*Howard King:* Thank you, Jason. There are a number of committee members that may want to speak. We'll start with John.

*John McMurray:* Thank you, Mr. Chairman. Jason, could we put up the chart on Page 8?

*Howard King:* While we're doing that, I just wanna remind everyone this will be a committee recommendation to the Council and then the Council will take this back up.

*Jason Didden:* And I apologize. I had an old copy of it, so I was referring to a different page, but is this the one you wanted, John?

*John McMurray:* It is. Thank you. I guess the discussion here really then is what baseline to use to set the cap, and I guess the staff recommendation is to use the mackerel quota, which has not been reached in quite some time and there's some speculation that it may never be reached given the climate change if I was understanding that prior discussion correctly, so it would make more sense to me to have that baseline relate more to the actual catch of mackerel rather than what we may or may not make in the future, especially if what we're trying to do now here is to address river herring bycatch in the fishery as it currently exists. So G certainly sounds more reasonable to me. If I'm understanding this correctly, it's the same methodology as the butterfish cap, which appears to be working right now, and consistency is certainly a good thing. I don't see the 119 metric tons as unreasonable given it really would have only shut the fishery down once in the last five years, and not by much. It just seems to me like the better way to go here.

*Howard King:* Chris, did you have a comment?

*Chris Zeman:* Just that to explain, you know, difference between mean and median. Is there any like – does it really matter in terms of, you know, in terms of like staff's recommendations so why'd you go with the 236?

*Jason Didden:* Well, partially kind of to address John's thought. Obviously there are a lot of different ways that you could look at it. I think probably I was also thinking about the butterfish cap. When the Council had, you know, a fairly large ABC to work with and said, okay well we're gonna, you know, set most of that cap aside for the butterfish cap, so as long as it's kind of the – they obtain a reasonable amount of – a reasonable low encounter rate with butterfish, it would kind of let the longfin squid fishery operate. Of course that's a very different case because you've got an ABC to work with, but you know, a mean is just an average and median is half the observations were below that amount and half the observations were above that amount. So I kind of looked, you know, when I was coming off of H with the 236, you know, looking at 2005-2012, I said well – and 236 is an even number of observations, so it looks at the middle two that are closest to each other and takes the middle point of that and that, you know, it's – that's again just at least as your looking how things have operated in the past it would look like half the times that would have been limiting to the fishery and they would've gotten shut down before they caught their quota, and half the time they would have been able to catch the whole quota. So you're kind of starting, you know, they've gotta be in this – well if they don't fish relatively cleanly, it looks like they're gonna be in this somewhat lower mackerel range and if it's kind of driving if, you know, part of the river herring and shad cap is just putting that incentive to avoid river herring and shad. I mean if I said butterfish cap, I meant river herring and shad cap – for them to create that incentive to avoid it. So this is a circumstance where it looks like it would at least sometimes be binding and to create that incentive for them to not, obviously at the 236 in 2007, you know, if they achieved a 4 percent rate, they would've gotten, you know, shut down, you know, they would have – let's see 236 is maybe about 15 percent, so they would've only caught 15 percent of the mackerel quota in that year, roughly, before they go shut down. So again it's to create that incentive for them to – if they fish what looks like at least in this kind of a relatively kind of cleanly point of view, then they have the opportunity to fish it. If not, then they would get



closed down. Again, it was my kind of trying to get a sense of what might be a reasonable one.

*Howard King:* Yes.

*Peter Himchak:* I just have a follow-up question and I'll make a comment. And also in terms of – so let's say how does this protect against just localized depletion of individual spawning runs? I've raised concerns about that in terms of, you know, identified hot spots in the Hudson River, Hudson Canyon area as well as off the Cape. You know, what is, you know, how would that – a lot of these hot spots occur in the beginning of the year and so a higher a cap means that the fishery can't continue to fish in those hot spot areas in those times that we know that there is an interaction problem. Is that accurate?

*Jason Didden:* Well, I mean generally yes. The higher the cap, the more mackerel fishing could occur at any level of interaction rate, and you know, you look at some of the runs on different small runs, they'll count five, ten, fifteen, twenty thousand fish, which could potentially be caught in a tow, so that you know, run impact is always there, but there's really not information about how they mix at sea. Does that run stay in a little group, are they all mixed up out there, so Amendment 14 kind of flagged that that run issue is part of the potential impacts of mackerel or any other fishing on river herring and shad, but we don't really have the information. You know, Duke is working on a big genetics project. They've been collecting genetic samples all up and down the coast, also at sea to try to get a sense of, you know, what is that run fidelity once they're out at sea. Once that – and it's not available yet and on the Monitoring Committee call, Kate Taylor from the Commission was there and asked her double-check that it wasn't available and it's not. Once that's available, I think there'll be more info on that question, but it's hard to really know right now.

*Peter Himchak:* Just my comment is that, you know, New Jersey's under moratorium, so there's no directed river herring catch in our state. I think it's – for that reason I think it's better to go with a lower number – the 236 – and I would actually support a lower number than that as a consistent measure that will only ensure that New Jersey will get out of moratorium quicker by the avoidance of river herring catch in other fisheries.

*Howard King:* Thank you, Peter.

- Peter Himchak:* Yes, thank you, Mr. Chairman. Just I wanna back up a minute. Point of clarification. So the motion that we just passed was for the Science Center to consider river herring and shad and reexamining bycatch estimation procedures, so I guess my question to Jason is what's the likelihood of any of these river herring shad numbers that you've calculated in the table on Page 8 – what's the likelihood they may change?
- Jason Didden:* It's always – I mean it's always possible, and we did ask the region to kind of double-check my calculations 'cause they actually run the cap. Now I just set this up to be the same way they run it. They, you know, maybe three or four weeks ago, before the monitoring meeting, you know, I said now is this something you guys can do. They weren't able to run that double-check before this meeting. I think that they will run that, but then if that review suggested some entirely different, you know, methodology, say maybe don't include the herring on a mackerel trip; only look at the mackerel, then everything would change, but I think this is consistent with how these caps are run now, and I think these methodologies have been reviewed in the past as kind of the way you – the best way to do this, and every review you know, could come up with something different, but this is how it's been kind of structured and reviewed so far.
- Howard King:* Thank you. Mary Beth.
- Mary Beth Tooley:* Thank you, Mr. Chairman. I do appreciate some of the comments that have been made. I do think, however, that the Council has an obligation to try to implement measures that allow the industry to achieve OY, that basing these numbers on recent catch – that's really quite recent catch, 'cause if you look back into earlier years, the catch – in this table – catch was quite higher is to assure that you're never going to reach the catch, that you're not gonna achieve OY, so I think that using Column G is quite inappropriate for those reasons. I also have concerns about using the median versus the mean, because again if you use the median and fishery follows that pattern, you ensure that the fishery closes every other year, or 50 percent of the time and, again, I think that that is, in this situation where we cannot link the mortality savings that would be achieved with any, you know, benefit to the resource, I really don't see why we would do that. In relation to the hot spots, I think that Jason covered that issue fairly well, but there's no correlation between this cap and ending any moratorium on a directed fishery in New Jersey – certainly not. There's nothing in any of the analysis that would say that we have any information that supports that this cap will do that and then, in fact, habitat work in state

waters is probably the best that one could do.

And the other thing I think that's really important to remember is that, you know, this is a shot in the dark here. I mean the confidence in these numbers is just unbelievable. I mean the staff has consistently said that, you know, that there are issues with these numbers. When we first took this up in herring in New England, the recommendation from our Plan Development Team was don't develop a cap. These numbers are terrible. They're not a good basis for doing it, and the, you know, the confidence in the numbers has not improved at all since then. Certainly as we move forward with, you know, higher rates of observer coverage in the fishery, we'll have a better idea, but even at that, our volume fishery, we're doing this based on basket samples so this information is based on extremely low coverage, you know, there's a high degree of variability, but even when you get on the boat and you're taking ten basket samples for, you know, 200,000 pounds of fish, the variable within that estimate, you know, adds to the high degree of uncertainty that that's correct, so this is really all over the place. Certainly our hope is that these runs are going to improve. We've seen good evidence this spring that that happens, but when the runs improve, then our encounter rate improves – well improves, that's a long-term – it goes up. I'm not sure that's an improvement, because it's certainly not, but it's good when the encounter rate goes up because the population's going up. It's not always a bad thing.

And the other thing is that if you look at these lower numbers, one that was suggested was in Column G for the median 119 as the number. If you choose numbers like that, then it's quite possible that two or three encounters and the fishery could shut that fishery down, because we can't avoid them until we find them, so somebody's gonna run into them first and then there's a communication system that allows vessels to avoid them, but we are gonna run into them, and when you choose numbers like that, that's not workable. That does not work in this industry. It just ensures chaos, and we need to give a number that the industry can work with, that can make the bycatch avoidance program something that they can function with, and we're also gonna need to figure as these runs increase, which it is our hope as it is everybody else around this table that that occurs, how we are going to deal with that. So to say we're gonna reduce, well reducing from what and why and as the run goes up, we can't be reducing; we need to be adjusting. So it gets, you know, a complicated discussion, but it's one that needs to occur and I think you

probably have other people that would like to comment, but when you're ready, Mr. Chairman, I have a motion.

- Howard King:* Thank you. We'll come back to you. Before we get to the audience also, Dr. Weinberg or Dr. Boreman, is either median or mean more or less appropriate to use in this situation? Does one bear more than the other?
- Jim Weinberg:* Well I think at face value, the – both of these statistics for both of them, they're both point estimates and without some consideration of the variance that's associated with the point estimate, they don't have a lot of – it's hard to say how good they are, and I think Mary Beth made that point just now. So a mean tends to fluctuate more when you have a lot of high flyers or, you know, a distribution that isn't symmetrical, so again you'd have to actually explore the data to determine whether the mean or the median – why they depart from each other, and it's usually associated with the distribution of the data. So commenting, you know, on which is more appropriate, I think my main point is that without looking at the reliability of those estimates, you really can't pick one or the other. And I have another comment when you want to get back to me. Thank you.
- Howard King:* Yes, please go ahead.
- Jim Weinberg:* Well if I could, I'd like to address a question to Jason to get some more information about the observer coverage that's related to this cap. I'm coming into the conversation a little bit near the end, but I assume that the monitoring of this cap will require a high level of observer coverage, or not.
- Jason Didden:* First, I just wanna make one correction on the mean median. I had a transposition error. That 350 for the 2005-10 mean should be 340. I just wanted to flag making that. And I think, you know, on that difference, you know, why I think you get the divergence, especially with the mean being higher is that, you know, that 2007 number that was quite high ends up weighting that, so that's kind of in line with what Dr. Weinberg said. And also, while we don't have confidence intervals on these numbers, I mean they are – with the coverage levels we've had, they'd be very high 'cause even looking at kind of more from an all fleet perspective, you had again, CVs in the, you know, point – well they range, you know, species by species anywhere from, you know, 0.2 to 4.37 you know, and when you look at the average just trying to get somewhere in the 0.4; 0.5; 0.6 range, I think that probably would carry over to this even though, you know, in a broad way and you

start to get to a CV of 0.5 means 95 percent confidence in a rule that's plus or minus 100 percent, so a fair bit of uncertainty when you look at Column D on Page 8 – or I'm sorry, Column E are the number of trips that occurred in each year, and ten in Column F is the percent of total mackerel landed that was observed by those trips, so I just looked in the observer data and I said, oh, you know, these observed trips observed 10,000 metric tons of mackerel. The fishery caught 40,000 metric tons, well then 25 percent of what was landed got observed, and you can see that in, you know, and a lot of times the observer program what we'll look at, like, number of trips and related to number of trips, it's harder to find that trip, so I just tried to use it – that's why I went based on kind of poundage coverage. You can see it ranged from 3 percent being covered in 2005, a higher percent in recent years. Again 2011-2012, the mackerel was so low that it's hard to, you know, those percentages I wouldn't – but it looked like, you know, 2005, 2006, 2007 it was 3 or 5 percent; 2008, 2009, 2010 you know, 10 to 16 percent. I think butterfish has been around 10 to 15 percent, so we've been running a cap with butterfish and squid in the 10 to 15 percent range, and you know, I think that, you know, we've been getting CVs with butterfish that have been livable but not super low either, and I think that butterfish occurs kind of, while they do get some big hauls of butterfish, it occurs at a more regular clip in the fishery, you know, so you'd expect that, you know, these you know, I've gotta think you know, the CV methodology for butterfish is gonna carry over. At these coverage levels, given I think the river herring and shad catch is likely more patchy, you know, you're probably gonna be dealing with some uncertain estimates going forward unless observer coverage rates increase substantially.

*Howard King:*

Chairman Robins.

*Richard Robins:*

Thank you, Mr. Chairman. Jason, as you developed your recommendation, did you develop it in such a way that it was intended to reduce river herring interactions in this fishery? I'm having a little bit of trouble, I guess, reconciling the various columns of G and H, you know, trying to think about the status quo of the interactions in the fishery if the intent is to reduce river herring interactions and we look at the estimates that are based on full quota utilization. You know, at some point I think we have to relate those back to the actual quota utilization to somehow characterize the status quo performance within the fishery. So is it fair to take the methodology that you've used and the number that came out of that and look at that against the actual operating history of the fishery that would be characterized in Column G,

which uses the butterfish cap methodology to characterize how that level of catch or that level of cap might relate to past operating history?

*Jason Didden:*

You know, Amendment 14 when you looked at the general goals and – I’m just getting a little feedback. Can you turn your mike off? When you look at Amendment 14, the goal is to you know, understand the river herring and shad catch and then also reduce river herring and shad catch, but it doesn’t exactly specify from what baseline. Is it from what happened last year or from what would occur next year if there was no cap in place? I took this out of the Executive Summary from fourteen related to the cap, and it said directly limit the mortality of the relevant river herring and shad species. So from that sense, you know, I think any cap will limit directly the mortality to a given level.

Obviously fourteen’s broader goal was to reduce, and then I think it just gets into the – it’s really up to the Council. I think as long as the Council specifies, at this point, what its goal is, I think either is justifiable. If you’d like to say reduce from – and then let me just put this back up here – if the Council would like to reduce, you know, compared to what’s happened in the last three years, we’re talking an extremely small cap. You’re looking at, you know, 70, 76 and 106 metric tons of mackerel – of river herring and shad, largely because there’s been, you know, almost no mackerel fishery. If the goal of the Council is to say you know, we wanna reduce going forward from what would have happened if there was no cap in place, you know, then I think some of the Column H numbers are justifiable because you’d say, okay you know, if they have a high encounter rate, they won’t be – they will get cut off before they catch the full mackerel quota, so it will reduce river herring and shad catch from what would have occurred if there’s no cap in place.

So it’s really – I mean I think up to what the Council is kind of – wants to base that baseline on. Is it reducing from this range of years, is it reducing so that you never see, you know, that high year like 2007 occur again? Is it that, you know, you want it, you know, or some amount. I think as long as the Council is clear at this point what its intent is reducing from recent years, the range of years, keep you know, avoiding having one of these big years. I think anything in that range is probably gonna be reasonable to justify the Council’s decision. It just has to be specified and justified appropriately.

- Richard Robins:* Well just a follow-up, Jason, I appreciate that. I'm looking at the number that you recommended and, relative to the operating history I guess in Table G using the butterfly method, that would've capped out in two of the past eight years. Is that correct?
- Jason Didden:* Yes.
- Richard Robins:* Okay, thanks. I just wanted to understand how that related back to the status because it seems to me that if we're talking about reducing the interactions, then we – at some level we have to be able to relate that back to the operating history relevant to that methodology that you described. Thanks.
- Howard King:* Dr. Weinberg.
- Jim Weinberg:* Yeah, I would just like to quickly complete the point that I had started, and that is just some reservations that the center has on the part of any new programs that require additional observer coverage. That's an issue for the Science Center at the moment, and implementing any additional programs beyond the – what are within the SBRM allocation places an additional draw on the available observers. And then, so I just wanted to express that opinion. I'm not quite sure when this is actually implemented how much that will be an issue, but I wanted to lay down a marker at this point just to express that as a potential issue. Thank you.
- Howard:* Thank you. Dr. Boreman, did you have a comment?
- Dr. Boreman:* No.
- Howard King:* John McMurray.
- John McMurray:* Thank you, Mr. Chairman. I'm just thinking about Mary Beth's comments, and I agree that as runs improve, encounter rates go up, and that's a good thing, but to speculate that in two tows the industry might catch 119 metric tons in a fishery that is depleted or species of concern, it's obvious to me that there's a big problem here, and I think as we move forward, we have to really keep in mind that that's exactly what we're trying to address with this, and I have a motion too when the Council's ready.
- Howard King:* Hold off on that. I'm gonna go to the audience, but I'm only gonna permit questions or clarifications for Jason's presentation. Once we get a motion on the board, then I'll ask for support or opposition or position. So with that, anyone in the audience have a question or clarification about Jason's presentation?

Seeing none, John, I need to defer to Mary Beth. She wanted to propose a motion first I think.

*Mary Beth Tooley:* Thank you, Mr. Chairman. Yes, I would like to make a motion. The motion that I would make is that –

*Jason Didden:* Excuse me. Could you just read it slowly so I get it up on the board right? Thanks.

*Mary Beth Tooley:* Yeah?

*Jason Didden:* If you could just go slowly so I get it on the board correctly, I appreciate it.

*Mary Beth Tooley:* Right. I haven't said anything yet, but thank you. That the committee recommend to the Council that for the 2014 specifications that the river herring incidental catch cap for the mackerel fishery be 456 metric ton, and should I get a second, Mr. Chairman, then I will provide some rationale for that number.

*Richard Robins:* Thank you. Is there a second to the motion? Second by Laurie Nolan. Mary Beth.

*Jason Didden:* Excuse me, what was your number?

*Mary Beth Tooley:* Four fifty-six.

So thank you, Mr. Chairman. I chose the 456, not that I have confidence in the particular numbers, but just because it represents a range, I think, that Amendment 14 stated a goal of reducing the incidental catch of river herring in the mackerel fishery, and from my perspective, what we should be trying to reduce from are the highs represented in 2007. They are outliers that clearly, with work within the industry, should be avoided. We have no basis to choose numbers that will benefit the river herring resource, there are no direct links, the analysis is very clear on that. I do feel that choosing a mean is a more appropriate number in that it provides an average. Choosing the median just ensures that 50 percent of the time your estimate would be that you would close the fishery; they would exceed it, and that to me seems unacceptable. I think that we have to recognize the overall low observer coverage that all of these numbers are based on, that the confidence intervals around all of this are extremely high. These numbers could be over by 100 percent, under by 100 percent, and we have to have a basis to choose something. So this number, I think, is a number



that the industry can work with. We need to encourage them to continue to avoid river herring to the best of their ability, and I think captains on the water have come a long way in understanding that, and that's the basis for my motion.

*Richard Robins:* Discussion on the motion. Chris.

*Chris Zeman:* Yeah, I would oppose that motion. I see that as very risky. We're talking about over 900000 pounds of river herring, which is depleted. That equates to millions of fish, and that could be many, many individual runs would comprise that number. I think that approach is going to ensure that states under moratorium will stay under moratorium because we will not see a recovery, and my comments are speaking – I'm not sure which industry you're talking about, but the industry I'm representing is the industry under moratorium and they're best served by a lower cap than that. I think that would be true for other Mid-Atlantic states under moratorium as well.

*Richard Robins:* Other Council members on the motion? Peter.

*Peter Himchak:* Yeah, I really can't connect the two because we're picking a number that we're obligated to reduce from, but we recognize that the number is somewhat arbitrary based on highly varying observed trips, and to say that, you know, well we gotta go higher because then certain runs will be restored, I mean if the habitat's not there, then there's no restoration. And I think we're recognizing that a lot of our problems are habitat-related issues. So I support the motion because it would allow the mackerel quota to be taken and not be shut down and, I mean these numbers, they're like picking MRFSS numbers. We're starting to think – seriously, we're starting to think that, you know, you have a band of you know, variance around each point estimate and one's as good as another, and I don't wanna shut down the – the potential for shutting down the mackerel fishery thinking that, you know, another 300 metric tons is gonna reduce X effect. I have no reason to believe that.

*Richard Robins:* And we'll have that conversation tomorrow morning. John McMurray.

*John McMurray:* Thank you, Mr. Chairman. Just on the issue of habitat, it's my understanding that we're completing all these mitigation projects and we're building fish ladders and we're taking out dams, but the river herring still are not coming back, at least not in their historical numbers, and we've been over this again and again and

there's certainly reason to believe that something is happening at sea, and I think we need to address it here and I guess, I don't know if this is the appropriate time, but I'd like to offer a substitute motion. Can I do that now, Howard?

*Howard King:* Go ahead, John.

*John McMurray:* Okay, Jason, you may have part of it already. Would you like me to go ahead and read it?

*Jason Didden:* Yes. Go ahead because my e-mail just went down.

*John McMurray:* Okay. I move that for the 2014 specifications, the committee recommend to the Council to set a river herring catch cap of 119 metric tons based on the median amount of river herring shad estimated to be caught by mackerel trips, based on methods similar to butterfish and other similar caps (Column G).

*Howard King:* Do we have a second on the substitute motion? Chris Zeman. Committee members, comments on the substitute motion. Mr. Young.

*Leroy Young:* Just thinkin out loud here, and I've not been involved in setting caps, et cetera in the past, but I mean the objective here is to reduce the percentage of the total catch that is made up of river herring to avoid a bycatch, and it seems to me that if you look at Column D and could somehow work with that, it might be a way to approach this because that's not highly variable, but it talks – it's expressing the percentage of the total catches made up of river herring. I just throw that out as food for thought. I'm not sure how it would operate, but you know, I know the industry's doing a lot to try to avoid capturing river herring, and if the percentage – if the percent encounter rate could kind of drive that, that's just an alternative idea I throw out there.

*Howard King:* Peter.

*Peter Himchak:* Yeah, I would oppose the motion. I mean in context with the – I mean Maine harvests what, about 3 million pounds in the directed fishery in a given year, so we're gonna pick a cap in the ocean that's about a quarter of a million pounds? If you have the habitat, you can – and New Hampshire does have sustainable runs – so if you have the habitat, you can generate tremendous numbers of river herring and shad for direct harvest. And I don't see New Jersey in any massive restoration project for river herring and shad. We closed the fishery because we just don't have any data, but I

would imagine – I know Pennsylvania had a very aggressive program dam removal project where they were – they made presentations to the Delaware River basin co-op and they had some extraordinary results time-lapse photography of removing dams and how the whole river system changed, so this is like a quarter of a million pounds as a cap. I think that's somewhat unreasonable.

*Howard King:* Thank you. Chris Zeman.

*Chris Zeman:* I just wanna say, again if, I mean we have enough adequate data to put the directed fishery of New Jersey under moratorium, so I don't see there's any issue here with the adequacy of the data to implement a stricter cap to the extent that, you know, it's non-fishing impacts, I agree that's a major component, but then again, why is the New Jersey directed fishery now under moratorium? That is, you know, that is – I'm dealing with reality here and I think to basically allow the mackerel fishery half a, you know, half a million pounds up to 900,000 pounds to land, which they do land and sell, it's disingenuous. I can't support it. So that's why I'm supporting this motion.

*Howard King:* Thank you. Mary Beth.

*Mary Beth Tooley:* Well certainly I don't support the motion, and the state of New Jersey is under moratorium because the state's plan says that you must come forward with a sustainable plan for harvest to allow a fishery. The state of New Jersey, as been indicated by Pete, does not have the resources to put together a sustainability plan and do that. Until the state does that, regardless of the status of the resource, that moratorium will continue. In the state of Maine, we have historic runs that have never been closed, we have communities spending – volunteering their time, working on habitat every year, some of which are in runs that are currently not harvested. There's a lot of work that goes on. The success of habitat restoration is based on a number of things. Some is, you know, access to that habitat and some of it is how many people do you have living alongside that river and is not just about removing dams. It's about a lot of things, and quite clearly in, you know, the state of Maine where our population base is a lot less, it's been quite successful. Just this past week in St. Croix, access to habitat was increased by an ungodly amount. I don't – I can't even calculate the number. It was in the paper, but I forget. And we expect that resource there which borders U.S. and Canada to go up dramatically based on that. Habitat is what it's all about if you want river herring to come back, but if the state of New Jersey's not gonna put, you know, money into it because they don't have it,

then that isn't gonna happen and also it's about a sustainability plan and there's nothing here today that we're gonna do that's going to ensure that New Jersey has a fishery anytime soon. That just isn't gonna happen. This number, as I indicated before, is an unworkable number for the fishery to operate and really have a bycatch avoidance program. It's just – the variability of interactions is too high. Clearly 2007 we saw a lot of fish, and that's not acceptable. We need – if you run into fish, you need to move on, but this kind of number is not workable for the industry.

*Howard King:* Thank you. Peter, do you still need to comment?

*Peter Himchak:* No, I'll pass.

*Howard:* Thank you. I'm gonna go to the audience now, and these motions should frame your comments, but you don't have to speak specifically to either number, and with that I'm going to call Erica first.

*Erica Fuller:* Thank you, Mr. Chairman. Erica Fuller from Earth Justice. I would like to support the substitute motion. Catch cap for river herring and shad is an important measure for you to minimize bycatch consistent with National Standard 9, and although many of the issues that have been raised today, including significant catch at sea, increasing populations and the need for observer coverage under SBRM would indicate that stocks in the fishery's probably much more appropriate, however, as you move forward with this catch cap consistent with the goals of Amendment 14, you need to reduce catch and bycatch. One hundred nineteen metric tons is a more appropriate number. It encourages avoidance while achieving OY and it doesn't close the fishery an undue number of times. Whatever methodology is chosen, further review of the bycatch procedures this summer should inform the process, but not delay it. And finally, the catch cap needs to make clear that once this limit is reached, the fishery must close. Thank you.

*Howard King:* Thank you. Geir Monsen.

*Geir Monsen:* Thank you, Mr. Chairman. Geir Monsen, Sea Freeze. I think that we are about to open a new chapter in fishery management if we keep on going with this discussion. I know that the law says that they gotta use the best available science to come up with any management measures. Right now what we are talking about is using the best available feelings. There is not an ounce of science in any of this that have been presented so far. We are talking about lumping four different species of river herring together and

manage them together. We have no idea how many river herring of any of those kinds there are in aggregate in the ocean or in total for all the different river systems. We know that each river system have a separate stock, but we have no idea how that stock migrate. Do they all swim together or do they mix? What do they do out in the ocean? We are trying to come up with management systems where there is no way of measuring whether those management systems have any effect at all. Theoretically we can catch all the river herring from one little creek in one tow with one boat and we wouldn't know the difference because we have no way, practically, of finding out where – what river that herring that we caught came from. So it's totally stumbling around in the dark picking numbers. You could just as well throw darts and it would be probably more accurate than trying to come up with any of this. To me, it's horrendous way of trying to do fishery management when there is no need for it. Over the last year, I've read a lot of articles about how runs of river herring are coming back in a lot of rivers up and down the coast. I haven't read one article about how river herring runs are reduced. I know that's not scientific information; it's anecdotal information, but it is information and there's something behind that information. And I think that type of information should be investigated and it was talked about earlier that the state of Maine have a big commercial fishery. The state of Maine is so delighted now, they're talking about the commercial catches of river herring going up. They're talking about the cost of lobster bait is gonna go down significantly because they gonna be able to replace the sea herring with river herring, and then in federal waters, we are talking about catch caps. It just doesn't make sense. Thank you.

*Howard King:*

Thank you. Ken Hinman.

*Ken Hinman:*

Thank you, Mr. Chairman. Ken Hinman, Wild Oceans, formerly NCMC. I wanna start by saying that whenever you're talking about or considering a species that is depleted as river herring and shad are and fisheries for those species that are as depressed as they are right now, I think you also have to keep in mind that there's a lot of background voices here that you have to listen to. There are fishermen, businesses, community festivals – we heard them very eloquently described by Fred Harris at the Raleigh meeting in April, that in a lot of mid-Atlantic states no longer exist because these fish are so depleted and fisheries are under moratoriums. And the intent of this amendment is to reduce river herring bycatch in the offshore fishery, something we can control in order to rebuild the seed of these stocks that still remains in many of these river runs, so I think we strongly support the

substitute motion. I think it's using the recent catches as a baseline for determining what the cap should be makes a lot more sense than using quotas that have not been reached, may not ever be reached in the foreseeable future, and certainly using the median values in these columns makes a lot more sense as staff recommended than the mean in the original motion here of 450 metric tons because then you're factoring in these really crazy high catches there that really are uncharacteristic and the median really separates out those uncharacteristically high and low years.

I also wanted to say that the talk about river herring returning to a lot of rivers, increasing, I certainly hope that's true, but that's not an argument for being a little bit more liberal here with these caps. I think it's an argument for being very strict and making sure that these caps protect those fish. We're not gonna rebuild those stocks from such very low levels as they've been for so many years now by taking those fish at sea, which is what will happen if we don't – if we aren't strict with these river herring bycatch caps.

And finally, as far as the estimates of these numbers, yeah, I think they're pretty soft, but they are the best we have right now, but I think as staff pointed out, we're hoping – one of the intents of Amendment 14 is to improve our monitoring of the bycatch of river herring and shad in the offshore fisheries and that that hopefully will improve over the next couple years and as in 2016, we approach an alignment with the New England Council on getting caps in the herring and mackerel fisheries, we will have even better numbers to work on there, but I think for right now, what we have to work with, we have to be conservative and we have to protect these species in the trawl fisheries, so we support the substitute motion. Thank you.

*Howard:*

Thank you. Jeff Kaelin, did you have a comment?

*Jeff Kaelin:*

Thank you, Mr. Chairman. Jeff Kaelin, Lunds Fisheries. I'm opposed to this motion. To me, there's two very different views about how to approach this, and I think this motion takes your binoculars and turns 'em backwards basically. It's – the motion is based on eliminating essentially the offshore fishery in an average number of years to protect some amount of river herring, of which we have no understanding of the impact. In other words, they – you know, reducing river herring catches is more important – I think this motion says than allowing a yield from the mackerel fishery. If we have a couple of cold winters and those fish return to be the primary reason why this Council's managing mackerel, that's the way we look at it. We should have a cap that's sufficient

for our ability to catch mackerel. We don't know what the impact of 300 or 400 tons of river herring is. The directed fishery is about 3 million pounds – somewhere between 2 and 3 million pounds. It's 900 to 1,400 metric tons. Certainly in the north the runs seem to be in better shape. We may have some regime shift in river herring. We may never see returns of runs in the mid-Atlantic, even if we eliminated the mackerel and the herring fishery and we took the – whatever the number of fish, you know, away from us and let them swim around out there.

The timing of this process here concerns me. We had some reservations about doing this in specs in Amendment 14. I'm the chairman of the Herring Committee AP and sat with the Herring Committee last week. They're holding three meetings to determine a catch cap number. Again, the PDT up there recommended some time ago we can't establish a biologically-based cap. It's impossible. We don't have the information. The assessment didn't have reference points. I know we can get to ABCs without reference points; we do it quite a bit here, unfortunately. We have no analysis of the SMAST program and whether or not that program is working to improve things. We only have one conservation group that's showed any interest in assisting the industry with that program, that's the Nature Conservancy, and unfortunately they're not here today. They actually put money in – we've spent a lot of money on that project. Our captains are tuned to it. We're trying to minimize – that's what the law requires us to do, and we're doing that. I think the directed harvest mortality values are extremely important in tuning your decisions today. There's much less effort in the mackerel and herring fishery now than there was years ago, particularly in the mackerel fishery. We're talking about mackerel today, but I know there's been three boats that have been eliminated. We've been catching river herring forever. The Russians and the Poles took river herring. You know, nobody cared about it before. It was sold for bait. It's still being sold for bait. There's 3 million pounds being sold for bait up north, and we're looking at a situation with this motion that would keep the catches of mackerel well below what OY is, and I don't think that's what your job is, frankly. I'm not trying to tell you your job, but I think the internet articles are valuable. It's showing that when you increase habitat, the runs improve. Now where'd those fish come from. They came from the ocean. I mean we obviously didn't take so many that those runs can improve. That's the evidence that we have that they're coming back, so you know, what affect are we having? Nobody has any idea. We are committed to reducing our interactions as the law requires, and I think we've demonstrated

that with the SMAST program. We've gotta find the resources to keep that going, and I challenge now Wild Oceans and Pew and Earth Justice to look ahead and put some money along with us in the industry to do some shoreside monitoring and so forth so that we can do the best job we can with the move-along process. These encounters are gonna increase as the river herring stocks increase, and I think we need to make provisions for that. Obviously there's a cap for one year, but we've gotta keep that in mind. In the northern part of the range, we're running into 'em. They're everywhere. There's a lot of river herring out there, and as Mary Beth said, we don't know where they are until we hit 'em, and so we have a program in place with a third party – unfortunately it's running out of money right now, and again there's no indication from our conservation partners that are interested in making sure that this continues. It's a program that works. This isn't a quota. This is a ceiling. This cap should provide us with the ability to catch the mackerel quota, just like we did when we set the yellowtail cap for the scallop fishery – 90 percent of the need. When the haddock hatch cap was established, it was based on what we actually caught when we were out there taking the quota from Area 3. It wasn't based on a couple of, you know, a few bad years when there was a lot of wind and nobody could find fish. It was based on what we needed to be able to go fishing in Area 3 to catch the herring in Area 3, because that's what the Fishery Management Councils do. They provide yield from the federally managed fisheries, and there's no biological information that tells us what additional federal management this cap would do for the river herring. We're really shooting in the dark. So my binoculars are focused, I think, the right way, not backwards, and that's what this motion does.

As far as the New Jersey moratorium goes, Mr. Himchak made the point – the reason why we have a moratorium in New Jersey, which is a very blunt instrument, is because we don't have the resources in the state to monitor the rivers and create a sustainable fishery plan. The states that have the money to do it – South Carolina also has a directed river herring fishery I'll remind people. I don't know what the numbers are there. It's combined with Maine to come up with 3 million pounds. The idea that this is okay because it's consistent with the discretionary provisions of the Magnuson Act for nondirected stocks absolutely leads to arbitrary – I'm not gonna say capricious – but absolutely arbitrary decision making. These numbers are entirely arbitrary in nature, and this motion would ensure that we won't reach the mackerel ABC that you just approved again for 2014 after an entire day of discussion that we had down in Baltimore some time ago. The



staff recommendation puts – and this motion even more so – puts the entire burden of the consequences of additional federal protections on us out in the water and a handful of boats, and the states can do whatever they wanna do. They don't wanna take dams out, they don't have to. They don't have to do anything. We don't have to reduce the predation of river herring by striped bass. We don't have to reduce the predation of river herring by cormorants or seals or anything else. It's all on our backs, and we think that's entirely inappropriate, and for that reason I'm completely opposed to this motion, and I think the first motion should be about half of what we need, and I'll reserve those comments for the defeat of this substitute. Thank you.

*Howard King:*

Thank you, Jeff. We have two more speakers, Joseph and Patrick. I'm assuming you're going to be in support of the substitute motion. Please try to keep it brief.

*Joseph Gordon:*

Good morning. I'm Joseph Gordon representing the Pew Charitable Trust. We very much support the motion. We think it's very reasonable. It's based on recent catch for the last five years. It wouldn't constrain the fishery, and these are species definitely in need of conservation and management. There's been some discussion that there's no science, but I don't think that's really fair. Up and down the coast, and in particular in the mid-Atlantic states, any of the state managers or people who can look at the last 2012 assessment for river herring, a lot of the state runs are in really bad shape and there's consistent long-term data about the decrease in those runs. They're at a very low level, and I think one important consideration is that these are forage species. They provide food for other fish so that their recovery will have benefits for many of the other fish you manage for optimizing OY of those species as well. I think that's an important consideration.

This motion is something we hope the Council will support as a transition step. This is a one-year cap. We hope that the cap is a transition towards managing the stocks in the fishery on their own right, and to some of the comments about habitat and some of the other things that we've heard, it seems like there's a consideration of whether we should just give up, these fish'll never come back, the habitat isn't there, what we do in the ocean doesn't matter, but if you look at the recent data, a huge part of the catch and maybe even a majority of fish are being caught in the ocean, so if you wanna recover the species and the states chose, with the same kind of scientific data that you're looking at, to put in place measures where you either did a sustainable fishery plan or you shut down the fishery. It wasn't just the New Jersey – because that policy

was in place. That policy was in place because the states looked at the decline and wanted to do something about it, so I think this is a very reasonable first step. Set a limit based on recent catch, go out and get the observer data, figure out what's the most appropriate for the conservation management of the stock.

*Howard:* Thank you. Patrick.

*Patrick Paquette:* Thank you, Mr. Chairman. Patrick Paquette again from Massachusetts. We wanna point out a couple of things that I think may have been forgotten by the Council and remind you of a couple of pieces of information that I think are germane to the discussion. One is that some discussion has happened regarding this 2007 spike in observed catch in this fishery of river herring. I'd like to just point out that 2007 and 2008 were the bottom years in the last 30 of the river herring stock. So this fishery hit 'em when they were at their bottom. There's been some discussion about the sustainable plans in commercial harvest in the state of Maine. I'd like to point out that you have some analysis in your Amendment 14 documents and that there's also been plenty of public discussion about the fact that midwater trawl gear does not – is not fished in front of those runs, and the suspected migration patterns of those actual river herring runs, it is likely that they're not interacting with the fishery. And it may be, or some of us suggest, and I am one of those, suggest that that may be why those runs have this little section up in the northern part of this country that are not falling the way the others are. As somebody who has personally helped raise over \$1 million in the state of Massachusetts and who has organized over 1 million man hours in the state of Massachusetts myself on river herring run protection and restoration, I'd like to remind you that river herring run improvement and dam removal didn't start in 2005. It didn't start in 2010. It started heavy in the early '90s. For the first fifteen years of significant money being spent by the states in question, we watched the river herring stocks continue to decline, and it was only when the focus went on these small mesh pair trawl fisheries happening in front of our New England waters that all of a sudden we started to see a comeback. It is only since SMAST went online that we've seen a spike in our runs in New England. Is it coincidence? We don't know yet, but we're very itching to find out, and when the Amendment – when Amendment 14 stops the practice of dumping and does the things that it promises, it promised the public, we're very much looking forward to it. Very specifically to this motion, 119 metric tons would not have constrained this fishery. This Council manages this fishery. This fishery harvests and sells river herring mixed in with bait. You

have a responsibility to manage it. This is your first step in managing it. This is a smart motion. It would only have constrained the fishery in a spike year, the 119. The original motion here is slightly ridiculous as it's more than the observed river herring coming into the runs in many of the states represented around the table. I shouldn't need to remind you that there is an ESA petition that has moved forward that is going to be coming out and the odds-on bet on the street amongst the people who attended those workshops is that mid-Atlantic blueback is probably the one most likely to get some sort of a classification under ESA, and that's gonna hit this fishery smack dab in the middle. You're gonna have to manage these fish, whether it's through a court, through ESA or through this, which is the right way to do it. I'd rather have fishermen and the fisheries management system manage them. This is the right motion. A hundred and nineteen metric tons does not constrain the fishery. It begins to manage your catch of river herrings and shads, and the public has been denied this resource already. The ASMFC stock assessment declared them depleted –

*Howard King:* Patrick, please conclude.

*Patrick Paquette:* - but it points very specifically, and there are five pages in the assessment's Executive Summary about at sea catch. You catch 'em, you gotta manage 'em, this is a smart motion. The 119 would not constrict this fishery. Thank you.

*Howard King:* Thank you. Greg, briefly please. We're running out of time.

*Greg DiDomenico:* Thank you, Mr. Chairman. I'll be as brief as possible and try to make my point. Greg DiDomenico, Garden State Seafood Association. You won't be surprised that we oppose the motion, and I wanna categorize the motion as nothing but being punitive. It is punitive in a classic sense. I wanna remind everybody that this is almost the culmination of a seven to nine year assault on the midwater trawling industry. This motion typifies the approach of getting at midwater trawlers, mackerel and herring. This is what this is about. I wanna remind everybody, this is one decision in a million other decisions. We've been fighting this battle for between seven to nine years and have been assaulted in more ways than you can possibly imagine. That's why this is so important that the Council does not support that motion.

Also, I'd like to remind everybody that an adequate cap in this fishery is something that we can support, and an adequate cap honors the commitment from Magnuson-Stevens and especially

honors the commitment that this Council made and the Science Center made about the promises and the hope for the mackerel fishery, which is extremely important.

I'd also like to comment briefly on the issue of risk. Someone categorized this as risky. That may be, but this is so risky to a point that it has a potential for absolute harm that's totally irresponsible and totally unnecessary without any known biological rewards. That's risky.

Lastly, I'd like to say that whatever – I've heard the term industry – the herring industry in New Jersey. We would ask this Council to propose to the Atlantic States Marine Fisheries Commission that they relook at the moratorium and allow moratorium to be lifted in those states. I'm not sure what industry you're talking about, Chris, but I would be happy to propose that the Commission takes that on and allows that fishery to come back in the state of New Jersey whatever level and to whatever people or industry you're talking about. Thank you.

*Howard King:*

Thank you. We're gonna call the question. Sorry. Peter, do you have anything to add?

*Peter Himchak:*

Yes, it's a point of clarification on the reason for the moratorium. It's not because there's a lack of fish. The sport fishermen really lost out on this because you can go to Deer Lake, Lake Tecka, you can go to a number of places where there are runs, and they been taking bait outta there for decades. They had to put in regulations to alternate days so there wouldn't be that many fistfights, so the moratorium is not from a lack of fish coming to any of these spillways. It's because we don't have the money to ever have done surveys to quantify how many fish are coming in and how many can be harvested. We do have a shad fishery in the Delaware River under ASMFC because the poor states pooled together their money and invested in shad for decades. So I just wanted to make that point of clarification.

*Howard King:*

Thank you. Thank you. Chris, I'm gonna have to cut you off. We've heard enough, I think about moratorium. I'm gonna call the question. All those in favor of the substitute motion, please raise your right hands.

Those opposed.

Abstentions.

I have four in favor, nine opposed. The motion fails. We go to the main motion.

*Lee Anderson:* Exactly like the last one, but we go with the staff recommendation – a cap of 236 tons.

*Howard King:* Before I accept that, let me ask a question.

Looking for a second on the substitute motion. Stewart Michels.

We've heard a lot about numbers related to the river herring shad catch cap. I don't want to entertain a lot of discussion about this number under the new motion, however, do any committee members have anything to add concerning this number? Not a general comment, but this number. Mary Beth.

*Mary Beth Tooley:* Thank you, Mr. Chairman. I'll be brief. The only difference between this number and the number in the main motion is the methodology, what one uses to get there. So it just concerns me that people gravitate towards the lowest number they can find, but it's still Column H, it's based on trying to achieve OY in the fishery, except one's the median and one's the mean. And my original justification for the mean is that the median ensures that 50 percent of the time, the fishery will close and I think that the average is more appropriate, and again I think it was appropriate to say what are we trying to reduce from, and so my motion, my justification was that the 2007 high amount is a number that we would like to reduce from that number. We find that to be unacceptable. We want it to be less, and the mean is the more appropriate number, so I think, you know, instead of gravitating towards a particular number, the median is 50 percent of the time you're gonna close, and I find that unacceptable and therefore I don't support this motion.

*Howard King:* Thank you. I'm gonna call the question. All those in favor of the new substitute motion, please raise your right hand.

All those opposed, please raise your right hand.

I have five in favor, seven opposed. Motion fails.

We go to the main motion. I'm gonna read the motion. I move that the committee recommend to the Council for the 2014 specs that the river herring shad catch cap for the NMFS fishery be 456 metric tons. Before I call the question, George, do you wanna make a comment whether or not this meets the letter and the spirit

of Amendment 14? Do you have any comment about that? I hate to pull this on you, but I don't want to approve this if –

*George Darcy:* No, I don't think it would be appropriate for me to say that. I'm not sure that there's a clear answer to that question. I mean it always comes down to the justification that the Council will provide as to why they chose this number and how it meets the objectives of the Amendment.

*Howard King:* Thank you very much. With that, I'm gonna call the question. All those in favor of the main motion, please raise your right hand.

Seven in favor. Those opposed, right hand.

I have seven in favor, six opposed. Did you get that same thing? Motion passes. Thank you. Jason.

*Jason Didden:* Just a suggestion for your consideration. There are a variety of specification things. There is a committee of the whole tomorrow. There is one item regarding the rollover provision that I know there are quite a few people who came down here today to provide comment on. It's – I think it's probably feasible to handle some of these other things tomorrow during the committee of the whole, but it still could be good to address this one thing since I know some people travelled specifically to comment on the rollover provision for longfin squid. But obviously, how you wanna proceed is based on your –

*Howard King:* Jason, do you have an estimate of how long the Amendment 15 discussion might take?

*Jason Didden:* My side of it will be quickly, but I don't know how long the committee will wanna talk about it.

*Howard King:* Yeah, I think we'll carry that discussion over for the Council meeting, the committee as a whole, but we do have a number of things remaining on our agenda that we can probably move through fairly quickly.

*Jason Didden:* Yes, I think so.

*Howard King:* Why don't you continue? We'll reserve Amendment 15 for later.

*Jason Didden:* Okay. So do you want to go through all of the other agenda items or just that one that I flagged as people being here to comment specifically on?

*Howard King:* The one you flagged first.

*Jason Didden:* Okay. So one of the comments we got at the squid workshop and in the port meetings is that the trimesters can close a fishery in trimester, but the annual quarter doesn't get caught. So actually it was brainstormed by Dr. Moore at the workshop as a potential way to address it is set aside kind of a flexible reserve, take 10 percent off the top, and it would drop into whichever trimester needed it first. That way if Trimester 1 bumped up against its trimester, it could catch a little more. Same thing with Trimester 2. And some fishery participants would like to see that more flexibility. I'd say that would characterize at least the Point Judith meeting and the squid workshop. Some fishery participants would like the status quo, and that was more characterized some of the discussion at Cape May. So again, the net effect is that Trimester 1 could potentially increase by 2.9 million pounds, or I mean if Trimester 1 uses a reserve, then it's been used. But if Trimester 1 didn't, it was still on the table, and Trimester 2 bumped up its quota, Trimester 2 could increase by about 3.5 million pounds from where it is now. So right now, Trimester 2 starts about 8 million. If there's a lot unused, it can go up to 12. This would allow it to go up to about 15 total for Trimester 2, and again there was some issue about Trimester 2 quality and spawning concerns voiced by some of the participants in the Cape May meeting, and I think it's a Council option if they want to utilize this reserve, to add this flexibility to Trimesters 1 and 2. There's some distributional issues, obviously across the trimesters. This was, you know, definitely a strong concern at the squid workshop in January at Point Judith, but again the concern about it at the Cape May meeting. So it's really just if the committee wants to recommend to the Council that you move forward with this reserve option to provide, again, the key focuses of it is if they – Trimesters 1 or 2 near the quota, then this reserve would increase either amounts accordingly. And again, the differences between them are about 2.9 in Trimester 1 and 3.6 in Trimester 2, and there's a discussion of it on Page 14. Back to you, Mr. Chairman. Thank you.

*Howard King:* Thank you. Committee members, any comments, any questions? In that case, we would need a motion to implement a flexible reserve. Jason, do you have any language that someone could attach their name to? Lori.

*Lori Steele:* I just have a question for Jason. Was that mainly coming out of Rhode Island as an issue, Jason, or did that come out across the board?

*Jason Didden:* I would say it was mainly coming out of Rhode Island. Some of the Montauk folks, they were opposed to just letting more roll into Trimester 2, but if this reserve option, which would let either Trimester 1 or Trimester 2 potentially benefit, they were not opposed to that option. Again, at least some of the Montauk folks have provided some comment on this. They didn't like the idea of a lot more going just into two – again that comes out of three – but they thought this idea that, you know, again if either one or two could potentially benefit, then that seemed like kind of a potentially reasonable middle-of-the-road alternative. But, yes, I would say mostly where we've been hearing about this is Port Judith, Rhode Island, folks.

*Howard King:* Any follow-up, Lori?

*Lori Steele:* No, thank you.

*Howard King:* Would anyone like to support this motion? Mary Beth.

*Mary Beth Tooley:* Thank you, Mr. Chairman. I'm really not clear about whether I support the motion or not, but Jason did mention that some people had travelled to come to the meeting to address this issue, and maybe it would help if we could hear from them in deciding what to do with this.

*Howard King:* Good suggestion. Is there anyone in the audience that would like to speak to this concept? Yes, sir. Please come forward.

*Donald Fox:* Hello, my name's Donald Fox. I've fished for 25 or 30 years out of Point Judith, Rhode Island. I now manage five fishing boats, and I'm not sure if everybody's clear on the history last year, but the fishery opened May 1, it closed July 10. I can support this flexibility option here that we have up here, but the way the fishery has been tracking for the last three or four years is that it's been almost strictly a summer fishery, and I don't know the exact numbers, but I believe 20 million pounds – 18 to 20 million pounds was not landed from this quota last year. I might suggest as an option, and I know I can't make this motion, but split it up so that more goes in the summer. And it doesn't have to be forever if the fishery switches back to a winter fishery, which it was for my first 25 years of fishing, then put it in the winter, but you hafta catch 'em when they're there. They're gonna die; we're not gonna get 'em. I guess that's all I've got, but it just seems a shame to leave 18 or 20 million pounds on the table at the end of the year. It doesn't make any sense to me. We could use that fish. Thank you.



- Howard King:* Thank you. Step to the public mic.
- Ryan Clark:* Thank you, Mr. Chairman. Ryan Clark from the town dock in Point Judith, Rhode Island. We would support this motion. It does provide a limited degree of flexibility for second trimester, which is important for the majority of boat owners in Point Judith. We would support a larger percentage rollover, however, a 10 percent flexible reserve is a good starting point. We feel it's relatively low risk given previous history of very little squid caught in the first trimester, so we would support this reserve. Thank you.
- Howard King:* Thank you. Tony, and then I'm gonna ask if there is a motion or not.
- Tony DiLernia:* I have two questions. First question is, Jason, the 10 percent is 10 percent of the total quota or 10 percent –
- Jason Didden:* Yes.
- Tony DiLernia:* Ten percent of the total quota, and then it would be utilized if needed in any of the trimesters.
- Jason Didden:* Yeah, so they all start off a little lower, but if one of them bumped up against its slightly lower quota, this would pop in, which would, you know, the net difference is, again, the several million pounds extra for whatever trimester hits it first.
- Tony DiLernia:* Thank you. And my second question is what type of administrative burden does this create for the region to create this type of additional management, I guess, step or structure?
- Jason Didden:* It's a little bit more, but we can handle it. We support it if that's what the Council wants to do.
- Howard King:* Lori.
- Lori Steele:* Jason, so with the 10 percent reserve, if – can any – can one or two use more than their contribution to create the 10 percent in the first place? In other words, would Trimester 1 have access to the full 10 percent if their landings bumped up or are you going to limit them to what their contribution was to start with? And then on that answer, I have one more question.
- Jason Didden:* Yeah, each one chips in 43, 17, 40 percent, and then you get the whole amount for the rollover, otherwise, it wouldn't change

anything. So yeah, everyone's kind of contributing in and then whatever trimester hit it, they would get that.

*Howard King:* Lori.

*Lori Steele:* So to that, it almost becomes an allocation issue, then. I mean if technically Trimester 1 comes first, you're giving Trimester 1 access to 17 percent of the 10 percent that Trimester 2 contributed to create the 10 percent reserve. So in fact, Trimester 1 may catch some of Trimester 2's allocation, and if they catch all 10 percent of it, then not only is Trimester 2 not gonna have that reserve to count on, but they've lost some of the fish to create the reserve in the first place. So this could work against the goal completely of giving access to more fish to the second trimester and, again, I think it's getting into allocation, which I hate to just make those decisions off the top of our head like this.

*Jason Didden:* Yeah, I think you're – I'm sorry, Mr. Chairman.

*Howard King:* Go, Jason.

*Jason Didden:* Yeah, I think your assessment is correct, but again a big thing that came from the squid workshop is due to the inherently variable nature of squid, whether it's one or two providing that extra opportunity to, you know, whenever they're available and obviously if that happened in Trimester 1, yes, Trimester 2 would be slightly more limited by 10 percent 'cause they coughed up 10 percent, but Trimester 1 would have had to have had an excellently productive period in order for that to have happened. You know, I mean they would to have caught a lot of squid in order to activate that trimester, so the idea is, again, to try to account for that, you know, just very highly variable nature of squid.

*Howard King:* Before I take any more comment, is there interest in a motion? I don't wanna pursue this if there's not going to be a motion. Seeing none, then I think we'll terminate this conversation. We'll have to put this off for another day. There's not enough interest in this to define it and pass it today, I don't think.

We're gonna conclude this then today. There's just not enough support for it. Too many questions.

Jason, just briefly, can you itemize the agenda items that we'll be moving over to the full Council?

- Jason Didden:* Yes. The agenda items that would be brought over would be the closure mechanism for the cap, which should be relatively simple; and the butterfish ABC, and that's the sea presentation, which should be relatively simple; the reserve option we just looked at; some longfin squid regulatory discarding issues, which should be quick; and then the Amendment 15 update, which again will be very brief from my perspective, but then the Council discussion.
- Howard King:* All right. Well, thank you. And with that, I think we'll conclude this committee meeting. Thank – one more comment, Peter?
- Peter Himchak:* I had one more question for the Regional Administrator, if I could. And it relates to, there was a reference to the pending decision on listing of river herring and I know that there's a description of the process on Page 5 in our briefing book, and the three workshops that were held by the Northeast Fishery Science Center, I believe, so my question is in the decision-making process on the potential listing, is the Science Center integrated with the protected species program to come up with that decision, or are we gonna end up with a – you know, doing something like what happened with sturgeon where we got involved after the fact?
- John Bullard:* I think, well, Jim can answer this too. I think they're involved in it and I think the decision is very close to being announced, but how do you wanna answer that, Jim?
- Jim Weinberg:* Yeah, that – that's a tough one. I'm not real up on that. I know that we have staff from our population dynamics group that are very aware of the river herring and shad issues and participated on the stock assessment and continue to – they're on the Monitoring Committee, but in terms of going forwards, I'm not quite sure. I know that in reference to issues that are related to both the Science Center and the Regional Office, we try to work together on things and have done so with protected species issues, so I'd have to research this to get a better answer for you.
- Howard King:* Thank you.
- John Bullard:* Mr. Chair, if I could just say that, as Jason talked about what's going forward, I would suggest that, at least from our point of view that the butterfish caps doesn't seem to be simple from our point of view. Maybe from yours.
- Howard King:* Thank you. The surfclam quahog committee meeting will convene in ten minutes.

**Surfclam & Ocean Quahog Committee**  
**June 11, 2013**  
**Doubttree**  
**Eatontown, NJ**

*Lee Anderson:* And begin with the Surfclam Ocean Quahog Committee meeting. Although we have three hours, we have a lot to do. But not a—well, it can be a lot. But really what we wanna do is set the specs for these R2 species and to look at that information form, or the information protocol. Those are the two things that we have to do. And I'd like to get to them. I have to say that this—normally this would be a very easy task. If we look at what's gone on in the past, there's been a little acrimony and debate going on on this. We've seen a lot of memos going back and forth and questions asked and questions answers. What I hope we can do is go through this in a format where we focus on the substance and of these issues, and come up with a recommendation in short order that we can show to the Council.

Short order is not the prime thing. The prime thing is to get it done correctly. We will do a format very similar to what the mackerel, squid, and butterfish item did. Jessica will make some presentations. We're gonna go through the Surfclam quotas first, then we'll go to quahogs, then we'll go to some other issues. So—and in the same way, Jessica will tell us when we have decision points. So I'm gonna turn it over to Jessica.

*Jessica Coakley:* Alright. Good morning, everyone. I'm gonna start out with a little bit of background on the stock assessment for surfclams. The SARC 56 assessment just occurred recently in February 2013. And that was the peer review that occurred through the SAW/SARC process. This assessment moved from the prior modeling approach, which used a delayed difference model implemented in a program called KLAMZ to a statistical catch at age model, which is called SS3. The new assessment incorporated age and length structure, which is something new that the assessment was able to do. And used information through 2011. And it was actually conducted as two assessment area pieces and then combined. So there's two pieces included: the Georges Bank area and then all the other areas as a second piece.

The biological reference points, the way those reference points were defined, was not changed at the SAW/SARC. It was reviewed by the peer review panel, but not modified. So the  $F_{MSY}$

proxy, which is the overfishing threshold, is equal to the natural mortality rate, which is 0.15. The  $B_{MSY}$  proxy, which is equal to one half of the biomass in 1999, is 972,000 metric tons. So for the biomass proxy, that definition stayed the same. In the new assessment, that actual value was updated. But the way it was defined did not change. This is a figure from the assessment summary report.

This is the whole stock fishing mortality rate for Surfclams. You've got time on the bottom axis. The fishing mortality rate, that 0.15, is the red line. So as you can see, the fishing mortality over time has remained well below the fishing mortality threshold. And those gray areas are the confidence intervals around it. And you can see those haven't approached that threshold level.

This is whole stock biomass for surfclams. Biomass peaked in the time series in the late 80s, and has declined since. It is above the biomass target, the point estimate, which is the black line. The biomass target is given in green. The confidence intervals around that biomass target are that shaded green area around it as well. And as you can see, the biomass, the point estimate and the confidence intervals as well are not below that biomass threshold, which is that red line. Which is the trigger for a stock being overfished. So in summary, coming out of this assessment, the point estimate of fishing mortality in 2011 was 0.027, so that's well below that threshold, which means overfishing was not occurring. The 2011 biomass was a little over 1,000 metric tons. That's above the  $B_{MSY}$  target. Therefore the stock is not overfished and is slightly above that target.

Now the SARC provided a very detailed summary report and panel reports. The summary report is actually provided behind your briefing book tab, which is behind Tab Two. So I'm just gonna hit on some of their summary comments for you. The assessment was approved for use by the SARC for management advice. The fishing mortality rate coming out of the assessment was estimated to be low, when really the explanation for that low fishing mortality is that the fishery is prosecuted in very small, specific areas and very specific ten-minute squares. And there is not a lot of coverage, in terms of where the fishery is occurring in each year.

The SARC thought the biomass trends coming out of the assessment were relatively certain. However, the point estimates for the biomass at maximum sustainable yield, and the 2011 biomass, and the ratios, are actually uncertain. The model had

some issues in terms of scale, where the scale of the biomass tends to move around a bit. The reference points, because of that, are anchored to a specific year. So that'd be 1999, and the one-half biomass at 1999 is the  $B_{MSY}$  ratio. So because those ratios vary relative to the stock biomass, the SARC thought that those ratios were relatively stable. However, they did not think the fishing mortality estimates were very robust because they specifically compare that scale of catch against a highly uncertain biomass.

Because the fishing mortality is quite low, the SARC did not think the uncertainty in that fishing mortality estimate was a serious problem. They did specifically note that they did have concerns about the overfishing threshold being uncertain. That's that 0.125 value. The SARC at the—actually requested that the assessment scientists go back and take a look at—and do some catch curve analysis on the Georges Bank area. And for those of you that aren't familiar with catch curve analysis, you can use catch curves and track those values in areas where fishing mortality is estimated to be very low or nonexistent. And use that to get an estimate of what you think natural mortality in that area may be. So the curves for Georges Bank indicated a median total mortality of about 0.01, which is lower than that 0.15.

In addition, there was a term of reference in the—at this SAW that addressed whether or not there was more than one stock for Georges Bank—stock for Surfclams. And the workgroup talked at length about whether Georges Bank was a separate stock or whether there were other stock structure issues for this fishery. The SARC did not specifically address that term of reference. They felt that they did not have the information that was provided to make a determination as to whether there was one stock, two stocks, five stocks, or make any determination at all. So that issue has not been resolved through this SAW/SARC process.

Now, after we received that information, and this was back in February when the SAW/SARC occurred, in May, fishery performance reports were developed by the surfclam and Ocean Quahog advisory panels. So the staff drafted fishery information documents for both Surfclams and Ocean Quahogs. And these were drafted, actually, as separate info documents for each species. But when we met with the seven advisors in early May, because of the overlap of a lot of their comments with respect to these species, they recommended combining it into a single fishery performance report. And again, that report is behind your tab. They provided updated information about changes to the important ports for Surfclam and Ocean Quahogs, 'cause there have been some

changes over time. And the advisors provided input on other key issues.

So real quickly in summary, they talked about some of the market and consolidation factors that are going on right now. One of the issues that the advisors highlighted were current waste water requirements. And so for some facilities that had their requirements either grandfathered in or need to make changes now, meeting the current waste water standards is an extremely expensive process. And there have been some facilities that haven't been able to do that, and therefore they've gone through and consolidated.

Fuel prices and distance needed to travel to harvest were another reason that was given. And specifically those affect vessels, processors, ports, and propagate through the entire fishery and have impacts there. Increased foreign imports have been an issue. And the advisors talked about how that has set a price constraints on what can—what Surfclams and quahogs can be sold for, because they're competing—their price is competing with other foreign imports in the marketplace. The advisors also noted that the cost of complying with regulations and regulatory functions, the cost of keeping vessels in vessel classes, in terms of upgrade requirements, and other food safety requirements and sustainable initiatives are all additional costs that impact the industry.

They also noted that right now there's a limit in the market demand and that has an effect. The advisors talked about some of the environmental issues going on right now. They discussed the Surfclam and Ocean Quahog population movements that are occurring towards the poles and towards deeper water. As these changes have started occurring, there are shifts in those distributions, and it's changed the overlap of Surfclams and Ocean Quahogs in certain areas. The fishery has also followed that shift in stock distribution. The advisors noted that scallops are being caught in the Ocean Quahog fishery, and they raised this issue because it may become a concern going forward as a bycatch issue for the scallop fishery as they try to reduce mortality in that scallop fishery. Advisors also highlighted that there's more focus on some of the impacts related to the use of clam dredges on habitat, and they foresaw that as a future concern that will be raised.

There was some concern by some industry about whether the data on Surfclam sizes that's available fully reflects what's being observed out in the field. And concerns that the harvesting of small Surfclams may limit the number of times that clams can

spawn. These advisors also noted that allowing clams to grow to these larger sizes would enable the cages to be filled with fewer clams and allowing those other clams to remain out there and continue to grow.

The advisors thought that the Council should become more involved in New England Fishery Management Council habitat issues and other issues occurring up in New England. They noted that many of the proposed gear or fishery closures could impact Surfclam quahogs or other fisheries and that the Council has limited—our Council has limited representation on the New England Council in terms of some of these Committees or advisory groups that are making decisions that may impact some of our fisheries. And again, not just the Surfclam and quahog fisheries, but other fisheries as well. And in particular, there's been a lot of focus lately on the habitat closures and groundfish closures. So that was something that the advisors pointed out. They also thought that just keeping up to date and proactive on what's going on in the management arena is an additional cost on the industry.

For fishing trends, the advisors noted that the efforts moving northward because of those high catch rates, and that the Surfclam inventory has come down recently, which results in an increased need for production. Most of the increase for Surfclams is due to the smaller vessels in New England that are fishing near shore. And the advisors noted that really the larger vessels are the vessels that are gonna be accessing Georges Bank now that that area is opened.

The advisors did not think that the landings per unit effort provided in the assessment was an indicative trend of abundance. The SARC panel recommended that a more detailed analysis be undertaken on landings per unit effort. Because the SARC didn't feel that the information that was presented in that report was really enough for them to make a determination on whether it had utility as an index or not. The advisors noted that the LPUEs in the 70s and 80s were much lower, then increased over time, and then decreased again. So they wanted to point that out.

In terms of quotas for the upcoming fishing years, the advisors point out that they wanted to see status quo quotas, and that the stability in the quotas really translates into stability in the fishery and in the market. So that overview of the fishery performance report is for both species. So when we get to Ocean Quahogs, I'm not gonna go over all that again. So, you got it once, and it's in the tab as well. So the staff memo, which is the next document behind



the briefing book tab, included the staff recommendations for Surfcams. And staff recommended that specs be set for three years, and this would be for the 2014 to 2016 fishing year.

The SSC, back in May 2010, when they were looking at that KLAMZ model, had identified that assessment as a Level 3 assessment. And the staff, looking at this assessment had thought that this would also be the new model of Level 3 assessments. So if the SSC considers that assessment to be Level 3, then the overfishing limit just gets calculated directly from the assessment. So it's taking the fishing mortality rate threshold and applying that to the current stock biomass, which is as projected for each of these fishing years: for '14, '15, and '16. So based on that, the overfishing limit for 2014 would be about 81,000 metric tons. For 2015, 75,000 metric tons, thereabouts. And for 2016, around 72,000 metric tons. And the overfishing limit is declining slightly. 'Cause, as you can see, the biomass is declining slightly over that time period based on the projections.

The staff considered the life history and the longevity of the species, the recruitment patterns, which are a little different than some of the fish species that we look at, and didn't feel that it was fully addressed in the assessment. So in the staff memo, we recommended it be considered an atypical stock under the Council risk policy. But I do wanna note that the SSC actually classified this stock as a typical stock. So John Boreman will go over that in a little bit more detail.

So for a Level 3 stock, we go through the exercise of explicitly applying the risk policy and the probabilities of overfishing to calculate the ABCs. So assuming a log normal distribution for the overfishing limit with a coefficient of variation of 100 percent, which is the CV value that the SSC has been applying to most of our Level 3 stocks. And those 2014, 2015, and 2016 biomass to biomass at maximum sustainable yield ratios, which is part of that risk policy. These would be the ABCs for the atypical stock, in the right-hand column, which is what the staff had recommended. Also in the staff memo, we provided the ABCs for the typical stock. I think that's what it was classified as. So that was already there in the memo for the SSC. So with that, I'm gonna hand this over to John Boreman to talk a little bit about the SSC report.

*John Boreman:* I guess it's okay. Right, Mr. Chair?

*Lee Anderson:* Yes.

*John Boreman:*

Okay. Thank you. You wanna go on to the next slide. Basically rather than repeat all of the terms of reference, I'll just get to the bottom line on Surfclams. Again, the SSC recommended a Level 3 for the assessment because it did provide an acceptable OFL estimate, at least in the eyes of the SSC. The assessment itself included estimates of pertinent life history parameters and it explicitly incorporated a substantial amount of available data and allowed for uncertainty in the input parameters. Next.

So the OFL recommended for 2014 as 81,150 metric tons. Again, as Jessica pointed out, based on the application of the  $F_{MSY}$  proxy to the projected population biomass. Next slide. Again, as Jessica pointed out, the SSC applied the Council's risk policy to generate the ABC for 2014. The biomass relative to the reference points, that ratio is 91 percent. It's below  $B_{MSY}$ . The uncertainty around the OFL is assumed to be log normally distributed with a CV of 100 percent. That's a default value we've been using for Level 3 assessments for the past couple of years. And Surfclams have a typical life history. For the purposes of management, I think that the difference there is we looked at consistency with other stocks that we were defining typical and atypical.

We discussed this and decided that, based on how we've handled other stocks with similar issues in the assessment that this was—Surfclams were no different than other stocks we classified as typical. Again, typical means that—or atypical would mean that there are aspects that are not covered in the assessment that would make this stock particularly more vulnerable to exploitation or overexploitation. And we just couldn't convince ourselves to go that far. So the ABC for 2014 is 60,313 metric tons. Next slide. We recommended a three-year period for the ABCs and OFLs. 2014, '15, and '16, and recommended the following. And again, you've seen these numbers. Jessica has already showed them to you. Next slide.

Probability of overfishing, that's another term of reference that we have. So it's 36 percent in 2014, and then declines down to 32 percent by 2016. Again, that's because the stock size, the biomass is declining, and it's below  $B_{MSY}$ . That's why the probability of overfishing is declining, too. That's basically following the risk policy of the Council. Next slide. The most significant sources of scientific uncertainty. The  $F$  equals  $M$  foundation for establishing OFL. This is something the SARC panel pointed out, too. The estimates of  $M$  used in the assessment are uncertain. Uncertainty over the scales at which regional replenishment occurs and the

potential impact of localized depletion, but noting again that this fishery is concentrated on some small areas.

So we discussed that and figured that would be very difficult to assess or to do a project to look at localized depletion and what the effects would be on the total biomass. But it still adds some uncertainty to the recommendation. The absolute biomass is not known. Again, the—we're here using 1999 as a reference point. And biomasses are currently scaled to presume abundance in 1999. Uncertainty in the fishing mortality rates, as identified by the SARC external review plan, is another source of worry for us. The next slide.

We were asked, specifically for Surfclams, if the science is there to support area-based management. And basically what we said is it depends on how you define area-based management. If you give us more explicit statements of what objectives and contemplative scales—do you want two areas? Do you want ten areas?—then we can give you some scientific guidance. But we wound up basically concluding what the SARC panel concluded, as yeah, you may or may not be able to do it depending on what you have in mind, in terms of area-based. But we did commend the work of the assessment team by splitting the stock into two areas, and then for the total biological reference points or whatever, combining the estimates from those two separate areas. That enabled us to have more spatially explicit estimates of many of the parameters in the assessment model. And I believe that's it. So thank you.

*Jessica Coakley:*

Alright. I'm just gonna continue with the remainder of the presentation. So back when this Committee and the Council met last June, well in June 2010, to develop recommendations, the full annual catch limit and accountability measure Amendment wasn't in place at that time. So at that time, you guys weren't talking about annual catch limits or ACTs. So I wanted to just real briefly put the flowchart up from the Omnibus and just remind everyone of the structure of the new catch limit system. So we have the overfishing limit, which, based on scientific uncertainty, the SSC then sets the acceptable biological catch. Which the plan prescribes that that would be equal to the annual catch limit. And then based on management uncertainty, if applicable, the Council could set the annual catch target for this fishery.

So again, that ACL equals the ABC. You recommend an ACT to address management uncertainty and other factors. That ACT is catch. So for Surfclam, catch is defined as landing plus the 12 percent incidental mortality, plus discards. Which is this case, the

discards are equal to zero. So commercial quota is landings based. So just so you know, the ACT minus that 12 percent incidental mortality will get you the commercial quota. So they—just rounding out the staff recommendation memo; in that memo, there was a recommendation for the catch target for 2014, '15, and '16 based on the OY range that was defined in the fishery management plan. Because ACT is catch, then taking that 12 percent incidental mortality, the commercial quota would be 23,072 metric tons, on that basis, to get you from the ACT to the commercial quota.

There's an additional staff memo that was written May 23<sup>rd</sup> to the Council addressing the minimum size limit suspension for Surfclam and small clam areas. As you know, the Regional Administrator can suspend the minimum shell length standard. And they can do that unless discard, catch, and survey data indicate that 30 percent of the Surfclams are smaller than 4.75 inches. And that reduced length is not attributable to density dependent factors. And again, that's just summarizing the language from the regs. So staff reviewed recent information about Surfclam landings. The most recent three reports were '10 to 2012, as prepared by James Hermesen from NMFS/NERO.

And that data suggested—the landings data suggested a very small percentage of clams are actually landed. So for '10, '11, and '12, it was around eight percent, four percent, and six percent, respectively. So those were very small percentages. So the staff recommend continued suspension of that minimum shell length standard based on the fact that it's a small percentage of landings of those small clams, that the commercial gear itself is designed to select for those larger-sized clams, and if not suspended, those small clams are gonna be pulled on deck, handled, maybe mishandled, discarded in less optimal habitats. So given that it's such a small percentage, that's the staff recommendation. So this would be a decision point, in addition to the specs that the Council might want to consider.

In addition, some advisors raised concerns about whether the data on clam sizes fully reflected what's being observed. That was highlighted in the fishery performance report. And that some of the smaller clams may be target. We also received questions about what specific data and analyses NMFS conducts to examine the size distribution of clams in the fishery. So the regulations state that the Regional Administrator can close an area to Surfclams and Ocean Quahog fishing if the area contains Surfclams which are 60 percent or more are smaller than 4.5 inches in an area, and not more than 15 percent are larger than 5.5 inches in an area.

So the last time that this provision was actually applied was back in the 1980s. We did a little groundwork to look that up. It was actually three areas were closed. One off of Atlantic City; Ocean City, Maryland; and Chincoteague, Virginia. So that all occurred in the 80s. The last area was actually reopened in 1991. And a recent analysis of this information hasn't been provided. So we've provided it in the staff memo. So because the commercial fishing gear does select for larger-sized clams, it's really not appropriate to use just the fishery dependent data to examine those areas. 'Cause you're not gonna be picking up those small clams in that gear and be able to determine what proportions there are in an area.

However, the Science Center has their fishery independent clam survey, and their clam dredge that they use in the survey does capture those smaller clams. That it is a random survey where they have random stations that are sampled within survey strata, randomly selected stations. And their database did provide clam measurements. So we were able to go through and ask that question based on those two criteria that are set in the regs. What stations that caught Surfclams, in what proportions did those stations meet those criteria? And we'll note, based on an examination of this, that some stations did have small sample sizes. So there were some stations that caught very large number of clams, there were some that just caught a few. But regardless of the sample size, there really were some consistent patterns that showed up at stations, particularly in the south areas and in those southern strata.

So I know this is a very small screen for this meeting room. The staff memo behind Tab Two has, you know, bigger figures which are probably easier for you to see. The round dots that are just basically just clear are stations that do not meet those criteria: the greater than 60 percent small clams and not more than 15 percent large. The stations that are in red do meet that criteria. So as you can see, looking—and this is going to the '08 Center Fishery Independent Survey—you can look at off the coast of Virginia, down in those areas, and see just about all of the stations that were sampled met that criteria.

Taking a close look at the 2011 survey—so this is the most recent survey that was conducted. Again, what pops out is those areas off the coast of Virginia. And then there's a cluster in a strata off of Delaware and Maryland. You see there's a large number of stations that met that small clam criteria. And then the other areas, you know, it's sort of a mixed bag of stations that did or did not

meet those criteria. So the staff wanted to point out that really the NMFS Northeast Fishery Science Center may have recommendations for improved analysis of this data. Or there may be additional data sets with which this information could be combined to really provide a more comprehensive examination of it.

The staff recommends that NMFS undertake an analysis of these data every three years prior to specifications. And what that'll do is provide the Council with the opportunity to really monitor changes in the size distributions of clams over time. And the Council can determine if they—if a closure is needed or if they want to develop recommendations to the Regional Administrator on that topic.

So there's two other issues, and I'll wrap up the talk. And these two issues actually apply to both Surfclams and Ocean Quahogs. So again, I'm only gonna present them here for Surfclams. And they really arose from discussions at the advisory panel meetings, SSC meetings, and in comment letters that we received over the last few weeks. So it was noted that the 2009 Ocean Quahog biological reference points, the BRPs, haven't been updated in Amendment 15. And even—and Amendment 15 has been in development for a number of years. And Amendments have uncertain timelines, and really can take years. And that's why some of our other Council FMPs have moved away from the process of using Amendments and alternatives in the Amendment as the mechanism for revision of those biological reference points.

So for some of our FMPs, a framework was developed to enable more flexibility in the definition of the reference points. The overfishing and the overfished reference points in the FMP. And it uses some language that's consistent with how those are defined under National Standard 1 and National Standard 2. And broaden those definitions. So through those frameworks, it also helped in particular for NEPA in moving the FMPs away from putting non-viable alternatives in these Amendments. So for plans that have been using the Amendments as the updating mechanism, we would have an option in there that would say, "No action." You know, use the older, outdated biological reference points. They may not be relevant, they may apply to a previous assessment model. Or, "Action," use the new, updated, improved ones.

And there are discussion with NEPA they've highlighted that it's sort of a non-viable option to start. Because the Council and NMFS don't really have much of a choice in terms of how those

two options are structured. There's really only one that's viable. So this framework approach has fixed the plans so updated reference points can be used immediately, but only if they undergo certain peer review options. And so the framework listed out peer review processes such as the SAW/SARC process, external peer review with CIE experts, you know, a NMFS special, independent review kind of like what we did for summer flounder back in '06. Those kinds of things. And those are all the NRCC-approved types of reviews that have been in place.

So this framework has already been done and addressed by the Council for summer flounder, scup, black sea bass, and the dogfish FMPs. And it was done as a categorically excluded framework. So there were very slim frameworks that were actually excluded from NEPA. And it could potentially be done for all of the plans. So the staff is just putting that out there that it could be appropriate to consider this type of categorically excluded framework or a categorically excluded Amendment for the Surfclam and quahog FMP. And the Committee and the Council may also want to consider using that opportunity to fix that reference point issue, maybe for some of the remaining plans. Again, those frameworks were pretty slim, very administrative and concise. So that may provide an opportunity to do that patch so that we don't have to go through that exercise with all of them.

The other issue that had come up in discussions at some of these recent meetings and letters was the OY range. And both for Surfclam and Ocean Quahog, there's optimum yield range values that were developed in the FMPs back in the 1980s. These are developed well before the reauthorization took place. And they do limit the Council's flexibility to set recommendations outside of the range. So that the FMP basically constrains the Council's options to the lower end or the upper end of that range. However, the SSC is not limited as to how acceptable biological catch can be set. And clearly the Council cannot exceed the recommendations of the SSC for ABC.

So I just want to point out some language from the National Standard 1 guidelines. And it says that NMFS believes that fisheries managers cannot consistently meet the requirements of the MSA to prevent overfishing and achieve optimum yield unless they address scientific and management uncertainty. So the reauthorization, this new language, does set up a potential conflict with that optimum yield range. 'Cause ultimately, based on this new process, the SSC sets the upper bounds on what an OY can be.

Because you first have to address scientific and management uncertainty and the Council can't go over that value.

So if the SSC sets an ABC much higher than the OY range, the Council can't recommend an ACT above the upper limit of what's in the fishery management plan. If the SSC sets something lower than that OY range, then based on what's in the plan, the Council can't really recommend anything. Because the FMP has now constrained the lower end of that range. So because this issue has come up in discussions, we're just highlighting this as a potential conflict there, that the Council and this Committee may want to try to address. In our Omnibus ACL/AM Amendment, the Council, through that Amendment, stated that the system for specifying annual catch limits would allow for the consideration of all relevant factors, so scientific uncertainty, management uncertainty, and it should allow for social, economic, and ecological factors to be considered within that framework.

For Surfclams and Ocean Quahogs, the OY range is in the list of the frameworkable options for the plan. So the Council may wish to consider changes through a framework. And you could consider a variety of options. You know, revisiting it, modifying values, eliminating it, and setting ACT annually, or other options that might be appropriate. So that summarizes the information that needed to be presented that's behind the tab. For your decisions today, recommendations need to be developed on ACLs and ACTs and commercial quotas for Surfclams. The Council—or the Committee, excuse me, should develop recommendations to the Council on minimum shell length suspension. If there are recommendations on small clam areas or any of the other issues that were highlighted relative to the OY range and the biological references points in the presentation. And that's it.

*Lee Anderson:*

Click on that other—the penultimate slide there. I love it when I can work that word in. We have these four bullets here. And thank you for your presentation. I'd like to move on each of the bullet independently and then we'll come back to them, if that's okay. And so what I propose—what I would like to do is to open up question or comments from the Committee on the first one: recommendation for ACL and ACT in commercial quota. Then we'll go to the public. We'll look for a motion. And then move on to the next thing. And so you may have to do a little briefing on—as we go ahead.

But as I see it, we had—as far as ABCs, you and the SSC gave the same recommendations which resulted in the staff



recommendations for ACT in commercial quota as are pictured on Page 31 of your presentation. Could you put that up please? If your numbering is the same as mine. Okay. So the bottom line is—that's where we're looking at for the ACT and the commercial quota. Am I correct?

*Jessica Coakley:* Well, the staff recommendations for ABC were based on that atypical stock. But that wasn't what the SSC went with.

*Lee Anderson:* Correct.

*Jessica Coakley:* They went with the typical stock recommendation, which is in—oh, where are we?—in this table right here. So those are the values. Although those were presented in the staff memo, those are different than what the staff had recommended.

*Lee Anderson:* Yeah, I'm sorry.

*Jessica Coakley:* For the ACT, the staff had looked at the OY range, and that recommendation is based on that upper end of the OY range, based on what had been done in previous years. And it's substantially lower than these ABCs that are provided there.

*Lee Anderson:* Okay. Alright. But this ACT that is—go back to 31.

*Jessica Coakley:* Okay. Going back to 31.

*Lee Anderson:* I'm trying to get back to the operational thing. This is what we would—is my interpretation, what we need a motion on today. And is that correct?

*Jessica Coakley:* Yes. The plan essentially lays out that the annual catch limits are equal to the ABC and what the Committee and Council are gonna recommend are ACTs that address management uncertainty. And then taking that incidental mortality out, you would get to the commercial quota.

*Lee Anderson:* Okay. Questions from the Committee on this slide, which I think summarizes it. You can have—you can talk about anything else you want, the ABCs and everything else. But this is what I think we need to focus on today. Comments from the Committee on this recommendation? Or any of the other background material? In fact, anything you wanna ask Jessica, that's certainly an option. I'm, again, the bottom line guy going to where we're going. Questions on anything by the Committee? Yes, Erling?

- Erling Berg:* Well, we've always set the quota in bushels. So how does this related to bushels? I mean, that's how we're generally done it. And I don't see any bushels here, Jessica.
- Jessica Coakley:* In terms of bushels, the Surfclam, we can take metric tons—well, metric tons and essentially convert it to millions of pounds, and then it's 17 pounds per bushel of quahog. So if you want do the— of Surfclam bushels. So if you would prefer to give the recommendations in bushels, we can do that conversion for you. We tried to keep it in metric tons, because one of the challenges when we keep converting back and forth from bushels to metric tons is it's really hard to relate to what the SSC has recommended. Because all the science is presented in metric tons. And so that's why in the staff memos we've stuck with the metric tons. But we can do the math here.
- Erling Berg:* I'm just bringing up the point that in previous years, it's always been set in bushels. So just makes it kinda confusing. And I don't know how the other members feel, but I would like to go back to what we have done in previous years so we're talking about apples and apples.
- Jessica Coakley:* Alright. Well, we'll work up that number for you.
- Tony DiLernia:* A point, isn't this recommendation equivalent to what it was status quo last year?
- John Boreman:* No.
- Lee Anderson:* We have this problem, or issue, with what metric we're gonna measure it in. That's something that we can handle. We can actually put both of them up. I'm now gonna turn out to the public. Does any members of the public have questions on this, or comments? Dave?
- Dave Wallace:* For those of you who don't know me, I'm Dave Wallace. And I represent the clam industry, or part of the clam industry. The quota for the last at least ten years has been the top of the OY, which is 3.4 million bushels. Which equates to 26,218 tons. And so the 23,072 tons is a 400,000 bushel cut in the quota. Which has been in place for decades. And I find that very disturbing because this is not the recommendation of the SSC. It's not the recommendation of the advisors. And, you know, for some reason, we seem to be out of kilter with the Council of how this fishery is managed. We have not caught the quota in a number of years.

And that's because of all kinda of situations. Including the very poor economy over the last four or five years.

But the fact is that if we do not have the ability to expand our marketing, since it has been significantly reduced over the years, no fault of our own, we will have our customers rebel against the idea and take the best managed fishery in the world and have it sort of dwindle because of uncertainty of the—what the management structure is going to do to the quota. And so I suggest that you set the quota at 3.4 million bushels, which is the status quo. That's what it is today. Thank you.

*Lee Anderson:* Jessica, may I ask for a response? As I understand, what Dave said is 26,218 in metric tons is status quo. And now you—there is a number here that 12 percent is being taken out for incidental mortality. And as I understood Dave, he said that has never been taken out before. Can you address that please?

*Jessica Coakley:* Yeah. Well we've just been discussing it here. The OY range, OY is typically provided as catch. Which is why, in terms of setting an ACT, the staff had recommended the ACT be equal to that 26,218. And the plan specifies that catch is defined as landings minus that 12 percent incidental mortality. So we were just debating here whether or not—in the past, if the top of that OY range was simply landings and not catch, then to get to the ACT, then maybe it's the 12 percent on top of that. So—

*Lee Anderson:* Oh. Well?

*Jessica Coakley:* I think we need to just take another quick look just to make sure that we have that straight.

*Lee Anderson:* Okay. Yeah. I would appreciate you doing it, 'cause that is the difference and we'd like to have that before we have the vote.

*Jessica Coakley:* Yup. And it does. And it relates to the new system where now you're in ACTs and we're in catch now for all those catch limits. And so it does need to account for that incidental mortality because that's dead fish. Or dead clams. Excuse me.

*Lee Anderson:* Pete?

*Peter Himchak:* Yes. Thank you, Mr. Chairman. Yeah, I'm somewhat confused with the management uncertainty of 12 percent incidental mortality. I recall in the development of the Omnibus Amendment, when we started talking about management

uncertainty in the Surfclam fishery, it was negligible, it was nil. Because what came on the deck, and with the seals, with the cages, that the quality control, quality assurances through the plant, we were of the mindset that management uncertainty, if it can be zero, this would be a fishery that it would apply. So I'm a little surprised at 12 percent management uncertainty at this point.

*Lee Anderson:* Incidental mortality, not management uncertainty. I think that's what it's saying—

*Peter Himchak:* No, I think it was presented as management uncertainty.

*Jessica Coakley:* No. It's—that incidental mortality is related to how the catch is defined. So in the assessment, you know, wherever catch—you know, they take the landings plus a 12 percent incidental mortality, because that's—those are additional clams that die from the process of using that gear. Has nothing to do with management uncertainty.

*Lee Anderson:* I'm still confused by this. I would—we were gonna go to lunch in 15 minutes anyway. I would like to—we go for lunch now, take an hour, and then we can work out and address what the difference between the 26,218 and the 23,072. And we'll have that on the board when we come back from lunch to prepare a motion. So with your permission, Mr. Chair, we will now go away for lunch for one hour.

Okay. We're ready to reconvene the Surfclam and Ocean Quahog Committee. We took a break so we could clear up the presentation on the clam quota. We have finished that work over lunch. We'll start that in a second. What I wanna to do is—the Committee to do after we've finished that when we make a recommendation for clam quota is we're gonna go through the minimum size suspension, the small clam area discussion, and the optimal yield range and the BRP discussions. We'll do that before we go into the quahog and set the quota. And we have the quahog quota set up in a way that is analogous to what you're gonna see in the clam in just a second. So if I can ask you, can you put that slide up, where we were interrupted for lunch please?

*Jessica Coakley:* Sure, Lee. This is where we left off with the calculations. And the confusion arose essentially OY under Magnuson and all of our other plans is based on catch. And it turns out that the OY in the regs for Surfclams is defined as commercial harvest in the regs. Which means it's just the landings piece. So in order to get us to the ACT, we—instead of starting at that 26,000, which we thought

was catch, and we took that 12 percent incidental mortality away to get you to a commercial quota that's landings based, we needed to add it in to that 26,000.

So the ACT that would be associated with the commercial quota that was in place in the past would be the 29,364 metric tons, which is about 3.8 million bushels. And so, again, taking that 12 percent incidental mortality away to get you in a landings mode, that's the commercial quota of 26,218 metric tons, or 3.4 million bushels. So that would be sort of the analogous setup to get you an ACT.

*Lee Anderson:* And if I can interject here, that 12 percent incidental mortality may seem like a new thing to people around the table, but it's not. It's always been buried in the calculations. And once we started applying the Omnibus Amendment to this, these come out more obvious. But there's nothing new in this table now—in this report here.

*Jessica Coakley:* Yeah. No, that's right. That's been in there all along. I mean, the analogy I gave you on the break was this is sort of like summer flounder, where we used to just set TALs. So all you were ever looking at was total allowable landings. And then when we converted to the Omnibus, then we were dealing with the discards as well. Because we had to use the discards when we set the ACTs. 'Cause it's total catch. So similarly, this 12 percent incidental mortality has always been in there, just not so explicitly described.

*Lee Anderson:* The—and this 26,218 comes from the OFL, the ABC, and then that overfishing, or the optimum yield range that is in this plan. And what I—I'm not gonna go through all of that. And we talked about that over the lunch break as well, that what we've done in the past is just come up with a recommendation for a quota. And the Chair is open to and would welcome a motion to set up the commercial quota for 26,218. Or any other questions. Erling?

*Erling Berg:* Well now that all of this has been cleared up and I understand what's going on, I'm prepared to make a motion, if you're ready.

*Lee Anderson:* It's fair to say. Is there—are there any more questions from the Committee or the public? Erling, if you'd make a motion please.

*Erling Berg:* I move that we set the commercial quota for—at 3,400,000

pounds. This has always been the currency that they used. And it also relates to the tags on the cages, which are 32 bushels. So that's my reasoning for all this.

*Lee Anderson:* Okay, now—

*Male:* He said pounds. Did you mean bushels?

*Lee Anderson:* Is there a second to the motion?

*Erling Berg:* Bushels. Bushels. Yeah.

*Male:* I can't really see that.

*Lee Anderson:* Second. Seconded Pete Himchak.

*Jessica Coakley:* I'm trying to make it clearer.

*Lee Anderson:* Okay. Jessica, does this....

*Erling Berg:* Mr. Chairman?

*Lee Anderson:* Yes.

*Erling Berg:* This will be for the years '14, '15, and '16.

*Lee Anderson:* Okay. Jessica, can I ask you to—we put it in bushels and metric tons so we make the Committee happy and the SSC happy.

*Male:* It's 3.4 million, not 34 million.

*Lee Anderson:* Okay. And please correct that to 3.4 million. Thank you. Okay. Discussion on the motion from the Committee? Discussion on the motion from the public? Jessica?

*Jessica Coakley:* Just one question. And I guess this goes to NMFS or to Gene. For most of our other plans, we had the Council explicitly indicate what the ACL and the ACT is associated with those recommendations, so those are all on the record. Is that something that NMFS or Gene thinks needs to be in there? I mean, it doesn't matter to me either way if it's implied. But it's a general question.

*Lee Anderson:* Can I ask you to make the necessary perfections on that motion by putting that in? While we're waiting, John?

*John Boreman:* Yeah. This motion should be in the form of a recommendation to

the Council, right?

*Lee Anderson:* He recommends the Council set the commercial quota. And I guess to be—although you have it above, put the commercial quote for Surfclams. Rick?

*Rick Robins:* Thank you, Mr. Chairman. Are you adding—Jessica, are you adding ABC equals ACL? Or are you adding that as part of the specification? I thought that was the original request. So I just wanted to make sure.

*Jessica Coakley:* And again, I'm looking, I guess, Erling and Pete. Can we just say move that the ACL equal the ABC? Because there's three ABCs. There's one for 2014, '15, and '16 that the SSC recommended. So will just having the statement in there move that ACL equal the ABC suffice? Okay. I think it gets us there.

*Lee Anderson:* Gene?

*Gene Martin:* I think we've covered here that you're getting the—what the ACL is in this motion. Which results in the commercial quota that's specified in the same motion. So I think this—the ACLs, the table you just had up there for the three years. So I think this captures everything you need in terms of setting ACLs.

*Lee Anderson:* Okay. Thank you. If I don't see any—I do not see any more questions. I'm gonna call—or comments. I'm gonna call a question on the motion. All in favor of this motion, say, "Aye."

*Members:* Aye.

*Lee Anderson:* Opposed? The motion carries. We will send that on to the full Council. Jessica, would you put your recommendation with respect to the minimum size—or tell us what the recommendation for minimum size was again.

*Jessica Coakley:* Okay. Well the staff recommended that the Regional Administrator—or that the Council ask the Regional Administrator to suspend the minimum shell length requirement. And that the Regional Administrator also typically does an analysis of the more recent information to go along with that suspension. 'Cause we looked at last year's three older reports, and they usually do an analysis to update that.

*Lee Anderson:* So I would welcome a motion that we suspend—or that we request the Regional Administrator to suspend the minimum size.

- Erling Berg:* Okay. I'll probably need some help here crafting this, but that would be my motion: to suspend the minimum size for—I guess that'd be the same years: '14, '15, and '16.
- Lee Anderson:* And again, while you're writing that, this is—we move that the Council—the Committee recommend to the Council to do this. Yes?
- George Darcy:* It should just be for one year. This is an annual determination that we make on behalf of the Council.
- Lee Anderson:* Okay. Can we make that perfection as well, please? Alright. Do I see any objection to this motion? Seeing none. The motion carries and will be sent to the full Committee. Okay. Now—yes, Jessica?
- Jessica Coakley:* Lee, are we clear on the first and the second? Was it you as a first and Erling as the second on that?
- Lee Anderson:* Erling. I didn't make a motion. Erling made the motion and Pete made the second.
- Jessica Coakley:* Himchak? Okay. Thank you. Just making sure we got this.
- Lee Anderson:* Okay. The next topic, we've already had a briefing on the small clam area, but we're gonna look at it again to see if you want to take any action. Jessica, would you brief us again on the small clam area issues?
- Jessica Coakley:* Sure. The staff recommendation was that the Council and Committee ask the National Marine Fisheries Service to update an analysis of the small clam distributions prior to the spec setting each year so we have that information available to the Council to make any determinations. And we did note in the staff memo that there may be improvements that could be done to that analysis and it would probably be worthwhile talking to the Science Center to find out if there's other pieces of information they could combine or include in that analysis that would enhance the way that the Council could use it.
- Lee Anderson:* Any questions on this again? As far as I see, Jessica, there's really no need for a motion at this time. Except maybe to remind ourselves—we need a motion to remind ourselves that we wanna take more positive action on this in the future to do what you said. Rick?



*Rick Robins:* Thank you, Lee. You know, I think this issue came up to some extent in a different form when the SSC met because staff had added a term of reference about whether there was enough information for any type of spatial management of the fishery. And the SSC concluded that there really wasn't adequate data for any type of fine scale management or decision making. And it seems like if that were gonna be a direction that the Council wanted to move in, that there would have to be some sort of plan to collect fine scale information.

And right now, the industry's doing the survey work. So I think the industry would have to be involved in that. But also, in terms of whether or not that could lead to any improvement in the management of the fishery, I think that's still an open question. And I think that's something that would require industry input on before really trying to move ahead with any of that. Because none of that's been done for a very long time. And the last time that was done was back in the 1980s. So, you know, I think that would be a significant change in how we manage the resource. And again, I think there would need to be a lot more fine scale information to indicate whether or not there were an benefits from closing any of those areas. And if so, what the cost would be, what the tradeoffs would be, et cetera.

*Lee Anderson:* Rick. Erling?

*Erling Berg:* I'm looking at Figure Two. There's a chart here of the whole area. And there are several areas that stand point that have—to meet their criteria. One being off Cape Henry. There's two there. I'm assuming this is between 15 and 20 fathoms. Another one off Ocean City, Maryland. There's a couple of places on either side of the Hudson Canyon. And one off eastern Long Island. And the southwest part of Georges Bank also has some recruits. So, I mean, there's quite a few areas that could possible be looked at for area management.

*Lee Anderson:* Other comments? Rick, would you like something more formal from the Committee on this? Or do you think we're okay with just implying to staff that we would like to see work on this as we can?

*Rick Robins:* Lee, I think staff had suggested that it'd be helpful to see more analysis in the future when we through the specification process. But I think we would also need some additional engagement with the industry to have that conversation about whether or not there could be significant benefits or what the tradeoffs might be

associated with any of those approaches to finer scale management of those juvenile clams.

*Lee Anderson:* Tom, do you have a question or comment?

*Tom Alspach:* Tom Alspach, Sea Watch International. One reason why I think that it may really not be necessary going forward to continue to obsess—obsess is probably the wrong word—to be overly concerned about this issue is that with the opening of Georges Bank reserves, we're probably gonna be taking as much as a third of the quota off of Georges Bank. Which is the equivalent of a 33 percent quota reduction in New Jersey, North Jersey, these areas where people have been concerned that the smaller clams are being impacted. So there's gonna be substantially less fishing effort in these areas that have been a concern, simply because we're refocusing on Georges Bank. And I think that that really should make the issue less pressing than it might otherwise be.

*Lee Anderson:* Thank you. Any other comments? Yes, Pete?

*Peter Himchak:* Yeah. I used to beat this drum every year for the last three years about the landings per unit effort off New Jersey. And I guess we got our desired outcome with the shift of fishing pressure to Georges Bank. And it should alleviate like lots of concerns that I was having. So...

*Lee Anderson:* Jessica, would you like to address now the issues of the optimal yield range and the BR?

*Jessica Coakley:* Sure. As I went over in the presentation, the biological reference point issue, in terms of expanding the definition of those reference points and how they're updated, that's something that's already been done through a framework for summer flounder, scup, black sea bass, and for the dogfish plan. So the question is, I guess, is that something that the Council might be interested in exploring for this plan. Because, you know, the '09 reference points have not yet been updated in Amendment 15. And Amendment 15 is, well, still in the works. And I'm not sure quite when it's anticipated that that would go through it as well.

*Lee Anderson:* Would you like something from this Committee? A statement regarding this? Or are you happy with just reporting this to us and you'll be working on it?

*Jessica Coakley:* Well, I think it's something that's outstanding for this plan, for

both Surfclams and Ocean Quahogs, and outstanding for some of our other plans. So, as you'll hear in—when we get into quahogs, the recommendations from the SSC. There are recommendations in there for some benchmark work to be done on quahog as well related to reference points, which again then we would have quahog reference points that would need to be updated at some point down the line. So I guess, yes, I think it would be useful if the Committee thinks it would be worthwhile to do a framework or a categorically excluded Amendment to try to fix this for Surfclams and Ocean Quahogs that would be a good thing.

And then also the larger question, I think to the Council, is if you're going through the process of trying to fix it for this plan, do you want to fix it for the remaining plans at the same time? Because it is categorically excluded, tends to be relatively slim, and easy to put through the process. So yeah, it's kind of a couple of questions. Sorry, I haven't narrowed it down.

*Lee Anderson:* Right. And I'm not sure the Committee is really set to address anything in any detail other than say, "It sounds interesting. Let's do it. Let's move forward." Unless I'm misinterpreting the feelings of the Committee. Yes?

*Laurie Nolan:* Thank you. I mean, Jessica just outlined a few different ways that we would move forward. Are we gonna collect all the outstanding issues and group them into one framework or Amendment to deal with this? Or are we gonna isolate and do species by species? How many other plans are missing updated biological reference points? I'm just a little confused. Sorry.

*Lee Anderson:* Yeah. And...Jessica?

*Jessica Coakley:* Well, what this is is essentially a permanent fix to the plan so that you never again have to go through the process of explicitly updating your reference points through an Amendment. So it essentially fixes the plan so for—like for summer flounder, when we get a new benchmark assessment, we don't have to go and put options in another Amendment to update biological reference points. It just comes out of the peer review process and both the Council and NMFS can move and act on those new reference points immediately. So right now, the only plans that are fixed in that way are summer flounder, scup, black sea bass, and dogfish. I think there's some discussion about it for squid, mackerel, butterfish already, but the other remaining plans, you know, would be tilefish, bluefish—what else do we have? I think that's—I think those are the only ones that don't have that fix build into it.

*Lee Anderson:* Chris?

*Chris Moore:* So—thanks, Mr. Chairman. Given what Jessica just said, I think it's obvious to folks that this is something that applies to a number of our FMPs. And it's probably a question better addressed in our Executive Committee, in terms of the additional planning that we might need to do with, you know, these other plans as well. So I think that, again, given what Jessica said, I would suggest that we need to postpone this discussion to the Executive Committee.

*Lee Anderson:* I concur. In fact, what I was gonna do in about two minutes was say that, Jessica, you and your colleague there work with Chris and come up with a recommendation for us. But I think your recommendation is better, the Executive Committee should look at this. Dave, do you have a comment?

*Dave Wallace:* Yes. Dave Wallace. It is reported by—it is stated by a number of people that the Surfclam and Ocean Quahog fishery is the best managed fishery in the United States. We have, since Amendment 8, we've had a whole series of Amendments to the Fisheries Management Plan that were mandated by acts of Congress when they changed the law and we had to comply. Having—fixing the problem is a opinion. Because I don't think that there are any significant problems within the Surfclam and Ocean Quahog management plan that—as it stands. And it was worked very, very well for—since it was the first management plan in the United States for—since 1977.

And so I don't know what is the pressing issue that has to be fixed by making everything frameworkable. And so what happens is then you can be in a situation where someone comes up with some interesting idea, everybody buys into it, it goes forward and then comes back. And it wasn't well considered, and now you have to go back and change it because it is inappropriate. So I would suggest that the current system that we have is good and adequate. It's served us for over 30 years and I would like to still be part of the fisheries management plan which is still rated number one in the country. Thank you.

*Lee Anderson:* Thank you for your comments.

*Jessica Coakley:* If I can just comment on the issue real quickly. You had a SAW/SARC that occurred in 2009, and it recommended revised biological reference points. And we are now in 2013 and those biological reference points have not been updated in the fishery

management plan. That's the issue. The issue is that the Amendments have uncertain timelines and tend not to move through the system quickly enough to make those reference points relevant for this Council. And that's why the staff raised this issue, because we receive comment letters and comments at the SSC about why those haven't been updated yet.

So what this framework we've done for summer flounder and for dogfish has done is essentially free up that process so that you don't have to wait for an Amendment to start using your SAW/SARC or peer reviewed approved reference points in your process. That you don't have to wait for that. And that's why that's been raised here in this point. It's not to say that there's, you know, a huge problem with that way the fishery is being managed. It's just, in our system for updating those reference points, there's been, you know, a four and a half, five year lag. And, you know, the quahog reference points from '09 were hitched to Amendment 15 and that Amendment hasn't moved yet and may not move for another year or two. So I just wanted to frame why the issue was raised here.

*Lee Anderson:*

Thanks, Jessica. And as Chairman of this Committee, I would like to request that we do follow up on Chris's suggestion and that these issues of the BRPs, the optimal yield range, the Executive Committee takes a careful look at this and sees where to go. And I know we have a lot to do, Chris, but it's certainly quicker as far as I'm concerned. Jessica, I believe we're now ready to go on to the briefing on the quahogs. Unless you have something else.

*Jessica Coakley:*

Well, just that the last issue was on the OY range issue that was raised. Okay. Well, just as I explained in the presentation, that the issue was that the—under the new catch limit system, the alignment of this OY range with the new system with catch limits and ABCs seems to be somewhat inconsistent and it seems to have set up a bit of a conflict in terms of how OY is being defined and specified. And that the SSC itself, when they set ABC, is not bound to that OY range in the FMP. So they could recommend something well above that or well below that. And so, you know, the question is how might the Committee recommend to the Council, both for Surfclam and Ocean Quahog, you try to deal with this.

*Lee Anderson:*

Yeah. So I'm saying let the record show that when the Executive Committee looks at this we look at the BRPs and that the way the optimal yield range is set up in the current plan. Jessica, now I think we're ready for the quahog presentation, please.

*Jessica Coakley:* Alright. Let me just scroll along here. Okay. All right. So the stock assessment for Ocean Quahog this go round, for specifications, was an update. And it was updated based on that SAW 48 approach which occurred back in 2009. The assessment uses a Deriso-Schnute delayed difference equation, which is applied in a program called KLAMZ. The update used the same model and same methods that were peer reviewed and approved, but simply incorporated data through 2011.

The biological references points for Ocean Quahog include a  $F_{MSY}$  proxy, which is  $F$  45 percent. And that's equal to 0.022. This proxy was actually developed by the assessment workgroup considering different SPR types of ranges and using analogies to some species such as Pacific whiting and long-lived species like West Coast rockfish. That workgroup actually debated the merits of that 40 percent and that 50 percent, and ultimately ended up splitting the difference between the two and arriving at an  $F$  45 percent. And that's detailed on page 215 of the SAW assessment report.

The  $B_{MSY}$  proxy to Ocean Quahogs is 1.73 million metric tons. This figure shows fishing mortality. The upper graph includes Georges Bank. The lower graph, fishing mortality, excludes Georges Bank. The dots that are given in those figures with the arrow bars is actually the survey  $F$  that sort of shows where those fall relative to that. And the solid lines the clams' calculated fishing mortality out of the stock assessment. So the fishing mortality rates have bounced around a bit, but have been relatively stable.

Stock biomass. The upper figure provides fishable biomass with Georges Bank. The lower figure is fishable biomass estimates without Georges Bank. And looking at the small screen, these are all in the tab behind Tab Two. If you're having trouble seeing them, they're in the fishery information document. But the biomass peaks around that 1992 and then has a slow decline after that.

So fishing mortality in 2011, the point estimate is 0.010. This is below the fishing mortality threshold of 0.022 for the exploited stock. The 2011 biomass is 2.96 million metric tons, which is above the  $B_{MSY}$  1.73 million pound target for the whole stock. So the stock is not overfished and overfishing was not occurring. So the staff recommendations. For Ocean Quahog, staff recommended three-year specifications for the 2014 to 2016

fishing year. The SSC previously, when they met in May 2010, had classified the quahog assessment as an assessment Level 3.

And based on that, the overfishing limit from the assessments would be calculated directly. And so those values are given in the staff memo. The life history and longevity of this species is not fully addressed in this assessment. Therefore, staff had recommended it be considered an atypical stock. And I'll note it's pretty extremely atypical. Ocean Quahogs have been ages out to about 500 years. Which is very different than many of the species. Mmhmm?

Oh. Dan Hennen said 500 at the SSC meeting. So, yeah. No, they've had them aged out to 500. So, yeah. Yep. Okay. So, yes, extremely atypical. So using the Council risk policy, if it's a Level 3 stock and that log normal distribution, a CV of 100 percent, there's table in the staff memo that provides these typical or atypical ABC calculations.

However, after looking at all this information the staff looked at, the Ocean Quahog biomass is projected to decline through 2026 in all three projection scenarios that were presented in the assessment update. At status quo catch, at quota catch, and at the catch at  $F_{MSY}$ , which is the threshold catch. If recruitment remains low and  $F$  continues at the status quo rate, there's a reasonable chance there'll be overfishing in the exploited area and the whole stock will lose 20 percent biomass within the next 10 to 12 years. And this is taken directly from the assessment update, Chute et al.

So staff is concerned about the current trajectory for this stock. Conditions may already be in place to cause overfishing in upcoming years. And this is because the growth is very slow, and there's a delay of about 10 to 30 years from larval settlement to the point where those quahogs become fishery recruits. So ABC, calculated for an atypical stock, and the quota catch projections, is expected to result in overfishing in about a decade, based on the projections.

So staff wasn't sure exactly what level below status quo catch, which is that 15,600 metric tons, is really needed to reset that trajectory. And staff recommended that ABCs for 2014 to 2016 be set no higher than status quo catch. And the staff asked that the SSC should consider what level of catch below status quo might be appropriate to prevent overfishing. You know, what it would take to reset that trajectory. So with that, I'm gonna hand this over to John to continue with the SSC recommendations.

*John Boreman:*

Alright. Thank you, Jessica. I'm gonna go to the next slide. The SSC, originally when they set the ABC three years ago, we had it as a Level 3. But discussing since then, we've passed rules and come up with new criteria. And applying the criteria we have now, we decided that quahogs are Level 4. Even though the survey and the assessment models provide reliable information on the trends in stock biomass, we did not believe the OFL. We thought that was a non-credible estimate of OFL. Basically because we've had—few recruitment pulses have been observed in the fishery. It has an extremely long-lived, somewhere between 200 and 500 years.

And we thought too, but the estimate of F 45, based on an average of F 50 and F 40, was not—was sort of arbitrary in a way. But we also noted that the species has an atypical life history because it's living so long and the recruitment. I mean, a lot of our discussion was that maybe we should go back and encourage headquarters to update the NS 1 guidelines to handle species like this. 'Cause this is a unique species where recruitment may only happen once every 20 to 30 to 40 to 50 years. But that should be sufficient to replenish the stock. So it's something that needs to be looked at in relation to the guidance that we're currently working under now, which is written for species that are a lot different in their life history patterns. Next slide.

Again, the OFL, we were asked the set that. We said that's not possible given the Level 4 assessment. The next slide. We didn't think we had credible scientific information in front of us on which to base a change in the ABC. Nothing convinced us otherwise, other than setting the ABC equivalent to status quo: 26,100 metric tons for the next three years. Next slide. Along with that, we have some recommendations. We expect that catches will remain relatively unchanged during that period. But we also wanna recommend and kind of emphasize in the strongest possible terms that a benchmark—maybe not a benchmark, but at least a research track be conducted that focuses on how to establish credible biological reference points for species like this: that's extremely long-lived and has a highly uncertain recruitment pattern. Next slide.

Again, we recommend the ABC should be in place for three years. We did note and discuss that the distribution of the fishery is expected to shift due to the opening of Georges Bank for Ocean Quahogs. And what we'll use as a check in the next couple of years, if we should revisit the ABC, is we're gonna monitor catch. And if catch actually does reach the ABC, then that will be cause



for us to go back and rethink our ABC recommendation. We don't expect it will, but it might. Next. Probability of overfishing, we couldn't—that's another term of reference we couldn't do that, given the Level 4 assessment. Next slide.

The most significant sources of uncertainty. Again, the fishing mortality rate reference point, this F 45, we deemed that to be non-credible, both because of the species to which quahogs were compared—they were comparing them to fish—to begin with, and because the details of the calculations of spawning per recruit for any particular level were what we felt were poorly justified. And forecasts for over 40 to 50 years were provided to the SSC. These—yeah, these are forecasts. They're not projections, just scenarios under different recruitment and fishing mortality rates. They were not used in our determination, but we encourage those types of calculations to continue in future updates and into the—if they do a benchmark assessment. For species like his, just forecasting out for ten years is kinda meaningless. You gotta basically forecast out into the future as far as you possibly can. Of course, the more you forecast out, the less certain you're gonna have in your recommendations. But...so, next slide.

Again, it's not known whether the low recent recruitments were reflective of a change in underlying productivity or just that's the way they are. I mean, it's a life history of a species, a highly uncertain recruitment. It's a bet-hedging strategy, it might be on something like this. Or sturgeons, you know. My work on sturgeons or any other species that has dominant year classes is—you might not expect one for quite awhile. And in this case, it's highly uncertain. Might have one coming up next year, might not happen for another ten years, but we don't see that as a reason to panic. That's just, for species that lives as long as this one does, that's just part of the bet-hedging life history strategy that they use.

The nature of historical recruitments is poorly known. I don't know if we'll ever—we'll be able to reconstruct that. And the SSC knows to identify other substantial sources of uncertainty in our report to the Council in 2010. And that list remains the same. We, basically it's the same sources of uncertainty then that we have now. So that's the report from the SSC. Thank you.

*Jessica Coakley:*

Alright. Just continuing on as a reminder of the new system under ACLs and AMs, which wasn't applied to quahogs the last time, you start with the overfishing limit, which then takes us to the acceptable biological catch when scientific uncertainty has been addressed. The plan has prescribed that that be equal to the ACL,

which is effectively equal to total allowable catch. After management uncertainty's been addressed, there's a non-Maine fishery annual catch target and an annual catch target for the Maine fishery. So the plan specifies that those ACLs equal the ABC. The Council recommends both that non-Maine and Main fishery ACT to address management uncertainty or any other factors.

The ACTs are catch based, so it's gotta include landings plus the five percent incidental mortality, plus any discards, which in this case are assumed to be zero. So in the staff recommendation that ABC equal ACL was 15,631 metric tons, or about 3.4 million bushels. So based on that, with all of those equal, then the non-Maine fishery ACT would be a little over 14,000 metric tons, or around 3.2 million bushels. And the Maine ACT would be 100,000 Maine bushels, which is about 499 metric tons. So the Council, in terms of decisions, needs to make recommendations on ACLs and ACTs, both in Maine and non-Maine ACT Ps, or any other issues if applicable.

In terms of other numbers, while we were on the break, Lee Anderson had asked me to compile a few additional numbers with José relating to if the ACT is equal to the ABC, what would the values associated with that be? So applying that five percent incidental mortality, the overall commercial quota would be about 5.4 million bushels, or 24,795 metric tons with a Maine Act of about 100,000 Maine bushels and a non-Main ACT of 24,296 metric tons, or 5.3 million bushels. I also want to note that the commercial quota for the 2011 to 2013 period was 24,192 metric tons, which is about 5.3 million bushels. So, I know that's a lot of numbers between all these slides, but they're all up there. So with that, I hand it back to Lee for questions.

*Lee Anderson:*

Put it back up to the previous slide, if you would. We need to discuss this amongst the Committee and the public. And just to start off the discussion, we have some divergent advice here. We have advice from staff, we have advice from the SSC. And I would like to focus the discussion on that divergence and try to come up with a—some sort of a solution. I had Jessica make this up because you saw the recommendation we made for Surfclams. If the Committee wants to recommend a ACT and ABC, the quota based on the SSC recommendation, these are the numbers that you would come up with. Jessica, I think in another slide, you had it based on your recommendation. But—so that's the issues that I think we have to address. And I'll turn it over to the Committee now to discuss that, ask questions, and then we'll go to the public.

*Peter Himchak:* I found this confusing. And reading all the correspondence, I came in afterward. Is the disparity in the ABC recommendations, does it revolve around the definition of what the exploited area is? I'm looking for simple answers here. I mean, the exploited area is—now includes Georges Bank, is that not correct? Whereas beforehand, where we're dealing with a 45-55 split of some kind?

*Lee Anderson:* My answer to that is no. But I'll let Jessica answer.

*Jessica Coakley:* No. Well the staff recommendation related to the projections that were done in the KLAMZ assessment. And ABC is acceptable biological catch and projections at the quota level catch, those were projected to result in overfishing in 11 years on the stock. And so that's where the issue with some of those higher levels of catch arose. And ultimately, the staff recommendation, which is similar to what has been recommended to other species before, is there appears to be an issue with the stock. And therefore, catches shouldn't be set higher than status quo catch. And that was about the 15,631 metric tons.

So there were those issues in the plans and concerns that the staff was concerned about. Likewise, the SSC looked at that information and had concerns about the Ocean Quahog stock as well. They took a different approach to addressing that in recommending status quo quota in the interim until a research track or benchmark assessment can be done. And I think they were pretty clear, as they said, in the strongest possible terms, that they wanted to see that done. So that's—I think hits it.

*Howard King:* Well, a comment, really. I mean, I think I understand the issues and the forward-thinking of the staff recommendation, but I would be ready to make a motion to recommend to the Council that we adopt the SSC recommendations when you see fit.

*Lee Anderson:* Thank you. I'm gonna wait for a little more comment from the Committee and from the public, then I'll come back to you. More comments from the Committee? Erling?

*Erling Berg:* Well, I don't think that the landings should be used for a base of assessing the quota. The landings are—the reason the landings are low is because of market conditions. They're not gonna go out and catch these animals if they can't sell them. And I think that's why the landings are low. They're pretty much 60-some odd percent of their quota. But I don't think that's the reason to deny the fishermen the opportunity to catch more of the quota when the market is there. And right now, there's foreign competition and

companies and a host of other thing is what affects the market. So, anyway, that's all I had.

*Lee Anderson:* Well, as a clarification, as I read the SSC, it didn't say set it equal to landing, it said set it equal to last year's ABC. Is that correct?

*John Boreman:* We recommended the status quo ABC, which means that the landings would be what they were, what they have been. Because catch and ABC is different.

*Lee Anderson:* Okay. But the ABC is above the landings. Okay. Rick?

*Rick Robins:* Thank you. Lee, I think one of the most significant things that came out of the discussion was the fact that the staff raised some serious questions about the relationship between the reference points and the population dynamics. Those ended up translating into their recommendations. But they're also an important part of the SSC discussion. And the SSC made a very clear recommendation to the Council that we request a benchmark stock assessment. I think those questions that are still outstanding about the relationship between the reference points and the population dynamics have to be addressed.

And the way to do that is gonna be through scheduling a benchmark stock assessment. So I would suggest that we formalize a request to do that at the Committee, and ultimately the Council, level. And then we can work to put that on the—to schedule that through the NRCC process. But that's at the core of, I think, the concerns is whether or not the reference points are appropriate or how well they match the population dynamics. And that's something that has to be worked out through a benchmark process rather than simply in a short-term specification exercise. So I think that's something that we need to prioritize and endorse as a Council as well.

*John Boreman:* Yeah. And so follow up on that, also the reopening of Georges Bank and how that factors into the fishery and the dynamics associated with the fishery.

*Lee Anderson:* Questions or comments from the public? Dave, and then Tom.

*Dave Wallace:* Dave Wallace. For you non-state reps who manage fisheries, when you're appointed to the Council, you go through an orientation. Now I've never been through the orientation, because I've never been a Council member. But I know that in the orientation, they talk about how do you set the target and the threshold. And so

since all of you, one way or another, understand that, I'm just gonna give you a little quick refresher.

Ocean Quahog's a fascinating critter because we started off with a virgin biomass when we started this Fisheries Management Plan back in 1976. There was no fishing, hadn't been—these critters had been around for 600 million years. So Ocean Quahogs are not something new to this planet. They've been here a very long time. We started off with 3.5 million metric tons of clams. Today, we are at 3 million metric tons. 3 million metric tons. That is probably the second highest biomass of any fishery in the United States, with the possible exception of the pollock fishery in the Bering Sea.

So, and we have now reduced that down to—from 3.5 to 3, about 3 million metric tons. Which is only a half a percent per year over the time that this has been exploited. So the notion that at around 25,000 metric tons a year we are going to do any damage to the stock is not credible. Don't forget that to get to the target you must reduce from a virgin biomass, the biomass by 50 percent and then to get down to the overfishing position, you have to reduce it by 75 percent to the threshold. We have 1.2 million bushels—a million metric tons to the time we get to the target, not the threshold.

And so you just need—everybody just needs to put this all in perspective. We're, you know, we're building a mountain out of a molehill here. There's no—this fishery is not in trouble in any way. And if you take 25,000 and 1,200,000 metric tons, it's gonna take 50 years just to get to the target. So let us try to keep it all in perspective and deal with the facts. And so we all are interested in benchmark assessments. I can assume that the reason that there wasn't an assessment when the Surfclam was done. Since the surveys are done at the same time, both Surfclams and Ocean Quahogs, is because, and I was told this up in the Science Center, they were overwhelmed with all the groundfish stuff in New England, and they had to get rid of some SARC time.

And so which one did they choose? They chose the one which was the least of all the possible problems. And so we don't have an assessment. I hope we have a benchmark assessment because I think that it's going to show that this process is moving forward as it has been designed in the beginning. And I just hope I live long enough to see recruitment goes up as the population goes down. Thank you.

*Tom Alspach:*

Tom Alspach, Sea Watch International. Can we get back up on the

monitor the staff recommendation OFL numbers, please? Okay. Okay. And these were the numbers that were used, that were presented to the SSC in the staff memorandum. And the SSC also used as a basis point for their deliberations. And to get to a direct answer to the question asked by Mr. Himchak, these numbers are based only on the southern stock. Those numbers do not include Georges Bank. Now if you take a look at this little handout that I gave you, three pages back I have an NEFSC document showing the distribution of the stock. And it shows, per the NEFSC, that 55 percent of the stock is reposing between Southern New England and Virginia. And fully 45 percent of the stock, a smaller geographic area but much more dense, is on Georges Bank.

The staff recommendation is based on the assumption that that 45 percent of the stock is not exploitable or being exploited. That is not so. That 45 percent of the stock has been exploitable since January of this year. We all know this. Everyone knows this. You all approved this and supported it. It was also reported at the SSC, and it is also known, that we have been exploiting Georges Bank since May. We now have brought into our plan from Georges Bank something in the neighborhood of 25,000 bushels of clams from Georges Bank. So if our plan says that the OFL is based upon the exploited area, you have to include Georges Bank.

The Federal regulations require you to base your biomass projections on the exploitable area, which includes Georges Bank. And when you do that, all these numbers that the staff has used, in which to say overfishing in a decade, are based upon only fishing and only the biomass from the southern area. If you'd like to see the probability of overfishing, when you take into account the entire stock as you should, the chart reflecting that is—looks like this. It's several pages from the end of what I handed out. This is from the peer reviewed KLAMZ model. This is the very same set of projections that were used to support the notion that was presented to the SSC that we could be overfishing in a decade.

But that chart in your full report occurs a page before the one in front of you. And it relates only to the exploited stock, only the southern area. When you look at the whole stock and apply the overfishing threshold, in the third column, third set of figures, what that is telling you is that even if we fish at the overfished threshold every year for the next 26 years—excuse me, every year until 2026—the probability of overfishing is zero. This is the best available science. This is based on a peer reviewed model. And it's telling you that when you consider Georges Bank, as you must, there is zero probability of overfishing through 2026.

I mean, and that's supposing we were catching 68,000 metric tons, three times what we're talking about for this quota. So where this went off the rails, in my view, is when we started talking about the southern stock alone, which also led the SSC to set an ABC based on the southern stock alone. Because they voted for status quo, status quo was the ABC set three years ago when it was set only on the southern stock. So that ABC is based only on the southern stock. So basically what you have here is double the amount of biomass to give you every big of precaution you should ever need because all these numbers that you're seeing assume the stock is only about half as big as it really is.

So please take that into account and please at least maintain the status quo. Which, by the way, this Council approved three years ago based only on the southern stock. So all we're asking you to do is do the same thing again, knowing that now you have twice as much biomass out there. Thank you.

*George Richardson:* I'm George Richardson, I'm an advisor to this Council, have been for many, many years, and have been part of this process for nearly 35 years. I'm an investor in this fishery, have been for more than 40 years and I'm still an investor. And I'd like to speak from that point of view. The relationship of industry to this Council has been, for the most part, a really good relationship. It's been one that has created a fishery that is arguably the best managed fishery in the world. And that's not just my opinion, it's the opinion of many managers around the world.

As a result of that, it has given us in the industry confidence to invest in the industry over the long term. Confident that the resource will be there forever. And confidence that we'll get a fair return for the investments that we make in that fishery. I have sat here at this podium many times and talked about the fact that public confidence in the resource, from the big end users, is a huge part of the marketing effort that we make and the consumption of the resources that we manage. The economy has been poor. There are signs that the economy is coming back. And I'm aware of at least two major marketing initiatives that could change the landings and the usage of clams pretty quickly and over long term.

A lot of these large end users have been educated by us about how well the stocks have been managed, how we are using scientific data, how it's peer reviewed, how much money industry has put into the science, particularly aimed at the sustainability of the resource. And so they look at those kinds of things, and then they

ask us for contracts that we're going to be able to meet the demands or the results of their marketing efforts over three to five years. Where is our confidence gonna be if, A, we go to a framework thing and we can change this annually, up and down any time we want without this measured process that has been so successful?

How can we talk about uncertainty in a resource that's anchored in the ground that's been statistically and randomly measured over almost 30 years? How can we talk about these kinds of things with any sense of credibility to us for investing in this, and to those big end users that can make a difference? I'm going to recommend that we go with status quo on the quota for both of these clam species. And I'm gonna recommend that we don't go to a framework, that we keep this a slow, steady process. If it gets to be an emergency, the Regional Director can make an emergency reaction. And I would rather leave it to that kind of thing. Thank you.

*Lee Anderson:* John Bullard?

*John Bullard:* I have a question because Tom made a presentation, and essentially in his presentation said that the numbers that were presented by John and Jessica ignored 45 percent of the stock. And I always think there're probably two sides to the story. And I saw in exchanges of correspondence in the packet between Tom and Chris and so on, and I just wanted to know from John or Jessica or Chris whether or not the numbers that we have before us on how ABCs and OFLs were calculated were based on just the southern stock or whether they were based on all of the stock? I mean, Tom laid out in the tables that he laid out that we're not counting the quahogs that were in the area that were closed due to paralytic shellfish poisoning. So do you want to respond, John or Jessica or Chris, to that?

*John Boreman:* Well I can respond first by saying the SSC's recommendation acknowledges that Georges Bank fishery is reopened. And we still recommend a status quo.

*Lee Anderson:* Jessica?

*Jessica Coakley:* Alright. Well, the staff recommendation, again, was based on maintaining status quo catch. The reference points that are in the plan and had been updated through the assessment update indicated that when that update was prepared, there wasn't exploitation on Georges Bank up to this point. As you said, I just



reopened, and that activity has just now begun. And so based on those reference points, we were focused on the exploited stock reference points. Having said that, the reference points that were used in the plan, and as noted by the SSC, were found to be non-credible.

And so regardless of whether those reference points are applied to whole stock biomass or exploited stock biomass, they're not credible reference points. And there's issues with the definition of the biomass based reference points, which are essentially just derived from the fishing mortality reference points that are considered to not be credible, in terms of your perception of stock status.

*John Bullard:* So, I'm not sure. I'm a layman here. But, so there's a lot of quahogs on Georges Bank, and it's open now, and they're catching them. And my understanding is there's no reason to believe that area is gonna be closed again. So are you saying that's not credible? That those aren't real quahogs? Or what are you saying? Explain it to me in English.

*Jessica Coakley:* No, I'm saying that the biological reference points that tell you whether you're overfished or whether overfishing is occurring were determined by the SSC to not be credible biological reference points. That's there's issues with those reference points. And in looking at the assessment update as well, both whole stock biomass and exploited stock biomass are projected to decline 20 percent on both of those areas over the next ten years. So...do you have anything you want to add, John? No? There you go.

*John Bullard:* I'm just...your last statement, I'm thinking about that.

*Lee Anderson:* I would like to move ahead. We have a busy schedule, and I'd like to move back to Howard for his suggestion for a motion, if that's—well, that's what I'm gonna do. I won't ask permission, I'll do it. Howard, do you have a motion?

*Howard King:* Yes. Can we put that slide that reflects SSC's recommendations up?

*Jessica Coakley:* Is that the right one?

*Howard King:* I hope so.

*Lee Anderson:* Yes, it is.

Jessica Coakley: Okay.

Howard King: Yeah. I think so. Well, I would move that the Committee recommend to the Council that we set the Ocean Quahog ABC equals ACL equals TAC at 26,100 metric tons, which is 5.7 million bushels. And with a five percent incidental mortality, an overall quota of 24,795 metric tons, or 5.4 million bushels. With a Maine ACT of 524 metric tons, and a non-Maine ACT of 25,511 metric tons. The Maine quota will be 499 metric tons, or 100,000 Maine bushels. The non-Maine quota's 24,296 metric tons, or 5.3 million bushels. The commercial quota is 24,192 metric tons, or 5.3 million bushels. Is that the correct year span up there?

Jessica Coakley: No, that was just a note just to tell you what it was in the past and how it relates to that. So—

Howard King: Alright. Well this would be for the next three fishing years.

Jessica Coakley: Okay. Alright. If you'll just give me a second to get this on the board. 'Cause there—I'm gonna paste these numbers. Okay.

Lee Anderson: People, please look that over to make sure it doesn't need any more perfection. But while we're doing that, is there a second to that motion? Okay, Erling has seconded it. ABC equals ACT. Yeah, I think it is. Jessica, is that ABC equals ACT? Second line?

Jessica Coakley: Yes. So essentially you have to set a Maine and a non-Maine ACT. So here we go. I actually think we can—okay. Every quota. Okay. Hold on, let me read this real quick. Actually, you know what? Oh, Howard...

[Inaudible conversation]

Lee Anderson: You make the call.

Male: We've got a listening session about this... [Inaudible]

[Silence 02:10:37 to 02:12:13]

Lee Anderson: Are we satisfied with the motion?

Jessica Coakley: Okay. I think we're set on the board.

Lee Anderson: Discussion on the motion, please? All in favor of the motion, raise your hand, please. All opposed? The motion carries. I would also like to entertain a motion that we follow the SSC recommendation

and request in the most strongest terms a benchmark assessment for the quahog fishery. Can I have such a motion, please?

*Erling Berg:* Do you want me to phrase it? Or you—

*Lee Anderson:* Well, yeah, why don't you say it. And then can you type it out as we go, Jess?

*Jessica Coakley:* Yep.

*Erling Berg:* Okay. So I'll make a motion that we request the, I guess it would be the Science Center, do a benchmark assessment of Ocean Quahogs. Is that—

*Lee Anderson:* To me that would suffice. John, do you want any more detail in it? Would you suggest any more detail?

*John Boreman:* The problem we're having now is we're in the process of calling these research tracks or benchmark assessments or whatever they are. They're specific recommendations that the SSC probably can relay directly to the Center, in terms of what we'd like to see in the benchmark or research track. But mainly there's two of them. One is how do you deal with extremely long-lived species with infrequent recruitment pattern? It's basically unpredictable. And number two is the impacts of opening the fishery on Georges Bank, in terms of its impact on the fishery dynamics and the stock dynamics. So I don't know if you wanna put those in the motion or not, but it's in the record. You know, we can relay that directly to the Center.

*Lee Anderson:* Okay. Let's—we want to give them as much detail as possible. We're gonna leave it like this and then there will be communication from staff and the SSC if the motion carries. Howard?

*Howard King:* I would second the motion. And I have a question for Dr. Karp, if I may.

*Lee Anderson:* Yes.

*Howard King:* Bill, if this request is honored, would it simply add Ocean Quahogs to a list? Or would there be some sort of expediency attached to this?

*Bill Karp:* The process for determining timing and priority is really one that is held by the NRCC. And so the NRCC meets twice a year to look

at requests from the two Councils and the workload issues for the Center. And through that, set priorities. But if I may, I'd like to just expand a little bit. Because, as Dr. Boreman mentioned, what we're identifying here are some research questions. And it's not that we can just schedule, at least as I understand it, that we can just schedule a benchmark and solve the problem.

We need, or somebody needs to spend a considerable amount of time doing some science to answer these questions so that they can be resolved when it comes time for a new assessment. So we—the short answer is we probably need some time, as Dr. Boreman suggested, to have this discussion offline. And then maybe to come back to the Council with a plan.

*Lee Anderson:*

Okay. All in favor of the motion, please raise your right hand. All opposed? We're coming up against a time constraint. We're supposed to finish at 3:00. I have 3:00 right now, and we have a busy afternoon. So José, we'll tie this in with the full Committee meeting for the discussion on the data collection protocol. So if that is okay with you, Mr. Chairman, I'll turn it back over to you and we will clean up the rest of our business before we go home.

*Rick Robins:*

Thank you, Lee. With that, let's take a ten-minute break and we'll come back and take up the Strategic Plan. Thank you.

**Strategic Plan  
June 11, 2013  
Doubtree  
Eatontown, NJ**

*Rick Robins:* Thank you, and good afternoon. Before we begin, I'm gonna turn to Chris Moore for a quick introduction. Chris?

*Chris Moore:* Thanks, Mr. Chairman. I'd like to introduce Jamie Belanger. Jamie is our summer intern. She's sitting in the back. Jamie is our summer intern for about five weeks and she's our summer intern because she needs a project to complete her masters at UMES. Jamie is currently working for Wayne Gilchrest, who's an ex-Congressman that I think that some of you know. On the Eastern Shore, she's the education coordinator for Wayne. And Jamie will be with us through Thursday. So if you get a chance, introduce yourself to Jamie. And welcome Jamie.

*Rick Robins:* Welcome. Thank you. And with that, our next item is one that's been essentially over two years in the making. This is a culmination of a project that you all have been intimately involved with throughout its development and implementation. But Mary will be presenting the draft Strategic Plan to us. And that started out with our visioning project that was prefaced with a lot of work with the industry and stakeholders to try to figure out how to most effectively interact with different constituencies and get their ideas about what they wanted to see the future of our managed fisheries look like.

We had a whole lot of port meetings up and down the coast that were done in small group settings where we had anywhere from 5 to 20 people in a meeting. They provided a lot of great input. We also had detailed surveys that went out and had over 1,500 responses. So we heard really from a broad cross-section of the commercial industry, the recreational industry, more broadly from the public. And that information was then evaluated and turned into a report that was worked through a working group over the course of about six months in a facilitated process. That ultimately resulted in a product that went to staff and the staff has been working for the last six months on that and has distilled that into a draft Strategic Plan. And I will let Mary go through that at this point in detail and look forward to the presentation of the draft Strategic Plan. So, Mark Clark?

*Mary Clark:* Thank you, Mr. Chairman. Okay. My plan for today is to give just

a little bit of background and context for the Strategic Plan for anyone who's new here and hasn't heard it before. And also discuss some of the challenges that led to the Council initiating this planning process and sort of the rationale for planning, so what the Council hopes to get out of it. I'll give an overview of the strategic planning process, including a summary of the stakeholder input that we got during the visioning project that Rick just mentioned. And we'll also discuss some of the Council's responses to the stakeholder input that was received.

So the Council's already taken a number of steps to address concerns that were brought up in the visioning project. And so I'll give a few examples of those. And then I will present the draft Strategic Plan. For those of you who have read it, you may have noticed that it's not that long compared to a lot of strategic plans. But I'm not gonna go through every single strategy during this presentation. What I'll do instead is explain the goals and objectives for each section. And at the end there will be time for people to ask questions and make comments on specific strategies in the plan. So I have all the strategies on slides in the back if you'd like to see them, but it would probably take awhile to describe all of them. And I will touch on what our proposal is for implementing the Strategic Plan once it's finalized, and what the next steps will be.

So just to give a little bit of context, most of the 90s and the 2000s, up to 2012, were largely focused on rebuilding the Mid-Atlantic. A number of stocks had become overfished, and during this time 7 of the Council's 13 managed species were managed under some form of rebuilding plan at some point. As of 2012, there are no overfished stocks in the Mid-Atlantic. So this is kind of a transitional point for the Council as it transitions from a period of rebuilding to a period of looking forward and establishing, hopefully, an era of long-term stability and sustainability.

But here are also a number of challenges ahead. Even with rebuilt stocks, there are challenges related to lack of sufficient data for management decisions, environmental threat such as climate change, ocean acidification, and pollution, possible budget constraints, low levels of stakeholder participation, social and economic instability in some fishing communities, increasing competition for marine resources, and potential policy changes related to the reauthorization of the Magnuson-Stevens Act.

So those challenges kind of provide the context for why the Council initiated the strategic planning process. You've reached a

point of relative stability for many Mid-Atlantic fisheries, but there are also these challenges, and it's important to think about them proactively and identify potential strategies for addressing those challenges as you move into the future. So what we've, the way we've looked at it is in developing a strategy we've divided up into four core areas of thinking about the next five years. So these are communication, governance, science, and management.

And communication broadly relates to how the Council communicates information to stakeholders and how it also gets information back from stakeholders. Governance relates to how the Council operates, how it makes decisions. Basically anything related to how the Council does business. Science is kind of self-explanatory; how the Council uses data, identifies data needs, analyzes data and makes decisions based on scientific data. Finally, management relates to the actual management strategies and approaches that the Council uses to try to achieve its goals for each fishery management plan. So as we go through the Strategic Plan, keep these four areas in mind because, you know, I think we will probably keep coming back to them over the next five, ten years. Even as the plan is revised, these are sort of the four core areas of the Council's responsibility.

So the rationale for a strategic plan for the Council, ideally, is that it will help the Council to more practically identify and respond to these emerging challenges and implement responsive management strategies in response to these challenges. A Strategic Plan can also help the Council clarify its management goals for its fisheries and establish a more consistent and clear process for evaluating success and failure with achieving these goals. It can also be used as a communication tool to help the Council initiate collaboration and more effective coordination with management partners as we try to address these challenges and take advantage of opportunities in the years to come.

I think probably most of you in the room today are familiar with the process that has been used to develop the Strategic Plan. I apologize for the small font on the slide; I didn't realize how small it was 'til I was sitting here. But in a nutshell, this project has been going on for about two years now. It was initiated in—well, the Council first initiated the concept of a strategic planning project in April 2010. But after about a year of planning, the visioning project was launched in September of 2011, which included about six months of going out to the public and soliciting their input on a very wide range of issues related to fisheries management through surveys, roundtable meetings, and position letters. As Rick

mentioned, about 1,500 people participated and provided their input, and those results are summarized in the stakeholder input report.

So after that, we began the strategic planning phase of the project with the formation of a strategic planning working group, which was made up of Council members and stakeholders. Over the course of five months, we had five facilitated meetings in which participants developed a draft mission, vision, core values, and seven sequences of goal, objectives, and strategies. Following that, the staff has spent about four months reviewing the working group's draft plan and revising it in order to ensure that it's feasible and to reduce redundancy.

There are two key changes that the staff made, probably anyone who is in the working group will have noticed this: the original seven goals were reduced to four. Those four reflect the four core areas of the Council's responsibility that I presented a couple of slides back. And then also the timeline was reduced from ten years to five. After some pretty careful consideration, staff decided to propose this change because five years seems like a more reasonable timeline for the Council, especially with this being the first Strategic Plan and with plenty of time in the future to update and develop a new strategic plan in five years, this seemed like a better timeline for the Council to start working with.

Okay, so this is—I know most of you have seen the stakeholder themes from the visioning project before. But just to kind of give a backdrop of what we were considering going into the planning process, these were the kind of the core concerns that stakeholders voiced related to Mid-Atlantic fisheries that they wanted the Council to take into account as it developed the plan. So one of the big ones was that they lack confidence in the data used to inform management decisions. They really wanted to see some improvements related to how the Council incorporates data into management decisions. They also felt that they're not sufficiently involved in the management process, that there's confusion about jurisdictions, regulations, and authority of the different management organizations.

A lot of the comments we received related to how the Council communicates and engages the public and felt that the strategic plan should definitely speak to how the Council can revive its communication strategies in the years to come. Ecosystem and trophic interactions were also a commonly mentioned topic. They really wanted to see this plan. They acknowledged that the



Council is already developing an ecosystem approach to fisheries management document, but wanted to be sure that the Strategic Plan was developed with that in mind and that it would help leverage the success of that ecosystem plan.

Finally, they felt that the Council process is not always set up to really represent stakeholder interests and wanted to see a number of pretty wide range of changes to the process and the way the Council solicits stakeholder input in order to improve representation of stakeholder interests. And finally, pollution was a big issue that came up pretty frequently. Also climate change and ocean acidification, a number of external factors that stakeholders acknowledged the Council didn't necessarily have direct control over but wanted to see an acknowledgement of those threats to Mid-Atlantic fisheries in the plan.

Okay. So these are, we kind of brainstormed a list of things that the Council has done in response to the stakeholder input from the visioning project. Some of these you may not necessarily automatically have linked to the visioning project, but we felt that in some way all of these were tied to those concerns that were brought up by stakeholders. So on this slide we have management approaches. These include consideration of multiyear specifications and implementation in most fisheries, or many fisheries. I'm not sure exactly which—how many fisheries have multiyear specs now, but definitely moving in that direction.

The Omnibus Amendment to address recreational accountability measures. The squid call-in requirement was reduced from 72 to 48 hours after a number of comments were received about that being, 72 really not being feasible from an operational perspective. The in-season adjustment to the 2012 butterfish ABC was made in an effort to be more responsive to new information and changing conditions in the fishery. A number of ecosystem initiatives that have taken place in the last few years; the ecosystem plan has continued to be developed. The Council initiated Amendment 15 last year. The Deep Sea Coral Amendment was initiated in April, I believe—no, it was initiated in October and then the Forage workshop was in April of 2013.

The Council has also taken a number of steps to improve the way that it solicits stakeholder input and engages with the public. This includes the Advisory Panel reconstitution effort and also the Council completed Advisory Panel performance reports for all of its fisheries in 2012. It's also held a number of workshops with stakeholders, including the Deep Sea Coral workshop in April, the

Squid workshop in January, and the Recreational workshop back in December of 2011, which was part of the visioning data collection effort. The Council has also been working to improve the way that public comment opportunities are advertised so that more people are aware of them. We've been trying to use webinars for at least a portion of scoping and public hearing so that people can participate that way instead of actually attending one in person. And we've also made some new ways to submit comments available through our website recently.

Okay, last one. The Council has overhauled its system of managing stakeholder contacts so that people can now sign up to receive notices from us through our website directly. We're using social media now. We've increased the number of stakeholder contacts through a number of outreach methods. As you know, we redesigned our website recently. We're using a new program to stream our meetings so that people can access them better. You all have name badges now so that people who come to the meetings will know your names. There's a seat for public comment, which I think we put in after just maybe the first visioning meeting people made comments about that and we got that up at the next meeting.

We've worked to hold a pretty wide range of listening sessions to enhance our partnerships and relationships with either management partners or just other related organizations. We played a role in the development of the Marine Resource Education Program, which launched for the first time earlier this year. And we also supported Hurricane Sandy relief and MSA certification programs in response to stakeholder input about both issues. So, I think the Council has done a really, pretty impressive job at responding to the input that came in during the visioning project. And so the Strategic Plan is really building upon a pretty good foundation that's already been set out.

Anyway, the Strategic Plan; the reason you're all here today. Starting with the mission. This was drafted by the working group. I expected it to be pretty easy to develop but turned out not to be. So we spent quite a while on this, but this is—I think it was designed to reflect both the Council's obligation by law and also its genuine commitment to being effective stewards of the fisheries. So that's the intention behind that. I'm not gonna read it out loud because I think you all have it in front of you. So, let's do that.

This vision was also drafted by the working group. Neither the vision nor the mission or core values have been changed or revised

at all by staff. This is purely the work of the Council members and stakeholders that participated in that working group. This vision also took some time to finalize, but I think the final product really reflects the group's commitment to addressing the need for healthy ecosystems and sustainable fisheries and to acknowledge the importance of communities. Even if communities are implicitly part of the word fisheries, I think drying those out a little bit and emphasizing the importance of having productive fisheries, not just sustainable but productive, was important to the group.

And these were the core values that were developed by the working group. And there was a longer list that was developed by working group members. These were the ones that the group came to a consensus on and felt like reflected their values and the Council's values as a whole. There are four strategic goals in the Strategic Plan to match with each of the core areas that I described earlier. I'll go through each one of them in more depth. But yeah, I'm just gonna wait 'til we get to those slides.

So for communication, the group really wanted to emphasize the importance of both communicating to the public and communicating transparency and accessibility, but also actively seeking out effective stakeholder participation in the process. And not just having people show up at meetings, but truly having them provide meaningful input into the Council process and acknowledging that stakeholder participation in the management process can actually improve the outcomes of management decisions.

The five objectives that were developed in this section kind of relate to the five different areas of communication. So at the top of it is develop and implement a strategic communications plan. So this would be sort of the overarching plan that would guide the implementation of the other four objectives and strategies. We also, the group wanted to include an objective for engaging a diverse audience of stakeholders. And this really came from the acknowledgement that if the Council doesn't actively seek out stakeholders to participate in the management process, then you're likely to probably miss some important perspectives. And that the Council needs to acknowledge the really wide range of stakeholders who are invested in Mid-Atlantic fisheries and try to fill in the gaps where there are gaps.

Facilitate greater stakeholder engagement by making the Council process accessible and transparent. This is sort of related to having a seat at the meeting and having nametags for people and making

sure that documents get posted on the website in a timely manner. And that the Council is absolutely transparent in everything that it does, so that there are not perceptions that stakeholder participation doesn't matter, that people shouldn't bother showing up at Council meetings.

Following that, increase stakeholder involvement in the management process. This is about actively seeking out stakeholder participation and management decisions. So the Squid workshop and the Deep Sea Coral workshop are great examples of those, how the Council has made an active effort to hold these workshops and provide opportunities for stakeholders who really can offer meaningful input in the decision-making process. Inviting them to the table and hearing what they have to say in a type of setting that is comfortable for them and is constructive for collaboration.

And then the fifth objective is to increase public awareness and understanding of fishery science and management. And this kind of came out of some of the comments that we received during the visioning project about, largely, members of the fishing industry feeling as though the general public either villainizes them or doesn't understand how important the fishing industry is for the US. And wanting the Council to do more to explain fishery science and fisheries management, but also educate the public about the importance of fishery resources.

Moving on to governance. The goal for this section was ensure that the Council's governance structures and practices fairly represent stakeholder interest, are coordinated with the Council's management partners, and include a clear and well-defined decision-making process. The first objective for this goal was to establish a formal decision-making process for the development and evaluation of management actions. And I think this specific objective is one that was very difficult for the working group to develop and probably gave a few people a few grey hairs over it. The objective is not implying that the Council does not already have a process for making decisions. It's about evaluating the process that already exists and evaluating whether or not there are areas where it can be strengthened. Or whether there are areas of ambiguity or inconsistency. Determining why those problems exist and developing solutions for a more structured process for making decisions.

The second objective in this section was to develop and strengthen partnerships to promote greater efficiency and enhance

coordination. This objective is largely related to the great number of comments we received about overlapping jurisdictions, excessive complexity in regulations, uncertainty among stakeholders about who is in charge of what. I think probably most people in the room understand that a lot of that complexity is unavoidable and it's just the nature of the system, but I think the working group felt that there were some ways that the Council could leverage partnerships and enhance coordination with management partners to address some of these issues and to maybe reduce some of the complexity in fisheries management.

The third objective it to ensure that stakeholder interests are accurately understood and meaningfully considered in the Council process. This one is basically about how the Council is going to use the input that it gets from the objectives in the communication section that I just mentioned. As the Council gets more input from the public, how is it going to analyze it and consider it as part of the decision-making process? This seemed to be, based on input we got during the visioning project and also discussions in the working group, it seemed like maybe there was some room for improvement in terms of really defining the role of public input in the Council process and then communicating that back to the public.

Moving on to science. The goal for this section was ensure that the Council's management decisions are based on timely and accurate scientific data that are analyzed and modeled in a manner that improves management performance and builds stakeholder confidence. There were five objectives in this section. This was, I think, a particularly tough one to deal with because the Council does not collect data and can't make any promises about improving the availability of data. So these objectives, we tried to really focus on things that the Council can do to improve how—I guess leverage relationships with academic institutions and then also improve the way that scientific information is incorporated into management decisions.

The first objective was to promote the collection and analysis of accurate and timely scientific data. This is sort of an overarching objective that speaks to how the Council will work with the Science Center and other relevant institutions to encourage the collection of data that meets the Council's needs. Whether that is social and economic, which is the objective below, or ecosystem improving the entire process for identifying data needs, establishing priorities, and communicating those to the Science Center.

The second one relates specifically to improving our understanding of the social and economic dimensions of Mid-Atlantic fisheries. Because this was an issue that came out a lot during the visioning project was that stakeholders felt that the Council doesn't adequately consider the social and economic impacts of management decisions. So in order to address those concerns, this objective defines how the Council will be working with its management partners to improve our understanding of the social and economic dimensions of the fisheries. And also considering what types of information the Council can use to actually better predict the economic and social consequences of decisions.

The third objective is to promote the collection and analysis of data to support the transition to EAFM or an ecosystem approach to fisheries management. We did not want to try to recreate the ecosystem plan within this document and so we were looking for ways that the Strategic Plan could support the transition to that ecosystem plan. So the strategies within this section will define how the Council identifies ecosystem data needs, communicates them to the Science Center, and integrates those into management decisions over time.

The fourth objective is to encourage effective stakeholder participation in data collection and analysis, specifically supporting programs like NEAMAP and other types of collaborative research. Finally, the Council will promote efficient and accurate methods of monitoring and reporting. We got a lot of input about problems that people were having with—or concerns people had about the Observer program, MRIP, and then methods of reporting. And many people wanted us to go ahead and implement electronic reporting. But, you know, we said that's not our responsibility, but we will communicate your concerns to the appropriate parties. So this objective relates to what the Council's role is in promoting effective monitoring and reporting and also communicating stakeholder concerns as appropriate.

The final section relates to management approaches. The goal for this one is a little shorter than the last three. Develop fishery management strategies that provide for productive, sustainable fisheries. We got a whole lot of input and recommendations for how the Council can improve its management strategies. The working group was not really in a position to be making decisions about specific fisheries or including strategies in the Strategic Plan that would call for changes in specific fisheries. And so we were trying to balance the need for specific actionable strategies while

also keeping this a plan that will stay relevant for the Council over time and is relevant for all of the Council's managed fisheries.

So the first one, the first objective within this section, evaluate the Council's fishery management plans. That is a very short objective and it's a large task and it is something that would, you know, that would require a plan in and of itself to accomplish. But it something that we've heard a lot of support for is, you know, there are many ways the Council can do it, but the stakeholders and working group members felt that it is important for the Council to have some process for evaluating the effectiveness of fishery management plans and deciding when change is necessary.

The second objective is to incorporate economic and social analysis of management alternatives into decision-making. This, while it seems similar to an objective, it's also in the governance section. This one's really about, you know, instead of avoiding negative or adverse economic impacts, trying to find management solutions that have the potential to create positive impacts for the Council's managed fisheries. And so using economic and social analysis as a tool for not just avoiding the worst option but finding something that's really the best option.

The third objective is to develop management strategies that enable efficient operation of commercial and recreational fishing businesses. This also sounds easy on paper, but it's not an easy thing to do. But that is something that was—one of the most frequent specific requests from the commercial fishing industry is that the Council take into account the many other economic variables that influence the day-to-day operations of their business. So considering seasonal closures and the cost of fuel, and while the Council can't control many of those things, I think there are ways that those variables can be considered to an extent in management decisions.

The fourth objective is to develop innovative management strategies for recreational and commercial fisheries. This objective lays out a number of strategies that the Council can use to find and identify potential innovative management strategies for the fisheries and analyze their potential usefulness for implementation. This reflects really a desire to see the Council continue trying to improve, even when the fisheries are not overfished and no one is overfishing, always seeking improvements and innovation.

And finally, the fifth objective is to advance ecosystem approaches to fisheries management in the Mid-Atlantic. I believe the first

strategy in this objective is to complete the ecosystem approach to fisheries management document. But this is meant to be the one real linkage between the two documents so that the Strategic Plan, it takes into account the ongoing development of the ecosystem plan and will, I guess, leverage the success of the ecosystem plan by hopefully helping the Council to identify its data needs and potential management approaches that can enhance the effectiveness of the Council's management programs as it transitions to a more ecosystem-based approach.

These are—don't panic. These are not additional goals or objectives, so I won't go into each one since you've already seen them. But I thought some people may be concerned that the number of goals was reduced from seven to four, thinking that content was lost or because the goals that were eliminated were related to social and economic considerations, ecosystems, and stakeholder confidence and engagement. And so the purpose of this slide is really just to show that when we reorganized the objectives and goals into just four sections, those sections weren't lost, they were just distributed among the other sections.

Alright. Implementation and next steps. The plan for, following this meeting, depending on the outcomes of this meeting in the discussion, we hope to have a draft up for public comment by next week. So depending on whether there are revisions necessary following this meeting or not hopefully we will have it available for public comment in the near future. We're proposing a period of 30 days for public comment, which will be—the results of which will be summarized and presented at the next Council meeting for discussion.

Staff would use those comments to develop—if there were many comments related to the same issues or the same sections, then we can draft alternatives for a presentation at the next Council meeting. It kind of depends on how this draft is received and how it's received by the public. But, you know, if we were able to get public comments completed and presented by the August Council meeting, and if a final Strategic Plan was approved at the August meeting, then we will be looking at an August to October timeframe for developing the implementation plan which Chris might want to speak to you more. But he is planning to work with the Executive Committee on development of that implementation plan. So we're hoping to have it all wrapped up by the end of the year.



Okay. No, as I mentioned before, I have many slides after this with all the strategies from the plan. So I think you all have the plan in front of you. There are copies in the back over here if you don't have one. So what I would propose is if anyone has specific questions or concerns that we can address those, or if you'd like to see a particular section and strategy in more detail we can get it up on the screen.

*Rick Robins:* Mary, do you mind just showing us a couple of examples of the strategies and the level of detail that are reflected in the plan?

*Mary Clark:* Sure. Okay. Let's start here. So this is the first objective, which relates to the development of a communication plan. One thing that I probably should've mentioned in the beginning is that if any of you do have experience with strategic planning you may notice that this plan is less detailed than many you've seen before. And it also does not have many quantitative metrics of success. And wasn't an oversight. I think the Council is kind of in a unique position because there is a whole lot of uncertainty in the future. And more so than probably I would imagine many organizations can expect. And so we don't want to create a plan that will quickly become irrelevant as circumstances change. And so we tried to find an appropriate level of detail, given that uncertainty.

Anyway, back to this objective. There are six strategies beneath it. These sort of describe the individual components of this objective. So we will employ a variety of written visual and oral communication methods. One of the strategies relates specifically to how we will use technology to streamline the communication process. We'll use the Council's website to provide stakeholders with easy access to accurate information, use our email list to provide timely news and updates, ensure all communication products meet Federal plain language guidelines, and develop communication templates and guidelines for staff and Council members as it relates to particular issues. So that's one example for communication. I would propose if anybody has a specific section that they would like to see in more detail, we can do that.

*Rick Robins:* Thanks, Mary. Are there any specific sections within the plan that anybody would like to see some additional detail on or explanation of it at this point? Okay. Well, Mary said early on that the development of the mission statement, she thought it would be easy and in fact it was difficult. And I would submit that the whole thing was challenging. I mean, I think every component of this plan was worked through in the working group setting in a facilitated process. Every aspect of it got a lot of attention and

input. And so it was challenging, but I think each of you around the table and all that participated in the process, from providing information to working through the working group, deserve credit for that input and the finished product.

But Mary, can you or Chris talk a little bit more about the implementation? I mean, it seems to me that if you look at all the items in the plan, there are some things that are relatively easily implemented. You pointed out three pages of specific actions that the Council has already undertaken in response to the input. And those are things that we've already implemented. But beyond that, it seems like there are some things that we would incorporate into our ongoing practices. And I think a lot of that would originate at the staff level. But then there are other things that are significant initiatives, things that require outside collaborations with our management partners like the Science Center, et cetera, that would be significant undertaking that we might have to incorporate into an annual work plan. Or otherwise come up with a way to prioritize. So I don't know if you and Chris can elaborate on some of that for us. John?

*John Bullard:*

I'll just take one crack at that. And Mary can bail me out when I get in trouble. But I'm really impressed with this. And the level of detail. And I just look at strategy 7.3, that's the way I've got it worded here. And from the Regional Office's perspective, one of the things that we've been tasked, all the Regional Offices, of doing is having formal agreements, all Regional Offices with all Councils. And Pres has been guiding us. Before this came down as a directive as part of the Inspector General that all Regional Offices shall have operating agreements with all Councils. Pres was working with us to help us with our dysfunctional relationship with the New England Fishery Management Council. And I don't know how much work Pres—it predates me—but Pres had, I think, a full head of black hair when he started on that counseling session with the New England and out office.

And so there's an awful lot of work captured in that. And we're still not there yet. And the question, the obvious question is, well if we get to a point where we can have a formal agreement between the Northeast Regional Office and the New England Fishery Management Council, shouldn't we have a similar one with the Mid-Atlantic? And then the IG comes along and says all Regional Offices should have agreements with all fishery management. And so there's a lot of thought, there's a lot of work in this. And here it is captured in six or seven words in this Strategic Plan, right? And so it's just six or seven words. That's

how much space it takes up. But it encapsulates a huge amount of thought.

And so as I go through this, I think every one of these six or seven-word phrases has that much meat behind it. And so this is a concise document. It's 12 pages, got a lot of white space. But every six or seven-word phrase has so much meat behind it that it lays out a work plan for a year. That you could spend a day or more behind every one of those phrases. And that's why I think this is such an unbelievably helpful document. It's really well put together. 'Cause you can just zero in on any one of those phrases and see how much meat there is behind it. So, just, it's really helpful. And that's just—you know, I shot a dart at it, and I found a phrase, and look at that, how much meat there is behind it.. Thanks.

*Rick Robins:* Thank you, John. Chris?

*Chris Moore:* So Rick asked earlier about implementation. And one of the—probably the most important part of a Strategic Plan is implementation of that Strategic Plan. And we'll spend more time discussing implementation at the August Council meeting. And as we look at a final draft. But as Rick indicated there, when you start talking about implementation, there's probably three categories of strategies. In the sense that there's things that we can do now, things that we're actually doing. If you look up at that particular one there, you can see that we are involved already with regional planning initiatives and will continue to be involved with those regional planning initiatives.

There's things that we'll look at in terms of an annual work plan. So if you think about the way that we do our annual work plan or set our annual priorities, now it's pretty clunky. Right? I come to the Council meeting with a list of things that I think we wanna do, we take a look at the list and move forward with that. But I think now with our Strategic Plan, we'll be able to do that a little bit more formally, we'll have an implementation plan that considers our activities over a couple years, and I think that's gonna serve us better.

If you look at the third category of strategies, you'll find some that are gonna take us a lot longer to get done. So if you look at, again, this list here, there's one that says initiate the development of a comprehensive project in cooperation with other East Coast management agencies to address the management implications associated with shifts in species distribution resulting from climate

change. So that's a longer-term project that we could initiate and move forward with. So again, just to just end, I think that the implementation part is the most important part of the strategic plan, and we'll be spending more time talking about that at the August Council meeting. Thanks.

*Rick Robins:* Mary, do you wanna comment further on that aspect as well?

*Mary Clark:* No, I think—John, thanks for your comments. And I think Chris summed it up pretty well. One of the reasons why we don't have a real comprehensive implementation plan yet is because the full Council had not seen the plan at all before now. And I didn't wanna get too attached to anything and then have it ripped it apart here. But I do feel pretty confident about, you know, I think you summarized it well in terms of how the—how we have a mix of long term planning initiatives and then also some specific actions. And then some of them are more like best practices or ways that the Council will change, you know, kind of tweak the way that it does things. So developing the implementation plan, I think, we'll need to focus on, you know, which strategies belong where and which actions need to happen first. And then, you know, what's the timeline for completing those big ones. Like a communications plan and the ecosystem plan and the FMP evaluation.

*Rick Robins:* Yeah. I think part of it's gonna be figuring out which elements of this are implemented internally by the staff versus which are gonna require identifying priorities and initiating external projects, et cetera. I mean, there's a lot to do. And as John Bullard pointed out, just looking up here, for example interacting with BOEM to ensure that fisheries concerned are adequately reflected in the BOEM process. That alone, I think, is a major undertaking and one that we need to figure out how the Council can effectively engage in together with the Regional Office to ensure that that happens. But it does go to the point that each one of these could be a significant undertaking. And we do have limited resources. So we'll have to have a means by which we would prioritize these things.

And, you know, I think Mary said that staff had gone through the plan to ensure that it was feasible. I think it's, you know, on the one hand, feasible. And yet, there's a lot of room in there for ambition and aspiration. And so if we get all this done in the next five years, or at least initiated, we will have done a great deal, I think. But are there any initial reactions to any of the sections or any of the core outputs from the working group? That is, you see

the key components of the vision and mission and some of those aspects of the core values, many of you have already participated in that process. But if there are any initial reactions to that or specific questions about those sections, we can discuss those before going on.

But we do wanna provide a comment, or provide an opportunity for public comment on the plan. So it'll be available for public comment for 30 days. And then we'd come back and hope to be in a position to approve it at the August Council meeting. After that, we could focus on the implementation of it. But are there any initial reactions to that? Or concerns about anything that you see in the plan at this point? Dr. Karp?

*Bill Karp:*

Thank you, Mr. Chairman. First of all, I'd like to echo John Bullard's comments. I'm very impressed. I think it's very well done, there's been a great deal of deliberation, and it really seems to be, to have the right degree of breadth and depth. And I'm particularly pleased to see the areas where there's focus on science and the strength of the existing relationship with the Science Center. The need to build and the need to better engage with all the participants in the Council process relative to the way we use science. How we can improve that, how we can better recognize, if you will, unconventional kinds of data that come from the industry in a more deliberative way in the assessment process.

But it also strikes me, I think I reported to the Council sometime last year that the Center is going through a strategic planning process as well. And we have now a final strategic plan which I'll distribute shortly. And we're in an implementation cycle. And for us, we have an annual implementation cycle which identifies all of the existing science activities or proposed activities for the upcoming year and then ranks those against objective criteria. And then looks at how to match the money and other resources to accomplish the work.

But I'm keen to do at some point is sit down with this Council with the New England Council and look at places where those planning exercises intersect to see how we can better recognize the needs and interests of the Council in our process. And vice versa how perhaps our process can be of use to you more explicitly in your identification of research priorities and your broader planning and priority setting.

*Rick Robins:*

Dr. Karp, I think that's a great point. And just thinking about the

science section of this plan, I think that's the first thing we have to do is sit down with the Center and talk through that entire section. Frankly, because just looking back on the experience that we have, I was talking to Dr. Weinberg earlier today about the fact that we go through these assessments, they end up producing a list of proposed research priorities in order to improve our understandings of that, then we go through the SSC process, the quota setting process. And the SSC inevitably identifies a handful of key uncertainties associated with each of those species that they're setting ABCs on.

And then the Council is developing a five-year research plan. And that planning function is something that needs to be further developed and built out so that there's a stronger connection between those research priorities and the work plans and making sure that the needs of management are supported through the process. But I think, just looking at the NRCC process itself, that's where we do the assessment scheduling. But I don't know that we necessarily have a full-fledged planning process that looks at those research items to connect them back to either the Council's research priorities or the identified needs that come out of the assessment process.

So that's something that still needs to be, I think, further developed. But just as a first step, sitting down together with the Center to look at the scientific section of this would probably be a great starting point. Because there's so much in there that would obviously require effective collaboration with the Center in order to get it done. And then those things would have to be prioritized in the context of the region and subject to NRCC discussion. So I appreciate your report on that. Rob O'Reilly?

*Rob O'Reilly:*

Thank you, Mr. Chairman. I was just gonna say that I thought this was a very thoughtful approach and a lot of good strategies went into making this draft the way it is now. I think in looking over everything, you've got 4 strategic goals, 18 objectives, and 77 strategies. There's a lot there, and going through them, it seems that the Council staff will have their hands full for some of this at least, as will the Council. And certainly the implementation does need to be prioritized. And I think it will be important for the Council to have the information before them to decide when certain objectives maybe need to be superseded by other objectives. And I think that will be a work in process, sort of a living plan.

So again, I think this is really important. I had the brief few moments at the ASMFC back in May to watch the unfolding of that Strategic Plan. And they too found out, I think, that's difficult. Even the mission, getting the mission statement was quite a difficult exercise. And so I think definitely the working group and everyone else involved deserves a lot of congratulations for this.

*Rick Robins:*

Thank you, Rob. Other comments or questions? Okay. Well again, thanks to everyone that's participated in this process. If there's no objection, we will take the draft plan out for public comment and we'll look forward to the results of that. And then if there are any Amendments that members wanna propose at the final stage before adoption, give that some thought ahead of the August meeting. You can go through it with a fine tooth comb between now and then. I think all the strategies pretty much stand on their own two feet.

As John Bullard said, we could spend a lot of time working on many of the strategies that are identified in the document. But if you have any specific concerns, we can address those at the August meeting and we'll plan on going out for public comment with it. Is that gonna go out next week, Mary? Is that the timing? Is that the plan?

*Mary Clark:*

That was the plan. And seeing that there haven't been any real substantial comments relative to changes that are needed, I think we are in good shape to have it go out. I believe that date is Monday. So I'll send an email out to the Council with how we're doing that. But you may have noticed that we have on our website a number of ways that people can submit comments through the site now. And we did that for the Omnibus Amendment and also I think for the squid meetings. Those who couldn't attend Jason's meetings could submit comments through the site. That's been working pretty well for us. So I think we will use a combination of methods including the website, email, and working with our management partners to get that distributed.

*Rick Robins:*

Thank you, Mary. Are there any further questions or comments on the side? Seeing none. We're running ahead of schedule. Now we've made up some time. Our next item is gonna be John Bullard's report. But it's actually set up as a listening session at 5:00. And in light of that, John, I think we probably ought to wait 'til 5:00 to start that, if that's okay. And perhaps we can pick up a couple of reports in the interim.

*John Bullard:*

We can do this.

*Rick Robins:* Okay. Dr. Weinberg, it's short notice, but would you be able to give the Center report? And if there are any other Committees that can report out at this time we can go ahead and take up a couple of those.

*Jim Weinberg:* Okay. Some comments first about surveys and then stock assessment issues. The Spring Bottom Trawl survey, the multispecies survey, took place from March the 4<sup>th</sup> until May the 10<sup>th</sup> and it is completed. And it was done on the FSV Bigelow. There were 377 representative tows accomplished. And tows were added in the critical areas for studying Gulf of Maine cod and Georges Bank yellowtail. On the Sea Scallop survey, the 2013 survey is scheduled for June the 13<sup>th</sup> until July the 19<sup>th</sup>. And the platform will be the vessel Hugh R. Sharp out of the University of Delaware. And the survey will include sampling with a sea scallop dredge and the HabCam system, similar to last year's survey.

In addition, VIMS and SMAST will collect survey data for use in the stock assessment. The Shrimp survey is scheduled for the Gulf of Maine from July the 21<sup>st</sup> until August the 17<sup>th</sup>. And the ship that'll be used is the NOAA ship Gloria Michelle. Then there is some industry cooperative work planned for Georges Bank yellowtail flounder, and that will be an industry-based survey on Georges Bank yellowtail during August of 2013. And the data that will be collected will be used to improve the data available for the Georges Bank yellowtail flounder assessment. In addition, there is some work planned, some cooperative work planned on groundfish with the flounders on Georges Bank to compare the Bigelow with an industry vessel to get a better estimate of the capture efficiency of flounders on Georges Bank.

Then moving on to stock assessment activity, the Center has been very busy in this area. There are—SARC 56 was completed in February. And it included the Atlantic Surfclam and the white hake benchmark assessments. SARC 57 is planned for the week of July the 23<sup>rd</sup>, just in another month or so. And striped bass and summer flounder are on the agenda for reviews of benchmark stock assessments. The SARC after that will be SARC 58, and that's scheduled for the week of December the 2<sup>nd</sup>. And the stocks that are on the list there are northern shrimp, tilefish, and butterfish. And then SARC 59 will be in June of 2014. We don't have the exact dates yet. And on that SARC, there will be a sea scallop assessment, a review of the scallop survey methods, and bluefish.



There is also the track process, which involves the shared stocks between the US and Canada. And within the track, there was a review completed in April of this spring, on eastern Georges Bank cod. And then coming up, there are the track updates with eastern Georges Bank cod, eastern Georges Bank haddock, and Georges Bank yellowtail flounder. And that's scheduled for the last week in June. June the 25<sup>th</sup> through the 28<sup>th</sup>.

There've also been some other types of assessments that have been completed. One was done recently in the month of April for monkfish. And we used the new operational assessment process for that update of an assessment. The Mid-Atlantic updates that have been completed in 2013 include Ocean Quahogs, mackerel, butterfish, tilefish, and two squids. And these took various forms. Some were data updates and others were assessment updates. And then there were a couple that haven't been completed yet, but they're still on the list for completion and they'll be done this spring, summer, and fall and they include bluefish and dogfish.

Then there is a data review, which is a NOAA-wide review of all data that is collected and used in stock assessment. And that review is scheduled for the week of August the 5<sup>th</sup>, 2013. And I think perhaps Dr. Karp can elaborate about what that's all going to include. And then we have the New England groundfish updates, which are scheduled for analysis and completion in 2014. We don't have the month or the day determined yet when that will occur. But it will involve updating the assessments of 15 to 20 groundfish stocks.

Then I'd like to mention some special notes. For scup, there had been a request for an annual assessment update. But that will not be taking place in the usual sense in 2013. Instead, the Mid-Atlantic Fishery Management Council's SSC's SUN Committee, which is the Stock Uncertainty Committee, and the NEFSC staff will explore the feasibility of using the rumble strip approach and applying it to scup. For black sea bass, there was an—the ASMFC led a data review meeting in Woods Hole from April the 9<sup>th</sup> to the 11<sup>th</sup>. And during that meeting, they concluded and the NRCC recommended not doing an assessment of black sea bass until research progress has been made.

And then the NRCC in its meeting that just took place last month was going through all of these stocks to talk about scheduling and the NRCC was unable to make some decisions about the scheduling of some of these assessments. And in response to that, they formed a working group, which will be addressing scheduling

of these unscheduled assessments this summer. The scheduling will take place this summer. It doesn't mean they'll be completed this summer. So that completed my part of the report. And I'd be happy to answer any questions. And I know that Dr. Karp would like to also make comments.

*Rick Robins:*

Jim, thank you. And I apologize for putting you on the spot like that. Are there any questions for Jim at this point? Okay. Dr. Karp?

*Bill Karp:*

Thank you, Mr. Chairman. Just a few things to add. Jim mentioned the plans that we have for a pilot flatfish survey this summer, and then work later this fall on catchability of flatfish during the Bigelow surveys. And this, even though it's primarily a New England focus, I think it's of broad interest because we're looking at the potential for establishing a new time series which uses an industry vessel and gear that we're going to work with the industry to develop or to design. And even though at the moment we only have funds to support this for one year, it's a very high priority for us to be able to move forward with something like this if it appears as if it's going to help to answer some of the assessment survey questions that we're faced with. And so I'm excited about it and hopeful that we'll be able to report back that we've had good success.

Jim also mentioned the data review. And we might've mentioned that before at a previous meeting of this Council. About three years ago, the overall sort of science enterprise at the agency was reviewed by Mike Sissenwine and Brian Rothschild. And they each of the Science Centers and asked questions about the way we do business. And among the recommendations that would derive from that was a proposal for standardized program reviews at each of the Science Centers, which addressed the—some of the kinds of work that we do. And so we have mapped out a sequence of these reviews. And the first of them is taking place at each of the Science Centers this year. And it's going to look at both the fishery dependent and the fishery independent data that we collect and we use to support the stock assessment process.

The first Science Center to undergo that review process was the Southeast Center. And they actually had the meeting, the review meeting last week. And as Jim said, ours is scheduled for the first week of August. And it's a very interesting, and I think a different way to look at sort of the breadth and depth of the data that is used. And to ask some very penetrating questions about adequacy of data and the extent to which our data collection activities support the

stock assessment process. For all of the regions, but I think for the Northeast in particular, the fishery-dependent data collection is really a partnership between the Science Center, the Regional Office, and through the ASMFC, the states as well. And so there would be quite a lot of breadth to the fishery dependent side. There's also the Observer program dimension of that.

And so we will—this will be a public process, and we will soon put out a notice with the dates and location and inviting interested individuals to participate in this process; both from the point of view of observing, and there will be a time set aside during each day of the week for individuals to give presentations or raise questions to the peer review panel. And it's a distinguished peer review panel, an international panel with broad expertise in this area. So we should be able to report back to you probably—in the August meeting, we can give you some preliminary feedback. But the meeting after that, we should be able to give a more detailed report about how that went, what worked well, whether there are some questions, whether there are issues that you need to be aware of, as well as what our strategies will be for addressing concerns that have been raised.

Finally, just a thought or a bit of a perspective on the budget situation that we're in. We're fortunate that NOAA was able to figure out how to avoid staff furloughs this year. Because we were looking at every member of our permanent staff—a plan to furlough every member of our permanent staff for four days between now and the end of the fiscal year. Which would've had some direct impacts on our ability to meet the needs of our primary clients, which are the Councils and the Regional Office. So I'm very pleased that that is now off the table. But it's a zero-sum game. And we're all living in this world of declining budgets. And so even though we can still maintain our full complement of FTEs, we're not able to invest as heavily as we were in contracts for contract staff that support many of the essential functions that lead ultimately to stock assessments.

And while we're weathering this year reasonably well, the uncertainty associated with the upcoming year, with FY '14, is something that concerns all of us in the leadership. The President's budget for '14 is actually a generous and optimistic budget, so we can be hopeful that at least some of the essential elements of that will survive the appropriation process. But we still have these major concerns in front of us about being able to meet these needs that this Council has, that the New England Council has, and deal with the shrinking budgetary resources. And

as the appropriation process for FY '14 plays out and we know more, then I should be able to come back and at least keep you apprised of how that looks. I think that's all that I have, Mr. Chairman. But certainly I'd be glad to answer any questions.

*Rick Robins:* Thank you, Dr. Karp. When is the data review scheduled for the Northeast Region again?

*Bill Karp:* The first week of August.

*Rick Robins:* Thank you very much. Other questions for Dr. Karp? Or comments? Thank you. George, can I call on you to give the Regional Administrator's report? Or John Bullard?

*John Bullard:* Yeah. Let me make one announcement before turning it over to George. I want to, for the record, report with sadness the passing of Richard Gaines. Many of you may know Richard. He was a reporter for the *Gloucester Times* and covered the fishing industry. And he died on Sunday night, apparently of a heart attack, in his swimming pool. He was found by his wife Nancy, at age 69. And Richard, on a regular basis, beat me up and my agency, and—but I really liked Richard and I loved our conversations. I would have to—he or I would have to end them, otherwise they would have gone on for hours and hours. 'Cause he was such a fascinating, intelligent man. And unfailingly courteous and polite.

A rigorous journalist. Accurate, diligent, he dug for the facts. He was a very good journalist. And he kept everyone at NOAA on our toes because he was always going to dig. And he was a passionate advocate for the fishing industry. And while we had, we certainly had our differences, there was no one who was more committed to the commercial fishing industry in New England than Richard Gaines. And it's—everyone up there is in mourning for Richard. And it's a sad day. He was a wonderful, wonderful man. And so everyone's lost a friend. So, with that, the Northeast report will be given by George. George?

*George Darcy:* Thank you. One thing on the agenda under the RA's report is the SBRM report, which Doug Potts will still do at a later time. But I'll go ahead with the rest of the report. We published the final specifications for bluefish for the 2013/2014 fishing years on May 7<sup>th</sup>, and they became effective June 6<sup>th</sup>. A relatively minor thing, but just for your information, we published a notice in the Federal Register on May 23<sup>rd</sup> that solicits comment on the renewal of collection of information requirements under the Paperwork Reduction Act for the tilefish fishery. And those comments—that

comment period is open until July 22<sup>nd</sup>, 2013, should anyone want to comment on those information collection requirements under the PRA.

You, I'm sure, remember that we reopened a large portion of Georges Bank to Surfclam and Ocean Quahog fishing at the request of this Council on the industry. But based on comments we had received from the New England Council, we notched out a relatively small part of that area that had potential habitat concerns to the New England Council and held that back. Based on comments that we've since received from the public and from the New England Council, we are going ahead with a final rule that would reopen that additional area so the entire area that we had originally proposed will ultimately be reopened to the Surfclam/Ocean Quahog fishery.

You may also remember the emergency rule request and rule making that we did for monkfish, also at the request of the New England Council. Based on comments we had received from the public and from this Council, we made a change from our proposed rule to what was an interim final rule, where we restricted the exemption for monkfish possession limits to only sector—groundfish sector vessels that were fishing on monkfish days, not monkfish and groundfish days as was originally proposed. That is what is currently in effect. But because we changed the final measures based on public comment, we provided for an additional public comment period through May 30<sup>th</sup>s.

And at its April meeting, the New England Council voted to request that we undertake an additional emergency rule making which would modify the final rule that we publish to increase the monkfish possession limit while fishing on a groundfish day at sea to 600 pounds tail weight per groundfish day at sea for category D vessels, and 1,250 pounds tail weight per groundfish day at sea for category C vessels in the northern fishery management area only. They've sent us that letter making that request. It's under consideration. We haven't taken any action. And I think you've also received a letter from them or a copy of that request.

We published a final rule for sea scallops, Frameworks 24 for sea scallops and 49 for groundfish on May 9<sup>th</sup>. That became effective May 20<sup>th</sup>. Under multispecies, May 1<sup>st</sup> was the beginning of that fishing year. We made it by the skin of our teeth, publishing several final rules that put in place the sector and other provisions, the ACLs, for that fishery. We've been sued four times on those

actions, so we're assembling our records to get ready to defend those lawsuits.

I've also told you in the past that we were proposing a spiny dogfish exempted fishery in the area around Cape Cod. We did approve that exempted fishery, and that became effective June 1<sup>st</sup>, 2013. That's to give some additional flexibility for primarily the groundfish vessels and to enable them to catch more spiny dogfish without using groundfish days at sea to do it.

And finally, Amendment 5 for Atlantic herring. This was the Amendment that the New England Council did that is parallel to your Amendment 14 for mackerel. We published the notice of availability for Amendment 5 on April 22<sup>nd</sup>. The comment period on the Amendment closes on June 21<sup>st</sup>. We published the proposed rule that would implement approved measures for Amendment 5 on June 3<sup>rd</sup>. And the comment period on the proposed rule will close on July 18<sup>th</sup>. And that concludes my report. Thank you.

*Rick Robins:* Thank you, George. Questions for George or John? Chris?

*Chris Zeman:* Just one question about—could you give us a status update on the approval or decision-making process on the Delaware SMZ regulations?

*George Darcy:* Yes. We received the Council's request that we go forward with that. As you know, we are still awaiting some legal determinations to be made. As you know, there were some questions about our authority to regulate lobster gear in and around SMZs. That question, as far as I know, is still pending final legal approval. So we're preparing a rule package that would implement your request, but we can't go forward until we get that resolved.

*Rick Robins:* George, is that the only outstanding legal question about those? Because there's—obviously there was precedent for them in the South Atlantic. I think they had a large number of SMZs down there where they had used the authority. But is it just specific to the question of lobster interactions or lobster gear?

*George Darcy:* There were a couple of other questions that came up. But as far as I know, they have been resolved. So I think the only one that's pending is that specific one is to the authority to regulate lobster gear through a Magnuson Act action.

*Rick Robins:* Alright, thanks. We'll look forward to a resolution of that

question. Are there any other questions for George at this point?  
Okay. Why don't we take a break then for the next ten minutes,  
and we'll start the listening session at 5:00 when John Bullard  
begins. Thank you.

*[End of audio]*

**Listening Session  
June 11, 2013  
Doubtree  
Eatontown, NJ**

*Rick Robins:* Let's go ahead and take our seats, please. We're gonna begin our listening session. Jan, are we connected now? Okay, thank you. At this point, I'll turn it over to the Regional Administrator for the Northeast Region, John Bullard. And John will be hosting today's listening session. Thank you. John?

*John Bullard:* Thank you, Mr. Chairman. So this is a report out on listening sessions that we've done. And Pete Christopher will be taking notes. Pete, raise your hand there. Okay. When I took this position in August, I thought it was important to quickly go out to meet people at their places of business and hear what was on their mind. And so we scheduled a number of meetings. It turned out to be 20. One of the first ones, actually, was in Philadelphia at The Atlantic. You extended that courtesy to me where I piggybacked on listening sessions that you regularly do. So I learned from you.

And we had—so one of the listening sessions was with you. But we had 20 meetings in 17 ports from Ellsworth, Maine to Manteo, North Carolina. And listen to 550 fishermen and others. And I asked people to just tell me what was on their mind, what concerns they had, if they had ideas of what success would look like, and they should share that with me as well. But basically I just wanted them to tell me whatever they thought was worth telling. And I think that, and I said that I would listen and I would compile their thoughts and that I would report back.

And the purpose of reporting back is so that people would get a chance to tell whether or not my hearing is any good, and did I get it right. And if not, to say, "No, no, that isn't what we said." So—and if that's the case, to correct it. And so we have—I reported back on several occasions, the main fisheries from the New England Council, the Atlantic states. And so some of you have heard this before. And if so, you know, I've watched *Casablanca* probably 100 times and I love it. Repeat performances of good performances, that's good. This is not *Casablanca*, so you've heard this before, I apologize.

*Male 1:* Play it again, John.



[Laughter]

Play it again, Sam.

*John Bullard:*

But you played it—right. But—and it is on the website. It's in tab four, I think, of the material. Damn, I forgot the PowerPoint. I don't have a PowerPoint, so you're just gonna have to listen. But there is a report. The report that is in tab four, electronically or in hard copy, has specific comments that we got by—organized by port. What I'm gonna do is give you the comments organized kinda by topic. But if you do wanna delve down and say, "Well, what did they talk about in Manteo?" Or New Bedford or something like that, that is available in the electronic copy.

So—and then later on, we will put together kind of what are we going to do going forward based on these comments. I think we've also put it in an insert in commercial fisheries and sent that out. So...getting on with it. And Rick said, "How does this line up with the presentation we just heard from Mary?" Because, of course, the Strategic Plan that the Mid-Atlantic started with the same kind of thing: going out and listening to people. So we're listening to the same kind of people. So there should be overlap.

And while the purposes were different, I wasn't out trying to do a strategic plan, we're out asking people what's on their mind. So you will note, as I have noted, that there are some commonalities. And we can—I haven't gone and drawn all the intersections, but as I go forward with this, you will see that there are a lot of commonalities. And we can make something of this. I'll try and rush through this, so we can have some discussion about what those intersections are and what we might make of that.

The first thing I noted, and this I think was more from comments in the northern part of the region, was a lack of a vision of the fishery, or the need for a vision of the fishery. The New England Council, to my knowledge, has not gone through, or certainly recently has not gone through the effort that this council has done to really think about a vision for the fishery. And so while there might be a vision of the fishery, it's not expressed. And in fact, especially when you look at the groundfish fishery, if there is a vision of the fishery, what is happening in the dynamic forces at play in consolidation and so on, is at cross purposes with what might be a popular vision of the fishery.

So there is a need to consider things such as catch composition and vessel size and ownership structure. And how that needs to be determined. And in New England, there is a vehicle to do that,

which is something called Amendment 18. Which has been encouraged by the Fisheries Service, but it's always been a low priority up until this year because there've been more urgent things to be considered. And there is, at every one of the listening sessions, people coming up to me saying we need—there's consolidation going on and we need to avoid it. And so big boat, small boat, inshore, offshore, that gets expressed in many ways.

And so that is a big issue. And I would suggest—I think, my perception, you all can correct that, I think felt more strongly in the northern part than down here, that's my perception. And I remember some folks in Eastern Maine saying, "There haven't been any groundfish here in 20 years. There probably won't be any for another 20 years. But we're willing to wait for these stocks to recover. But please, if we wait, will you do something to make sure that, if we do wait, they're not all wiped out by some big boat coming in in one fell swoop and taking all the groundfish?" And so, that issue is a significant issue. That vision.

And, as I have expressed, again, this is more of an issue up there, but you can consider it and tell me whether you think it's also at play here, I said in the New England Council—if the New England Council thinks the groundfish fishery should be owned by four or five vessels, then take a vote on it. You know, in open session. Let's debate that. Because that seems to be the direction it's moving in. And it should be a vote in open session that that's the direction we wanna move in. Because what you hear is that's not the picture anyone wants to paint you of the picture of the New England Fishery.

And if that's Adam Smith's invisible hand moving the fishery in that direction, then take a vote that that's where we wanna head. Don't just let it happen by errors of omission while no one's paying attention. Make it a policy choice to go in that direction. Anyway, vision of the fishery. You have invested a whole bunch of effort in your plan to make it explicit, to make it a conscious effort. What is the vision?

So next topic: science and research. And Bill Karp attended a number of these meetings with me. So this is—none of this is news to him. None of this is news to you. I mean, all of the comments I'm sure you have heard these comments more than I have. I mean, many of you have been at more public meetings than I have been to. So I'm not gonna tell you anything that I'm sure you have not heard many more times than I have. Fishermen believe NOAA Fishery science is flawed. Particularly when it

comes to surveys and stock assessment. I mean, I heard that at every meeting, repeatedly. Frequently at high volume.

People telling me that the Bigelow couldn't catch flounder if someone stood there and dropped it into the trawl. You know? With—you just heard it in all kinds of colorful language. And so—and how fishermen want to be more engaged in the science. And I think rather than going over it in depth, that this comes down to a couple of issues. One, whether or not the science is good science. And of course that's simplistic language. And secondly, whether or not we're communicating that science effectively. And those are two very different issues.

Whether the science is good, or how good is it, and secondly how effectively are we communicating that. Those are very different issues. You can have excellent science and be horrible at communicating it. And we all know that nobody likes to hear bad news. And so you can have excellent science that's giving you bad news and people don't wanna hear it. And, you know, that's human nature. And it's been that way from the beginning of time. And that's a fact of life. You all know—I'm not telling you anything you don't know. So that's one of the problems that we are always gonna have to deal with: engaging fishermen in science.

Bill has said this more eloquently than I could ever say it when he says fishermen are marine biologists. They're excellent observers of fishery behavior in the marine environment. Otherwise they wouldn't know how to catch fish. They use different equipment, they speak a different language than scientists, but they are excellent observers of how fish behave in the marine environment. And as Bill says, scientists can learn a lot from fishermen, fishermen can learn a lot from scientists. But it takes both being willing to listen effectively. That means with humility, with respect, with ears open to hear. Both fishermen listening to scientists and scientists listening to fishermen. And in both cases, you know, there's some barriers to that communication stream.

But at every meeting, I think this was by far and away the biggest slice of the pie chart, in terms of what got communicated. And again, Bill was at a number of these sessions, and the ones he wasn't at, I would pick up the phone right after and say, "Here's what I'm hearing." So—and, you know, as soon as I heard this two or three times, we said, "Let's do something quick about this." And we had a session on—was it November 9<sup>th</sup>? Up in Portsmouth, New Hampshire, where we spent at least a day—we spent a day trying to get fishermen and scientists in a room

together talking the same language: English. I said I'd like it in a language I could understand. Where people are just talking with one another to see if we can do a little something to improve that.

So that was a common theme. As, you know, it's an old one. The third theme is this—the way I've organized it, is the issue of ecosystem and climate change. And if it didn't come up of its own accord, I would ask a question of people in the room: What are you seeing out there? And fishermen would—and it wasn't just fishermen who were in the rooms. But it was usually 90 percent fishermen. And they would always talk about temperature change. And sometimes they would talk about other things. But they would always talk about temperature change and things related to temperature change, like the movement of fish stocks.

And I remember one person in Ellsworth, Maine saying, "Well, you know, it's always been 45 degrees," he was talking Fahrenheit, "It's always been 45 degrees. And then five years ago, it was 50 degrees." And I said, "Woah, that's a huge temperature change. Five degrees Fahrenheit, that's huge." And he said, "That's nothing. This year it was 60 degrees." And I said, "I'm not a scientist. That's unbelievable that it goes from 45 to 60. That's not a temperature change. That's a—" What is that? A current change? That's just unbelievable. But this is what fishermen are out there all the time. This is what they're noticing.

And again, all of you are seeing the same thing. Temperatures skyrocketing and fish on the move. And migration patterns moving. And predator/-prey interactions changing. And so—and fishermen saying, you know, "We've gotta do something about dogfish." And, "They're eating all the cod." And so, "No they're not. Seals are eating all the cod." And arguments whether the dogfish are eating all the cod or seals are eating all the cod. And I remember like my third week on the job, I'm sitting—there's a reporter from he was on the Cape, from a radio station right next to me.

I'm early on the job and a person's saying, "What are you gonna do about all the seals? They're eating all the fish." And I'm saying, "Do you see this reporter? What, are you trying to get me fired?" You know, "I'm here to uphold the Marine Mammal Protection Act, and you're asking me right in front of this reporter what am I gonna do about the seals eating all the cod. You're clearly trying to get me fired right here." So, at any rate, that was another comment about predator-prey relationships.

But people saying we have to move away from single species management to ecosystem management, and looking at Rich Seagraves here, again, this Council is ahead of the curve. Because, again, you have invested huge amounts of your most precious resource, which is time, to go down that road. Understanding that this is a direction you have to move in.

And I would not get—I don't think I got out of any of these meetings, maybe on in New Jersey, ocean acidification. Danny Cohen. There are not many people who are focused on acidification. But a few. And I would just note that CO<sub>2</sub> levels just went above 400. And I don't think they've been above 400 in several million years. And—but this is something that all of us have to think about, because it seems like a normal day out there. And CO<sub>2</sub> levels over 400 parts per million, and they haven't been that in all of human history. And the last time CO<sub>2</sub> levels were over 400, you know, there were palm trees in the Arctic. And there wasn't any ice in the Arctic, right? There were palm trees and tropical species.

So as fishery managers, we have to think about the implications of 400 ppm. Because they are profound. And so there were concerns raised by fishermen about what they're seeing with temperature changes. And so listening to them. The next items on my list were related to kind of the business plan of a fisherman: how do you lower costs and how do you raise revenue. And so the—you know, in the lower costs, it is what is becoming one of the biggest cost items on a fishing trip: observers and discards. And so people would tell me about those costs. "What can you do to cover the costs of observers? How can we turn discards into catch?"

And so, you know, working on the issue of technology with monitoring becomes something we're working on. How do you increase revenues with—whether it's increasing quota, talking about access to closed areas with increasing quotas for species that can take it, and so on. Or issues that, you know, as this Council has done, getting stocks rebuilt is the most fundamental way you increase revenues. There were issues brought up under management. The frustration of management measures taking too long to develop. The management decisions being based on poor science and the fear of legal action against the agency.

There was a concern that local fishermen accepted input controls early to conserve stocks and feel that their commitment and efforts to conserve stocks are unrecognized. That catch years should've been based on permits rather than catch history. And that

Magnuson-Stevens should be revisited to be more flexible. That's a concern I've heard more expressed in—well, I think that's been expressed all over. There were concerns expressed around safety, about an aging fleet and aging fishermen.

There were concerns expressed in the Mid-Atlantic. First of all, a concern that the Regional Office doesn't pay enough attention to the Mid-Atlantic. There's a senator down here who seems concerned about that. She wanted to move us down to Silver Spring to get our attention. And that seemed to work. So I attend these meetings on a regular basis. You all seem to be nice people, too. So—except when the Chairman cuts off my microphone. But other than that, I like you all. So I plan on coming to all these meetings.

But issues on bluefin tuna, on black sea bass didn't come up, I don't think, at any of these sessions. I don't know whether that's because it erupted as an issue after the listening sessions. I'm not sure why that is. But I don't have it in my notes that it came up at a session. But obviously it's a huge issue. That the charter industry should be managed differently than the commercial fisheries. There were also issues that came up specific to Maine about Maine becoming a lobster-only, lobster and eel fishery, losing its diversity.

There were recreational issues that were brought up about the quality of data that you've heard and spent a lot of time on. And that recreational bag limit should be set earlier in the calendar year, that we should find ways for recreational fishermen to catch their underutilized quota. And other recreational issues. There were, finally, people seemed appreciative that I would go out and meet with them. Which surprised me, because I would think that would be kind of normal. And it mentioned at the ASMFC that, you know, after a couple of hours at the Cape, Cape Cod, one fisherman came up to me and said, "You seem like a real person." And I found that incredibly depressing. That the bar should be so low that someone should be surprised that a Federal government would be a real person. And that just by being human, you exceed someone's expectations. But there you are.

And the other uncategorized suggestions were that the industry needs help from NOAA Fisheries to market underutilized species. A good suggestion. That disaster funding should be found. Another good suggestion that Congress is working on. That there's need to develop agriculture opportunities for fishermen. . All good suggestions. Let me quickly summarize in wrapping up.

One comment notable by omission was that I expected, given that when I took office there were kind of three areas that were all kind of in disarray, and that is enforcement, science, and management were all in need of change.

And Jane Lubchenco created change in all those areas. She brought in Bill Karp, she brought in me, and she changed enforcement. There was only one, I think, person who made significant comments in enforcement. And later on, I found out that person was well known to enforcement. And it's his complaints about enforcement. And that was a person in New Jersey. Other than that, enforcement didn't come up. And I know I'm not gonna jump to the conclusion that therefore everyone was satisfied with enforcement. I just—I don't know what to make of the fact that, given the opportunity to talk to the Regional Administrator, no one decided to talk about enforcement.

The subject of, you know, IG reports and everything else, no one came up to talk to me about enforcement. I don't know what to make about that. So that was one thing. The other thing I would say is that, for 550 people to come out, one person who came to Manteo drove down from Cape Cod. That's a long way, Dewey, right? Cape Cod to North Carolina?

*Dewey Hemilright:* He must've come down to go bluefish fishing, and you happened to be there.

*[Laughter]*

*John Bullard:* Maybe that's it. Maybe that's it. But to take whatever time it took to go out to a public meeting to talk to a Federal official is some kind of triumph over cynicism. Because it means instead of doing whatever else you would've been doing with that evening, or afternoon, whenever it was, that you have some hope that by giving some comments, something will come of it. And I think that is a very good thing. 'Cause that says that people believe that there is a reason to be hopeful that commenting to government can bring about change. And that reservoir is hope, of hope is what we all have to build on. And so it's reason for optimism.

Now what are we doing with this? Well, one of the things that we're doing, and one of the things that I'm learning is, first and foremost, I'm learning that, "Thank God, I have a crackerjack staff in Gloucester," he said, looking to his right. Not just at George, but so many other people in Gloucester, who make it possible for

me to do my job. And I feel very fortunate. The more I learn about George and everyone else there, the luckier I feel. And you all know that. But, you know, since August, I've gotten to learn how good they all are. Even Gene down there. You know, people really good. Very lucky to work with them.

And secondly, that the relationships—that almost every relationship, I think I've been trying to strengthen. And there are three fundamental relationships to fishery management. You start with science, then, you know, when you have good science, then you add management on top of it. And then when you have management in place, then you enforce it. Right? So you need science, management, and enforcement. And so I got to know Bill when I was in Woods Hole. And so the relationship between the Regional Office and the Science Center is key. And so Bill and I are talking all the time, and we're trying to make that relationship work very, very well and improve it all the time. And I think it's good and it gets better all the time. And I think it starts with Bill and me.

And so I think that is one thing we work on a lot. And with enforcement, with Logan, who's also new, that's a collegial relationship that we try and build. Secondly, or next, the relationship between all of us and the Councils is important. And I think we have a good relationship. And I think you have great leadership in Chris and Rick and the Vice Chair. Whatever his name is. But we're here to serve. And your record speaks for itself. And so—but that relationship is very important. Press has been doing work, as I alluded to, to try and improve our relationship with the New England Fishery Management Council and then to formalize it.

And I think we need to do that with—to have a formal relationship here, too. George has sent Chris a draft of that. Chris is gonna mark it up. It's—I noticed it's now on your Strategic Plans. So that makes—we'll check that one off. And I need to—and have been spending a lot of time trying to build a relationship with the industry. As George said, we only got sued four times last week. Thank God for weekends. 'Cause as far as I know, they haven't figured out how to sue us on Saturdays and Sundays yet. So—and with Congress. So it's a lot about relationship building and communication.

And then the last thing I'd mentioned specifically about things that we're working on that do take a lot of time, but I do think have payoffs at the end is an effort on fishery dependent data work.



And that's something that Dan Morris and Russ Brown—Dan in our office, Russ Brown in Bill's—and the two Councils are kind of leading an effort on whether it's electronic monitoring or fishery dependent data. I'm not sure what the right way to describe this is. But I know it's incredibly complicated. And I know that it's gonna take a lot of time. And a lot of people in the industry think, "Oh, we're gonna put cameras on the boat, and everyone's gonna save a lot of money. And we should be able to have this sometime in November."

And everyone's expectations are that kind of super charged. And I know that it's anything but that. It's gonna take a lot of work. This Council has set up a working group, a small working group. The New England Council has set one up. And together with the Science Center and the Regional Office, you know, I think this effort is complicated as it is, it can result in something that produces much better product for everyone. I don't know whether it'll produce any cost savings at all, but I think it'll produce much better information for everyone. Including much quicker information. But it's not gonna be easy. And it's not gonna happen quickly. But it's a major amount of effort. And Bill know a hell of a lot more about it than I do. But we're all gonna invest a lot of effort into that.

Now the last thing I'd say, in terms of how does this line up with the Strategic Plan that the Mid-Atlantic is doing, I think there are a lot of commonalities in it. I think, in terms of communication, I think everything I've just talked about is about communication. I think, in terms of governance and management, I think that the feedback we've gotten is about how we can manage better. And in terms of science, I think, as I said, the biggest slice of the pie chart, in terms of the cry we got, is how fishermen want to be more involved in science. And our challenge and Bill's challenge is, "How do we find ways to do that?" Because, to the extent we find ways to do that, I'm convinced we get better science and we also communicate that science and get buy-in in a better way. It's much easier to say than it is to do. But there's no question there's a need for it.

So with that, let me see if there are questions or comments.

*Rick Robins:*

John, at the beginning of this, you talked about some of the overlaps between what you heard and essentially what we heard as we went through the region having small group meetings. And I think there are obviously a lot of commonalities. I mean, concerns about trophic interactions and how we deal with species or

multispecies approaches and ecosystem type approaches. But I think this issue within science and how to better build confidence in the science we use to make decisions was obviously an important theme in what we heard. And we heard it pretty uniformly, I think. But that's something that we touch on, of course, in the Strategic Plan.

And I think that's something we'll have to have further dialogue with the Science Center on. Because looking through your notes about science, it talks about expanding NEMAP type surveys, which bring together the fishermen and the scientists. You've got the fishermen doing the fishing and the scientists doing the scientific work on board. They're working in collaboration to get that done. And that's—I think understanding that is something that we've learned is very important. Because the perception of those work products is something that goes a long way and builds confidence. So, you know, I think there's a lot of overlap here that we can all follow up on and work together to develop.

*John Bullard:*

I don't know if Bill, you wanna comment on any of—you were at a bunch of these meetings and may have some comments.

*Bill Karp:*

Maybe just a few thoughts, if I may. I mean, clearly this issue of confidence and science is a focal point, a major one for us. And I've been thinking about it, obviously most of my waking hours since I took the job. And how we engender a sense, within the Science Center, that—first of all, we have a great deal of confidence in our own work. We have very sophisticated quality control processes. It doesn't mean mistakes aren't made, but it does mean in a science sense, the peer review process validates the science. And so it's easy to be sort of lulled into a false sense of security. That because within the science community we feel that we have the sort of necessary checks and balances that that should be sufficient. And it obviously isn't.

And so it's actually a way of thinking. And I'm trying to change the way that I think. And that, of course, just requires listening more as much as anything else. About the kinds of things that fishermen, that the Councils, that other members of the public who are interested in our science, what it is that they're actually hearing, and how that compares with what it is that we're trying to say. And trying to get the scientists of at the Center to tune into that as well. To realize that the extra step that I want them to make is one which really makes them come back to this touchstone. You know, why do you think that there's a lack of confidence in the science? What is it that you can do to help to build confidence?

And how can we institutionalize that thinking. And we're making some progress.

But I think actually, you know, just coming back to John's strategy of engaging, we need, on a regular basis, to go back out to the community and ask how we're doing and look for ideas. Be more responsive even than we have been. It's an uphill battle, but I think it's a very, very important one. And if nothing else, just listening to John sort of speak about the size of the segment in the pie chart. Which is related to science, which is related to concerns that people have, an interest that people have in engaging more in the process of helping us understand what's going on there. And how we better enable that. It's all easy to say. But it's a major challenge, and I think it's really a very, very important one for me to lead. But for me to really rely on everybody in this room and in the broader community to work with me on.

*Jeff Deem:*

I was in a meeting the other day, and one of the commenters mentioned that in Central America some power plants emissions in CO<sub>2</sub> were one-eighth of what ours are. Is there some way that we can find out more about that and then use our influence, based on what we're seeing in the ocean, to get somebody in Washington or somebody somewhere off the fence that they're on now and use our influence to drive that kind of investment in our power plants?

*John Bullard:*

I think how we influence people on climate change is a question I ask myself, Jeff, all the time. Because clearly we haven't found the answer to it. And I attended the "Managing Our Nation's Fisheries," which was three days of essentially on discussion of Magnuson-Stevens Act. And I think there were three or four speakers in that three days who really talked about climate change. And the worry I had was that this was the opportunity to talk to folks on Capitol Hill about managing fisheries. And that the overwhelming impression would be that Congress would think that Magnuson-Stevens, whether it needed to be fixed or not, was sufficient to managing fisheries. And that my non-scientific view is that if we don't fix climate change, Magnuson-Stevens is irrelevant to managing fisheries. And that if we leave Congress with the impression that if they have Magnuson-Stevens everything with fish is fine, then we have not done our jobs.

Now Keith—is it Coburn?—is the captain on *Deadliest Catch*, gave a talk there. And he talked—someone asked a question: "How do you film in the storms?" And he answered the question by saying, "We don't really film the tough storms because we can't. We only film the easy storms. And the tough storms," he

said, ““Are the severe weather is done by, it’s caused by climate change.” And I went up to him afterwards, I saw him there, and I said, “That’s a very powerful message. Because you’re a fisherman, and you have a TV show. And people don’t really, in Capitol Hill, don’t believe scientists very much. And they don’t believe environmentalists. And they certainly aren’t gonna believe Al Gore. But they’ll believe fishermen. You have credibility. And you, Keith Colburn, have a TV show. Which reaches millions of people. And so if you say that global warming causes heat and heat is energy and energy causes severe weather, and you connect the dots for people, then you can educate folks as to what’s going on.” So, you know, I think that fishermen are a constituency. In a way, they can be both the canaries in the coalmine that they are the victims.

And they have an ability to say, “Look what you are doing to our places of business. If you want us to put food on your table, you have to understand what you are doing to our places of business with the changes in temperature and with the changes in pH.” Because people will listen to fishermen. I think they will listen to fishermen. So an answer to your question, and maybe I’ll get in trouble by going off on this rant, but you asked it, Jeff, so if we don’t figure out how to answer your question, ‘cause we have the technology to do that. We have the technology to do that. If we don’t find someone who can give straight talk, like Captain Keith, to someone who doesn’t all of a sudden say, “Is that guy Republican or Democrat?”

‘Cause, you know, that’s exactly what will happen. If Captain Keith says it, they’re not gonna say, “Is he a Republican or a Democrat?” They’re just gonna say, “He’s a fisherman.” And so you have half a chance. End of sermon.

*Pete Himchak:*

I just wanted to add one comment on the observation. From where I’m sitting, the horseshoe crab spawns around four lunar cycles in May and June. And the horseshoe crab’s been on this Earth for 350 million years. Most adaptable creature in existence, living fossils, et cetera, et cetera. The horseshoe crab survey is focused on three nights around the new and full moons of May and June. And because of spawning activity that has moved into April, we have shifted part of the sampling regime to get the second lunar phase in April now because of the significant horseshoe crab spawning. Now if the horseshoe crab knows that—if he’s showing up, or if they’re showing up on an earlier basis, they know something’s going on. That to me speaks volumes, and that’s something that we’ve had to adjust just recently.

*John Bullard :* Tony?

*Tony DiLernia:* I'd just add to what Pete just said. Same thing with striped bass. I see them coming through two to three weeks earlier. Even this year, where everything else seems to be behind schedule in many places, many things, striped bass seem to be coming through in the Hudson earlier and earlier.

*John Bullard:* Bill?

*Bill Karp:* Just listening to these two comments makes me think, well can we collect these observations in some kind of a monograph, what's going on out there? Not from the scientists, from the managers, from the industry, from the recreational fishermen. And somehow use that as a way to communicate that's separate from, but—and perhaps a more easily connected message with the public than the science message.

*John Bullard:* I mean, I think if fishermen—if everything we know, right, because I don't know how much time this Council has spent discussing the movement of summer flounder. Right? And the science paper, the recent science paper in *Nature*, you know...

*[End of audio]*

**Omnibus Amendment  
June 12, 2013  
Doubtree  
Eatontown, NJ**

*Rick Robins:* Good morning and welcome. Let's go ahead and get started. This morning, the first item of business is gonna be taking up the Recreational AM Omnibus Amendment that would potentially modify the way that we react to recreational catch estimates and deal with accountability measures relative to those fisheries. And Jim Armstrong will be taking us through that amendment. Jim, if you wanna go ahead and start.

*Jim Armstrong:* Alright. Thank you. I've got a lot of slides. This is pretty complicated stuff, but I'm gonna try to run through it as quickly as possible so we can get to a good discussion of the issues at hand and try to make some good decisions here. This Omnibus Amendment affects three FMPs: squid, mack, butterfish, regarding Atlantic mackerel, bluefish, and then summer flounder, scup, black sea bass. We have a tilefish recreational fishery as well; but there are no AMs specified there, so there's nothing to amend. And so that's not part of this.

Just to report, when we last met, it was in April in Raleigh, and we approved a public hearing draft. Following that, we made an FR notice of the public hearing draft mid-April, and scheduled five public hearings along the coast there. Jim's whirlwind tour. And I have the attendance up there now on the right of the thing. It was a little thin up North. But we got some folks to show up in Ocean City and Virginia Beach. The bulk of the comments, the bulk of the input during the public hearing period was in written comments. And so I have this table up here, I can't see it, but, you know, basically that's the count of support by number of letters for the different alternatives.

And you can see there's some big numbers in here for some of these. And there were—there was one very large group in particular that had sort of a form letter. So if that group is representative of say, one highly-charismatic individual or something, then the distribution kinda flattens out a little bit. But what I'll do is, as we go through the alternatives, once I've characterized them and talked about them a little bit, I'll flash them back up there and we'll zoom in on the support for each one. So I don't want you to try to spend too much time studying this. But it's a table that's at the head of the appendix for the document.

So the agenda for today is to review the alternatives in the draft final. Yay. And then review public comment as part of that, and integrate it into that process. And then select preferred alternatives for implementation and approve for submission. Problem statement. Okay. I know it's been said a few places that the reason we're doing this is because of the black sea—the pending black sea bass payback for the perceived overage in 2012. You know, I've kind of joking bought along with that, called it the “Buyer's Remorse Amendment.” You know? But it's not just about that. It's what we—we can't, you know, there were some comments at one point in the FMAT about the Council maintaining its integrity and what it sets out to do.

And so we aren't doing this just to, you know, get some black sea bass back. Okay? What we have to do is we have to change the way that we look at recreational fisheries in a way that's more appropriate to the types of data that are associated with recreational fisheries, and the types of management tools we have for those fisheries. Okay? So that's the approach, philosophically in this amendment. And it's an Omnibus Amendment. Okay? So that's what it should be.

So the problem statement here for any of our recreational fisheries is that they are inherently uncertain, that the existing recreational AMs do not take this into account, and that paybacks under all overage circumstances and stock conditions inappropriately treat recreational fisheries like commercial fisheries. Here's a slide that shows summer flounder. And the top lines that are very close to each other show the commercial quota, it's the purple line, and the commercial landings, which is the blue line. So you can see the commercial landings follow the commercial quota very well.

Below that, you see, in red, the RHL—recreational harvest limit—for summer flounder. And then, you see these dashed lines that describe the bounds, in this case two standard errors, for the catch estimates along that time series. I think what's striking about this is that the trend for the commercial catch and quota are very closely aligned, while there seems to be very little correspondence, except that they're in the general range, between the recreational landings and the RHL. But that previous slide had a range of landings.

What we're doing is we're looking at point estimates of landings in our current management approach. And as you can see here, again, we have very little correspondence between specified

recreational harvest limit and the landings. And yet, we're treating it in the same way that we treat something that follows the limit very closely. So perhaps we need to rethink that. Another piece of information is that while this is going on for summer flounder during this time series, I added a green line here, and that shows the trend in biomass.

So things are generally improving. Commercial quota is being followed by commercial landings, and the RHL is sort of being—you know, the RHL. And the recreational landings are being the recreational landings. So those things are operating, I hate to say independent of each other, but whatever's happening there in the recreational fishery doesn't seem to be preventing this biomass trend which is favorable. Zooming out to all four, we actually have five recreational fisheries here, but I'm gonna be focusing on four. On fluke, bluefish, black sea bass, and scup.

And we see that the basic, you know, that example taken for all of them. You've already seen fluke. That's in the top left here. Here's bluefish. Okay? So, you know, there's some coincidental overlap between the RHL and the landings. The bluefish commercial quota and landings are not right on top of each other, but they seem to follow a sort of parallel trend. For scup—I'm sorry, black sea bass on the top right, we see the commercial landings being controlled, not crossing over the commercial quota. While the RHL and the recreational landings are, you know, not very similar. And then for scup we see the same thing. Okay?

So it's just a basic characteristic of the difference between commercial fisheries and recreational fisheries. So perhaps an alternative management approach is needed. Well one of the—this is a kind of like a hot off the press, although it's actually was done some time ago. And it was done by—I don't know if Jessica was directly involved, but Paul Caruso provided me with this figure. What he did here is he looked at recreational harvest of black sea bass in Massachusetts' waters against year class strength of black sea bass—lagged, so that the fully recruited year class is a five-year lag. And you see a very nice correspondence here.

It's been stated by other Science Center recreational fisheries scientists that they feel that the thing that drives recreational landings is recreational availability or abundance. Not so much the other stuff. The other difference between commercial fisheries and recreational fisheries is the motivation to fish.



Commercial fisheries are—commercial fishing is associated with an economic reward for your fishing effort. Whereas recreational fishing is associated with an economic cost. So since it is, you wanna get the most bang for your buck, you tend to go where the fishing's easiest and stop when it gets hard.

So again, very, you know, very different fisheries. Okay. Just to dispense with mackerel, here's the RHL and here's—okay. No more about mackerel. So what are other Councils doing? You know, we responded in a very strict way, strict interpretation, I guess, to the reauthorized act. What are the other Councils doing? South Atlantic Council has such recreational accountability measures as, "Monitor the fishery for potential early closure." That being the only accountability measure for, you know, a given recreational fishery. Actually, a set of recreational fisheries. In-season closures based on projections. They do have paybacks and—uh oh, it's for black sea bass. But black sea bass there is overfished and overfishing is occurring. Proactively reduced season. In other words, they would reduce the season ahead of time, rather than respond to RHL being exceeded.

In the New England—for the New England Council, the Regional Office has the authority to adjust the bag, size, and season. Those are the only accountability measures. Bag, size, and season. Those can be adjusted by the Regional Office after consulting with the Council. The Gulf of Mexico: monitor the fishery for potential closure, and in-season closures based on projections. And then up in the North Pacific, where they only have the halibut fishery, it's just kind of totally different. They—it's very vague. It says, "Implement more conservative measures and account for overages in the stock assessment model." Okay?

So those are different—it's a different approach than what we've done so far. And maybe it broadens the scope of interpretation of what exactly is mandated under MSRA. So what we're gonna do in this amendment, what we've been exploring, is to look at our accountability measures. Both our proactive, the ones we set ahead of season, and reactive, the ones that respond to an overage, say. To explicitly address uncertainty and avoid overreacting. Okay? In—yeah.

So in the document, we have several suites. We have six suites, or sets, of alternatives. We used to only have five, but we moved one of them to a new set down here. So there used to be a 1D, and for the rest of this discussion, it is now 6B. Alright? So we have some proactive alternatives. ACT is set proactively to

prevent ACL from being exceeded. And in-season closure authority has been described as a proactive alternative. It's really also reactive because it's responding to, you know, an observed event. So however you wanna nuance that is probably not too important. But maybe later on it will be.

And in terms of reactive alternatives, we have triggers, the conditions that cause a management response. And then we have the management response itself. And then within the management response, we may want to calculate a payback if that's called for. And then finally we have the possibility of reconsidering the ACL that may have been exceeded when more information is available about it. The slide, I just bumped in-season closure authority down under "reactive" to indicate that it could also be that.

Alright. So let's get into alternative set one. Here we have three alternatives. No Action/Status Quo. It's always—anything with an A is gonna be No Action/Status Quo. We have alternative 1B, where we would have a mandatory review of calculating ACT as ACL minus some measure of uncertainty. And then we have alternate 1C, which would be a mandatory setting of ACT as ACL minus some measure of uncertainty. So under the No Action/Status Quo alternative, the regulatory language says that the Monitoring Committees will identify and review relevant sources of management uncertain. So it's rather broad in scope. It doesn't limit what they can do, and it doesn't limit what they can't do, I guess, as well.

Under alternative 1B, there would be a mandatory review of ACL minus uncertainty. So the Monitoring Committee would be obligated to present to the Council what ACT would be if this uncertainty measurement were deducted from ACL. And then, you know, the Council could consider that, but not necessarily be obligated to it, I guess. Under 1C, there would be a mandatory setting of ACT equals ACL minus uncertainty. So there, the Monitoring Committee would just do a calculation and the Council would ostensibly approve that as ACT. So it's most constrictive, not restrictive, but constrictive, in terms of not allowing much flexibility on the part of the Monitoring Committee or Council.

Here's just a table showing what, in this year, the ACT would have been in this final right-hand column, as opposed to what it is, if we had been obligated to adjust for uncertainly—as expressed here as one standard error. So feast your eyes on that. Okay.

And 6-B is—or 1D is the new 6B, I guess. Okay, so in terms of public support, at the time, 1D was still 1D. And the public was greatly behind that alternative. There was some support also for a no action alternative, as well as just presenting the Council with, you know, what the adjusted ACT would be if uncertainty were used to make a deduction.

Okay, second set of alternatives have to do with in-season closures. Okay? And there are four alternatives. No Action/Status Quo, which is a—well, I'll get into it. So No Action/Status Quo: 2B would be early closure based on projections, 2C would be to eliminate in-season closures, and 2D would be to do an in-season adjustment to the bag, size, and season. So rather than close the fishery, just maybe limit landings following the RHL being caught.

So under the No Action/Status Quo alternative, recreational harvest is met or exceeded, then the recreational fishery in EEZ shall be closed for the remainder of the year. So it's important to consider that's in the EEZ, as we learned last year. In 2B, early closure with in-season projections. So here you would take, for example here, where we had, going from wave two to wave three, a simple, linear projection that would have shown you if the green line is your RHL and you caught 90 percent of it, in wave three—by wave three, you know, you just draw a line through that and guess what? By wave four, you are well above the RHL. You could've closed it, but you were, you know, six weeks into wave four, of course, by the time you got that information. But at least it would have, you know, forestalled some of your support of early closures, forestalled waiting until wave five to get the information. So you could've kept further overages that occurred then.

2C would eliminate in-season closure authority. Here we see in the early part of the year...this is black sea bass landings, and it's North Carolina and New York. It's maybe not—there are other examples. And I have some later in the presentation. In this case, the early landings here, if there was to be a closure, say of wave five and six, would shut down a significant wave for New York. Somebody pointed out to me that's a really bad example because those are all in state waters. So use your imagination. I'm sorry. I just—we've got some—it's, you know, make that a hypothetical example instead of a real one.

Alright, 2D would adjust the bag, size, and season in season. So RHL is exceeded, or I guess you could project it to be exceeded.

And then there's some sort of an adjustment to the bag, size, and season. Well, if it's the season, that's gonna be a little rough. But you can imagine for bag and for size that you wouldn't have time to go about calculating what an appropriate reduction would be. If this was to go into place, you would certainly have to have anticipated what the adjustment would be. And so that adjustment would have to be automatic in the bag limit, or say the size limit. And so you would, at the time when you specify the measures for that year, you would also specify the in-season adjustment measures. And you would also have to get the cooperation of the states involved. Or it wouldn't really fly.

Okay, so as an example, after the RHL's achieved, you could reduce catch potential, which is what we do when we adjust bag, size, or season—I mean size or season. We're gonna adjust the catch potential by X percent. You know? So bag could be reduced from 20 to 5. You know? But again, probably be a tough fit where the recreational measures vary by state. So that would have to have all been worked out ahead of time. You know, after conservation equivalency is achieved, coming back, probably have to create a new division for that. Just kidding. Alright.

So of these alternative set two, there was a lot of support for that in-season adjustment. And that's because there was—the second place runner up was to eliminate in-season closure authority altogether. There's a lot of opposition to the idea of in-season closures, simply because of that regional bias that they tend to introduce—the availability of fish in the later waves: five and six. And, you know, that would perpetuate. Okay.

Now we head into our reactive alternatives. And the trigger alternatives are, you know, those conditions that would exist that would then evoke some management response. So under the No Action/Status Quo, we have a three-year average that's being phased in. And it's being phased in as first a one-year average, then a two-year average, and then finally a three-year average. And then it just stays a three-year average. So for 2014, it's a one-year, not average, but a one-year observation based on 2012, of course. If you take—once it's phased in completely, you take the three-year average of ACL and the three-year average of catch, and if the three-year average of catch is greater than the three-year average of ACL, that determines your overage amount. Okay?

Single year would just maintain—you know, you're only looking from year to year. Confidence—we have one confidence interval

I'll go into. And then finally 3D, which is a repeat of the overage. So for our No Action—and that's No Action, by the way, for summer flounder, scup, and black sea bass. For Atlantic mackerel and for bluefish, there's no three-year averaging. So what No Action is, these FMPs do have some differences that need to be acknowledged. Anyway, let's say you had a big overage here in year two, and you start averaging here so that your—here's year one, year two, and year three. The average, this dashed line, is above your ACL in year three. Okay? You observed that in year three, and it's a two-year lag, so you have apply your response to that overage in year five.

In year four, you've averaged year two, year three, and year four. That's the average there. That is another overage. And each of those overages, just because I used some made up numbers so that they would look nice and simple, are 1.6 million pounds in each of those years. Okay?

Here we go to the single year with the same pattern of landings. And here we have one observed overage. It affects year five, or four, but the magnitude of the overage is quite large. So the response to that would probably be more severe. This is probably the most, I guess I would say, restrictive of the trigger alternatives. Here's a good one: confidence intervals. This explicitly acknowledges the way that recreational catch estimates are presented. First of all, they're catch estimates. So since they're estimates, they're based on a statistical methodology, they're accompanied with some statement about the uncertainty in the estimate itself. Okay?

So the larger the confidence interval at a given—I'm sorry, the wider at a given percentage, the less confident we are about the true value of the catch. Okay? So here we could consider at an appropriate confidence interval that we want that entire confidence interval to be above the threshold level before we would trigger some sort of a response. Okay? So you're saying, "Look, we don't have a catch that—" We're not gonna pretend that catch goes right along this nice, thin line here. We have a range of catch estimates. And we want that entire range above there before we're going to evoke a response.

Here's what it looks like for the real data. Now this is actually—because we didn't have ACLs and because confidence intervals for total catch, including discards, in pounds is kinda difficult to come by. I just used the landings versus the RHL to kind of give an example of how these things might look. Alright? So I have

all four species again. It's always gonna be fluke, up on the top right, and then black sea bass, bluefish, and scup. Okay? So here we have the RHL is in red. And then we have the range of catch estimates, time series of catch estimates expressed as a range in the dashed lines here.

And what we see is that, you know, the confidence interval has been completely above the line and completely above the line in several instances. What we're trying to focus in on is maybe an example like bluefish where the RHL is somewhere inside of there, and you're wanting to take that kind of information and say, "You know what? Let's not over respond to that. Let's let that entire range go up above there before we respond." Okay? And then you've got things like scup that says, "Yeah, right. RHL, I'm not paying attention to you." Same here with black sea bass. The whole range is either above or below, it would seem. It seems like we've got something here with fluke. It seems like we've got something here with black sea bass.

Actually, when you mine in there—what I did here is I said, "Okay." See the green areas and the red areas? In the green areas, both the lower confidence limit and the point estimate are below the threshold level. In the red areas, both are above. And in the yellow areas, you've got it where the point estimate is above, but the lower confidence limit isn't. And so you would not invoke an overage. So you're all looking for a yellow there, aren't you? But there's not one there. It's always either above or below for the data that we just looked at. That's pretty interesting. And it kind tells you something about the risk that we're invoking here.

You know, if we were to imply a confidence interval, it's not like the data follow those threshold levels so well that we're kinda hovering around that with the confidence interval. The data, the catch—the recreational catches and the RHLs are often in, unfortunately, rather wide disagreement from each other. So that even if we do have that, it's not—you know, there's no difference, essentially, between using the point estimate.

So let's broaden the confidence interval. What I did here is I used two standard errors. That's a 95 percent confidence interval. It's about as confident as you dare get with things, I guess, statistically. So does that make a difference? How many times is it that the point estimate is exceeded, but the lower confidence limit is—I'm sorry, the point estimate exceeds the RHL, but the

lower confidence limit does not. Which would buy us that—yeah, it's just in sort of the warning zone. Twice. Okay?

For bluefish and for scup, I'm gonna go back and look at them. For bluefish, I think it was 2007 actually. Okay, so it's deceptive here. You're looking at the red line and thinking that's catch. It's actually—there's a midpoint here that's above, that's in the confidence interval, that's above that red line. And for scup, there's one over—where is it? Oh. Yeah. So it's interesting that, you know, you would've thought that, you know, there's a lot of trepidation about using the confidence intervals because we think that the probability that we're overfishing or ignoring that catch threshold is really meaningful. But it—the catch data appear to be so disassociated from the RHLs, in terms of the magnitude, that I'm not sure that it's that risky at all. So I'll look forward to that discussion.

So two—okay, now somebody's gonna catch and say, “Wait a second. You were looking at RHL versus landings.” We're not gonna do that. We're gonna look at ACL versus catch. So maybe all that stuff is made up for by discards. Okay? Right? So, you know, wider confidence intervals and that sort of thing. I actually didn't think of that until like last night at like two in the morning. So this—I did this on my home computer, but it's an overlay of the catch patterns.

And what I'm suggesting is, at least for three of the species here, we have bluefish, and what I did is I took total catch,  $A + B1 + B2$ , okay, and did the pattern for the time series. And laid it—now that's not in weight, because we don't have weight. It's in numbers. But the mean weight, it should work out. What I'm looking for is the pattern the same? Do they make the same silhouette? And for bluefish, they do. Very nicely. For black sea bass, they do fairly nicely. Certainly have a nicer relationship with each other than each one of them has with RHL. And then for scup it's a little clunkier, but it still follows.

This is the one that caught my eye, is summer flounder. And apparently there's a lot of discarding going on. I don't work on summer flounder much, but I guess that's—at least for the 2008 through 2011 period, there must've been a huge portion of the catch that was discarded. So that could—you know, if that was integrated into this, that might draw a different conclusion. But for at least the three other species, I think that you're probably gonna have something similar, in terms of your conclusions and your relationship. It's not gonna change the confidence interval

or the shape of the confidence interval so that it's gonna suddenly start matching the RHL. Made up for, in other words, by discards. So I think that the conclusions about the use of confidence intervals, certainly at least a single standard error, that the risk associated with that may be a bit overinflated.

Trigger alternatives. The—I mean alternative 3D, we're still on trigger alternatives. Alternative 3D proposes a different approach, and here we would look for—we would see an overage, spot an overage, but then we wouldn't do anything. It wouldn't trigger anything. But then if we saw that overage in a subsequent year, then that would be an overage. We'd say, "Okay. Now we've got a pattern here. And we're gonna respond." Okay? Now that would work a couple of ways. You could have two consecutive overages. You know, one in year two and three here. Or you could have an overage—the way it's phrased in the document is, "More than twice in four years." Okay?

So you could have an overage here: under, over, under, over. That last one counts as an overage. Okay? So that would trigger some sort of a response. What does that look like in terms of our fisheries? It turns out that for our overages, the ones that would count as repeats for fluke are two out of four of the overages. And for black sea bass are two out of three. None for bluefish. And all but one for scup. So at least for these data, it doesn't appear that it's gonna make a whole lot of difference. So—between the use of a point estimate. Alright? So the bulk of the public comment was in support of the confidence interval. There were a couple who thought that we should actually combine the confidence interval with the repeat.

Okay. Response alternatives. This is the fun part. If it hasn't been fun already, I mean. And we have five alternatives in here. And these have to do with a management response. We've met the trigger condition, so what are we going to do about it? How are we going to respond? And...yeah. I'm gonna drink some coffee. So we have five of these. And basically what these were—the thought process that these were born from is, "We've got paybacks. Do we really need paybacks?" You know, and under which conditions do we need paybacks?

So I know that we've been looking at these tables that we're gonna see in a couple minutes. In a couple slides. And it looks like maybe you start up in the top and go down to the bottom and you progress that way. But it's actually more—think of yourself as starting with paybacks and then saying, "No, we don't need



them here. And we don't need them there. And under these conditions, we don't really even need to adjust bag/size/season." You know? So the conditions, the stock conditions are good, the nature of the overage wasn't that bad, and they basically—the alternatives here show different scenarios where that thinking was applied.

So the current, or Status Quo, approach is—and here's our table. So for the unschooled or uninitiated, I guess, the rows here correspond to three different potential stock conditions. The top, and it's green to show that it's a—green is good.  $B$  over  $B_{MSY}$  is greater than one. In other words, the stock is actually above the target level. Okay? So for everything that goes to the side here, and you'll see something where there are actually columns later, everything up there, that meets that stock condition. In the middle you have, well, that  $B$  over  $B_{MSY}$ . Okay? Biomass is between  $B_{MSY}$  and one-half  $B_{MSY}$ , which is the threshold below which you're overfished. Or it's at least not in—I should say, and it's not in rebuilding. Okay? So it's below  $B_{MSY}$  above one-half  $B_{MSY}$  and not in rebuilding.

And then down here in the bottom row, the stock is overfished or in rebuilding. Okay? The columns—we have three columns. So everything you see in the subsequent tables will be coming down from those. And here, just think of the—what was exceeded. You have ACL, you have ABC, and you have OFL. The annual catch limit, allowable biological catch, and the overfishing limit. So ACL is currently the thing that triggers an overage. If there's catch above that. So that's sort of the lower threshold. ABC includes the commercial catch. Okay? So here you have a potential overage where the combination of recreational fishing and commercial fishing causes ABC to be exceeded. And then finally you have the combination of commercial and recreational fishing to cause the overfishing limit to be exceeded. By definition, you are now overfishing. Okay?

So the response alternatives—response alternative right now for No Action is payback. No matter what combination of conditions are met. So that's why there's no gridding here. Guess you've gotta put some lines just to make it easier on the eyes. But the response alternatives that we're considering add two more items in here. One, the in-season closure. Which is here, sort of a reactive alternative. And bag, size, and season adjustment. Which is here interpreted as a reactive alternative. And payback, the classic reactive alternative.

So in-season closure, there would be, if an overage has occurred, then the RA would publish. Same thing that we saw for the definition of in-season closure. Okay? So those conditions would be met. That would be our management response. Okay? Even though we do it anyway, we would state that that is our management response. We are going to do that and only that. Okay? So if the bag/size/season is our management response, then if an overage has occurred, the—well, that's actually old language. We would make—the management response is an adjustment to the bag/size/season. So you see an overage in a previous year, you make an adjustment for—in response to that overage. Okay.

So bag/size/season: proactive or reactive? There's been some debate. I'm not sure it's, you know, worth going into great detail over. I say, "Is this proactive or reactive?" And the answer is, "Yes." Okay. So it's proactive because it's configured to achieve a new ACT. Alright? It's just—the ACT is a proactive AM. It's set at a certain level to prevent ACL from being exceeded. And bag/size/season just fits into it. It achieves that. Okay? It's reactive because it's informed by performance relative to the previous ACT. Okay? How do we do that?

Let's say the ACT in year one is 10 million pounds and the catch is 12 million. Next year, the ACT is 9 million. It's proactive in that it's configured to achieve a 9 million pound ACT. It's achieving a 9 million pound ACT. By decreasing by ten percent, by one million pounds. It's reactive because there was an overage of 20 percent in year one. So it's informed by an overage of two percent. It's making a 30 percent adjustment. Okay? Looking backward and forward. Okay? So can we live with that? I see Moira smiling. I can. It makes me very happy, and I'm very glad I came up with it.

Anyway, let's look at some of the combinations that—you'll see later why it's necessary to split that out. Okay? Now we're gonna look at some of these response alternatives. So this is an alternative. Okay? Again, happy zone up here in the top, middle zone is where you're below the biomass target, but not overfished, and then down here you are overfished. Right here, this column here, ACL has been exceeded. This column here, ABC has been exceeded. And this column here, OFL's been exceeded, so you're overfishing. So down here in this column, or this square, the bottom right is like the worst place we can be in fisheries management, which is overfished and overfishing.

So what alternative 4B describes is that, and this is all in terms of payback. Again, we're looking at these. When would you do a payback? You would only do a payback when—you would only do payback when you're overfished and/or overfishing. Okay. So there's some further discussion based on comments we've gotten from the region on the consideration of bag/size/season as a response alternative. There was a statement made in the Omnibus ACL AM Amendment that said that the current process—and this was at the time when the only thing that we had was bag/size/season adjustment—that the current process of adjusting the management measures each year would not in and of itself be fully consistent because the process requires analysis and Council deliberation. In and of itself.

The bag/size/season response alternative does not occur—is not the only response alternative, or—I'm sorry, accountability measurement. And it's—the ACL AM Amendment also instituted other features into the way that we manage recreational fisheries. For example, these fisheries now have in-season closure authority associated with them. So, you know, the atmosphere has changed in that regard. Probably most importantly though, we now have a risk policy. Risk policy is progressively conservative as stock condition declines. Okay? So that the ABC, the starting point for all your specifications becomes increasingly restrictive as stock condition goes down. We didn't do that before. We didn't have that. Okay?

And also I would argue that it was ignored in the original statement that bag/size/season are accountability measures because they are responsive to overages. And they always have been. When there's an overage perceived of 30 percent, we try to reduce access to the fishery by about 30 percent. How can we reduce the season? We'll do a curve with the distribution of catch over the season. We'll start chopping it up until 30 percent of that is gone. If we're gonna do it just by that. Or—same thing with bag limit and size limit. And then we do combinations of those things. But it's exactly, it's entirely responsive. Okay? So we need to acknowledge that and not pretend it's not true.

Also, another statement that—or regarding that previous statement in the Omnibus Amendment, original Omnibus Amendment. That statement reflected the thinking of the time. It's been suggested that that established some sort of Council policy that would prevent—that locked us in place. And I would suggest that it did not. It did not establish Council policy that—it was a response based on the thinking of the time under the

guidance of the service. And when we look around now, we were the first penguin off the iceberg. Okay? It's never fun, a little scary, but we did it. We were very conservative.

And the other Councils have responded in different ways. Been approved, proving that there are other ways to respond to the mandates of the MSRA regarding ACLs and AMs, or regarding AMs. And certainly the bag, size, and season, which is the only adjustment that's made at the New England Council, is, and was the only thing that we had at the time. You know, it's information for us to consider. Or for you to consider, I'm sorry, as you reflect on what the appropriate alternatives would be.

So we have several response alternatives. I used B as an example already, in which paybacks are restricted to overfishing and overfished, and/or overfished, or in rebuilding. 4C liberalizes that somewhat, so that if biomass is above  $B_{MSY}$  then you actually don't have to have a payback, even if OFL is exceeded. These reflect, I guess, decreasing tolerance of paybacks. And in fact, 4D here, you would actually get rid of paybacks altogether. Under no conditions would there be paybacks. Alright? 4E was introduced at the meeting in Raleigh, and reflects having paybacks when the stock is overfished or when ABC is exceeded. Okay? So...right. Right. So, in other words, the stock is overfished, this bottom row. ABC is exceeded, everything from this column to the right.

In the public comments, for the response alternatives, there was a lot of support for alternative 4C, where it restricted paybacks to only those conditions where overfishing's occurring or it's overfished, except when  $B$  over  $B_{MSY}$  is greater than one. And there was some support for no payback.

Okay, the payback alternatives. So you've chosen a response alternative, and now you—you know, that may include a payback. If it doesn't, then this section doesn't really matter. So there are several thresholds that can be exceeded, and therefore the difference between the catch and whatever that threshold is might be the basis for different payback calculations. Okay? So in order of decreasing—let's see. Yeah, decreasing restrictiveness, they proceed from 5A, which is No Action. Payback is always the difference between the catch and the ACL, which is the lowest threshold, so the largest difference, to various other permutations, all the way down to 5E, which contemplates no payback. Okay?

So these are done in a tabular form similar to the previous one. Since those cells match up like that. And this illustrates 5A,

which says that the calculation of your payback is gonna be the difference between the rec catch and the rec ACL. Under all conditions. Under 5B and 5C, ABC and OFL overages are considered and are conditional on stock status. So as an example, what an OFL and ABC overage might look like, here we have like a black sea bass where OFL is 7 million, ABC is 4.5. You have these different—the rec ACL is 2.52, commercial ACL 1.98. Then you get your observed catch, rec catch is very high. Commercial catch not above the commercial ACL. And then you get your combined catch.

And you compare those, and you get a recreational ACL overage, which is the rec catch minus the rec ACL. Commercial ACL overage, which is negative, the commercial catch came in under the ACL. And then you get an ABC overage, which is the sum of those two. Which is a subtraction exercise, in this case. The recreational contribution is 100 percent of the overage. And so the recreational payback, should there be one, is that amount. OFL was not exceeded, so you have zero OFL overage in this case. So that's a real example from 2012 about black sea bass.

So there are some problems potentially with these tables, with these paybacks. It was an interesting exercise to go through. You know, you can have any number of these. But the general pattern is, and for your discussion, is one where would you, if you were to have paybacks, would you like those paybacks to become more severe as stock conditions or to get worse? And the severity of the overage was to get worse. Okay?

So I'm not gonna go through every one of those. There's one at the end, though, that's pretty cool. And that's different from all the other ones. And it's called a scaled payback. So what would happen here is you would calculate your payback conditional on what your ratio of biomass over  $B_{MSY}$  is. And as that ratio approaches one-half  $B_{MSY}$ , your payback would become 100 percent pound for pound. At  $B_{MSY}$ , it would be zero. So it would progress from zero to a one-to-one payback, pound for pound, that way. So...yeah.

And then we have alternative 5E, which is no payback. Here's an example of some of the thinking about payback. Here we have bluefish by age class, how they're distributed in the catch. You can see that age one and two is comprising the vast majority of the catch. So if there's an overage, it would catch those two year classes primarily. And then two years later when you apply a payback, it would be—you know, of course it's not gonna benefit

those two year classes, which are now not an important part of the catch. And it's going to be a payback for two new year classes in the catch, which may or may not really need a payback.

The other thing is that we don't wanna get confused in thinking about paybacks that there's gonna be some benefit to the stock that is—some benefit to the stock that is proportional to the payback. For example, if you're gonna get payback 20 percent or something, you could work out the math. Is that gonna be, you know, a five percent payback to SSB? And then you're gonna get some proportional increase in recruitment, you're gonna write the ship as far as stock dynamics go. Unlikely. Okay? If you leave fish in the water, doesn't necessarily mean you're getting more recruits. Not in the short term, anyway.

The way to rebuild stocks is to allow them to grow over time. And that's by decreasing  $F$  in the long term. Okay? So paybacks don't get a lot, don't do a lot for you, certainly in the short term. They probably should be thought of as a punitive action. Okay. So of the, in terms of the public hearings, the public sentiment seemed to be revolved around 5D, which was the scaled payback. And 5E, which was no payback. And there were a lot of people who wanted both, which struck me as a little odd. But that's the way it is, and I'm just reporting the news. Okay.

Finally, we get back to that ACL, ACT, post hoc evaluation. The idea of going back, looking at the appropriateness of the ACL that we set. So this our new alternative set six. There's only one action alternative. For that action alternative, let's look at it this way: in year A minus one, okay, so let's say last year, we set ACL for year A based on projections. That's this year. Okay? Then it's this year, we catch recreational fish. It's 110 percent of the ACL. Alright? Next year, we do an assessment update. Includes a year A biomass estimate that is 115 percent of year A biomass. In other words, it's larger than the original projected biomass.

Conclusions. Year A—well, this is a potential conclusion. It's not necessarily going to bear out this way. But let's say you had some increase in biomass, now that you're looking back and informed by fishery independent data and catch level, or catches, instead of projections. So now that you've got that information, which is likely, you know, to at least as time goes forward, become—change less and less. Alright? There's some potential if you're looking back on biomass, or your reestimation of biomass looking back is different from the projected biomass,

which it very often is, that that could then inform how you respond to the catches relative to that biomass. Okay?

In other words, let's say the rec ACL or the year A ACL could've been 15 percent greater. Under the larger ACL, no overage would have occurred. Okay? So now that you're better informed, or differently informed, it's up to you to interpret, how would you respond had that been the ACL? So now everybody understands this amendment. Okay. Combined alternatives include these six sets. They include the ACT alternatives.

And we might ask ourselves, "Do we want to mandate precautionary reductions?" when considering the alternatives there. I am suggesting, this is, I guess, a staff recommendation 1A, which is No Action, in which the Monitoring Committee would continue to examine all sources of management uncertainty and consider situations like offsetting, overharvest, and under harvest. Maximizes flexibility in the process. It doesn't prevent anything, the other action alternatives from taking place.

Second set. In-season closure alternatives. Do you want to introduce projections which haven't been used before? What are the regional implications? If we introduce projections, we would've reduced the overage for black sea bass in 2012. If that overage was not biologically significant, however, we would've also lost that, it's foregone yield. Regional implications: year-end closures are not likely to chronically disaffect certain states if landings from those states are primarily in state waters. So those regional implications should also be thought of in terms of where the landings are occurring from an on-shore/offshore point of view.

So here we have a table. And in red, we have those states that are primarily landing black sea bass, I think. Darn it. I forgot to label this. But the red states say—and what you have here is, just for the last two waves, what proportion of the landings occur offshore versus near shore. And so you have a bunch of states for this species that are offshore. One of these. And then for this smaller group, it's—you know, you have these ones being affected. So that can vary a little bit.

Alright, so my recommendation there actually is No Action. And, you know, it's very appealing to go with 2D, which would do the in-season management measure adjustment. And if we can figure out a way to get that to happen, I think that would really address the regional implications. It would—you know, it would keep the

fishery from closing altogether. However, there are a lot of complicating factors in trying to apply that, given the state involvement in having state-specific management measures. So to try to accomplish all that within a year during the—you know, with the feedback on conservation equivalency, almost makes it a little bit out of reach right now, I think.

So that's why I recommend No Action. Trigger alternatives. How do you avoid overreacting while maintaining accountability? We have our three-year average, which is our status quo. And that seems to do a good job of dampening out, using the surrounding years to dampen out any sort of over response to a perceived overage. And we also have the confidence intervals, which, while they don't seem to be that different really from point estimates, in terms of the—you know, functionally. I mean, they are in that they explicitly acknowledge the uncertainty in the catch estimates. For now, anyway, these are tight enough to not be functionally really that different from them.

Now, it may be that if this was adopted in some future time, we could framework in an adjustment to how we consider those. Or maybe we don't need to be very specific about how we calculate them, you know, in the regulatory language. But it seems very appealing, because it's an explicit acknowledgement of the nature of the recreational catch data. And it seems to be the most appropriate, in my mind, of how to deal with it. Alternatively, we could combine the two. We could try to take both the vertical and the horizontal kind of uncertainty, the within year and across year uncertainty, and have those work together. That's just a thought.

Response alternatives. These are those tables, and what do we do under certain stock conditions. I'm a big fan of 4-B. I think that we probably want to minimize paybacks, since they don't seem to have much biological value. However, I think they do have value from a punitive sense. And I think that overfishing and overfished are explicitly avoided when one is complying with the mandates of MSRA. And so I think it would be very hard to rationalize how we could ignore this. But we'll have that discussion. So, and then payback alternatives. How much is appropriate? How much payback is appropriate? I'm a fan of the scaled  $B$  over  $B_{MSY}$  approach for that. It allows for paybacks to occur, when they occur, but it also takes direct account of stock condition.

Okay, so the ACL reevaluation alternative: suggesting that we consider 6B, which would have us reexamine ACL for a given



year. When considering a response to the performance of the fishery in that year, I would state that that is consistent with a national standard, too. And it's also faithful to the guidelines, which ask us to look at the operational issue at hand. And if we are underestimating biomass such that we're underestimating ACL, the fishery, which functions more off of biomass, is more—well, yeah. The rec CPUE, which is a function of biomass and availability, if that's the operational issue, then it seems inconsistent with the guidelines to ignore that.

So for all the sets of alternatives, my recommendations are here. You know, No Action for the first two sets. In other words, for both of the proactive alternative sets. And in terms of the trigger responses, 3C, with possibly a three-year average—you know, it's a thought. Response alternative 4B, which would restrict paybacks to overfishing or overfished. The payback alternative 5D, which is a scaled payback. And ACL reevaluation of alternatives, which is 6B.

No, Mr. Sea Bass, we didn't forget about you. Okay. This isn't all about sea bass, but let's just see how it works out. Alright. Here are some numbers that sorta show us how to start. First thing we're gonna do is look at the ABC/ACL reevaluation. Okay? Now we had ABC. This is the new ABC, based on their latest SSC recommendations. These are backwards. Darn it. Okay, see, they're good here. Let's look at it. ABC is 5.5 and ACL is 2.9. Okay? So we'll take that and we'll go back and we'll see if informed by the new ABC and ACL numbers, what—do we meet the trigger conditions? Okay?

So here we take the—using the confidence interval approach, we look at our observed catch minute one standard deviation. Comes up with a number. Okay? We compare that to ACL. We add that to our commercial catch, and we compare that to ABC. And here we see that we have an ACL overage, but we do not have an ABC overage. So how do we respond to that? According to the 4B table, that puts us in the top left corner of the table. And the only thing we have to do is monitor the fishery. The payback alternative that's been recommended is the scale payback. When you apply that to a no payback situation, obviously it works out to no payback.

Then we go to the setting of ACT for that year. We have no payback required, so ACT minus zero equals this 2. And because part of setting ACT is to incorporate a bag, size, and season adjustment, it does not have to respond to an overage. So it's

only going to increase access by 15 percent in this case. As part of our in-season management scenarios, we still have a closure possible if the landings were to exceed RHL. So that's the way that the year would look. And I'm not even gonna begin to suggest a motion for this one.

*Rick Robins:*

Jim, thank you. So I think at this point you all can appreciate why I asked Chris to put this on the agenda first thing in the morning. As Jim pointed out at the beginning of this, sea bass triggered this discussion, but this has turned into a much broader review of the fundamental questions about how we manage recreational fisheries. And I think that's an important discussion for us to have. I think the staff has developed a pretty broad range of tools that we could bring together to consider how we might more effectively manage recreational fisheries. And just reflecting on the history of our original ACL AM Omnibus Amendment, when we first did that, we were an early mover in the process.

We developed a combination of measures and accountability measures that were among the strongest, in terms of the level of accountability they imposed on the management of our fisheries. And I think this gives us an opportunity to go back and reexamine those. And really to ask, "What is the most effective way to manage those issues?" Because while what we have includes very high levels of accountability, those may or may not be the best and most effective way to manage some of these issues, as I think Jim has very effectively pointed out in the discussion. But I think this is a very important discussion to have.

There's a wide range of options that we could combine and bring together. Jim pointed out that there were some concerns about policy, and I would just point out that any policies that we made in the development of that Amendment are certainly within the providence of the Council to amend, improve, and evolve as we go forward to make sure that they're, again, facilitating the most effective management of these fisheries that we can achieve. I think it's also important to point out Jim looked at the history of the relationship between the recreational harvest limits and the actual performance of the catch. He looked at that within the context of the statistical uncertainty in those recreational estimates.

And I think it's important to point out that there are practices that go along with the development of recreational measures that we've been putting into place every year. And I think we can look at that history and, you know, with an understanding that

there were some cases where, you know, we probably could've done a better job setting those measures. And staff is working now at this moment with a contractor to develop a new model that would potentially modify the way some of those recreational measures are developed. And they would incorporate things like year class strength. Because, as was pointed out, a lot of times the performance of the fishery is really dependent on availability. And that hasn't necessarily been fully reflected in the methodologies that have been used year to year to develop the recreational measures.

So I think there are opportunities to improve some of those practices as well. But meanwhile, we have recreational catch estimates. And I think one of the biggest concerns we heard from the public over the last couple of years while we did our visioning work was the nature of those estimates. But not only that, the way we use them. So it's not just the fact that they have concerns about the quality or characteristics of those estimates, but the way that we were using and imposing those on the management of the resource. So I think the Amendment does give us an opportunity to consider the statistical characteristics of those catch estimates and take those into account while we're developing accountability measures to manage the fishery.

But with that, why don't we start out with questions for Jim on his presentation. And then I would suggest that we work our way through each section. I think that's probably the most orderly way to do this, recognizing that there may be some combinations and packages that are put together. John Bullard?

*John Bullard:*

Mr. Chair, and members of the Council, as you said, Mr. Chair, this issue, and as Jim—that's really an excellent presentation, Jim. Thank you very much. This started out as an issue around how to correct a problem on black sea bass. And this black sea bass problem erupted several months ago, and it's been, you know, a nightmare that I've been living with. When the philosopher Tony DiLernia summed it up as, "So, let me get this straight, you're gonna close the fishery 'cause there's too many fish." And I imagined in my nightmares trying to explain that we were gonna close the fishery 'cause there was too many fish.

And this was because of an accountability measure, two years old, that was gonna cause us to close the fishery. And the accountability measure really had nothing to do with the health of the fishery. And yes, we did know what we were doing. That was what was the gist of my nightmare. And so the work to do

this recreational amendment is really important. And the timing is important. And getting it done so that it solved not just black sea bass, but the Omnibus nature, is important. And we've been working with the Council to get it done quickly, which requires final action today.

And because it's on a fast track, it puts us all kind of outside of normal bounds, in terms of how do we make decisions and how does the Regional Office interact with the Council. And so knowing that, your wise Chair and Executive Director and Vice Chair separated the Regional Administrator and George from legal counsel, cleverly. And took us out to dinner to a nice Italian place, where the veal wasn't the only thing that got tenderized last night. The Regional Administrator and George also got tenderized about how we should react to the presentation today. So that we could get the necessary work done. I'm still recovering from the tenderization process of last night's dinner, Mr. Chair.

And so I think that—so I wanna communicate to the Council how well served you are by your leadership. And so thinking that as you decide on what alternatives are best for your final vote today, one question that probably goes through your mind is, “Well what's gonna pass muster with the Regional Office?” And that's not something you wanna know two weeks from now or a month from now. That's something you wanna know now. Because this—the time process doesn't afford a back and forth over the next month or two. We really need to know that now.

So first of all, I wanna say that Jim's presentation and your straw man that you put up there on the options is really good. And—but we have a couple of questions of your combination plate that, if you don't mind, I think it would be really helpful—they're more in line of how this would work. If you don't mind Moira asking a couple of questions about how that might work, I think that could be helpful, Mr. Chair. Just so we get a gist of how that might work. Is that alright, Mr. Chair? If Moira asked a couple of questions? 'Cause that would help us in terms of understanding whether this does the job. And I think that would be helpful to the Council. Because I think this—your recommending suite of options, Jim, is good.

*Rick Robins:*

Thank you, John. Of course those questions will be welcome. Moira?

*Moira Kelly:*

Hi. The first question is sort of how you'd envisioned the reactive

bag, size, and season actually functioning. 'Cause the way we manage those fisheries now, the bag, size, and season is based on last year's performance compared to this year's catch limit. So that if last year your catch limit was, say, four million pounds, and you landed 4.2 million pounds, that looks like an overage. But if next year's catch limit is 4.5 million pounds, there wouldn't be a reduction necessary. So we use last year's catch performance against this year's catch limits. So it's sort of confusing to me as how we would implement additional adjustment based on an overage. That's something I'm really unclear on.

*Rick Robins:*

Jim?

*Jim Armstrong:*

Yeah. It's just—you're doing in one step what I'm doing in two steps. You know, you're responding to an overage. You can respond to an overage by making a reduction. If the ACL was the same in both years, it would end up as a reduction. Since the ACL goes up, it's a net increase. So that's how we do it. I mean, the adjustment is informed by the overage and the target ACL—not ACL, RHL in this case. It's informed in both directions: looking back and looking forward. So looking back, it's responding, looking forward it's proactive. Okay, so—but what you end up with is an ACT. Or, you know, an RHL. That's something that's looking forward, so you're gonna—that's, I think, why you're looking in that direction.

*Moirra Kelly:*

How is that different than a payback?

*Jim Armstrong:*

Than a what?

*Moirra Kelly:*

How is that different, essentially, than a reduction in next year's catch because of an overage? Maybe not an explicit pound-for-pound payback, but I don't understand how—being the person who's gonna have to write these regulations I need to understand how the Council would like to see that function. And I don't understand how. Besides saying it would be informed by—but informed by how?

*Jim Armstrong:*

Well let's say in this scenario you had, as a trigger, an ACL overage. You do have an ACL overage. You're not responding to it. Okay? You're not even—you're not factoring it in. You have an ACL overage. Your rec catch is 3.25 million pounds. And your ACL is 2.9. You're expanding by 15 percent, which is the amount that the actual ACT goes up relative to the previous one. So you're—do you understand? Okay, your trigger conditions set up where you have an ACL overage, but not an

ABC overage. Then you go to the chart. Okay. So your trigger conditions put you here. Okay? You have an ACL overage. But you're not adjusting downward in that two-step process for that. You're only adjusting upward from where you were. Okay?

*Moira Kelly:* How would it work if we were in the next column?

*Jim Armstrong:* In the next column where it's in season and bag, size, and season? In the next column, you would have to adjust downward. And—

*Moira Kelly:* And next year's ACL was higher—

*Jim Armstrong:* You would adjust downward and then upward. And your net would be your total adjustment.

*Rick Robins:* So Moira, I wanna understand your question, too. You're asking about it in the context of the post hoc adjustment?

*Moira Kelly:* No. Just..there's an overage, okay? The alternative would indicate that we would adjust the bag, size, and season to—I don't know. Mitigate that overage? I'm not sure what the point of that would be. But I don't understand how that—because we adjust our—we don't look at what last year's catch limits were when we're setting next year's bag, size, and season. We only look at what last year's catch was compared to this year's catch limit. So I don't understand how we would take last year's overage, adjust the measures, even if this year's catch limit wouldn't require that adjustment.

Do you understand? Like we don't use last year's catch limits to inform what next year's—we don't use last year's catch limit to inform what next year's bag, size, and season are. We use last year's catch performance versus this year's catch limit to determine what bag, size, and season would be. So I don't understand how they're related at all.

*Jim Armstrong:* Yeah. We do do that.

*Rick Robins:* Okay. Chris Moore had a comment.

*Chris Moore:* Yeah. So I think the way you need to look at it, Moira, is that it's really a performance review. So in a given year, say year zero, you're thinking about what the bag, size, and season's gonna be for the next year. So you have an idea of what the catch was in year zero, you know what your harvest limit's gonna be in year one. So you set a bag/size/season limit for year one. You get into

year one, you see what the catch is in year one. In year two, you evaluate that. There's a performance review. And you say that bag, size, and season resulted in a catch that exceeded our harvest limit. As such, therefore we need to adjust that bag/size/season limit to adjust it to the level of our harvest limit for year three.

So it's basically a performance review that occurs over multi years. And that's why Jim's making this point about being proactive and reactive. Because there is this explicitly change from year to year based on performance. So ideally, you would pick under a condition where your recreational harvest limit stays the same for many years. You could set a bag/size/season limit that would be non-adjusted over that period of time. In fact, catches would be exactly where you thought they were gonna be.

*Rick Robins:* Jim, do you wanna elaborate?

*Jim Armstrong:* Yeah. You're trying to achieve the target. You are responding to the previous year because if there was an overage, then your observation is that we tried to hit that previous target, and we missed by 20 percent. So you factor that in as you try to achieve the forward. Okay? You factor that in. You said—what you're said, and this assumes equilibrium conditions, and it's the way we've been doing it. You say, looking backward, when we try to hit an RHL with a bag/size/season limit, the one that we have in hand that we're thinking of deviating from, we miss. We—catch exceeds it by X percent. So we need to factor that inefficiency in as we try to achieve the one for the upcoming year. That's—I mean that's the way it's done.

*Rick Robins:* Moira, do you have a follow-up?

*Moira Kelly:* Trying to figure out how that's different than what we do now.

*Rick Robins:* Okay. You know, I think as we get into—I think as we go through some of these sections, I mean, I'll—I think it'd be fine to have more questions now. But as we go through some of these sections and consider specific options, some of those things may be more clear as we have discussion and questions on those as well. But if you have more specific questions you wanna ask now, that's fine as well. Jim?

*Jim Armstrong:* I—let me, let me—I was dismissive on that—it is different. Because if we have, in that example, that ACL overage only, we're up in the nice, the happy zone, top right—top left, I mean. We wouldn't have to adjust in that inefficiency scenario. We

would start with what we had. We wouldn't adjust for exceeding ACL. Right? Okay, so we've got our bag/size/season limit. We're not adjusting. We're not responding to that with a bag/size/season adjustment. We're looking forward to the new one, which might be greater. And we're simply expanding to allow that greater. That's what's different about it. Okay? Because the way we've done it status quo, we always take that, "How much did we miss by?" factor that in when we go forward.

That's why, to me, bag/size/season limits are a classic, you know, reactive AM, in terms of the—I mean, it's really too bad we didn't make a bigger point of that several years ago. But let's just—that's the difference. You would not be—when it just says "monitoring," you don't have to make that adjustment. You start with what you've got, and you only increase, say, or decrease, whatever it is. But you're not factoring in that behavior from the previous year.

*Rick Robins:*

Rob O'Reilly?

*Rob O'Reilly:*

Yeah. I have a couple questions, but I would also recommend as we go through this process, and I think the way the Chairman has it designed will really help all of us. That when we talk about an overage that we're specific—an overage to what? Or of what? Because otherwise we're gonna get tangled up. But I did wanna just comment on a couple of items before you get into the sections. And I had questions about 2A and 2D. And I think Jim, and thank you for the presentation, and I enjoyed it at the public hearing as well. As did Jeff Deem.

But the projections really are in both on the landings. And my concern is that it's been about five or six years since National Marine Fisheries Service, when MRFSS was the operational unit, indicated that they could think about moving towards a month of information. So right now, Jim outlined the problem with black sea bass. By the time wave three was finished, you're still waiting an extra six weeks before you have information. And I would again ask that there be consideration given and that it not be so taboo that perhaps some of the information to the Regional Administrator wouldn't have to include a complete wave, it could be part of the situation for both 2A and 2D.

And I might agree that perhaps the operation of 2D may take a little bit, as Jim mentioned. But I think that's where we should end up. I think some of the public comments favor that as well because that would allow us to have this bag/season/size



adjustment pre-designed, pre-built, pre-recommended by the Monitoring Committee, for example, as to maybe an idea of what that would take. So that might help there.

On 3C, I just had a question, Jim. You varied from talking about a standard error to 95 percent confidence limit. And when you look at it on the screen, I don't think you get the flavor that if you roam through the species complex, some of these confidence intervals really are pretty wide and can vary in a short time period over a year or two. And so, I do have concerns with the confidence interval approach, that it's defined what that might be, because we have a new survey, the design has been changed, assignments are being done rather than intercepts, the approach is different. We'll know how that looks when we come out of this year.

But in the meantime, this is all based on sampling and number of samples. And if we find that sampling rate is lower than even what we were used to, then we automatically have something that we change, in terms of the confidence limits. And I could see a situation where, again, several years ago with black sea bass there were waves that had very high confidence intervals. And overall, you know, the precision, the PSE, was fairly high at certain times compared to, say, summer flounder. So that's something that you might coast along thinking that you've got the 95 percent confidence interval and things are doing really well, until you realize well, they weren't doing really too well because of the choice of the confidence interval.

So I did wanna make that point. I agree with the point about the year class strengths. And I haven't been involved in the SSC for a few years, but I had supposed that those types of factors are taken in to the scientific uncertainty. I don't know to what extent. You mentioned bluefish and summer flounder. Same modeling approach, different waiting scheme. Summer flounder, I think, still waits on the independent indices, whereas bluefish is more on the catch. But again, I think that's something that the SSC already deliberates on, I would imagine. Although I haven't been there the last few years.

So thanks for the opportunity. I think your recommendations are a good starting point as we go through this. And I think that you've spent a lot of time and a lot of effort on this approach, as has other staff.

*Rick Robins:*

And Jim, did you have any specific thoughts yet about whether or

not we could specify up front what the—or how the confidence intervals might be defined? Or is that something that would be worked out in the implementation process? In other words, how specific does that have to be? Because there are different outcomes if you have one or two standard deviations or the 95<sup>th</sup> percent confidence interval, as Rob pointed out.

*Jim Armstrong:*

Yeah. Or if you multiply the standard error by 1.15, it's the 75 percent confidence interval. So it's always a—with that sort of stuff, it's always a function of how comfortable you are. I think that it should be left flexible, so that not, you know, left flexible so that we can explore and improve on what the appropriate confidence interval is. Because if it doesn't make any difference as it does when it appears to, this is an example, an illustration, it doesn't take into account discards and that sort of thing, and total catch.

So, you know, a thorough explanation of that might yield what the appropriate confidence interval would be. And so it might be helpful to the process to specify sometimes, rather than lock us into a number and then have to do another amendment or framework to change that number by a little bit. You know, to sort of a say, "An appropriate confidence interval such as..." and then list some that appear to be viable candidates, but wouldn't be just sort of, you know, whatever like it'll give you—you know, just too easy or whatever. You know? You know what I'm saying? Alright. Maybe not.

*Rick Robins:*

George, can you comment on that as well, please?

*George Darcy:*

Yeah. I don't think you can just leave it open ended in this document. If you don't want to specify it in the document, then I think there at least needs to be a process or criteria, or both, specified. So we know who's gonna set it, based on what, when. You can't just make it up each year depending on, you know, how people feel that year. In order to know whether this is risk prone or risk averse or, you know, what it actually means, we need to know something more specific than just, "There will be some confidence interval."

*Rick Robins:*

Jim Weinberg?

*Jim Weinberg:*

Yeah. Mr. Chairman, I have a question about alternative six, but I didn't know if you wanted us to wait to ask them in order, or how you're proceeding.

- Rick Robins:* I think at this point, why don't we ask questions, and then we'll get into each section. But if you wanna go ahead, that's fine.
- Jim Weinberg:* Yeah. I think this is a general enough question that it's worth raising now. Regarding the post hoc evaluation, every—for more of our stock assessments that use an analytical model, any time we do an assessment update, we're going to have revisions of the biomass estimates through the time series. So my questions is—if you apply the post hoc, the payback—yeah, if you apply this post hoc reevaluation, this can work in both directions. In some cases, you might find out that you actually are in pretty good shape and don't have to pay something back.
- But if the assessment update tells you that in fact you do, then will that be a requirement? It may be like a way, if every assessment is done, if this becomes a requirement, that you reevaluate retrospectively whether in fact there had been an overage, and then are there consequences to that? So that's my question. For every assessment update that's done that does reevaluate biomass, will this become a requirement, then, that you check and see whether in fact you needed to make an adjustment? And then the follow-up to that is if it is a requirement, I see this leading to additional work for the Science Center. Because for every assessment update that's done, the Council will have this amendment, and this additional check will need to be made. So there will be some additional analyses that are required.
- Rick Robins:* Jim, can you address that?
- Jim Armstrong:* Yeah. When an assessment update is done, then part of that is an estimate of  $F$  for the past year, I guess. You know, assuming you're in year this, then your last would be an estimate of  $F$ . And so that would, in and of itself, I think serve some purpose. Both relative to  $F_{MSY}$ , and also some sort of  $F$  trajectory that you either want to be on or want to avoid. So looking back, as to whether we're in trouble or not, I think that might serve that purpose to some degree.
- What makes this different is that you don't go back—you go back, you characterize biomass, you characterize  $F$ , abundance, whatever you can, but you don't go back and characterize these management benchmarks like ACL and ABC and stuff. And so it may be that there's more detail to this than has been presented so far, that surrounding information in the assessment update might help inform how you respond to that.

*Rick Robins:* Well, and I think the other example for that is in the scallop FMP. It's not identical, but it's analogous. And in that case, there's an examination if the ACL's exceeded. Then they go back and reexamine whether or not an F threshold was exceeded. So I think that's part of a post mortem analysis in the scallop FMP. It's contemplated that that would be done by the PDT. And so, you know, I'm not sure that it would be the exact same process, but that's probably the most analogous example of that type of post hoc evaluation. Jim?

*Jim Weinberg:* Yeah. I think what I had in mind is that when you get a reestimate of the biomass from the previous year, a calculation that can follow from that is calculating OFL. And then if you have a new OFL value and you now know that it actually was higher or lower than you thought it was, does that tell you in fact then whether you will have an overage or not? So are you asking that OFL be recalculated for every update back in time? And then are you planning to make adjustments based on that?

*Rick Robins:* Chris?

*Chris Moore:* Yeah. And I think that is, that's the point. And we need to discuss that a little bit, Jim. In terms of Jim's question. We go through this post hoc evaluation, and what happens? What happens? You do a post hoc evaluation, what happens to a either proactive or reactive AM as a result of that evaluation? And how does that work? And I think that's really the rub. And I think in terms of what we would request from the Center would depend on that answer. So, you know, it would probably be good to share with the Council your thoughts about that whole post hoc evaluation and what, at least in your mind, it meant in terms of proactive and reactive AMs.

*Rick Robins:* And Jim, if you have a slide of that for the post hoc option, if you wanna put that up there, that might be helpful for us to—I think you had that as part of your presentation.

*Jim Armstrong:* Well, I wasn't—you know, going to—yeah. It could be done a number of ways, I suppose. If biomass, from the projection year, versus looking back one year, is quite different. It could have, and the management implications from performance relative to when it was a projection versus when it was something that was—the result of an assessment update, when the implications are quite different, then I think it's important to consider that. Of course, my first answer to Jim was, 'cause when you think about that, you're kind of going to do that anyway because you've just a

year where you're saying, "This is what happened with catch." And our idea of what biomass or abundance was.

And so now as we go forward, we're going to make management measure recommendations. I guess that in thinking about this, I originally thought maybe we would take the new biomass update, and then apply as if we were doing the ABC calculation and all that, maybe a piece to our method, and just make everything else the same, but just inform by say a new information of like  $B$  over  $B_{MSY}$  to plug that into the equation. You know, what would be the implications then, what would be the management implications? And are they adequately accounted for in the assessment update?

Or are there management implications that are sort of like—they're there because when we thought ABC was this or biomass was this, then we set a low ABC/ACL, we aimed low. Biomass ended up being high and we're going to pay for an overage that may not really be necessary to pay for based on the update. And yes, when I originally put it in there, and I hope the language is still in there, it's a two-sided coin. I think that for the other side, though, it would probably be absorbed more by the stock assessment update in terms of some downward ABC trend or something like that. But in terms of the implications for overage responses, and the triggers for responses, I don't know that those are necessarily accounted for in an assessment update. Unless you explicitly go back and try to reestimate ABC for that year.

*Rick Robins:*

John Boreman, you had a question or comment?

*John Boreman:*

Just a comment. Rob O'Reilly raised an interesting point, and I was thinking along the same lines. I didn't think I would take it as far as Rob did. But my comment—as we go through each of these alternatives, and keep in mind that whatever is going to be done is going to be constrained by the data. MRIP, as flawless as it is now, as it will be in the future, does have limitations. We probably can do a one-month wave to get data in between a wave or while a wave is going on. I'm not sure that can be done because of the design, the methodology, something to be looked into.

But some of these, again, may be—some of these alternatives may be leading us down the road where we wind up with MRFSS, and that is a survey that does not support management, in terms of giving management the information it needs. So keep that in mind. Also, some of these stocks are level four stocks. Jim talked

about risk management. Well, risk management theory applies to, I mean, the policy and the Council applies to level three, two, and one, but not to level four.

At that, for level four stocks, we don't have an OFL estimate, or we don't have one we're confident in. We don't have biological reference points. We're happy with it, for the most part, so we're just doing like status quo and so on. So some of these alternatives probably couldn't be applied to those species. And for some of those species, there's no indication that in the next 5 years to 10 years we'll have any improvement in their levels to move them up to a level three. Because the data we need for them are just not being collected.

So what I'm saying is just cautioning the Council to keep in mind the constraints of data availability and how that would affect selections of alternatives for accountability measures. Thank you.

*Rick Robins:* Thank you, Dr. Boreman. Jim?

*Jim Armstrong:* In the example at the end of the presentation that I gave, I used black sea bass as an example. And I simply took the stable condition, or categorization of the assessment. But the reevaluation, given those conditions of ABC as an indication that it would have been also appropriate in the previous year. So I don't know if that was correct, but it was an example of one interpretation for a category four.

*Rick Robins:* Gene Martin.

*Gene Martin:* Thank you, Mr. Chair. I am cautiously intervening here because I am not as familiar with this Council's management measures and this particular proposal. But I think one thing that I would like to ask, or at least reflect on, is the policy statement that was put up there, I think that was made in connection with the Omnibus Amendment in that, in and of itself, the measures may not be sufficient because they require Council intervention that involves discretion. And I think that's something you have to be very careful about here is I'm not sure how much of these accountability measures are formulaic.

It looks like the payback provision may be somewhat formulaic. I think, and this follows up on George's comment, the more that you get away from formulaic determinations or calculus as to how

you get to the accountability measures, the more problematic the accountability measure is. So I think you need to reflect on that in your discussion today to see how much sort of nondiscretion you can put into this. I mean, there's—one extreme way to do it, of course, is to have automatic default measures that go into place as an accountability measure with the opportunity of the Council to step in and undo that based on current information and current considerations.

But if the Council doesn't have time or doesn't reach a change to an automatic accountability measure, then that measure would go into place. So I think, as I understand it, for all of these measures, perhaps except the in-season closure option for the RA, if you have year one problem, it doesn't go into place at the earliest until year three. That you have to have the intervening year to look at the data and to determine what accountability measures are necessary.

So you're always gonna be kind of a year behind in terms of what happened in year one, in terms of reacting to the problem that existed in that year. So I caution you to keep that in mind as you talk about these alternatives and to bring things closer to formulaic or default kinds of measures rather than totally discretionary or somewhat discretionary intervening measures that are necessary by the Council in the year two consideration.

*Rick Robins:*

Gene, I appreciate those comments. And the fact that adjustment to bag, size, and season, just as one example, may not have been considered to be fully automatic, was one of the point of discussion in our original Omnibus Amendment. And at the time, the discussion was that in order to be fully compliant with the NS1 Guidelines, they needed to be automatic. And yet, I think now we're looking broadly at what's been approved around the country.

And in fact, we see a number of accountability measures that have been approved. Including, in this region, for example with the groundfish fishery, where there are recreational AMs that are not fully automatic. There's consultation with the Council, for example. So I think there's a broader range of things that have been approved in the interim. But Jim, in year two—I mean, our practice now is that we do make adjustments to bag, size, and season in year two. It doesn't take until year three to do that. Is that correct? Chris?

*Chris Moore:*

So I think we're getting back to Moira's initial question, or one of

her initial questions about this performance review. So basically if you think about the process that we have now, how does the bag, size, season limit stuff work? Alright? And Gene's mentioning the fact that you're really looking at a three year, almost a three-year period in the sense that by the time you get the information on how bag/size/season performed and react to it, you're really talking about setting measures for the following year. Right? I mean, I think that's how your document, Jim, describes the current practice. And we talk about both the proactive part of that and the reactive part of that.

So I mean, I don't think we deviated from that in the document. We acknowledge it. And as Gene has indicated, then really what you're looking at, in terms of what you might wanna do in year two as a result of something that happened in year one, it could be you're talking about a significant overage, the stocks in poor shape. Therefore you're talking about an actual payback. Or, you know, you're talking about maintaining that in-season closure authority for the RA so that they can close if in fact things get out of control in year two.

*Rick Robins:*

Jim?

*Jim Armstrong:*

Well, in my opinion, even if you are in calculating bag/size/season, you're achieving a certain catch level, or attempting to. So it's like a distributive property of whatever it is, multiplication, division. But you can arrange things in any number of ways if you're obligated to solve for a certain number. It doesn't mean that you're trying to—I mean, you're trying to optimize in achieving a certain catch level, which is your obligation. You're constrained to that. But you do have opportunity to figure out how that best suits. And that's what's going on with the groundfish stocks in New England as well. I think all of the things that I proposed anyway are fairly formulaic.

I guess when considering the ABC reevaluation thing, which is hypothetically very appealing, as improved information should be, perhaps there's more overlap with the assessment update that—you know, and that it's a little softer than originally envisioned. But other than that, I think everything's pretty much straightforward. The tables describe exactly what you would do in a given situation. Your No Action alternatives for both the proactive AMs are already in the regulatory language. Your trigger is formulaic. You know?



And your—yeah, so your response alternatives, the tables are. And certainly payback calculations are formulaic. So I think when you add them all together, they may for kind of a soupy mess or something. Or appear to. Because there are so many components there. But its' all pretty tight. So, you know, we just have to make sure it's clear that it is.

*Rick Robins:* Thanks, Jim. Other questions of Jim at this point, before we get into the sections? Kevin?

*Kevin Saunders:* Thank you, Mr. Chairman. Jim, for the in-season adjustments, how much time would the voting public have notification if the in-season adjustment was to go into effect?

*Jim Armstrong:* It's already—is it a two-week notice or something like that? It's just a Regional Administrator letter, right?

*Rick Robins:* What's the notification period when an in-season management measure is changed? Or when there's a closure of the season?

*George Darcy:* When we do an in-season action, we publish a final—essentially a final rule. But it looks like a notice to the public. And we send out a letter to the affected public. It's within a week or two of when we know what the final projection or number is that we have to react to.

*Rick Robins:* Kevin, do you have a follow-up?

*Kevin Saunders:* Yes, Mr. Chairman. For commercial fishing and for some sectors of the recreational fishing industry, I think that that's probably enough. But for a large percentage of the voting public that fishes recreationally, I don't think that two weeks is enough to get the message out about bag reduction or a size limit reduction, in order to facilitate compliance with the regulation that we have in effect. So from an enforcement perspective, you know, it's almost like a moving speed zone sign. So you'll get people when you set up a speed trap, but General Counsel might have some issue with actually putting in the tough penalties that would get compliance later on. So...thank you.

*Rick Robins:* George?

*George Darcy:* Not a question, I just wanted to make this point. As I think you probably all know, but we need to keep in mind, this needs to be in place by the beginning of the 2014 fishing year. And we're already at a point where we're pushing that limit for us to get this

reviewed, approved, and implemented. So anything that's really complicated that doesn't need to be in here, I recommend you not put in here. So that we can accomplish what we need to. Anything that's not fully baked, that would need a lot more time, if it's not essential, I recommend you leave it out of here. Because we have a hard deadline that we all need to make to remedy a situation none of us want to see happen.

*Rick Robins:* Thank you, George. Chris Zeman?

*Chris Zeman:* Just asking, if George has any specific examples of alternatives that you believe we should remove, or you recommend we remove to speed up the process, I would like to hear that.

*Rick Robins:* Well, Chris, why don't we do that as we go through specific sections? If the Regional Office has a concern relative to the implementation, then let's discuss that then. Chris?

*Chris Zeman:* I also have another question for Jim.

*Rick Robins:* Go ahead.

*Chris Zeman:* Jim, you mentioned that for New England, the accountability measure was a in-season closure, but there's consultation with the Council. Can you explain that?

*Jim Armstrong:* No. It's, say last year there was some sort of an overage. This year, and the fishing years are different up there. They're May 1 through April 30. So this year, some sort of an adjustment for that, that takes into account other things, but it consists of an implementation of bag/size/season adjustment would be developed by the Regional Office, and then presented to the New England Council. And if the New England Council—what I'm told about the teeth in it, is that if the New England Council doesn't like it—and I can't imagine that there's only one offer on the plate, but the Regional Office isn't obligated to comply with any objections. It's ultimately the Regional Office that has the authority to just go ahead and apply an adjustment. So there isn't a one-year lag. It's from one year to the next. And...you know.

*Rick Robins:* Chris?

*Chris Zeman:* And a follow-up question. Wouldn't that be similar with our specs, annual specs? Because if we don't submit specs, then NOAA automatically as the authority to implement specs on our behalf.

*Rick Robins:* Do you mean rec measures? Chris said they rolled over. So Jim, is that—they roll over if they're not modified?

*Jim Armstrong:* That's my understanding. Yeah.

*Chris Zeman:* That might be by default. But I think that the regs are actually have the option for RA measures to go in place. Which I think that's the case. We have very strict deadlines, in terms of submitting proposals.

*Rick Robins:* Are there any other questions at this point? Jim, I had one about 2D. 2D is the one that would allow an in-season adjustment. And, so as I understand that, you'd have to specify that up front. So for example, when we have our December meeting and we're establishing rec measures, you'd have one set of measures that would be essentially plan A. And then you'd have a plan B, which is, if the conditions are met and the RHL is projected to be exceeded, you would trigger that. You'd go to plan B and plan B would be a reduction in the bag limit, just for example.

And I think, on the one hand, that's very appealing, and on the other, it's not clear to me how that would integrate relative to the regional management of some of these fisheries. So for example, black sea bass. You've got very significant geographic differences in how that fishery operates. So, and it seems to be unless the states had a similar measure where, if that were triggered, they would go to a plan B in state waters. You really wouldn't achieve a uniform reduction in fishing effort. So I guess it's not clear to me how that would integrate relative to the state side of things. Unless the commission has some other set of measures in there. Jim, or Bob, I don't know if either one of you can elaborate on that.

*Bob Beal:* I mean, the Commission hasn't wrestled with this yet. We don't—the Commission did not—made a conscious decision not to adopt the accountability measures as they're currently written. How this would translate in the state waters, I'm not sure. You know, they'd have to figure it out. I think some of the notions such as percent standard errors and putting error bars around the target, or around the catch estimate, sorry. You know, those I'm kinda sorta getting a headache here trying to think through how that would impact the state shares that we currently have in place.

So if the Commission adopted some sort of two standard deviations away from the catch estimate and applied that to just

the state level, but the more uncertain the state level data is, the larger that zone is between the two standard deviations. So that would mean individual states would have to take action less often than the Federal government. So I think there's a lot of details there to be sorted out at the state level. And I'm not sure even if the Commission's gonna be at a state-by-state system next year with all the discussions that are going on. So it's a bit of a moving target, as far as ASMC goes, and what the conservation equivalency management's going to look like for 2014 and beyond. Did that answer your question, Rick?

*Rick Robins:*

Well, Bob, I appreciate that. I think it's an option that sounds appealing. It's just not clear to me how effective it would be relative to the overall management of the fishery if it's not incorporated on the state side of the ledger also. So it doesn't sound like that's in the works. And that's one of the challenges we have generally with these fisheries, is that the overall accountability isn't integrated into both sides of it. But...Bob?

*Bob Beal:*

Just while I was speaking, the other thing I meant to mention is that a number of our states have indicated that in-season changes and notifying their fishermen is difficult. Getting the word out and having them understand that is difficult. Especially when you're reducing the opportunity to fish. Apparently when you're increasing the opportunity to fish, the public's pretty quick at learning those rules. But when there's additional restrictions and it has to go through the courts, and potentially cases be made on it, the notification is important and little bit more difficult.

*Rick Robins:*

Yeah. Thanks for those comments. Further questions at this point? John Bullard?

*John Bullard:*

Mr. Chair, trying to move this along and in partial answer to I think Chris' question, if you were to take Jim's suite of alternatives as a potential motion, and I don't even know whether that's your intention on how to get to a finish line here. And Chris' question is what would be acceptable to the Regional Office? And ask trying to ask George and Moira what works with us, and having been tenderized, I think if that's the staff recommendation, what Jim put up there, and you took out 6B, which causes consternation with the Science Center. And we don't think it's necessary. So then we think that's acceptable.

Now, I don't know if someone wanted to make that as a motion, but that could be starting point. And then the Council can say, "Well, let's modify it, or go from there and amend it or whatnot,"

but we think that works for us. Or I think that works for us. We have some concerns, but that's a workable motion. We don't think 6B works, but the first five work for us. Now, the Council may—it may not work for the Council, and people may want to amend it, but I'm just saying that what Jim put up there, absent 6B, works for us. And the Council could make that as a motion, and then play around with it. Make amendments or so on, and we'll react to those as the Council wants to improve it. But I'm just starting with what Jim laid out.

*Rick Robins:* John, thank you very much. That's salient advice. And I think at this point, I'll just take a quick ten-minute break. Let's come back and either go through the sections or consider motions relative to the staff recommendation. I think we can reflect on your advice as we look at each of these sections, or look broadly at a suite of options. Thank you.

Let's go ahead and take our seats, please, so we can get started. Thank you. So you've heard from the staff with their recommendations. And I'm gonna suggest that we go through each section and highlight the staff recommendation within that section and take a motion on each section. So that at the end of the process, we have put together a complete package of management measures. And with that, Jim, do you have the first set of management measures up there? And can you please highlight the staff recommendation for our benefit? And then I'll open it up for discussion and take a motion. Jim?

*Jim Armstrong:* It's up there. And for each of these, the gold letters or font will indicate the staff recommendation.

*Rick Robins:* And again, alternative 1D has essentially been moved to section 6. Is that correct? Okay. So with respect to the ACT alternatives, we have the range of options that's up on the board. And I'll open it up to the Council for discussion and action. What's the pleasure of the Council with respect to the ACT alternatives? Peter Himchak?

*Peter Himchak:* I would move that the Council recommend to the NMFS, as a preferred alternative under ACT alternatives, alternative 1A, No Action.

*Tony DiLernia:* Second.

*Rick Robins:* Second to the motion? By Tony DiLernia. Thank you.

Discussion on the motion? Is there any discussion on the motion? Is there any public comment on the motion? Adam? Good morning, Adam.

*Adam Nowalsky:* Good morning. Thank you very much, Mr. Chairman. Adam Nowalsky. I operate a charter boat here in New Jersey, member of the ASMFC. Here today speaking on behalf of the Recreational Fishing Alliance. We're very appreciative of the efforts that this Council and staff have taken, that we're here today to address the problems associated with the application of the accountability measures in recreational fisheries under the Council's jurisdiction. The effort that's been undertaken starting with the December Council meeting, and leading up to the staff work here today, I think is a real tribute to this Council, the staff, the North East Office in supporting this effort, as well, with regards to seeing through a lot of components of the vision and Strategic Plan you talked about yesterday.

And as a fisherman, I can sit here and honestly tell you that I've very appreciative of the efforts that are being undertaken today. I'll make comments specific to each one of these. And with regards to option 1A, RFA does support that here today. Thank you very much.

*Rick Robins:* Thank you, Adam. Is there any further public comment on this motion? Seeing none. Is any further discussion at the Council? Is the Council ready for the question? All those in favor, please indicate by raising your hand. 17, opposed like sign, abstentions like sign. One abstention. Motion carries. Thank you.

Jim, can you please highlight the second set of alternatives? Second set of alternatives deal with in-season management measures. With respect to these options, what's the pleasure of the Council? Peter Himchak?

*Peter Himchak:* Oh, I'm sorry. I think the Council has effective proactive AMs in the Omnibus Amendment, and I don't like the issue of projections in 2B. So I would move, on behalf of the Council, recommending to the National Marine Fisheries Service a preferred alternative 2A, No Action/Status Quo, under the in-season closure alternatives.

*Rick Robins:* Is there a second to that motion? Second by Preston Pate. So this would keep in place in-season closures, as I understand it. Rob O'Reilly?

*Rob O'Reilly:* I think in the best of times, 2D would be a very, very good preferred alternative, but we heard enough information that indicates the timing's not right. I think that'll take a lot of effort by different committees to develop in-season bag/size limits that would affect the states along the coast in an equitable manner. At the same time, I think the in-season closures have not been equitable in the last—two years out of the last four, I believe. And I know that, speaking just for Virginia, there's a real problem once that closure takes place in Federal waters. And I would like to either offer a substitute motion—

*Rick Robins:* That'd be fine, Rob.

*Rob O'Reilly:* Substitute motion would be to eliminate in-season closure authority as a preferred alternative with the recommendation from the Council to NMFS.

*Tony DiLernia:* Second.

*Rick Robins:* Second by Tony DiLernia. And that would be option—can you clarify? In your motion, is that option 2C?

*Rob O'Reilly:* Yes, it is. That would be option 2C.

*Rick Robins:* Discussion on the motion? Christopher Zeman?

*Chris Zeman:* You know, generally I would support 2C. And I think that the reason why, it's not obvious, but the reason why is because it doesn't insure accountability, in that you may not be getting at the problem. And that's exactly what happened last year, where the real major overage occurred in state waters, in Massachusetts state waters. And so what 2C does is it—there's no way for the in-season authority to actually address that potential wave three overage. Because we will never know in time to stop that. And so it's a unique situation, because they generally support that concept of closure authority if we're seeing an overage.

But what happens is that you're effectively, you're shutting down most of the Mid-Atlantic States, and mainly New Jersey, that relies on the EEZ for most of their black sea bass catch. And that process can go on year after year after year, and there's no assurance that the actual real problem, you know, state waters, a New England state waters overage, is actually getting addressed. So that's really the understanding—that's the key point. That the

details here matter. And that's the only reason why I would support 2C at this time. It's a unique situation.

*Rick Robins:* Thank you, Chris. Steve Linhard, did you have your hand up earlier? I'm sorry. Further discussion on this motion? On the substitute motion? John McMurray?

*John McMurray:* Thank you, Mr. Chairman. What are the real repercussions of doing this? I mean, it appears that we're gonna have closures in the following year if some of the other alternatives are approved. George, maybe you could talk a little bit about that?

*Rock Robins:* George Darcy?

*George Darcy:* Yeah. You know, the downside is that we wouldn't close, either based on projection or actual overage. So the fishery would continue. And we'd end up with whatever the catch was that we would then have to react to. So there's a greater chance that there could be an overage that would have to be addressed through some follow-up action through the accountability measures. That's the downside. The positive is that we wouldn't be basing it on projections, that there wouldn't be differential impacts on the states.

So I think we could support either of those alternatives. This one's easier for us. But there is the downside risk of there could be an overage that's larger than otherwise have been, and the implications for the next year or the year after that are greater.

*Rick Robins:* You know, I think if the in-season management were fully integrated into the regional management of our fisheries, on the state sides, we wouldn't have these potential disconnects and equity issues that we have given the current system. So that's just part of what we're dealing with. Rob?

*Rob O'Reilly:* I just wanted to add some information. So the state waters situation is one where the Atlantic States Marine Fisheries Commission has had two addendums. The last addendum, I think, is, and Bob can correct me, 22 to go through and try to get this right. Now, the situation for the state waters that there was a reduction which was put in place for 2010. And probably something for everyone to consider is that a liberalization scenario didn't work out very well. It ended up with another reduction situation based on what just occurred most recently.



So I think part of the confidence in recommending this motion is that the ASMFC has had trial by fire now a couple of times, and since it is state waters, I think everyone has to rely on that process to having become a little more seasoned. And that's the same thing that's going on with summer flounder, same type of approach. There are less states affected with summer flounder. It's truly, generally, in Federal waters—Delaware, Maryland, and New Jersey, in the Federal waters. A little bit different for black sea bass. So I just wanted to add on to that situation, Mr. Chairman.

*Rick Robins:* Thank you, Rob. Is there any public comment on the motion?  
Adam Nowalsky?

*Adam Nowalsky:* Thank you very much. Adam Nowalsky. Would you like me to repeat my name each time I come up, Mr. Chairman? Or will that not be necessary for the record?

*Rick Robins:* As long as I've called you by name, it won't be necessary. If I haven't please state it.

*Adam Nowalsky:* Thank you very much. It has been the position of the RFA since the reauthorization of the MSA in 2007 that in-season closures cannot be responsibly applied to the recreational sector due to the limitations and deficiencies of the existing recreational data collection programs. And I'm appreciative to Dr. Boreman, in particular, speaking to these points. Simply put, the current programs, MRIP or MRFSS, does not possess the accuracy, reliability, or timeliness at the high levels needed to implement these measures. This point was also articulated by the National Research Council in their findings in the review of the recreational program in 2006, and by NOAA Fisheries' own staff when cautioning managers on MRIP's limitations and acceptable uses.

Specifically, we do support alternative 2C. We're in favor of the substitute motion, appreciative for the efforts to go ahead and make this substitute, and ultimately approve it. The application of in-season closure authority has not played out well, and has proven detrimental to the recreational community. Not only in the mid-Atlantic, but across the country. Recognizing that other Councils have been able to implement these size, season, and bag limit measures without in-season closure authority, we support this motion today. Thank you very much.

- Rick Robins:* Thank you. Is there any additional public comment on the motion? Seeing none. Back to the Council. John McMurray?
- John McMurray:* Thanks, Mr. Chairman. I'm sorry I'm jamming this up, but I'm still having a hard time understanding how this is gonna work. Because the way it looks to me is that we're gonna have a closure to gain two months from the prior season, when most of the recreational fishing community isn't fishing for them anyway. I mean, maybe that's completely wrong. I'd like to hear some clarification. And again, I'm not entirely familiar with what's going on at ASMFC right now. So maybe Bob could explain that to me a little better.
- Rick Robins:* Bob, do you mind commenting on how the in-season closures have played out at the state level or on the Commission side?
- Bob Beal:* They haven't really implemented in-season closures. I think one year awhile back, there was some consideration for an adjustment late in the season, but they didn't—the states felt they couldn't notify their fishermen, and did not implement a closure. So there's really not much more to say than that the states don't think they can get the word out to their fishermen.
- Rick Robins:* Chris Zeman?
- Chris Zeman:* I know for New Jersey, when you do have that in-season closure, then you're actually targeting all the effort into state waters onto roughly two artificial reefs, and for black sea bass. Which cannot be healthy for the resource. At least in state waters.
- Rick Robins:* Tony DiLernia?
- Tony DiLernia:* The for-hire fleet has a problem with these in-season closures. It's very simple. We, as a Council, and NMFS, we publish a set of rules and regulations. January 1<sup>st</sup>, we say, "Okay, boys and girls. Here's the rules you gotta play by." Then all of a sudden halfway through the season, we say, "Oh. Wait a minute. We made a mistake. You know that whole, those, you know, October, November, December that you had booked and you had planned on doing business and everything else? Forget about it." That doesn't really work. In plain language, it doesn't work. We have to—if we're gonna establish a set of regulations at the beginning of the year, let's stick to them and let's—we'll have to deal with the consequences later on.

But for us to just tell folks, particularly down South, folks in Virginia and Maryland, they have gotten killed the past couple of years. They wait for those fish to come in shore, and that's their season: November, December. And then all of a sudden we tell them, "Well, can't do it." It's not fair.

*Rick Robins:* Thanks, Tony. Any further discussion? Steve Linhard?

*Steve Linhard:* Being one of those Maryland guys, yes, I do support that non in-season closures.

*Rick Robins:* Thanks, Steve. Chris Zeman?

*Chris Zeman:* You know, and as Rob pointed out, for summer flounder it's not really an issue. Because we do have the allocation by state. So any overage then goes back to that state the following year for a reduction. So there is accountability there. But we don't have that for black sea bass. When we do have that for black sea bass in all of our fisheries in the mid-Atlantic, then I'd be more willing to consider Alternative 2A.

*Rick Robins:* Thank you. Is the Council ready for the question on the substitute motion? All those in favor, please indicate by raising your hand. 14. Opposed like sign, three. Abstentions like sign, one. Motion carries. Thank you.

Jim, do you mind highlighting section three alternatives for us? I'm sorry, the substitute is now the main motion. We need to vote on the main motion. Is the Council ready for the question? All those in favor, please raise your hand. 15. Opposed like sign, one. Abstentions like sign—sorry, two. One. Okay. Motion carries. Thank you.

Jim, do you have alternative set three? Okay. With respect to alternative set three, we have staff recommendation, which is alternative 3C. What's the pleasure of the Council? Tony DiLernia?

*Tony DiLernia:* Mr. Chairman, I move that the Council accept alternative 3C, the confidence interval as a preferred alternative to go forward to NMFS.

*Rick Robins:* Second to that motion by Steven Linhard. Discussion on the motion? Rob O'Reilly?

- Rob O'Reilly:* Yeah. I just wanted to address my earlier comments. I think that the concern I had is based on species that aren't sampled as much as others, and therefore the precision or the proportional standard error is fairly high, precision is low. That was the concern because at some time during Jim's presentation, I think he went from one standard error to two. He went to the 95 percent confidence interval. And I think some species that would not be a very sound idea to start out with. And I would like to, as a friendly amendment, address the points of George that there should be some situation, and also Gene, a formulaic approach, where we identify that it should be one standard error. And leave it right there. So I'd like to make that a friendly amendment.
- Rick Robins:* I'll ask the maker and seconder if they're amenable to that. Then, if not, we can go through the process otherwise. But Tony?
- Tony DiLernia:* I could accept that. The one standard deviation? Yeah. That tightens things up a little bit, makes it a little more constrictive on the recreational community, but it does tighten things up. And it helps us pass, so I guess we'll call it a red face test. I'm good with that.
- Rick Robins:* Steve, is that acceptable to you as seconder?
- Steve Linhard:* Yes.
- Rick Robins:* Yes? Thank you. George, you had a comment on this point, I believe.
- George Darcy:* Well, I think you've pretty much addressed it. Thank you.
- Rick Robins:* Very well. Discussion on the motion? John Boreman?
- John Boreman:* Yes, I—again, the danger in using confidence intervals is it's a disincentive to try to improve the accuracy of rec catch landings. Our estimates. 'Cause the sloppier the data are collected, the wider the interval, the less chance of invoking accountability measures. So I think sometime in this process has to incentivize the survey, the scientists, the states, to put money into increasing the precision of the survey. Otherwise, I think this is just gonna promote collection of imprecise data. Thank you.
- Rick Robins:* John, I appreciate that point. I think, though, that we will continue to have demands from the public to improve the quality of recreational catch estimates. The Congress is gonna continue to press on that issue. And I believe it's a pressing concern right

now with them. So I think there will continue to be momentum just in that general direction to improve overall quality of recreational catch estimates as we go along. But it seems that this does reflect at least the statistical characteristics of the data, given the fact that these are catch estimates. Rob O'Reilly?

*Rob O'Reilly:*

I agree with Dr. Boreman, on the one hand. On the other, over the last quite a few years, the amount of what were called "add ons" to the MRFSS have declined, as well as the base samples, which are provided by National Marine Fisheries Service. When National Marine Fisheries Service, let's say back into the mid-90s, late 90s, had a helping hand from ACCSP with some of the samples, it was a very good sample size for the states. And after that, with the base amount dropping down because of cost, the amount of samples that any one state might have, let's say by 2006, was less than what they used to have with the base allocation to being with.

So I would also support that there has to be a dialogue about this as we go forward. Yet right now, I think there are only two states who are—it's no longer called "adding on," it's called "adding assignments." Virginia's adding on assignments for wave four and six. There's one other state that I know of. There could be some more. I'm just not sure about that. But we will have to take a careful look at this, especially with the changing landscape of MRIP. So, thank you.

*Rick Robins:*

Thank you, Rob. Further discussion on the motion? Chris Zeman?

*Chris Zeman:*

In NOAA's comment letter, this alternative was characterized as not likely to be viable. I just want to confirm that that amendment does make it viable.

*Rick Robins:*

George?

*George Darcy:*

It helps. You know, ultimately, we need to look at the whole suite of things you do here today. To make sure that they're adequate accountability, and there's adequate consideration of risk. So it's a little difficult to say one particular thing is or isn't good enough. We have some nervousness about it. But the amendment does help. And given the uncertainties in the data and all the problems with that, if you put together a suite of things that work, this is probably okay.

*Rick Robins:* Thank you, George. Is there any public comment on the motion. Adam Nowalsky?

*Adam Nowalsky:* Thank you, Mr. Chairman. In general, do not support the use of trigger conditions under the belief that the current adjustments to size, season, and bag limits are acceptable. However, in understanding that there is going to be something done here in place and there's not an option for moving these, using the confidence interval is a step in the right direction. And I think that, in listening to Jim's presentation here today, if the Council so desires, there's actually an even better option. And that better option would be to use the confidence interval over a multiyear period. That would be the best implementation of the data as it was meant to be used.

And if you wanted to take it one step further, I think you could also implement it in conjunction with 3D, where it would only be enacted if it was an average over a multiyear period. So that would be—I support 3C as it sits here today. If it's the pleasure of a member of this Council here, I think it could be further approved by implementing components of both 3A and 3D to make best use of the available data. Thank you.

*Rick Robins:* Thank you. Is there any additional public comment on the motion? Back to the Council, any further discussion? I think in terms of what staff's put forward, this is probably one of the most important tools that we could add in terms of how we relate to the catch data. So I think it's an innovative tool that would be added to the management of these fisheries. Is Council ready for the question? All those in favor, please raise your hand. 17. Opposed? Abstentions? One abstention. Motion carries. Thank you.

Jim, can you put up alternative set four, please? Jim, do you mind summarizing these for us briefly and highlighting your recommendation?

*Jim Armstrong:* Well, the response, management response under any of these is summarized and simplified in the short descriptions. There's a lot more to it, obviously. And that's why we have the tabular kind of presentation of them there, named "process alternatives," in the document. But basically, the No Action alternative, regardless of stock condition or overage type, in terms of whether ACL, ABC, or OFL was exceeded, every combination of those factors, the response would be to have a payback.

And in alternative 4B, the payback would be reserved for times when the OFL has been exceeded. In other words, overfishing is occurring. And also would be for when the stock is below one-half  $B_{MSY}$ , which is defined as overfished. Or is in rebuilding. In the other...yeah. When—and under 4B, when stock is above  $B_{MSY}$ , and only ACL has been exceeded, then you would not need to respond to an ACL overage by reducing or by adjusting bag, size, and season, when you adjust bag, size, and season.

And if ABC is exceeded, you would adjust bag, size, and season in response to the ABC overage. And you would also monitor. If the stock is in between  $B_{MSY}$  and one-half  $B_{MSY}$ , and is not in rebuilding, and only ACL has been exceeded, then only in-season closures would be invoked. But if ABC has been exceeded, then bag, size, season, and in-season closures would be invoked.

And 4C is the same as 4B, except that there's no payback if B over  $B_{MSY}$  is greater than one when OFL is exceeded. In 4D, there's no payback under any conditions. There are—and in-season closures occur for any type of overage where  $B_{MSY}$  is exceeded. And for ACL and ABC overages when biomass is between  $B_{MSY}$  and one-half  $B_{MSY}$  and the stock is not in rebuilding. For all other conditions, it would be a combination of bag, size, season, and in-season closure.

*Rick Robins:* But Jim, in terms of how these interact now, we've eliminated in-season closure.

*Jim Armstrong:* Okay. So in the document, what it states is that if you eliminate in-season closure, there will not be an empty cell, there will not be a lack of a response. So in that case, then we're modifying, well, all of those so that you would have bag/size/season adjustment in response to the overage. Which would essentially make it kind of like...yeah. Okay. Okay. So if you have an ACL overage, you're going to modify bag/size/season. When you do that to account for that overage, and then also proactively to fit to the ACT.

*Rick Robins:* So this set of alternatives, the way it's framed up, it basically says which conditions—under which you would have a payback.

*Jim Armstrong:* Yes.

*Rick Robins:* And they're rated and laid out accordingly. Okay. George?

- George Darcy:* So if I understood your response, this in combination with 2C—2C substantially weakens is as a response. If all those in-season closure cells go blank. Is that what you're saying?
- Jim Armstrong:* Actually, yeah. I mean, you know, it then somewhat equates those bag/size/season adjustments to payback adjustments. Because you're adjusting for the overage as you—you're saying, like for example, if there was a 15 percent overage with a certain bag/size/season combination, then when you adjust to your new ACT, you're going to take into account that adjustment.
- Rick Robins:* But there's no in-season closure. That's the difference. I mean, versus what was in the table originally.
- Jim Armstrong:* Correct.
- Rick Robins:* Alright. Okay. So there's still a corrective action, in terms of making an adjustment. But—Lee Anderson?
- Lee Anderson:* Yes. Thank you, Mr. Chairman. Jim, I have a question. You recommend 4B because it has paybacks for every time there's overfishing and overfished. Now the difference between 4C is that you don't have a payback when  $B$  over  $B_{MSY}$  is greater than one. Now that kind of tempted me. And I'd like to question you a little further one it. You said, essentially, that paybacks can often not do that much good because of the stock structure, and they're kind of punitive. I might be tempted to say, "Let's move from 4B to 4C." Because if the stock is over  $B_{MSY}$ , there's really not that much reason to be punitive. but you made that recommendation, and I'd just like to hear your reason on why you went for 4B rather than 4C.
- Rick Robins:* Jim?
- Jim Armstrong:* Yeah. I just think any time overfishing is occurring, any time you've exceeded OFL, and any time the stock can be described as "overfished," then those are times when you bring in the heavy guns. You know? That's something that the whole guiding statute is trying to get us away from. And it seems like—even though it may be punitive and not have a great biological value, it seems like it should be there. To me.
- Rick Robins:* Lee?
- Lee Anderson:* It's not overfished. The overfishing is occurring.



- Jim Armstrong:* Correct. Yeah.
- Rick Robins:* Tony DiLernia?
- Tony DiLernia:* Thank you. I tend to agree with Dr. Anderson regarding preferring 4C. To Jim's statement about whenever he sees overfishing occurring, I heard earlier this morning that often overfishing occurs—I think it was in the staff presentation—it often occurs when the stock size is very large. When the stock size is very large, availability increases. We set our regulations at the beginning of the season also, and we see a pulse of fish coming through. It's not like we've increased effort. It's just in the sense that catch per unit effort is increased because the availability of the species is increased. So if there's that many more fish, then we're going to be greater than one--  $B_{MSY}$  is gonna be greater than one. And so I'm not so sure that we need to have that much of a payback if there are that many fish that causes to go overfishing in the first place.
- Rick Robins:* Jim, your corrective response—I mean, if you had 4C and you had a year where you were overfishing, in the follow year your reaction would be modification of size, season, and bag—is that how that would work under 4C?
- Jim Armstrong:* Under 4C, if you're above  $B_{MSY}$ , and you exceed OFL, through a combination of recreational and commercial fishing, then you would not have to directly apply a payback. And then what you would do is adjust bag, size, and season and do in-season monitoring. So I guess that reflects the viewpoint that you could be above  $B_{MSY}$ , even well above  $B_{MSY}$ , and that one instance of overfishing doesn't return the stock to a precarious position. It may even maintain it above  $B_{MSY}$ . It's obviously not something that's a long-term strategy. But, you know, I guess, maybe the viewpoint at that time would be that it's not gonna diminish stock condition enough.
- Rick Robins:* Tony?
- Tony DiLernia:* I think the scenario that Mr. Armstrong just described is precisely what's happening this year with black sea bass. And how we've reacted to it. There's a lot of fish there, and we've reacted to it. We've—well with the possession limit, and we've adjusted the season. So we have—I believe this year's management measures are a good example of how 4C would work.
- Rick Robins:* Thank you. Jim Weinberg?

- Jim Weinberg:* Yeah. I would like to kind of repeat a concern that Dr. Boreman raised earlier. And I want to understand better whether this is covered with some language in the amendment. And it had to do with if the SSC decides that a stock is a level four assessment. And in those cases, they're unable to provide a catch recommendation that's associated with OFL. And we have a number of important stocks that are level four, as characterized by the SSC. So is there something in the amendment that would cover that situation? 'Cause a lot of this is related to where you stand relative to OFL.
- Rick Robins:* Jim, that's a good question. And I'll ask Jim if he can reflect on how we might handle those situations. Or if any of that's specified in the amendment.
- Jim Armstrong:* Yeah. I think that in the development of some of these alternatives, there was some discussion, even with some SSC members. And what the SSC recognizes, I guess, as OFL and accepts, and whether there is an OFL estimate available, the parties may not have to adhere to the same. In other words, the Science Center estimate of a OFL in a peer-reviewed assessment might satisfy here. Even though the SSC—in the absence of an SSC approved OFL value.
- Rick Robins:* But Jim, if we had—if we were in a situation where we didn't have a peer-reviewed OFL out of an assessment, and didn't have anything from the SSC, where would that leave us?
- Jim Armstrong:* Probably with a—in the middle column. Yeah. I mean, if you don't have OFL, then you still get ABC. And, you know, and if you don't have  $B_{MSY}$ , you don't know where you are relative to that, then you probably...
- Rick Robins:* Well, I think you're right. We have ABC, because we always have ABC out of the process.
- Jim Armstrong:* Right. Right.
- Rick Robins:* George? To this point?
- George Darcy:* Yes. I think that's a problem. And we would much prefer alternative 4E, in part for that reason. It doesn't rely on OFL. It relates to ABC. And it's less risk prone than either 4C or 4B.

- Jim Armstrong:* Show it. So here we have paybacks for all situations, except only ACL has been exceeded, and the stock is above the condition that would be called “overfished.”
- Rick Robins:* So Jim, as with 4B, the cells that are not green that say in-season closure, those would convert to bag/size/season adjustment, right? And George, under this set of alternatives there’d be a payback if the stock were above  $B_{MSY}$  as well—is that correct?
- George Darcy:* Yeah. That’s my understanding. Yes.
- Rick Robins:* Jim?
- Jim Armstrong:* I think for stocks where you just don’t have, you can’t even apply these templates, you would just be adjusting management measures as you had in the past. You know? So, it’s...
- Rick Robins:* Okay. Do you mind explaining the full set of alternatives again?
- Jim Armstrong:* Okay.
- Rick Robins:* This is obviously an important section. It’s probably the most complicated. You know, and I think at the beginning of this process, the staff looked around the country to see what all had been approved. And there’s a wide range of AMs in the other regions that have paybacks or don’t have paybacks. Some FMPs don’t have any paybacks at all. Others do, under certain conditions. This gives us a full range of options. And I think staff’s done a good job of developing sufficient range within that. But we need to make a decision, recommendation, with respect to what conditions we want to apply to payback scenarios. So with that, what’s the pleasure of the Council? Steve Linhard?
- Steve Linhard:* I’d like to move that the Council recommend to NMFS alternative 4C as the preferred alternative.
- Rick Robins:* Is there a second to that motion? Second by Tony DiLernia. Discussion? Chris Zeman?
- Chris Zeman:* Okay. I thought Jim's presentation was really good today, and you really highlighted the fact that this is really punitive, in terms of this is above and beyond any sort of reductions, recommendations by the SSC in terms of the effects of that overfishing on that stock. So in that light, I'd like to see something here where there's actually some sort of level of recklessness or failure to act by the Council. So let's say if we fail to go with the

scientific recommendation that season, and we end up with an overage, then that would trigger punitive paybacks. But if we comply with the science and then, due to let's say an amazing stock recovery, which led to a dramatic increase in effort because of availability, it's pretty much out of our control.

And we deal with that every year. I mean, going back to Jim's—can you show that one slide where we—with the—we're above or below our target? I mean, we never hit the target. Every year we never hit the target, right? I mean, that's pretty much the case. We're either above or below where we target, and that's just the nature of fisheries. Because there's so many different variations here. And another point that wasn't really brought up at all in this discussion is that we never get givebacks. You know? We never get that back. So all those times when we're under that target we don't get pound-for-pound givebacks.

And it makes sense, because really the benefit of being under is that, after a couple year, the SSC is going to say, “Hey, there's more fish out there and you can catch more.” And that's what really you see happening there. We're kinda—we're going over, then we have to cut back slowly, and go down, under, we overcompensate, and then we go under the target. And then we're like, “Okay, we can liberalize,” and then we go back over the target. But overall, it's not a boom-bust cycle. Far from it. It's not what we've seen in the past. It's actually, we're pretty close to that target. We're actually trying to hover around that target.

So in light of that, we really have to look at, you know, paybacks really only apply in the worst egregious circumstances where you really have some serious impact on the stock that we know is going to happen. Or that we know happened. So let's say, for example, if you have ten-year rebuilding plan, and you're going in year three, and you've really maxed out that rebuilding plan, so you have no flexibility. Then in that case, absolutely there should be a payback if you don't comply one year. Absolutely. 'Cause you're way off your rebuilding plan. But again, it's like if you're not in that situation, why are we doing this payback? It's only going to cause emergency reactions like what we're dealing with now.

You know, every December, we sort of have this spec process, and to say we have a lot of discretion in that specs process is not exactly true. We have to comply with the scientific recommendation, which we always comply with. We then have the Commission. We have a joint Commission meeting with the

Council, and they break out per day, based on MRIP data, how much catch we—how much catch is associated with every day during that certain wave. So we don't have much discretion at all in terms of setting that season the following year. 'Cause we can't just say, "Well, hey—no, actually no, in that wave we only catch 10 fish per day, as opposed to 100."

We can't do that, so our discretion is very, very limited in that specs process. And I always tell that to constituents is that like if you want me to do something, don't come to me in December saying we have to change this whole system. Because it's not gonna happen. I don't have that discretion. So again, it kinda raises my questions. Like, well we need some other thing to happen here to justify punitives, in that we basically fail to comply with the science.

And I'd like to make an amendment to that motion to the extent we can. I mean, I would like NOAA's position on that as well. What are their thoughts on it. You know, I'm not really—you know, let's say we go with 4C. But I'd like to additional requirement that we're basically disregarding the scientific advice. The Council disregards the scientific advice and we go over.

*Rick Robins:*

George?

*George Darcy:*

Specifically to that, that won't happen because we can't approve it if it isn't consistent with the scientific advice. So if you forward—if the Council forwards us something that isn't consistent, we would disapprove it. So I don't think that's relevant. But if I may, if you do end up going with this alternative, then we need to see in the documents specifically what happens if—for stocks for which OFL can't be defined. That can't just be left often. That has to be—there has to be explicit discussion of what happens to those stocks under those conditions.

*Rick Robins:*

Thanks, George. Jim?

*Jim Armstrong:*

Maybe we're not gonna nail that down right here, but I mean, you know, when we were developing these process alternatives, we consulted with a member of the SSC. And he said, "Alright. Yeah. The SSC's not too happy with the OFL for seas bass." But it's not like there's no estimate of OFL, and that it can't be used whatsoever. There is an estimate, you know. It's just there are some problems with the assessment that the SSC has identified. And so we have a best estimate. And I think for, perhaps for this

we could define exactly why it would be adequate. Whereas for the SSC, they don't choose to adopt it for their determination of ABC. But I'll consult further with that member of the SSC, and get that level of detail in there. So that it's clear that we're not just grabbing whatever OFL thing's on the shelf.

*Rick Robins:* Right. And I think you'd also need language to George's point about situations where there is no OFL coming out of the assessment either. You know, in other words, those scenarios where there's no OFL either from the SSC or no OFL from the assessment. But—right. Like mackerel. Howard?

*Howard King:* Yes, thank you, Mr. Chairman. If you added an ABC overage to alternative 4C, wouldn't that cover all the bases? The  $B$ ,  $B_{MSY}$  greater than one would be a threshold. If it's always greater than one, then there's no payback. But if it's less than that, then whether you were overfished or exceeded OFL, or exceeded the ABC, paybacks would be required.

*Rick Robins:* Howard, would that change be to 4C? Is that what you said?

*Howard King:* Yeah. If you simply added an overage for the ABC, which George had alluded to earlier, would that cover all the bases?

*Rick Robins:* Moira?

*Moira Kelly:* Just clarify. Are you—would you, in the middle column, add payback here? Can I get up and point? That might be easier.

*Rick Robins:* Yes, you can.

*Moira Kelly:* Is that your suggestion, to have a payback here?

*Rick Robins:* Howard, can you respond to that?

*Moira Kelly:* Kind of a hybrid of C and E.

*Howard King:* Yeah, I really can't make that out. But in a narrative sense, if you exceeded the OFL or the ABC, or if the stock was deemed overfished, and  $B$  over  $B_{MSY}$  was less than one, then payback. If it's greater than one, then no payback. But you may have some other AM.

*Rick Robins:* So Howard, you'd be adding, as I think Moira pointed out, that center square would become a payback cell. Is that correct? George?

- Jim Armstrong:* My interpretation was that there be paybacks everywhere except this top thing, from what you're saying. ABC was gonna be exceeded, and the stock was less than  $B_{MSY}$ , so that kinda puts you up in just this corner for no paybacks.
- Rick Robins:* George?
- George Darcy:* I think Howard's suggestion is helpful. It's sort of a hybrid between 4E and 4C. And it would make us feel more comfortable.
- Rick Robins:* So there still wouldn't be any paybacks under that scenario if B was greater than  $B_{MSY}$ , correct? We have a motion. Howard, do you want to offer an amendment to that? Or what's the pleasure of the Council?
- Howard King:* Yes, I could do that. Can you put that back up there?
- Tony DiLernia:* I would be willing to accept it as a friendly amendment so we don't have to go through the vote. I don't know if the maker—I believe I was the seconder on this motion.
- Steven Linhard:* I'd be happy to accept it as a friendly amendment from my colleague from Maryland.
- Howard King:* Then it's friendly.
- Rick Robins:* So we have a friendly amendment to the motion that would—and I just wanna make sure that we all understand it clearly. With that center cell, that is where there's an overage of the ABC, where the ABC is exceeded, there would be a payback provision. Is that your intent? Howard? Okay. I'm going to wait for Jim to perfect the language on the board in the motion before we call the question. Steve?
- Steve Linhard:* I think we have the marker and the second backwards on there.
- Rick Robins:* Right. Linhard made the motion. But we can fix that at the end here. Jim, do you mind specifying in there that—in parentheses or something that that's when ABC is exceeded? So there's some description of it. Thanks. While Jim perfects that, is there any additional discussion on the motion of the Council? Is there any public comment on the motion? Adam Nowalsky?

*Adam Nowalsky:* Thank you, Mr. Chairman. While the RFA's preferred option would be no payback for a lot of the options, a lot of the reasons already discussed, this was our preferred fall back option, and can support this in addition to the change made here. I do also need to take ten seconds of liberty in just asking the Council before we finalize this document, I'll make more comments, to think about option three. I feel very strongly that by going to a confidence interval on an annual basis only that is a step backwards from the multiyear averaging of where we're at. Okay?

And when we put forth the final motion for approval of this document, I think that's something very important that we need to consider with what we did in option three. And I appreciate the latitude in going backwards on that. But I do think it's something that Council members need to consider before we finalize this here today. Thank you.

*Rick Robins:* Thank you. And any further public comment on the motion? Seeing none. Is the maker, and are the seconders, comfortable with the language? Does this reflect your motion?

*George Darcy:* Yes.

*Rick Robins:* Steven, do you mind reading it into the record, please?

*Steve Linhard:* I move that the Council recommend to NMFS alternative 4C as the preferred alternative, with a payback provision added to the center cell. Parenthetically, that is when ABC is exceeded and  $B_{MSY}$  is less than one.

*Rick Robins:* Thank you. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 15. Opposed, like sign. One opposed. Abstentions, like sign. One abstention. Motion carries. Thank you. Jim, do you mind putting up alternative set five up there? Go ahead.

*Jim Armstrong:* Before I do that, I'm a little concerned about what we've done. Or if—I'm not sure if everybody understands what happened when we took in-closure season closure out.

*Rick Robins:* Do you wanna clarify that for us?

*Jim Armstrong:* Sure. When you consider the scenario that I provided, I've been thinking about this, and when you consider the scenario that I provided for black sea bass, it resulted—the trigger resulted in an



ACL overage but no ABC overage. So it put us in that top left square, or cell, where there was only monitoring at the time. Okay? So there was no adjustment to bag, seize, and season. Well you're going to adjust bag/size/season to accommodate the new ACT. But you don't have to accommodate the overage for ACL when you do that. Because you're only gonna monitor.

Now bag/size/season has gone into that cell because it's empty. And you will have to accommodate that overage. Makes it not that, you know, different from—now bag/size/season has a lot of latitude. And I tried to make that point in the document, that we can improve our methodologies for it. Okay? So a simple payback will, at some point, be quite different from a simple or a sort of naïve adjustment to bag/size/season. But for now, I think it's probably going to equate to something that's kind of like not that differentiated from a payback. 'Cause you're adjusting, but you're also responding to the overage in your adjustment.

It's not a direct reduction in ACT. You don't have that. But you do have to factor in the overage. Just so everybody understand that. Just so everybody understands that.

*Rick Robins:* So under that scenario, you're factoring in recent performance when you create your bag/size/season?

*Jim Armstrong:* Yep. Yeah, it's responding. Yeah. Yeah.

*Rick Robins:* And Jim, is that—isn't that consistent with our past practice on annual establishment of recreational measures?

*Jim Armstrong:* Yep. But, you know, I just wanted you to know that when you only had monitoring in there, then let's say you went over the least year by 15 percent. You don't have to change your—you know, adjust your fit for bag/size/season to the new ACT by factoring in some 15 percent inefficiency. Okay? So that's the difference. Just so everybody understands that.

*Rick Robins:* Okay. Jim, thank you for the clarification. I would suggest that we go ahead and go through the remaining sections, select our preferred alternatives, and if we want to revisit that and see if it's—you know, what discretion we have to—if we wanna stick with that or make any other changes, we can consider that before recommending that we submit the final document for approval. So if you don't mind—

*Jim Armstrong:* So go to five?

- Rick Robins:* Please. Thank you, Jim. So these are payback alternatives. And staff had recommended alternative 5D, which is a scaled payback. And so we have a range of alternatives for those options. What's the pleasure of the Council? Chris?
- Chris Batsavage:* I'd like to move that the Council recommend that NMSF's option 5D, scaled payback overage of the ACL.
- Rick Robins:* Is there a second to that motion? Second by Tony DiLernia. Discussion on the motion? Jim, this scales the payback between the biomass threshold and  $B_{MSY}$ , is that correct? Okay. Thank you. Moira?
- Moira Kelly:* Just to clarify that overage amount that goes into that calculations is the catch over the ACL?
- Rick Robins:* Jim, is that correct? Or how does that work in conjunction with the trigger?
- Jim Armstrong:* Well, there's no specification of differentiating payback calculation by the overage type. So in that case, it would be the relative to how we calculate overages now. Which would be relative ACL.
- Rick Robins:* Okay. Further questions or discussion on the motion? Steve Heins?
- Steve Heins:* Thanks, Mr. Chairman. I just wanted to explain my negative vote on this. And I won't be supporting this motion either. But I'm on record last go round of this as opposing paybacks. I think, you know, sometimes decisions get made and we don't see the full consequence of decisions, like only giving two hours for this discussion. You know? You don't foresee what's gonna happen. And sometimes sitting around this Council, we don't foresee that the measures that we set are gonna—are not gonna be adequate to constrain harvest. So by imposing these paybacks, we're punishing people for just doing what we told them they could do. Maybe the people that need to be punished are the one that are making the decisions. So what's—I'm just opposed to paybacks in principle. And I'll just—I'm not gonna support his motion, and I'm not gonna propose any alternatives.
- Rick Robins:* Thank you. Other comments? Further discussion on the motion? Chris Zeman?

- Chris Zeman:* Yeah. To the extent, would it be possible at this time to sort of say it's not a one-for-one payback? It's actually, you know, one to four, or 25 percent payback for the overage. I mean, it still is a punitive action, but the potential for complete disruption of an entire fishing year due to a one-to-one payback, it really is a—the nuclear bomb option when it comes to payback. I mean, it really is. It's like, you know, for black sea bass, for example, we're doing sort of everything based on science. And then we lose an entire year. I mean, that's—yeah. I mean, so maybe at maximum it's a 25 percent payback.
- Rick Robins:* Jim, do you mind running through the scenario that had up there earlier about how this would work? That shows the quantitative example of that, please?
- Jim Armstrong:* So here we have the rows that correspond to the different categories of stock status that we've been talking about. If biomass is above  $B_{MSY}$ , then there would be no payback under this provision. Okay? Because the math works out where you're saying  $B_{MSY}$  minus something greater than  $B_{MSY}$ , and so you end up with a negative number or zero, if it's exactly  $B_{MSY}$ . As it falls below  $B_{MSY}$ , then—and I used this example for what I got as where we are currently with black seas bass. You have something very close to  $B_{MSY}$ . So it's nearly one, but just a little less. And so you have a very small coefficient. And you would take this coefficient, the formula gives you a coefficient that you then apply to the overage. And that scales, as you decline from  $B_{MSY}$  down to one-half  $B_{MSY}$ , from zero to a one-to-one, pound-for-pound payback.
- Rick Robins:* Chris, does that address your concern? Okay. Jim, do you mind explaining the motion again? Is there further discussion on the motion from the Council? Is there any public comment on the motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 16. Opposed, like sign. One. Abstentions, like sign. One abstention. Motion carries. Thank you. Jim, do you mind displaying alternative set six?
- Jim Armstrong:* I don't suppose there's any point in putting 6A up there. So this just gives you a little more info on 6B in case you wanna study it.
- Rick Robins:* Thank you. And I think we've already heard some concern from the Regional Office about the practicability or ability to implement this. But George, would you or John like to elaborate on that a little bit? George?

- George Darcy:* Yes. I think there are several problems with this. Or at least problems for doing it right now. The Center's already indicated some concern about their ability to do this for every stock. Secondly, this example shows the biomass increasing. What if it decreases? Then what do we do? What if you get a new assessment, and then all of a sudden the biomass is substantially less than we thought it was? I think this could be very disruptive to the fishery, and destabilize it. So that and the complexities of trying to flesh this out and put it in this action, given the importance of this action and it's timeline, I would suggest you not do this in this action.
- Rick Robins:* Thank you, George. Further discussion or comments on this section from the Council? So, Jim, was—I don't have 6A in front of me. Is that No Action, or was that another option? No Action?
- Jim Armstrong:* No Action.
- Rick Robins:* Okay. But we would need to identify a preferred alternative within this section. So I'll see—what's the pleasure of the Council? Rob O'Reilly?
- Rob O'Reilly:* Yes, I would move to recommend from the Council to the National Marine Fisheries Service alternative 6A, No Action or Status Quo, no ACL or ACT post hoc evaluation.
- Rick Robins:* Is there a second to that motion? Second by Lee Anderson. Discussion on the motion? You know, when staff brought this forward, it seemed to be an appealing approach to the issue. And yet, it sounds like there might need to be some further development before it could be implemented. So I wouldn't rule it out in the future, perhaps. But it sounds like it's not ready for implementation. Further discussion on the motion?
- Is the Council ready for the question? All those in favor, please indicate by raising your hand. 17. Opposed, like sign. Abstentions, like sign. One abstention. Motion carries. Thank you. Jim, do you have any other elements for our consideration?
- Jim Armstrong:* Well, I stated at the beginning of my presentation that our agenda would be to review the alternatives, review public comments, select preferred alternatives for implementation, and then approve for submission.
- Rick Robins:* Okay. Before we do that, why don't we review the issue of the

cells again. How they changed. And we can have some discussion about that alternative three that had been raised by the public. But Jim, if you can show us one of the alternative sets that we selected in section four, and how those green cells would now perform? You said they would change, and I think we ought to discuss whether we want them to change, or if we're comfortable with that. I think we need to understand what the implications of that are as well.

*Jim Armstrong:* That's what it looks like now. Okay.

*Rick Robins:* This is 4C, as modified?

*Jim Armstrong:* Oh no. And then—

*Rick Robins:* But your green cells are changing.

*Jim Armstrong:* Right. Yep.

*Rick Robins:* And Jim, it seems to me that that's a discretionary consideration for the Council. In other words, you had contemplated that those would change to bag/size/season adjustments.

*Jim Armstrong:* Right.

*Rick Robins:* Versus in-season closure. We've eliminated in-season closure. But we can still discussion what we want to have in those cell, I think. And at a minimum, I think we ought to understand what the different implications are of that scenario.

*Jim Armstrong:* Alright. Take that. And then...alright.

*Rick Robins:* Jim, I don't think you need to eliminate all the in-seasons while we're here, but I think we get the point of what it's gonna look like now. So can you just walk us through a scenario, if we end up in one of those boxes that was previously green?

*Jim Armstrong:* Previously green would be yellow. And previously yellow would be...okay. So let's say we're talking about sea bass.  $B$  over  $B_{MSY}$  is greater than one. You would adjust bag, size, and season in response to trigger conditions where an overage appears to have occurred. If—it would be in response to the ACL overage if, let's see here. Right. So there's no real adjustment for, of bag/size/season relative to various threshold levels. You know? You wouldn't like adjust bag/size/season differently for an ABC

overage or an OFL overage. It's all the—relative to the ACL overage.

So in any of those cases, you adjust bag/size/season in response to that as you adjust it to achieve the incoming ACT. In those cases where you have a combination of payback and bag, size, and season, you have opted for a scaled payback. So that would be calculated based on ACL as a function of  $B$  over  $B_{MSY}$ . And then you would adjust your bag/size/season. In this case, where both are in the same cell, and this is in the document, it would functionally be the same thing. So your bag/size/season adjustments would also—you know, that payback would inform your bag/size/season adjustments.

*Rick Robins:* So you're—otherwise, your adjustments to bag/size/season would be reflecting your recent performance in the management of the fishery. Right? You'd be looking at the performance of recent cuts relative to existing technical measures, and then adjusting those measures in response. It's not a payback, per se.

*Jim Armstrong:* The way we do now.

*Rick Robins:* Okay. Everybody clear on that? Are there any questions about how that's been modified? Moira?

*Moira Kelly:* Jim, could you walk through the impacts that these bag, size, and season adjustment measures would have on fisheries under conservation equivalency? 'Cause, as you know, we don't have—we waive the Federal bag, size, and season adjustments under conservation equivalency. So we would need to know what to do in a situation like summer flounder, or if another fishery became conservation equivalency, how the Council would envision these measures to apply to those fisheries.

*Rick Robins:* Jim?

*Jim Armstrong:* Yeah. Well, we'd still have to, because we're managing the coast wide stock and for Federal. We would have to, even though we're waiving it, we would still have to have some sort of reference bag/size/season combination that would achieve the desired ACT. That could then provide the basis for the conservation equivalency adjustments. It becomes kind of a straw man, or hollow, you know, bag/size/season, because essentially you are waiving that. Because—yeah.

- Rick Robins:* Moira, does that satisfy your concern? Or do you wanna have some further discussion?
- Moira Kelly:* Not really. The coast wide measures that are set for conservation equivalency don't really have anything to do with what the states chose for their measures. They base—it's all based on the harvest limit, so that the combination of state measures achieve that target. What the coast wide measures are, you know, the states, when they set their measures, don't look at what the Council's non-preferred coast wide measures are, and set their measures according to that on some scale. So they're not at all related. It's not like reducing the non-preferred coast wide measure would require the states the reduce their measures proportionally or anything that. So I don't—it's really just based on the catch limit. So we just need to address the impact that these measures would have on conservation equivalency.
- Rick Robins:* Chris?
- Chris Moore:* So I think, Moira, this gets back again to this performance evaluation. We have to assume, under conservation equivalency, that if the states have implemented management measures that have allowed the harvest to be excessive, that they'll modify those management measures in the subsequent year to take care of that. So, I mean, that's what we've been doing with conservation equivalency. WE have to assume that that's gonna continue under that scenario. So I think that's direct answer to your question.
- Moira Kelly:* Okay. I just think it needs to be more fully addressed in the document itself.
- Rick Robins:* Thank you. Any further questions? Is the Council clear on this section? Chris Zeman?
- Chris Zeman:* Yeah. I think it would be more accurate to just say, instead of bag/size/season, it would be—you know, we're deferring to annual specs to address any overage. And I think that's—is that accurate, Jim?
- Jim Armstrong:* Yeah. I mean, well they're—it's—one's the guest and one's the party or something, I guess. The bag/size/season are going to be adjusted as a response. You know, as I described before, when you are adjusting these in response to past fishery performance, then the ability for the bag/size/season to the previous bag/size/season combination becomes a reference. And how it

performed relative to the ACT that it attempted to achieve, that informs the bag/size/season that you established for the incoming ACT. And that's done in specifications.

*Chris Zeman:* Just as a follow-up, and usually that is done by Toni on the Commission. She's the one that usually provides that data to us to break down for how long the session should be open and the recommended bag limit and so on. So that same resource is now—you know, it's a pass through. We're gonna—you know, basically states are doing that same process in those cases where we're using conservation equivalency. But we're setting the overall TAC to comply with our biological recommendations. That's the assur—that's our step in that process.

*Rick Robins:* And Chris, our staff's involved in the other side of it as well. But why don't we move on? We did have a request to reflect on alternative set three relative to multiyear measurements. Jim, I don't know if you comment on what that—what the implications of that might be, or how that could fit with what we have already adopted. Chris?

*Chris Moore:* Jim, you had an alternative in that alternative set that was a hybrid between a three-year average and a confidence interval. And that was something that I think Adam was interested in hearing more about. The Council may want to hear some additional discussion on that before we call this thing done. So you know which one I'm talking about? Go back to your alternatives set three. And you had one of those, in one of those slides, you had a hybrid, I think it was 3C, that mentioned the addition of a three-year average.

*Jim Armstrong:* Oh, yeah. So the way I presented this when we got to the group of trigger alternatives, and this was where I was starting to contemplate some staff recommendations. One of the things I wanted to point out was that uncertainty in a time series manner is accounted for by 3A, the No Action. So the variability from year to year is dampened by the averaging. So some of that variability is a really random part of the statistical noise, then perhaps that prevents us from overreacting to anything that might come from, you know, to a spike or something in catch. And the confidence intervals, however, allow us to—some flexibility on an annual basis. So within a year, the variability that comes as a consequence of the catch estimate for that year.

By combining the two, then you kind of have that vertical and horizontal, if you indulge me in that description, you know, those



two sources of uncertainty. So it would be a further way to satisfy Dr. Boreman's concern about overcompensating for uncertainty, I guess. But it basically takes within year and across year uncertainty and tried to marry them so that you're accounting for both of them. I doubt it's a perfect fit. But it's just, you know, conceptually, it was offered as something to think about. And so I'm—you're telling me that there's a question about that? Or you just wanted me to describe it again? Okay.

*Rick Robins:* Adam, did you have a comment on this point?

*Adam Nowalsky:* Well specifically, Mr. Chairman, 3C states that the recreational sector ACL would be evaluated based on an annual comparison. And I would just submit that the language for 3C be changed from "an annual comparison," to a "a three-year average." Or submit some other number there which is really consistent. This Council spent a lot of time on this particular issue when the trigger conditions were contemplated. The concept of the three-year moving average at that time was something I think this Council had a lot of buy-in.

And now to go back and say, "Well, even though we're now using a confidence interval which opens up," instead of using that point estimate, now we're looking at something that's at least—instead of a point, now it's a band. I think a band that's smoothed out is a better band that will better serve this Council, better serve the fish, and better serve the fishermen, would be the best place we could be at today, and satisfies a lot of concerns that have been heard about this issue. And that would be specifically what I'd be asking of, is to change that language from an annual comparison to a multiyear comparison.

*Rick Robins:* And Adam, would that be to trigger any response? Or just payback responses?

*Adam Nowalsky:* The trigger conditions with respect to triggering the reactive AMs in particular. That's what option three referred to, was those items in particular. If there were components of option three that also triggered something else in another portion, another option, which I didn't read into. I read into it as a trigger, you know, only the reactive AM component. If there are other components, then it would certainly apply. But whatever section, whatever alternative three applies to, this is what this multiyear averaging would then do.

- Rick Robins:* Okay. Thank you. Are there other questions of Adam while he's up here? Patrick, did you have a comment on this?
- Patrick Paquette:* Thank you, Rick. Patrick Paquette. I work with recreational groups from Massachu—from Maine to North Carolina. Just overall, I think that the way that Adam's asking you to reconsider, I want to support that. Especially, I think, in a very general sense, it's a much more appropriate use of MRIP, especially in its current state. But we continue to hear about that MRIP is not the science to be used in one-year boxes. And I just think it's a much more fair and appropriate, and lines up with what the program is supposed to be about. I really wanna strongly support that you really consider the way that Adam's asking you to take a look at it. Thank you.
- Rick Robins:* Thank you. Tony?
- Tony DiLernia:* Mr. Chairman, Adam makes a very good point. I'd like to support it. I may offer a motion in a moment, but I'd like to hear from the agency regarding—and perhaps from the staff regarding how changing this to a three-year average would affect our timeline and our ability to get this approved.
- Rick Robins:* George, do you mind addressing that? I've had the same concern about whether this would affect our ability to implement this or not.
- George Darcy:* No, I don't mind. I think we're okay with it. It is a little less...oh, that's what you want to hear? Okay?
- [Laughter]*
- Tony DiLernia:* It's way past lunchtime. Mr. Chairman, I would move that we change it from a annual to a three-year average. And the confidence interval, it's described as the preferred alternative is from an annual. And now I propose that we change it to a three-year average. If the staff wants to help me with the wording for the motion, or someone else, I would be very willing to accept some help with this.
- Rick Robins:* Is there a second to the motion? Second by Steve Linhard. Tony, we'll give you and Jim a minute to get this up on the board and make it look like you want it. George?

- George Darcy:* Yeah. Point of clarification, or a clarification we'll need it would this be phased in as the current system does it? Or would it somehow go back in time from this point and then average three years? We just need to know how to implement that, if this passes.
- Rick Robins:* Tony, do you have a preference that's discretionary? Do you want to just start with a three-year average that looks back? Or do you want to phase it in?
- Tony DiLernia:* To be honest with you, Mr. Chairman, I'm unsure as to how to answer that question, as how it would affect going forward, since there are specifications for next year. I'm reluctant to answer the question at this time.
- Rick Robins:* Jeff?
- Jeff Deem:* Yeah. I'm a little confused on this myself. I was wondering if Jim could give us a real world example in black sea bass for the last three years. I know for the first—for two of those year, we were well over target. So how would starting this—how would this work in the real world, based on black sea bass?
- Rick Robins:* Jim, can you respond to that?
- Jim Armstrong:* I'm gonna try to. I think some pictures would help. Well, so we're estimating the—or we're getting confidence intervals, and specifically a lower confidence limit. And we're averaging those, we're gonna get a three-year running average of those. And then if that crosses the—if that's above the ACL in any given year, then that constitutes an overage, which triggers a response. I mean, I don't know. It looks to me like that would probably have a different effect. Where there's year-to-year variability, it would dampen that out.
- It looks like from the trend here, it probably, for the first several years, it looks pretty flat. So it'd be interesting. Where we have this little V shape at the end, it'd probably that somewhat. And but it, you know, I don't know that it would bring anything, you know, it could potentially have an affect, but I—without having the numbers, I mean, presentation laptop, I couldn't give you an on-the-fly example. But it would basically tend to dampen out things where the lower confidence limit is hopping up above and down below the line. But where it's flat, it's probably not gonna have much of an effect.

*Rick Robins:* Steven Linhard, did you have a comment or question?

*Steve Linhard:* I'll hold my comment. Thank you.

*Rick Robins:* Jim, do you have the motion perfected at this point? So Tony, the other thing we need to figure out is whether you want to phase it in or start it, since we initiated the original Omnibus in ACLs in 2011.

*Tony DiLernia:* At this point, I would phase it in.

*Rick Robins:* Okay. Rob O'Reilly?

*Rob O'Reilly:* I just would wonder, is that a moving average or a running average? It's not specified in the motion.

*Rick Robins:* Tony?

*Tony DiLernia:* Yes.

*Rick Robins:* Okay. So the motion's on the board. Is there any additional discussion on the motion? Stew Michels?

*Stew Michels:* So can you explain to me, what do you mean by the phasing in for the three-year running average? You mean we start this initial year and then...

*Rick Robins:* So in year one, you'd have one year of data. In year two, you'd be averaging two years. In year three, you'd pick up a three-year running average. Leroy, you had comment?

*Leroy Young:* Yeah. I'm just wondering if this is adequately stating what's really going on here. The way it's stated, it says, "plus or minus one standard error." That's really not what you're looking at. You're looking at the average of the mean minus a standard error. Correct? I mean, you wouldn't go plus one and minus one.

*Jim Armstrong:* Yes. I mean, the confidence interval is defined as the central, or the point estimate plus or minus one.

*Leroy Young:* But the actual number you're going to use is going to be the lower number.

*Rick Robins:* I think that's a fair clarification. It's a lower control limit, right? It's the estimate minus one standard error. Tony, is that

acceptable? That perfection? Second are comfortable? Okay. Frank?

*Frank Blount:* Thank you, Mr. Chairman. I hate to this at this point, but this is probably a question for Gene. Wouldn't this be a motion to reconsider, seeing how that was already voted in?

*Rick Robins:* Frank, I don't think we need to go through that. But Gene, if you have any additional comment?

*Gene Martin:* I mean, if there's no objection...

*Rick Robins:* Yeah. Right.

*Gene Martin:* To reconsider this aspect of it \_\_\_\_\_.

*Rick Robins:* So without objection to reconsidering the question. Dr. Karp?

*Bill Karp:* Mr. Chairman, I'm getting a little bit confused about the analytical part of this. Because, of course, if you have a running average, then you can calculate uncertainty around those three points, which will give you a confidence interval around the average. And if that's not what you wanna do, I think you need to be very clear.

*Rick Robins:* Jim, can you comment on that aspect of it?

*Jim Armstrong:* I can only guess. I mean, I think what we're looking for here is an average of the lower confidence limits. Each, you know—yeah. So each year represents a point in this three-year running average. I don't know what the implications are, in terms of what the difference would be between that and what you're describing. I'm not—actually, I'm not sure I even understand what you're describing, Dr. Karp.

*Rick Robins:* Do you still have an outstanding technical concern about that, Dr. Karp? Or can you clarify that for us?

*Bill Karp:* I think it's more that your language is clear, probably. Because what you're trying to do here is really a construct. It's not a statistical measure so much as an average of the measure of uncertainty, shall we say. But normally, I think if you look at calculating an average, then you would calculate a confidence interval around that average. And that, again, that is obviously not what you're trying to do. But it's important that that's clear, I think.

- Rick Robins:* Well I think Jim's clarified some of the language. Tony, do you want to read that into the record for me? You get your binoculars...
- Tony DiLernia:* Speaking to Dr. Karp's motion, at which I was gonna leave the room, I move that the Council recommend to the National Marine Fisheries Service alternative 3C, modified to apply a phased in three-year running average of the time series of lower confidence limits for the point estimates LCL, defined as point estimate minus one standard error, as preferred alternative.
- Rick Robins:* Okay. Is there any further discussion by the Council? Is Council ready for the question? All those in favor, please indicate by raising your hand. 17. Opposed, like sign. Abstentions, like sign. One Abstention. Motion carries. Thank you. I think all that's left at this point is a motion to submit the Amendment to the Agency with the Council's preferred alternatives. Tony DiLernia?
- Tony DiLernia:* Mr. Chairman, I move that the Council submit this suite of management measures to the Secretary for approval as an Amendment to the—as an Omnibus Amendment to our plans.
- Rick Robins:* Second to the motion by Steven Linhard. Any further discussion? All those in favor, please indicate by raising your hand. 17. Oppose, like sign. Abstentions, like sign. One abstention. Thank you.
- Tony DiLernia:* Chairman?
- Rick Robins:* Yes, sir?
- Tony DiLernia:* If I may, and I don't presume to, but I believe for Amendments for Secretarial submission must be done via roll call. And I'd hate to see it come back to us.
- Rick Robins:* Tony, thanks for the reminder. We do a final roll call vote for final submission. So Jan, do you have a list for us? While we do that, Tony, do you have an announcement for us?
- Tony DiLernia:* Yeah. Regarding the fishing trip this evening, we are going to be fishing for...are you ready?
- Rick Robins:* For whatever bites.

*Tony DiLernia:* Black sea bass. I believe I was informed by the captain this morning. The boat departs the Belmar Pier at 6:00 PM. Jan has directions. I've also drawn up a few maps of where the boat is one you get to the Belmar Marina. On board, we will have—all the bait and tackle and everything will be supplied. We also have sandwiches and beverages for everyone. So we'll be having dinner on board, this evening will be sandwiches. It's 85 dollars a person. I will be in the cabin. I'll try to collect the money from everyone as they come on board. See me, check in, and I guess that's really about it.

I have—if people wanna drive, I have—my vehicle's full, but if some people want to carpool down, I think it'd be good. And the drive is less than half an hour. Mr. Zeman and I did it earlier—did it yesterday. And would say 20 minutes or so. Yeah. If you do into the GPS, there's a—Route 35 and 10 Street in Belmar would be the GPS address, the intersection. 'Cause we put in the address of the boat and, at least my GPS, did not recognize it. But it's a 20-minute drive.

And we'd like to leave at 6:00 PM, and we expect to be back around 10:00 PM. Weather's supposed to be nice. And I hope we catch some fish. The address, I will put in is Route 35 and 10 Street, Belmar, New Jersey. And again, Jan has directions, and I have a map. It's the Belmar Marina in Belmar, New Jersey.

*Rick Robbins:* Tony, thank you. And if we have any questions, we'll follow up offline. I appreciate it. I'm gonna go ahead and call the roll call vote on this final action. So with that, I'll start with Steve Heins.

*Steve Heins:* Yes.

*Rick Robins:* John McMurray?

*John McMurray:* Yes.

*Rick Robins:* Laurie Nolan?

*Laurie Nolan:* Yes.

*Rick Robins:* Tony DiLernia?

*Tony DiLernia:* Yes.

*Rick Robins:* Chris Zeman?

---

*Chris Zeman:* Yes.

*Rick Robins:* Erling Berg?

*Erling Berg:* Yes.

*Rick Robins:* Warren Elliott? Absent. Peter Himchak?

*Peter Himchak:* Yes.

*Rick Robins:* Leroy Young?

*Leroy Young:* Yes.

*Rick Robins:* Stewart Michels?

*Stew Michels:* Yes.

*Rick Robins:* Lee Anderson?

*Lee Anderson:* Yes.

*Rick Robins:* Howard King?

*Howard King:* Yes.

*Rick Robins:* Steve Linhard?

*Steve Linhard:* Yes.

*Rick Robins:* Mike Luisi? Absent. Jeff Deem?

*Jeff Deem:* Yes.

*Rick Robins:* Rob O'Reilly?

*Rob O'Reilly:* Yes.

*Rick Robins:* Chris Batsavage?

*Chris Batsavage:* Yes.

*Rick Robins:* Dewey Hemilright?

*Dewey Hemilright:* Yes.



*Rick Robins:* Preston Pate?

*Preston Pate:* Yes.

*Rick Robins:* John Bullard?

*John Bullard:* Abstain.

*Rick Robins:* Motion carries. Thank you again for all the input. And Jim, thanks for all your hard work on the Amendment. With that, I'll turn it to Bob Beal. Bob has an award presentation to make. Bob?

*Bob Beal:* Great. Thank you, Mr. Chairman. I was anticipating doing this after lunch, so I'm gonna ask Frank to help me out, and then pull those out of the box for me. But I know everyone's trying to get to lunch, so I'll make it fairly brief. It's never good to be the guy between lunch and a crowd a people. But the Atlantic States Marine Fisheries Commission recognizes a number of folks through a number of different categories through annual awards of excellence each year. And the categories are management, policy, scientific and technical work, legislative activities, and advisory panel, and law enforcement activities.

There was an awards presentation at our spring meeting down in Alexandria a couple weeks ago to recognize a number of folks in the law enforcement community that were very successful in enforcement activity for oysters in New Jersey. And only two the members of that group could make it to Alexandria, so the other six, it made a lot more sense to sort of bring the awards presentation to them rather than them come down to Alexandria and spend their limited dollars and limited time coming down to Alexandria to receive an award.

So I'll just quickly go over the enforcement activity that these gentlemen are being recognized for. First of all, I'll ask them to raise their hand in the back of the room, and then we'll give them their awards at the end. The individuals that are here being recognized today are in addition to the two folks that were recognized in Alexandria. And the folks that were recognized in Alexandria were lawyers from the Department of Justice. Wayne Hettenbach and Patrick Duggan were recognized there. The individuals that are being recognized here today are from NOAA Fisheries Enforcement Office and New Jersey DEP Conservation officers.

They are special agent James Cossen, Jeffrey Ray, Captain Mark Canale, hope I got that right, Lieutenant Karl Yunghans, and conservation officers Craig James—he's not here? We'll send his to him. And conservation officer Jeremy Trembley, he's not here as well. These individuals, as I mentioned, were part of a joint NOAA Fisheries and New Jersey law enforcement team who capped off a five-year investigation ending with the conviction of seven defendants on 37 counts of trafficking in illegal oysters. The defendants, all from New Jersey, were overharvesting oysters from the Delaware Bay and then falsely recording their harvest on state and Federal records.

Further, the Delaware dealers who sold the illegal oysters helped to cover up the overharvest by filling false state and Federal health documentations. It is estimated that in some years the overharvest exceeded the fisherman's quota by more than 60 percent. All told, the defendants illegally obtained nearly 15,000 bushels of oysters from the Delaware Bay with a fair market value in excess of 1.2 million dollars. So it's obvious that this five-year investigation ended a sizable illegal harvest of oysters.

So, you know, the team's tireless work and interagency coordination and dedication to preserving our natural resources led to the successful conviction of an extensive criminal ring that had been depleting vital keystone species in Delaware Bay. With this investigation and further conviction, the team sent a clear message to the state and Federal law enforcement officers, stand ready to uphold the stewardship responsibilities to ensure that all harvest is carried out in accordance with laws protecting these resources.

So we also have Bruce Buxton here today, who is the Director of NOAA Law Enforcement Office. So welcome, Bruce. Glad to see you here, and glad you could make it for the presentation. And Scott Doyle, as well. Glad you could be here. So please, help me in thanking and congratulating these individuals for the hard work and great effort that they put forward to make this great case.

*[Applause]*

If they can come up I'll give them each their awards, which I think are behind me now. Jeremy Trembley's not here. Officer Mark Canale? Fingerprints I get on your award. Congratulations. Special agent Jeffrey Ray? Special agent James Cossen? Hope I'm saying that correctly, James. Congratulations. Craig James is not here, is that correct? And Lieutenant Karl Yunghans. Thank

you. That'd be great. Thank you, and I think that's it. Rick, thank you for the time to present those awards.

*Rick Robins:*

Bob, of course. And congratulations all of you, and thank you for all that you've done. So with that, let's adjourn for lunch and be back in an hour, please. Thank you very much. We'll be back at 2:30. Thank you.

*[End of Audio]*

DRAFT

**Atlantic Sturgeon Biological Opinion**  
**June 12, 2013**  
**Doubltree**  
**Eatontown, NJ**

*Rick Robins:* Let's go ahead and take our seats so we can get started, please. Our first item is gonna be the update on the Biological Opinion by Kim Damon-Randall. And this will be the BiOp on Atlantic sturgeon. So Kim, if you wanna go ahead and begin. Welcome.

*Kim Damon-Randall:* Thank you. I'm really sorry. My flight was very delayed today. So, I'm gonna talk about Atlantic sturgeon. Give you a brief background of Atlantic sturgeon in the listing, just so everybody's on the same page, give you an update on the information that's available for the species, an overview of the draft batch fisheries' Biological Opinion, and then some next steps. So I think everybody knows that in April 2012, the listing for five distinct population segments, or DPSs, of Atlantic sturgeon became effective. Incidental catch in commercial fisheries was determined to be one of the primary threats in both of the listing rules.

And at the time that the listing became effective, all incidental catch became illegal unless it was covered by a Section 7 incidental take statement or a Section 10 permit. So we actually initiated formal Section 7 consultation on the fisheries in the Northeast that are known to interact with Atlantic sturgeon. Our Science Center conducted a bycatch analysis, which was completed in April of 2011. And it identified the fisheries and gears which have been observed to interact with Atlantic sturgeon. Incidental catch in sink gillnet and otter trawl gear was identified, but it was not possible to determine which specific fisheries the takes occurred in.

We decided that it would be best, instead of doing a consultation on each FMP separately, to batch the FMPs together and do a batch consultation. So the batch consultation includes groundfish, monkfish, dogfish, skate, squid, mackerel, butterfish, bluefish, summer flounder, scup, and black sea bass. So we have to—when we're doing a Section 7 consultation, we have to do a jeopardy analysis. And the jeopardy analysis examines the future with and without the action that's under consideration to determine if the proposed action is likely to appreciably reduce the species' likelihood of survival and recovery. We also have to do an effects analysis. And for the effects analysis for sturgeon, we had to determine the effect of the seven fisheries as they currently operate

on each DPS of Atlantic sturgeon. Because each DPS is treated basically like a separate species.

We have to estimate the number of Atlantic sturgeon that are likely to be captured, killed, or injured per DPS and determine if that annual loss is likely to appreciably reduce the likelihood of survival and recovery of the DPS. The standard for ESA is the best available information, and originally there were no population estimates available for Atlantic sturgeon. We had partial estimates of spawning adults in the Hudson and the Altamaha rivers, but no comprehensive population estimates. So at the time that we initiated the BiOp in February 2012, when the listing rule was published, we had significant concern about possibly recommending major changes to the fisheries without the data to support that need.

So we worked with our Northeast Fisheries Science Center and asked them if there was any way to calculate an estimate of Atlantic sturgeon. And this April, the Science Center completed a new method for estimating the ocean population. Their method is known as the Atlantic Sturgeon Population Index, or ASPI, and it's based on fishery bycatch estimates that I mentioned earlier that they completed in 2011. Extensive data from the US Fish and Wildlife Service tagging database and estimates of life history parameters from the literature for Atlantic sturgeon. The ASPI is a risk analysis model and the inputs include encounter rate and mortality rate.

The estimates are ocean abundance only for the area that's sampled for the Northeast Fisheries Observer Program. The current estimates range from a little over 165,000 to close to 745,000 with a mean of about 418,000. The ASPI method was internally peer reviewed, and it will be reviewed and considered by the Atlantic States Marine Fisheries Commission's Stock Assessment Committee. The Science Center also calculated a minimum swept area biomass from the Northeast Area Monitoring and Assessment Program, or NEAMAP survey. That survey samples using a trawl in coastal areas from Cape Cod to Cape Hatteras in near shore waters out to about 18.3 meters. So an area that is known to be an area that Atlantic sturgeon occupy.

They have data from the fall of 2007 to present and spring of 2008 to present. And Atlantic sturgeon are frequently sampled in the NEAMAP survey. There was a question at the Atlantic States Marine Fisheries Commission in May, the meeting, about whether or not SEAMAP could be used to calculate a similar estimate for

the South Atlantic. We did investigate that, and there has been so few Atlantic sturgeon caught in the SEAMAP program that it's not possible to do a comparable estimate. There's only been 23 since 1991 or 1990. We don't know what the net efficiency of sturgeon capture is in the survey. But if you assume about a 50 percent catchability—the catchability is the product of the net efficiency and the fraction of the population that's within the sampling area. So if you assume a 50 percent catchability, then the ocean estimate of Atlantic sturgeon in the area sampled is close to 68,000.

In the draft Biological Opinion, we did use the NEAMAP estimate as our minimum estimate of Atlantic sturgeon in the ocean. And we concluded that the seven fisheries may adversely affect, but are not likely to jeopardize, the continued existence of any of the ESA listed species in the Northeast, including all five DPSs of Atlantic sturgeon. There is an incidental take statement in the draft Biological Opinion for sea turtles, which is there. And also one for Atlantic sturgeon. And if there is questions over how these numbers are calculated, maybe I could talk to you. I know you guys are running late, I can talk to you offline.

We also have an incidental take statement for Atlantic salmon in the batch BiOp, and it's important to know that the anticipated level of incidental take of Atlantic sturgeon and Atlantic salmon for the recreational components of the seven fisheries could not be estimated at this time. The incidental take statement does include four reasonable and prudent measures, or RPMs, and ten implementing terms and conditions for the BiOp. RPMs with their implementing terms and conditions are designed to minimize and monitor the impact of incidental take that might result from the proposed action. Specifically the RPMs in terms and conditions in this BiOp will ensure that the NMFS monitor the impacts of the proposed actions in a way that allows for the detection, identification, and reporting of all interactions of ESA listed species.

NMFS must ensure that all ESA listed species are handled in a way to minimize stress to the animal and increase its survival rate. NMFS has to continue to investigate and implement modifications to gears to reduce incidental take of ESA listed species, and also the severity of any interactions that occur. NMFS must continue to determine whether there are areas or times of the year where interactions are more likely to occur. And NMFS must ensure that the monitoring and reporting of any of the ESA listed species allows us to detect any adverse effects such as serious injury or mortality, detect whether the anticipated level of take has been met

or has been exceeded, and collect data from individual encounters. So all the RPMs are things that NMFS has to undertake.

So the draft Biological Opinion has been posted on our website, which is listed there. It's available for review for 60 days, which is until July 19th. Comments will go to our Sustainable Fisheries Division at the email address that is listed there. SFD will provide substantive comments to Protected Resources for consideration in the final Biological Opinion. And PRD will revise the BiOp as necessary and finalize it for signature. And that's expected to occur in the fall of this year. Just as a quick follow-up, I know people were interested in what was going on with the states. NMFS has continued to work with the states on Section 10 applications to address sturgeon takes in state waters. A Section 10 permit was just recently issued to Georgia in December for takes of shortnose and Atlantic sturgeon in the commercial shad fishery. And we're getting very close to issuing a Section 10 for North Carolina. It should be done in the fall. And it will be a joint Section 10 for both sea turtles and sturgeon. And we're working with several other states. New Jersey, Delaware, and Rhode Island are all actively working on Section 10 permits.

So next steps for sturgeon, the new ocean estimates will be reviewed and considered for inclusion in the ASMFC benchmark stock assessment, which is expected to be completed in 2014 with the peer review in early 2015. The results of the stock assessment will help to determine if a new ESA status review is necessary. If a new status review is initiated, NMFS will draw from the work of the Stock Assessment Committee and focus on just those areas necessary to address information gaps that are needed for informing the listing determination, similar to the process that we've undertaken for river herring. So there will be no duplication of effort. And that's it.

*Rick Robins:*

So, Kim, the next steps here relative to the RPMs are very different than they would have been had you had any jeopardy findings. And we've had an engagement prior to this with our Committee and your office as we've gone through some discussions about what might be appropriate ranges of RPMs. And now we have a no-jeopardy finding. So is there still an opportunity to have an ongoing dialogue about the nature of those RPMs?

*Kim Damon-Randall:* Yes, definitely. And that's why it's available for the public review. So any comments that you have can be submitted and will definitely be considered.

*Rick Robins:* Okay. Thank you. Questions for Kim? Chris?

*Chris Batsavage:* Thank you, Mr. Chairman. Kim, what factors contributed to the no-jeopardy opinion for these fisheries?

*Kim Damon-Randall:* So in doing the jeopardy analysis, basically we use that NEAMAP estimate that I mentioned. The closest 68,000 fish in the ocean. And we looked at anthropogenic mortality of about five percent, which is documented in the literature. And we attributed two percent to the Federal fisheries. And we used an at-risk model to determine whether or not we exceed that two percent threshold with the take estimates for each of the individual DPSs. So it's a modeled analysis using the NEAMAP estimate as its baseline.

*Rick Robins:* Chris?

*Chris Batsavage:* Thank you. Is current trends in fishing effort factored in to the no-jeopardy?

*Kim Damon-Randall:* The current trends in fishing effort are considered in the environmental baseline of the Biological Opinion. So, yes.

*Rick Robins:* Further questions for Kim? Dewey?

*Dewey Hemilright:* Thank you, Mr. Chairman. How many estimates do you have of takes by ships? Or boats or boat traffic? How does that work, given that you're given estimates on different fisheries and stuff like that? That's one question. And what's—that's good enough.

*Kim Damon-Randall:* So we have estimates for vessel strikes that have occurred and been documented. So known vessel strikes in the Delaware and the James River. And we've been tracking those and we've been working with a researcher at Delaware State University to collect mortalities that they're getting in their sampling that they're doing for the bycatch reduction program. And they're going to be doing a study to look at how many of the Atlantic sturgeon that are hit by vessels are actually able to be documented. So we have a rough estimate, but it's only those that have been observed. It's not probably a comprehensive estimate of all the sturgeon that have been stricken.

*Rick Robins:* Further questions for Kim? Bob?

*Bob Beal:* Thank you, Mr. Chairman. Not a question, just a comment. As Kim mentioned in her last slide, ASMFC's ramping up the stock assessment right now over the next 18 months or so. And if



anyone has any data sets or ideas or thoughts or any information that would help out with that assessment, we're asking that all new data be submitted to us by July 1<sup>st</sup>. We're open to any information that folks may have, and we're—you know, we've got a press release out and we're seeking any input from anybody who might have information on sturgeon.

*Rick Robins:* Thanks Bob. Further questions? Chris Batsavage?

*Chris Batsavage:* Just a comment and a question. I'll be quick. You mentioned that North Carolina is working on incidental take permits for both turtles and sturgeon. And I think you described it as a joint ITP. They're actually two different applications, and they're on two slightly different tracks. We hope to—if they're granted, we get them both in the fall. But I just wanted to clarify that. Unless it's gonna be treated differently by NMFS when they come out with their determination. And this last question I have regarding the ESA status review. Before that's done, will a recovery plan be needed for sturgeon? 'Cause there's still not one completed yet.

*Kim Damon-Randall:* So just to clarify the Section 10, Angie Somma from our headquarters office spoke at the ASMFC meeting, and did indicate that they are trying to get those on the same track and issued at the same time. So they are trying to get both of those together rather than doing them separately. And then for the recovery plan, basically at this point, we are really trying to put our focus on working with ASMFC on the stock assessment and determine where we are with the species. And then determine whether or not we need to do a status review. If we determine that the species really is threatened or endangered at the end of that stock assessment, then we would go forward with the recovery planning. If not, we'll initiate the status review and determine what the correct ESA status is.

*Rick Robins:* Thank you, Kim. Other questions? Are there any questions from the public about the draft BiOp? Seeing none. Kim, I think what we'll do is review it and draft some comments. We'll circulate that through the Council and then send that to you before the comment period closes in July. Okay. But thank you very much for the presentation. Jason, are you ready for squid, mackerel, butterfish?

*[End of audio]*

---

**Mackerel, Squid, Butterfish as a Committee of the Whole**  
**June 12, 2013**  
**Doubltree**  
**Eatontown, NJ**

*Rick Robins:* There's a Council to submit the specifications package to the Agency. But I just wanted to clarify that up front. Alright, Jason.

*Jason Didden:* Thank you. So the first item that I have in the presentation here is a motion from the Committee related to an *Illex* control data. And I'll pass that to Howard.

*Howard King:* I'll go ahead and make the motion for the Committee. Move that the Council take action via letter to National Marine Fishery Service to establish a new control data for *Illex* squid.

*Rick Robins:* Thank you. The motion doesn't require a second. Is the Committee as a whole ready for the question? Is there any objection to the motion? Seeing none. It's approved by consent. Thank you. Jason?

*Jason Didden:* Next item of business relates to butterfish specifications. The SSC ABC was 9,100 metric tons. It's an increase of 700 metric tons. And I will turn it to Dr. Boreman for a summary of the SSC's findings on butterfish.

*John Boreman:* Okay. Thank you, Mr. Chair. I'll try make to make this quick. Go to the second slide. Okay. Similar to the format we used yesterday, I'll just go through and get to the bottom line on butterfish. The SSC continues to designate the assessment as a level four because no biological reference points are available and no credible estimate of overfishing limit is available. Next slide.

The OFL, what we've done is develop a proxy for OFL. Similar to the—same method that we used in 2012. The proxy was for the maximum fishing mortality rate that was adopted as 0.536, which is based on a paper that recommends for species like butterfish, a forage species, that 67 percent of M should be adequate as a maximum for fishing mortality rate. We used M at 0.8, which we feel is on the low side. The Center gave us a range of 0.8 to 1.2 or something like that. So we chose the lower M.

And again, this is based on a recommendation in Patterson 1992. As in 2012, we endorsed a time window of seven years of survey operations as a base to approximate the stock size. And from those

approximations, and this is a method that was developed by Tim Miller and Paul Rago, the lowest catch that would achieve the boot strap median of 0.536 for F is 18,200 metric tons. And that is what we would consider the OFL proxy. Next slide

So in developing that, we note the following: that butterflyfish remains a level four species and the maximum fishing mortality rate threshold proxy was derived from a meta-analysis of data for small pelagic species and not specific to butterflyfish, but species that have similar life history patterns. There's considerable variability and uncertainty in the biomass trajectories for this species. And the reliability of this proxy is unknown. But as I said, the estimates of catchability in the survey and the estimate of natural mortality rate used in the analysis, which are both on the conservative side, make the transition from the proxy to the OFL proxy conservative in our opinion. Next slide.

As in 2012, the SSC reduced the OFL proxy by 50 percent. In the past, we've done it by 25 percent or so if we didn't have any other guidance. But in this case, we did it by 50 percent. Based on the observations that butterflyfish have a short life history, which gives a limited timeframe for management to respond to adverse patterns, recruitment of butterflyfish is highly variable and uncertain. The stock status is unknown, and the susceptibility of butterflyfish to environmental and ecosystem variability, they are—and that's another reason, is the susceptibility to environmental and ecosystem variability, particular inter-annual variability and natural mortality. This results—50 percent of the OFL results in an ABC of 9,100 metric tons. Next slide.

In terms of the number of fishing years, because of the peculiarities of this species, we could not justify going more than one year for a specification. And we also note that a new assessment is likely in 2014. Last year, we said a new assessment's likely in 2013. This year it's 2014, and hopefully we'll end there with a new assessment at the end of this year. Probability of overfishing, one of our terms of reference not possible. But given the available information, we think it's likely low, probably likely very low. Much—the current feeling that the F value is way below even the 0.1. The most significant sources of scientific uncertainty, first there's no accepted reference points. If we had a benchmark, that would be helpful.

The use of the F to M ratios as the foundation for the OFL proxy determination. Obviously that's a source of uncertainty. The use of the Miller and Rago envelope analysis for biomass and catch

determination. That's a new technique. And there's obviously some uncertainty associated with that. Model-based estimates of biomass and  $F$  are generally imprecise for this species. Discards remain imprecisely estimated. There's a probable large role of environmental drivers, including predation. Survey efficiency and stock area coverage is a source of uncertainty. Imprecision of the estimates of natural mortality, possible low survey catchability, because it is a pelagic fish and we're using the bottom trawl to do the survey. And conflicting trends among different surveys that we were looking at. Next.

In terms of ecosystem considerations, this is a standard term of reference we use for all our species. Asked if there were any ecosystem considerations in the model. And no, there are not. But because of the short lifespan, stock size is highly variable. And the variability's more—likely more directly influenced environmental factors and variation in predation than for longer-lived species.

Consumptive demand by other species was considered. And that basically was another reason why we use the 50 percent of OFL just as a consideration, even though we didn't quantify. The SSC developed the OFL based on a proxy setting process that incorporated consideration of the role of butterfish as a forage species, which is similar to the previous bullet point. And that's the SSC report. Thank you.

*Rick Robins:*

Thank you. Jason?

*Jason Didden:*

So that's the SSC's ABC. We've run into a bit of a bureaucratic issue. Technically, there's still a rebuilding of  $F$  equals 0.1 on the books related to when butterfish was declared overfished. Of course it's now declared unknown. The recent assessment said those assessments were not appropriate for those decisions. So NMFS changed it to unknown. The SSC used analysis to get to the 9,100, as John said, related to this proxy OFL. Which is related to  $F$  equals 0.536.

However, in discussions with the Monitoring Committee and Science Center, I think it's possible that the 9,100 can be justified as meeting the current letter of the law related to this. Obviously there's a new assessment. I anticipate that there would be some kind of new action once that assessment is out to kind of set the course for butterfish. But we kind of are where we are right now. And while the SSC, and I certainly agree this is appropriate, looked at that seven-year window for trying to establish something that a really high probability of not exceeding overfishing and is

appropriate to a species like butterfish, the Science Center also conducted the same analysis but for four years. And we also did some follow-up analysis that said the four-year analysis is likely to be a better predictor of what actually occurs in 2014.

The seven-year analysis is a little more conservative. But if you look at how the recent year surveys are correlated to the coming year surveys, there's actually a stronger correlation with looking at the four year. And on that four year, the 9,100 metric tons is associated with an F of 0.12. Okay. We're getting very close to the 0.1 here. However, even with this, there's a lot of conservative assumptions that are built into that. Primarily that, you know, believing that a 9,100 metric ton catch is gonna get you to 0.12 assumes that there are no butterfish outside of the Bigelow trawl survey area. We know there north, south, east, and west of the trawl area. We have state surveys. I mean, it's clearly documented that that's a very conservative assumption.

Also, it's also assumed that the Bigelow catches 100 percent of the butterfish that were in that selected trawl path. And as John mentioned, that's also a conservative assumption. I mean, they're a pelagic, semi-pelagic fish. The odds that in this spot that the Bigelow is coming up to hit that it catches 100 percent of the butterfish in that area is fairly low. Given that inclusion, and I think the SSC is—you know, the 9,100 is the best available science. There's this slight bureaucratic issue that appears not insurmountable. And that the 9,100 is still justifiable by the Council as we move forward through an environmental assessment as meeting this F equals 0.1 requirement that we're under for related to these previous things that have kind of since been deemed defunct.

But, you know, theoretically, you go do some action, but then we're gonna be in another action with butterfish assessment coming up. So this seems like a relatively clean way to deal with it at this point. Which comes to an action item. The Committee did not have time to address this, so there's no Committee motion. But the question before the Council is does the Council want to adopt this OFL of 18.2 and the ABC of 9,100 that the SSC has identified as most appropriate. And described in more detail on page 13 of Tab One there are the ACL, ACT, DAH, which is what the commercial fishery accesses; the butterfish cap, which is just maintaining the same cap as last year; RSA two percent, that's only used to cover longfin RSA, there would be no butterfish RSA, that's all status quo.

Again, it's 700 metric tons higher than last year. And what the monitoring committee said is that last year the Council had a ten percent buffer from the ABC to the ACT. You know, take 90 percent of this extra 700, it's 630 metric tons. Put that in the director butterfish fishery. Use ten percent of that to maintain this ten percent buffer, which we still thought was appropriate. And leave everything else the same. You know, you set up the new tier structure for butterfish. The cap seems to be doing okay. And kind of just leave everything else the same was the recommendation from staff. But utilize 90 percent of this extra 700 for that Phase One directed fishery where there are no trip limits and kind of leave other things the same. So I'll go back to Howard for if he has additional comments.

*Rick Robins:* Howard, do you have any further comments on this?

*Howard King:* I would only request that the Regional Office respond back with some feedback before I make a motion.

*Rick Robins:* John Bullard?

*John Bullard:* So when Jason said we just have a little bureaucratic issue, you're calling our name Jason. With "little bureaucratic problem," here we are. So thinking out loud, let me just offer a few items. And then I don't have answers. I just wanna put some information on the table and then we can try and wrestle this to the ground together.

First, as Jason said, butterfish is in a rebuilding plan. It's got one more years. And after that one year, then there is a stock assessment. So one more year to go on the rebuilding plan. Jason said that the 9,100 leaves you with an F of 0.12. That's close, he said. What would an F of 0.1 mean? 7,900. So if you want to comply, it's 7,900. So is that close or not? I don't know whether that's close or not, but it's 7,900 versus 9,100. Now in 2012, 56 percent of the butterfish ABC was caught: 2,343 out of 4,200. So that's what was caught last year: 2,343. So we're talking about either 9,100 or 7,900. Last year was 2,343. Of that, 1,700 was discards. So that's just information on the table. And then we can figure out where we wanna go with that information.

*Rick Robins:* Thank you, John. Howard, does that address your concern? I've got Jason with his hand up. Let me to go Jason first. Jason?

*Jason Didden:* Just a couple thoughts. Related to the low actual catch of

butterfish, there's a lot of variability in the discard estimates. And the squid fishery has been operating a relatively low level. So there are a variety of factors going into that. And the trip limits were very low last year. So even though the quota, the ABC was expanded, the fishery wasn't really able to access it because the trip limits were very low for all of last year.

And I think the point I was trying to make is I think the Council—you know, what's on the line, on the paper, is 7,900, related to an F equals 0.1. However because of the conservative assumptions built into that, again, the justification would be that yes, you know, the line, given those assumptions is 7,900. However, there's a justification that in reality, you would expect to achieve an F of 0.1 or less. And I did—the Science Center did confirm that, you know, those are facts about the conservative assumptions. Again, it's a qualitative assessment. If you think that's actually going to get you to 0.1 or not. But the butterfish assessment scientists did confirm that that is a reasonable way to describe the fact that there are conservative assumptions built into that.

*Rick Robins:* Jason, do you have any sense of scale of the proportion of stock that's not included in the survey area?

*Jason Didden:* No, but I think the assessment will be more fully considered considering NEAMAP, state things, CEAMAP, and the such coming up. But as Dr. Boreman said, that's just a strong area of uncertainty.

*Rick Robins:* Thank you. Howard?

*Howard King:* I'm uncertain whether to make a motion with the ABC staff recommendation of 9,100 or the Regional Office of 7,900.

*Rick Robins:* Well, John, if we—if the Council is about to provide any additional justification for the 9,100, is that something that would be viable alternative at this point for the Agency? Or if we submit that, is there a window of opportunity to provide some critical feedback in the period between now and our August meeting? I'm just trying to think of the timing of the specs submission and whether or not, you know, if we had to make an amendment to that, whether we could do that. Gene?

*Gene Martin:* Not being that familiar with the regs, is this the type of spec that the Regional Office can unilaterally change if we think it's not justified when we propose the specification? I know for most specs that's the case. I didn't know if this falls into that category.

*Jason Didden:* I don't think it's like one those dogfish things where the Regional Administrator is bound to the range that was done by the Councils. And it's the recommendation to NERO and they make the final decision, as far as I'm aware.

*Rick Robins:* George, is that accurate? Or you wanna add to that?

*George Darcy:* Yeah. I think that is correct. I mean, what we'd ultimately be looking for is something that satisfied the F equals 0.1. So 7,900, I think certainly would, on its face. If you provided something else and could provide a convincing argument that equated to F 0.1 or less, that would certainly be something we could consider. And your suggestion that we might have time to react prior to your August meeting is probably something we could do if you wanted to provide us that justification, and we could look at it.

*Rick Robins:* Jason, how does that fit in to what you have to do for the spec process from a staff standpoint? Is that something that you could work with?

*Jason Didden:* I had some discussion with the region on some different possible avenues. And, you know, it could be something where the Council considers a quick webinar meeting in between as—'cause this can't be changed, the rebuilding plan can't be changed to say, okay, we're doing some other F through a specs process. That would have a be a framework, and that's two Council meetings.

So I think if the region provided some relatively quick feedback, if they thought that this justification was sufficient, then, you know, I think there are opportunities to adjust accordingly and pivot if necessary. But again, I think, you know, given the conservative assumptions, I think there's a reasonable argument there that you would expect the implementation of this ABC to result in an F—or realization of this ABC would be expected to result in an F of 0.1 or below.

*Rick Robins:* Thank you, Jason. In light of that, Howard, if you wanna make that recommendation. And if we have to revisit anything between now and August, we can do that. But I'll defer to you to make a motion.

*Howard King:* Alright, thank you. I think I'll put these numbers up on the board in the motion. I move on behalf of the Committee, the Committee as a whole, to set the 2014 butterfly specifications at OFL 18,200 metric tons; ABC 9,100 metric tons; ACT 8,190 metric tons;



domestic annual harvest 3,200 metric tons; butterfish cap, 3,884 metric tons. There are implied discards in other fisheries. ACT, DAH, Cap, and RSA are 1,106 metric tons. As part of this motion, I'd like to include if the Northeast Regional Office is required to reduce the ABC, that the percentages of each category remain the same.

*Rick Robins:* Is there a second to the motion? Second by Erling Berg. Thank you, Howard. Jason, while you're getting that up there, is there any discussion on the motion or questions about the specifications in the motion? Is there any public comment on the motion? Howard?

*Howard King:* The motion should read, "If NERO must reduce the ABC, then the other percentages remain the same." I think the ABC is what they would reduce, and then the other numbers would follow.

*Rick Robins:* Jason?

*Jason Didden:* Just Howard, just for clarification, adding the "percentages remain the same," staff could imagine that if the ABC is changed in the future that one reaction point to mitigate impacts of that could be some rearrangement of the quotas. Just curious why you want to specify directly that those percentages would remain the same.

*Howard King:* If we have a time period that's guaranteed to react to that, then that would be fine. But if the office has to take unilateral action and we don't have time to readjust, then I thought the percentages would have to remain the same. So you all can discuss it. We can do whatever you want.

*Rick Robins:* Further discussion or questions on the motion? Jason?

*Jason Didden:* This is not from Committee, so it may need a second.

*Rick Robins:* I thought Erling seconded it. But I'll ask for a second on the motion. Erling? Yeah. Further discussion on the motion? Is the—Howard?

*Howard King:* If there are assurances that we would have time to readjust those other figures following the action of the Regional Office, then I would certainly remove the "percentage remaining the same." But I was just unsure when I made the motion. Can the Regional Office comment?

*Rick Robins:* George or John, do you wanna clarify that?

- George Darcy:* Well, if you mean give you feedback before your August meeting as to whether the 9,100 meets the—can be construed as meeting the 0.1 and then giving you a chance to react to that, I think that's doable. I mean, if we can tell you prior to then whether it's gonna be 7,900 or whether it can be something higher based on the justification that can be build for it, then you could decide whether you wanted to revisit the allocations at your August meeting and we'd still have time to build that into our rule making, I think.
- Howard King:* In that case, if the seconder agrees, we'll remove the percentage language.
- Rick Robins:* Is that agreeable to your, Erling? Yes? Okay. So the motion is now perfected. Is there any further discussion on the motion? Seeing none. Is the Council ready—is the Committee ready for the question? All those in favor, please indicated by raising your hand. 18. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you. Jason? Jason?
- Jason Didden:* Currently in the last phase of butterflyfish, it goes to a 500-pound trip limit. That's designed to prevent overall DAH, ABC overages. The incidental trip limit is 600 pounds. Having those two things be different can cause confusion. Staff brought forward a recommendation to change the final Phase Three trip limit to 600 pounds to match the incidental trip limit. And then all the other various measures would remain the same. Don't anticipate that an extra 100-pound trip limit would have, you know—I anticipate that it would have a negligible impact on any landings amount. But it would simplify the regulatory structure.
- Rick Robins:* Thank you, Jason. What's the pleasure of the Committee?
- Howard King:* Move on behalf of the Committee to change the Phase Trip Three limit from 600—pardon me, from 500 to 600 pounds.
- Rick Robins:* Is there a second to the motion? Second by Erling Berg. Discussion on the motion? Is there any public comment on the motion? Seeing none. Back to the Council. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 18. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you. Jason?
- Jason Didden:* Next issue, currently if longfin squid closes, the Illex fisher can be forced to discard longfin squid. This is a trimester two issue primarily. They're operating at the same time: longfin inshore,

Illex offshore. However, longfin and Illex can mix offshore. And we got reports last year that when the Illex folks were out in July and August, longfin was closed, so they ended up discarding—having to discard regulatory—because of the regs—a lot of longfin and—when they caught them occasionally. And if you look in the data, they are caught mixed to some degree. So the goal is do avoid regulatory discards without inducing a directed longfin fishery while it's actually closed.

So we discussed this some at the squid workshop meeting in January, at both the port meetings. And at the port meetings, some of the fishermen said, "Well, it's 2,500 pounds a day longfin close right now. Some of us are refrigerated seawater guys. We go out for maybe five days." 2,500 times five or, you know, four or five days, maybe 10,000 would be appropriate to them. The freezer boats, they may go out for ten days. And so if they're catching 2,500 pounds a day, then 25,000 pounds might be appropriate.

But talking to my colleagues at the region, trying to do that through specs allow enforcement to identify who's who, who's RSW, who's freezer, is just too complicated. So a kind of compromise between them would be if longfin closes and a vessel has a directed permits for both longfin and Illex, and if these vessels are out fishing in the deeper water where Illex is, and that's already been identified by the Illex mesh exemption. If the Illex boats are out fishing past the Illex mesh exemption line, they're exempt from the longfin minimum mesh.

So there's already a line there that's already used for enforcement. And if they have more than 10,000 pounds of Illex. So the idea is like this is an Illex trip. It's not someone trying to, you know, trying to get around the longfin closure. Then those vessels could possess up to 15,000 pounds of longfin squid. Even if longfin is closed. And this is trimester two, so—yes, does it increase the likelihood of a trimester two overage a bit? Maybe. However, trimester two overages just come out of the next trimester. So, you know, it's really not an issue in terms of your overall quota.

From a distributional point of view, those Illex vessels who would cause that overage, they're the ones who are fishing in trimester three anyway. So they're kinda catching their own fish. It's just allowing them not to have to engage in this regulatory discarding issue. Or be in violation of the law if they have a mixed catch that they can't separate. So that's a proposal. Again, the—it was supported, trying to do something like this at our various squid meetings to address this regulatory discarding issue.

- Rick Robins:* Thank you, Jason. What's the pleasure of the Committee? Howard?
- Howard King:* I'm prepared to make a motion. Move to set a 15,000-pound longfin squid trip limit for *Illex* moratorium vessels that also have a longfin squid moratorium permit. If they're fishing seaward of the *Illex* mesh exemption line and have more than 10,000 pounds of *Illex* onboard. These vessels would have to have nets stowed once inside of the *Illex* mesh exemption line if they had more than 2,500 pounds of longfin squid on board. And we would need a second for that.
- Rick Robins:* Is there a second to the motion? Second by Erling Berg. Are there any questions on this issue while Jason's typing the motion? Kevin?
- Kevin Saunders:* Thank you, Mr. Chairman. Just a clarification. So these two different species of squid are gonna be mixed, and from an enforcement point of view we're gonna have to differentiate the trip limit? Is that correct?
- Rick Robins:* Jason?
- Jason Didden:* Well, they could be mixed. And you already have to differentiate a trip limit, 'cause they could have the squid onboard. This is just changing that trip limit.
- Kevin Saunders:* Right, I understand. Just wanted to point that, you know, at sea we can't differentiate if they're mixed. SO this is strictly enforceable at the pier. Which of course is a slightly limited enforcement there too. Thanks.
- Rick Robins:* Chris Zeman?
- Chris Zeman:* Yeah. My question was about the enforceability.
- Rick Robins:* Is there any public comment on the motion? Geir Monsen. Good afternoon.
- Geir Monsen:* Yeah, thank you, Mr. Chairman. I just want to point out that the mixture of longfin and *Illex* squid only happen once in a great while. Last year was the worst year that we ever have seen. And it only happened in the southern end of the fishing area close to Cape Hatteras. And it only happened late in the season.

It's about the worst thing that can happen for anybody fishing on squid is that they get the two species mixed. Because it's a nightmare trying to separate it. And the only thing that you do with this type of a motion is to legalize landing squid that would be caught anyway. It's not gonna do anything to the resource. It's just making something legal that otherwise wouldn't be legal. Thank you.

*Rick Robins:* So, Geir, you don't think it's gonna do anything to incentivize or change fishing practices? It's just gonna cover any incidental—

*Geir Monsen:* No. There's no way of knowing if the squids are mixed before you get it on the boat. They look exactly the same on electronics. And if you get them mixed, yeah, you try to move, but generally they would be spread over a large area when it first happened. Thank you.

*Rick Robins:* Thank you. Is there any additional comment on the motion? Howard, do you mind reading that into the record?

*Howard King:* Yes, Mr. Chairman. I move to set a 15,000-pound longfin squid trip limit for Illex moratorium vessels that also have longfin moratorium permits. If they are fishing seaward of the Illex mesh exemption line and have more than 10,000 pounds of Illex, those vessels, or these vessels, would have to stow gear inside—these vessels would have to stow gear inside the mesh line if they have more than 2,500 pounds of longfin squid effective during longfin closures.

*Rick Robins:* And Erling, are you comfortable with that final language, as the seconder? Is there any further discussion on the motion? Is the Committee as a whole ready for the question? All those in favor, please indicate—Jason?

*Jason Didden:* Excuse me. One clarification. Was that specific to trimester two?

*Howard King:* Yes.

*Rick Robins:* Okay. With that perfection, is the Committee as a whole ready for the question? All those in favor, please indicate by raising your hand. 18. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you. Jason?

*Jason Didden:* This is a motion from the Committee, I'll turn it to Howard.

*Howard King:* I move for the Committee that the Council send a letter to the

National Marine Fisheries Service that river herring-shad estimation methodology be included in the upcoming review of bycatch.

*Rick Robins:* Motion is on behalf of the Committee and doesn't require a second. Is there a discussion on the motion? Mary Beth?

*Mary Beth Tooley:* Thank you, Mr. Chairman. I made the motion, and I'm just reading it. And I think what may be missing at the end is the upcoming review of the bycatch methodology. I think it needs that addition to be clear. I don't know if I need to make a—since it's a Committee motion, make a motion to amend to add that word, or what the best process would be here.

*Rick Robins:* Well, why don't you move to amend and I'll just if there's any objection.

*Mary Beth Tooley:* Thank you, Mr. Chairman. I move to amend to add the word "methodology" to the end of the sentence in this particular motion.

*Rick Robins:* Is there a second to the motion to amend? Second by Erling Berg. Is there any objection to the motion to amend? Seeing none. It's amended. Any further discussion on the motion? Is there any objection to the motion? Seeing none. It's approved by consent. Thank you. Jason?

*Jason Didden:* This is another motion from the Committee.

*Rick Robins:* Howard?

*Howard King:* I move on behalf of the Committee that the Council establish a greater than 20,000 pounds to ID a directed mackerel fishing trip and 20,000 pounds as a post-cap closure trip limit.

*Rick Robins:* Thank you. The motion's on behalf of the Committee and doesn't require a second. Is there any discussion on the motion? Are there any questions or discussion on it? Is there any public comment on the motion? Seeing none. Is there any objection to the motion from the Committee as a whole? Seeing none. It's approved by consent. Thank you. Jason?

*Jason Didden:* Another Committee notion.

*Rick Robins:* Howard?

*Howard King:* I move on behalf of the Committee that the Council for the 2014

year specifications set the river herring-shad catch cap for the mackerel fishery as 456 metric tons.

*Rick Robins:* Thank you. Motion's on behalf of the Committee and doesn't require a second. Discussion on the motion? Steve Linhard?

*Steve Linhard:* Thank you, Mr. Chairman. Personally, I had a difficult time getting comfortable with figuring out the right number for this cap. And I had to keep going back to the intention of the cap from the amendment that was passed. The opportunity we have is to gain momentum on conservation of and increasing the stock, hopefully, on a very important forage species of river herring and shad. So I think it's easy to get caught up in emotion with this kind of a motion or a number, trying to assign a number to this because it's soft data.

And I think that I personally did not vote for this high of a cap. I think a meaningful cap is necessary for this. The biggest intention I think we have here is that we wanna incentivize avoidance of river herring and shad in the mackerel fishery. And I think we have to have a meaningful cap number that provides enough of that incentive. So I'm not comfortable with this high of a number.

*Rick Robins:* John McMurray?

*John McMurray:* Thank you, Mr. Chairman. I agree with everything that Steve has just said. I want to point out that 456 metric tons, according to Jason's analysis, is four times any amount of river herring and shad bycatch that occurred in the last four years. And nearly four times the median for the past eight years. Which includes that anomalous 2007 really high catch. So to me, 456 metric tons really means no bycatch cap. And that's essentially what we'd be voting on if we did approve this. If we did send this to NMFS.

Now if our intent is to just try to prevent extraordinary bycatch events or extraordinary bycatch years, I could see how this would be something that the Council could approve. But it's my understanding that when we developed this amendment, and when we decided we wanted to do a bycatch cap, that the intent was to reduce river herring bycatch. And so with that said, I think we really do need to consider a number that's a little more reasonable number that's based on the catch that we've had in the last four years, not really what's—what the quota is. So with that said, I have a substitute motion when the Council is ready.

*Rick Robins:* John?

*John McMurray:* Okay. For the 2014 specifications, the Council recommend to NMFS a river herring catch cap of 119 metric tons based on the median amount of river herring and shad estimated to be caught by mackerel trips based on methods similar to butterfish and other similar caps. (Column G).

*Rick Robins:* Is there a second to the motion? Second by Lee Anderson. Mary Beth?

*Mary Beth Tooley:* Thank you, Mr. Chairman. This motion was proposed at the Committee meeting, and we had a long discussion about it. And I certainly don't support the motion. Having a number that is so small is extremely impractical for the industry. You have to understand how this is gonna be calculated on the water. A vessel's gonna encounter river herring in an unknown location with an observer onboard, and a ratio's going to be established. You'll have a bycatch avoidance program in place. And get vessels to all move out of that area, and hopefully be able to continue fishing, and that ratio will be applied to those landings regardless of whether they move or not.

So having a number as low as this is unworkable, takes all the incentive away from vessels who have no observers onboard to move or do anything. Because they're gonna get that ratio applied to them regardless of what their activity is. If you are setting a cap in the future where you knew you had an observer coverage level at a certain level or—and, you know, perhaps it's 100 percent in the future at some time. That would be one thing. That's not gonna be the case for 2014. We're going to have very low coverage by observers. The Agency has told us this. And this kind of a number is unworkable.

And that's the discussion we had yesterday, and I thought about it later and figured in my mind how this is gonna work and how it's gonna affect the bycatch avoidance program. And we might as well not have one. Because with a number like this, it's gonna be very difficult to explain to captains, you know, what benefit there is to them to moving off river herring while they get the ratio applied to all their landings.

*Rick Robins:* Peter Himchak?

*Peter Himchak:* Yes, thank you, Mr. Chairman. And I don't support the substitute motion. I support the motion coming out of the Committee. And I'd like to explain why. And we all recognize that these are highly



variable estimates of river herring and shad bycatch. And I made a casual reference to MRFSS numbers yesterday. And I got a little—a couple snickers and everything. But are we not dealing with the same currency? We're talking with highly volatile numbers in any given year, similarly to how we deal with recreational catch statistics. And now we're saying, well, you don't pick a point estimate, you use a band because of the variability in the estimates. So when we were having discussions yesterday, there was a lot of discussion on the 119 metric tons. Which in my mind, I would set as the low bar. And then there was this extraordinary ceiling of 1,685 metric tons, which is worst-case scenario.

So we're doing a paper exercise here, given the current situation of the mackerel fishery. But it really is important because if the mackerel present themselves and there is a cap that could potentially close the fishery early, fishermen are not gonna be able to take advantage of the resource. So if you want a comfort level, and that's what we're looking for here, how do we justify picking a number with a large degree of arbitrary or variance or whatever?

And, you know, I hate to play around with numbers, but if you could come up with a line of reasoning for picking a number, I look at the low ball and the high ball and I take the average of 119 and 1,685, and then I reduce that by 50 percent. And what do I end up with? I end up with 451 metric tons. So is the Council not being responsible by taking the extreme, the average of the extremes and then slashing it in half?

And again, I don't like playing around with numbers, but that's what we do with MRFSS and MRIP. And we've come to the realization that, you know, we shouldn't use them as point estimates. So I mean, if you can't link a number to a biological parameter and you're resorting to what your comfort level is, and if your comfort level is low and you don't worry about putting a mackerel fishery out of business, then that's your motivation. But I think a reduction down to 456 metric tons as a cap is justifiable as being proactive.

*Rick Robins:*

Other comments on the substitute motion? Rob O'Reilly?

*Rob O'Reilly:*

I think the substitute motion is something I can't support. But I do think that staff made a pretty good attempt to come up with a recommendation. I'd like that revisited a little bit, if Jason doesn't mind. Because I've read through it, and I understand the last two years were dropped off. The other comment I have is that when

you look at the table on Page 9, and this was commented on by a couple of us yesterday, unclassified herring is often larger than some of alewife or blueback. And really we don't know what's comprising that.

That's—you know, that's really troubling. And the trend is beyond troubling to go from about seven metric tons in 2005 of unclassified to jump in the couple of hundred, 300 metric tons. So there's a lot about this that is not very solid. I heard a lot of information yesterday and a lot of descriptives about the type of data that we're looking at and working with. And yet, there were sort of a tug-of-war going on, on whether to be low or higher or however you wanna categorize it. That it makes me wonder how you can be that confident even in the estimates that you chose.

So I think the first thing is I would like to hear a little bit more about the staff approach related to the columns on Page 8. And a little bit about those columns that were talked about yesterday: Column G and H, mostly. And not accuracy so much but which of those types of data treatments, as you work through this with the working group, I assume, and the Monitoring Committee, which ones prompted staff to go with the recommendation they did. Thanks a lot.

*Rick Robins:*

Thank you, Rob. Jason, can you elaborate on that?

*Jason Didden:*

Sure. Well the Monitoring Committee, because of a lack of ability to tie any of these to biological reference points or impacts on river herring and shad, other than the general qualitative way, was not comfortable with making any recommendations. Other than, you know, saying it seemed fairly clear that 1,685 or above would be inconsistent with Amendment 14. That's kinda where the Monitoring Committee left off.

Yeah I—in discussions with Chris, many times, you know, part of staff's job is to make a recommendation that we feel reflects kind of our current understanding of the Council's intent on different things. And so, you know, when I thought about, you know, Amendment 14, when I thought about you know, the approach with the Council and—well, this is more a reflection. This next statement. A reflection since this was created, but also like with the butterfish cap—and with the butterfish cap, you have an overall ABC.

And the Council has said, "Okay, well, you know, we wanna mostly try to allow that to allow the longfin squid fishery to catch

its quota, as long as they don't catch too much butterfish." And so they allocated a lot of the ABC, a lot of the ABC as cap on longfin. But then, again, the Amendment 14, overall goal of reducing river herring and shad catch. This is specific language regarded to the caps was to create a hard limit on river herring and/or shad catch.

So kind of taking all that in mind, you know, I think depending on the Council's tradeoffs of, you know, mackerel fishing, dollars from mackerel fishing, employment from mackerel fishing, all that goes along with that, versus the same thing for river herring and shad—clearly river herring and shad have provided a lot of employment in the past if not currently as well. You know, that tradeoff is, you know, really a core policy decision for the Council.

When I tried to, you know, make a recommendation, I said, "Well, combining kind of my understanding of all that, if you look at the median of Column H..." Which is again—and again, with the median of Column H, if that was selected, that's not saying that you would expect a mackerel fishery to close half the time and not close half the time. It's that if they were able to catch—if mackerel were very abundance and they could potentially catch the whole quota, and they experience this range of bycatch ratios that they did these, you know, eight or nine years, then if those two things are true, then you would expect it to close about half the time. Obviously there's a lot of uncertainty with these numbers. But if they're not catching much of the mackerel fishery, or if they're able to avoid river herring and shad, then you wouldn't expect them to close that often.

So that's, you know, given all those things, that's kind of where I ended up as 236 as a recommendation. Obviously it's very hard for me—I can't mind read everyone. So, and it's my general sense of things, and that's where the 236 came from. You know, the herring NK was big issue in Amendment 5 in New England, a big issue with Amendment 14. I think the observer program has made good strides to stop using that. There's still some of that in the data that I've seen in the last couple years. But they really pressed upon the observer program that that's not a helpful thing to record that. So I don't think you'd see that nearly as much going forward.

General sense is probably most of that herring NK is not river herring. It's probably mostly Atlantic herring, but it's tough to know. 'Cause it was herring NK. So who knows exactly. Yeah, if all that herring NK was river herring, then these estimates on—that I was doing on this would all be a good bit higher. 'Cause you're

throw all the herring NK into there. Which I did not do in this analysis. So that's my response. I hope it's helpful.

*Rick Robins:* Thank you, Jason. Laurie Nolan? Okay. Further discussion? Public comment on the motion? And we had public comment on both of the motions yesterday, but we'll take some brief public comments. Just please be to the point. Before that, John McMurray had his hand up. So, John?

*John McMurray:* Yeah. I'm just having a hard time understanding how 119 metric tons is so punitive. If I'm understanding this correctly, it only closed the fishery once in the last five years, and not by much. It was 132 metric tons, as estimated. So maybe somebody can explain that a little better to me.

*Rick Robins:* Alright, John. Public comment on the motions? Geir?

*Geir Monsen:* Yeah, thank you, Mr. Chairman. First of all, for the last few years, we haven't had a mackerel fishery. They had bycatch on mackerel in the herring fishery. At this point, if the mackerel fishery get closed, figuring the 20,000-pound limit on the boats, that makes for a mackerel trip. Then the herring fishery most likely get closed, too. So you're talking about closing two fisheries.

And I've heard a lot of times in this discussion about the bycatch cap of river herring, that there is no science on river herring available. Yesterday, the Council made the first presentation of the draft Strategic Plan. And I'd like to read one paragraph from that Strategic Plan. It's at the top of Page 8 under "Science."

"On the goal, ensure that the Council's management positions are based on timely and accurate scientific data that are analyzed and modeled in a manner that improves management performance and builds stakeholder confidence. Option two: strengthen the scientific foundation of management decisions."

Here we are discussing doing some drastic stuff in management based on absolutely no science. Does this Strategic Plan mean anything? Or did something change from yesterday afternoon to this afternoon? Or is this a giant three-year waste of time and money? I would like some answers on that.

*Rick Robins:* Geir, no it isn't. But as you all know, the Council's not engaged in the development of the river herring stock assessment. The ASMFC has been working on an assessment, but there are some 50

runs of river herring. So obviously we are in a data-poor situation relative to our understanding of river herring.

This all started with a request from the Commission, probably three or four years ago, as management partners requesting that we address interactions in our offshore fisheries. And we've been working on that ever since. But the fact remains that, in terms of understanding the stock dynamics, it's a data-poor situation. So we're left to look at the record of catch in the fishery and use that as a baseline .

*Geir Monsen:* It's not data-poor. There is no data that is reliable. You have no idea what the stock size is in any of these rivers, and there's more than 50 rivers. You write in your plan that you're going to the best you can, the best science, and then you totally go away from science the next day. That doesn't make sense. Thank you.

*Rick Robins:* Geir, now I appreciate your concern, and we're obviously committed to always trying to have the best available information to make decisions, but in this case we're left with an operating history of interactions and we don't have a stock assessment. So we're in a data-poor situation.

*Geir Monsen:* So what we're gonna be stuck with is management by lawyers and judges? Thank you.

*Rick Robins:* Thank you, Geir. Erica Fuller?

*Erica Fuller:* Thank you, Mr. Chairman. Erica Fuller from Earth Justice. This catch cap for river herring and shad is a really important measure to minimize bycatch consistent with National Standard 9. And it's the only measure in Amendment 14 that satisfies your legal obligation to do so for river herring and shad. 119 metric tons seems like an entirely appropriate number. It's nearly a million fish.

The second purpose of Amendment 14 was to reduce catch and bycatch. 119 encourages avoidance and achieves OY, and would not have impacted this fishery more than once in the last five years, as we heard. It's also based on a fraction of the total estimated catch, which is what Amendment 14, Alternative 6 envisioned. On the other hand, 456 metric tons, based on the mackerel quota, is four times the estimated river herring bycatch in the last four years and four times the median in the past eight years.

It's totally inconsistent with the purposes of Amendment 14, and it seems that it could be unlikely to be approved by the Agency, 'cause it can't meet their obligation to minimize bycatch to the extent practicable. It also allows a river herring bycatch rate of 1.4 percent under a 33,000 metric ton TAC for mackerel. Which is also higher than any of the other alternatives contemplated. I'd also like to add that, whatever methodology is chosen, that this review this summer would inform rather than delay the process. And that the CATT made clear that the mackerel fishery closes once the TAC is reached. Thank you.

*Rick Robins:* Thank you. Further comments? Ken?

*Ken Hinman:* Thank you, Mr. Chairman. Ken Hinman, Wild Oceans. I testified yesterday, so I'll be very brief, but I think there's something really important here. And as important as the numbers are is how we select those numbers. That much I agree with what's been said here already. I wanna point out that both this substitute motion for 119 metric tons, the staff recommendation that we heard described of 236 metric tons, from Columns G and H, respectively, used the median values over the last eight years. And they do that for very good reason.

In statistics, we use the median value when there are numbers in the set that are just way out of line with all the rest. But to include them in a simple average skews that average to the point where it's unrepresentative of that set. and I think that's what we have there in Column H and the mean of 456. 'Cause you have a value there in 2007 of 1,685 tons. That value alone is six times higher than the simple average of all those other seven years, which is 280. That number does not belong in there. Doing an average just is not justified in any way. You should use the median values. Using that value of 456 can only be justified on the basis that it's the highest one on that list that's available.

And there would be no reduction. There would be little incentive to avoid river herring bycatch. The intent of this amendment is to reduce river herring and shad bycatch, not to accommodate full utilization of a mackerel quota that we haven't caught in seven years. Thank you.

*Rick Robins:* Thank you, Ken. Any other comments? Jeff?

*Jeff Kaelin:* Thank you, Mr. Chairman. Members of the Council, I'm Jeff Kaelin with Lund's Fisheries, and I did speak yesterday, but some of you weren't here. So I thank you for the opportunity to speak. I

think part of what's going on here is we're being penalized for performance in the last three or four years under the SMAST Bycatch Avoidance Program. In other words, if our bycatch was higher, there would be justification for a higher cap, under the logic of some of the earlier speakers.

I heard Kim Randall say earlier that the Agency didn't want to make major changes in the fishery without the data to support the need. I completely support the Agency in that. Same thing happens here. You know, contrary to what the previous speaker said, we think the issue is exactly about allowing us to realize the DAH in the mackerel fishery. Which we haven't been able to do for several years, and that we need a cap amount high enough that gives us a reasonable expectation that we're gonna take the mackerel that the Council has allocated to us in 2014.

It's taken us a few years to get to this point. The New England Council is meeting—Committee meeting three times just to come up with this number. There's two more Committee meetings. It had a meeting last week. The Agency would like to see a parallel cap. So we're out in front. These numbers are relatively arbitrary. I think, as an industry, over the last few years, as we've learned about the public interest in this river herring issue, we went to the National Fish and Wildlife Foundation, we started up a bycatch avoidance program like we did in the scallop fishery. Our company also has scallop permit.

And in that case, the SMAST program is based on allowance for the scallop industry of 100 percent of their need; roughly, it's 14 percent of their catch, of the yellowtail flounder quota this next year. But essentially, it equates to 90 or 100 percent of the need of the scallop fishery to take scallops. And we think that this is what we ought to be doing here, as far as setting a cap that would allow us to take the mackerel.

There's no SMAST data in front of you that would indicate compliance in reducing incidental catches under National Standard 9. We have a small fleet of vessels, maybe a dozen or more. Each one of which is enrolled in that program and has provided third-party researchers with access to their VMS so that we can get those messages, move the fleet, and so forth. And we appreciate the Council supporting that approach. We think it's important. We're gonna continue to do that. No matter what the cap is. This isn't a quota; it's a cap that we need to stay under.

I provided some information from the Internet about how the northern range seems to be rebounding once habitat is improved. And, in fact, if you read the assessment, you'll learn—there's a statement in there that says, in fact, there appears to be some habitat impediments. Not inside, up in the rivers, but climate-related impediments to river herring abundance. Particularly bluebacks in the southern range. And in fact, you're seeing that, I think, with some of the Internet reports. In other words, it appears that there is an adequate coastal amount, or coastal complex to feed these rivers once the habitat's established.

You don't have any survey data in front of you. The Bigelow survey data, which we've looked at, the spring and fall surveys, which we thought was a relatively good estimate of what's out in the ocean, is pretty stable. Unfortunately, you don't have that information in front of you today, so you can't see that. That there are a lot of river herring around out there. We're not targeting river herring, we're trying to avoid them. We don't sell them. But of course, in the north, in Maine, and also in South Carolina, there are directed river herring fisheries where the mortality is somewhere between 900 and 1,300 metric tons a year. Three million pounds in the terminal year, I think, in Maine.

There's no cap on that fishery, by the way. This is—they have a very carefully managed fishery in those rivers up there that takes scales, it's a good program. DMR invests a lot of money in it. I used to live in Maine, I was around that. And that's fine. They should be able to take that. It's a sustainable plan under ASMFC. So in other words, there's 1,300 metric tons of sustainable and directed fishery for what I call the inshore fleet. And we think that 400 metric tons—I'm really speaking in opposition to this motion, but I know I'm not gonna get to talk again, so I'm talking in favor of the original motion.

This is a reasonable amount to allow us to take incidentally in our efforts to take the mackerel. If we have a couple of cold winters, if those fish return, there is mackerel recruitment evident in the survey. I think it's very disturbing that people say, "Well, you haven't caught the fish in the past, don't worry about it, you'll be fine with the cap, 'cause you're not catching the mackerel anyway." We should be managing the mackerel plan based on the industry's ability to catch the Atlantic mackerel under the quotas that you've allowed us to have. Anything less than the main motion puts us in jeopardy, I think, Mr. Chairman. And I appreciate the opportunity to say that. Thank you.



*Rick Robins:* Thank you. Thank you, Jeff. How many more people want to speak? Two? Okay. Paul, you wanna come on up?

*Paul Eidman:* Thank you, Chairman. Paul Eidman from the Anglers Conservation Network. I think it's kinda curious that this meeting is occurring where it is. It's really easy to sit up in New England and talk about how bountiful the river herring are. Within ten miles of this meeting right now, we have none. Okay? Back when I first started fishing here in the 80s, the way we did it was we would go to a local creek, we would catch river herring, put them in a bucket, and bring them out to a jetty and catch striped bass. That was the way it was done. And if there was a striper around, they'd certainly come over and eat it.

Right now, all of these historic herring runs within this area are empty. Okay? And it's because of this that Anglers Conservation Network developed a new program called the River Herring Rescue Program. And we got volunteers to go out and adopt herring runs and observe herring. So in six bodies of water, 20 people observed less than a dozen herring this spring. So basically what we're trying to do is we're trying to help New Jersey biologists. You know, because there is no data, obviously. And eventually also build fish ladders and help the remaining herring, whatever's left, get up to the headwaters and spawn and rebuild the populations.

We're definitely willing to do our part inshore, but it really does nothing unless the Council here acts on behalf of conservation and, you know, supports the 119 metric ton level. These fish are vital to us, and it's important that we rebuild it to a sustainable population. Thank you.

*Rick Robins:* Thank you, Paul. Greg?

*Greg DiDomenico:* I'll be brief, Mr. Chairman. And thank you again for a quick opportunity to comment. I'm just gonna try to put this in the best way possible that I think maybe everybody can understand. Been thinking about this a lot, obviously. To set the potential cap at 119, as this motion is, which of course we oppose, is kind of like setting—I look at it as a giant bag limit. The fleet has a bag limit of river herring now. Or will, at some point. And if we set bag limits according to performance, we'd probably have pretty low bag limits in the recreational fishery.

We heard time and time again that whether it's black sea bass or fluke, we set them high, but not everybody catches their bag limit.

So I look at this and I say to myself, “Why would we apply logic that we don’t apply to other fisheries or to other sectors?” This is a giant bag limit. Sometimes, we’re gonna need to exceed past performance. That’s gonna happen. And if we’re not allowed to exceed past performance, you’re gonna impact the mackerel fishery that this Council has done a lot to, you know, to foster. And as asked the industry to, as we say, Americanize the mackerel fleet.

We’ve done it. Those fish will come back. And we will need the same opportunity to granted to people in the recreational sector to allow them that good day, that high bag limit. So don’t apply that logic to this, and please oppose this motion. Thank you.

*Rick Robins:* Joseph?

*Joseph Gordon:* Thank you. I’ll definitely be brief. I spoke yesterday as well. I’m Joseph Gordon from the Pew Charitable Trusts. We definitely support the 119 metric ton substitute motion. River herring and shad are in need of conservation and management throughout their range. Paul’s group is just one of the many groups we’ve talked to up and down the coast. And I want to remind the Council that there was, for Amendment 15, an extensive public comment period and discussion. And thousands of people weighed in. And we’re expecting the Council to do something meaningful, to change for river herring and shad.

The suggestion that there’s no science, I think is definitely inaccurate. There’s a stock assessment from 2007 on shad that the ASMSC’s Bob Beal could speak to. And 2012 for river herring. While they aren’t definitive about the overall state of the population, this isn’t a phenomenon that no one knows anything about. Up and down the coast, rivers have seen significant declines, particularly in the Mid-Atlantic. We hope that you’ll act on that information, on what’s being observed on the declines. And this is an opportunity for you to make a difference for this forage fish, which will be beneficial not only to the stock itself and the fishermen up and down the coast, it will also be beneficial to other Federally managed species for which you’re responsible. Thank you very much. Thanks.

*Rick Robins:* Thank you. Okay, back to the Committee of the whole. Mary Beth?

*Mary Beth Tooley:* Thank you, Mr. Chairman. I just wanted to note one thing.

There's a reference to National Standard 8 in bycatch and the requirement to reduce to the extent practical. And this catch of river herring in the mackerel fishery does not meet the definition of bycatch. It is incidental catch, because we keep it. The definition of bycatch under Magnuson is fish that is discarded. We had this conversation at the herring Committee meeting recently.

And it's difficult, because we think in terms of unwanted catch as bycatch. And I think everybody does. And came to the conclusion that no, we have to stop saying "bycatch" when we're talking about this and say "incidental catch." And I think, you know, at least ten times for the rest of the day, somebody said "bycatch" and had to correct themselves because your brain kinda goes there. But the point is that this is incidental catch and does not meet the definition of bycatch under Magnuson.

*Rick Robins:* Jason?

*Jason Didden:* Yeah. Amendment 14 has a good bit of discussion of that. And actually in the FEIS, we tried to kind of obliterate the word "bycatch" from the document because it's used by many people in different ways. But Amendment 14 kinda sets up two things. One, reduce bycatch, and then there's also that discretionary new Magnuson provision to reduce catch of non-targeted species. And so, Amendment 14 kinda laid those two kind of rationales out. But yes, and analyses have shown that most of the river herring that are caught in the mackerel fishery are retained.

And just anyways, public comment just flagged that, the indices from river herring and shad. I don't have 2012 data, but we do have, for blueback herring, they've spiked relatively recently up to 2010. Well, in 2010 here it was up, and then down a bit. But, you know, these are very low numbers per tow, and they're encountered relatively infrequently. So it's tricky. They bounce around a lot. There look like there have been some sizable increases with the river herrings, but again, the mean number per tow is pretty low. So they tend to bounce around a good bit.

*Rick Robins:* Thank you, Jason. Howard King?

*Howard King:* Yes. I've read a lot of words, heard a lot of words, looked in a lot of eyes over the last couple of days, and thought a lot about this incidental river herring catch cap. I don't think 119 metric tons is the right number. I don't think there is a right number. But I think we're looking for an appropriate number, one that does strongly encourage the industry to reduce their incidental catch while at the

same time allowing them to allow programs such as the SMAST to mature.

I frankly thought that the staff recommendation was reasonable. It was half the high number and twice the low number. And again, that's not a right number, but it's one that I think does send the message. It could close the mackerel fishery in any year. Although that certainly should never be our goal, to close the mackerel fishery. So I would support a number, but it won't be 119 metric tons.

*Rick Robins:* Thank you, Howard. I had Tony DiLernia. And then I'm gonna call the question here in a minute. Tony?

*Tony DiLernia:* Yeah. I couldn't agree with Mr. King more on what he just said. I'll let it go at that. Thank you, Howard, for saying it.

*Rick Robins:* Chris?

*Chris Zeman:* I would move to make a friendly amendment to change the number to 236, which is the staff recommendation.

*Rick Robins:* Okay. I'm not gonna entertain a friendly amendment at this point. The Council already owns the motion and it's been submitted to public comment. So I would suggest that we vote this up or down. And if somebody wants to offer an alternative motion at that point, we will. John, did you have a comment? Okay. Bob?

*Bob Beal:* Thank you, Mr. Chairman. Just before the vote, I just wanted to put on the record, you know, the ASMFC and the member states around the table clearly don't have a set number that they support at the Commission. There's differences around the table and there's differences among the states that are not represented on the Mid-Atlantic Council. So I'll probably end up abstaining, since this is a Committee on the whole, I can vote on it, but I'll probably abstain.

But with that said, I think, you know, the Commission has submitted written comments to the New England Council, in particular, on this issue. And they would prefer a cap based on biological parameters. But we don't have that luxury right now. The resolution of the data is not there. So, you know, that leads to the next comment that the Commission submitted, which is, you know, they support a cap that does not have the potential to increase mortality. They prefer a reduction in mortality, but they don't wanna increase mortality, for sure. So that's kind of the

underlying position of the ASMFC. But I'll probably abstain. I just wanted to let you know why.

*Rick Robins:* Bob, thanks for the clarification. Is the Committee of the whole ready for the question on the substitute motion? All those in favor, please indicate by raising your hand. 3. Opposed, like sign? 15. Abstentions, like sign? One abstention. Two abstentions. Motion fails for lack of majority. Lee Anderson.

*Lee Anderson:* I would like to propose another substitute motion. It's just exactly like this, but except that we take the staff recommendation, which I believe was 216? 233?

*Erling Berg:* 236.

*Lee Anderson:* 236. Sorry. The staff recommendation, whatever it was, and put it in, please.

*Rick Robins:* Lee, to be clear, is that 236 metric tons?

*Lee Anderson:* Yes.

*Rick Robins:* Is there a second to that motion? Second by Preston Pate. Discussion on that motion? John Bullard?

*John Bullard:* This has gotten a lot of discussion, and I think it should. And the issue of river herring is gonna get a lot of discussion later on with whether it should be stocks in the fishery—I mean, the whole issues. Something that merits a lot of discussion. And as people have said, yesterday, given that there's not a directed fishery for mackerel, you know, is this a paper exercise that we're talking about. But it merits a lot of thought. And certainly this is an issue with the pending listing decision that we're giving a lot of thought to.

And so on the big issue about whether or not this is subject to management, you have to look at the condition of the stock. And the need to encourage avoidance. And I think that's really what's before us. And which of these numbers encourage avoidance. Everyone has talked about how that's possible. And I think, as Howard has eloquently said, the number that's up here is one that constrains. It's not onerous. It constrains. And in constraining, there's an incentive. And where there's an incentive, people are going to find ways to avoid. And that's going to be good for the stock. And so I think that's gonna be a good thing.

*Rick Robins:* Thank you, John. I think Jason pointed out earlier today that one of the goals and objectives of Amendment 14 was to reduce interactions in the fishery. And I guess I've had a hard time connecting that objective with the original motion, because just looking through the table in Column G, that level of a cap would only have limited the interactions in one out of the last eight years. And I think, you know, at some point we have to have a reasonable connection between the goal in Amendment 14 and the baseline of historical catch and where we set the cap. I think staff's tried to strike that balance is the way I understand the work that they've done. But I think there has to be some reasonable connection that supports the objectives of Amendment 14 in the process.

*Leroy Young:* In thinking about this over the last couple of days, I can certainly support this motion. And I think the original motion essentially did nothing to encourage the reduction of bycatch, and actually I think it represents a relaxation of even the advances that have been made recently in avoiding bycatch. So I certainly could not agree with the original motion, but this one I can.

*Rick Robins:* Mary Beth?

*Mary Beth Tooley:* Thank you, Mr. Chairman. The concern I have with this number is its ability or its—the impact it would have on our ability to achieve OY in this fishery. If you look at the numbers that Jason has run in Column H and the number of 236, given the ratios for the past three years, the fishery would've closed each year. 2012, we would've needed 674 metric tons. 2011, 377. And 2010, 266.

So if the fishery had achieved OY, and if those fish show up, which we certainly hope they do this coming year, in 2014, this will close the mackerel fishery. It's not a doable number. If people, you know, wanna drop OY in this fishery, just say it. Just drop the number. Say, "This is what we think you should have for river herring. This is only gonna allow you to catch this much mackerel." And just say it upfront. Because that's what this mean. This number does not allow you to achieve OY in this fishery based on the number and the ratios produced in the last three years. So I do not support the motion.

*Rick Robins:* Further comment? Is the Committee of the whole ready for the question? For the substitute motion for 236 metric tons? All those in favor, please indicate by raising your hand. 12. Opposed, like sign? 6. Motion carries. Motion's now the main motion. Is the Committee of the whole ready for the question? All those in favor,

please indicate by raising your hand. 13. Opposed, like sign? 6. Motion carries. Jason?

*Jason Didden:*

The next issue revolves around how to close the cap. And the staff paper presented two, I think, reasonable ways to do it. A lot of our fisheries, that stats office at NMFS track whether it's a quota or a cap or whatever. And it will project a few weeks out into the future to try to help them line up an appropriate closure. SO there are kind of two options there. One was 95 percent including a projection. So NMFS is looking ahead. Or 90 percent once actually reached.

And again, with that, you know, you get rid of a little bit of that project error that can get in there. But, you know, there's more of a buffer. There's little more likeliHoude of going over. I think these are about roughly the same. You know, it's a pretty small number to begin with. So, you know, it's gonna—how well these percentages function in terms of the ability to close. I think probably—you know, the 95 percent with the projection, as long as the region has the resources to do the projection, you have a better change of actually hitting your intended target. And I'll—that's it. Thank you.

*Rick Robins:*

Thank you. What's the pleasure of the Committee? Mary Beth?

*Mary Beth Tooley:*

Thank you, Mr. Chairman. We didn't really discuss this yesterday, but I do understand what the issue is. And I would make a motion that the closure to the fishery be based on a 95 percent projection of the catch.

*Rick Robins:*

Thank you, is there a second to the motion? Second by Howard King. Discussion on the motion? Is there any comment on the motion? Is there any public comment on the motion? Seeing none. Is there any objection from the Committee to the motion? Seeing none. It's approved by consent. Thank you, Mary Beth. Jason?

*Jason Didden:*

The last is just an update on Amendment 15. Their initial FMAT discussion about how to frame this decision, what needs to be considered, how to consider it. The NMFS members of the FMAT thought that they could provide some useful guidance as the FMAT going forward. NMFS has been developing that guidance for a number of months. We received it last week. This is kinda my 30-second summary of what I think it means. That the Council, in order to question the stock and—to answer the stock and the fishery question, needs to consider an analysis that does

not have to be lengthy, but presents a substantive—and I’m paraphrasing the letter here—a substantive comparison of essentially two things.

One, the current management framework under ACFACMA, the Commission’s river herring and shad plan, and the FMPs for Atlantic mackerel and herring. You know, the management that does occur now or can occur now under existing authorities versus the management of river herring and shad in a Federal FMP. The region thought that the Amendment 14 evaluation of that was deficient in several ways. But that it can be accomplished through, you know, probably, I’m thinking a 15 to 25-page paper that lays out the issues. And then that provides, based on the region’s letter, a substantive enough product for the Council to make a decision and then for NMFS to evaluate the appropriateness of that decision.

So absent other direction, the FMAT will embark on developing that document. There are some details in the letter, some details regarding—you know, there’s the Earth Justice response to that letter. I think, you know, some of those details that can be considered as appropriate in that document. So that’s the FMAT’s current intention. You know, the next two months, I’m pretty busy with getting the specs document out so that specs can be implemented January 1. So I would anticipate that this would probably be maybe something for the October meeting.

*Rick Robins:*

Well, Jason, I think one of the points of the letter we got was that if a decisional document is made, and I think we do need to be careful with this, if we make a decisional document that’s presented to the Council, then it needs to be thorough in its evaluation of the full range of issues associated with the stocks and the fishery question. You know, if it’s something less than—and I assume it would be—I mean, a decisional document would be something less than a full-blown EIS type document. Is that correct?

*Jason Didden:*

Yeah. I think if the Council decided to move forward and actually implement actions and take actions, then that would be accompanied by an EIS. But yes, that’s the sense that, again, substantive but not necessarily lengthy document would sufficiently serve the Council’s ability to make a determination on the question.

*Rick Robins:*

Okay. And Jason, are you looking for any additional specific



feedback from us relative to that course of action? Or is that what the FMAT is already planning on doing?

*Jason Didden:* I think that's what the FMAT is planning. This was an update. Since, you know, we've been waiting for this guidance, we have it now, and we're kind of proceeding along those lines is the current plan of the FMAT. So just an update.

*Rick Robins:* Thank you, Jason. Do Council members have any questions about that update approach? Or the letter from the Agency? Alright. Seeing none. Thank you, Jason.

*Jason Didden:* That's it for me. Thank you.

*Rick Robins:* Okay. And since we were convened as a Committee of the Whole, we will need to vote as a Council to submit the specifications package, including the river herring-shad cap, and including the request for an Illex control date. So if I could have a motion to that effect on behalf of the Council? Howard?

*Howard King:* I move that we submit the package to the National Marine Fishery Service for approval.

*Rick Robins:* Thank you. Second to the motion by Steven Linhard. Discussion on the motion? Is the Council ready for the question? All those in favor, please indicate by raising your hand. 17. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you, Jason. Jason, do you have anything else to come before us?

*Jason Didden:* Nope.

*Rick Robins:* Alright. Let's take a really quick five-minute break and we'll come back and take up clams and quahogs. Thank you.

*[End of audio]*



**Surfclam & Ocean Quahog  
June 12, 2013  
Doubtree  
Eatontown, NJ**

*Rick Robins:* Good afternoon. Let's go ahead and get started with the Surf Clam and Ocean Quahog Specifications. I'll turn to Jessica to run through those and summarize briefly the work of the Committee yesterday. And then go to the Committee motions. So, Jessica?

*Jessica Coakley:* Okay. Well, good afternoon. And yesterday we had a lengthy Committee meeting and there were a couple of issues that were discussed. There were recommendations on annual catch limits and annual catch targets and commercial quotas that the Council discussed. And the basis for that discussion were the staff recommendation papers, the SSC report, and all the assessment information that was provided between your tab two materials. There were discussions of the minimum shell length suspension issue and whether or not to ask the Regional Administrator to suspend that for the 2014 fishing year.

There was some information provided and discussed on small clam areas, and there were two other issues that had come up relative to how biological reference points are updated. And dealing with the optimum yield range in the surf clam and ocean quahog FMP, and how that may potentially conflict with the catch limit system with ABCs, ACLs, and ACTs that operate a little differently.

So the Committee, in terms of looking at all that information, recommended that the Council set the ACL equal to the ABC for the 2014 to 2016 fishing years. And that the commercial quota for surf clams be set at 3.4 million bushels, which was 26,218 metric tons, for each of those years. Which equates to an annual catch target of 29,364 metric tons, or 3.8 million bushels. I just wanted to point out on the bottom that this results in the same commercial quota that was in place for 2011 to 2013. And it was the same recommendation that was in the staff memo.

So the Committee also recommended that the Council move that the Regional Administrator suspend the minimum size, that shell length, for surf clams for the 2014 fishing year. As the NMFS indicated to the Committee, that suspension is done one year at a time. That's why this recommendation is only for 2014 and doesn't include 2015 and 2016. So that would be evaluated

annually. The Committee also agreed that NMFS should conduct analyses of the information available on the distribution of small clams for the Council to look at each year prior to the specifications process.

And the Committee also referred the issue of updating biological reference points, that framework issue, and the issue of the optimum yield range to the Executive Committee for further discussion, I believe it's tomorrow. Okay. So that's a summary of the Surf Clam Committee recommendations.

*Rick Robins:* Thank you, Jessica. Do you want to go into the motions, Lee?

*Lee Anderson:* Yes, I would. Jessica, would you please put the information on the—back up for the—oh, you have even motions? Bless you.

*Jessica Coakley:* Well, yeah. I put them in red. They're drafts, but these are the ones that the Committee made.

*Lee Anderson:* On behalf of the Committee then, I would vote that we—or move that the Council adopt these following specifications for the surf clam fishery. I will read it into the record:

Council would like to set the ACL equal to ABC for 2014-2016. And the commercial quota for surf clams be set at 3.4 million bushels, 26, 218 metric tons, for 2014, 2015, and 2016. Which includes an ACT equal to 29,364 metric tons, which is 3.8 million bushels. And that's by me for the Committee.

*Rick Robins:* Thank you, Lee. That's on behalf of the Committee and then ' requires second. Is there any discussion on the motion? Is there any public comment on the motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 16. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you. Lee?

*Lee Anderson:* Second one, I would like to make on behalf of the Committee is Council move that the Regional Administrator suspend the minimum size of shell length for surf clams for 2014. This is—we do it every year, 'cause we have had no evidence to do otherwise, so this is not anything new. And so I make that for the Committee, sir.

*Rick Robins:* Thank you. Discussion on the motion? Is there any public comment on the motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your

hand. 16. Opposed, like sign? Abstentions, like sign? One abstention. Thank you. Motion carries. Lee?

*Lee Anderson:* Okay. On behalf of the Committee again, I would also make a motion that we request that NMFS conduct an analysis of small clam areas, that's a calm clam area, prior to specifications every three years.

*Rick Robins:* Is there any discussion on the motion? Is there any public comment on the motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 16. Opposed, like sign? Abstentions, like sign? Is there an abstention? One abstention. Thank you. Motion carries. Lee.

*Lee Anderson:* We'll wait for Jess on the—

*Rick Robins:* George?

*George Darcy:* Can we—yeah, just a question on this last one. Is this an expectation that this would be done before the next specification setting cycle in three years from now? Or—

*Lee Anderson:* Jessica?

*Rick Robins:* Jessica, can you clarify that? I believe it is.

*Jessica Coakley:* Yes. I think that's the expectation.

*George Darcy:* Okay. Thank you.

*Rick Robins:* Thank you, George, for the question. Okay. Lee?

*Jessica Coakley:* Okay. So for ocean quahogs, the discussion focused on the recommendations for annual catch limits and annual catch targets. And recall that for the annual catch targets there's both a Maine and a non-Maine annual catch target that is specified. So the Committee discussed all the information that was presented and in the briefing book tab, and recommended that the Council set the ABC equal to the ACL, which was that 26,100 metric tons for 2014 to 2016. The Maine ACT is 524 metric tons. The non-Maine ACT is 24,511 metric tons. The Maine quota is 499 metric tons, or 100,000 Maine bushels. And the non-Maine quota is 24,296 metric tons, or about 5.3 million bushels.

I wanted to note that this is the same ABC that was recommended for the 2011 to 2013 fishing years. And nearly the same quota.

There's just a very small difference. And that's because of the way the calculations were done this year, now that we're using ACLs and ACTs and all of those pieces as the starting point. Also, the Committee moved to request that the Council ask the Science Center to conduct a benchmark assessment on ocean quahogs.

*Rick Robins:* Thank you, Jessica. Do you have the motions for the Committee?

*Jessica Coakley:* Yes, I do.

*Rick Robins:* Lee, I'll turn to you for that. Your microphone?

*Lee Anderson:* Pardon. The Council sets the ABC equal to ACL equal to TAC as 26,100 metric tons, equivalent to 5.7 million bushels for 2014-2016. The Maine ACT is equal to 524 metric tons and the non-Maine ACT is equal to 25,511 metric tons. You can convert it yourself to bushels. The Maine quota is equal to 499 metric tons, 100,000 Maine bushels. And the non-Maine quota is equal to 24,296 metric tons, 5.3 million bushels. And we'll put that as a separate one.

Again, I want to emphasize exactly what Jessica said. This turns out to be the same as we've done in the last year. There were some different rounding things because of how we calculated things as a result of the Omnibus. But essentially, we're doing the same as we did last year. So I would like to make that on behalf of the Committee, sir.

*Rick Robins:* Thank you, Lee. It doesn't require a second. Is there discussion on the motion? Jim?

*Jim Weinberg:* Yeah. Thank you. I think that maybe we want to add a couple words to indicate it's the Science Center that will do the stock assessment, but the NRCC actually is the one, the body that schedules it. So we might wanna indicate that.

*Rick Robins:* Well, Jim, we're just taking the first question right now. But I appreciate that.

*Jim Weinberg:* Sorry.

*Rick Robins:* Yeah. No problem. Further questions or comments on the first motion? Is there any public comment on the motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 17. Opposed, like sign?

Abstentions like sign? One abstention. Motion carries. Thank you. Lee?

*Lee Anderson:* Okay. Now, Jim, will you make your correction? Is it there?

*Jim Weinberg:* The Council requests that the Science Center conduct a benchmark assessment on ocean quahogs, assuming that it is scheduled by the NRCC.

*Lee Anderson:* How about if we request that the NRCC act with the Science Center to conduct a benchmark assessment?

*Rick Robins:* Is there any objection to that perfection of the Committee motion? Seeing none. Is the Council ready for the question? All those in favor, please indicate by raising your hand. 17. Opposed, like sign? Abstentions, like sign? One abstention. Motion carries. Thank you. Lee, do you have any other motions on behalf of the Committee?

*Lee Anderson:* We do not, sir. But we did not get into the protocol for data collection. And if you have time, I would like that we have the Committee of the whole look at that question.

*Rick Robins:* Well we're convened as a Council, but we'll go ahead and take that up now. Jessica? Or José? José?

*José Montanez:* Thank you, Mr. Chairman. We're gonna be talking about the data collection protocol for the surf clams and ocean quahog fisheries. The document is under tab two, at the end of tab two. And a little bit of background information. Two motions were passed by the Mid-Atlantic Council at the February 2012 Council meeting. Specifically, the Council voted to move to request that the Agency develop a data collection program for the surf clam ocean quahog fishery under the authority in Section 402A of the MSA.

In addition, they moved that the Council request that the Surf Clam Ocean Quahog FMAT ascertain what type of data are needed to monitor and regulate ownership lease activity with respect to selected S\*, where S\* is—means excessive shares. So to comply with the Council motions, an FMAT was formed to develop the data collection protocol that can be used by the Regional Office to implement the data collection system for these fisheries. And this in turn will allow for the monitoring of ownership and lease activity.

A little bit about the timeline and the process. The FMAT met three times: in January, in March, and in May. In April, we scheduled an Advisory Panel meeting to develop the fishery performance report for the surf clam and ocean quahog fisheries. At that time, the Advisory Panel reviewed the draft document. The comments that were made by the Advisory Panel were then presented to the whole FMAT group at the May meeting. In addition, there were industry members present at that meeting, so there was quite a bit of exchange of information between industry and the FMAT. Today, you're reviewing the document, the data collection needs. And if this document is approved, it will be submitted to NERO by July for a potential implementation at the beginning of the year. And we'll talk a little bit more about that later.

So the first thing that we did is we looked—you know, what do we know and what do we need to know? So the question was, "Do we currently have sufficient information on current ownership and control of the surf clam and ocean quahog allocation share to assess S\*?" The answer was not. So what type of information do we have? Well the Service, yearly, they issue cage tags to the holder of the quota. And you can see that under Appendix One. There is a surf clam ocean quahog ITQ allocation report.

Now, is you can see from that Appendix One, corporations and banking or lending institutions are listed as quota owners. Many of the owners listed are either corporations or banks that hold the allocation permits as collateral. So a single individual could potentially own or control many of these individual share allocations. And currently, the government, the National Marine Fisheries Service, has no ability to discern if a single individual is a shareholder in many of the listed corporations.

In addition, we also collect information on transfer forms, and that you can see those on Appendix Two. That's the form. And on Appendix Three, there is a transfer report. Now, these transfer forms are used every time that you sell or lease tags for clams. Now, beyond owning allocations, it is also possible for individuals to increase the amount of surf clams or ocean quahogs resources they control through entering into contracts with other allocation holders.

So basically, the FMAT indicated that we needed information that would allow for transparency in ITQ ownership and control. Ideally, we need to know how much allocation an individual or entity owns. And also how much they control through short-term



and long-term leases. We need to know the vested interest that individuals or corporations have on ITQs. So the FMAT reviewed all the information that is currently collected, and how they might be pertaining to the issue at hand. So we have the tag owner forms that are sent to the holders with address on file every year.

However, as I indicated before, these are too generic. And by looking at those reports, we cannot tell who the owner/users are. Then, we have the transfer forms for temporary and permanent transfers of cage tags. And one thing that we don't collect there is we don't collect the value of that transfer. We'll talk a little bit more about this later. Then we also have mandatory reports. We have a clam vessel and a clam processor logbooks. The dealer processor the information, basically you report the dealer number, the permit number, state, port, county of landing, bushels, the number of bushels that were landed, and the price of those landings.

And you can see the type of information that is collected under Appendix Four. Then the clam vessel, you have to report dealer number, permit number, the catch day, longitude, latitude, state, port, and county of landings, the number of bushels, and the price of the landings. And you can see a form in Appendix Five. And then also the cage tag numbers also reported in both forms. And these are used to cross check the information that is provided. Now using the mandatory reports, because we have the price of the landings and the number of bushels we can get pounds per bushel of clams that are landed.

Now, then we also—the FMAT also looked at what other type of information is collected in other IFQ fisheries. And we found that in many IFQ fisheries throughout the country, the price pay for a transfer is collected. And that in our own region for the tilefish fishery. In Alaska, it is collected for the halibut and sablefish fishery. And in the Northeast for the scallop fishery. These are just a few examples.

Now because of subsidiaries and complicated business relationships in the Alaskan and halibut and sablefish program, it is required that all quota transfer applicants identify whether they are individuals or business entities. And they're all required to yearly report their ownership interests. And they have to submit forms that are notarized, and so on. In the tilefish fishery, individuals and entities must report on a yearly basis all tilefish ownership interests. Furthermore, in the Gulf of Mexico, in the Grouper-Tilefish Individual Fishing Quota program, they also have to

report their IFQ ownership and prices. They do this—it's an online system that they have there.

So basically, the type of information that the FMAT is presenting here is something that is widely used throughout the country in other IFQ fisheries. The FMAT recommended two overarching suggestions or ideas. The first one is to develop an interest declaration form. And the second one is to add additional elements to the existing ITQ allocation or cage transfer. The additional reporting requirements that are presented by the FMAT, we kept in mind, our goal was to keep it simple and efficient. We didn't wanna ask more questions than we needed.

So the interest declaration form, it will be—the proposed interest declaration form will be required to establish ownership information for existing and new participants as it is done in many other IFQ fisheries. Again, in our region it's used for the tilefish. And this form will require that any entity that participates in the fishery—individuals, corporations, banking or lending institutions—will be required to complete the interest declaration form. The data elements to be collected are on page 10 and 11 of the document. And again, these are things that we're asking just about any other IFQ fishery in the country.

Ideally, ownership information will be requested prior to the start of the new fishing year as a condition for issuing cage tags. So what are some of the advantages of such a form? Well, they will provide a comprehensive and transparent definition for ownership interests. They're also used in many other IFQ fisheries. Again, we're not reinventing the wheel. What are some of the disadvantages? There are several disadvantages. The first one will be timing. It might not be possible to get all the information at the very beginning of the year when the cage tags are initially issued. So the first year of implementation, we might not be able to get all that information. But the second year, everything should be okay from the second year on.

Banking and lending institutions might view this information collection as intrusive and burdensome. Having banking/lending institutions provide the required information may jeopardize relationships between borrowers and lenders according to stakeholders. And we'll address this in a little bit, a little bit further. Also, banks might not want disclose loan information. For example, banks might not want to provide the name of borrowers associated with the security interest or loan.

So basically, the existing transfer data that we collect will not show who retains control of the quota and such and such transactions. So we'll need to make some modifications to monitor transfers more efficiently. The elements to be collected are on pages 12 and 13 of the data collection document. And here you can see that there's a lot of questions regarding short-term and long-term contracts. And the FMAT thinks that it's important to collect and assess information on the nature of the contracts in order to better evaluate quota control. Which includes both quota share and annual cage tag transfers.

So the advantages of the cage transfer forms, they will provide a more effective monitoring of transactions by quota shareholders, enables monitoring of how the tag numbers associated with an allocation are processed, and enables tracking of tag numbers transfers between individuals or businesses. What are some of the disadvantages? Stakeholders might be reluctant to provide detailed business agreements. For example, one of the things that the FMAT would like to do is to collect information on long-term contracts. And there are a lot of contracts that might be five or ten years long.

Individuals might be reluctant to provide this information because they might feel that they could be in disadvantage when this is become public knowledge. However, this information will be considered confidential under MSA. Therefore, it will not be used—it will be used to monitor ownership concentration and control within the National Marine Fisheries Service. But detailed business agreements could not be publicly reported except in aggregate form.

As I told you before, the Advisory Panel had several time periods where they were able to come. And the first time was when they developed a fishery performance report. And then also at the last FMAT meeting. And I would like to summarize some of the comments that they made at that time. Regarding tag ownership, they feel that if a bank is the owner, they are technically listed as the owner, they own the tags. Therefore we don't need to try to find out who the owner or who's controlling the tags because they're the owners.

The price information that is—the FMAT would like to, or suggested to be added to the transfer form for the sale and the lease is not required, according to the Advisory Panels as the price per bushel can be calculated from the information that is already been reported. However, the price per bushel information is really an

accounting type of information. What the FMAT would like to collect is the market clearing price of a sale or a transfer of allocation, as is done in many other IFQ fisheries. Some Advisory Panel members thought that the information presented to address ownership and control of tags was adequate. Others thought that it will not accomplish the task at hand.

Regarding the long-term contracts on individuals, thought that, you know, you shouldn't be asking this question, and you might not get the information. And what they meant by that comment is that even if they have a long-term contract of five years, you have to transfer the tags every year. So they're not gonna give you information on years two, three, four. They're just gonna give you information on that specific year when the tag is being transferred.

Another comment was, "How do you get to know who's making the decisions about control of the tags?" And this is really a very difficult task. And it is, if you were to do it by hand, like if you look at the transfer report here and you were to try to follow what those transfers are by hand, it's very difficult. However, there are systems that are being used in many other fisheries, and some administrative things that we do in the Service that will facilitate that with computer use.

The Advisory Panel was—also suggested that this was a meaningless and huge expense. There are budget issues and limited resources. They're concerned that the Service might not have the money or the personnel to do the job that needs to be done to track these transfers. They believe that this is not needed to collect this type of information. Because only 50 percent of the quota is being harvested, and there are many unused shares out there. So there's not really, according to them, an issue as far as control.

There are so many business relationships that it will be impossible to get all the wrinkles and nuts. And this is a very good comment. I think that the FMAT did the best job possible. We tried to ask the least amount of questions to get the maximum amount of information. If you really wanted to get all the wrinkles and nuts, you will have to ask many, many more questions. There were concerns over major and minor shareholders. This is a question that is asked there, as is done in many other fisheries. But they are concerned that, "What if a hedge fund owns part of the bank?" And this is a good comment. So if a hedge fund is owner, has shares of a specific bank that is publicly traded, for example, then

do those people have to also provide information? We'll talk a little bit more about this.

There were also some concerns about lending relationships. The Advisory Panel membership were concerned that the interest declaration form could affect lending patterns. And so there are some potential solutions that could help us with this. One of the first solutions, actually this recommendation came from an Advisory Panel member, and it's to create a central registry for limited access permits, or lean registry. Now, this is already required under the Sustainable Fisheries Act. And such a registry will allow banks and other financial institutions to register a financial interest in a permit without taking formal ownership of the quota.

The Sustainable Fisheries Act requires the Secretary of Commerce to establish an exclusive central registry system for limited access system permits by April 11, 1997. As you can see, that was a long time ago, and this is something that has not been done. We have no idea if or when it will be done. So while this is a very noble idea, it's something that, in practicality, we don't know if it will be done. Or created.

Then, in Alaska, the National Marine Fisheries Service Alaska Regional Office, they currently operate an informal lean registry that parties may use to file security interests in permits. So they have a system, not the same, but kind of the same thing that was proposed under the lean registry. But it's an informal process. Another potential solution that the FMAT discussed was the possibility that—to allow banking and lending institutions with ITQ ownerships to be exempt from any additional reporting requirements. But to have the debtor associated with the bank loan fill out the declaration form.

So this would require specific instructions to both the banks and the individuals that have the bank loans. And the bank will have to be—will have to let them know that the individual that is associated with that loan is the one that is going to fill out the paperwork. This might be the best option in the absence of a formal lean registry, in order to collect the information needed while addressing the industry's reasonable concern over the potential impact of this program on available financing. And that concludes my quick presentation.

*Rick Robins:*

Thank you, José. Questions for José regarding his presentation?

José, were there any other alternatives discussed relative to the bank considerations? And what would be the mechanics of interacting with the bank to get the form to the debtor, so to speak? I mean—how did the FMAT contemplate that?

*José Montanez:* Well every year, the Service sends a form to the bank so they can get their tags. Okay? So at that time, we'll be sending this specific form that requires individuals to provide all the information that we presented in the document. But instead of the bank filling out the form, the bank will just transfer that form to the individual that is associated with that specific loan. And that individual will fill out the form. Now one thing that we did talk about is—which is not here in the document, because it's not really a data collection issue, it's more of an administrative issue. And that will be that the interest declaration form, when it's sent to individuals, perhaps it could be a pre-printed form.

You wouldn't be able to have that the first year, but the second year it could be a pre-printed form. So the individuals receiving that form, they will just have to change the fields where there have been a change. And all the other fields will just—if they have not been any change or modifications, they will just keep it that way. So there are some ways that we can improve the administrative process of the system.

*Rick Robins:* Thank you, José. Other questions of José? Lee Anderson?

*Lee Anderson:* José, it wasn't clear to me about the passing the form to be filled out to the debtor. Now how does the protocol read right now? Is that in the protocol? Or are we gonna have to modify the request that you modify the protocol?

*José Montanez:* No, that's—oh, I'm sorry. That's a recommendation that is there.

*Lee Anderson:* So if we approve it and pass it on, NMFS will have that recommendation?

*José Montanez:* That's correct. And the FMAT as a whole thought that that could potentially be the best, the most practicable and reasonable way of doing this.

*Lee Anderson:* Mr. Chairman, I'm ready to make a motion when you are ready.

*Rick Robins:* Well, I'll tell you, let me see if there's other questions from the Council members. And then all the industry—a lot of the industry folks are here today. Let me see if there's any public comment on

this first. And then let's take up the motion. Is there any comment? Tom Alspach?

*Tom Alspach:*

Thank you, Mr. Chairman. Tom Alspach, representing Sea Watch International. And José did a fair and balanced job of presenting the information that the industry brought to bear on this subject during our meetings. And I thank him for that. The Council's probably turned over two times since the reason we're doing this first evolved. I believe it was six or seven, maybe eight years ago. And we are exactly where we were eight years ago. We are pursuing a solution that is searching for a problem that doesn't exist. Remember that what is driving all this proposed paperwork is a notion that you have to come up with a definition for excessive shares being held in this industry.

I have given my litany many times of why I don't believe that's true as a legal matter. And I won't do that now, but I will remind everyone that you already have an excessive shares definition. It was adopted when you adopted Amendment 8. And that definition is that an excessive share is one which, "enables a participant in the industry to exercise market power," which is the power to raise price to exclude competition, and which should violate the anti-trust laws. That is this Council's definition of an excessive share. It was approved by the Department of Commerce. It was litigated. And you won. And that's your definition. So we already have an excessive shares definition.

So now here we are with a circumstance in which we are utilizing maybe 60 percent of the quotas. And that's a good thing. It's a good thing that you passed the quotas you did today. The industry appreciates that you did this afternoon on that. But we're still in the very same circumstance that we were in two years ago when we spent, I don't know, 150,000 dollars on three expert economists to do a yearlong study of the industry. And we spent three days up in Woods Hole vetting that report. And they conclude that no one has market power in this industry. There's no anti-competitive behavior going on. Therefore there's nothing existing in the present time that would require someone to try to refine the definition of excessive share beyond what we already have.

So I think the underlying question the Council needs to be asking itself is, "Why are we proceeding to do this in these circumstances? Why, at the very least, shouldn't we defer some kind of major undertaking like this to a point in time in which it appears that perhaps someone would be in a position to exercise

market power?” That’s just not happening. The paperwork that’s being proposed is gonna be very burdensome and intrusive.

It’s gonna be burdensome not just on industry, it’s gonna be very burdensome on the folks on the government side who are trying to compile all this information when there are hundreds and hundreds of transfers every year you’re gonna have to account for. And by the time you’ve compiled a year or two’s worth of information and decided you’re gonna make some conclusions based on that, it will all change. It will all change—it will all turn over and change again. So I think you really need to consider carefully whether you really need to go forward with this at this time.

The banking issue, José fairly brought that out. I have to tell you, you can’t just go to a bank and say, “Tell your customer to do this. Here’s a form, give this to your customer and tell them to fill it out.” you can’t do that. That’s not going to work. And, you know, interrupting and interfering with and jeopardizing these banking relationships that we now have is very, very dangerous for this industry because we are dependent upon those relationships—both harvesters and processors, by the way—for this industry to thrive.

And this Council should not be doing anything that is going to impinge upon our relationships with our banks. The last things the banks are gonna want to hear about when they receive these forms and say, “Well why is the government doing this?” Well, they’re investigating anti-trust violations in this industry. Oh, we don’t wanna be involved in that. I mean, this is a terrible situation. And here we are, lenders in an industry where there are apparently are anti-trust investigations going on. You know? The consequences of what you’re doing could be very grave, very profound. And I really hope you’ll think long and hard about whether you wanna go down this road. I’m sorry to take this much time, but this is an important issue for the industry. Thank you.

*Rick Robins:*

Well, Tom, the banks, just to be clear, the banks do interact with the Agency once a year to get the tags.

*Tom Alspach:*

I understand. I understand. But we’re talking about customers now. You can’t go to a bank—I mean, there are laws out there that preclude a bank from saying, “Yes, I’ll happily tell you who my customer is and how much he’s borrowed from me,” et cetera. You can’t do that. I understand that you send them the tags. But that’s very different from sending them a form and saying, “Here, you take this form, go to your customer, and make your customer fill this out, and then give it back to us.”



*Dave Wallace:* Dave Wallace. I guess I'm surprised that Tom didn't talk about his favorite issue. And that is that why we're doing this in the first place. And when Joel McDonald was here, it became a joke for Tom and a thorn in Joel's side, because he poked him in the eye almost every time he saw him. We'll go back to the notion that back in 2000—in 1988 or '89, this Council was deliberating Amendment 8. And the question of excessive share came up, and the processors in the clam industry wanted a fixed number for what would be a cap on quota.

Joel McDonald, acting on behalf of the Council and NMFS said that's not necessary, the anti-trust laws will be quite adequate. And sure enough, over a long period of time, that was accepted and that is, as Tom just said, that is part of this operation. And this management plan. And then the processors brought suit. I was a witness in that litigation. And the judge agreed with NMFS. And then the GAO did a review of the limited access permits and excessive shares and said, about the clam industry, "The clam industry doesn't have a fixed cap. So anything that you do in the future, you need to put a fixed—a cap on it." And sent that to NOAA headquarters and to the Administrator of NOAA.

That filtered down to Pat Kurkul, who took that to mean that she had to change the surf clam and ocean quahog management plan, which actually it—if you go back and read the letter, it doesn't say that at all. It says, "Any new plan." So—and we've said this only about four million times. And so most of you have already heard it. So we're gonna go through this process, and let me tell you that there are a number of banks right at the moment that are getting out of the clam quota business. And they're getting out of the seafood business because they consider it so unpredictable with the management plans being changed all the time in ways that no one could ever imagine.

And so all we have to do is add enough weight on this process. And the banks are under a lot of scrutiny, and they're just gonna say, "It's not worth it. We don't have a lot of money that we're willing to lend, and so we're just gonna get out of the seafood industry." And let me suggest to you that 50 percent of all the ITQs in the clam industry are already pledged as collateral. If they all get called, the clam industry will collapse unless they can find a bank to come in and take all that quota. Which is will be tens of millions of dollars. And so we are treading on very thin ice here. And everybody needs to understand that the decisions that you

make could have significant negative impacts on this industry.  
Thank you.

*Rick Robins:* Thank you, Dave. Other comments? Yes, Sam? Sam Martin?

*Sam Martin:* Sam Martin, Atlantic Cape Fisheries. Sea Watch just talked. I thought it was important for another company to talk. I don't see any problem with knowing who owns a natural resource or who has control of it. But at the same time, I don't think it should be translated into an excessive share issue. Currently we don't even catch all the quota. There's available shares to be bought and sold and traded and done whatever you wanna do with, and that's just happened. You know, in the last year I've seen stuff bought and sold for entities that have never owned clams before.

So I think, you know, if we could separate those issues, we don't have to scare anybody. Because I think that's the problem that Tom and Dave were talking about. If we do, you know, give our banks a challenge, everything's shaky already and we just don't wanna do that. I mean, we need those lines in order to keep the marketing going, to keep the clam industry going. So I think it's important to identify what we're actually trying to achieve here. If we're trying to identify whether there's control in the marketplace, look at the perception of it. There's only two or three or four processors. And I'd venture to say they're all in this room.

You know, and all that progress, it's gonna go through that. Does that perception mean that they have control? Absolutely not. There's enough shares, there's enough quota out there to be bought and sold that anybody can jump into this business at any time, as long as they have the investment capital to do it. So I think we need to be careful. If we wanna find out who's actually owning and controlling an ITQ, like we may do in the scallop industry and the tilefish industry, that may be fine. But let's not translate it into an issue that's not there.

And I think that's one of the biggest scares that we have in this entire thing. That we have, you know, this excessive shares, this control issue on the table when there is no control in this industry because we're not even catching the quota. We're not even close to it. So I think it's just important to separate those two issues.  
Thank you.

*Rick Robins:* Thank you, Sam. Any other comments? Alright. Lee?

*Lee Anderson:* I think the last point was very valid. Where he said, "Let's not

translate this into an issue that it is not.” And I certainly agree with this. The Council has an obligation to due diligence, that when we set up a program that we have the ability to monitor it. And all we are doing is asking to collect data that we can monitor. This is not something that’s new and outrageous. It’s done in our tilefish fishery, it’s done in every other rights-based fishery system under the Magnuson—I’m sorry, I agree. We shouldn’t make something more out of this than it isn’t. And with that in mind, I would move that the Council approve the Data Collection Protocol prepared by the FMAT with the understanding that NMFS will implement it. Or have a request. Approve and request that it be implemented.

*Rick Robins:* Thank you, Lee. Is there a second to that motion? Is there a second? Second by John McMurray. José? José?

*José Montanez:* Lee, could you please repeat the motion?

*Lee Anderson:* Move that the Council approve the data collection protocol as prepared by FMAT. And I said with the understanding that NMFS will implement it. But I guess I’m really not sure what the next step should be, according to your protocol.

*Rick Robins:* Well, you’re recommending it to the Agency for approval, right?

*Lee Anderson:* Yeah.

*Rick Robins:* George, can you comment on that?

*George Darcy:* Our intent would be to convert the request from the Council into a regulatory amendment that we would undertake to implement the reporting requirements.

*Rick Robins:* Lee, in light of that, do you want to perfect your motion at the end? George?

*George Darcy:* Yeah. You’re doing fine. Yeah. That captures it.

*Rick Robins:* John, are you okay with that perfection, as seconder? Yes. Thank you. Discussion on the motion? Peter Himchak?

*Peter Himchak:* Here’s the thing, Mr. Chairman, I, you know, have only been on this Council for five years or so. And I wasn’t involved when this ITQ program was set up. And—but I did, I did listen to all the webinars Friday afternoons that went on for hours with the economic experts on the—I know where this is supposed to go in

determining excessive shares. But—and Amendment 15, I believe it is. But I mean, you know, a lot of this stuff—and I was hoping that, you know, industry would get up and give some insights into this. ‘Cause I didn’t learn any of this stuff in Fisheries Management 101. I feel very uncomfortable seeking, probing information that may jeopardize the standings with banks as they exist now. So, I mean, I don’t support the motion, really.

*Rick Robins:*

Well I think the dilemma we have, Pete, with the banks is the fact—or with the existing ownership information is the fact that a lot of the quota is held by banks. And so there’s really no way to effectively monitor ownership or effective ownership for control of the allocations. And that’s been part of the dilemma from day one. So I think what staff and the FMAT have tried to do is put together some protocol to collect the most basic level of monitoring information needed to consider that question. You know, some of the early discussions we had about defining a share talked about some relationship to the status quo. But we weren’t able to define the status quo because the ownership wasn’t transparent. Or the control of the resource wasn’t at all transparent. Peter?

*Peter Himchak:*

But just to follow up, I mean, you know, my take coming in fresh and listening to all the discussions was that, I mean, I don’t see how it could possibly—how any individual could possibly accumulate enough shares to the point where it would be an excessive share. Or what an excessive share would be defined as. And a lot of this is embedded in the economics, and that HHI index, and all this other stuff that—I mean, I just didn’t see how they could accumulate enough shares to exert influence on prices in the market.

*Rick Robins:*

Dr. Anderson?

*Lee Anderson:*

Pete, well, I agree with you. But that’s not the issue here. The issue is we have a due diligence to monitor what’s going on. And we can’t do that if we don’t have information. And I really—I’m sorry, we could’ve given a bigger explanation, and José did. This is nothing that is—this is common stuff in ITQ fisheries. It’s exactly like our tilefish fishery, which is our own Council document. We’re not doing anything outrageous. Nothing outrageous is gonna be collected. But if something comes up, we will have the information to see if these—the S\*, when we set it, is overlooked. It’s kinda like doing a cruise to get information to do stock assessment. We have to have the data. That’s all it is.

No one is saying we're gonna do anything other than that. I just think it is really necessary. If we, this is my own personal belief, but the Council has given these harbors privileges to people to use them as mandated by law. But I think there are some obligations of those people who we gave these privileges to, and allowing them to make money that they give us information so that we can do our due diligence in managing the fishery.

*Rick Robins:* John Bullard?

*John Bullard:* Peter, I haven't been involved in this Council anywhere near as long as you have, but you asked the question, "I can't imagine how excessive shares could be compiled." I heard someone say this industry is—the control of this industry present in this room. If that's not a definition of how you can imagine how excessive shares could be compiled, I can't imagine a clearer definition of how one could imagine how excessive shares could be compiled. I don't know whether it exists now or not.

I've heard testimony that it doesn't exist now because the quota isn't caught. Maybe that's true, maybe it isn't. I've heard testimony that the banks don't want a government regulation. Oh, where have I heard that before? Banks don't want government regulation. Jeepers...they don't? I'm shock. I'm shocked. They're saying that that will interfere with their business arrangements. They don't want government looking at their relationships. Well, that's a new wrinkle.

This is a public resource. Banks own an awful lot of it. And we need to know what's going on in this fishery and a lot of fisheries. This is a reasonable request, in this fishery and others. And this was one of the first ones where ownership started to get consolidated in—significantly. So I think this is reasonable.

*Rick Robins:* Thank you, John. Other comments? Howard King?

*Howard King:* Yeah. I've actually got two questions. The first is, is the protocol fully matured and ready to go to the Regional Office? And two, are there any similar protocols with, for instance, timbering industry on public lands? Does anyone know?

*Rick Robins:* José, do you have any comment on that?

*José Montanez:* Regarding the protocol being ready, the FMAT used generic type of potential questions that could be asked. We didn't go to the extent that every question was drafted the way it is already present

in other systems. Because we didn't wanna do that. Because we thought that the Agency that is gonna be implementing the protocol should have the ability to draft all those specific questions they way they see it fit and the way it's done in other fisheries. So from that perspective, the questions are not gonna be—they're gonna be tailored, following the guidelines here. But they're not gonna be specifically drafted the way they are here. And I don't have an answer to your second question.

*Rick Robins:* Howard?

*Howard King:* So would we get a chance to see this again when it is mature?

*José Montanez:* Yes. When the Agency decides that they're gonna be implementing this program, during their regulatory process they will have time for people to provide comments. Like they do for any other regulations that they implement.

*Rick Robins:* George, do you mind describing that process for us a little bit on the Regulatory Amendment? How that would work? And what sort of collaboration or consultation there might be with the Council?

*George Darcy:* Well, we do propose in the final rule making. Similar to what we do for most of our actions with some public comment period. Probably 30 days, maybe longer in this case. There'd also be a Paperwork Reduction Act request, I'm sure, that we'd have to do. That we'd have to get approved up through OMB. Pretty straightforward rulemaking, I think. Typical process. Council would have an opportunity to comment during the public comment period. And presumably, our staffs would work together in developing the amendment to make sure that our rule, as written, is reflective of what the Council's intent, the FMAT's intent was.

*Rick Robins:* Thank you. Erling?

*Erling Berg:* Thank you, Mr. Chairman. I would have to agree with my colleague from New Jersey. Being somewhat familiar with how the fishery is prosecuted, I think that we have spent enough time and resources on this for very little gain. So I'm gonna oppose this.

*Rick Robins:* José?

*José Montanez:* One thing that is not on the document regarding your question,

because we discussed this at the FMAT. And we said if the Council approved the document, it will go on the cover letter that goes with this document to the Service. But the FMAT discussed the idea of having the Service make a presentation to the Council once some of the forms are more or less drafted and the questions are, you know, more specific or finalized.

*Rick Robins:* George?

*George Darcy:* Yeah. We could do that. But just let me remind people, there was a GAO finding that found deficiencies that the Agency was required to respond to. I think the date that we were required to respond to was probably three or four years ago. They haven't forgotten about it. Every few months, they send us a document saying, "Give us a status update on what the Council is doing to remedy this."

We've been putting them off and telling them, you know, you're doing that study, now you're doing data collection. And so far, they haven't taken it any further. But they haven't forgotten. And at some point, somebody's gonna say that enough is enough. And something that you don't want to happen might result. So I would encourage you to go forward with this.

*Rick Robins:* Thanks, George. I won't ask what those outcomes might be. So is there further discussion by the Council on the motion? Is the Council ready for the question? All those in favor, please indicate by raising your hand. 13. Opposed, like sign? One. Abstentions, like sign? One abstention. Motion carries. Thank you. José, is there anything else? Or Jessica, anything else to come before us?

*José Montanez:* No sir.

*Rick Robins:* Thank you very much. Do we have anything else?

*Lee Anderson:* No sir.

*Rick Robins:* Okay. With that, we are adjourned.

*Lee Anderson:* Let's go fishin'!

*Rick Robins:* Yep. And we'll see you at 9:00 tomorrow morning in Executive Committee.

*[End of audio]*

**Executive Committee and Reports**  
**June 13, 2013**  
**Doubtree**  
**Eatontown, NJ**

*Rick Robins:* Good morning and welcome to the Executive Committee meeting. I don't have any fishing awards to hand out yet. We'll do that when the full Council convenes. But good morning. We're anticipating some severe weather this afternoon, so I'm gonna try to streamline things a little bit and get through this morning's agenda as quickly as we practically can. The first item is gonna be an update on the Ecosystem Approach to the Fishery Management Document. And I'll turn to Rich Seagraves for that.

*Rich Seagraves:* Thank you, Mr. Chairman. The talk this morning is to give you an update on where we are on development of the Ecosystem Approach to Fisheries Management document. We formed a working group that has been finalized. And they will be helping me to develop the document. We currently have expertise in the areas of ecosystem level assessment modeling, habitat, social and economic analyses, and fisheries management. And so I'm calling it the A-Team, as you heard Sarah Gaichas from the Northeast Science Center speak at the Forage Workshop. And we're really happy to have both Sarah and Jon Hare from the Science Center. And Jon spoke to the Council relative to climate change at a listening session last year.

We also have Geret DePiper, who was a student of Doug Lipton, who is now at the Science Center and is specifically working on developing models to bridge with the ecosystem level analyses in a social and economic analysis sense. We also have Karen Abrams, who is a habitat expert, who is now with Sustainable Fisheries. And Terra Lederhouse, who is a habitat specialist with NMFS Headquarters. So that's our team.

As I've—I'll quickly review what we have identified as the key issues to be looked at. And the guidance document, the first time, it was a forage/low trophic level species considerations, which we took up at our April workshop, which I'll review briefly. We'll also be looking at species interactions, predation, competition, et cetera, and their effects on sustainable harvest policy. We want to do a better job of incorporating social and economic considerations and OY specifications in an ecosystem, more of an ecosystem sense.



Another major one is the effects of systematic changes in oceanographic conditions on abundance and distribution of fish stocks, and the ramifications for our existing management approaches and programs. And last is incorporation of habitat and conservation management objectives in the current management process. And this would include water quality.

So what we had proposed is a series of workshops, which we held the first in April. And the purpose would be to bring together technical experts on each issue, along with the managers here at the table and the stakeholders, to evaluate the science and policy aspects of each issue and then develop—based on the results of those workshops—develop recommendations for best practices to be incorporated into our operational guide. So the first question is, does the Council wanna continue with that workshop format? So we did one. I thought it was pretty good. I got some positive feedback.

But if we get the green light, and you'll see I've got a revised timeline, I think we really—I had them like almost every meeting, an original proposal. But the reality is to get the really big guns, the technical experts, you need probably about six months to get those kind of people on your schedule there. Their schedules fill up rapidly. So we're proposing to have the next workshop in December to deal with the climate change, systematic oceanographic change, which will include warming and ocean acidification and effects. And meld that into the habitat discussion as well.

So our April 11<sup>th</sup>, I'm just gonna briefly review the outcome of the last workshop, or the first workshop that we had at our last meeting. And it was related to this assessment management forage species. We also discussed where in the process these issues could be handled, including at the stock assessment level, at the ABC control level, excuse me, or the OY specification. And that discussion will now inform the development of our guidance document.

So to briefly summarize what we learned or what was recommended to us was certainly the forage species definitions possible, based on its trophic level, the species, its life history, and vulnerability to fishing. And a good start is a draft that we already have that was developed by Jason Link on our Ecosystem Subcommittee. So we'll be fully fleshing that out as one task. And I think the upshot of what we heard was that the Council should definitely consider managing forage stocks more

conservatively relative to traditional MSY, or MSA reference points. With the idea that we should probably entertain the idea of maintaining biomass, as the forage stocks above  $B_{MSY}$  are the traditional target under MSA. Which would require maintaining fishing mortality rates below the traditional threshold of  $F_{MSY}$ .

We also had a list of species that Ed Hood presented to us as candidate species. One of the things I asked him to do was list those out. They're there, Ed went through them. I think the agreement by the panel was, and I think Sarah Gacichas' comment was, "It's a good start. It's not a complete list." But, as you'll see, one of the tasks is to fully populate that list. And the other thing Ed talked about was potentially how you would incorporate special management considerations for forage stocks within the current existing protocol or risk policy the Council has developed in the Omnibus Amendment.

Ed's take on this was the top two lines there are the control rules for  $P^*$  —maximum of 40 percent, if the  $B$  to  $B_{MSY}$  ratio is greater than one. The solid line is for typical stocks, the dotted line is for atypical. We had a lot of discussion about that yesterday actually for quahogs and whether or not, if it's an atypical life history, whether or not it's been adequately addressed in stock assessment. Ed's take for first cut, the red line would be a potential control rule for forage stock, where you would shift the point to the right and try to maintain a biomass somewhere between 1 and 1.5 ratio of  $B$  to  $B_{MSY}$ . And then ramp the thing down, linearly like we do for the others. That's one possible control rule. There are others that we're gonna consider.

In terms of Rob Latour's talk, one idea that we've had is one way to transition into this new paradigm is to link  $P^*$  to the treatment of natural mortality in the assessment. And he proposed that there be a gradient where, depending on how  $M$  was handled in the assessment, how you would—what  $P^*$  would actually be. And so if the  $M2$  was fully modeled into the assessment, then you would just go with the regular control rule. And one option would be to adopt the atypical strategy for forage stocks. And if  $M2$  is not fully addressed, then you might use the atypical line.

He also highlighted the fact that, you know, an enhanced treatment of natural mortality within stock assessments serves to describe the historical predation demand or, you know, what's occurring. So it's a better accounting of  $M$  through the modeling. But ecosystem structure and functioning goes well beyond just better accounting. And we have to—and he was really made the point out that it was

good, that you really need to be mindful of separating science and policy. And we need to develop these things in concert.

And just accounting for M better by, say, M2—explicit estimation of M2 or predation morality in stock assessment. Generally this is viewed as being a more robust assessment technique. But that doesn't get any of the tradeoffs that you might entertain by leaving more and more forage stocks in the ocean to support the ecosystem services, to support predator populations or what have you. And those are more policy decisions that the Council needs to make. And be aware that we separate these decision-making processes.

Sarah Gaichas then discussed the current state of ecosystem models and data. And the upshot of her—she concluded that yes, the current state of knowledge, they are able to support an ecosystem approach to management, and specifically for forage management policy development. And she laid on the table what she called an intermediate complexity tactical ecosystem tool. Which would be sort of what we would shoot towards. So moving from the left, on the left side we have our standard stock assessments, and our best assessments have structured population dynamics with the statistical parameter estimation using multiple data sources, so attuned statistical catch age model would fall in this category.

And from that, we derive our biological reference points and stock status determination for management. Then, on the right side, as we begin to incorporate ecosystem considerations, we're gonna look at, at the assessment level, how species interactions affect the population dynamics of the stocks we manage, and what some of the tradeoffs are, what the environmental effects are on these key population parameters or processes, and looking at populations and fisheries also from a spatial dimension. And so Sarah's conclusion was that we can do this now. And that we have the tools, it's just a matter of developing those and using those tools without, as she put it, time machines or expensive new surveys or even the super computers.

In terms of information needs, there were two main questions that needed to be addressed—and there were two main questions that she posed. The main questions are how to include predation in forage fish management. Do we do it within single species assessments? Do we move to multispecies assessments? And also, as I talked about earlier, is that—so you can handle the biology and the population dynamics for kinda what's going on in the ecosystem to

the best that you can. But once you start reducing exploitation rates on certain stocks, that's really an adjustment to policy.

Also, there's a need to account for—and so we need to account for tradeoffs in predator consumption requirements when managing forage fish. So her conclusion was that this is possible with the current data, and there are multispecies models being developed that hopefully over the next several years we'll begin to implement. But the managing of tradeoffs that the Council's gonna be faced with is definitely a new level of policy consideration. So that's kind of a quick overview of, you know, what I thought came out of that workshop.

And so for the working group, I've listed a number of tasks that I need some blessing on here. One is to finalize the forage definition. I think it's pretty well finalized. But it wouldn't hurt to have a group look at it again. Fully populate the list of forage species in the Mid-Atlantic, which I showed that list Ed started with. And also describe the past and present abundance of those species. And next is to develop options for an ABC control protocol for forage stocks that would fit into our current risk policy, which would start with probably incorporating M2 predation mortality.

Sorry, this one's a little tough to read, but it's in your—the information that I'm covering is behind Tab Seven. And this is graph here is—the text is in the document. But basically, as a straw man, what I've developed after the workshop is sort of how would we approach this. And so the first, I think we'll start with where we are, obviously. The OFL is determined based on an MSA defined reference point  $F_{MSY}$  or its proxy. And the SSC would then specify ABC based on the current risk policy. One option would be with respect to the atypical species.

So if M2 is not adequately modeled in the assessment, we would use the atypical line. Otherwise, we would just use the  $P^* 0.4$ , which is for typical stocks. And then based on the ecological, social, or economic evaluations and tradeoffs the Council wants to entertain, you could add additional ecosystem consideration buffers when specifying OY. So the—yeah, so we would separate the science of, you know, dealing with natural mortality, et cetera at ABC level by the SSC. And then anything beyond that would be a policy consideration by the Council.

So I set up a straw man here, so the balance—so really the issue, what I was trying to get out of that, one of the things I was trying

to get out of that workshop was what are the bounds for the ABC/OFL ratio what we might wanna consider. And so up there on the bottom, you'll see I have the ABC to OFL ratio as less than or equal to 0.81, if M2 is adequately incorporated in the stock assessment. But it's—and it's greater than or equal to 0.25 to 0.5.

Now, the folks at the workshop, the Lenfest Report, as well as the MSC paper done by Smith, et al., recommended that we should probably reduce exploitation rate on forage stocks to about half of the traditional MSY level. So that's the 0.5. However, the Pacific Council has a control rule for their forage stocks that are actively managed, and I think Pacific mackerel. And they actually have an F—ABC to OFL ratio of 0.25. So I put that in there as kind of a starting point.

On the bottom—so then if M2 is adequately incorporated, we would set the ABC, and you get the ABC to OFL ratio of 81 percent, which is our current risk policy as it stands. If the stock's at or above  $B_{MSY}$ . And then it ramps linearly downward. The penalty you take is that if it's an atypical species and you apply that rule, you get 73 percent, which is on the bottom formula. So ABC to OFL is less than 0.73. You're taking the penalty for not adequately—the scientific uncertainty underlying not accounting for a natural mortality, or predation mortality specifically. And then on the left of the equation, anything lower than that, the OY would be set based on Council policy.

So I think that the really hard—well, both sides of the equation aren't gonna be too easy to deal with, but I think the one on the left of the Council's gonna be the toughest. Because these are gonna be some real tradeoffs that you're gonna have to entertain. And of course the actual quantification, and figuring out exactly what those tradeoffs are, are not gonna be well understood, at least initially, or perhaps some time. So that's the basic sort of framework that I think the working group should start with. And then from there, we'll move on.

So one other task I think we should be looking at is—one is explore the definition of functional groups: rather than just individual species, what function certain species play in the ecosystem. And what prey—certainly one of the ideas that we've had, or Jason has—and Jason Didden has talked about is—well, you know, we've got squid, we have mackerel, butterfish, so if we looked at the sum total of the biomass of those stocks, even if one is up or down, perhaps it's not so bad if overall we have a fairly stable forage base. But not all those species are interchangeable in

the food web. Their function within the food web varies. And so really probably—and what Sarah has suggested is that we maybe look at the functional group level. And to assess the current state of that forage base at that level in Mid-Atlantic ecosystems.

And also to develop an analytical framework to assess the dynamics of that food web and those functional groups. And then to develop a transition strategy to begin to incorporate this into both our assessment as well as the management process. Other tasks would be to being planning for the next workshop. And the plan is, it seems to be the next really high profile topic is the effect of climate change, both temperature and ocean acidification on the ecosystem. And their effects on our stocks obviously is a major concern for everybody. And we're proposing that we hold that one in 2013, and that's in the revised timeline.

And so that's sort of where we are right now. I'm gonna go to the briefing book. And I don't have a slide of the revised timeline, but if you go to the first page behind Tab Seven, you'll see the revised timeline. Basically we've got our group formed in May, we've done the first workshop, we would begin meeting—now I've had trouble scheduling a meeting because of the travel restrictions being placed on some of the NMFS folks. I'd hoped to do the first meeting in person, and then hold most of the meetings via WebEx to save costs and so forth. But even, I think might need to have the first meeting by WebEx. But we will meet periodically according to the schedule.

As you see here, our first task is to develop forage—completely task out, flesh out the forage protocol and being to plan the December workshop. We would have some sort of protocol for you to hopefully look at in October for forage. Then hold the Habitat Climate Workshop in December. Start to fold that into the document following that workshop. In April, do the Social/Economic Dimension and Risk Analysis Workshop at the April meeting. And then sometime around June/July next year have a document together for consideration by the Council, both in draft form in June. And then by August have some sort of final document. Pretty ambitious. Hopefully we'll stick to this timeline. So about a year from now, we would have a document and we would begin to then implement these initiatives as—however we determine is the best way to go.

So that's sort of where we are. Then the next thing that I wanted to talk about is the Pacific Council's Fishery Ecosystem Plan. In April of this year, they did finalize their FEP. And so it was

adopted in April, the big mega document. And so it's really a—it's not even a strategic document, really. It's more of an informational document, which is what we're trying to avoid. I mean, we think that most of this information, these big tome type ecosystem documents, that information exists lots of different places. And we can collate that information fairly readily. But the hard part of this is the tactical part. What are you gonna—strategies, you know. How you're gonna do it. Tactical is exactly how you're gonna do it. What are the measures that you're gonna implement? You know, what are the control rules? And so forth.

They have not tackled that part of it either. And so what they're proposing to implement under their FEP is the systematic development of ecosystem initiatives. Which I think is really analogous to what we're doing in our guidance document. That is developing a tactical approach. Their first initiative currently in action, the only action that they've actually initiated is to tightly control the development of any new fisheries for forage stocks in the Pacific Ocean under their jurisdiction. And so they're prohibiting the development of any new fisheries for forage stocks.

And their first exercise was to review the current list of Federal fisheries and gears that are currently authorized. And then based on that list, say, basically they're saying any new fisheries that are gonna be developed, both for forage and other stocks as well, would only be developed under experimental fishery permit type of program. And that that—any full development of a new fishery would have to be accompanied by a fully accompanying scientific analysis of the impacts of those fisheries. So that's the only real action that they've taken following the development of their ecosystem plan.

So then they have a list of nine potential initiatives. And I'm gonna run real quick through those. But I think we are—they match up fairly well with some of what we proposed to do in our guidance document. I think they're analogous processes. But there's a few fine points that they put on it I think are worth considering. The first initiative is to evaluate the long-term effects of Council harvest control rule policies on the size of and age composition of their managed stocks. And incorporating size and age structure into their biological reference point.

So currently, we have a number, when we judge is the stock—what's the status of the stock? What is the biomass relative to the target, which is  $B_{MSY}$ . So we have one number. Okay. Well, we're—it's 1.2, or whatever it is. Yeah, we're above it. But it

says nothing about the underlying age structure of that stock. And they point out that this is important both for long-term stability of the stock to have a fully developed age distribution and what's considered a fully rebuilt or robust stock. And both for the exploitation by the fishery to maintain stability of the stock, as well as by maintaining a healthy age distribution, a robust age distribution in a rebuild stock. It should help mitigate some of the problems associated with climate change. The idea being that stocks would be more resilient if they have a robust size and age structure. So I think that's a fine point that we should consider.

Their second initiative is to identify finer scale biogeographic regions within their large marine ecosystem. And this is required to address water quality, habitat issues, especially in estuarine and inshore areas. I think this is certainly something that we're already gonna do. I don't think we need to add that one. The next one is their initiative to evaluate across their FMPs, both bycatch and catch monitoring, to develop cross FMP bycatch minimization goals. I think we're currently doing this. Certainly it will be considered in our guidance document. But I think we're gonna adequately cover this. Plus we have the SBRM Omnibus Amendment that's really taking a wholesale look at this whole process of bycatch estimation.

So this will be incorporated into our guide. I'm currently planning on doing that anyway. The next one would, in terms of EFH, what they plan on doing is taking a cross FMP look at EFH designations for all their FMPs, both to identify areas of high importance common to multiple fisheries. And they propose to do this sort of omnibus approach to EHF evaluation in their five-year reviews. So that's something that I think we need to talk about as a staff: whether, you know, that's—we wanna adopt that approach as part of this document. But certainly, you know, essential fish habitat is a keystone, one of our five things that we're already doing. So I think we're covered there. We just—the fine points need to be worked out about how we do that.

Now here's one that we have not talked about that you might wanna consider. They're doing a cross FMP safety evaluation, as per National Standard 10: the Safety at Sea National Standard. And so they're gonna provide a—for a working group to directly engage the Council, the Coast Guard, other Federal enforcement, Weather Service, and information providers, et cetera, to identify any safety concerns within the Council-managed fisheries as a result of the sum total of all the Federal fishery regulations in the Pacific. And so that's something that we might wanna talk about.



It's not something that we've considered for our document, but the Council may wanna entertain that.

The next one is the human recruitment to fisheries, initiative number six. And this addresses the concern about the graying of the fleet, both the vessels and the fishery participants. I think the average age of the permit holder in the Pacific is something like 59 years old, or—it's pretty high. And there's a great concern for allowing—having some process to allow for, and plan for training and entry of new and younger fishermen into the fisheries. That's not something we had considered that you might wanna consider.

And the last, or number seven, is the cross FMP evaluation of the social and economic effects of fisheries management. We're already gonna be doing that one. Eight is FMP evaluation, the effects of climate change and shifts, both ocean warming and acidification from a broad scale view. We're already doing that one. And nine is evaluation of the cumulative effects of fishery management actions on ecosystems to inform their NEPA analysis across all their FMPs. And I think we're sorta gonna be doing that one.

So that's where I'm gonna end. So I just wanted to give you a highlight on, you know, where the Pacific Council is, let you know what their initiatives are. And like I said, there's a couple, two, three, in there that we haven't talked about are—Safety at Sea and the graying of the fleet, I think, are the two big ones. If the Council may wanna consider that, that's up to you guys. So that's where we are.

*Rick Robins:*

Rich, thanks for the update. At point, you talked about the next steps for the working group. You put together, I think, a highly capable working group to assist the Council. And you talked about some of the next steps that they would go through. I think one of the critical pieces that we're gonna need before we adopt any sort of, you know, policy type considerations would be a comprehensive understanding of the regional system. And that's something I think Sarah Gaichas had talked about a little bit.

Ed Hood in the presentation he made talked about low trophic level species. But I think we would wanna have an understanding of how those connect to the regional marine system. And, you know, how their connections are to the food web before we adopted any sort of modification in the control rule. And that shouldn't preclude the working group from developing, you know, conceptual approaches to those issues. But I think that's gonna be

a key piece, because in order for this to make sense for us, it's gonna have to make sense relative to the regional system. As opposed to, you know, applying a control rule from another part of the country or from another marine system to ours.

But I think we'll need to understand how that would relate to the food web here in the region and our managed stocks and so forth. But I think that's one of the pieces that you're considering. Because you talked about doing some of that analysis and building on what Ed Hood presented and putting that together with some of the approaches that Sarah Gaichas had talked about in the other panel.

*Rich Seagraves:*

Yeah. I think what Sarah presented at our workshop was the food web kind of spider diagram showing the food web dynamics, primarily for herring in the more New England area. So what we'd like to see is a fully developed representation of our system. And again, I cut some of the slides, but I think Ed presented the cameo, which was a NOAA initiative to look at ecosystem evaluations at a number of different levels, high level funding. And I think the funding's been cut. But in one of those projects had been delayed. One of those projects proposed units, and there was a graph that Ed showed. Basically, the Mid-Atlantic by Georges Bank up through into the Bay of Fundy and all the estuaries comprise about nine ecosystems, I think.

And that's really gonna be fundamental—the basic universe that we're gonna start with. We have said that—what do you do about species like sea turtles or bluefish, where their range extends to Florida around, and even to the Gulf of Mexico. So, you know, you have to—they have to stop somewhere. So I think for the basic description of the system and so forth, we're gonna work with that conceptual model that Ed proposed. And so we would be looking for the sorts of things you're talking about for our system. Focusing primarily on, you know, the Mid-Atlantic Bight, but we will be looking at everything. But I agree, we need those food web dynamic models developed for our system.

*Rick Robins:*

Thank you. Questions for Rich? Or reactions to any of the points that he's made about the next steps? Rob?

*Rob O'Reilly:*

I was interested—thank you, Mr. Chairman. I was interested, Rich, to know a little bit more about towards the end when you talked about the safety, but what I would call apprenticeship program, and what kind of details were really there. I think that limited access, whether it be in the Federal system or the state

system, has resulted in a lack of apprenticeship. And usually when someone's fortunate enough to get in a fishery, they enter that fishery without experience because of the lack of apprenticeship. I mean, there are some programs that have that system. But, you know, I'm just wondering what that was all about.

*Rich Seagraves:* If you'll—in the briefing book, under I guess it's Tab Seven, each of those initiatives fleshed out a little bit. A little description of what's going on there. And what number was that one? A2-6, on page 18. And there's a couple pages, a page and a half or two of text there. But basically, you know, it's just as you just described. In the West coast, there has been less and less incentive for people to—new entrants to get into a fishery. Younger folks or somebody switching over from some other profession. And so—but the two initiatives are separate. One is the human recruitment initiative. How to—they're looking for ways to create programs to pump new blood, basically, into the fishery participant side of the pool of people fishing.

And then the Safety at Sea one is separate. And that's looking at what the sum total of the incremental application of Federal regulations, you know, death by a thousand cuts. And then at the end, you know, the patient is in critical condition because of all the—I think that kind of—they're looking at the bigger picture of like—okay, you look at all the rules that we've put into the fishery together. What's the impact on safety at sea? They're two separate initiatives. And I think they're pretty well described in the document if you take a look at it.

*Rick Robins:* Lee Anderson?

*Lee Anderson:* Yeah. Rich, thanks for the summary. And I particularly enjoyed the recap of the forage fish thing that we had. Now, I assume all of those papers are now on the website. I haven't looked in awhile.

*Rich Seagraves:* Yeah.

*Lee Anderson:* And the other thing that I think is important when you're talking about changes to the control rules, et cetera, is that we do have that national—possible National Standard 1 revision. And there's a lot of interesting things that are coming up there. From my point of view, more specific permission with respect to socioeconomic analysis. And I'm sure that if that change goes through, that will be incorporated into this stuff as well. At least I hope so.

*Rich Seagraves:* Yeah. We—I think I said, we've got Geret DePiper, and he is

really, I think, gonna help us bridge—we're gonna do this at the eco—we're gonna do this at the, probably the FMP level anyway. But take more of an ecosystem approach to it. But certainly that is a big thing that was talked about at Managing Our Nation's Fisheries 3. We talked about it, of course, at the SSC 4 Workshop. So I think there's a big push nationally to really raise the profile and importance of making a social and economic impact analyses available to the Council prior to decision making. Or during the process of decision-making. And so that, I think, is really where we're gonna focus our energy. Is to not only do an ecosystem level impact analysis, but even at the single species—single FMP level now, have that information integrated into the decision making process upfront, where it belongs. Rather than post hoc.

*Rick Robins:* Other questions? Rob?

*Rob O'Reilly:* Just a delayed follow up on the human recruitment. I think you indicated, Rich, that that is not something right now for the AFM. Is that correct?

*Rich Seagraves:* That's not something we've even talked about. I just raised the issue because we're kinda following along behind the Pacific effort and picking the best of, I think, what they've done. Done a lot of work for us. And so we had identified five areas that I had in the talk. And now they've published this and adopted this formally with these initiatives. But it's not currently underway. The only one that they are doing is the first one on prohibition of any new forage, or any fishery in the Pacific without this new process that they proposed.

The other nine are all potential initiatives and I raise that—and that list, the human recruitment one is something we haven't talked about. So it would—if you wanna do that, if you're interested, you'd have to add that to the list.

*Rick Robins:* Thank you, Rich. Other questions? Rich, earlier in your talk, you asked if we were comfortable, I guess, with the workshop approach. And I think the workshops at least provide for an opportunity for an interactive dialogue about some of these subjects in more detail. Recognizing that, you know, after that there's still gonna have to be a lot of work done. But, you know, I think it's helpful to have those types of fora where we can have more in-depth discussions. I mean, at Managing Our Nation's Fisheries, the—you know, they had a forage panel. But you only had 15-minute papers, and there wasn't nearly the level of dialogue, I don't think, with the presenters. But if we can continue

to plan these—your next one is scheduled for December, tentatively? And that would be on climate change?

*Rich Seagraves:* Yeah.

*Rick Robins:* And we had spoken as well about forage, I mean, that's one part of the species interactions that we think of as being important. But it's not the end of the discussion on species interactions. So had you considered another workshop later on species interactions? Is that—or how would you propose that we get into that? Would that come in through some of the regional modeling of the food web? Or how would we take up that side of the—or how would you propose to take up that side of interactions?

*Rich Seagraves:* Basically what you just said. As we're developing the forage protocol, the food web, all that stuff, we're gonna fold in what level of species interactions that we can define, quantify. Then how—so at the working group level, we'll probably do that. But depending on, you know, how the discussions go, you know, and if it looks like it's worthwhile, you know, we may wanna add another workshop. If it, you know, if it rises to the level—you know, trying to educate the Council on what the current state of knowledge is there. And what the options are, in terms of folding ed into the management programs.

So right now, I don't have it on there. Just for time, it would probably add another couple months to the timeline. But I'd hoped to do both of them together, but there's just so much information that you're gonna have to cover. And so we really thought that the forage thing was the biggest, kind of a special case species interaction. So right now, I don't have one listed there, but if it rises to the level, you know, we could add another one—workshop.

*Rick Robins:* Well, Rich, if you move forward as proposed, what would be the timeline on the working group reporting out on some of those next steps? Would that be later this fall? Could some of that regional modeling be done in that timeline?

*Rich Seagraves:* Yeah. Yeah. We're proposing to have something by October for the forage protocol. And then I could probably give you a better assessment of, you know, the big picture species interaction issue and whether or not we want to fold through another workshop. But the problem is, again, trying to put together really high quality workshop and getting the top people takes six months, at least. So that would probably—we could bump one. And if we feel we need that one, put it place of the next one. But the way it's laid out,

there's one in December and then another one in April. So we'd have to pick that general species interaction issue up at the working group level, as currently proposed.

*Rick Robins:* Thank you, Rich. Another other questions or comments? Rob O'Reilly?

*Rob O'Reilly:* So, again, I guess on this human recruitment, if it's something that you've included and the work group really hasn't commented on yet, is that something that the work group could comment on at some point? In other words, is there a set time when this would have to be added to the list?

*Rich Seagraves:* Well I would say if that's something that you're interested in let us know now. Because I think that would fold, you know, nicely probably into the social and economic part of the list of five things. You know, it's certainly a—it's a human dimension consideration of people catching the fish. And the fact that the population of those people catching fish is aging and there's concern about that. So if you're interested, yeah, I would say give us the nod now and I'll fold that into this social and economic consideration part.

*Rick Robins:* Rob?

*Rob O'Reilly:* I would urge that the Council do include that, rather than later on look back and wonder why not. And I think there's some expertise that I'm familiar with as well that could look at that pretty carefully with a good recommendation later on.

*Rick Robins:* Okay, Rich. Any other comments? Laurie?

*Laurie Nolan:* Thank you. Just to try to put a better spin on the graying, I can say in Montauk we are seeing more and more youth get into the fisheries. I mean, I think it's like anything: you have certain year classes that could care less about it and then you have one that suddenly they're all a bunch of fish heads. And I can say that when I walk around the dock in Montauk, I feel like an old lady these days. I mean, they are—they're kids. I look at them and they were my kids' friends, they were—and they're all over all the boats. Whether it's a dragger, a long liner, a scallop boat.

And Montauk, the vessels are not graying. I mean, everybody's painted, looking sharp, and ready to go to work. And it's really something in the last few months I've commented, you know, every pack out, we're down there and I say, "Wow. I can't believe we got some young people coming into this industry." So I think

it's hard to encourage those. You know, there's either the interest or, you know, fishing is one of those jobs that you're either into it or you're not. And it's a fine line. And it's hard to convince someone, "Oh, you should try fishing," if they're not into it. So—but as I say, in Montauk, I would have to say the graying is not where we're at.

*Rick Robins:* Rich?

*Rich Seagraves:* Yeah. I would—you know, I'm not saying—I don't know what the—you know, that's kind of a general perception. Certainly in the Pacific they did an evaluation and found, you know, they have a description of the age and demographics and all those sorts of things of their current participants. That may or may not exist. I'm not familiar with it for our fisheries. But that's one of the things that we're gonna—I'm assuming that this will be described in this document and we'll find out to the degree that it is a problem. Heck, and perception in some areas on the Atlantic Coast, it is a problem. I don't know that. You know, I don't know what the answer is. But certainly the information will be presented in our document that will—and if it looks like a problem, then we can deal with it.

*Rick Robins:* Rich, I think that is something that we heard a fair amount about in our meetings up and down the coast, but it seems to me that that's probably something that would be a consideration. For example, if we ever moved into another allocated fishery model—in other words, if we took up a new program and allocated a fishery out, you'd wanna consider that as a design aspect of approaching the allocations. But, you know, I guess it's not clear to me how we would act on that. But studying the question in the context of this document from a social and economic standpoint is probably something that would be helpful. But it seems to me that, as far as actually doing something about it, the easiest way would be in the development of a new plan. You know, and we don't have any of those on the horizon right now. But, you know, I think that's where it becomes more of a tactical consideration.

Are there any other questions or comments? Alright, Rich, we'll look forward to the next steps and reports coming on the ecosystem guidance document. Thank you.

The next item is a discussion about BOEM and generally about wind energy. And we wanted to put this on the agenda to have an opportunity to talk about how to more effectively engage the Council in the wind energy discussion and the activities that are

ongoing with BOEM's Smart from the Start energy initiative. As you all know, we've had a number of meetings where BOEM has come to the Council and made presentations on either proposed sitings or just given us an update on the initiative. And, you know, frankly I think we've struggled to determine how to most effectively provide input into the process or provide comments on proposed sights.

And since the National Ocean policy has been implemented, there is an opportunity for the Council to participated in the regional planning body. We have a representative to that planning body. That's Jack Travelstead from Virginia, and he's participated in at least the first meeting of the regional planning body on behalf of the Council. And yet, the BOEM process is very far ahead of that regional planning body initiative. And the regional planning body work could include marine spatial planning, but that will lag significantly, the BOEM process. BOEM has already identified a first round of potential sites in the ocean, and so I think it's important now to consider as we go forward how can we most effectively engage with BOEM because that's really where the rubber's gonna meet the road.

And right now they're on about a five-year timeline for taking applications for development plans. And I think as we consider where they are in the process, on the one hand it's still early on because this is a first round of siting decisions. But there's gonna be a lot of work done over the next five years as these plans are ultimately developed. And when they're developed, they'll include the details about where within these large scale areas the actual arrays might be sighted. And those details are gonna be important. They're gonna be—I think a lot of important details about the design and insulation of where these wind arrays are placed and how they're engineered that will determine whether or not they have significant fisheries impacts, and what those impacts are.

And I think we wanna be engaged in those discussions to the extent that we can. And that's gonna require some interaction with BOEM. Chris and I had a recent discussion with BOEM about this, and they're open to our input and trying to figure out how we can work together to more effectively facilitate fisheries' input into the BOEM process. Because it's not something that is in their core function. And I think the Council can play a positive role in trying to facilitate that.



I've got a few slides I wanted to show. I just got back several months ago from a trip to England, touring the wind energy industry. John McMurray and other industry representatives went as well. And it was a remarkable trip. It was actually somewhat shocking just to see the scale of the development that's occurred off the coast of England. And we were in Ramsgate, which is in Southeast England, touring the Thanet Array, which is about five to eight miles offshore there. Just north of that is the London Array. These are very large arrays, so the Thanet has about 100 turbines in it, maybe 20 square miles. And the London Array is much larger, it has 185 turbines. Thank you.

I'm not gonna run through the whole presentation, but I'll just show a few slides and talk about their experience. So I was an eye-opening trip. And so to actually be in one of these arrays, I think puts it in perspective. They're about 20 or 25 square miles. And I think when we think about offshore energy development, our first reference point is probably oil and gas. But oil and gas by contrast has a very discreet footprint. You might have an oilrig here and an oilrig five miles away and, you know, the scale of impact on the benthic communities is very much different than what it is potentially with wind energy.

So these turbines are roughly 3.5-megawatt turbines. They're a slightly earlier generation than what we might see in the Mid-Atlantic. But because they were 3.5 megawatts, they were able to build them on monopile construction. And those monopiles are about 15 to 18 feet in diameter. The Thanet Array is located more inshore, the London Array is north of that and offshore of it. It's in an area of moderate current, and so they've had a tremendous amount of scour around these pilings. They're not hydrodynamically engineered. They're—you know, I think the primary driver behind most of the engineering and insulation decisions is cost. And so they're trying to keep cost to a minimum.

And so they put in round pilings, and they have a very significant amount of scour around them. In the Thanet Array, the scour is roughly 5 meters deep and 70 meters long behind the piling. So there's an active sedimentation plume coming off that array. And before seeing that, I thought that, you know, in terms of siting, it'd be important that they're not located right in a prime fishing location or over a critical habitat area. But in fact the footprint, the effective footprint, because of that sedimentation, may be much larger. So it may not be adequate to just make sure that it's not in a prime piece of fishing real estate, so to speak. But in fact, you know, the benthic community around these sites is potentially

susceptible to a lot of impact from sedimentation, depending on the engineering of the structure and the environmental conditions and oceanographic conditions in the siting area.

And those are variables that I think are critical components of the design plans for these projects that are gonna be coming forward. If they're not hydrodynamically engineered, or if they're siting in an area that has substantial current, then they could have significant impacts on adjacent benthic resources. If we had surf clam beds next to them or scallop beds next to them, they could be vulnerable to those types of impacts.

What's what an array looks like on the radar. It's a crowded sight. And, you know, I think it's important to understand that there's a lot of activity associated with these arrays. There's a busy maintenance schedule that has vessels going out after insulation on a regular basis, traffic in the area, to provide maintenance and ongoing support for them. I think the reality is that from a mobile gear perspective, commercially a lot of these areas are gonna be, essentially, from a practical standpoint, off limits to fishing. That's the conclusion of the fishermen in this area.

Now from a recreational standpoint, I'll ask John if he wants to jump in, but I think there'll probably be a net positive, provided that fishermen are able to access and fish adjacent to the pilings. And in England, they have an advisory 50-meter exclusionary zone. But it's not enforced, it's simply advisory. In some other areas, there are exclusionary zones. But not off the coast of England. And that's something, frankly, that the Coast Guard still hasn't taken a position on. But I think it's an important question relative to the recreational access. John?

*John McMurray:*

Thanks, Mr. Chairman. I will jump in here. Any red-blooded Anglo looks at these things and it's 20 miles of structure. And, you know, not only structure to fish on, but there's a lot of science out there that says such structure increases productivity. So the big question, at least with my constituency, with anglers, is access. And in the UK, it has not been a problem. However, in the North Sea, which is where the first wind farms went up, they are exclusionary, they are de facto MPAs, and there are a number of reasons for that. The first being that fishing was not considered a culturally important part of that whole set of continent, well that whole continent. The whole North Sea. And but the real thing is that the fishermen did not get engaged early and often, and they did not really fight this. And I guess the environmental movement was very strong up there when all this was happening. So part of

the take home message that I got was to be engaged early and often or you're gonna get shut out here. But yeah, that's it.

*Rick Robins:*

Thanks, John. So just thinking about how the Council can provide input on siting decisions, or any of these other important aspects of installation. One of the biggest concerns I have is our ability to use data to inform the process. And I think our data sets were never purposed for fine scale spatial marine planning or fine scale decision making in the ocean. And this is just a quick example of ETR data. So when our staff has offered comment letters in the past on BOEM projects, we typically—the staff has typically included some VTR information. So, you know you can show a quick heat map of effort or where the fishing is occurring. But VTR data are notoriously unreliable. They were never purposed for this type of decision making. And so it's a very coarse look at fishing effort in those areas.

Perhaps more importantly, though, there are a lot of fisheries that aren't represented in this. So we have a number of fisheries that aren't federally-managed fisheries that are also being prosecuted in the same areas. And we simply don't have the data on what that effort is. VMS data is another source of information, but we have 30-minute polling or one-hour polling in most fisheries. And that was never set up to do that type of decision making either.

And in the UK, they had the same problem. And so after going through two rounds of energy siting with a lot of disappointment and conflict with the fishing industry, the Crown Estate hired a GIS modeling team, they hired a fisheries consultant, they went around the country to all the top ports. Within those ports, they engaged with the top fishermen in those ports. And they entered into a data collection project. And they asked the fishermen to provide them with their chart plotter data. The chart plotter data was provided subject to a consent agreement that limited how the data would be used and presented to preserve confidentiality. And so they did that.

At that point though, the fishermen were incentivized because they had already been through two rounds of sitings, where they realized they had bad outcomes. They were also faced with another round of MPA sights, and so they had an incentive to provide data recognizing that it would be their best defense and best way to participate in the planning discussion. So they entered into that. It was a very effective exercise. And this is a very busy chart, but what they did was created a GIS layer using all the chart plotter data. They converted it into a common digital

latitude/longitude format that they could present in one GIS layer and consider what the effort was in those different areas.

They then sat down with the fishermen and got the fishermen to help them interpret the data. So they explained where they were fishing for different species. Then they did the same thing after cleaning the data set up with the wind energy developers. So the developers could see what the effects would be of fishing in one area versus another. Or siting a wind farm in one area versus another and what the impacts would be. Because over there, they had already been through the experience of paying out significant compensation. And they had a lot of conflicts with the commercial fishing industry. So it was an effort to try to resolve that. But the point was that it was the data that facilitated the engagement with the stakeholders.

So it was through that data collection and that presentation of data that the fishermen were able to engage with the regulatory community and with the wind energy developers to really have a dialogue that contributed to a more informed set of siting decisions. And I think this is the scale of data that would probably be needed to really have informed input on micro-siting decisions within these larger areas. Because I think we're potentially gonna have some significant conflicts with our fisheries if we don't have this type of input.

And on the other side of it, in terms of the engineering and design aspects, BOEM is developing a best management practices document. They'll have a draft of that available this fall. And in our discussion with BOEM, we suggested that when that draft's available, we consider that the Council holding a workshop engaging our advisors and other participants in the industry and bringing over some of the European fishermen that have been through this process to discuss best practices. They already have a highly evolved relationship with the wind energy developers. In Europe, they have best management practices guidelines. They have liaisons between the industry and the wind energy developers. The wind energy developers have actually paid for the liaisons for both sides. But it's that evolved of a relationship.

But in terms of understanding what some of the impacts are and how we can avoid or mitigate some of those, it seems there is an opportunity to learn from the European experience rather than trying to reinvent the wheel. So to the extent that we can facilitate that and put ourselves in a position to provide more detailed input to BOEM, I think that would be one way to do it. But we need to

wait until they have that draft best a management practices document available. That'll be this fall. And in response to that, we can consider trying to set up a workshop to respond to that and provide input that would be meaningful.

But that'll govern a lot of the details about the site plans and how they're developed, and how these sites might be engineered and installed. In the case of the Thanet Array, before they installed the pilings, they towed the entire area with a grappling arrangement. So they cleared the area, so to speak. So any existing habitat, any existing structure was essentially wiped out. And, you know, I think that's the type of outcome that—you know, frankly I was shocked to hear it. But I think that's the type of outcome that we wanna preempt and avoid here in the US if we can. Not to mention the impacts on the existing fisheries resources in that area.

So, you know, I think these are concerns that could affect our fisheries that we manage very significantly. The impacts, I think, to the marine environment are greater than I would've guessed they were. I would've thought that a lot of these concerns would've been incorporated upfront. But I don't think they were effectively in the UK case. And, you know, I think that'll be available in the fall. And they've also invited us to put a representative on each of the taskforces. The way the taskforces are structured, as you know, is state by state. That would—and I'm not sure that we need to do that. But that's something to consider as well.

We do have a representative to the RPB. But if we put a member on the state taskforce, it has to be a state employee, essentially. Or a municipal employee. And from a practical standpoint, that probably means the State Director or his designee to this Council. And I think the State Directors are already participating in the state taskforce. But they could potentially be our representatives to that state taskforce. And it sets up an obvious difficulty, because if the Council has a preferred outcome in a state taskforce discussion, there's a potential conflict between what the Council might want, and if we have that representative in there versus what that state's governor might want. Given the fact that that representative is ultimately reporting for and working for the government.

So those are a number of considerations. And I just wanted to lay those out to the Council. Because I think we need to find a way to more effectively facilitate input to BOEM from a fisheries perspective than we have so far. And if we simply provide VTR data, I mean, it gives a core scale indication of what's going on

there, but it doesn't tell the whole story. Chris, if you wanna add to that, relative to the BORM discussion. Are there any questions or comments on that? Laurie?

*Laurie Nolan:*

Well, I just would like to say thank you. Because as a Council member and an industry member, the efforts that you and John are doing to get to the bottom of this and what could be necessary in the future to help protect the interests of the fishing industry in the area is obviously huge. So if you're looking for support to continue the efforts, you know, it's one of those things. It could turn into a giant gorilla and we'll all be sorry after the fact.

*Rick Robins:*

Thank you, Laurie. I think ultimately we'll need to figure out—and this could be a Council role or function, but I think it's a matter of figuring out what the Council's role should be in that, in terms of facilitating some of the data collection that would be needed to have those detailed discussions that would be well informed, as opposed to simply using the core scale data that we have now. But, you know, I think we'd have to sit down with the industry, too, and see what would be practicable so that we could get to that point of providing that type of input. Because in the absence of that, the sitings are gonna occur. I mean, that's the bottom line. John?

*John Bullard:*

I'd add my thanks to Laurie's. And I think both presentations, yours and Rich's, are very important, and should be continued. As we were out last night looking back at the coastline, I could help but reflect on the last time this Council met in New Jersey. It was a little bit before Superstorm Sandy. And thinking on the tremendous damage that this region suffered from that storm. And no scientist ever wants to attribute any storm to climate change. Right? And that's one of the problems, right? Because storm after storm, no scientists ever wants to say, "This is a result of climate change." But one of the effects of warming the climate is you get energy. And you get sea level rise. And you put the two together and you get things like Superstorm Sandy. There are effects of this.

And so the IPCC says, "Mitigate and adapt." And so one of the things about mitigation is alternative energy. And so these two presentations are connected. Rich's is we need to start thinking about climate change and ecosystem effects. And this Council is doing this in a very serious way. It's investing an awful lot of time in thinking about how do we really overhaul how we think about ecosystems, how do we think about management differently to take into effect that things aren't static, that relationships aren't static.

And Rick's presentation is that if we are gonna mitigate, there's gonna have to be an awful lot more of these wind turbines in the ocean. And everywhere else. There's gonna have to be a lot more of these. And they're going to be out there.

And fishermen that I've encountered, and that's a lot of them, have looked at these as threats. They don't look at a carbon-based economy as a threat. Which is perverse. Because if anything is the biggest threat in my mind to fish, it's a carbon-based economy that is acidifying the ocean. And so we have to really change the way we look at what's a threat and what's a friend. And getting energy from clean sources is a friend. But it is going to take really sensitive location decisions. And that child's drawing, right, this is what my placemats look like when I go to the restaurant. Right? And they hand my grandchildren a crayon and say, "Here. Draw." This is what it looks like. But this is what it's going to take so that renewable energy becomes the friend of the fishing industry is very serious, early discussions based on data. It's given early in the process, lots of discussion where the Councils are very serious partners early on.

And if that happens, then these things can coexist. And I think recreational sector will get it early on because they'll see this is structured as John has said. The mobile gear—and that'll be hard. And that'll be how do we locate these so they're not in the way. Aquaculture, it'll be, you know, can be a symbiotic relationship. Gill nets could be a symbiotic relationship. But the key is early conversation and Councils are going to have to be major, major players. So both of these ecosystem-based management and conversations with BOEM are very important initiatives that the Mid-Atlantic is playing. And so I just wanna urge us to continue forcefully down both these paths.

*Rick Robins:*

John, thank you. And I think most people that are connected to the ocean in some way applaud the concept of renewable energy. And yet, there are a lot of very important details that are gonna be relevant from a fishery standpoint. And I think those are things that we should be concerned about as a Council. I had suggested that we needed to get our ducks in a row. And so that was a strategy to do that. But—John Williamson?

*John Williamson:*

Thank you, Mr. Chairman, for a really interesting discussion you just put on, taking the information we learned on this trip. I was one of the people who traveled with Rick and John. I'm speaking here at this point as a consultant to the Ocean Conservancy. Ocean Conservancy was the sponsor of this trip. And I was the one

that—I was the primary organizer. And the purpose that we had in putting—in inviting six industry leaders from the Eastern Seaboard to make this trip is to get on people’s radar screens that these planning processes are happening. That we’re entering a new era. That there will be other industrial activities. Wind power development is simply the first that will be taking place in places and environments that have traditionally been the sole purview of the fishing industry.

And that it’s our task now to help to define what’s really important. So I just want to very quickly outline three processes that are at work and link them all together. And the first process is this BOEM process. Rick is right to point this out. It’s going ahead, it’s moving ahead now. But it is—it’s just the first stage of wind power development offshore. It will be on our, in our agenda from this point on. And so in—10 years from now, we’ll be at a very different place, just as the British fishing industry is at a very different place after 10 years of living with wind farms. And so we have to also look at the other processes that are going on that are gonna guide wind power development.

The Interior Department is the parent agency for BOEM. Their mandate for offshore wind development was rooted in the Energy Policy Act of 2005. It’s an act of Congress. Congress said, “Interior Department, we make a priority, develop offshore wind potential as an energy source for this country.” The—now on top of that, the Obama Administration then has set in motion the National Ocean Policy, and creating regional planning bodies, eight regional planning bodies in the country.

The first two are happening here in the Northeast. New England was launched in November of 2012. And now the Mid-Atlantic Regional Planning Body was launched in April of this year. But this is an effort of the administration to coordinate the activities of all of the agencies that have jurisdictions in Federal waters. So included in that is NOAA and NMFS and the Fishery Management Councils, all under Commerce. And BOEM under Interior. So in that planning process, BOEM and Interior are—and NOAA and NMFS and the Councils are on some level of parity in planning. Okay ?

And the purpose here is out of this planning process, Interior and BOEM will get some guidance as to what’s really important and what are the priorities of the American public, both for wind—for long-term renewable energy development offshore and for food security. In that context, the work that this Council is doing, the



report that Rich Seagraves just made is extremely important. This Council is at the point—in a position where you're going to define what's really important for ecology and economies on the coast of the Mid-Atlantic. Okay?

And those policies that get developed will carry on into the future. I agree with what Laurie had to say a little while ago. I think that the future for fisheries is bright. And you're going to—and this process of planning is going to—it has to recognize that, and it has to clear the decks and make sure that the benefits of all the work that's been done by this Council and the other Councils have room to grow and flower for our communities in the future. And that's what the planning process that's underway now is intended to do.

*Rick Robins:* John, thank you. Any other comments? John McMurray?

*John McMurray:* Thanks, Mr. Chairman. I just wanna thank John Williamson for putting that trip together, and OC as well. I know I certainly learned an awful lot. I came away with a different perspective, having talked to fishermen, managers, and wind power industry. And if anybody has any questions about that trip, I hope that you'll contact me. I'm available via email and phone, of course, and I think these wind farms are coming and I think this Council as well as fishermen really need to be engaged because there are impacts to the industry, there probably will be impacts to habitat—some of them good and some of them bad. And we need to know what all those impacts are as we move forward. Thanks.

*Rick Robins:* John, thank you. Any other questions or comments? Chris?

*Chris Zeman:* Yeah. I would just recommend that this Council sort of gets its EFH ducks in a row, in terms of digitizing those maps. I know that when there was discussion about opening the Shelf to oil and gas exploration, I think back in '05, '06, EFH didn't even matter. It was really—they wanted to see HAPCs. They wanted to see where are your HAPCs. EFH is everywhere. The Mid-Atlantic Council—I mean, the New England Council has done a lot in terms of HAPCs and EFH. And they have very, very nice digitized maps, GPS maps showing exactly where that is. That just facilitates any sort of sighting, scoping—I think still in the Mid-Atlantic we're still working on digitizing our EFH maps. I would say that's really a major priority to the extent that we do not have HAPCs for, you know, identified HAPCs in the oceans for all of our species, we should be looking at getting those designated as quickly as possible.

*Rick Robins:*

Thank you, Chris. Any other comments? Okay, the next item came out of the surf clam discussion at the Committee level. And one of the suggestions there was that the Executive Committee consider a question that staff raised. And as staff went through the specification process this year, they noted that the reference points, the biological reference points in the quahog plan are outdated. And, you know, since then, the SSC has provided us with ABC advice. They've invalidated, or deemed non-credible, one of the reference points. And Amendment 15 to that plan had considered updating the quahog reference points.

But with the other plans that we have, we're able to automatically incorporate reference points once they go through the peer-reviewed process. So when we have a SAW/SARC output that generates biological reference points, we're able to incorporate those automatically into the plan. We've done that with summer flounder, scup, black sea bass, I think bluefish and dogfish also. But they also highlighted a number of other accounting concerns. When we went through the original Omnibus Amendment and we had, you know, the whole new litany of alphabet soup with the ACLs, AMs, ACTs, et cetera, not all of that was fully reconciled within that plan. And yet there's some other accounting issues as well.

I think just reflecting on the original Omnibus, there were some deeming issues relative to the language surround OY. And so I would suggest that rather than initiating an action here in the Executive Committee today, we ask staff to go aback and provide us with a more detailed review of those issues and bring those two us at the August meeting. Our agenda in August, I think, has significant latitude for that. That would give us more time to assess—have the staff assess those issues in detail and bring forward recommendations for a possible action that could be considered in an Omnibus action, or in a Framework action. You know, it depends on what needs to be changed.

But they had suggested that we allow for that type of incorporation of reference points as we have done in our other FMPs. And I think there are several other issues like that that we could consider at the same time. So I just wanted to suggest that as a course of action. And Lee I'll see if you have any comment. You chaired that meeting and were there when they brought that forward. Or if Chris has anything to add. Chris? Is there any additional comment on that? Without objection, we'll have staff detail those issues out for us and consider them at the August meeting.

The next item is our minutes from the December and April meetings. Chris, you wanted to talk about that? Yeah, thank you. We are convened as a Council now. So that adjourns our Executive Committee. Thank you. Chris, go ahead.

*Chris Moore:* I'm starting the Council meeting with a discussion of the minutes. All of you received an email from me regarding a new way to handle the minutes. I realized after the last meeting, after seeing piles of minutes books left on the table that maybe we should not be doing copies of minutes anymore. So we have always posted audios of the Council meeting on our website. And we also post the minutes to our website. So the draft minutes for the December Council meeting, which we haven't approved yet, and the draft minutes for the April meeting, which we haven't approved yet, were both posted to the website.

And hopefully everyone had a chance to take a look at those. Once Rick asked for any comments, and if we get any comments we'll make those changes. Once those changes are made, the draft minutes will become final minutes, and will still be posted to our website. So I think that's a more efficient way of doing business. You know, if anyone really, really, really wants copies of minutes, we can make those available to you. Thanks.

*Rick Robins:* Thank you. So the December and April minutes were posted. Are there any changes to those minutes from members? Seeing none. They're approved by consent. Thank you. Thanks Chris. The organizational reports, we had already done the Regional Administrator report, but George, I believe we also have the SBRM presentation. Are you handling that? Or is that Doug Potts?

*George Darcy:* Doug Potts.

*Rick Robins:* Doug? Good morning, Doug.

*Doug Potts:* Good morning. Thank you, Mr. Chairman. Okay. Thank you. So, Doug Potts from the Regional Office talking about standardized bycatch reporting methodology and the draft amendment document. Let me get all my papers out here. Just to reiterate again, that the SBRM FMAT is made up of members from the Regional Office, the Science Center, the GC, both Councils, and the ASMFC. And we've been working on revising the SBRM amendment, or reopening the amendment after it was vacated by court order.

I think the question everybody's gonna ask is, "Why is there another SBRM presentation going on on the draft SBRM amendment? Didn't you cover all this in April?" And it's true, there was an amendment document brought forward, we reviewed all of the alternatives, and you approved them for a public hearing. However, after the Mid-Atlantic meeting, and before the New England meeting, there were some changes necessary to the funding trigger alternative that was presented. As a result of the changes, the document was late getting to the New England Council and the New England Council declined to take a vote on the draft amendment.

This is an opportunity then to bring the revised alternative back to this Council for your consideration, in addition to that change and the New England Council's decision not to vote in April, there were a couple of other things that came up that I would also like to make this Council fully aware of in the draft document. One, as we were doing at the April Council meeting, this Council requested some additional analysis that we had planned, but direct comparisons between what we're calling the proportional reduction prioritization and the penultimate approach. That work has been done and is available to you. It's part of an appendix to the document that I believe you all have. And there's printouts on the side. So that work has come forward.

During the process of developing those alternatives, the Science Center had found some refinements to the penultimate alternative that improved it or made it work better than originally proposed. So I'll talk about that a little bit. The FMAT also met in April 30<sup>th</sup> to discuss some of these changes. And during that discussions, it was determined that to be complete there was a requirement for some new alternatives into the document dealing with the fact of sort of a worst case scenario or a fact where the—what if Federal funding is so low in a given year you couldn't meet the needs for the minimum pilot coverage? And I'll talk about that a little bit later in the talk.

So those new alternatives will be discussed today. It's not something that's happened, and hopefully never was, but we're trying to make sure we cover all bases when funding alternatives in this document. So this is a table that I've shown before. And it shows all of the alternatives currently under consideration in this document. Gray cells represent what at least constitutes the alternatives that were approved and implemented under the 2007 SBRM amendment. I would draw attention down to Part Six,

Element Six, which is the prioritization process that's been the main focus of this FMAT and the development of this document.

6.1 is the funding trigger. So there are some changes that I'll be talking about in the second part of that, identifying the specific SBRM funding sources. 6.2, the reallocation, how those—if funding is limited, how the available trips are reallocated. Those are familiar. And then Part Three, that what if funding is less than the minimum pilot coverage. I would note I think everyone got in the briefing book the Executive Summary of the document. There was a typo in this table in that document. The 6.3 alternatives, there was a problem with some cut and paste, so they didn't fully mention the means—those three alternatives aren't correct in that document.

But I'll talk about them here today, and they are correct in the larger document that I believe you all had access to electronically. However, it's 300 pages, so we didn't provide it as a hard copy for everybody. I'm going to go through all of the alternatives again, that was, I think, enough last time if less people really want to talk about those. We're gonna focus more on the Element Six, the prioritization process. As I mentioned, there's three parts. There's the trigger. If the trigger is met in a given year, there's a question of how many sea days—where do the sea days go? How do you reallocate them, the limited sea days. And the third part that we're just adding—what if funding is below the minimum pilot coverage. In this case, there'd have to be a decision about what fleets don't get coverage.

Just running through these relatively quickly, as we talk about the trigger, there are two options of the status quo, which we determine the various sources of funding, what restrictions or limitations are on those, and then make a decision about whether or not there's enough funding available. This is found sufficient by the court, found that the agency had too much discretion. The alternative for this is a—to specify specific SBRM funding sources. In this part, we were talking about having four specific Congressional appropriation lines that have been historically used for SBRM coverage. And to identify those for future use.

These are the lines. The table here shows the average that has been allocated to the Northeast region under these lines for the last few years. This is the past allocations, this is not necessarily dictating future allocations. So there's the Northeast Fishery Observer Program. Or it was court-ordered observers at some point. The Atlantic Coast Observers, that's divided between the Northeast

Region, Southeast Region, and Headquarters. The National Observer Program line, which is divided among all of the regions and headquarters, and that's reducing bycatch for observers.

And notice the Northeast Fishery Observer Program lines is 98 percent. That's because a small percentage is actually withheld in headquarters of the NOAA level for overhead as funding is moved through the system. So—although all of the funding that comes to the region is—would be used for SBRM, consistent with the historic practice in the region, small amounts of funding lines get held up headquarters.

So again, this would be the funding that is allocated to the region through these lines would be used to support SBRM. Recognizing that there are additional observer funding lines that are not listed here, those could be allocated. So things like MMPA, sometimes ESA, there's catch share observers. Those would be allocated under their own priorities and wouldn't necessarily be part of the SBRM. The document collected by those observers of course goes so that the information collected certainly goes into bycatch estimations. It improves things, it just doesn't necessarily go under our prioritization process.

Item Two, putting forward, again, has the—if the trigger is met, if there's not enough funding in a given year, how are they reallocated. There's three alternatives under this one. I won't really go too much status quo. Allow sort of an ad hoc method within various priorities to assign coverage in consultation with the Councils. However, again, this was one that was found deficient by the court, that it gave too much discretion to the agency in the end to really pick where observers went—coverage went, I should say.

One of the alternatives come up with was the proportional approach. This is a slightly different description of it than I had last time, so I'll just run through it very briefly and how this would work. The—to avoid having to do the reiterative process of combining it, and I'll show this in another slide, the minimum pilot coverage, that's MPC, is actually deducted—the days needed for that would be subtracted off the top. Then you would derive the proportion of a shortfall, the number of funded days minus the minimum pilot coverage divided by the number of sea days that you would need for SBRM, the CV performance standard.

You would then, for each fleet, take the number of days that you needed and multiply it by the proportional shortfall, thereby

reducing all of the fleets by the same proportion. And then add back in the minimum pilot coverage days. That way any fleets that may have been totally removed by the process at least end up with minimum pilot coverage and get some useful discard information during a year. Just so—part of the illustrative example that, again, is in that appendix that you have, this is an example using the 2012 funding lines. You can see there are some lines that are listed as SBRM applicable and a few that are listed as non-SBRM applicable. Again the four lines that we have, the NEFOP line, Atlantic Coast Observers, Reducing Bycatch, National Observer Program. And you can see, strictly for 2012, these funding lines may vary from one year to the next what the percentage of days are under each of those different lines.

You also see that there's at-sea monitoring, that's for—the Northeast Multispecies Sector Program has additional—a number of days. It actually has the largest number of days in here. So in this sense, of all of the days that are funded in 2012, 37 percent are under SBRM funding lines, and 63 percent would have been not under the SBRM lines, although still used in some of the same fleets. Showing—this is entirely too small for anyone to read on the screen, but if you have the form, there are 55 fleets that get days. 46 of those have agency funding. 9 are industry funding. That's all under the scallop industry-funded observer program.

You may be able to see that at least some squares have red numbers in them. Those just indicate which combination of gears and species groups are the driving force for the highest number of needed sea days to reach the performance standard. That those are the ones that are adjusted by these prioritization processes. The purple line, again, is just showing a scallop dredge line, where the funding is actually from industry funded and not from the SBRM funding lines.

In the proportional approach—let me see if I have—yes, you would simply do the number of—yeah, you can't read them in the columns. But there's a columns for the number of days needed, then the number of days—the minimum pilot coverage days, the number of days needed coming out of the CV calculation. You're deducting the minimum pilot coverage from that number, getting the number of days that you would—the adjusted number, the number of days that you have. If you rescale by the proportion of the shortfall, then adding the days back in, then adding in days from non-SBRM coverage, and then that would give you your calculation for total observer coverage days for each fleet. And

that's just an example running through that. Again, the full example is in that appendix, and you'll have to look through that.

This part is the penultimate approach, which is a little more calculative method. Within each fleet, the days needed are listed sort of in descending order by species. We then derive the—this is where things got a little different. Previously, we talked about just eliminating the single cell with the most days needed. Now it's talking about the—eliminate the single cell with the largest difference from—to the next cell. And this will be a little bit clearer as I go through an example. It just gives you—the intent of the penultimate approach is to eliminate the fewest cells possible so you end up with the fewest possible gear and species combinations that exceed the CV target performance standard.

In this case, this just improves that a little bit by getting more sea day savings for every time you have to eliminate a cell. And I'll show that to you. Then you then rank all the differences rank all the differences as you go through the fleets and reduce them moving cell by cell. And if some of you have the hard copy, you can see this is an example. There are gears coming down, the rows of gears going down. And then for each one of these species are arrayed across, left to right, showing the highest—the species that required the highest days, to the left, and then typically the minimum pilot coverage, which is sort of the cut off point, on the right.

So you order the days in this descending order, you then calculate—really can't see—the difference between each one. And then rank which one of those are the—particularly the highest differences. And the thing I would point out here—so, although you can't read it, the Mid-Atlantic large-mesh otter trawl, the largest number of sea days is required for red crab: 5,551. Under the example, as I showed in April, that would've been the first thing eliminated from the process. However, the New England large-mesh otter trawl red crab needs only 3,879. So the 5,000 would've went first. However, the drop from red crab, in the Mid-Atlantic, to turtles is only 2,599 days. The drop from red crab in New England to scup, black sea bass is 3,000 days. So again, by eliminating one cell, you should save 3,000 days of coverage, not 2,500. It's a slight different, but it does—it may help eliminate fewer cells as you're going through the process.

And again, once you're ranked all of them, you can simply work down eliminating one at a time until the number of days you need meets the requirement under your limited funding for the year.



And so that's the new—the process for that. This is, again, showing a slightly different form. You have the number of days needed, the number of sea days that comes out of the prioritization process. And again, there's then sea days added back in for the non-SBRM funding. In this case, you see the Mid-Atlantic large-mesh otter trawl got knocked down quite far under the prioritization alternative. However, then days were added back under the—I believe this is probably the at-sea observer program. And so ends up at a higher level. These go back in.

Separate visual means of showing this is—I think I've shown this type of slide before, where you can see, if you eliminate that red line for red crab, you get a significant savings in time and days and money. And again, it's only that one species that ends up with a higher CV. Or in this case, actually you would have to go back two lines. But that's—you see the curves on those. Similarly, there's several of—you know, pages of these in the appendix. I won't go through them all. This is just an example of that type of thing, but done for the two alternatives. Small-mesh otter trawl in the Mid-Atlantic on the left, large-mesh Mid-Atlantic otter trawl on the right.

The green line, which you can barely see, is the days coming out of the proportional approach prioritization process. The blue dotted line are the days that would come out of the penultimate approach. The point here is just to show, and you can't see from the slide, but which one results in more days in a particular fleet is not consistent. That sometimes a proportional reduction will leave a fleet with more days. Sometimes a penultimate will leave a fleet with more days. There's not a clear example. If you're looking for what alternative would always leave every fleet with more days, it varies between them. So that's the point of this. And then to note again, the large-mesh Mid-Atlantic otter trawl actually has additional days added back in from non-SBRM funding.

*Rick Robins:* Doug, excuse me.

*Doug Potts:* Yeah.

*Rick Robins:* In terms of action items for us, are you looking for an action to approve this as a modified draft for public comment?

*Doug Potts:* That would be—yes, ideally to come out of this saying that these alternatives as presented now are acceptable for the draft amendment.

- Rick Robins:* Okay. And in light of that, do you mind summarizing any additional differences between this document and the previous document so that we can get to that point—
- Doug Potts:* Sure. Yep. Yeah, I can—
- Rick Robins:* Yeah, I appreciate it.
- Doug Potts:* I'll be quick through this. And actually—this is actually the point that I definitely want to mention is this new 6.3, funding below minimum pilot coverage. I think I may have mentioned before, but just to be clear, the alternatives now have a minimum pilot coverage of three trips per quarter. That allows for every fleet to have useable discard information being generated. There will be some coverage on every fleet. So even if you're prioritized—a fleet is prioritized down to zero, you would end up with three trips per quarter. That does set a minimum amount of funding that would be necessary in a given year just to reach that across all fleets.

In the unlikely event that the Federal budget is so limited for observers that we can't afford that, rather than have all fleets have too few days to get useable funding, it would probably be necessary to then cut what fleets don't get any coverage. So we had three alternatives that the FMT put together for this. The first one is just to do an ad hoc that if this ever came about, it would be figured out at the time. There would be a consultation with the Regional Administrator, the Science Research Director, to notify the Councils of the shortfall and make a recommendation of which fleets to receive coverage and which ones not. And then they would, you know, mention any legal mandates or management priorities or the data needs that were considered in that determination. They could be considered then at a public meeting and then recommendations back to the Administrator—to the Regional Administrator and the Science Director before coverage is then set.

The other two options are more formulaic approaches. One would simply eliminate each fleet that has the highest number of days needed in order until you ended up with the shortfall. This essentially hits—tries to hit the fewest fleets as possible, but it would hit the fleets with the longest average trip length. Because minimum pilot coverage is three trips per quarter, longer trips means more days. So that would be the option there. The third option actually creates a new ratio. It's a ratio of the minimum pilot coverage to the days absent from VTRs the previous year.

This has more of an effect on fleets that have essentially very small effort. Not a lot of trips taken, not a lot of days at sea the previous year. Those have higher coverage needs.

Again, all of this is described more in the document if you wanted to look at it more. There is an additional—and I just wanna mention after the New England Council meeting, there was a letter received to us from Oceana making comments on the draft amendment and citing several things. And the FMAT spent some time discussing a lot of the options in there. And one thing that they did raise, and I think it was worth mentioning, was I may not have focused on in the past that there were alternatives in the SBRM document, both in 2007 and now, and make sure the Councils were aware that these might be considered by rejected if that's the pleasure of the Council.

So just to be clear, these are still in the document because we were told by the Councils to maintain as many alternatives as possible from the original document. So just to make sure everyone's aware, from the 2007 SBRM Amendment, there was discussion at the time, and the analysis is still in the document, for potential for alternative CV levels using quarterly discard reports instead of the annual discard report, adding additionally mechanisms to collect bycatch information, there's quite a list for those, and for setting coverage levels based on non-managed species. Those were all considered but rejected in 2007, and we were not proposing changing those at this time for limitations in time and resources. But if that's the pleasure of the Council, we'll continue with that.

Additionally, I just wanna mention the FMAT originally also looked at setting the prioritization process by adjusting the filter cut point as part of the process. That produced a lot of unpredictable results and erratic coverage shifts. So the FMAT did not wanna pursue that any farther, but I wanted to make sure that that was optioned by the Council to do that. There was also a suggestion from Oceana in the letter, and I wanted to raise this, that protected species be specifically exempted from prioritization, that those not be considered in that option. As we looked at that briefly, it resulted in essentially all coverage. If you have the prioritization process triggered, if you had to have that limited coverage, turtles could drive things so much that all coverage would be dedicated to one or two fleets and not cover anything else. So we wanted to make sure that that was at least mentioned to the Council. But did not think that that would necessarily meet the purpose and need of the document, and we would explain that

further in the document. But if the Council wanted to move that to considered but rejected pool.

And then that's just the long list of alternatives. And just to mention, we're still hoping to have the draft available, finish the updates to that, put it out for July for a 30-day comment period. If the 30-day comment period is concluded and we can do it, we would be back here for the August meeting for final approval. Then going into rule making. No matter where we are in rule making, we expect that this would be used for setting coverage levels in 2014. And then that's the end of the presentation.

*Rick Robins:* Doug, thank you. Are there questions before we move on recommending this for public comment? Chris?

*Chris Zeman:* I just have one question. And that is, with the quarterly reports, generally we would like to have our data timely. And, you know, I'm just wondering, are you saying that the quarterly reports is just too burdensome, in terms of like doing it, instead of an annual report you do four reports?

*Doug Potts:* That was the take in 2007. That the amount of effort required by Science Center staff to do even the annual report is significant. And the thought was that if you did quarterly reports, which would be helpful, then it would be staff that did nothing but do these reports.

*Chris Zeman:* Is there an option there for like just a, sort of a condensed just dataset report? Like there's basically a very slimmed-down data report of what we're seeing in terms of bycatch? 'Cause, you know, I don't need to see the full report. But if you just have the data available of the core, that will be helpful.

*Doug Potts:* I can't speak specifics of the workload. I understand that a lot of work even goes into getting the data together for format. There is updates to the annual report that the Center will be creating to make it actually far more sort of Council friendly. More usable tables, more readable than the thousand-page document that's been created in the past. And some of those additional reporting items, an example is last year's report that came out when the SBRM was vacated. But the document needs to be updated a little bit more with specifics of what those reports will look like. But the intent is to make a much more usable document for the Council when it comes out.

*Chris Zeman:* Oh, thank you. Good news.

- Rick Robins:* Thank you, Doug. Are there any other questions? Yes? Chris?
- Chris Batsavage:* Thank you, Mr. Chairman. Just a quick comment regarding exempting protected species from the observer requirements. I gotta agree with not exempting them, and how sea turtles can literally just drive all your observer coverage. We have a state program that is being pretty much driven by protected species. But we also—the program is also designed to collect as much catch and effort information as we can from estuarine gill net fisheries. And, you know, we always try to strike that balance between meeting the required observer coverage we must get for sea turtle interactions, and soon to be Atlantic sturgeon. But also to collect the important information we need on the fisheries for management purposes.
- Rick Robins:* Thanks, Chris. I think that's an excellent point. Are there any other questions before we consider the questions? Can we have a motion that would approve this for public comment? Dewey?
- Dewey Hemilright:* Yeah. I got—thank you, Mr. Chairman. I got one question. How does it work—as you've seen, you need your levels of observers for different fisheries that if you have an overused—how does your level decrease for a particular fishery where you saw that we've been looking at it for ten years and there's no takes, no different things like that? Is there—does it ever decrease?
- Doug Potts:* I'm not sure specifically. I think the—at least as new fleets are added, there is some uncertainty from year to year what bycatch you'll get. And that can end up in high needs, observer coverage needs, to meet the CV requirement. If through years of observation those CV become tighter, then you might need fewer days to meet that 30 percent CV performance standard. So in that sense, I think additional coverage could do it. I'm not sure if there's—the specifics of how. I wish I had some of the Science Center, at least the people in the weeds on this to answer the question. If there are rare observer events that may keep the number of the rare bycatch events that they would need to be caught in the information.
- Dewey Hemilright:* And my reason for asking that is sometimes you're spending a lot of resource on particular fisheries where there's—never change. There's no interactions or different things. And it's just like maybe that money or time and observer effort could be used somewhere more wisely. That was my reason for asking that. 'Cause there's some particular fisheries that we have in the gill net

fisheries that—you know, basically your observer just kinda hands out all day. .

*Rick Robins:* Other question or comments? Laurie?

*Laurie Nolan:* Just a motion, if you're ready, Mr. Chairman.

*Rick Robins:* Please.

*Laurie Nolan:* Move to approve the public hearing draft SBRM Amendment for public comment.

*Lee Anderson:* Second.

*Rick Robins:* Second to the motion by Lee Anderson. Discussion on the motion? Is there any objection to the motion? Seeing none. It's approved by consent. Thank you. Thanks, Doug. Our next report is gonna be the General Council Report. And I'll turn it to Gene Martin for that. Gene?

*Gene Martin:* Thank you, Mr. Chair. A couple of lawsuits that directly relate to the, or have some impact on Mid-Atlantic that you've been briefed on before is—one is *Oceana v. Bryson*. This is the challenge by Oceana to the Omnibus Amendment that the Mid-Atlantic—that was approved to put into place the ACLAM mechanisms. And that lawsuit—a couple things that were challenged in that were the failure to consider river herring and shad should be stocks in the fishery, failure to set sub-ACLs and sub-AMs and an annual catch target control date, and allegation that relying on the SBRM for bycatch data is not sufficient. That lawsuit has been fully briefed, the summary judgment motions have been submitted, and we're just awaiting either a court decision or a date for oral arguments.

Another lawsuit that was filed in connection with a New England FMP Amendment Four to the hearing fishery, *Flaherty v. Bryson*, which I think you've been briefed on in more detail before, is still—well, the court issued a decision and they are basically finding some fault with the NEPA analysis of alternatives. And again, a failure to fully explain why river herring was not considered a stock in the fishery in that FMP. And Amendment Five is designed to address some of these concerns, particularly concerns that the court found—considered about the alternatives, adequate range of alternatives to reduce bycatch in the fishery. There's an August deadline or a couple of things that the region has to do, including filing with the court a completed NEPA analysis for the specifications for the herring fishery where they're

required—were required to take a hard look at the environmental impacts of remedial measures.

And also by August, we have to file a supplemental explanation considering whether the agency, the Council, has adequately considered reducing or minimizing bycatch to the extent practicable. Now we've also issued guidance to the New England Council on how to fully examine whether herring is a stock in the fishery with respect to National Standards Three and Seven. And I'm gonna brief you, that's the only lawsuits that I'm aware of that directly affect the Council. I'm gonna brief you very quickly on four lawsuits that were filed in connection with the groundfish actions that were implemented at the beginning of May. These are the very restrictive catch limits that were imposed on groundfishermen in New England. We received four lawsuits that we're aware of.

One by Oceana, which basically renewed the same allegations that it—or similar allegations that is included in a lawsuit last year that challenged our approval of sector—groundfish sector operations plans. The primary grounds for that lawsuit as well as the new lawsuit, in connection with the 2013 sector operation plan approval is that we did not adequately provide at-sea monitoring on sector vessels to monitor catch levels for purposes of determining whether the sectors exceed their annual catch entitlements and annual catch limits. Conservation Law Foundation filed two separate lawsuits. The first challenged the mechanisms included in Framework 48 to allow sectors to seek an exemption to fish in permanently closed groundfish areas.

That, before Framework 48 sectors were prohibited from requesting exemptions to fish in the groundfish—permanent groundfish closed areas. And 48 makes that a possibility, although it does not actually specify whether the sectors will be granted these exemptions. That will be done through a separate framework in the next month or two. Also, Conservation Law Foundation challenged Framework 50 and other related measures in connection with Framework 50 that allow carryover from unused 2012 sector catch allocations. CLF sued on grounds that allowing carryover results in exceeding the ABCs established for 2014.

That by de facto, by adding the carryover to the new ABC specification, on paper at least, the fishers, if they end up catching all of the carryover plus all of the ABC, or ACL, that they will exceed the specification. New England granted a one-year interim measure to allow that carryover as long as it does not exceed

overfishing limits. And so that is grounds that is—that CLF is using to sue. CLF also is suing on grounds that NMFS approved an ABC for Gulf of Maine cod that exceeded the SSC's recommendation for that stock.

And finally, the fourth lawsuit was filed by the Commonwealth of Massachusetts. They challenged basically all of the groundfish actions, including Frameworks 48 and 50 on grounds that it was not based on best available science and International Standard 2, that the agency failed to consider impacts on fishing communities and that the Council and the agency did not identify or implement any meaningful mitigation measures to counter negative impacts. So those, in a very brief way, are what are included in the four lawsuits challenging NMFS' most recent groundfish actions. And that includes my report, Mr. Chair.

*Rick Robins:*

Gene, thank you. And thank you for being with us this week to provide advice. Are there any question for Gene of his report? Gene, thank you. With that, I'll turn to Scott Doyle for the NMFS OLE Report. Scott, welcome.

*Scott Doyle:*

Coast Guard doesn't wanna share, apparently. Thank you for letting me speak today. Our SAC, Logan Gregory, unfortunately couldn't make it down, so he once again tasked me with giving this report. And hopefully it'll be a short enough report to hold your attention for a few minutes here.

We had 100—since our last report, we had 119 documented patrols. We had 49 incidents of outreach, and we attended 14 meetings, and that included trade shows and dockside visits and presentations. That doesn't include our outreach with VMS. And the VMS outreach can't be understated. They speak with fishermen every single day. And hopefully solve some problems and avoid any enforcement issues. We've had 180 incidents. 47 of them involved opening cases. We issued 27 summary settlements, and 14 cases were forwarded to General Counsel.

I wanna take note here that we hired—well, we didn't hire, but NOAA hired two new General Counsel attorneys. Britta Hendrickson is to my right here, and Joe Heckwolf will be our new general counsels. We've been without general counsel attorneys that were simply dedicated to prosecuting Northeast cases. These two folks come in, and hopefully they'll help us either move cases forward or give us advice that it's not a worthy case, or whatever it might be. But we look forward to working with them.



As far as cases, we've had some significant cases. We had a—we had a couple Lacey Act cases involving the fishermen, a corporation that plead guilty on January 9<sup>th</sup> to trafficking illegally harvested striped bass in violation of the Lacey Act. The defendant is looking at possible five years in jail and 250,000 dollars in fines, as well as forfeiture of the fishing vessel during the commission of the crimes. The corporation looks a maximum fine of 500,000 dollars. This case was investigated by both OLE, Virginia Marine Police, and the Federal Communications Trade Commission. We involved the FCC because they were using illegal radios to transmit warnings between each other, dockside out to the boats to warn that there would be patrols. And we were pretty successful in documenting that end of the case. Those fine—I mean, I gave you the maximum. It's gonna be well, well below that.

Our second case, as part of a plea agreement for illegally harvesting striped bass, a charter boat captain agreed to serve 30 days in jail, pay a 5,000 dollar fine, and 1,300 dollars in restitution. And also to surrender his Captain's License. The captain also agreed he would not engage in the charter fishing industry in any capacity during the term of his supervisory lease. As a statement of fact in this plea agreement, the subject admitted he took charter boat fishing trips into the EEZ to fish for striped bass, knowing that it was illegal to fish for striped bass in the EEZ. When his boat was approached by law enforcement, the subject attempted to flee. When the subject vessel was caught, the boat then threw trash barrels overboard containing 13 striped bass. And that was a pretty significant case also.

Agents participated in two outreach programs with the seafood mislabeling in industry at the recent Boston Seafood Show. That included people from the FDA, USDC Seafood Inspection Program, and a former US Attorney, *The Boston Globe*, and a seafood representative. The Coast Guard and OLE issued a violation of—this is the Madison Act stuff now. A Coast Guard and OLE issued a violation to a Gloucester, Massachusetts fishing based vessel for a significant violation in late January. This is the second net violation in the recent year.

We also—and a separate issue, we also took part in the Maine Fishermen's Forum. And this is organized by our outreach specialist and our public affairs specialist. Included two agents and one enforcement office alongside a panel of state representatives and Coast Guard representatives. The panel explained to the industry how to avoid gear conflicts in the lobster

fishery, and what to do if I happened. In a separate but unrelated incident, we put undercover agents on a charter boat in Belmar last night...no.

*[Laughter]*

*Rick Robins:* Point of order.

*Scott Doyle:* We did find significant violations, though. And that concludes my report.

*Rick Robins:* Thank you, Scott. Speaking of, I'd like to thank Tony DiLernia, who's not here today. But Tony and Chris Zeman and Dewey Hemilright for all the work they did to help put last night's trip together. So thanks, guys.

*[Clapping]*

Course Rich Seagraves and Greg DiDomenico get the Eel Award, but I think they resulted in a localized depletion of the conger eel population somewhere east of Belmar last night. Alright. Scott, thank you. Kevin Saunders? If you're ready to give the Coast Guard report and presentation. Thanks.

I think he was the undercover operative last night. Yeah.

*Kevin Saunders:* Okay then. Thank you very much, Mr. Chairman. A little different enforcement report from me today. Instead of giving my typical enforcement report, which I handed out yesterday, it should be at your desks, I'm gonna give a brief on the Atlantic Coast Port Access Route Study. If you're looking at that trying to figure out how to pronounce that acronym, it's ACPARS. So don't try it too hard.

On the phone I have, a little bit unusual, but I have Emile Bernard. He is one of the experts for this study, and I'm pretty much delivering this on his behalf. So he's Maverick, I'm Goose. You all know what happens to Goose, while Maverick, you know, drives off with a cool motorcycle and gets the girl in the end. So I can do the best I can. If you have question, I appreciate if you hold off 'til the end, and then Emile can answers the things that I don't quite understand enough to explain very well to you.

So a quick picture right there. You can kinda see the gist of what this study's about. And it ties directly in line with that Rick was talking about earlier with the windmill surveys. So this is what the goal is. Steve, do you mind moving your laptop just a little bit to the left there? Okay. So here's the goal of the Atlantic Coast Port

Access Route Study. And it really has to do with overall navigation safety with shipping routes. So why is the Coast Guard involved in this? Well, the Coast Guard, number one, is very concerned with safety at sea. We have a lot of aides out there that attest to this, that you probably see regularly on a daily basis if you're on the water. So it makes sense.

In addition to that, in Martinsburg, West Virginia, we compile all the AIS information that any vessel that is required to have AIS has. So tons and tons of data is stored up in Martinsburg, West Virginia and we have access to it. So those are the two things that kinda make us uniquely qualified.

The Marine Spatial Planning Initiative started a few years ago, and we've always been moving towards getting a better idea of our maritime domain awareness, which directly ties into Marine Spatial Planning. This includes shipping routes and then, you know, where activities happen, where activities could happen in the future if things change. In addition to that, the wind and energy initiative that was brought up earlier today has really driven us putting a little more priority, a little more emphasis and really speeding up the process. So without the wind and energy initiative that originated from the Department of Energy and the Department of the Interior, we'd probably be a little bit further behind than we are right now with our geospatial planning process.

But as such, we now have a timeline and we're moving forward with this Atlantic Coast Port Access Route Study. So this study is completed in really four phases. So Phase One is data gathering. It's an open phase, it's continuing. And really what we're looking for is to compile information about what the uses are in the maritime domain. This includes AIS and includes any reports from the public, as far as where certain things are, and includes information about where existing wrecks are for instance that might not be good locations for certain things that happen. And other things in our AOR, area of responsibility.

Phase Two, determining existing ship routes and applying the red, yellow, green methodology. I'm gonna discuss this methodology a little bit in a future slide, so just hang on to that. Phase Three, which we're not at yet, is the modeling and analysis. And of course Phase Four is the implementation of the study results. So eventually what the goal is of this report is to give the Department of Energy and the Department of the Interior a good idea of, number one, where potentially good sites are for them to build

structures, and number two, what the potential impacts to other areas are if they build structures there. So it's a little complicated.

This just talks about the different phases again. And how we reacted. So Phase One is kinda completed, but it's still continuing, it's ongoing. So initially when I was asked to give this presentation by Rick, I was a little worried that we missed the boat on Phase One. But after discussing with Emile, Phase One is continually open. So we are able to give continual comment throughout this period. Phase Two, applying the red, yellow, green methodology. So Phase One's complete. We have our AIS information. We can plot that all out, and I'm gonna show you what that looks like in a second.

Now we apply this methodology that's really based on an algorithm, develop the UK MGN 371. That makes no sense to any of us probably. But basically, that's the exact same methodology that they used in the similar adventures that they had in Europe when they build their windmill structures. What that does is, once again, tries to determine with these three color codings where the best areas are for a potential site. You can see what this means with regard to spacing and how close together some of these structures can be, based upon this. It results in the space that would be very, very poor—less than a quarter mile to very low probability of creating any sort of issue ten miles or greater. Most of the spots you see here that are under consideration are kind of in the yellow.

So here's an example of—based upon 2010 AIS information, all this is is a vessel density plot. And you can kinda see the darker the color—oh, I'm sorry, the more hot the color, so the red colors have higher density and the bluer color is obviously lower density. So I just picked up Wilmington for this particular model, just to give you an idea of what we're looking at. And the spots you see that are kinda outlined blue, that's a potential proposed wind area. It's not that exciting. Is everybody up? Once we take that same density plot and we apply the algorithm that we discussed before, we have this red, yellow, green plot that you see in front of us. Emile, we're on Slide 9, by the way.

So this red, yellow, green plot shows us based upon the density and some other information that goes in there where the most ripe sites would be for putting these potential survey areas. So the green sites there are obviously the ones that are leading the charge. Each one of those blocks represents a 16 by 16 mile cube that's later divided up into a 4 by 4. So the big square is 16 by 16, little

square is 4 by 4. Once we have all this completed, so this, what you just went through here was Phase One and Phase Two, we try to predict using the same algorithm what's gonna happen.

If we put a site there, we know what, for instance, recreational fishing might gravitate more towards the areas where we put these sites. Commercial fishing might move away. Actually, let me move back. One of these things with this density plot—I'm gonna come back to that in a minute. Sorry. So that's basically what the Phase Three modeling analysis is all about. It's trying to not only evaluate where the best sites are, but what the impacts of putting structures on those sites could potentially be.

So for commercial fishing, as you all know, AIS information's only required in vessels 300 gross tons and larger. So a large population of the fishing fleet does not carry AIS onboard. Which creates a challenge, because a lot of this is based upon AIS information. So my first instinct was to call Dewey up and say, "Hey, Dewey, can you tell me where all your best fishing spots are? I need to know 'cause I gotta put them in this public report so that we can make sure there's no problems in the future." Dewey didn't give that to me.

The next thing—we are looking at VMW data potentially. And Emile has been jumping over some hurdles to try to get this information integrated. And once again, we know that not every fishing community is required to carry VMS onboard. So number one, it's not the most accurate substitute. And number two, we're actually having legal problems getting it integrated into the system. So that really brings us to stakeholder input. And, you know, despite some of the outreach that the Department of Energy, Department of Interior and Booz, Allen, & Hamilton, who's running the study right now, have done, I don't think it's gotten to a lot of the fishing communities. Which is one of the reasons why Rick asked me to give this brief right here.

In the back of the Enforcement Report that I handed out, on the last two pages, you'll see the avenues in order for us to do that. And I'll go back and say that what Rick proposed, that we generate a letter trying to get some of this information with respect to vessel chart plotting information, turn it into GIS data and provide it collectively for the Council. I think that's a great idea, and if we could do that as a Council, it would probably help immensely for Emile.

So this just shows the timeline that we're talking about. Phase One, Phase Two, continually open. In September 2013, there's gonna be a report that's gonna be published for us to review potentially and provide updated input to. So we could look forward to that. To use Jessica's analogy about a train in the Council and how the process works, I'd say this is very much the same thing. It's a train, it's moving forward, it's moving slow enough that we could potentially jump on it. Any point, that's Phase One and Phase Two. But it is making stops along the way as well when it gets to its destination of looking at these different sites. Surveying these different sites, and determining if they're appropriate to put potential windmill farms on.

So this is what we can do. Provide GIS formatted information would be ideal. If not, comment's good, too. If we're reluctant to do that, we can look at some of the proposed sites area that are in the back of your handouts that I gave you. And if something doesn't look right—"Hey, this is a really prime fishing area right here, maybe we can move it a little bit to the left. We can see how that works." So, in other words, saying, "Hey, this proposal is not good because..." As opposed to giving out direct information. But if we can get there, that provides a little better resource to Booz, Allen, & Hamilton to give direction to BOEM.

One thing to keep in mind, if you look at this initial slide...alright. Obviously the yellow lines in this initial slide—this is the cover slide, Emile. So the initial slide shows areas of the heaviest traffic. There's a lot of vessels accounted for in this. If you—Emile did something for me where he filtered out the container ships, the vessels that are most likely to go these paths. If you filter all that out, you begin to see some other resources there in the area. For instance, tugboats. 'Cause generally tugboats have AIS onboard. And they can take completely different routes. In the case of Wilmington, they go right through one of the proposed areas. And if they built a structure there, it would affect their route and they would have to move somewhere else, potentially.

Another thing to keep in mind is that technology has increased a little bit since the windmills were built in Europe. And some of the proposals, if they do go forward, are slightly different than the windmill farms you see today. The spacing could be as much as a mile apart, bigger windmills. And with that mile apart range, it actually provides a little bit of flexibility, I think, for some level of commercial fishing. Cape Wind has been the proposed area right now that's, you know, I think closest to development—correct me if I'm wrong, Emile. And at this point, there's been no Coast

Guard enforcement proposal for us to do anything, as the Chairman pointed out earlier. So, as far as enforcement wise.

So what I'm saying is there's a potential that these areas could remain open to fishing. Of course there'd be an obstruction in the path of a potential dredge or whatever. But if we can mitigate by providing good information, find the best locations for this use, I think that there's a potential for industry—the commercial fishing industry, the recreational fishing industry to both benefit from this.

So let me move back. Alright. I'm on the last slide, Emile. So this is the ACPARS website. And Emile's personal email address so you can reach him. And all of this information is also in the back of your handouts that I provided earlier this week. Are there any questions that myself or Emile can answer about the Atlantic Coast Port Access Route Study.

*Rick Robins:* Thank you, Maverick.

*Kevin Saunders:* I'm Goose.

*Rick Robins:* Kevin, I appreciate that. You know, I think one of the concerns I had when I first heard about this project was the fact that, you know, it was possible that shipping was gonna be perhaps more concentrated and redirected in planning for offshore energy development. And just thinking about the potential impacts of that to fisheries, if we have areas that have fixed gear fisheries that are concentrated, or if we have areas even that have mobile gear fisheries, you know, if shipping traffic is substantially redirected in any way in response to the planning process for—or as part of the planning process to accommodate offshore energy development, given the fact that the footprint of the offshore arrays is potentially very, very large. I mean, like I said, the ones in England are 20 to 25 or 30 square miles.

I mean, you know, the scale of these areas for arrays is very large. So if shipping is substantially redirected, you know, I think we need to figure out how do we make sure that the fisheries side of this, again, is incorporated in the planning process. And the Coast Guard is doing this, and they're already, you know, moving down the road on it. And I think we need to figure out a way to try to look at this from a fisheries standpoint and get that input in there. But as Kevin's already pointed out, one of the ways to do that would be through data collection. And that type of GIS work could feed into that. But at this point, you know, I don't know that we would have any specific comments, Kevin, about specific

impacts or concerns. But I think we need to figure out how to get the fisheries side of this into this planning process if shipping traffic potentially is gonna be substantially redirected. But—Erling?

*Erling Berg:*

Well, I found your presentation this morning, the radar picture with all the scatter on there, and I can just imagine on a day with low visibility or a foggy day or night, whatever, and trying to navigate through a field of these towers. If you're gonna—if this is what you're gonna have, you won't know what's around you. So I think that would be very, very difficult to work your way through one of these fields.

*Rick Robins:*

Well, and that Thanet Array was on 600 by 800 meter centers. Some of the ones proposed in the US run wider centers, but radar—you know, the radar picture is still somewhat of a concern. And I think some of the areas, like the one off Virginia Beach, for example, is gonna be in between Rudee Inlet, you know, which is a major point of egress there, and some of the offshore fishing grounds. So, yeah, some of these things may need fairways in them from a navigational standpoint as well. And that's something I think that can feed into that best management practice document. You know, and we can take that up later. But Kevin, do you have additional thoughts about how we might—or the timeline for providing some meaningful input into this, from a fisheries standpoint? Because I know it was already underway when I first heard about it at the RPB.

*Kevin Saunders:*

Thank you, Mr. Chairman. I think one of the easiest things to do initially, just to get some increased information out there, is in the back of your package there's the outline proposal sites. You can look at those sites, and if there's anything that raises a red flag, "This is a very important area because..." put that in an email, either as a Council collectively we could do that, or individually we can do that. And get that to Emile so he can get that for comment.

The next thing is it's gonna be a longer process, of course, but getting this additional information because, you know, the train's moving slow enough for us to continually get on it. We can keep dumping information and data into this system. Because right now, the proposal is a survey. They're not building, they're surveying sites to potentially build. So there's still more time to turn off a project that is being considered in a bad locations. So that's your long-term goals, I think. With respect to the shipping, the diagram we saw before, because we had the most information



about that, that was almost the entering argument. So they kinda picked the spots that would conflict with the major shipping routes the least.

The problem with that is is, as I kinda spoke before, there's so much shipping traffic in certain areas that it almost—it clutters up the picture so bad you forget some of the smaller state routes. You know, as an analogy, that important people use, that are important to fishermen, important to tugboat people. Smaller user groups that need to use those particular areas. So once again, if those run through the same areas that are on the back of your sheet, great to put in an email. We could send a letter collectively as a Council, or you could do it individually. However you prefer. And I think that's the route we need to start.

*Rick Robins:* Kevin, thanks. I would suggest if members have a chance to look at that after the meeting, if they have specific concerns they forward those to Chris. And perhaps we can look at some of the VTR heat maps as well. And I think we've already supplied that information to BOEM, but that may be relevant here as well. Kevin, thanks a lot for the presentation.

*Kevin Saunders:* Thank you.

*Rick Robins:* And Emile, for participating as well. Thank you. So with that, the next item will be the liaison reports. Preston, would you like to do the South Atlantic?

*Preston Pate:* Alright. Thank you, Mr. Chairman. My report will be short because the South Atlantic Council has not met since I gave my last report. In fact, they are meeting this week in Stuart, Florida. One of the main items on their agenda will be the initial discussion of the strategic planning effort that they're going through. They analyzed what it would take to do a programmatic strategic plan, much in the same way that we did. And decided that they did not have the staff resources or the finances to support that effort at this point. Instead, they are gonna apply the strategic planning concept to the Snapper-Grouper Fisheries Management Plan. The Snapper-Grouper plan is the largest plan that they have, and one of the most important fisheries in the South Atlantic.

And it'll be interesting to see how this works. They'll take what they learn from this effort and then apply it to strategic plans for their other Fisheries Management Plans that they administer. Such as king mackerel. The King Mackerel Plan may be the next one. And hopefully they'll have a good experience with this effort.

In addition, many of y'all know Gordon Colvin, I'm sure. Gordon is a contract employer for NMFS working on the MRIP Project with me and John Boreman. And he's meeting with them today to present the conclusions of a pilot project, which investigated some mandatory electronic reporting in the for hire fleet in the Gulf of Mexico. Which had some interesting outcomes and some potential benefits to the Southeast Fishery.

Gordon made the presentation to the Gulf Council, and has done that to that—well, maybe doing it to the South Atlantic Council the same way I speak, or at the same time I speak. Sorry. And this may be something that, you know, we want to hear more about in the future. That's my report, Mr. Chairman.

*Rick Robins:* Thank you very much, Preston. Any questions for Pres—for the South Atlantic Report? Okay. Howard, do you have a report for New England?

*Howard King:* Yes. Thank you, Mr. Chairman. The New England Council met the third week in April, and they meet again next week and Chairman Robins will be attending that meeting. The last meeting that I attended centered around groundfish, trying to understand a changing marine environment and addressing closed areas and their habitat, their Omnibus Habitat Amendment. The Gulf of Maine haddock quota is extremely low, and there was concern on the part of the Council that a spillover of the abundant Georges Bank haddock could result in an early closure of the Gulf of Maine Haddock Fishery. So creatively, they approved a motion to ask the Regional Office to attribute up to ten percent of the Georges Bank haddock quota to Gulf of Maine haddock quota, and vice versa.

You have to think about that a little bit, but it would sort of mitigate any potential early closure of the Gulf of Maine Haddock Fishery due to spillover of Georges Bank haddock. Then they followed that up to asking the PDT and the SCS to examine the issue of spillover of the two haddock stocks and to make adjustments to the haddock quota in the Gulf of Maine for 2013-2015. As I reported last time, the Council had approved reduced minimum sizes for many of the groundfish species as part of Framework 48. There's some concern that this might shift the catch composition of the size of the fish, and perhaps even target smaller fish.

So they approved a motion to request the Service again to monitor the catch composition of the size of cod, haddock, grey sole,

yellowtail flounder, plaice, and redfish, to target port sampling for landings to determine size composition and provide quarterly updates and report the composition changes to the Council. The Council will also send a letter to the National Marine Fishery—to the Northeast Fishery Science Center requesting a research track to map changes to the groundfish spawning sites and distribution to forecast long-term yield from the fishery. And incorporate ecosystem reference points as a term of reference in all future groundfish assessments.

There's no end to the amount of work that the Northeast Region Fishery Science Center can be asked to do. They're also considering the development of an ecosystem management plan as a management priority for 2014. And they also tasked the SCS to develop new groundfish reference points to account for changing environmental conditions in the Northeast. And then to revise ABCs and ACLs. The Council established an electronic monitoring working group for groundfish to ID barriers and future steps to be taken by the National Marine Fisheries Service to expedite implementation.

The Regional Administrator at that meeting had suggested that perhaps the Mid-Atlantic Council would like to ask for two slots for membership on that working group. And they will be reporting out later this year. There was also a lot of discussion about the groundfish closed area technical team report that was three months in the making. It was presented to examine area management options to enhance the groundfish fishery through protecting spawning sites, concentrations of juvenile groundfish and protection of habitat.

That report didn't mesh well with the experience, notions, notions and observations of the Council members. So there was a lot of discussion about the validity of the report results. The Council also has a Habitat Committee that's working jointly with the groundfish committee on habitat closed areas. So the next step is to mesh the Habitat Committee with the Closed Area Technical Team and try to get those two acts together to come up with some consensus.

They also established a risk policy working group that will report out in September. And the purpose of this would be to develop policy to guide the SCS with risk alternatives and setting ABCs. Sounds familiar. And then finally for scallops, they initiated Framework Adjustment 25, as they have to, to develop specs for scallop fishing year 2014 and default measures for 2015.

Framework Adjustment 25 would also propose AMs for a sub-ACL for New England, Mid-Atlantic windowpane flounder allocated to the Scallop Fishery. And that's my report, Mr. Chairman.

*Rick Robins:* Howard, thank you very much. Are there questions for Howard of his report? Frank, do you have anything to add? Thanks for being with us this week.

*Frank Blount:* Just that we'll be meeting next week and I just had a laugh. When Howard was giving his report, I looked around here and saw a lot of people shaking their heads, but you heard correctly on most of that. Especially on the groundfish stuff. Groundfish will take up quite a bit of next weeks, and it is for the Habitat Omnibus Amendment. Also, there's gonna be an update on Amendment 18, which is to develop the accumulation caps and address fleet diversity. So that's coming up.

And the science branch will also be giving a report on diversity accumulation limits and vessel profitability in groundfish. Scallops, there'll be a performance report on the limited access general category that will be coming up. And herring, we should be initiating Framework 3 to the river herring catch caps. That's all next week.

*Rick Robins:* Thank you. Thanks for adding tot hat. Any question on that? Chris Zeman?

*Chris Zeman:* Just one. There was like—you mentioned there was a difference of opinion in terms of proposed closed areas versus what the Council thought in terms of what would be protective of spawning areas. Any more information on that? Just be curious to find out what that difference is.

*Rick Robins:* Howard?

*Howard King:* Some of the differences were related to the age of the data. A lot of the Council members who are fishermen thought that some of the data that the Closed Area Technical Team used was old, stale. This CATT, the Closed Area Technical Team, countered that a lot of the data was the most recent. But it's just observations on the part of the fishermen, their own catch information, trying to relate that to these maps that we're presented. And a lot of it was unresolved. But they do need to resolve that.

*Rick Robins:* Thank you. Okay. The next item is Chris Moore's report. Dr.

Moore?

*Chris Moore:*

Thanks, Mr. Chairman. There's a number of items behind Tab Ten that I'd like to call the Council's attention to. While I'm doing some of those things, Kiley if you could come up and get ready to talk about deep sea corals, that'd be great. And that will be one of the action items that we need to address in my report. The materials behind the tab include the usual materials. We have our calendar of activities—our next Council meeting is scheduled for August 13<sup>th</sup> through 15<sup>th</sup>, that's in Wilmington, Delaware. There's also in the tab details on specifications and amendments.

Now that Jim has almost wrapped up the Omnibus Recreational Amendment, he'll get back to Amendment 3, to spiny dogfish. Remember that we postponed the completion of that particular amendment and the submission of that so that Jim could work on the Recreational Amendment. So we hope to have that done soon. Also, we solved one of our New Jersey problems. If you remember last time we were talking about where we were gonna meet in 2014. And we found a place in New Jersey that'll actually have us. . And it's in Freehold, which is close to here. So we'll be here again next year, very close to here next year. Yeah.

There's a number of summaries of meetings behind the tab as well. Including a summary of our May NRCC meeting. A number of you have requested more information on those NRCC meetings, and that summary gives you a good idea of what we addressed. Also, a number of you attended the Managing Our Nation's Fisheries conference. There's a summary of that. Or some the results of that particular conference behind the tab. There's also a summary of the CCC meeting that occurred in conjunction with that meeting. So both of those are there—are available for your to look at.

One of the things that we stuck in there too is something called a Fishery Performance Evaluation White Paper. Which is a white paper that was done for the New England Council and was actually done on contract by George Lapointe. We're gonna steal that from the New England Council and use that as the basis for Jamie Belinger's project. Which is gonna involve an FMP evaluation for us. So Jamie's gonna be working on that over the next five weeks.

One of the things that happened at the CCC meeting is that they identified some problems with the financial recusal forms. Actually, they identified a response to a problems that the IG had identified with the financial disclosure forms. And asked me to

serve on a CCC subcommittee to address some of those issues. I sent an email around to all the Council members asking for any input on those financial recusal forms. I got a couple of responses. If you have any idea as to how to address those forms, please let me know.

The other thing that's happened recently is that I've been asked to serve on the National Fish Habitat Action Plan Board. I would be the Council member, represent all the Councils. I would replace Bob Mahood, who currently serves on that board. For those of you that aren't familiar with that particular plan, the mission of the plan is to protect, restore, and enhance the nation's fish and aquatic communities through partnerships that foster fish habitat conservation and improve the quality of life of the American people. So I look forward to serving on that board for the Councils and bringing more attention to marine issues on that particular board, 'cause it actually represents both fresh and salt water issues.

One of the other things that I wanted to bring your attention to if you haven't seen it, there's, in the back, a display of—that contains the summary of all of our current management measures for our plans. That's in that new acrylic stand in the back. I wanna thank NERO for putting together the summaries for us that we could stick in that particular acrylic stand, and I think that some of the folks have actually founds those and started looking at them. So they are good summaries, and again, thanks to NERO staff for putting those together for us.

And with that, I'd like to turn it over to Kiley, unless there's any questions about any of the information that I presented. Mr. Chairman, I'd like to have Kiley talk about the Deep Sea Coral Amendment, where we're at with that, and specifically about the MOU.

*Rick Robins:* Go ahead. Good morning, Kiley.

*Kiley Dancy:* Thank you, Mr. Chairman. So behind the briefing book Tab Ten for the Executive Director's Report, you'll find a memo regarding the Deep Sea Corals Memorandum of Understanding that was drafted between this Council, the New England Council, and the South Atlantic Council. And that was initiated in April of last year to coordinate broadly on deep sea coral management and conservation approaches and to define the areas of jurisdiction for deep sea corals. And if you recall, the Ecosystems and Ocean Planning Committee and the full Council approved a draft of this in August of last year. And then it was taken to the New England

Council and to the South Atlantic Council for review. So behind the briefing book tab, you'll find a version with edits that were provided by both of those Councils as well as from General Council from both the Southeast section and the Northeast section.

So the current plan, the timeline as you can see is that the—if there are no major changes and the Council approves this version of the MOU, next week it will be taken to the New England Council. So that both the Mid-Atlantic Council and the New England Council have a chance to approve the edits made by the South Atlantic Council. And so you can see that most of these edits are technical in nature, or they clarify the way that the South Atlantic Council manages corals. So in sum it's largely the same document that the Council approved back in August with some technical edits and a few additions.

So if there are no major changes from either this Council or the New England Council, the document can be finalized and signed. And did you want me to talk about the amendment currently? Yeah. So where we are in the process of Amendment 16, to squid, mackerel, butterfish, which is the amendment for protections for deep sea corals, we had a workshop back in April that was to look at spatial alternatives for deep sea coral management zones. And that was fairly successful in taking a new approach of using some interactive mapping technology in order to get some input from the fishing industry and some input from deep sea coral scientists on important areas of fishing and important deep sea coral protection areas. But we sort of ran out of time at that workshop to get all the information we needed.

So what we're doing now is working with some of the industry participants that had volunteered to elaborate on some of the information that they brought to the workshop and to get some more information from them in order to develop a set of alternatives. And once we work with them and get some more information, we are planning to have a follow-up webinar or a meeting with the Squid, Mackerel, Butterfish Advisory Panel and then have an additional Advisory Panel meeting of the Ecosystems Advisory Panel. Because they would like to provide some more input on that as well. And then we'll have a Fishery Management Action Team meeting to put together all of the alternatives. And ideally, we will have a public hearing document in August, but it might be October, depending on how fast we can get some of this stuff put together. So that's where we're at with that.

*Rick Robins:*

Kiley, thank you. So in terms of actions, we did want to have an

opportunity for the Council to review those amendments to the MOU and make sure the Council was comfortable with those or see if there were any edits that people had concerns about. And I would ask if there are any questions or concerns about those edits that have been offered by the other Councils? Seeing—I'm sorry? Yeah, well just South Atlantic Council at this point. So—seeing none. I would say that we will approve that by consent and we'll go forward and see if there are any edits that come out of New England.

*Kiley Dancy:* Thank you.

*Rick Robins:* Thanks, Kiley. Chris?

*Chris Moore:* That's it, Mr. Chairman. I just wanted to emphasize the fact that Kiley is working hard to get that Amendment 16 wrapped up so that she can get involved in Summer Flounder, Scup, and Black Sea Bass issues. So we will have that amendment done by the end of the year.

*Rick Robins:* Chris Zeman?

*Chris Zeman:* I did have one question about the MOU on corals. And that is in—the language here just has our authority out to the boundary of the EEZ, but I remember like a presentation where actually it was a discussion about our authority actually in terms of benthic organisms, our authority actually extends beyond that to the end of the Shelf. So to the extent that that is the case, we should maybe think of our authority as beyond EEZ. It's either the Council's or NOAA's. But it was a—you know, anyway, I just wanted to point that out. You know, I can't remember—I'll find it and bring it to your attention next Council meeting.

*Rick Robins:* Chris, I think for planning purposes, all of the work is being done within the boundary of the EEZ. So any coral management options are within that range. Is that correct, Kiley?

*Kiley Dancy:* Yes, I think so. That's all we've been discussing. I can't recall any—hearing about anything different.

*Rick Robins:* Gene, do you have any comment? Or George Darcy, please?

*George Darcy:* Yeah, I don't remember that either. But perhaps there's a confusion because there is a provision that it can extend beyond the Council's area of jurisdiction if gear in one fishery of the Council's FMP extends beyond the Council's jurisdiction. For



example, bluefish. Bluefish FMP runs up and down the coast. But I don't remember anything that said you had jurisdiction outside the EEZ.

*Rick Robins:* Yeah. I think, George, your point is a north and south one, and Chris is raising a question that would go east of the EEZ. So I think, you know, for planning purposes, it is limited to the EEZ. But I think in terms of coordinating with the other Councils, we'll probably leave it at that for now. Thanks, Chris. Okay. Does that conclude your report, Chris?

*Chris Moore:* Yes.

*Rick Robins:* Thank you very much. Rich Seagraves?

*Rich Seagraves:* Thanks, Mr. Chairman. I'll be very brief. The information I've providing is under—behind Tab Eleven. On April 22<sup>nd</sup> and 23<sup>rd</sup> I attended a workshop entitled Sustaining National Climate Assessments of Oceans and Coasts. And I've included the Executive Summary of the ocean and marine resources in a changing climate section of the National Climate Assessment. This was draft. And I just gave you the Executive Summary so it gives you a flavor for what the major concerns are relative to climate change related to oceans. A fairly broad perspective. And then I also, behind the Executive Summary, included a—the Northeast Regional Section of that report. And so it's just an GYI to give you a little bit of a preliminary look at what we'll be talking about in December. And that concludes my report.

*Rick Robins:* Thank you. Any questions for Rich? Rich, thanks again for briefing us on the ecosystem document earlier today. So that brings us to new business. Is there anything else to come before the Council for consideration? John Boreman?

*John Boreman:* Yes. The SSC would like to nominate Olaf Jensen from Rutgers to be a member of the SSC. Rich has his CV, we can circulate that to the Council members for a decision at the next meeting.

*Rick Robins:* And Rich, what process—can you remind us of what process we have to go through to finalize that?

*Rich Seagraves:* Sure. Basically, he would need to be nominated by a member of the Council. So at the next Council meeting we'll circulate his CV. And he was nominated—I believe Ed Houde nominated him. He's a quantitative fisheries ecologist at Rutgers. And I think would be a really good addition to our SSC. And so we'll circulate

his CV, so he'd have to be nominated by one of the Council members and then the vote of the Council at the next meeting.

*Rick Robins:* So then would the nomination occur today or at the next meeting?

*Rich Seagraves:* Probably just wait on the next meeting so everybody can get a look at his CV.

*Rick Robins:* Fair enough. Alright. Let's plan on reviewing that and we'll put that on the agenda for action at the next meeting. Thank you. Is there anything else to come before the Council? Seeing none. We're adjourned. Oh, Howard? Sorry.

*Howard King:* Yeah. Just a brief—George reported on the office with monkfish, but I wondered, Laurie, has there been any movement on Amendment 6, monkfish?

*Rick Robins:* Laurie?

*Laurie Nolan:* We did have a Committee meeting, and I did have a little report, but it—should I just do it really fast?

*Rick Robins:* If you wanna give us a quick summary, that's fine.

*Laurie Nolan:* Alright. Really, really fast. Sorry. Okay. I'm gonna read. So we had our meeting May 29 and 30. Steve Heins is replacing Tony DiLernia on the Committee. Phil Herring was back at the table, which was great. The Committee report is still in draft form, so I'm gonna be fairly general with this report and focus on the actions that affect the southern area. The emergency action came up again. New England passed a motion at their last meeting requesting that NMFS expedite modification of the final rule on the monkfish emergency action to increase the monkfish possession limit. While fishing on a groundfish day at sea as follows: 600 pounds of tail weight per groundfish day at sea, for category D vessels and 1,250 tail weight per groundfish day at sea for category C vessels in the Northern Fishery Management area only.

So the Committee as a whole took no action on this, but the Southern Area Committee members expressed their concern similar to the original emergency action request of effort shifts from the Northern Area to the Southern Area. So the way we look at this is by increasing the trip limits in the Northern Area for those vessels fishing on a groundfish day. Those vessels will never have to burn a monkfish day to retain their monkfish catch, which then

allows them to preserve their days and increase fishing effort in the Southern Area. So the Council staff wrote another letter to comment on that, and the comment period ended May 30<sup>th</sup>.

So that went off and went in. We had monkfish stock assessment update reporting both stocks remain above biomass target and below fishing mortality thresholds. That looks like great news, but there is a lot of uncertainty surrounding the stocks. So the SSC was not available, so without that, there was no ABC recommendation, so ACT could be set. WE received the draft Biological Opinion on Atlantic sturgeon similar to yesterday's report. Framework 8 was discussed. Consensus, good news for the age permits. There was consensus without objection to include in Framework 8 an alternative that would move the boundary line of the F Permit to the Southern Management Area-Northern Management Area boundary line. So this alternative will provide the age permit vessels with full access to the Southern Management Area.

Seven or eight motions were made to direct the PDT to include additional alternatives on a variety of issues. We'll report back on those when those alternatives develop. Another issue came up of combining dogfishing while monkfishing. And the monkfish regs don't allow you to have mesh onboard under ten inches. And the dogfish gill net fishery is executed with seven-inch mesh, so this issue is gonna be vetted through law enforcement. On Amendment 6, we had removal of ITQs from the document came up. How to address latent effort came up. Before the Committee makes any decisions, we are kicking that back to the AP to get some feedback from them on where they want to go at this point.

The RSA was discussed, and a list of six items were prioritized in order of importance. That list will be forwarded to the New England Council at their next meeting. We went into a closed session to repopulate the AP. We were down four members, so two members from the Northern Area were chosen, two—well, two applicants from the Northern Area, two applicants from the Southern Area to fill the vacant seats. And those will be announced shortly.

The AP, you'll meet sometime the end of July, beginning of August. And then we'll have another Committee meeting shortly after that. And just on Amendment 6, just to emphasize again that the Northern Area and the Southern Area industry have two completely different points of view on effort and where they wanna go. The Northern Area wants to do everything to liberalize

their regulations to allow them to increase their fishing effort, while the Southern Area, you know, doesn't wanna see that. They're trying to hold things stabilized as the current level of fishing effort.

So it appears that, you know, headway is slow and painful on Amendment 6 because it involves, you know, leasing of days at sea, liberalizing, allowing for consolidation. And in the Southern Area, unless latent effort is going to be addressed, there are huge concerns about the leasing and the consolidating of all that stuff. So it continues to be somewhat of a battle. And that's it.

*Rick Robins:*

Thank you, Laurie. Howard, did you have anything else to come before the Council. Seeing none, we're adjourned, safe travels.

*[End of audio]*